

California Fish and Game Commission Meeting Binder

Day 1, Part 1 (Items 1-17)



December 11-12, 2019
Sacramento

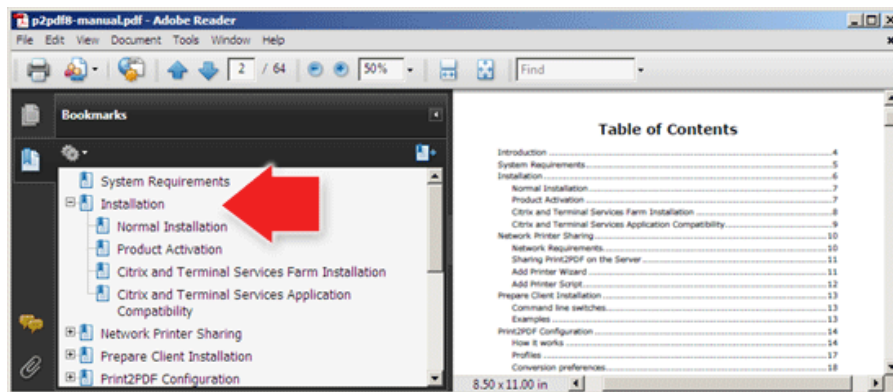
EASY GUIDE TO USING THE BINDER

Note: We make every effort to ensure that documents we produce are compliant with Americans with Disabilities Act standards, pursuant to state and federal law; however, some materials included in our meeting binders that are produced by other organizations and members of the public may not be compliant.

1. Download and open the binder document using your Adobe Acrobat program/app.
2. If a bookmark panel does not automatically appear on either the top or left side of the screen, click/tap on the “bookmark symbol” located near the top left-hand corner.



3. To make adjustments to the view, use the Page Display option in the View tab. You should see something like:



4. We suggest leaving open the bookmark panel to help you move efficiently among the staff summaries and numerous supporting documents in the binder. It's helpful to think of these bookmarks as a table of contents that allows you to go to specific points in the binder without having to scroll through hundreds of pages.
5. You can resize the two panels by placing your cursor in the dark, vertical line located between the panels and using a long click /tap to move in either direction. ⇐||⇒
6. You may also adjust the sizing of the documents by adjusting the sizing preferences located on the Page Display icons found in the top toolbar or in the View tab.
7. Upon locating a staff summary for an agenda item, notice that you can obtain more information by clicking/tapping on any item underlined in blue.
8. Return to the staff summary by simply clicking/tapping on the item in the bookmark panel.
9. Do not hesitate to contact staff if you have any questions or would like assistance.

OVERVIEW OF FISH AND GAME COMMISSION BUSINESS MEETINGS

- This year marks the beginning of the 150th year of operation of the California Fish and Game Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making. These meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.
- We are operating under the Bagley-Keene Open Meeting Act and these proceedings are being recorded and broadcast via <https://videobookcase.com/>.
- In the unlikely event of an emergency, please note the location of the nearest emergency exits. Additionally, the restrooms are located _____.
- Items may be heard in any order pursuant to the determination of the Commission President.
- The amount of time for each agenda item may be adjusted based on time available and the number of speakers.
- Speaker cards need to be filled out **legibly** and turned in to the staff **before** we start the agenda item. Please make sure to list the agenda items you wish to speak to on the speaker card.
- We will be calling the names of several speakers at a time so please line up behind the speakers' podium when your name is called. If you are not in the room when your name is called you may forfeit your opportunity to speak on the item.
- When you speak, please state your name and any affiliation. Please be respectful. Disruptions from the audience will not be tolerated. Time is precious so please be concise.
- To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up for our electronic mailing lists.
- All petitions for regulation change must be submitted in writing on the authorized petition form, FGC 1, Petition to the California Fish and Game Commission for Regulation Change, available at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>.
- **Reminder!** Please silence your mobile devices and computers to avoid interruptions.
- **Warning!** The use of a laser pointer by someone other than a speaker doing a presentation may result in arrest.

INTRODUCTIONS FOR FISH AND GAME COMMISSION MEETINGS

Fish and Game Commission

Eric Sklar	President (Saint Helena)
Jacque Hostler-Carmesin	Vice President (McKinleyville)
Russell Burns	Member (Napa)
Peter Silva	Member (Jamul)
Samantha Murray	Member (Del Mar)

Commission Staff

Melissa Miller-Henson	Executive Director
Susan Ashcraft	Acting Deputy Executive Director
Mike Yaun	Legal Counsel
Elizabeth Pope	Acting Marine Advisor
Ari Cornman	Wildlife Advisor
Sherrie Fonbuena	Analyst
Sergey Kinchak	Analyst

California Department of Fish and Wildlife

Chuck Bonham	Director
Wendy Bogdan	General Counsel
David Bess	Deputy Director and Chief, Law Enforcement Division
Stafford Lehr	Deputy Director, Wildlife and Fisheries Division
Clark Blanchard	Assistant Deputy Director, Office of Communications, Education and Outreach
Kari Lewis	Chief, Wildlife Branch
Kevin Shaffer	Chief, Fisheries Branch
Craig Shuman	Manager, Marine Region

I would also like to acknowledge special guests who are present:
(i.e., elected officials, including tribal chairpersons, and other special guests)

Commissioners
Eric Sklar, President
Saint Helena

Jacque Hostler-Carmesin, Vice President
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

Samantha Murray, Member
Del Mar

STATE OF CALIFORNIA
Gavin Newsom, Governor

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

REVISED* MEETING AGENDA **December 11-12, 2019**

Natural Resources Building – Auditorium, First Floor
1416 Ninth Street, Sacramento, CA 95814

The meeting will be live streamed; visit www.fgc.ca.gov the day of the meeting.

***This agenda is revised to change the meeting start time on December 11 to 9:30 AM, add Item 4(B) concerning western Joshua tree, and delete Item 36(B)(I) concerning Petition #2019-002: Trap endorsement for commercial nearshore fishery permits (which has been withdrawn).**

Note: See important meeting deadlines and procedures at the end of the agenda. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department and CCR indicates California Code of Regulations.

Invitation: The Commission invites members of the public to join commissioners and staff for a field trip related to falconry that will take place west of Sacramento following the meeting on Thursday afternoon; details will be released before the Commission meeting. Members of the public are welcome but must provide their own transportation.

DAY 1 – DECEMBER 11, 2019, 9:30 AM

Call to order/roll call to establish quorum

1. Consider approving agenda and order of items

2. General public comment for items not on agenda

Receive public comment regarding topics within the Commission's authority that are not included on the agenda.

Note: The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

3. California Waterfowler's Hall of Fame

Commission recognition of newly-inducted members of the California Waterfowler's Hall of Fame.

CONSENT ITEMS

4. Western Joshua tree

- (A) Receive a petition to list western Joshua tree (*Yucca brevifolia*) as a threatened or endangered species under the California Endangered Species Act (CESA). (Pursuant to Section 2073.3, Fish and Game Code, and subsection 670.1(c), Title 14, CCR)
- (B) Consider approving the Department's request for a 30-day extension to review the petition. (Pursuant to Section 2073.5, Fish and Game Code)

5. Shasta snow-wreath

- (A) Receive a petition to list Shasta snow-wreath (*Neviusia cliftonii*) as a threatened or endangered species under CESA. (Pursuant to Section 2073.3, Fish and Game Code, and subsection 670.1(c), Title 14, CCR)
- (B) Consider approving the Department's request for a 30-day extension to review the petition. (Pursuant to Section 2073.5, Fish and Game Code)

6. Mountain lion

Receive 90-day evaluation report from the Department for the petition to list mountain lion (*Puma concolor*) as a threatened or endangered species under CESA. (Pursuant to Section 2073.5, Fish and Game Code)

The Department will recommend that this item be continued to a future meeting.

7. Wild trout waters policy

Receive Department recommendation and consider adopting proposed amendments to the Commission's Designated Wild Trout Waters policy. (Pursuant to Section 1727, Fish and Game Code)

8. Possession of nongame animals (nutria)

Consider adopting proposed changes to regulations for possession of nongame animals, in order to exclude nutria (*Myocastor coypus*) from the list of nongame animals that can be possessed alive with a special permit. (Amend Section 473, Title 14, CCR)

9. Delta Fisheries Management Policy and Striped Bass Policy

Discuss and consider adopting a Commission Delta Fisheries Management Policy and an amended Striped Bass Policy.

10. Executive director's report

Receive an update from the executive director on staffing and legislative information.

- (A) Staff report
 - I. Consider staff request to submit comments to the California Law Revision Commission for Phase I review of its tentative recommendation for a new California Fish and Wildlife Code
- (B) Legislative report and possible action
 - I. Discuss HR 3399 and consider authorizing a comment letter to support including California in the federal nutria eradication program

11. Strategic planning

Receive an update on the strategic planning process and discuss potential goals and objectives.

12. Department informational items (wildlife and inland fisheries)

The Department will highlight wildlife and inland fisheries items of note since the last Commission meeting.

- (A) Director's report
- (B) Law Enforcement Division
- (C) Wildlife and Fisheries Division, and Ecosystem Conservation Division
 - I. Inland salmon 2019 season update and water flow
 - II. Update on Wildlife Waystation closure transition

13. Tribal Committee

Discuss and consider approving draft agenda topics for the next committee meeting. Consider approving new topics to address at a future committee meeting.

- (A) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and consider approving new topics

14. Wildlife Resources Committee

Discuss and consider approving draft agenda topics for the next committee meeting. Consider approving new topics to address at a future committee meeting.

- (A) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and consider approving new topics

15. Mammal hunting

Consider authorizing publication of notice of intent to amend mammal hunting tag quotas and seasons regulations.

(Amend sections 360, 361, 362, 364, and 364.1, Title 14, CCR)

16. Waterfowl hunting (annual)

Consider authorizing publication of notice of intent to amend waterfowl hunting regulations.

(Amend sections 502 and 507, Title 14, CCR)

- 17. Public use of Department of Fish and Wildlife lands**
Consider authorizing publication of notice of intent to amend wildlife areas and ecological reserves regulations.
(Amend sections 550, 550.5, 551, 552, 630, and 702, Title 14, CCR)
- 18. Central Valley sport fishing**
Consider authorizing publication of notice of intent to amend Central Valley sport fishing regulations.
(Amend sections 2.35 and 7.00, and amend subsections 7.50(b)(5), (68), (124), and (156.5), Title 14, CCR)
- 19. Klamath River Basin sport fishing**
Consider authorizing publication of notice of intent to amend Klamath River Basin sport fishing regulations.
(Amend subsection 7.50(b)(91.1), Title 14, CCR)
- 20. Upper Klamath-Trinity spring Chinook salmon sport fishing emergency regulations (90-day extension)**
Consider adopting a 90-day extension of the upper Klamath-Trinity river spring Chinook salmon emergency regulations.
(Re-adopt subsection 7.50(b)(91.2), Title 14, CCR)
- 21. Upper Klamath-Trinity spring Chinook salmon sport fishing (certification of compliance)**
Consider authorizing publication of notice of intent to implement a certificate of compliance for the upper Klamath-Trinity river spring Chinook salmon emergency regulations.
(Add subsection 7.50(b)(91.2), Title 14, CCR)
- 22. Foothill yellow-legged frog**
Consider and potentially act on the petition, Department's evaluation report, and comments received to determine whether listing foothill yellow-legged frog (*Rana boylei*) as an endangered or threatened species under CESA is warranted.
(Pursuant to sections 2075 and 2075.5, Fish and Game Code)
Note: Findings will be adopted at a future meeting.
- 23. Status reviews for threatened and endangered species**
Receive status reviews from the Department for Baker's larkspur (*Delphinium bakeri*) and Clara Hunt's milkvetch (*Astragalus claranus*), which are listed as threatened or endangered under CESA, including a presentation on the legal mandate and process.
(Pursuant to Section 2077, Fish and Game Code)
- 24. Wildlife and inland fisheries petitions for regulation change**
Consider requests submitted by members of the public to adopt, amend, or repeal a regulation.
(Pursuant to Section 662, Title 14, CCR)
 - (A) Action on current petitions
 - I. Petition #2019-019 AM 1: Remove reticulated Gila monster from list of restricted species

- II. Petition #2019-020: Increase brown trout bag and possession limit within the Klamath-Trinity River basin
- III. Petition #2019-021: Change leader length restriction for fishing tackle in anadromous waters from less than six feet to less than thirteen feet
- (B) Action on pending regulation petitions referred to staff or the Department for review – None scheduled at this time

25. Wildlife and inland fisheries non-regulatory requests from previous meetings

Consider action on non-regulatory requests submitted by members of the public at previous meetings.

Recess

DAY 2 – DECEMBER 12, 2019, 8:30 AM

Call to order/roll call to establish quorum

26. General public comment for items not on agenda

Receive public comment regarding topics within the Commission's authority that are not included on the agenda.

Note: The Commission **may not** discuss or take action on any matter raised during this item, except to decide whether to place the matter on the agenda of a future meeting (sections 11125 and 11125.7(a), Government Code).

27. Department informational items (marine)

The Department will highlight marine items of note since the last Commission meeting.

- (A) Director's report
- (B) Law Enforcement Division
- (C) Marine Region
 - I. Sea cucumber fishery collaborative management
 - II. Pacific Fishery Management Council update

28. Marine Resources Committee

Discuss updates and recommendations from the November 5, 2019 committee meeting. Consider approving new topics to address at a future committee meeting.

- (A) November 5, 2019 meeting summary
 - I. Receive and consider adopting recommendations
- (B) Work plan development
 - I. Update on work plan and draft timeline
 - II. Discuss and consider approving new topics

29. Annual recreational ocean salmon and Pacific halibut regulations

Receive and discuss an update on Pacific Fishery Management Council process and timeline, and automatic conformance to federal regulations.
(Pursuant to Section 1.95, Title 14, CCR)

- 30. Whale and turtle protections in the recreational Dungeness crab fishery**
Receive update and potentially provide direction on draft Department-proposed regulation changes to provide additional whale and turtle protections in the recreational Dungeness crab fishery.
- 31. Statewide Marine Protected Areas (MPAs) Program**
Receive annual report from the Department on management activities of its Statewide MPAs Program.
- 32. Marine Life Management Act (MLMA) Master Plan implementation**
Receive Department update and possibly provide direction on a draft prioritized list of fisheries for more focused management, as prescribed in the MLMA master plan prioritization framework.
- 33. Hog Island Oyster Company**
Consider approving lease amendments applied for by Hog Island Oyster Company for State Water Bottom Lease Nos. M-430-10, M-430-11, M-430-12, and M-430-15 for purposes of aquaculture in Tomales Bay.
(Pursuant to Section 15400, Fish and Game Code)
- 34. Charles Friend Oyster Company State Water Bottom Lease No. M-430-04**
Consider approving renewal of Charles Friend Oyster Company's State Water Bottom Lease No. M-430-04 for purposes of aquaculture in Tomales Bay for a period of 15 years.
(Pursuant to Section 15406, Fish and Game Code)
- 35. Marine items of interest from previous meetings**
These items are generally updates on agenda topics recently heard before the Commission.
- (A) Department overview of razor clam sampling for domoic acid levels
- 36. Marine petitions for regulation change**
Consider requests submitted by members of the public to adopt, amend, or repeal a regulation.
(Pursuant to Section 662, Title 14, CCR)
- (A) Action on current petitions – None scheduled at this time
(B) Action on pending regulation petitions referred to staff or the Department for review
- I. Petition #2019-004 Retrieval of abandoned lobster traps
- 37. Commission administrative items**
- (A) Next meeting – February 5-6, 2020 in Sacramento (dates to be reconsidered)
(B) Rulemaking timetable updates
(C) New business

Adjourn

EXECUTIVE SESSION

(Not Open to Public)

At a convenient time during the regular agenda of the meeting listed above, the Commission will recess from the public portion of the agenda and conduct a closed session on the agenda items below. The Commission is authorized to discuss these matters in a closed session pursuant to Government Code Section 11126, subdivisions (a)(1), (c)(3), and (e)(1), and Fish and Game Code Section 309. After closed session, the Commission will reconvene in public session, which may include announcements about actions taken during closed session.

- (A) Pending litigation to which the Commission is a Party
 - I. Dennis Sturgell v. California Department of Fish and Wildlife, and California Fish and Game Commission (revocation of Dungeness crab vessel permit No. CT0544-T1)
 - II. Public Interest Coalition v. California Fish and Game Commission (CEQA compliance during adoption of dog collar regulation)
 - III. Aaron Lance Newman v. California Fish and Game Commission (revocation of hunting and sport fishing privileges)
 - IV. Adam Aliotti and Alicia Dawn, Inc. v. California Fish and Game Commission, and California Department of Fish and Wildlife (suspension of commercial fishing license and tier-1 spot prawn trap vessel permit)
 - V. Almond Alliance of California et al. v. California Fish and Game Commission and California Department of Fish and Wildlife (bumble bees California Endangered Species Act determination)
- (B) Possible litigation involving the Commission
- (C) Staffing
- (D) Deliberation and action on license and permit items
 - I. Consider Agency Case No. 18ALJ11-FGC, the appeal filed by Louis Ferrari regarding transferability of a nearshore fisheries permit.
 - II. Consider the Proposed Decision in Agency Case No. 18ALJ04-FGC, the appeal filed by Meo Nguyen regarding the Department's denial of a request to transfer a salmon vessel permit.

California Fish and Game Commission 2020 Meeting Schedule

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations.

Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
January 16		Wildlife Resources Los Angeles area	
January 17		Tribal Los Angeles area	
February 5 - 6 (dates to be reconsidered)	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
March 5		Wildlife Resources* Natural Resources Building 1416 Ninth Street Sacramento, CA 95814 <i>* Purpose of meeting is to discuss simplification of statewide inland fishing regulations proposal</i>	
March 17		Marine Resources Justice Joseph A. Rattigan Building Conference Room 410 (4th Floor) 50 D Street Santa Rosa, CA 95404	
March 18			Annual Tribal Planning
April 15 - 16	Natural Resources Building Auditorium, First Floor 1416 Ninth Street Sacramento, CA 95814		
May 14	Teleconference Santa Rosa, Sacramento, Arcata and San Diego		
May 14		Wildlife Resources Justice Joseph A. Rattigan Building Conference Room 410 50 D Street Santa Rosa, CA 95404	
June 24 - 25	Santa Ana area		

Meeting Date	Commission Meeting	Committee Meeting	Other Meetings
July 21		Marine Resources San Clemente area	
August 18		Tribal Fortuna area	
August 19 - 20	Fortuna area		
September 17		Wildlife Resources Natural Resources Building Redwood Room, 14 th Floor 1416 Ninth Street Sacramento, CA 95814	
October 14 - 15	Elihu M Harris Building Auditorium 1515 Clay Street Oakland, CA 94612		
November 9		Tribal Monterey area	
November 10		Marine Resources Monterey area	
December 9 - 10	San Diego area		

OTHER 2020 MEETINGS OF INTEREST

Association of Fish and Wildlife Agencies

- March 8-13, Omaha, NE
- September 13-16, Sacramento, CA

Pacific Fishery Management Council

- March 3-9, Rohnert Park, CA
- April 3-10, Vancouver, WA
- June 11-18, San Diego, CA
- September 10-17, Spokane, WA
- November 13-20, Garden Grove, CA

Pacific Flyway Council

- March 10 Omaha, NE
- August (date/location TBD)

Western Association of Fish and Wildlife Agencies

- January 9-12, Monterey, CA
- July 9-14, Park City, UT

Wildlife Conservation Board

- February 26, Sacramento, CA
- May 20, Sacramento, CA
- August 26, Sacramento, CA
- November 18, Sacramento, CA

IMPORTANT COMMISSION MEETING PROCEDURES INFORMATION

WELCOME TO A MEETING OF THE CALIFORNIA FISH AND GAME COMMISSION

This year marks the beginning of the 150th year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal. In that spirit, we provide the following information to be as effective and efficient toward that end. Welcome and please let us know if you have any questions.

PERSONS WITH DISABILITIES

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Reasonable Accommodation Coordinator at (916) 651-1214. Requests for facility and/or meeting accessibility should be received at least 10 working days prior to the meeting to ensure the request can be accommodated.

STAY INFORMED

To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, to sign up on our electronic mailing lists.

SUBMITTING WRITTEN COMMENTS

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: E-mail to fgc@fgc.ca.gov; mail to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; delivery to California Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814; or hand-deliver to a Commission meeting. Materials provided to the Commission may be made available to the general public.

COMMENT DEADLINES

The Written Comment Deadline for this meeting is 5:00 p.m. on November 27, 2019. Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The Late Comment Deadline for this meeting is noon on December 6, 2019. Comments received by this deadline will be made available to Commissioners at the meeting.

After these deadlines, written comments may be delivered in person to the meeting – Please bring ten (10) copies of written comments to the meeting.

NON-REGULATORY REQUESTS

All non-regulatory requests will follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests submitted by the Late Comment Deadline (or heard during general public comment at the meeting) will be scheduled for receipt at this meeting and scheduled for consideration at the next business meeting.

PETITIONS FOR REGULATION CHANGE

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, titled, "Petition to the California Fish and Game Commission for Regulation Change" (as required by Section 662, Title 14, CCR). The form is available at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>. To be received by the Commission at this meeting, petition forms must have been delivered by the Late Comment Deadline (or delivered during general public comment at the meeting). Petitions received at this meeting will be scheduled for consideration at the next business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

VISUAL PRESENTATIONS/MATERIALS

All electronic presentations must be submitted by the Late Comment Deadline and approved by the Commission executive director before the meeting.

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov.
2. All electronic formats must be Windows PC compatible.
3. It is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.
4. A data projector, laptop and presentation mouse will be available for use at the meeting.

CONSENT CALENDAR

A summary of all items will be available for review at the meeting. Items on the consent calendar are generally non-controversial items for which no opposition has been received and will be voted upon under single action without discussion. Any item may be removed from the consent calendar by the Commission upon request of a Commissioner, the Department, or member of the public who wishes to speak to that item, to allow for discussion and separate action.

LASER POINTERS

Laser pointers may only be used by a speaker during a presentation; use at any other time may result in arrest.

SPEAKING AT THE MEETING

To speak on an agenda item, please complete a "Speaker Card" and give it to the designated staff member before the agenda item is announced. Cards will be available near the entrance of the meeting room. Only one speaker card is necessary for speaking to multiple items.

1. Speakers will be called in groups; please line up when your name is called.
2. When addressing the Commission, give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
 - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.

- b. Individuals may receive advance approval for additional time to speak if requests for additional time to speak are received by email or delivery to the Commission office by the Late Comment Deadline. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.
 - c. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).
 - d. An individual may receive additional time to speak to an agenda item at the request of any commissioner.
5. If you are presenting handouts/written material to the Commission at the meeting, please provide **ten** (10) copies to the designated staff member just prior to speaking.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

2. GENERAL PUBLIC COMMENT (DAY 1)**Today's Item****Information** ☒**Action** ☐

Receive public comments, petitions for regulation change, and requests for non-regulatory actions for items not on the agenda.

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Dec 11-12, 2019; Sacramento**
- Consider granting, denying or referring Feb 5-6, 2020; Sacramento

Background

This agenda item is primarily to provide the public an opportunity to address FGC on topics not on the agenda. Staff also includes written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by written comment deadline), or as late comments at the meeting (if received by late comment deadline), for official FGC "receipt."

Public comments are generally categorized into three types under general public comment: (1) petitions for regulation change; (2) requests for non-regulatory action; and (3) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change and non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change and non-regulatory requests received at today's meeting at the next in-person FGC meeting following staff evaluation (currently Feb 5-6, 2020).

As required by the Administrative Procedure Act, petitions for regulation change will be either denied or granted and notice made of that determination. Action on petitions received at previous meetings is scheduled under a separate agenda item titled "Petitions for regulation change." Action on non-regulatory requests received at previous meetings is scheduled under a separate agenda item titled "Non-regulatory requests."

Significant Public Comments

1. New petitions for regulation change are summarized in Exhibit 1, and the original petitions are provided as exhibits 3-7.
2. Requests for non-regulatory action are summarized in Exhibit 2, and the original requests are provided as exhibits 8-10.
3. Informational comments are provided as exhibits 11-12.

Recommendation

FGC staff: Consider whether any new future agenda items are needed to address issues that are raised during public comment.

Exhibits

1. [Summary of new petitions for regulation change received by Nov 27, 2019 at 5:00 p.m.](#)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

2. [Summary of requests for non-regulatory action received by Nov 27, 2019 at 5:00 p.m.](#)
3. [Petition #2019-022: Multi-day fishing trips](#)
4. [Petition #2019-023: Ravens](#)
5. [Petition #2019-024: Depredating or otherwise injurious birds](#)
6. [Petition #2019-025: Beavers](#)
7. [Petition #2019-026: Caples Creek](#) (*Note: this petition is currently under review by FGC staff, and has not been formally accepted.*)
8. [Email from Robin Patton](#), requesting FGC and DFW help and guidance with coyote management through public education and enforcing wildlife feeding laws in Yorba Linda, received Oct 7, 2019.
9. [Letter from Heidi Gregory](#), General Manager of Tomales Bay Oyster Company, requesting an amendment to State Water Bottom Lease No. M-430-05 for purposes of aquaculture, received Nov 19, 2019
10. [Email from Ken Bates](#), requesting issuance of an experimental gear permit to take Pacific Herring in Humboldt Bay by lampara bait net, received Nov 20, 2019
11. [Email from Diane Nygaard](#), via Dennis Nygaard, representing Preserve Calavera, providing a study of the impacts of recreational activities on wildlife, with specific reference to Carlsbad Highlands Ecological Reserve, received Oct 10, 2019
12. [Email from Nancy Dunn](#) concerning hunting laws, received Oct 12, 2019

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

3. CALIFORNIA WATERFOWLER'S HALL OF FAME**Today's Item**Information ☐Action ☒

Recognize newly inducted members of the California Waterfowler's Hall of Fame.

Summary of Previous/Future Actions

As a sponsor of the California Waterfowler's Hall of Fame, FGC annually recognizes inductees through the presentation of signed resolutions.

Background

The California Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California.

A small group of interested waterfowlers was instrumental in establishing the Hall of Fame so that major contributions and achievements of biologists, academics/professors, federal/state administrators, legislators, sportsmen, agriculturalists and other conservationists could be recognized. The selection committee includes representatives from the California Waterfowl Association, Ducks Unlimited, Conservations Solutions, Gaines and Associates, University of California Davis, National Audubon Society, and DFW.

Inductees or their representatives will be presented with certificates by the California Waterfowl Association. This year's inductees are L. Ryan Broddrick, Dean A. Cortopassi, John M. Eadie, Richard Janson, and Mickey W. Saso.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Recognize this year's Waterfowler's Hall of Fame inductees with FGC resolutions.

Exhibits

1. [Resolution for L. Ryan Broddrick](#)
2. [Resolution for Dean A. Cortopassi](#)
3. [Resolution for John M. Eadie](#)
4. [Resolution for Richard Janson](#)
5. [Resolution for Mickey W. Saso](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission recognizes L. Ryan Broddrick, Dean A. Cortopassi, John M. Eadie, Richard Janson, and Mickey W. Saso as members of the California Waterfowler's Hall of Fame.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

4. WESTERN JOSHUA TREE (CONSENT)**Today's Item****Information** ☐**Action** ☒

- (A) Receive a petition to list western Joshua tree as a threatened or endangered species under the California Endangered Species Act (CESA).
- (B) Consider DFW's request for a 30-day extension to review the petition.

Summary of Previous/Future Actions

- | | |
|------------------------------------------------------------------------------------------------|---------------------------------|
| • Received petition | October 21, 2019 |
| • FGC transmitted petition to DFW | November 1, 2019 |
| • Published notice of receipt of petition | November 22, 2019 |
| • Today's public receipt of petition and action on DFW's request for a 30-day extension | Dec 11-12, 2019; Sacramento |
| • Receive DFW evaluation of petition | Apr 15-16, 2020; Sacramento |
| • Determine if petitioned action may be warranted | Jun 24-25, 2020; Santa Ana Area |

Background

- (A) On Oct 21, 2019, FGC received a petition (Exhibit 1) from the Center for Biological Diversity to list western Joshua tree (*Yucca brevifolia*) as endangered under CESA. On Nov 1, 2019, FGC staff transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Nov 22, 2019.
- (B) California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit a written evaluation with a recommendation to FGC within 90 days of receiving the petition; under this section, DFW may request an extension of up to 30 days to complete the evaluation. DFW has requested a 30-day extension (Exhibit 2) which would change the due date for DFW's evaluation from Jan 30, 2020 to Feb 28, 2020.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve DFW's request for an extension of 30 days under a motion to adopt the consent calendar.

Exhibits

1. [Petition, received Oct 21, 2019](#)
2. [DFW memo, received Nov 22, 2019](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 4-8 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

5. SHASTA SNOW-WREATH (CONSENT)**Today's Item****Information** ☐**Action** ☒

- (A) Receive a petition to list Shasta snow-wreath as a threatened or endangered species under the California Endangered Species Act (CESA).
- (B) Consider approving the Department's request for a 30-day extension to review the petition.

Summary of Previous/Future Actions

- Receive petition Oct 4, 2019
- FGC transmitted petition to DFW Oct 10, 2019
- Publish notice of receipt of petition Nov 22, 2019
- **Today's public receipt of petition and action on DFW's request for a 30-day extension** **Dec 11-12, 2019; Sacramento**
- Receive DFW evaluation of petition Apr 15-16, 2020; Sacramento
- Determine if the petitioned action may be warranted Jun 24-25, 2020; Santa Ana Area

Background

- (A) On Oct 4, 2019, FGC received a petition (Exhibit 1) from Kathleen S. Roche and the California Native Plant Society to list Shasta snow-wreath (*Neviusia cliftonii*) as endangered under CESA. On Oct 10, 2019, FGC staff transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Nov 22, 2019.
- (B) California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit a written evaluation with a recommendation to FGC within 90 days of receiving the petition; under this section, DFW may request an extension of up to 30 days to complete the evaluation. DFW has requested a 30-day extension (Exhibit 2) which would change the due date for DFW's evaluation from Jan 8, 2020 to Feb 7, 2020. Staff expects that the Feb 5-6, 2020 meeting date will be rescheduled to a later date in Feb under Agenda Item 37(A); such a change may allow for receipt of the petition evaluation in Feb and potential action on the petition in Apr.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve DFW's request for an extension of 30 days under a motion to adopt the consent calendar.

Exhibits

1. [Petition, received Oct 4, 2019](#)
2. [DFW memo requesting an extension of 30 days, received Oct 29, 2019](#)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 4-8 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

6. MOUNTAIN LION (CONSENT)**Today's Item****Information** ☒**Action** ☐

Receive 90-day evaluation report from DFW for the petition to list mountain lion as a threatened or endangered species under CESA.

Summary of Previous/Future Actions

- | | |
|---------------------------------------------------------------------------------|------------------------------------|
| • Received petition | Jun 25, 2019 |
| • FGC transmitted petition to DFW | Jul 5, 2019 |
| • Published notice of receipt of petition | Jul 26, 2019 |
| • Public receipt of petition and action on DFW's request for a 30-day extension | Aug 7-8, 2019; Sacramento |
| • Receive DFW 90-day evaluation | Dec 11-12, 2019; Sacramento |
| • Determine if petitioned action may be warranted | Feb 5-6, 2020; Sacramento |

Background

A petition to list one or more evolutionarily significant units of mountain lion (*Puma concolor*) in southern and central coastal California as threatened or endangered under CESA was submitted by the Center for Biological Diversity and the Mountain Lion Foundation (petitioners) on Jun 25, 2019. On Jul 5, 2019, FGC transmitted the petition to DFW for review. A notice of receipt of petition was published in the California Regulatory Notice Register on Jul 26, 2019.

California Fish and Game Code Section 2073.5 requires that DFW evaluate the petition and submit a written evaluation with a recommendation to FGC within 90 days of receiving the petition; under this section, DFW may request an extension of up to 30 days to complete the evaluation.

At the Aug 2019 FGC meeting, DFW requested and FGC granted a 30-day extension. At the time this staff summary was prepared, FGC staff did not anticipate receiving the evaluation for this meeting and expects DFW will recommend this item be continued to a future meeting.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Schedule receipt of the petition evaluation for the Feb 5-6, 2020 FGC meeting.

Exhibits (N/A)**Motion/Direction**

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 4-8 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

7. WILD TROUT WATERS POLICY (CONSENT)**Today's Item**Information ☐Action ☒

Potentially approve proposed amendments to FGC's policy on Commission Designated Wild Trout Waters.

Summary of Previous/Future Actions (N/A)**Background**

California Fish and Game Code Section 7260(c), grants FGC the authority to designate Heritage Trout Waters recognizing the beauty, diversity, historical significance, and special value of California's native trout. Designations are limited to waters that support populations that best exemplify indigenous strains of native trout within their historic drainages and that provide anglers with an opportunity to catch native trout consistent with the conservation of native trout. Any stocking of heritage trout waters shall meet the criteria established by Chapter 7.2, commencing with Section 1725, of Division 2 of the California Fish and Game Code.

California Fish and Game Code Section 1727 requires that DFW annually submit to FGC a list of no less than 25 miles of stream or stream segments and at least one lake deemed suitable for designation as wild trout waters. DFW proposes the addition of two new waters:

1. North Fork Smith River, from the confluence with Middle Fork Smith River upstream to the Oregon state line, including Stoney Creek, Diamond Creek, and North Fork Diamond Creek, and excluding all other tributaries (Del Norte County).
2. Hilton Lake #5 located at the latitude/longitude of 37°28'37.99"N, 118°45'39.39W and an elevation of 10,700 feet in the Hilton Creek drainage (Mono County).

Exhibit 1 provides more detail on the proposed changes, including policy text with proposed amendments and maps of the proposed waters. Note that staff recommends excluding reference to "near Tom's Place" given the advent of GIS coordinates, reference to the watershed, impermanence of businesses, and distance between the lake and resort (over 10 miles).

Significant Public Comments (N/A)**Recommendation**

FGC staff: Under a motion to adopt the consent calendar, approve amendments to the policy on Commission Designated Wild Trout Waters as described in this staff summary and, for Hilton Lake #5, excluding reference to Tom's Place.

DFW: Approve the recommended amendments.

Exhibits

1. [DFW memo, received Nov 22, 2019](#)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 4-8 under the consent calendar.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

8. POSSESSION OF NONGAME ANIMALS (NUTRIA) (CONSENT)**Today's Item**Information ☐Action ☒

Consider adopting proposed changes to regulations to exclude nutria from the list of nongame animals that can be possessed alive with a special permit.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|------------------------------------|
| • Notice hearing | Aug 7-8, 2019; Sacramento |
| • Discussion hearing | Oct 9-10, 2019; Valley Center |
| • Today's adoption hearing | Dec 11-12, 2019; Sacramento |

Background

Nutria (*Myocastor coypus*) is a mammal of the order Rodentia; subsection 671(c)(2)(J) designates nutria, as part of that order, as a "detrimental animal." Based on its designation, possession is restricted but not prohibited entirely. Nutria is a semi-aquatic rodent native to South America that is a highly destructive, invasive species. The detrimental impacts caused by nutria includes harm to the State's wildlife, wetland habitats, waterways, water supplies, water conveyance and flood protection infrastructure, and agriculture. Since early 2017, DFW has been planning and implementing eradication efforts with multiple partners in response to discovery of a pregnant nutria in a managed wetland in the San Joaquin Valley.

Under current law, possession of live nutria can be authorized by DFW under a restricted species permit. DFW has identified that, in addition to eradication efforts already underway, banning the possession of any live nutria is necessary to help prevent new introductions of nutria in the state. The proposed regulation scheduled for adoption today would amend Section 473, to make possession of live nutria unlawful and authorize DFW to deny any application for the possession of live nutria.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Determine, based on the record, that this approval is exempt from the California Environmental Quality Act (CEQA) pursuant to the guidelines in sections 15307 and 15308, Title 14, California Code of Regulations, under two CEQA categorical exemptions (Class 7 and Class 8), and adopts the proposed regulations in Section 473, as recommended by DFW, related to the possession of nongame animals in order to exclude possession of live nutria.

DFW: Determine that the action is exempt from CEQA, and adopt the proposed regulation changes as detailed in the initial statement of reasons (ISOR).

Exhibits

1. [ISOR](#)
2. [Draft notice of exemption](#)
3. [Economic and fiscal impact statement \(Std. 399\)](#)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

Motion/Direction

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 4-8 on the consent calendar.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

9. DELTA FISHERIES POLICY AND STRIPED BASS POLICY**Today's Item****Information** ☐**Action** ☒

Discuss and consider adopting an FGC Delta Fisheries Management Policy and an amended Striped Bass Policy.

Summary of Previous/Future Actions

- | | |
|-------------------------------------------------------------------------------------------|------------------------------------|
| • Delta Fisheries Forum | May 24, 2017 |
| • WRC vetting of draft policy | Sep 2018 – May 2019 |
| • FGC accepted WRC recommendation to schedule | Jun 12-13, 2019; Redding |
| • Discussion of draft policy and postponement of consideration | Aug 7-8, 2019; Sacramento |
| • Update on progress with stakeholder discussions | Oct 9-10, 2019; Valley Center |
| • Today's discussion and potential adoption of draft policies – update on progress | Dec 11-12, 2019; Sacramento |

Background

An effort to review existing policy and potentially adopt a new policy concerning fisheries management in the Sacramento San-Joaquin Delta (Delta) has been underway since 2017. This year, effort has focused on WRC vetting and FGC discussion of a draft Delta Fisheries Management Policy. See Exhibit 1 for a detailed background.

In Aug 2019, FGC received a revised draft Delta Fisheries Management Policy, vetted through the WRC, for discussion and potential adoption. Following extensive public comment at the meeting, FGC accepted a staff recommendation to postpone further discussion of the draft policy until the Dec 2019 meeting. The purpose of the delay was to continue stakeholder discussions with FGC staff and DFW regarding both the draft policy and existing FGC Striped Bass Policy, and to invite a broader array of participants. Staff provided an update on progress at FGC's Oct 2019 meeting.

Responsive to FGC direction, staff has held three meetings and one conference call with DFW and a broad group of stakeholders and organizations representing fishing and water interests. The current policy drafts presented for discussion today (exhibits 2 and 3) represent the current state of those discussions.

Noteworthy changes to the draft Delta Fisheries Management Policy (Exhibit 2) from previous drafts include:

- Addition of definitions for “the Delta” and “Delta fisheries”;
- Refinement of the meaning of “best available science”; and
- Considerations for balancing and prioritizing recovery of various Delta fish species.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

With respect to revising the existing Striped Bass Policy, significant disagreements still remain, primarily centered around the vision for striped bass management; staff has presented three versions for consideration today – two from stakeholders and one from staff (Exhibit 3). Suggested changes to the Striped Bass Policy reflected in all three current drafts include:

- Agreement to remove the current adult population goal of 3 million; and
- Addition of further activities DFW is encouraged to undertake in support of striped bass, including monitoring.

Today, DFW will provide a verbal presentation on the state of the science regarding Delta fisheries, to provide context for FGC consideration of the new draft policy options.

Significant Public Comments

1. The Congressional Sportsman's Foundation applauds the work so far on the policies, and requests that FGC adopt an objective standard for striped bass restoration (Exhibit 4).
2. A fisheries student states that striped bass are not a main culprit for the decline of Central Valley salmonids. He urges the protection of salmon, steelhead, and striped bass (Exhibit 5).
3. A scientist states that predation is a minor factor in juvenile salmonid mortality and criticizes current striped bass regulations (Exhibit 6).
4. An angler provides some striped bass data and asserts that current striped bass limits should be maintained or increased (Exhibit 7).

Recommendation

FGC staff: Authorize staff to continue discussions with stakeholders on the draft Delta policy and potential amended FGC Striped Bass Policy.

Exhibits

1. [Staff summary from Aug 2019 FGC meeting \(for background purposes only\)](#)
2. [Draft Delta Fisheries Management Policy, revised Dec 3, 2019](#)
3. [Draft revised FGC Striped Bass Policy \(3 versions\), revised Dec 3, 2019](#)
4. [Letter from the Congressional Sportsman's Foundation, dated Nov 27, 2019](#)
5. [Letter from Jacob Stout, dated Nov 27, 2019](#)
6. [Letter from Dr. Cynthia Le Doux-Bloom, dated Nov 25, 2019](#)
7. [Email from Michael Evert, received Nov 27, 2019](#)

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

10A. EXECUTIVE DIRECTOR'S REPORT – STAFF REPORT**Today's Item****Information** ☐**Action** ☒

Receive the executive director's staff report, including updates on positions, website and document accessibility, sesquicentennial planning, and the most recent California Law Revision Commission tentative recommendation related to the California Fish and Game Code.

Summary of Previous/Future Actions (N/A)**Background*****Staffing Update***

Two positions in the FGC office continue to be filled through out-of-class assignments, one of which is the deputy executive director. Efforts to fill the deputy position are currently underway; following completion of the exam process, interviews will be scheduled with qualified applicants.

Three FGC staff have accepted promotions and will be leaving in the coming days. Staff Services Analyst Sergey Kinchak accepted a promotion at DFW Region 2; his last day is Dec 13. Seasonal clerk Ian Williams accepted a permanent job with the California Department of Motor Vehicles effective Dec 16. Recruitment efforts for both positions will commence shortly. Finally, our Sea Grant State Fellow, Maggie McCann, accepted an environmental scientist position with DFW Fisheries Branch effective Dec 13; her departure is a little earlier than expected, but recruitment efforts for next year's fellow are complete.

Staff is pleased to announce that Rose Dodgen will join FGC staff in the new year as the 2020 Sea Grant State Fellow. Rose is finalizing work related to her master's degree in biological sciences at California Polytechnic State University, San Luis Obispo.

See Exhibit 1 for more information about staff time and activities.

Website / Document Accessibility

Our move to the new state-approved website template is largely complete; however, complying with state-mandated accessibility standards is proving to be time-consuming and challenging since there is often not a standard method for complyin. The challenge is especially great given the large volume of materials FGC posts to its website, not only FGC-generated materials, but also materials received from other organizations and the public, the majority of which are not compliant. Staff is actively working to find solutions to this challenging situation.

150th Anniversary Celebration

As FGC enters its sesquicentennial year, preparations are underway to properly recognize this important milestone on Apr 2, 2020. Earlier this fall, staff formed a planning committee to develop a list of potential events, such as tours or events at DFW wildlife areas and ecological reserves, creating a perpetual award to recognize outstanding conservation efforts, and updating publications on the history of FGC. A formal celebratory event is being explored for

STAFF SUMMARY FOR DECEMBER 11-12, 2019

the week of the Apr 2020 FGC meeting in Sacramento. Staff looks forward to bringing forth specific ideas for approval at FGC's Feb 2020 meeting.

California Law Revision Commission

Late last year the California Law Revision Commission (CLRC) released a tentative recommendation to revise and replace the California Fish and Game Code with a California Fish and Wildlife Code (Exhibit 2); CLRC is seeking public comment and will consider comments prior to making its final recommendation to the California State Legislature.

CLRC's nearly 1,300-page tentative recommendation has two components: hundreds of "comments" about individual sections and proposed reorganization of the code (including renumbering all current code sections).

Initially, CLRC requested comments by Jan 2020, but has since divided the comment process into two phases, first focused on what are referred to as comments and second focused on the reorganization. The first phase comments are due to CLRC no later than Jul 1, 2020; with the assistance of DFW legal staff, FGC staff is in the process of conducting an analysis of each comment and evaluating potential impacts to Title 14. The second phase comments are due to CLRC no later than Jul 1, 2021.

Consistent with the authority you granted the executive director in 2017, staff will develop and submit comments on the first phase to CLRC prior to the deadline, at which time staff will begin its review for the second phase.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. [Staff Report on Staff Time Allocation and Activities](#), dated Dec 3, 2019
2. [California Law Revision Commission: Tentative Recommendation, Fish and Wildlife Code](#), dated Dec 2018 and *Tentative Recommendation, Fish and Wildlife Code: Conforming Revisions*, dated Feb 2019 (corrected)

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

10B. EXECUTIVE DIRECTOR'S REPORT – LEGISLATIVE REPORT**Today's Item****Information** ☐**Action** ☒

Review and discuss legislation of interest and provide staff direction on potential actions.

Summary of Previous/Future Actions (N/A)**Background**

FGC staff has prepared a list of state and federal legislation that may affect FGC's resources and workload or be of interest (below). DFW has provided a report on state bills it has identified as being of interest, including the current status of each (Exhibit 1).

Today is an opportunity for FGC to provide direction to staff concerning proposed legislation and regulatory actions. At any meeting, FGC may direct staff to provide information to or share concerns with bill authors or regulatory agencies. FGC members may also take positions on bills at the same meeting an update is provided.

State Legislation*Legislative Calendar Highlights for 2019-2020*

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| • Last day for any bill to pass. Interim recess began upon adjournment. | Sep 13, 2019 |
| • Last day for Governor to sign or veto bills passed by the legislature on or before Sep 13 and in the Governor's possession after Sep 13 | Oct 13, 2019 |
| • Statutes take effect | Jan 1, 2020 |
| • Legislature reconvenes | Jan 6, 2020 |
| • Last day for bills to be introduced | Feb 21, 2020 |

Bills Introduced during the 2019-2020 Session

A number of the state bills identified in DFW's report (Exhibit 1) may affect FGC's resources and workload or are potentially of interest; listed below are those assembly bills (AB) or senate bills (SB) that were vetoed or chaptered in the first year of this legislative session.

- AB 44 (Friedman) Fur products: prohibition (Chaptered)
- AB 273 (Gonzalez) Fur-bearing and nongame mammals: recreational and commercial fur trapping: prohibition (Chaptered)
- AB 454 (Kalra) Migratory birds: California Migratory Bird Protection Act (Chaptered)
- AB 834 (Quirk) Freshwater and Estuarine Harmful Algal Bloom Program (Chaptered)
- AB 1254 (Kamlager-Dove) Bobcats: take prohibition: hunting season: management plan (Chaptered)
- AB 1260 (Maienschein) Endangered wildlife (Chaptered)
- SB 1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019 (Vetoed)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

- SB 62 (Dodd) Endangered species: accidental take associated with routine and ongoing agricultural activities: state safe harbor agreements (Chaptered)
- SB 262 (McGuire) Commercial fishing: landing fees: sea cucumbers (Chaptered)
- SB 307 (Roth) Water conveyance: use of facility with unused capacity (Chaptered)
- SB 395 (Archuleta) Wild game mammals: accidental taking and possession of wildlife: collision with a vehicle: wildlife salvage permits (Chaptered)

Federal Legislation

- *H.R. 30 (SAVES Act)*: Rep. Louie Gohmert (TX-1). Status: House – 02/05/2019. Committee on Natural Resources. Referred to the Subcommittee on Water, Oceans, and Wildlife.

Summary: Limits the protection of endangered and threatened species to species that are native to the United States, thus removing protection given to non-native species in the United States that are listed as threatened or endangered.

- *H.R. 548 (FISH Act)*: Rep. Ken Calvert (CA-42). Status: House – 02/04/2019. Committee on Natural Resources. Referred to the Subcommittee on Water, Oceans, and Wildlife.

Summary: Amends the Endangered Species Act of 1973 to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters.

- *H.R. 3399 (To amend the Nutria Eradication and Control Act of 2003 to include California in the program, and for other purposes)*: Rep. Josh Harder (CA-10). Status: House – 09/24/2019. House Natural Resources Subcommittee on Water, Oceans, and Wildlife. Subcommittee hearings held.

Summary: Amends the Nutria Eradication and Control Act of 2003 to include California in the list of states enrolled in the program, and allocates \$7,000,000 to California for each of the fiscal years 2020 through 2025 for the purposes of the program. These funds will be used in California to implement measures to eradicate nutria, and restore marshland, public and private wetlands, and agricultural lands damaged by nutria.

- *H.R. 1240 (Young Fishermen's Development Act of 2019)*: Rep. Don Young (AK-At Large). Status: House – 05/08/2019. House Natural Resources Subcommittee on Water, Oceans, and Wildlife. Subcommittee hearings held.

Summary: Effort to preserve United States fishing heritage through a national program dedicated to training and assisting the next generation of commercial fishermen.

- *H.R. 3742 (Recovering America's Wildlife Act (RAWA))*: Rep. Debbie Dingell (MI-12). Status: House – 10/17/19. House Natural Resources Subcommittee on Water, Oceans, and Wildlife. Subcommittee hearings held.

Summary: Amends the Pittman-Robertson Wildlife Restoration Act to make supplemental funds available for management of fish and wildlife species of greatest conservation need as determined by State fish and wildlife agencies, and for other

STAFF SUMMARY FOR DECEMBER 11-12, 2019

education and enforcement related purposes. The Secretary of the Treasury shall annually transfer \$1.3 billion to a fund established for the management and implementation of wildlife and habitat conservation and restoration programs.

- *S. 2092 (Modernizing the Pittman-Robertson Fund for Tomorrow's Needs Act)*: Senator Jim Risch (ID). Status: Senate – 07/11/2019. Read twice and referred to the Committee on Environment and Public Works.

Summary: Provides flexibility to state agencies to use Pittman-Robertson funds for the recruitment, retention, and reactivation of hunters and recreational shooters. The bill does not increase taxes or existing user fees, but would allow state fish and wildlife agencies to use existing revenues in new ways. This legislation is identical to H.R. 877 that was introduced earlier this year by Representatives Austin Scott (GA), Mark Veasey (TX), Debbie Dingell (MI), and Richard Hudson (NC).

Significant Public Comments

A request made at the Oct 2019 FGC meeting during public comment requested that FGC write a letter regarding HR 3399, to support including California in the federal nutria eradication program.

Recommendation

FGC staff: Authorize the executive director to work with President Sklar to draft and send a comment letter to the coauthors of HR 3399 expressing support for including California in the federal nutria eradication program.

Exhibits

1. [DFW legislative report, dated Nov 25, 2019](#)
2. [HR 3399 as introduced in the House of Representatives, dated Jun 21, 2019](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves delegating authority to its executive director to work with President Sklar to draft and send a comment letter to the coauthors of HR 3399 based on themes discussed today regarding support for including California in the federal nutria eradication program.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

11. STRATEGIC PLANNING**Today's Item****Information** ☒**Action** ☐

This is a standing agenda item as FGC develops a new strategic plan. Staff will provide an update on current progress and request feedback from commissioners.

Summary of Previous/Future Actions

- | | |
|--------------------------------------------|------------------------------------|
| • Adopted mission, vision, and core values | Dec 12-13, 2018; Oceanside |
| • Received updates on second phase | Feb, Apr, Jun 2019; various |
| • Discussed seven key questions | Aug 7-8, 2019; Sacramento |
| • Most recent update | Oct 9-10, 2019; Valley Center |
| • Today's update and feedback | Dec 11-12, 2019; Sacramento |
| • Consider goals and draft plan | Feb 5-6, 2020; Sacramento |

Background

In anticipation of FGC's upcoming 150-year anniversary in 2020, a strategic planning process was initiated in early 2018 (Exhibit 1 provides additional background). In the first of a three-phase process, FGC reassessed its mission and vision, and developed a set of core values, in concert with staff and stakeholders. Adopted in Dec 2018, the revised mission, vision, and new core values (Exhibit 2) are serving to guide a forward-thinking update to the strategic plan.

In Jun 2019, staff reported that the second phase of the planning process was ramping up, to consist primarily of data gathering and synthesis with staff, stakeholders and commissioners. An Aug 2019 FGC discussion was held in a workshop format so that commissioners, staff, and stakeholders could have a direct dialogue about several key questions related to FGC's performance and priorities (Exhibit 3).

After the Aug discussion, staff finalized and sent to a randomly selected subset of FGC's mailing list members an online survey designed to solicit broader input on key questions. Of the nearly 700 email invitations sent, 97 respondents (14%) participated in the survey. Exhibit 4 provides a report of compiled survey responses; for questions with individualized responses, staff synthesized responses into key themes (Exhibit 4). In addition, to date staff has conducted in-depth interviews with 17 individuals, including commissioners and leadership from DFW, other agencies, non-governmental organizations and legislative staff. Questions are similar to those of the online survey, but also include questions about the new mission and vision statements; key themes from these interviews will be shared today.

The information gathered during this phase will be used to help guide development of draft goals as part of a draft strategic plan for FGC consideration in Feb 2020. Today, FGC will receive an overview of the public survey and in-depth stakeholder interview results. Staff is seeking feedback on the key emerging themes and potential goals to include in the draft strategic plan during the third phase.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. [Staff summary from Aug 22-23, 2018 FGC meeting.](#) Agenda Item 17, Strategic Planning (for background only)
2. [FGC mission, vision and core values.](#) adopted Dec 13, 2018
3. [Staff summary from Aug 7-8, 2019 FGC meeting.](#) Agenda Item 15, Strategic Planning (for background only)
4. [Public online survey responses report](#)
5. [Staff summary of key themes](#) identified from public survey responses

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

12. DEPARTMENT INFORMATIONAL ITEMS (WILDLIFE AND INLAND FISHERIES)**Today's Item****Information** ☒**Action** ☐

This is a standing agenda item to receive and discuss informational updates from DFW.

- (A) Director's report
- (B) Law Enforcement Division
- (C) Wildlife and Fisheries Division and Ecosystem Conservation Division
 - I. Inland salmon 2019 season update and water flow
 - II. Update on Wildlife Waystation closure transition (Exhibit C1)

Summary of Previous/Future Actions (N/A)**Background**

Verbal reports on items of interest since the last FGC meeting are expected at the meeting for items (A) through (C). DFW news releases of potential interest are provided as exhibits B1 and C1.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

- B1. [DFW news release: Wildlife Officers Shut Down Illegal Cannabis Grows on CDFW Property, dated Nov 15, 2019](#)
- C1. [DFW news release: New Wildlife Care Fund Established for Animals at Wildlife Waystation, dated Nov 25, 2019](#)

Motion/Direction (N/A)

STAFF SUMMARY FOR DECEMBER 11-12, 2019

13. TRIBAL COMMITTEE (TC)**Today's Item****Information** ☐**Action** ☒

Discuss and consider approving draft agenda topics for the next TC meeting. Consider approving new topics for TC to address at a future meeting.

Summary of Previous/Future Actions

- | | |
|----------------------------------------------------|------------------------------------|
| • Most recent TC meeting | Oct 8, 2019; TC, Valley Center |
| • Today consider approving TC agenda topics | Dec 11-12, 2019; Sacramento |
| • Next TC meeting | Jan 17, 2020; TC, Los Angeles Area |

Background**(A) TC Work Plan and Timeline**

FGC directs the work of TC. The updated work plan in Exhibit 1 includes topics and timelines for items referred by FGC to TC. Draft agenda topics proposed for the Jan 2020 TC meeting—in addition to the standing staff, committee and state agency updates—include eight topics for FGC review and consideration today:

1. Discuss and potentially recommend a definition of co-management
2. Discuss and potentially recommend topics for annual tribal planning meeting
3. Discuss simplifying statewide inland fishing regulations
4. Presentation regarding current levels of commercial kelp and seaweed harvest
5. Discuss and potentially make a recommendation regarding proposed commercial kelp and algae harvest management regulations
6. Receive and discuss a presentation from DFW on pinniped predation studies
7. Update on FGC's Coastal Fishing Communities Project
8. Receive and discuss updates from DFW on various species' management plans

(B) New TC Topics

No new topics are proposed by staff at this time.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve draft agenda topics for the Jan 17, 2020 TC meeting, as discussed today.

Exhibits

1. [TC work plan](#), updated November 2019

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the draft agenda topics for the Oct 2019 Tribal Committee meeting as discussed today.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

14. WILDLIFE RESOURCES COMMITTEE (WRC)**Today's Item****Information** ☐**Action** ☒

Discuss and consider approving draft agenda topics for the next WRC meeting. Consider approving new topics for WRC to address at a future committee meeting.

Summary of Previous/Future Actions

- | | |
|-----------------------------------------------------------------------------------------------|------------------------------------|
| • Most recent WRC meeting | Sep 10, 2019; WRC, Santa Rosa |
| • Today's update | Dec 11-12, 2019; Sacramento |
| • Next WRC meeting | Jan 16, 2020; WRC, Long Beach |
| • WRC meeting to develop recommendation for statewide sport fishing simplification rulemaking | Mar 5, 2019; WRC, Sacramento |

Background**(A) WRC Work Plan**

FGC directs committee work. The work plan in Exhibit 1 includes topics and timelines for items referred by FGC to WRC. Agenda topics proposed for the Jan 2020 WRC meeting are:

- Update and initial vetting of the Simplification of Statewide Inland Sport Fishing Regulations proposal
- Update on the American Bullfrog and Non-native Turtle Stakeholder Engagement Project

Note that the Simplification of Statewide Inland Sport Fishing Regulations proposal will be discussed in detail again at the Mar 5, 2020 WRC meeting, where the committee is expected to develop a recommendation to present to FGC in Apr 2020. The Mar WRC meeting was added to the schedule by FGC for this single purpose.

(B) New WRC Topics

No new topics have been identified at this time.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Approve the draft agenda for the Jan 2020 WRC meeting.

Exhibits

1. [WRC work plan, updated Nov 25, 2019](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission approves the draft agenda for the January 2020 Wildlife Resources Committee meeting.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

15. MAMMAL HUNTING**Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend mammal hunting tag quotas and seasons regulations (deer, archery deer, bighorn sheep, elk and SHARE elk).

Summary of Previous/Future Actions

- | | |
|---------------------------------|------------------------------------|
| • WRC vetting | Sep 10, 2019; WRC, Santa Rosa |
| • Today's notice hearing | Dec 11-12, 2019; Sacramento |
| • Discussion hearing | Feb 5-6, 2020; Sacramento |
| • Adoption hearing | Apr 15-16, 2020; Sacramento |

Background

Proposed changes to the hunting regulations for various big game mammals are combined for concurrent action under a single rulemaking package. For the 2020-21 season, DFW is proposing changes to mammal hunting regulations contained in sections 360, 361, 362, 364, and 364.1 (Exhibit 1). In addition to changes to season dates to account for the annual calendar shift and other minor changes, DFW proposes the following changes as reflected in the initial statements of reasons (ISORs):

Deer (Additional Hunts) – Exhibit 2

- Adjust the number of deer tags available in additional hunts based on spring population surveys.

Deer (Archery Deer Hunts) – Exhibit 3

- Adjust the number of deer tags available for the archery hunt season based on spring population surveys.

Nelson Bighorn Sheep – Exhibit 4

- Adjust the number of Nelson bighorn ram tags available for the season based on bighorn sheep fall/winter population surveys.

Elk – Exhibit 5

- Modify the number of elk tag quotas specified for each hunt zone in accordance with management goals and objectives and within the proposed ranges.
- Modify season dates on Fort Hunter Liggett due to military use constraints, including DFW-administered general methods tule elk hunts, apprentice hunts, and archery-only hunts.

SHARE Elk Hunts – Exhibit 6

- Adjust Shared Habitat Alliance for Recreational Enhancement (SHARE) program elk tag quotas for each hunt area, in response to dynamic environmental and biological conditions, to achieve elk herd management goals and objectives, and maintain hunting quality.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

In all five ISORs where preliminary tag quota ranges are provided, the number of recommended tags will be proposed prior to the Apr 2020 adoption hearing pending completion of all surveys and data analyses.

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of a notice as recommended by DFW.

Committee: Authorize publication of a notice as recommended by DFW.

DFW: Authorize publication of a notice as proposed in the ISORs.

Exhibits

1. [DFW memo, received Nov 13, 2019](#)
2. [Draft economic and fiscal impact statement \(Std. 399\)](#)
3. [Draft deer ISOR](#)
4. [Draft archery deer ISOR](#)
5. [Draft bighorn sheep ISOR](#)
6. [Draft elk ISOR](#)
7. [Draft SHARE elk ISOR](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 360 et al., related to mammal hunting regulations for the 2020-21 season.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

16. WATERFOWL HUNTING**Today's Item****Information** ☐**Action** ☒

Consider authorizing publication of notice of intent to amend waterfowl regulations.

Summary of Previous/Future Actions

- | | |
|---------------------------------|------------------------------------|
| • WRC vetting | Sep 10, 2019; WRC, Santa Rosa |
| • Today's Notice hearing | Dec 11-12, 2019; Sacramento |
| • Discussion hearing | Feb 5-6, 2020; Sacramento |
| • Adoption hearing | Apr 15-16, 2020; Sacramento |

Background

DFW proposes changes to migratory waterfowl regulations in the initial statement of reasons (ISOR; Exhibit 3) to comply with the proposed frameworks for the 2020-21 seasons as approved by the Pacific Flyway Council. The proposed frameworks are scheduled to be adopted by the U. S. Fish and Wildlife Service in late Apr 2020.

A range for season length and bag limits (zero bag limit represents a closed season) is also provided for black brant. The ranges are necessary, as the black brant frameworks cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in Jan 2020.

DFW proposes the following changes in Section 502:

- open the duck season on the second Sat in Oct and close Jan 20 for the Northeastern Zone – 103 days;
- open the duck season on the fourth Sat of Oct and close Jan 31 for the Southern San Joaquin Valley Zone, Southern California Zone, and Balance of State Zone – 100 days;
- open the regular goose season on the fourth Sat in Oct and close Jan 31 for the Southern San Joaquin Valley Zone and the Southern California Zone – 100 days;
- open the Late Season for geese on the weekend after the Youth Hunt Days for the Balance of State Zone and for the Imperial County Special Management Area. If the Veterans and Active Military Personnel Waterfowl Hunting Days is enacted as described below, the Late Season for geese would occur after those hunting days;
- designate two days as Veterans and Active Military Personnel Waterfowl Hunting Days for the Northeastern, Southern San Joaquin Valley, Southern California and Balance of State zones; and
- allow up to five days of falconry-only season for the Balance of State Zone, the Southern San Joaquin Valley Zone and the Southern California Zone.

DFW also proposes to change Section 507 to:

- remove reference to lead shot to comply with existing law.

STAFF SUMMARY FOR DECEMBER 11-12, 2019

Significant Public Comments (N/A)**Recommendation**

FGC staff: Authorize publication of a notice as recommended by DFW.

Committee: Authorize publication of a notice as recommended by DFW.

DFW: Authorize publication of a notice as proposed in the ISOR.

Exhibits

1. [DFW memo, received Nov 13, 2019](#)
2. [Draft economic and fiscal impact statement \(Std. 399\)](#)
3. [Draft migratory waterfowl \(ISOR\)](#)

Motion/Direction

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 502 and 507 related to annual waterfowl regulations.

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR PETITIONS FOR REGULATION CHANGE: RECEIVED BY 5:00 PM ON NOVEMBER 27, 2019
Revised 12/05/2019

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
2019-022	10/21/2019	Tony Barcellos	Multi-day fishing trips	Amend Section 27.15 to say "as long as each person didn't catch over [their] daily limit came in to dock [fillet their] fish and placed it on ice in a cooler, then person would not be in violation for over limit."	12/11-12/2019	2/5-6/2019
2019-023 AM 1	10/25/2019	Karl Gene Kerster	Ravens	Add hunting of ravens to Section 485 for the same season as crows.	12/11-12/2019	2/5-6/2019
2019-024 AM 1	10/25/2019	Karl Gene Kerster	Depredating or otherwise injurious birds	Add hunting of all birds listed in Section 21.43, Title 50, Code of Federal Regulations as depredating or otherwise injurious: blackbirds, cowbirds, grackles, crows, and magpies.	12/11-12/2019	2/5-6/2019
2019-025	11/15/2019	Thomas Wheeler	Beavers	Require landowners to exhaust feasible non-lethal deterrence before killing and removing beavers, and require DFW to consider impacts to listed species from issuing a depredation permit.	12/11-12/2019	2/5-6/2019
2019-026	11/22/2019	Stanley Backlund	Caples Creek	Revise the bag limit for fishing on Caples Creek in El Dorado County to apply the winter regulations year round, thereby reducing the summer take from five fish to zero fish.	<i>Note: this petition is currently under review by FGC staff, and has not been formally accepted.</i>	

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR NON-REGULATORY ACTION: RECEIVED BY 5:00 PM ON NOVEMBER 27, 2019
Revised 12/05/2019

FGC - California Fish and Game Commission **DFW** - California Department of Fish and Wildlife **WRC** - Wildlife Resources Committee **MRC** - Marine Resources Committee

Date Received	Name of Requester	Subject of Request	Short Description	FGC Decision
10/7/2019	Robin Patton	Coyote management	Request for FGC and DFW to assist with management of coyotes in Yorba Linda, including (1) enforcing wildlife feeding prohibition laws, (2) asking for clarification on AB 44 and AB 273, and (3) providing education and other programs concerning the issue.	Receipt: 12/11-12/2019 Action: 2/5-6/2020
11/19/2019	Heidi Gregory, Tomaes Bay Oyster Company	Amendment to State Water Bottom Lease No. M-430-05 for purposes of aquaculture	Request for an amendment to State Water Bottom Lease No. M-430-05 for purposes of aquaculture to add approved species and amend approved culture methods.	Receipt: 12/11-12/2019 Action: 2/5-6/2020
11/20/2019	Ken Bates	Experimental gear permit for Pacific Herring	Request for issuance of an experimental gear permit to take Pacific Herring in Humboldt Bay by lampara net.	Receipt: 12/11-12/2019 Action: 2/5-6/2020



Tracking Number: 2019-022

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: TONY Brasil Barcellos

Address: _____

Telephone number: _____

Email address: N/A

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Section 1.17, 200, 205, 265 Fish and Game Code and Section 27.15, 200, 205, 209, 265, 275 Fish and Game Code

3. Overview (Required) - Summarize the proposed changes to regulations: I'd like the Fish and Game Commission to change Section 27.15 Multi day fishing trips to as long as each person didn't catch over his daily limit, come in to dock filled his fish and placed it on ice in a cooler the person would not be in violation for over limits.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: The problem is as I explained in my letter dated July 3, 2019. Because we live over one hundred miles from the Ocean we would like to fish for more than one day, come in to dock, and stay for the next day.



SECTION II: Optional Information

5. **Date of Petition:** Oct. 15, 2019
6. **Category of Proposed Change**
☐ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☐ Other, please specify: _____
7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)
☒ Amend Title 14 Section(s): _____
☐ Add New Title 14 Section(s): _____
☐ Repeal Title 14 Section(s): _____
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** _____
Or ☐ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: The desired date for the change on the regulation would be for the year 2020-2021.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: I'm attaching a copy of my letter dated July 3, 2019 addressed to The California Fish and Game Commission.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: _____
12. **Forms:** If applicable, list any forms to be created, amended or repealed: _____



RECEIVED
FISH AND GAME
COMMISSION

2019 OCT 21 PM 1:3

SECTION 3: FGC Staff Only

Date received: _____

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition: _____
Tracking Number
- ☐ Granted for consideration of regulation change

July 3, 2019
Tony & Elvis Barcellos

To the California Fish And Game Commission.

My Son Elvis, and I went fishing off Morro Bay Harbor December 28, 2018 thru December 30, 2018. On December 28, we each caught 9 rockfish, we filletted the fish, and placed the fish in a ziplock bag then placed the fish on ice in the cooler in the truck.

On December 29, we went out fishing again, we each caught 9 rockfish, and 1 legal lingcod, and repeated the same process as on the previous day. On December 30, went out fishing again and we each caught 10 rockfish and 4 legal lingcod. On this day a fish and game warden, asked my son Elvis if we had any fish in the truck, my son told him yes, from the previous two days. We told the warden we lived over one hundred miles from Morro Bay, and that the way we read the regulations on the book, that the over limits pertained to in the boat.

The warden decided to write each one of us a citation. I would like to ask the Commission to consider changing 14CCR 27.15. Multi-Day Fishing Trips, to allow keeping the fish for each separate day as long one didn't catch over the legal limit for each day, I would appreciate your consideration, and your correspondence.

Sincerely Yours
Tony Barcellos



Tracking Number: (2019-023)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Karl Gene Kerster

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Title 14

3. Overview (Required) - Summarize the proposed changes to regulations: Add ravens to crows to hunt them both for the same season. Change §485. American Crow. To read §485. American Crow And Raven

4. Rationale (Required) - Describe the problem and the reason for the proposed change: Ravens can be highly destructive to native wildlife including, but not limited to desert tortoises, and ducks. Adding ravens to the crow season would or could facilitate a significant, cost-effective method to use hunters and hunting to manage ravens as needed in a non-political and nimble way. Additionally, it would make moot any concern of ravens being incorrectly identified as crow, by people who are hunting crows, because it would be permissible to hunt either species. Raven breast is exceptional fair on the grill on a par with sandhill crane.

SECTION II: Optional Information

5. Date of Petition: 10/24/2019

6. Category of Proposed Change

☐ Sport Fishing



- ☐ Commercial Fishing
☒ Hunting
☐ Other, please specify:

7. **The proposal is to:** (*To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>*)
☒ Amend Title 14 Section(s) §485. American Crow.
☐ Add New Title 14 Section(s):
☐ Repeal Title 14 Section(s):
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: July 1, 2020
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents:
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: This proposal, if enacted, could solve a management problem dealing with ravens without any cost to the CDFW. Hunters would have the pleasure of eating these large and tasty birds.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:

SECTION 3: FGC Staff Only

Date received: [Received by email on Friday, October 25, 2019 at 9:52 AM.](#)

FGC staff action:

- ☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number 2019-023

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition _____

Tracking Number



State of California – Fish and Game Commission

PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE

FGC 1 (Rev 06/19) Page 3 of 3

☐ Granted for consideration of regulation change

From: FGC
Sent: Friday, November 8, 2019 2:25 PM
To: Kinchak, Sergey@FGC
Cc: Cornman, Ari@FGC
Subject: Fw: Addendum to petitions from Karl G Kerster

From: Karl Kerster [REDACTED]
Sent: Friday, November 8, 2019 11:26 AM
To: FGC <FGC@fgc.ca.gov>
Subject: Addendum to petitions from Karl G Kerster

In regard to the two petitions I submitted recently:
I request to waive time requirements for both petitions.
I appear to have submitted incomplete documentation regarding the
Rulemaking Authority section.

For the Raven/Crow petition please include: Authority cited: Sections 355, 356, 3004.5 and 3800, Fish and Game Code. Reference: Sections 355, 356, 3004.5 and 3800, Fish and Game Code.

For the depredation species petition please include:

Authority cited: Sections 200, 265, 1050, 3960.2, 4150, 4181 and 4181.5, Fish and Game Code.
Reference: Sections 3003.1, 3960, 3960.2, 4150, 4152, 4181 and 4181.5, Fish and Game Code.

Thank you,
Karl Gene Kerster



Tracking Number: (2019-024)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Karl Gene Kerster

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Title 14

3. Overview (Required) - Summarize the proposed changes to regulations: Add hunting of all birds that are listed for federal standing order of depredation.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: Federal depredation order § 50CFR21.43: § 21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies. These birds should be legal for hunters to intentionally hunt since they are killed anyways.

SECTION II: Optional Information

5. Date of Petition: 10/24/2019

6. Category of Proposed Change

☐ Sport Fishing

☐ Commercial Fishing

☒ Hunting

☐ Other, please specify:



7. **The proposal is to:** (*To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>*)
- ☐ Amend Title 14 Section(s):
- ☒ Add New Title 14 Section(s): Hunt birds that are currently under depredation orders
- ☐ Repeal Title 14 Section(s):
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: 07/01/2020
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: § 21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies. A Federal permit shall not be required to control yellow-headed redwinged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: Provided: (a) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported, and otherwise disposed of or utilized.
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Cost savings for the CDFW. Sporting opportunities for hunters.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:

SECTION 3: FGC Staff Only

Date received: [Received by email on Friday, October 25, 2019 at 9:52 AM.](#)

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number 2019-024

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC



State of California – Fish and Game Commission

PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE

FGC 1 (Rev 06/19) Page 3 of 3

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change

From: FGC
Sent: Friday, November 8, 2019 2:25 PM
To: Kinchak, Sergey@FGC
Cc: Cornman, Ari@FGC
Subject: Fw: Addendum to petitions from Karl G Kerster

From: Karl Kerster [REDACTED]
Sent: Friday, November 8, 2019 11:26 AM
To: FGC <FGC@fgc.ca.gov>
Subject: Addendum to petitions from Karl G Kerster

In regard to the two petitions I submitted recently:
I request to waive time requirements for both petitions.
I appear to have submitted incomplete documentation regarding the
Rulemaking Authority section.

For the Raven/Crow petition please include: Authority cited: Sections 355, 356, 3004.5 and 3800, Fish and Game Code. Reference: Sections 355, 356, 3004.5 and 3800, Fish and Game Code.

For the depredation species petition please include:

Authority cited: Sections 200, 265, 1050, 3960.2, 4150, 4181 and 4181.5, Fish and Game Code.
Reference: Sections 3003.1, 3960, 3960.2, 4150, 4152, 4181 and 4181.5, Fish and Game Code.

Thank you,
Karl Gene Kerster



Tracking Number: (2019-025)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Thomas Wheeler, Environmental Protection Information Center (EPIC)
Address: 145 G St., Ste. A, Arcata, CA 95521
Telephone number: (707) 822-7711
Email address: tom@wilcalifornia.org

Additional Co-Petitioners: Center for Biological Diversity, Occidental Arts and Ecology Center, Northcoast Environmental Center, Safe Alternatives for our Forest Environment,

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: FGC 200, 203, 1050, 4009.5, 4180, 4181

3. Overview (Required) - Summarize the proposed changes to regulations:

Petitioners propose changing the regulations concerning the taking of beaver in the state to better reflect the beaver's unique ecological importance by clarifying the circumstances under which the California Department of Fish and Wildlife may issue a depredation permit for beavers. The proposed changes would require landowners to exhaust feasible non-lethal deterrence before killing and removing beavers, and require the Department to consider impacts to listed species from issuance of a depredation permit. The suggested changes not only better recognize the unique and valuable role beavers play in aquatic ecosystems, but also helps to shield the state against litigation and better aligns California's rules with those of other states.

Amend 14 CCR 401

§ 401. Issuance of Permit to Take Animals Causing Damage.

(a) Application. A person who is a property owner or tenant may apply to the department for a permit to take elk, bear, bobcat, beaver, wild pigs, deer, wild turkeys, or gray squirrels that are damaging or



destroying, or immediately threatening to damage or destroy, land or property. A bobcat in the act of injuring or killing livestock may be taken immediately provided the property owner or tenant applies for a permit from the department the next working day following the take.

(b) Permit Period.

(1) Permits issued pursuant to this section for beaver, wild pigs, or gray squirrels shall be valid for a period not to exceed one year.

(2) Permits issued pursuant to this section for bobcat, elk, bear, wild turkey, or deer shall be valid for a period not to exceed 60 consecutive days.

(3) Permits issued pursuant to this section authorizing the use of dogs for bear or bobcat shall authorize no more than three dogs and shall be valid for a period not to exceed 20 consecutive days.

(4) Permits may be renewed if damage or threatened damage to land or property continues to exist.

(c) Required Information and Conditions of Permit.

(1) The department shall collect the following information before issuing a depredation permit:

(A) The name, mailing address, and contact information of the property owner, including telephone, facsimile, and email. If the owner is a business entity, contact information for the person acting on behalf of the business.

(B) The name, mailing address, and contact information of the tenant (if applicable), including telephone, facsimile, and email.

(C) The name, mailing address, and contact information of any dog handlers or agents as described in subdivision (e), including telephone, facsimile, and email.

(D) The county and address of the location of the damage caused by depredation, or the nearest landmark or cross streets.

(E) A full description of the land or property damaged, destroyed, or immediately threatened, and the date the damage or threat occurred.

(F) The species suspected of damaging, destroying, or threatening land or property, and the method of identifying the species.

(G) A description of all non-lethal or less-lethal measures undertaken to prevent damage caused by animals prior to requesting the permit.

(H) A description of corrective actions that will be implemented to prevent future occurrence of the damage.

(I) The proposed method of take.

(J) Whether dogs will be used to pursue or take the animal, and if so, why dogs are needed, and the number of dogs to be used.

(2) The department may add terms and conditions to the permit necessary to protect wildlife and ensure public safety. To be valid, the permit shall contain a statement signed by the applicant that he/she has read, understands, and agrees to be bound by all the terms of the permit.

(3) The department may not issue any permit that would authorize activities that would violate federal, state or local law.

(4) For the taking of beaver, the department may issue a permit only if the department finds that the applicant has used at least one non-lethal deterrence or mitigation method prior to issuance of the permit, unless the department finds that exigent circumstances, such as a risk to human safety, require immediate lethal action. Non-lethal methods include, but are not limited to, wrapping trees, fencing, flow control devices, and other beaver deterrence. If the permit would remove beaver or their dams in areas occupied by endangered or threatened salmonids or other state or federally-listed species dependent on freshwater habitats maintained by beaver, the department shall analyze impacts to such species, document its findings in a report to accompany the permit, and include mitigation measures to eliminate harm to such species.

(d) Methods of Take.



(1) Animals taken pursuant to a permit may be taken in any legal manner except as herein provided and in accordance with the provisions of Section 465.5 of these regulations. Permits to take deer shall include conditions that comply with Fish and Game Code section 4181.5. Permits to take bear and bobcat with dogs shall include conditions that comply with Fish and Game Code Section 3960.2. No steel-jawed leghold traps may be used to take mammals, and no iron-jawed or any type of metal-jawed traps may be used to take squirrels or bears. No poison may be used. The department may specify the caliber and type of firearm and ammunition, archery equipment or crossbow to be used. The department may require that a permittee take animals alive by the use of live traps.

(2) The permittee and/or agent shall ensure that all animals are killed in a humane manner instantly and prevent any injured animal from escaping.

(e) Government Employees and Designated Agents.

(1) An employee of a federal, State, or local government agency or local district with responsibilities including but not limited to animal control, animal damage control, irrigation, flood, or natural resource reclamation, while acting in his/her official capacity may take depredating animals on the property designated in a permit issued pursuant to this section.

(2) The permittee may designate up to three other persons, including any dog handler who will be utilized in any pursuit, as his/her agents to take animals under the terms of the permit. A designated agent shall be any person who is acting under the direction and control of the permittee and who is 21 years of age or older. The designated agent(s) shall be named on the permit. The permittee may substitute designated agents with prior written approval of the department.

(f) Persons Prohibited from Taking Animals. No person shall take animals pursuant to the permit if he/she has been convicted of a violation related to the take or possession of game or furbearing mammals in the past 24 months or if he/she is on probation and may not hunt or possess a firearm as part of the terms of probation. A landowner who is on probation and may not hunt or possess a firearm as part of the terms of probation shall designate a qualified agent to take animals under a permit.

(g) Reports Required.

(1) Holders of permits authorizing take of wild pigs shall provide a report listing the date and sex of each wild pig taken. A report shall be submitted whether or not any animals were taken. The reporting period shall be by calendar month. The permittee or designated agent shall complete and submit the report to the department on or before the 15th day of the following month. Reports shall be submitted to the address provided by the department.

(2) Holders of permits authorizing the use of dogs to take bear or bobcat shall comply with the requirements of Fish & Game Code section 3960.2 and shall submit a report to the department within 30 days of permit issuance. Reports shall be submitted to the address provided by the department. Reports shall include the following information:

(A) Date of kill and the sex of any bear or bobcat that was killed.

(B) Details regarding all pursuits, including any information about a pursued bear or bobcat, even if the animal was not killed.

(C) An explanation of why any pursued bear or bobcat was not killed, and whether such bear or bobcat was harmed.

(3) Holder of permits authoring take of beavers shall provide a report documenting whether associated natural structures, such as beaver dams, were removed, destroyed, or otherwise altered.

(h) Tagging Animals. All animals taken pursuant to a permit, except wild pigs, shall be immediately tagged with tags provided by the department. Wild pigs shall be tagged prior to being transported from the property designated in the permit. Tags for animals except wild pigs shall be completed at the time the animal is taken. Tags for wild pigs shall be completed before the wild pigs are removed from the property. Tags shall clearly show the permittee's name, address, date and location the animal was taken and shall include the signature of the person taking the animal. The report portion of each tag shall be



mailed to the department without delay. No tags are required for squirrels or beavers.

(i) Utilization of Carcass. Animals taken pursuant to this permit must be disposed of as required in the permit. No animals, except wild pigs, may be utilized by the permittee or designated agent. The permittee or designated agent may leave the carcass of any wild pig where it was taken for reasons of high air temperatures, disease, parasites, or conditions which preclude use of the carcass. A person who makes every reasonable attempt to utilize the carcass of any wild pig as required in this subsection shall be deemed to be in compliance with Section 4304 of the Fish and Game Code. (1) After any taking of bear, the permittee or agent shall comply with Section 367.5 of these regulations, except the skull shall not be returned to the permittee or agent.

(j) Suspension and Revocation of Permits.

(1) Permits may be suspended temporarily by the director for a breach or violation of the permit by the holders thereof, their agents, servants, employees or any person acting under their direction and control. The commission shall be notified of any such suspension and subsequently may revoke or reinstate the permit, or fix the period of its suspension, after written notice to the permittee and the permittee has been afforded an opportunity to be heard.

(2) Any person who has had his/her permit revoked or suspended by the commission shall be required, upon application for a new or subsequent permit, to appear before the commission and demonstrate to its satisfaction that the use of such a permit will be consistent with depredation control, with these regulations, and with the laws under which they are promulgated.

(k) It is unlawful for a permittee or agent to violate any of the terms or conditions of a permit issued pursuant to this section.

(l) The permit does not invalidate any city, county, or state firearm regulation.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

The North American beaver (*Castor canadensis*) is native to California. Accordingly, the flora and fauna of the state have co-evolved with the beaver, developing unique and complex interwoven relationships. Beavers, however, are currently missing from much of their historic range and the effects of their absence are felt by the species that co-evolved with beavers. Beaver create freshwater habitats used by a variety of wildlife, including fish, birds, and other mammals. Their dams filter stream water, improve water quality, raise the water table, increase water storage, and repair eroded riparian areas. In particular, beavers have a significant beneficial relationship to many species currently listed as threatened or endangered under the California Endangered Species Act and/or the federal Endangered Species Act, such as coho salmon. The proposed amendments to the regulations recognize the unique ecological importance of beavers and take steps towards promoting our co-existence with beavers by prohibiting the commercial trapping of beavers, and by requiring that non-lethal or less-lethal measures have been taken to avoid and minimize conflicts with humans. The proposed regulations are in line with how many other states now manage beavers.

Beavers are Biologically Important to California

Beavers are native to much of California, from arid desert streams, to high mountain meadows, to coastal forests. California's beavers were nearly extirpated from the state by over trapping. Although some attempts have been made to reintroduce beavers or assist in their dispersal, beavers remain missing from much of their historic territory, in particular northern California coastal streams and high mountain meadows where the benefits of beavers may be most acutely felt.



The total impact of beavers to the hydrologic characteristics of streams is difficult to overestimate. Beaver dams increase in-stream storage capacity, which in turn has been shown to result in greater summer flows, even going so far as to result in continual flow in previously seasonal streams. Impoundment of water also has been shown to stabilize water temperatures. Beaver dams slow stream flow resulting in increased sedimentation, thereby raising incised channels to the point where streams are reconnected to their historic floodplains.

Beaver dams are so ecologically important that watershed restoration groups are now turning to “beaver dam analogs,” human engineered approximations of beaver dams, to provide the same ecological functions. Unlike beaver dams, continual human maintenance—and cost—is required.

Broadly, the presence of beaver has been shown to increase bird, fish, invertebrate, amphibian and mammalian abundance and diversity. Turning specifically to native fish species, the overall net effect of beavers is positive, as many of these hydrologic changes associated with beaver dams benefit fish. Over 80 species of North American fish have been documented using beaver ponds; 48 of which commonly use beaver pond habitats. The slow current and large surface to edge ratio has been shown to increase vegetation and aquatic invertebrates, providing substantially improved forage compared to unimpounded streams. The slow current also requires less expense of energy for fish. Turning specifically to coho salmon, the effects of these changes are perhaps most pronounced. For overwinter use, coho salmon use side channel habitat influenced by beaver dams at a higher density, and were larger and had a better juvenile survival rate than juvenile salmon in side channels not impacted by beavers. Similarly, beaver dams are important during the summer, as are salmon who were found upstream of beaver dam were not only consistently larger, but also occurred there in higher densities. One study found, for example, that though these upstream reaches accounted for less than 1% of the total available habitat, these dam-influenced areas contained over a third of the total juvenile salmon for the entire watercourse.

Beavers also have been shown to have positive benefits to other species. Beaver dams are associated with increased riparian habitat, such as willow. This willow serves as important habitat for the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell’s vireo (*Vireo bellii pusillus*). Tidewater goby (*Eucyclogobius newberryi*), listed as “endangered” under the Endangered Species Act, has been shown to utilize both inundated areas behind beaver dams and bank burrows made by beavers. (USFWS 2005). Beaver dams are thought to provide important refugia for endangered California red-legged frogs (*Rana draytonii*) and western pond turtles (*Actinemys marmorata*), a “species of special conservation concern” in California.

New Regulations Pose Minimal Hardship for Landowners

In some places, beavers can conflict with human uses of the landscape, as dams can cause flooding for adjacent lands. Additionally, beavers may remove some riparian vegetation or may alter the structure or composition of riparian areas in a way that is undesirable to a landowner. As the rules are currently written, it is too easy to obtain a permit to take beaver through a depredation permit, thereby discouraging non-lethal deterrence. The proposed rulemaking would not prohibit lethal removal of beavers but it would ensure that beavers are taken (killed) only when necessary, after non-lethal measures have been attempted. Further, the rules would still allow for the lethal removal of beaver if exigent circumstances require their removal.

Coexistence with beavers is often possible with minimal effort by landowners. Many beavers are removed because of the dams that they produce impound areas with water against the wishes of property



owners. A variety of devices and techniques have been developed to reduce impoundment and flooding. Beavers are also taken because of impacts to vegetation adjacent to waterways. This vegetation can easily be protected with hardware cloth or welded wire mesh wrapped around the base of the tree. The Department maintains a guide on “Living with Beavers,” which is attached to this petition, that discusses many of the ways humans can co-exist with beavers.

Proposed Regulations Insulate State Against Litigation

The proposed rulemaking also insulates the Department against potential litigation under the Endangered Species Act (ESA). In issuing permits to allow the taking of beavers, the Department may violate the ESA if such taking would, in turn, take any other species subject to the Endangered Species Act’s take prohibition. By making clear that the Department is unable to authorize the taking of beavers if such taking would result in the violation of the ESA or any other law and by requiring the Department to conduct a site-specific investigation of potential impacts, the Department will avoid future litigation.

As it relates here, the ESA prohibits any person, including state and local governments, from “tak[ing] any [endangered or threatened] species within the United States or the territorial sea of the United States.” 16 U.S.C. § 1538(a) (1) (B). In addition, the ESA makes it unlawful for any person “to attempt to commit, solicit another to commit, or cause to be committed, any offense defined” in the ESA. *See* 16 U.S.C. § 1538(g). The term “‘take’ means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” § 1532(19). In turn, “[t]ake’ is defined...in the broadest possible manner to include every conceivable way in which a person can ‘take’ or attempt to ‘take’ any fish or wildlife.” S.Rep. No. 93-307, at 7 (1973); *see also Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995) (citing Senate and House Reports indicating that “take” is to be defined broadly). Pursuant to 16 U.S.C. § 1538(g), “It is unlawful for any person to...cause to be committed[] any offense defined in this section,” which includes the taking of a protected species. The Department, in issuing permits, is subject to the Act’s prohibition on authorizing take.

As the First Circuit Court of Appeals found in *Strahan v. Cox*, “The statute not only prohibits the acts of those parties that directly exact the taking, but also bans those acts of a third party that bring about the acts exacting a taking.” *Strahan v. Cox*, 127 F.3d 155, 163 (1st Cir. 1997) cert. den. 525 U.S. 830 (1998). This includes situations where a government authorizes another to conduct activities that would result in a violation of the act. In *Strahan*, the court found Massachusetts officials liable under the ESA for licensing commercial fishermen who employ methods known to harm listed whales.¹

The proposed regulation would make clear the Department’s obligation to deny any permit application that may cause the taking of any listed species or may otherwise cause a violation of federal, state, or local laws. Furthermore, it directs the Department to make a finding on impacts to listed species if lethal removal may adversely impair a listed species. Lastly, the proposed regulations would require a report if a beaver dam were to be removed.

Proposed Regulations are Consistent with Regulations in Other States

¹ The First Circuit is not alone. A long-line of “*Strahan-take*” cases have been upheld in courts across the country, including in California. *See Coalition for a Sustainable Delta v. McCamman*, 725 F. Supp. 2d 1162, 1167–68 (E.D. Cal. 2010) (recognizing that state regulating agencies may be held liable for take under the ESA, but holding there were disputes of material fact regarding whether the striped bass sportfishing regulations at issue caused take of listed salmonids).



In recognizing the unique biological importance of beavers and limiting their take to reduce impacts on the environment, California would join many other states who have come to recognize the importance of beaver in restoring and preserving healthy aquatic ecosystems. Massachusetts, for example, requires individuals to apply to remove beavers and limits their removal when beavers are causing material harm or when they pose a threat to human health or safety. Further, if removal of beavers, dams, or the de-watering of ponds may impact listed species, applicants have to seek other separate advance approval from the state. As another example, New York requires a site-specific consideration of local beaver populations and requires the state to inform applicants of the positive ecological benefits of beavers and alternatives to trapping prior to issuance of a depredation permit.

SECTION II: Optional Information

5. **Date of Petition:**
6. **Category of Proposed Change**
☐ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☒ Other, please specify: Depredation permit issuance
7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
☒ Amend Title 14 Section(s): 401
☐ Add New Title 14 Section(s):
☐ Repeal Title 14 Section(s):
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency:
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: “Living with Beavers, produced by the California Department of Fish and Wildlife, is attached to this petition. .
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: The state already created resources on non-lethal methods of dealing with beavers, and the costs of implementing those methods on site will be the responsibility of the applicant. The proposed regulatory changes would likely result in fewer permit applications, reducing the need for processing and oversight of permits issued by the agency. If the



agency continues to issue permits to kill beavers in areas occupied by listed species that depend upon beavers, however, more resources may be required to analyze, document, and mitigate impacts to listed species.

12. Forms: If applicable, list any forms to be created, amended or repealed:

SECTION 3: FGC Staff Only

Date received: [Received by email on Friday, November 15, 2019 at 10:51 AM.](#)

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number 2019-025

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____
- ☐ Granted for consideration of regulation change

Tracking Number

Living with Beavers

The American Beaver (*Castor canadensis*) is the largest living rodent in North America, with adults averaging 40 pounds in weight and measuring more than 3 feet in length, including the tail. These semi-aquatic mammals have webbed hind feet, large incisor teeth, and a broad, flat tail (Figures 1 and 2).

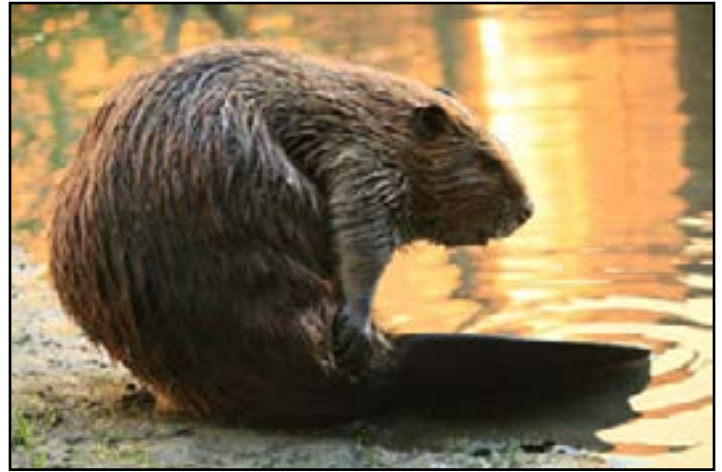


Figure 1. Photo by Cheryl Reynolds and courtesy of Worth A Dam

Once among the most widely distributed mammals in North America, beavers were eliminated from much of their range in the late 1800s because of unregulated trapping and loss of suitable habitat. Beaver are native to California and historically occurred along the coast, throughout the Central Valley, Colorado River basin, and into the Sierra Nevada and Cascades mountain ranges. However, by the early the 20th century their geographic range had decreased dramatically as a result of intensive fur-trapping and loss of suitable habitat caused by extensive land and water development. Between 1923 and 1950, the State of California conducted a successful reintroduction program using parachutes in some instances to plant beavers in remote mountain locations (Hensley 1946). Today, interest in beavers in California is on the rise as the benefits to fish and wildlife habitat, surface water storage and ground water recharge become more apparent during drought conditions.

Life History

Beavers are monogamous and mate for life. Females reach sexual maturity at 1.5 to 3 years of age and will typically birth 1-4 or more kits per year, depending on habitat quality and the availability of food. Beavers typically breed only once per year during the winter months, giving birth to kits in late spring, though significant variation occurs depending on latitude and climate (Baker and Hill 2003).

Beavers maintain family units which consist of an adult breeding pair, young of the year and young from the previous year. Sometimes, when habitat quality is poor or population levels are near their carrying capacity, older offspring will remain with the family unit for more than 2 years.

Beavers are strict herbivores and they generally prefer grasses, leaves, and aquatic plants such as cattails, bulrushes, and water lilies. Fermentation by special intestinal microorganisms allows beavers to digest 30 percent of the cellulose they ingest. In the fall and winter, they feed primarily on the bark and cambium of trees and shrubs. Aspen, cottonwood, willow and alder are preferred woody species in California. Beavers sometimes consume growing crops, and in some cases may travel 100 yards or more from a pond or stream to reach corn fields, soybean fields, and other growing crops. In these cases they generally cut the plants off at ground level and drag them back to the water.

Beavers do not hibernate. When the surface of the water is frozen, beavers eat bark and stems from a food “cache” they have anchored to the bottom of the waterway for the winter. They have also been seen swimming under the ice to retrieve roots and stems of aquatic plants. They are generally nocturnal, but it is not uncommon to see beavers during daylight hours, particularly in larger water bodies. They generally do not stray far from the relative safety of water.

Viewing Beavers

Look for signs of beavers during the day; look for the animals themselves before sunset or sunrise. Approach a beaver site slowly and downwind. (Beavers have poor eyesight but excellent hearing and sense of smell.) Look for a V-shaped series of ripples on the surface of calm water. A closer view with binoculars may reveal the nostrils, eyes, and ears of a beaver swimming.



Figure 2. Beaver at French Creek, Siskiyou County. Photo by M. Stapleton.

If you startle a beaver and it goes underwater, wait quietly in a secluded spot and chances are that it will reemerge within one or two minutes. However, beavers are able to remain underwater for at least 15 minutes by slowing their heart rate.

When seen in the water, beavers are often mistaken for muskrats. Try to get a look at the tail: Beavers have a broad, flat tail that doesn't show behind them when swimming, whereas muskrats have a thin tail that is either held out of the water or sways back and forth on the water's surface as the animal swims.

Beavers stand their ground and should not be closely approached when cornered on land. They face the aggressor, rear up on their hind legs, and hiss or growl loudly before lunging forward to deliver extremely damaging bites.

Wildlife Habitat Benefits

Beavers are well known for their construction efforts. They create dams and lodges for shelter and protection, largely with woody material. The woody material used in construction is either gathered from the ground locally, or from small and medium sized trees that the beavers fell with their teeth (Figures 4 and 5). The orange tooth enamel of their incisors is thicker on the front than the back, allowing for a self-sharpening wear pattern that maintains their chisel-like edge.



Figure 3. A beaver uses its tail as a prop in order to sit upright. (Miller and Yarrow 1994)

Depending on the type of water body and local habitat conditions, beavers may also construct burrows in the bank of a stream or river. These bank dens may be used in lieu of, or in conjunction with a lodge (Figure 5) and often take advantage of natural features such as logs or stumps.



Figure 4. Beavers have self-sharpening incisors. Photo courtesy Washington Dept. of Fish and Wildlife.

Beaver dams create habitat for many other animals and plants of California. Deer and elk

frequent beaver ponds to forage on shrubby plants that grow where beavers cut down trees for food or for use in constructing their dams and lodges. Weasels, raccoons, and herons hunt frogs and other prey along the marshy edges of beaver ponds. Sensitive species such as red-legged, yellow-legged and Cascade frogs all benefit from habitat created by beaver wetlands. Migratory water birds use beaver ponds as nesting areas and resting stops during migration. Ducks and geese often nest on top of beaver lodges since they offer warmth and protection, especially when lodges are formed in the middle of a pond. Willow flycatchers use the shrubby re-growth of chewed willow stumps to seek shelter and find food.

The trees that die as a result of rising water levels attract insects, which in turn feed woodpeckers, whose holes later provide homes for other wildlife. In coastal rivers and streams, young coho salmon and steelhead may use beaver ponds to find food and protection from high flows and predators while waiting to grow big enough to go out to sea (Pollock et al. 2003).



Figure 5: Beaver pond and lodge on Sugar Creek, Siskiyou County. Photo by CDFW's Mary Olswang.

Preventing Conflicts

Beaver activities can cause problems, but before beginning a beaver control action, assess the problem and aim to match the most appropriate and cost-effective controls to the situation. There are two basic control methods used in California: prevention and lethal control. There are many non-profit organizations in California that support alternatives to lethal control. [The Benefits of Beaver to California & Stewardship Strategies Resource List](#) is a valuable educational resource.

Practical tips for minimizing conflict. It is almost impossible as well as cost prohibitive to exclude beavers from ponds, lakes, or impoundments.

Exclusion

Fencing off groups of trees or shrubs or garden plots with a low fence (three feet tall) will protect them. Since beavers generally do not like to stray far from water (this opens them up to greater risk of predation), fences may be effective even if they do not completely surround the area (if you choose to fence only part of an area, fence the portion of the area toward the water source, and part way along the sides). The fence should be constructed of woven or welded wire and be well anchored to the ground, so that beavers do not crush it, crawl under it, or walk over it.

An electrified wire strung 4-6" above the ground may also be an effective beaver deterrent. Fence chargers, wiring, and wire hangers suitable for use on pets and other small animals are generally available at hardware stores, feed stores, and home improvement centers.

Protection of individual trees and plants

Valuable trees and other plants adjacent to waterways may be protected from beavers by encircling them with hardware cloth (chicken wire is generally too flimsy), welded wire mesh or sheet metal (WDFW 2015). Welded wire mesh of 2" x 4" seems to be an optimal material in terms of

effectiveness, durability, aesthetics and cost of construction. The barrier should afford 6 inches to one foot of space between the barrier and the tree, extend at least three (preferably four) feet above ground level and be dug into the ground 3-4 inches for maximum effectiveness (Figure 6).

Alternatively, painting tree trunks with a sand and paint mixture may also prevent beaver gnawing, and may be more aesthetically pleasing than metal barriers. Beavers do not find the sand to be appetizing, and the mixture will be effective for approximately two years. The sand/paint ratio should be approximately 8 ounces (2/3 cup) of fine sand to one quart of latex paint.

Prevent flooding

Have you ever cut a notch into the dam and come back the next day to see it patched and re-enforced with mud? Beavers are attracted to the sound of running water and will repair most dam breaches and plug most culverts and pipes that are installed in order to drain the ponds. Beavers also require a certain depth of water to move around and escape predation.

A variety of devices and designs have been developed for controlling beaver impoundments and keeping blocked culverts open. The Flexible Leveler and Beaver Deceiver are two examples. Visit <http://www.beaversolutions.com/> for more information.

Modification of beaver dams, or any construction work within lakes or within the bed and bank of a stream, may require a Streambed Alteration Agreement permit from the California Department of Fish and Wildlife (CDFW). Before attempting to install any beaver devices, contact CDFW in order to determine for assistance.

Depredation Regulations

If all alternatives are exhausted and beavers are continuing to damage or threaten to damage land or property, the owner or tenant of such property may apply to the Department for a permit to kill the depredating animals. Upon satisfactory evidence of such damage or destruction, the Department shall issue a revocable permit allowing the taking of such animals (Fish and Game Code §4181). No animals killed pursuant to such a permit may be utilized by the permittee or his agent (Title 14, California Code of Regulations, §401(i)). For additional information, contact your regional Department of Fish and Wildlife office or visit <https://www.wildlife.ca.gov/Regions>.

Public Health Concerns

Beavers can be infected with the bacterial disease tularemia that is transmitted by ticks, flies and ingestion of contaminated water (Gaydos 1998). Human can also contract the disease by eating infected meat or allow an open wound come in contact with an infected animal.

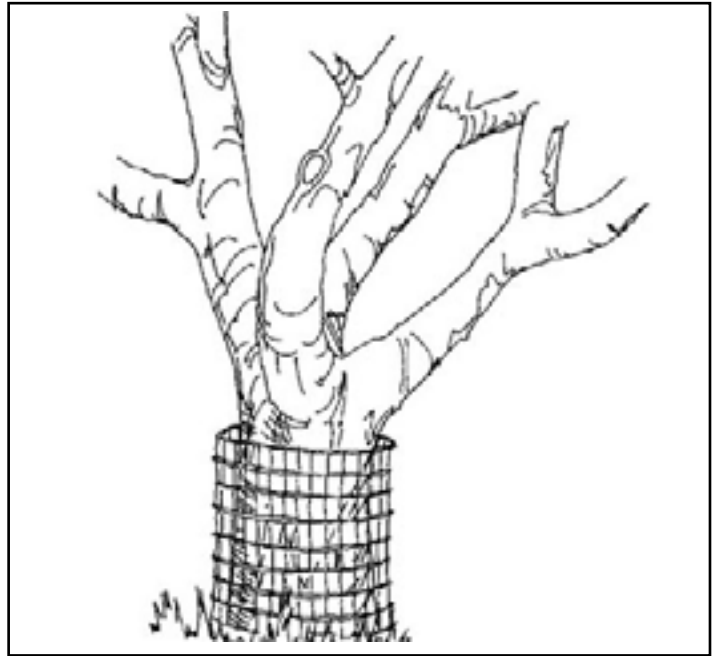


Figure 6. Drawing by Jenifer Reese (Miller and Yarrow 1994)

Beavers defecate in the water in which they live. Ingested water by humans may cause Giardia, a common flu-like infection.

Acknowledgments

Occidental Arts and Ecology Center WATER Institute (OAEC)
Washington Department of Fish & Wildlife (WDFW)

References

Baker, B. W., and E. P. Hill. 2003. Beaver (*Castor Canadensis*). Pages 288-310 in G. A. Feldhamer, B. C. Thompson, and J. A. Chapman, editors. *Wild Mammals of North America: Biology, Management and Conservation*. Second Edition. The Johns Hopkins University Press, Baltimore, Maryland, USA.

Gaydos, J. 1998. Giardia and Wildlife. Southeastern Cooperative Wildlife Disease Study Briefs. College of Veterinary Medicine, University of Georgia, Athens, GA. Available online: http://www.uga.edu/scwds/topic_index/1998/GiardiaandWildlife.pdf

Miller, J.E. and G.K. Yarrow. 1994. Beavers. Pages b1-b12 in *Prevention and Control of Wildlife Damage*. Editors, Scott E. Hygnstrom, Robert M. Timm, Gary E. Larson. University of Nebraska-Lincoln. 2 vols. Available online: http://wildlifedamage.unl.edu/handbook/handbook/allPDF/ro_b1.pdf

Pollock, M.M., M.Heim, and D. Werner. 2003. Hydraulic and geomorphic effects of beaver dams and their influence on fishes. *American Fisheries Society Symposium* 37:213-233.

Washington Department of Fish and Wildlife (WDFW). 2015. Living with Wildlife. <http://wdfw.wa.gov/living/beavers.html#trapping>



Tracking Number: (2019-026)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Stanley Backlund, Trout Unlimited El Dorado

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: In 1945 the Fish and Game Commission received the responsibility for promulgating regulations to manage sport fishing and hunting. This act was done by the Legislature, through a constitutional amendment. The Fish and Game Commission has a wide range of responsibilities that continually expands and includes: Seasons, bag limits and methods of take for game animals, sport fishing and some commercial fishing. Beginning October 1, 2015, every person or agency recommending that a regulation be added, amended, or repealed must submit a petition to the commission using the authorized petition form: [FGC 1](#).

3. Overview (Required) - Summarize the proposed changes to regulations: Revise the bag limit for fishing on Caples Creek in El Dorado County. The winter regulations shall be applied year round. The effect is to reduce the summer take from five fish to zero.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: Caples Creek was designated as a Wild Trout Water by the DFW in 2015. No management changes have been made in the interim. Wild Trout Waters are those that support self-sustaining (wild) populations of trout, are aesthetically pleasing and environmentally productive, provide adequate catch rates in terms of numbers of trout, and are open to public angling. Fish populations in Caples Creek do not support this definition. Surveys do not find rainbow trout where observed prior to designation. Restricting take should result in a rebound of fish population. Our El Dorado Chapter of Trout Unlimited has a goal to create an improved fishery with a large population of Rainbow Trout including fish in excess of 12 inches in length. This change will allow fish repopulation, improve fishing opportunity and result in an increase in visitation to the region. The existing five fish limit allows removal of the prior population.



Surveys conducted in 1998, 1999, 2000 and 2001 prior to licensing found rainbow trout at all survey sites. In 2011 the DFW found densities of 849 rainbow trout per mile averaged from all sites. Their angling survey yielded 1-2 fish per hour. In 2011, 41 brook trout and 4 brown trout were reported. Limited surveys of the creek have been performed four times from 2011 to 2017. No Rainbow Trout were detected. Fishing by members of our Trout Unlimited chapter in 2013 and 2014 was unproductive. There are 58 Wild Trout Waters in California. Forty of them have special regulations limiting catch. Caples is deserving of a limit to protect fish stock.

SECTION II: Optional Information

5. Date of Petition: March 22, 2019

6. Category of Proposed Change

- ☒ Sport Fishing
- ☐ Commercial Fishing
- ☐ Hunting
- ☐ Other, please specify:

7. The proposal is to: *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☒ Amend Title 14 Section(s): Division 1-Department of Fish and Wildlife Freshwater Sport Fishing Regulations, 7.5 Waters with Special Fishing Regulations, (b) Special Regulations, (4.5)
- ☒ Add New Title 14 Section(s): 7.5 Waters with Special Fishing Regulations, (b) Special regulations. (New paragraph) Caples Creek: Open all year. Only artificial lures with barbless hooks may be used. 0 trout.
- ☐ Repeal Title 14 Section(s): None

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition [Click here to enter text.](#)
Or ☒ Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: April 26, 2020.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Attachment 1 provides links to the survey data referenced in paragraph 4.

11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: This regulatory change is expected to expand catch and release opportunities in Caples Creek thereby increasing visitation and recreational spending in the three counties of El Dorado, Amador and Alpine.



12. Forms: If applicable, list any forms to be created, amended or repealed:

None

SECTION 3: FGC Staff Only

Date received: [Received by email on Friday, November 22, 2019 at 11:00 AM.](#)

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number 2019-026

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____
- ☐ Granted for consideration of regulation change

Tracking Number

Attachment 1 to Fish and Game Commission Petition re Caples Creek

Links to Caples Creek Trout Monitoring Reports

1. FISHERIES DATA REPORT FOR PROJECT-AFFECTED STREAM REACHES, EL DORADO IRRIGATION DISTRICT Hydroelectric Project 184. April 7, 2002. Surveys 1998, 1999, 2000, 2001.
<https://www.eid.org/home/showdocument?id=4719>
2. FERC Project No. 184. Rainbow Trout Monitoring 2011
<https://www.eid.org/home/showdocument?id=4717>
3. FERC Project No. 184 Rainbow Trout Monitoring 2012
<https://www.eid.org/home/showdocument?id=3394>
4. FERC Project No. 184 Rainbow Trout Monitoring 2016
<https://www.eid.org/home/showdocument?id=7102>
5. FERC Project No. 184 Rainbow Trout Monitoring 2017
<https://www.eid.org/home/showdocument?id=9785>
6. Caples Creek 2009 Summary Report September 8-10, 2009. Department of Fish and Game
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=29677&inline>
7. Caples Creek 2011 Summary Report October 18-21, 2011. Department of Fish and Game
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=118303&inline>

From: Robin Patton [REDACTED]
Sent: Monday, October 7, 2019 11:37 PM
To: Charlton.Bonham@wildlife.ca.gov; FGC
Subject: Living with Coyotes URGENT - Meeting Wed Oct 8, 2019 at Rincon Govt Center
Attachments: Oct 7 2019 Fish and Wildlife Commission letter.docx

Please see attached. I was just advised that you have an important mtg on Wednesday Oct 9th.

Thank you,

Robin Patton
[REDACTED]

To: Charlton Bonham, Dir F&W Commission Charlton.Bonham@wildlife.ca.gov,
Melissa Miller-Hensen, VP F&W Commission, fgc@fgc.ca.gov,

Eric Sklar, President F&G Commission fgc@fgc.ca.gov,
Jacque Hostler-Carmesin, VP F&G fgc@fgc.ca.gov,
Russell Burns, Commissioner F&G fgc@fgc.ca.gov,
Peter Silva, Commissioner F&G fgc@fgc.ca.gov,
Samantha Murray, Commissioner F&G fgc@fgc.ca.gov,

Re: Living with Coyotes Meeting Wed Oct 8, 2019 at Rincon Govt Center

Dear Commissioners and Powers that Be,

I am a long time resident of Yorba Linda which is down south in Orange County. I've lived in California all my life.

Having always respected and lived in harmony with our large variety of beautiful wildlife, I need to ask your help for the 70,000 residents in my city. I've asked the State on different occasions and they have always turned down my requests. This has now resulted in issues being escalated (as I have along predicted) to where communities have been divided into the Hatfields vs McCoys when it comes to Coyotes.

Yorba Linda is bordered by the obvious wilderness of the large Santa Ana River and the 15,000 acre Chino Hills State Park. We are an ever-growing 'gentrified' semi-rural city with many new homes still being built. As with many cities, our continued problem is that newcomers (as well as negligent long-timers) do not follow wildlife guidelines. It's mostly due to lack of wildlife education, complacency, laziness and lack of enforcement/fines.

Unfortunately, some folks are eventually brought to reality by the tragic loss of a pet. It is then when these grieving people become easy prey by outside radical groups (OC Coyote & Evict Coyotes) that encourage and coach them to make trouble for the City/County/State and even instruct them on how to secretly/illegally kill coyotes while inciting as many as possible on our neighborhood www sites with made up stories/phony pix and misinformation. They brag about killing coyotes with crossbows and convince residents that it's absolutely ok to kill coyotes by baiting/luring innocent coyotes to your yard, use a collarum trap, shoot them in the head with a rifle and then put the lifeless carcass in a double black, plastic, hefty garbage bag and throw it in the trash. And if caught, just be ready with a story that the coyote was attacking you or your family or pet and you were just protecting your family and property. And to do likewise when you just wanna use one of your shiny new guns and "Shoot as many as you want because Calif considers Coyotes like vermin and rats and it's your 2nd Amendment Right".

CAUTION: It's probably 100% chance that these organized, radical types have been/will be attending your meetings as they have also invaded ours.

In fact, our recent Coyote Awareness Mtg in May (attended also by Senator Chang) was infiltrated by outside radicals (whose www site proved their deliberately planned trouble making). It got so out of control that the mtg had to be abruptly ended before residents' questions were answered.

For some reason, assuming that people will follow laws and guidelines while using common sense and due diligence is about as naïve as hoping for World Peace. That's why we need you.

I could write pages and pages of all the work and efforts I've made; however, I found out today that you're having a big meeting further down south this coming Wednesday Oct 9th. It's too far for me to attend so I had to write you real FAST. Please keep in mind that I have previously tried and tried to get proper assistance from my City/County/State to no avail.

So here are my 3 top main requests for your intervention:

- 1) Calif State law has long prohibited the 'feeding' of wildlife. The problem is that the law remains so lamely worded that it's not enforced. Folks think it just means don't share a bag of In-N-Out burgers with wildlife. So it needs to be more clearly and strictly worded to prohibit deliberate feeding AND especially to include the accidental, on-purpose, lazy, negligent feeding.

Remember in the very old days when Natl Parks used to feed bears at their large trash dumps with visitors excitedly watching in special grandstands? So of course the bears then associated food with people which scared the people who demanded the bears be destroyed. Stupidity and ignorant mistakes caused the deaths of a great many innocent bears. But these days you just try leaving even one single Pringles chip in the back seat of your car and the guys in Smokey Bear hats will descend upon you like thunder. Thank God.

So we gotta do the same for all our wildlife. And since too many folks don't observe laws unless they've very clearly written with significant fines, we need to start by simply updating our wildlife feeding laws and ENFORCE THEM. Calif always tells me NO whenever I ask them to; however, both State and County tell me that my City is free to write their own ordinance??? But then my City tells me NOPE and puts blame back on State and County. A lil too much finger pointing, don't cha think?

- 2) There's a new law (AB44?/AB273) prohibiting the killing of coyotes for their pelts. I've tried to get State and local officials to tell me how hopefully this helps prevent the flagrant killing of coyotes, but no one knows the details. Our coyotes do NOT cause the problems. They just wander thru their own ancient paths, storm channels, dried lake beds, etc. Of course they're gonna eat open food garbage, vegetable gardens, over burdened fruit trees, unsecured chickens or small pets when chuckleheads don't follow guidelines and leave them out in the open.

Just one example: At our May coyote mtg, we witnessed the worst public confession of negligent coyote feeding in our City's history. An HOA Board member stood and said "We have 40 coyotes in the back of our condo complex and YOU have to come KILL THEM ALL!" (Yup,

that's right, she said forty.) She finally confessed that their residents never followed guidelines or rules to close the lids on all their many, large, commercial size, heavily food-laden dumpsters. She admitted they had created 40 coyotes that now thrived in the back of their dense, heavily landscaped property. (I later went to see it for validation-it was like a Club Med Paradise for Coyotes). She said they could hear the pups' cries in the bushes and admitted they hadn't been harmed or confronted (why would they with full bellies from a 24/7 heavenly coyote buffet). But she was nasty and rude, demanding that F&W come out immediately and kill them all! (I could write a book about that night.....)

- 3) Wildlife Education only reaches a tiny % of the population. It's common in our cities to have new neighbors and revolving neighbors as well as existing lackadaisical neighbors or new Parents or 1st time Pet owners, etc that all need the wildlife laws and guidelines hammered into their heads. On our neighborhood sites we kindly share info and various links to EVERYTHING they need as well as tips and advice; however, it only reaches a small part of our population and some don't take it as seriously as if it had come directly to them from the appropriate agencies. Plus we continue to have a growing problem with trolls from radical groups that encourage them to ignore it.

And we're not allowed to encourage education thru Neighborhood Watch groups and HOAs because I'm told by Orange County Sheriff's Dept that the main contact info for those groups must be kept secret and that the Sheriff's Dept never gets involved with wildlife education or coyote issues.

I've asked YL for a F&W Wildlife Watch Program. For the 1st time they didn't tell me flat NO but they didn't say yes, just that they'll look at it. By the way, the City also nixed my request to put up all the City's wildlife caution signs that I've seen used over the decades. I think they get an ulcer envisioning how the caution signs would look next to all their big shiny signs that say "NEW HOMES FOR SALE, \$2 MILLION AND UP".

So I also asked County Animal Care if they could do as they have done in the past which is to go door to door with their wildlife info. I even have a past L.A. Times article stating that the County went door to door advising residents and/or leaving flyers regarding wildlife (it was after a drought). That's the only way you're ever going to notify everyone (unless you do a mass mailing to every address?). We of course also have lots of bobcats, mountain lions, rattlesnakes and birds of prey but it's that ole Coyote that always gets the rap. It makes the most sense for the County to distribute info again since they're always going door to door making sure cats & dogs are licensed-so it can't be a budget issue excuse. But....again the County told me NO.

So we're in great need of your help and guidance. I could write much more and I've done a huge amount of work, educated scads of people and spoken to as well as assisted a large number of agencies, experts and biologists.

What needs to be done is simple but we need your leadership. We gotta get folks educated and enforce more clearly worded laws. It's also critical that whenever it might be ultimately necessary as a last resort to take unfortunate action against any wildlife, we **MUST MAKE ABSOLUTELY CERTAIN THAT EVERY INSTANCE IS VALIDATED AND WELL DOCUMENTED.**

There is enormous written proof that radical groups encourage and teach people to make phony incident claims and they tell them what lies they can simply tell in order to get an innocent wildlife animal killed.

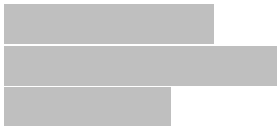
And do you want me to get into the large number of unethical trappers that secretly break trapping laws just so they can get \$2,300 and more for killing each innocent coyote? It's a huge semi-black market, underground business. They'll even lie and tell the most gullible people that they're just going to catch them in a comfy cage and take them by truck to 'relocate' them up to Big Bear mountain. It's so rampant they make jokes of all the secret killings or comment openly about how dumb residents must be to think that all their gunshots must be fireworks. There's virtually no oversight which makes it open season on unsuspecting, innocent Coyotes. The City and County only say 'Oh well, if we didn't see the killing happen, we can't do anything about it.' The unethical/illegal practice also causes our Coyotes to ultimately breed in higher numbers to compensate for the killings.

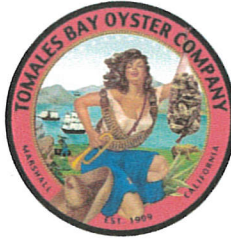
Please don't let our coyotes suffer a debacle of deadly consequences similar to that of our precious bears that were killed simply from eating at Natl Park trash dumps. Have we not learned anything? Our Coyotes need you just as much now as our Bears did long ago.

It's totally unacceptable that our problems continue to be allowed by the 2-legged varmint kind.

Please help,

Robin Patton





FISH AND GAME
COMMISSION
2019 NOV 19 PM 12:36

Tomaes Bay Oyster Company, LLC

PO Box 847, 15479 Hwy One
Marshall, California 94940
415-663-1242

November 14, 2019

To: Melissa Miller-Henson, California Fish and Game Commission

Subject: Request to make amendment to State Water Bottoms Aquaculture Lease M-430-05

Dear Madam,

Tomaes Bay Oyster Company, LLC (TBOC) is requesting an amendment to State Water Bottom Aquaculture Lease #M-430-05.

TBOC would like to request the addition of approved species, Kumamoto oyster (*Crassostrea Sikamea*), Olympic oyster (*Ostrea Lurida*), Bay Mussels (*Mytilus Trossulus*), and Manila clam (*Venerupis Philippinsum*).

TBOC would also like to amend approved culture methods to include floating long lines and tipping bags.

Floating long lines oyster bags attach to a long line and that line is anchored to the bottom of the bay using helix-type anchors that screw down into the mud and are removed in the same way. The anchors are steel, auger-type mud screws four feet long and their full length is screwed into the soft mud bottom, making for a very secure hold. A rope line is attached to the eye of the anchor at the mud surface. A buoy is tied onto the top end of this buoy line. A loop is twisted into this secured line. The end of a long half-inch rope is tied into the loop. This long line is stretched some fifty feet and tied into another anchor added in the same manner as described.

After another fifty feet is stretched, a third anchor is embedded and so on until the full 200 feet of line is set.

Typically, there are four or five anchors securing the long line. The long line itself has loops twisted into it every three or four feet and at each loop a floating bag is tied to the loop using a three-foot tether or connecting rope. The tether line permits each bag to be free floating and able to respond freely to wind and wave action. Once the lines are set, the floating bags will be brought out to the lines by boat, and one bag tied to each eyelet, one after another, for the full length of the line. Some of the lines hold as many as 125 bags. The bag's floatation is supplied by plastic molded tubes 2 ½ feet long and three inches round. The tubes have already been wired into the mesh of the bag before the seed is introduced.

California Fish and Game Commission

November 14, 2019

Tipping bag system:


What we refer to as 'Golden Nugget' bags or tipping/swinging bag culture.

Using this approach, oyster bags are suspended off the bottom of the bay by being tied to half inch lines that are held up by pvc stakes spaced every seven feet. The line is pulled taught and sits in the notches cut into the pvc stakes. Each bag has floatation attached at the bottom but not the top. When the tide moves in, the bag lifts and when the tide falls the bag slowly falls, causing the oysters to tumble over one another and work against one another.

If there is any other information you need about these requests please let me know.

Thank you for attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Heidi Gregory', with a long horizontal line extending to the right.

Heidi Gregory
General Manager

Enclosure 2: Description of culture methods

cc: Sara Briley
Randy Lovell
Susan Ashcraft

Enclosure 1: Floating Long Lines

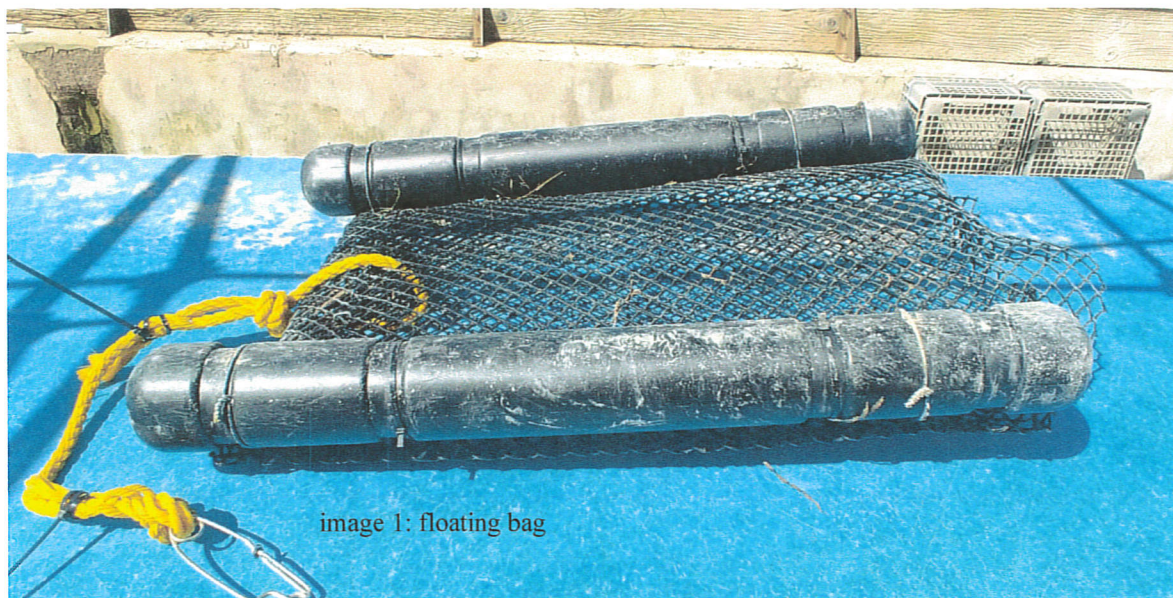
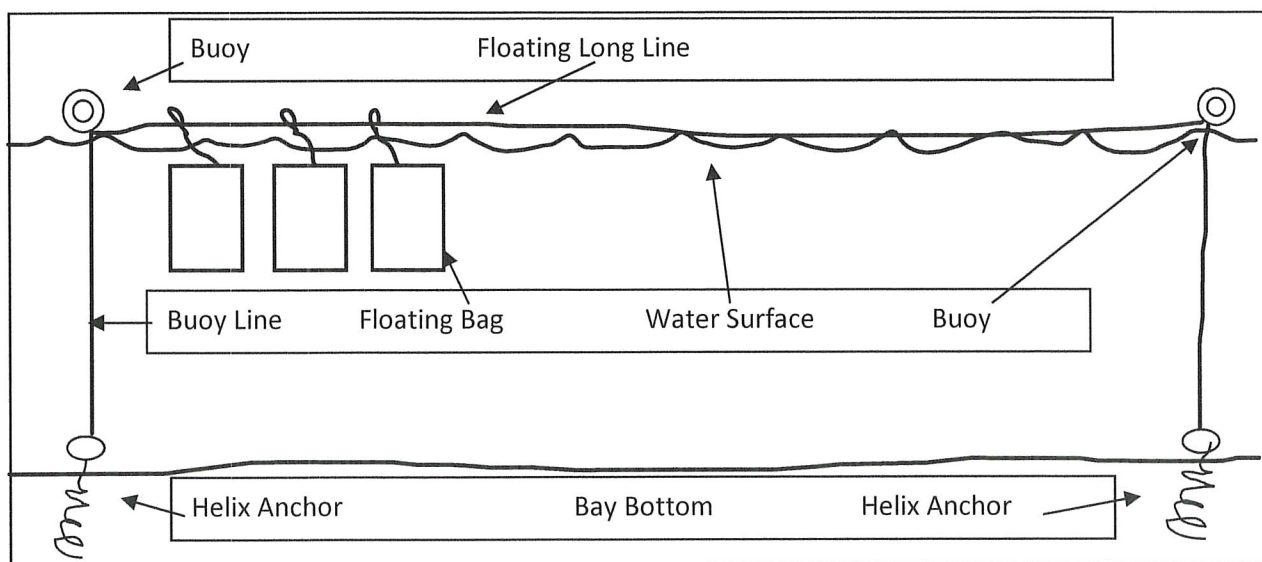
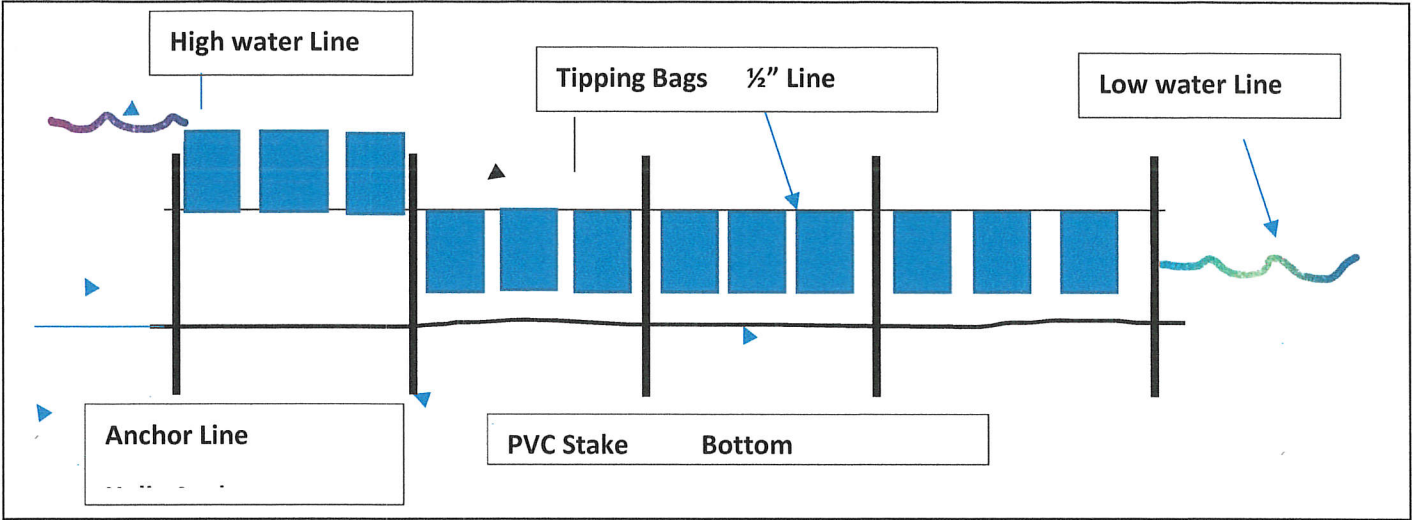


Diagram of oyster bags on long line:



Enclosure 2: Tipping Bag System

Diagram of tipping bag system:

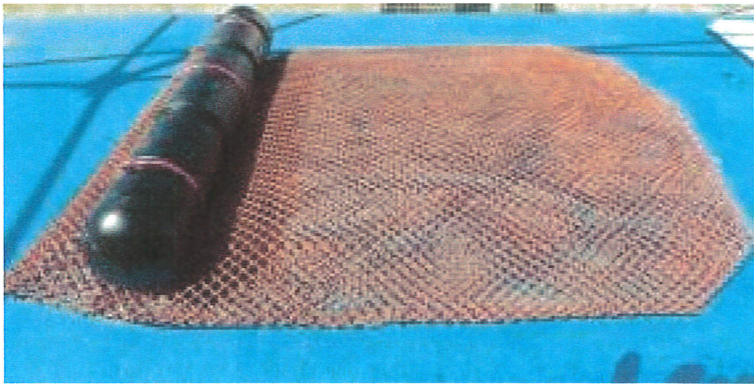


2" PVC pipe 6' in length is driven about 18" into the mud bottom with a rubber mallet and about 4.5' of pipe is above the surface of the bay bottom. Each end is anchored with a helix anchor and 1/2" poly rope.

image 2: Tipping bags on lines at low tide



image 3: Tipping bag made from Norplex Oyster Net



From: Ken Bates [REDACTED]

Sent: Wednesday, November 20, 2019 8:34 AM

To: Ashcraft, Susan@FGC <Susan.Ashcraft@fgc.ca.gov>

Cc: Ramey, Kirsten@Wildlife <Kirsten.Ramey@wildlife.ca.gov>; Ray, James@Wildlife <James.Ray@wildlife.ca.gov>; Mastrup, Sonke@Wildlife <Sonke.Mastrup@wildlife.ca.gov>; Tom Weseloh <Tom.weseloh@sen.ca.gov>; Anna Weinstein <aweinstein@audubon.org>

Subject: Experimental Gear Permit for herring 2019-2020

Sent from my iPad

Request for Experimental Gear Permit by
Ken Bates, F/V Ironic
November 20, 2019

I am requesting the issuance of an experimental gear permit to take Pacific Herring in Humboldt Bay by lampara bait net as described in the Fish and Game code. I wish to fish during the 2019-2020 season. I hold Herring Permit #H-1-E and have held this Permit since 1974.

I am working to access alternative markets for Pacific Herring. These markets are volume specific. Because it is not possible to control catch rates and dead discards when taking Herring with gill net gear, I am requesting the opportunity to take herring with small scale lampara gear. This will allow me to release excess catch, alive and unharmed. Please take a moment to see YouTube video "Herring research in Humboldt (Herring Survey work for the Department)

I understand that my request is allowed under Chapter 9: Section 8606(b), "a permit may authorize new methods of using existing gear otherwise prohibited by this code and may authorize that use of existing gear in areas otherwise closed to that use by this code".

Thank you.
Ken Bates



From: Dennis Nygaard [REDACTED]
Sent: Thursday, October 10, 2019 6:43 AM
To: FGC
Subject: Recreation Impacts on Wildlife
Attachments: Larson et al. 2016 Effects of Recreation on Animals.pdf; 20190413 SDUT Wildlife officials, mountain bikers fight turf war.pdf

Mr. President and Commissioners

The att are follow-up to my public comments at the F & G Commission meeting on October 9, 2019 about the adverse impacts of even non-consumptive recreation on wildlife.

The Larson et al study reviewed 274 articles and found impacts across geographic areas, taxa and recreation types.

The UT article highlights the issue in our local area of concern- Calavera Highlands Ecological Reserve.

Thank you.

Diane Nygaard
Preserve Calavera



TRIAL OFFER | 4 weeks for 99¢

ENVIRONMENT

Wildlife officials, mountain bikers fight turf war over Carlsbad reserve



April Esconde, wildlife officer with the California Department of Fish and Wildlife, says mountain bikers have been cited recently in the Carlsbad Highlands Ecological Reserve where bikes are not allowed. (K.C. Alfred / San Diego Union-Tribune)

California State Fish and Wildlife is boosting enforcement of Carlsbad Highlands Ecological Reserve, where mountain bikers have carved trails into the hillsides

By DEBORAH SULLIVAN BRENNAN

APRIL 13, 2019
8:36 AM



State wildlife officials are shutting down a spiderweb of bike trails that weave across Carlsbad Highlands Ecological Reserve, and warning bikers to stay out, in a campaign to stop illegal use of the sensitive property.

Their actions began last week, and are continuing as state game wardens patrol the site for mountain biking, vandalism and off-leash dogs. Since Saturday, wardens have issued two tickets and nearly 200 warnings to users who don't know or don't follow the site's rules.

The ramped-up enforcement results from a years-long standoff between wildlife officials and mountain bikers over use of the site, said Ed Pert, manager of the California Department of Fish and Wildlife, South Coast Region. Mountain bikers have carved trails across the slopes, moved boulders to build jumps, and torn down signs and barricades meant to keep out cyclists.

“We’ve been out there for years and years telling people this is illegal,” Pert said. “They just don’t want to hear it.”

On Patrol

Last weekend, a team of wardens patrolled key trailheads at the reserve, directing cyclists off the property. Members of the San Diego Mountain Biking Association showed up in force to stake their claim, arguing for continued access, said Wildlife Officer April Esconde. Wardens kept watch throughout the week, informing the public of the bike restrictions. On Thursday morning, Esconde stopped a mountain biker on a path near the west side of the preserve.



Signs show that says bikes aren't allowed in the Carlsbad Highlands Ecological Reserve on Thursday April 11, 2019. Mountain bikers have been getting tickets recently in the reserve. (Photo by K.C. Alfred/San Diego Union-Tribune) K.C. Alfred/San Diego Union-Tribune

“You’re not allowed to ride here,” she warned him.

“Oh no, when did that start?” asked the man, who did not give his name. “I totally respect the rules and regulations, but it’s a bummer, because I don’t have anywhere to ride anymore.”



SPONSORED CONTENT

How to Choose the Right Bank for Your Nonprofit

By First Republic Bank

The tug-of-war over the Carlsbad reserve illustrates the problems with managing open space in urban areas such as San Diego, where undeveloped land is diminishing, while the number of people competing for that space is rising. The natural terrain that's essential to native plants and animals is also attractive to people seeking outdoor experiences. So when developers purchase conservation land as mitigation for building on other parcels, there are conflicting expectations for what should be allowed there.

"Wildlife agencies and environmental groups work very hard during the CEQA (California Environmental Quality Act) process to make sure we get adequate offset for the projects," Pert said. "As soon as that gets set aside, it gets inundated by recreational users. And that's very frustrating for people who protect wildlife."

Ben Stone, trails coordinator for the San Diego Mountain Biking Association, maintains that those land acquisitions should include public use by hikers, mountain bikers and others.

"I think when most people hear open space, they assume there's a component of it that's open to the public," he said.

The enforcement campaign in Carlsbad shines light not only on that preserve, but also on the viability of habitat conservation plans, which seek to balance construction of homes and roads, with a commitment to preserve natural resources. It's a challenge that plays out in numerous areas of San Diego and California.

"This is a real test for us, to say, will this work?" Pert said. "If we can't get people to stay off of an area, or stop pulling out signs, then we really need to rethink that whole model."

Wild lands in the city

The 473-acre reserve, located behind Sage Creek High School, was established in 2000 as a conservation bank to offset environmental impacts of nearby home developments. Its brushy hills are habitat for native species including the California gnatcatcher, a federally threatened songbird, and thread-leaved Brodiaea, a purple-flowering plant listed as endangered in California.

Quail, hawks and deer use the site, along with smaller creatures, said Gabriel Penaflor, who manages the site and nine other reserves in North County. On Thursday, a tarantula and caterpillars crawled across the trails, while white butterflies flitted overhead.



Gabriel Peñaflor, California Dept. of Fish and Wildlife Reserve Manager walks along unauthorized bike trails in the Carlsbad Highlands Ecological Reserve on Thursday April 11, 2019. Mountain bikers have been ticketed recently in the reserve because bikes are not allowed. (Photo by K.C. Alfred/San Diego Union-Tribune) K.C. Alfred/San Diego Union-Tribune

Hikers and runners can visit the preserve and leashed dogs are permitted, but bicycles and horses aren't allowed. Wildlife officials say those restrictions are necessary to lighten the human footprint on the land. Mountain bikers used the site before it became a reserve, however, and feel they're entitled to continued access, alongside hikers.

"There were mountain bike trails out there when they bought it," Stone said. "They didn't take that into consideration."

A wild ride

It would be difficult for anyone visiting the site now not to take the trails into consideration now, though. Scores of them criss-cross the slopes, with some running parallel, just a few feet apart, or featuring jumps across intersecting trails. Erosion has chiseled deep ruts on some routes, and from an aerial view, they appear as fissures on the landscape.

The speed and volume of traffic also make mountain bikers hard to ignore, officials said. People on foot risk collisions with cyclists, Pert said, so some stay away because of safety concerns. Illegal mountain biking, he said, is crowding out legal use of the site.

Gary Murphy, head coach for the north county coastal team of the National Interscholastic Cycling Association, said, however, that students from adjacent Sage Creek High and other local schools should be able to ride trails through their own neighborhood.

“I want my kids and my friends’ kids to be able to go out and ride in dirt,” Murphy said. “Because there’s no more dirt left. It’s all concrete.”

Pert points out that the land was purchased for wildlife conservation, not recreation. Arguing that they should be able to ride in the reserve because they have traditionally done so is like claiming they should be allowed to ride across a nearby golf course, or in the backyards of neighboring homes, since those used to be open space as well, he said.

Instead, he said, there need to be other places open for mountain biking, or other ways of incorporating outdoor recreation into plans for new construction. In addition, he said, developers who pay for mitigation may also have to fund ongoing enforcement of the properties, along with education about their ecological value.



A tarantula walks across a trail in Carlsbad Highlands Ecological Reserve on Thursday April 11, 2019. (Photo by K.C. Alfred/San Diego Union-Tribune) K.C. Alfred/San Diego Union-Tribune

Diane Nygard, president of Preserve Calavera, a local conservation group, said regulators and environmentalists have suggested other places for bike trails, including Veterans Memorial Park in Carlsbad, and El Corazon, a stretch of city-owned property in Oceanside. They also point out that mountain bikers are allowed to ride on city-owned property near Lake Calavera in Carlsbad.

Stone said those sites aren't sufficient, and called on state officials to reach a compromise plan on the Carlsbad Highlands Ecological Reserve.

"They keep coming back and saying, 'Ed you have to find a compromise'" about bike trails in the reserve, Pert said. "I say, I can't make a compromise because it's illegal."

Trails and tribulations

If there's one thing the two sides can agree on, it's the determination of mountain bikers to build trails in their desired locations. Stone argues that their persistence is fueled by efforts to ban them.

"The failure to designate a network of well-designed and easily accessible trails that avoid the most sensitive habitats on site have led to the haphazard patchwork of trails found at (Carlsbad Highland Ecological Reserve) today," the Mountain Biking Association wrote in a statement.

Pert and other wildlife experts, however, doubt that legalizing bike trails would dampen riders' industrious efforts to construct new ones.

"From our experience, when mountain bikers are allowed on a trail, they just build new trails," he said.

As Esconde patrolled the reserve Thursday morning, she noted the challenge of policing these remaining islands of natural land.

"It's a draw, because it's so beautiful that everyone wants to come here," she said.

"Yeah, they're loving it to death right now," Penaflor, the reserve manager, said.

ENVIRONMENT



Deborah Sullivan Brennan

Twitter Email Facebook

Show Comments

MORE FROM THIS AUTHOR



NORTH COUNTY

Escondido High School board hires new superintendent

RESEARCH ARTICLE

Effects of Recreation on Animals Revealed as Widespread through a Global Systematic Review

Courtney L. Larson^{1*}, Sarah E. Reed^{1,2}, Adina M. Merenlender³, Kevin R. Crooks¹

1 Department of Fish, Wildlife, and Conservation Biology, Colorado State University, Fort Collins, Colorado, United States of America, **2** North America Program, Wildlife Conservation Society, Bozeman, Montana, United States of America, **3** Department of Environmental Science, Policy, and Management, University of California-Berkeley, Berkeley, California, United States of America

* courtney.larson@colostate.edu



OPEN ACCESS

Citation: Larson CL, Reed SE, Merenlender AM, Crooks KR (2016) Effects of Recreation on Animals Revealed as Widespread through a Global Systematic Review. PLoS ONE 11(12): e0167259. doi:10.1371/journal.pone.0167259

Editor: Hideyuki Doi, University of Hyogo, JAPAN

Received: December 1, 2015

Accepted: November 11, 2016

Published: December 8, 2016

Copyright: © 2016 Larson et al. This is an open access article distributed under the terms of the [Creative Commons Attribution License](https://creativecommons.org/licenses/by/4.0/), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.

Data Availability Statement: All relevant data are within the paper and its Supporting Information files.

Funding: This study was funded by the California Department of Fish and Game (Local Assistance Grant P1182112). The funders had no role in study design, data collection and analysis, decision to publish, or preparation of the manuscript.

Competing Interests: Adina Merenlender is on the editorial board of PLOS ONE. This does not alter the authors' adherence to PLOS ONE editorial policies and criteria.

Abstract

Outdoor recreation is typically assumed to be compatible with biodiversity conservation and is permitted in most protected areas worldwide. However, increasing numbers of studies are discovering negative effects of recreation on animals. We conducted a systematic review of the scientific literature and analyzed 274 articles on the effects of non-consumptive recreation on animals, across all geographic areas, taxonomic groups, and recreation activities. We quantified trends in publication rates and outlets, identified knowledge gaps, and assessed evidence for effects of recreation. Although publication rates are low and knowledge gaps remain, the evidence was clear with over 93% of reviewed articles documenting at least one effect of recreation on animals, the majority of which (59%) were classified as negative effects. Most articles focused on mammals (42% of articles) or birds (37%), locations in North America (37.7%) or Europe (26.6%), and individual-level responses (49%). Meanwhile, studies of amphibians, reptiles, and fish, locations in South America, Asia, and Africa, and responses at the population and community levels are lacking. Although responses are likely to be species-specific in many cases, some taxonomic groups (e.g., raptors, shorebirds, ungulates, and corals) had greater evidence for an effect of recreation. Counter to public perception, non-motorized activities had more evidence for a negative effect of recreation than motorized activities, with effects observed 1.2 times more frequently. Snow-based activities had more evidence for an effect than other types of recreation, with effects observed 1.3 times more frequently. Protecting biodiversity from potentially harmful effects of recreation is a primary concern for conservation planners and land managers who face increases in park visitation rates; accordingly, there is demand for science-based information to help solve these dilemmas.

Introduction

Visitation to protected areas, ranging in scope from international ecotourism to local park visits, was recently estimated at 8 billion visits per year [1]. In the United States, the number of participants in outdoor recreation increased by 7.5% and total visitor days increased by 32.5% between 2000 and 2009 [2]. Driven in part by rapid growth in international tourism [3], recreation and ecotourism are also expanding in the developing world [4]; visits to protected areas in Africa, Asia, and Latin America increased by 2.5 to 5% between 1992 and 2006 [5].

Recreation is commonly assumed to be compatible with biodiversity conservation, in contrast to more well-known threats such as population growth and development at protected area edges [6,7] or subsistence use within reserves to help sustain local livelihoods [8]. Most protected areas have a dual mandate to conserve biodiversity and improve human welfare through resource use or outdoor recreation [8,9]. Accordingly, recreation is permitted in over 94% of International Union for Conservation of Nature (IUCN) protected areas globally (categories Ib–VI; [10,11]). In the United States and other developed nations, providing opportunities for outdoor recreation has historically been an important reason for the designation of protected areas [12], whereas in the developing world, ecotourism has been embraced as a potential win-win solution for poverty alleviation and conservation [8]. Furthermore, there are numerous benefits of outdoor recreation for human health and communities. People with access to natural areas have lower mortality rates [13], and outdoor play promotes mental and physical health in children [14]. Recreation and ecotourism can also be a source of economic revenue for protected areas and the communities around them [15,16], and can help garner support for conservation [17].

Despite these benefits, there is growing recognition that outdoor recreation can have negative impacts on biological communities. Recreation is a leading factor in endangerment of plant and animal species on United States federal lands [18], and is listed as a threat to 188 at-risk bird species globally [19]. Effects of recreation on animals include behavioral responses such as increased flight and vigilance [20,21]; changes in spatial or temporal habitat use [22,23]; declines in abundance, occupancy, or density [9,24,25]; physiological stress [26,27]; reduced reproductive success [28,29]; and altered species richness and community composition [30,31]. Many species respond similarly to human disturbance and predation risk, meaning that disturbance caused by recreation can force a trade-off between risk avoidance and fitness-enhancing activities such as foraging or caring for young [32].

Although there is a growing body of empirical studies of the effects of recreation on animals, a recent global review of the scientific literature does not exist. Early reviews [33–36] provide valuable definitions and conceptual frameworks, but were not systematic and need updating to reflect studies published in recent decades. In addition, contemporary reviews have restricted their scope by location or habitat type [37–39], taxonomic group [40–45], or recreation activity [46–48].

We conducted a global review of the published scientific literature to synthesize effects of non-consumptive recreation across all animal taxa. Such a review adds to the evidence base necessary to help bridge the gap between conservation science and practice [49]. To aid decision-makers faced with dilemmas about managing the demand for recreation while trying to fulfill mandates to protect species, it is critical to understand the degree to which biodiversity conservation and recreation are compatible, and under what circumstances. First, we examined trends in recreation research, including publication rates over time, geographic distribution, and study design. Second, we investigated which taxonomic groups were most commonly studied, and which had more or less evidence for effects of recreation. Similarly, we investigated which recreation activities and types of responses (e.g., behavioral, abundance, or

survival) were most frequently measured, and what effects were observed. Finally, we examined management strategies proposed by the authors to avoid or mitigate these effects.

Methods

Search strategy

Because our objective was to locate studies of all animal species and all types of recreation, our search protocol was designed to produce a broad list of articles. We did not include taxonomic keywords since titles and abstracts often refer only to the study's focal species. Instead, we limited the search to journals within four categories within the Institute for Scientific Information Web of Science database (Thompson Reuters, New York, NY, USA) that were the most relevant to our goals: biodiversity conservation, ecology, zoology, and behavioral sciences. From this list, we removed journals that were not published in English, or could not be reasonably expected to publish articles on recreation and animals ($n = 166$ journals included in the final list). We then searched the database with the Boolean search string: ($ts = (touris^* OR recreat^*) AND so = (journal list)$), where ts indicates topic keywords and so restricts the search to the list of 166 journals described above. This search strategy has high sensitivity (the proportion of all relevant information that the search locates) and low specificity (the proportion of search results that are relevant), which helps reduce bias and increase repeatability [50]. To reduce the effect of dissemination bias in our analysis, we included articles published in regional and lesser-known journals as well as the most widely-read publications [51]. Since our search strategy made use of the journal category feature within Web of Science, we were not able to replicate the search in other databases. However, our strategy produced a more thorough and comprehensive list of articles than if we had restricted our search with taxonomic keywords.

Screening and data extraction

Our keyword search (performed 30 January 2013 and again on 21 March 2016) resulted in a comprehensive list of 2,306 articles. We first reviewed titles and abstracts and eliminated obviously irrelevant records (e.g., tourism management papers with no wildlife component; Fig 1). We then reviewed the full text of the remaining 403 articles and assessed them against our inclusion criteria, recording the reason for rejection if necessary [50]. We excluded consumptive activities, which we define following Duffus and Dearden [34] as activities that “purposefully remove or permanently affect wildlife” (e.g., hunting, fishing). We focused on non-consumptive forms of recreation (e.g., hiking, skiing) because these activities are permitted more widely throughout protected areas. However, studies examining consumptive activities as a source of disturbance for non-target species (e.g., effects of fishing on waterbirds; [52]) were retained. We also rejected articles if they did not study one or more animal species ($n = 2$), did not test effects of non-consumptive recreation via a statistical test ($n = 70$), did not collect empirical field data (e.g., were review or simulation articles; $n = 23$), studied the effects of recreation infrastructure independently of human activity (e.g., presence of ski lifts; $n = 20$), or examined recreation as a vector for invasive species dispersal ($n = 14$). Experimental treatments designed to mimic recreational activities were included. The final list included 274 articles (S1 Appendix) with 2,048 distinct results.

Data collected from each article included publication information, geographic location (country and continent), study design, taxonomic group(s), recreation activities, response types and effects found, and management recommendations (Table 1). For articles that studied multiple species, recreation activities, or response types, we treated each combination of variables as a separate “result,” rather than attempting to determine an overall effect for each article, which would ignore valuable findings from within each article. For example, Banks and

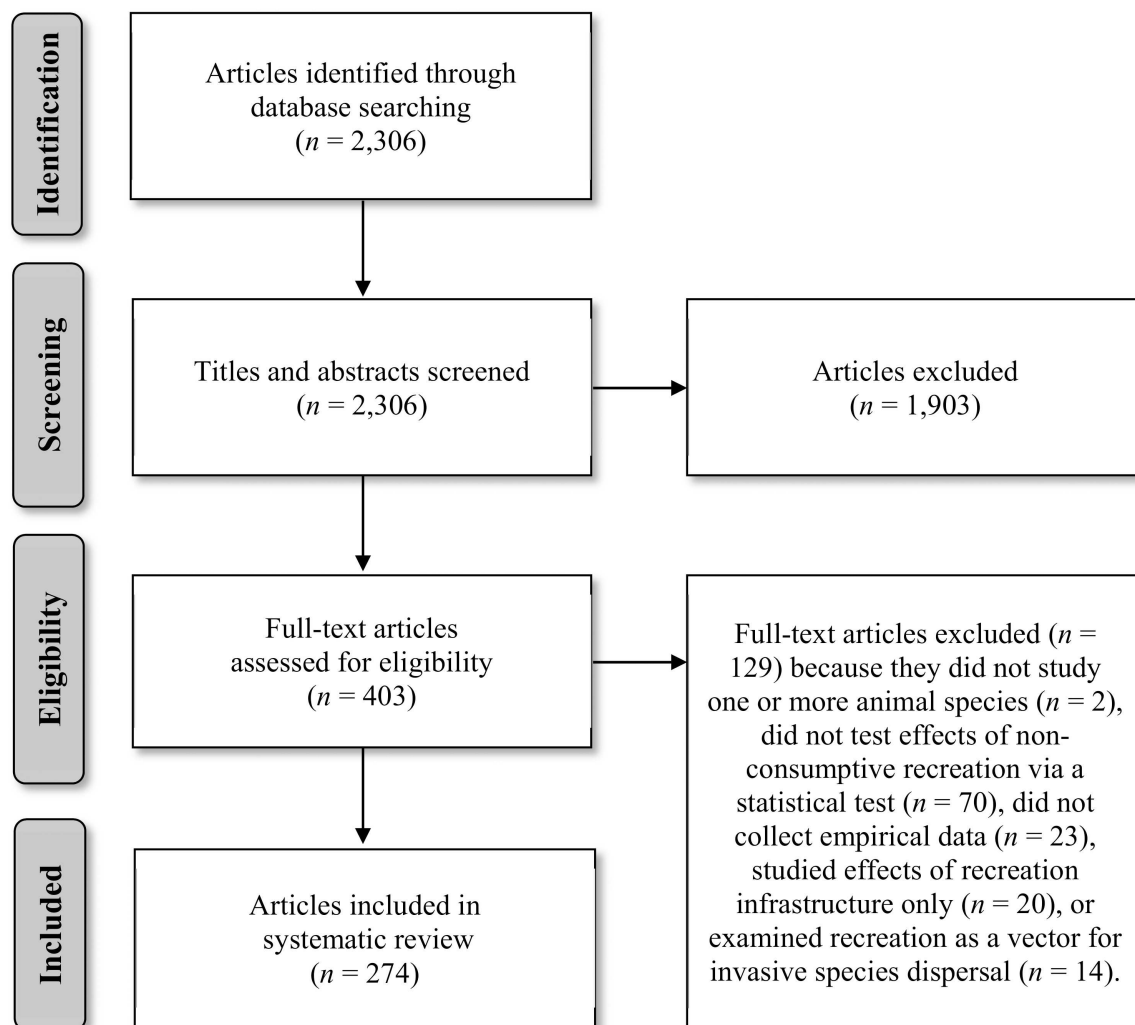


Fig 1. PRISMA literature search flow diagram. The number of studies that were located, retained, and discarded are shown at each stage of the literature review process.

doi:10.1371/journal.pone.0167259.g001

Bryant [24] examined the effects of hiking and dog-walking on bird abundance and richness, so we recorded four combinations of “results” in our database. While results from the same study often rely on the same animal populations, locations, and data collection efforts, we examined each result separately since effects often differed. Because each article could be considered an experimental unit, we added a random effect for article in the analysis to control for this potentially confounding factor (see “Statistical analysis”).

The “effect” variable (Table 1), which was the response variable for several of our research questions, was a binary variable indicating whether the recreation effect documented by the authors was statistically significant (as defined by the authors). We categorized all significant effects as negative, positive, or unclear. Negative responses were consistent with the following effects of recreational disturbance at the community, population, or individual (behavioral or physiological) levels: decreased species richness or diversity; decreased survival, reproduction, occurrence, or abundance; behaviors typically assumed to reflect negative responses to anthropogenic disturbance (e.g., decreased foraging or increased vigilance); and physiological condition typically assumed to reflect disturbance effects (e.g., decreased weight or increased stress).

Table 1. List of variables collected from articles included in the review of the effects of non-consumptive recreation on animals.

Category	Variable	Description or list of categories	Data type
Publication	Author(s)		text
	Title		text
	Journal		text
	Journal type	Behavior, conservation, ecology, ecosystem/region-specific, general biology, taxa-specific, zoology/wildlife, other	categorical
Geographic	Publication year		numeric
	Continent		categorical
	Country		text
	Habitat type	Agricultural, beach, desert, forest, freshwater, grassland, marine, polar, shoreline, urban, scrub/shrub, tundra, wetland, other	categorical
Study design	Measure of recreation*	Direct observation, experimental treatment, expert opinion, remote monitoring, permitted use, proxy	categorical
	Experiment	Was it an experimental study?	yes/no
	Control	Did the study include a control treatment? (e.g. a “no-recreation” site)	yes/no
	Replication	Did the study replicate treatments, study sites, observation periods, etc?	yes/no
Effect	Effect*	Did the authors find a significant recreation impact?	yes/no
	Effect direction*	Positive, negative, unclear	categorical
Taxonomic	Multiple species	Were multiple species studied?	yes/no
	Taxa group	Amphibian, bird, fish, invertebrate, mammal, reptile	categorical
	Scientific name*		text
	Common name*		text
Recreation	Activity*	Alpine skiing, beach use, biking, boating (non-motorized), camping, nordic ski/snowshoeing, dog-walking, equestrian, hiking/running, motorized (boat), motorized (land), motorized (snow), swimming/diving, wildlife feeding, wildlife viewing (boat), wildlife viewing (land), other (aquatic), other (terrestrial)	categorical
Response	Type*	Abundance, behavioral, community (species richness, diversity, or composition), occurrence, physiological, reproductive, survival, other	categorical
Management	Recommendations	Cap visitation, improve infrastructure, rule change, staff training, spatial restrictions, temporal restrictions, visitor education, none, other	categorical

* For articles that studied multiple species, recreation activities, or response variables, we treated each combination of variables as a separate “result,” and recorded the information marked with an asterisk (*) for each result individually.

doi:10.1371/journal.pone.0167259.t001

Conversely, positive responses were in the opposite direction. We were unable to classify some responses as positive or negative and labeled them “unclear.” Examples of unclear effects were behavioral responses that did not have obvious fitness consequences (e.g., decreased vocalizing) and results with non-linear responses (e.g., highest reproductive success at an intermediate level of recreation). We note that positive responses do not necessarily imply beneficial outcomes for biodiversity conservation; for example, an increase in species richness could be attributable to an increase in non-native species.

We caution that a statistically significant effect of recreation does not necessarily provide insight into the effect’s magnitude or biological significance. Authors may also include statistically significant results while omitting non-significant findings due to publication bias [53]. A formal meta-analysis framework can help researchers summarize effect sizes and detect and adjust for publication bias [54], but the study design must be similar across all studies included, with comparable predictor and response variables [55]. This was not feasible given the broad scope of our review, and accordingly, we do not make statistical comparisons among groups. Ultimately, we believe our approach provides a meaningful representation of the weight of evidence that currently exists.

Publication trends and geographic distribution

We summarized the number of articles by publication year, journal type, country, continent, and habitat type. Journals were classified into eight broad types using the journal title and online aims and scope statement to identify the appropriate primary category. Articles were also assigned to one or more habitat classes on the basis of authors' descriptions ([Table 1](#)).

Study design

To examine how recreation studies have been designed and conducted, we recorded the proportion of articles that used an experimental design and included controls and replication. For our purposes, any kind of an experimental treatment (e.g., experimental boat passes near a raptor nest; [\[56\]](#)) counted as an experimental design, and any treatment or site without recreation counted as a control. We also examined the method used to measure recreation: direct observation (with human observers), experimental treatment (e.g., researchers simulating recreation activities), expert opinion, remote monitoring (e.g., automatic counters), permitted use (e.g., whether a site was open to a specific recreational activity), or proxy variables (e.g., car counts).

Taxonomic groups

We examined differences in research focus and evidence for recreation effects among six broad taxonomic groups: amphibians, birds, fish, invertebrates, mammals, and reptiles. We divided groups with sufficient sample size (≥ 15 results on ≥ 3 different species) into narrower taxonomic classifications (Classes for invertebrates and fish; Orders for birds, mammals, and reptiles; amphibians were omitted due to small sample size). We then subdivided Classes or Orders with sufficient sample sizes (≥ 15 results on ≥ 3 different species) once again into Orders or Families. We also grouped species by their IUCN status [\[57\]](#).

Recreation activities

We grouped recreation activities into 18 types ([Table 1](#)) and created broader categories for more general comparisons: winter terrestrial (snow and ice-based activities such as skiing and snowmobiling), summer terrestrial (land activities not requiring snow or ice), and aquatic activities. We also compared motorized and non-motorized activities.

Response types

We categorized animal responses into eight types: community (species richness, diversity, or composition metrics), survival, reproduction, abundance, occurrence, behavior, and physiological measures, as well as "other" responses (e.g., sex ratio). For more general comparisons, we also grouped the response types hierarchically into community-, population- (survival, reproduction, abundance, and occurrence), and individual-level (behavior and physiological) responses.

Management recommendations

To qualify the management recommendations noted in the articles and provide a useful synthesis for land managers, we categorized recommended management actions as follows: spatial restrictions, capping visitation, increasing visitor education, temporal restrictions, improving infrastructure, adding or changing rules, enforcement of existing rules, staff training, or "other" ([Table 2](#)). Calls for additional research, although common in the literature, were not considered to be management recommendations.

Table 2. General management recommendations suggested by authors of articles included in the review.

Recommendation	Examples	Frequency (%) [*]
Spatial restrictions	Designate a trail-free area within protected area; establish minimum approach distances to animals	32.1
Visitor education	Educate SCUBA divers about the impacts of human contact on coral; instruct visitors about effects of noise on sensitive species	15.0
Cap visitation	Limit the number of visitors that can enter the area per day	14.2
Temporal restrictions	Limit recreational access during the breeding season	13.1
Rule change	Restrict boat speed in sensitive areas; prohibit wildlife feeding	9.9
Physical improvements	Restore habitat; install fencing around sensitive areas	9.5
Other	Species translocations; increased use of private land for conservation	8.8
Enforcement	Enforce leash laws; keep people on trails	6.9
Staff training	Train staff to recognize signs of animal disturbance	2.2
No recommendations		40.5

^{*} Percentages do not sum to 100 because some articles made more than one management recommendation.

doi:10.1371/journal.pone.0167259.t002

Statistical analysis

We used linear regression to assess trends in the total number of articles over time as well as the proportion of included articles out of the total publication volume in the selected journals. To assess gaps in the literature, we used chi-square goodness of fit tests to determine if the distribution of articles differed significantly from an expected distribution. For journal type, the expected distribution was the proportion of journals in the journal set that belonged to each type. For geographic distribution, we compared the distribution of articles by continent to the total land area and human population density of each continent. For IUCN status and taxonomic groups, the expected distribution was the number of known species in each group, starting with the broadest groups and progressing down to Family when possible [57]. We did not use chi-square tests if articles were counted under more than one category (e.g., articles examining multiple types of recreation, such as hiking, biking, and equestrian) since this violates the assumption of independence.

We estimated the amount of evidence for a recreation impact as the overall percentage of results that found a statistically significant effect of recreation. These percentages were estimated for results summarized by taxonomic groups, recreation activities, and response types. Because most articles included multiple results, the percentages (\pm SE) we report are least-squares means and standard errors obtained from models that included article as a random effect. We used generalized linear mixed models (GLMMs) with a logit link function to estimate the frequency of overall effects among taxonomic groups, recreation activities, and response types, and we used proportional odds models [58] to estimate the proportion of overall effects that were negative, positive, or unclear. All statistical analyses were conducted in R using packages lme4, ordinal, and lsmeans [59–62].

Results

Publication trends and geographic distribution

The earliest articles discovered by our search were published in 1981, and the peak year was 2008 with 23 articles. The number of articles published per year that met our criteria increased 23.5% on average per year from 1981 to 2015 ($\beta = 0.66$, 95% CI = (0.53, 0.80), $p < 0.0001$). This increase was not solely a result of increasing publication volume; the proportion of

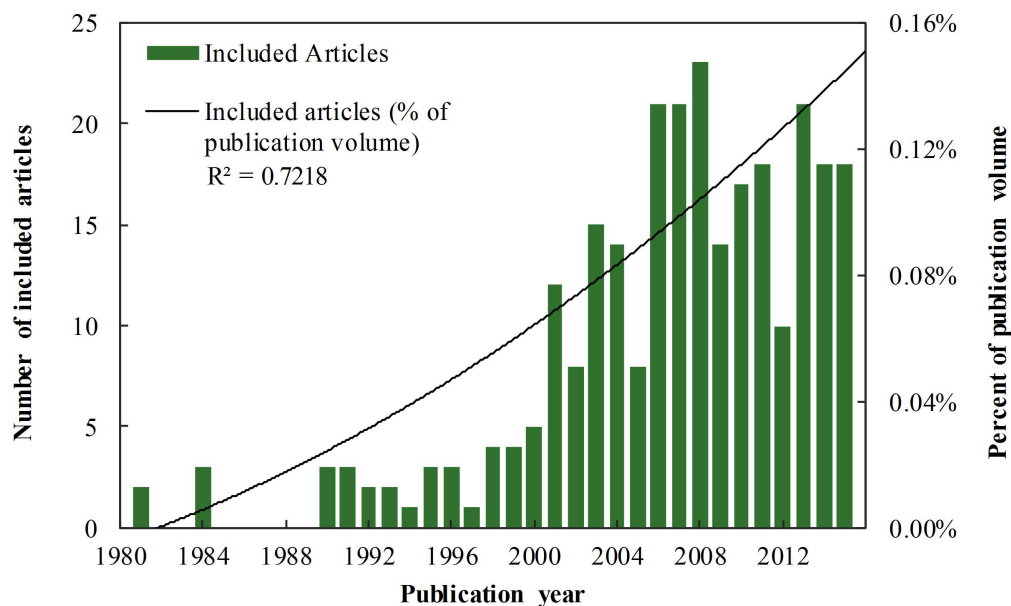


Fig 2. Published articles on the effects of non-consumptive recreation on animals by publication year. The numbers of articles are shown as raw numbers (shaded bars) and as percentages of the overall publication volume in the journal set used in this review (trendline; a second order polynomial function).

doi:10.1371/journal.pone.0167259.g002

included articles out of the total articles published in the journal set increased by 8.8% on average per year ($\beta = 0.000043$, 95% CI = (0.000033, 0.000053), $p < 0.0001$; Fig 2). The distributions of the journal set into journal types (e.g., conservation, wildlife) and individual articles into journal types were significantly different ($\chi^2 = 632.4$, $df = 7$, $p < 0.0001$). Most of the included articles were published in conservation (38.7%) and wildlife (19.7%) journals, followed by ecology (13.5%), taxa-specific (13.1%), ecosystem or region-specific (9.9%), and behavior journals (3.3%); very few articles were published in general biology (0.7%) or other (0.7%) journal categories.

Geographically, studies of recreation on animals were conducted mostly in North America (37.7%), Europe (26.6%), and Oceania (13.1%), and relatively few in South America (9.1%), Asia (5.5%), Africa (5.1%), and Antarctica (2.9%; Fig 3A). This distribution among continents was not proportional to the land area ($\chi^2 = 366.3$, $df = 6$, $p < 0.0001$) nor human population density ($\chi^2 > 500$, $df = 6$, $p < 0.0001$) of the continents. The United States accounted for 27.0% of the articles, followed by Australia (7.7%), Spain (5.8%), New Zealand (5.5%), the United Kingdom (4.7%), Argentina (4.4%), and Canada (4.4%). Most studies were conducted in forest (35.4%), marine (23.4%), grassland (15.7%), and shoreline (13.9%) habitats (Fig 3B). The least well-studied habitat types were polar (2.9%), and desert (1.5%), as well as human-modified habitats (agricultural and urban, representing 10.2% of articles combined).

Study design

Less than one-third (30.3%) of the articles contained an experimental component, and 60.9% of articles contained controls. Most (85.4%) articles had replication of study sites, treatments, or groups. Direct observation was the most common method for measuring recreation (38.1% of results), followed by proxy variables (19.9%), expert opinion (19.6%), and experimental treatment (18.0%). Permitted use as a measure of recreation was less common (12.5%), as was remote monitoring (6.7%).

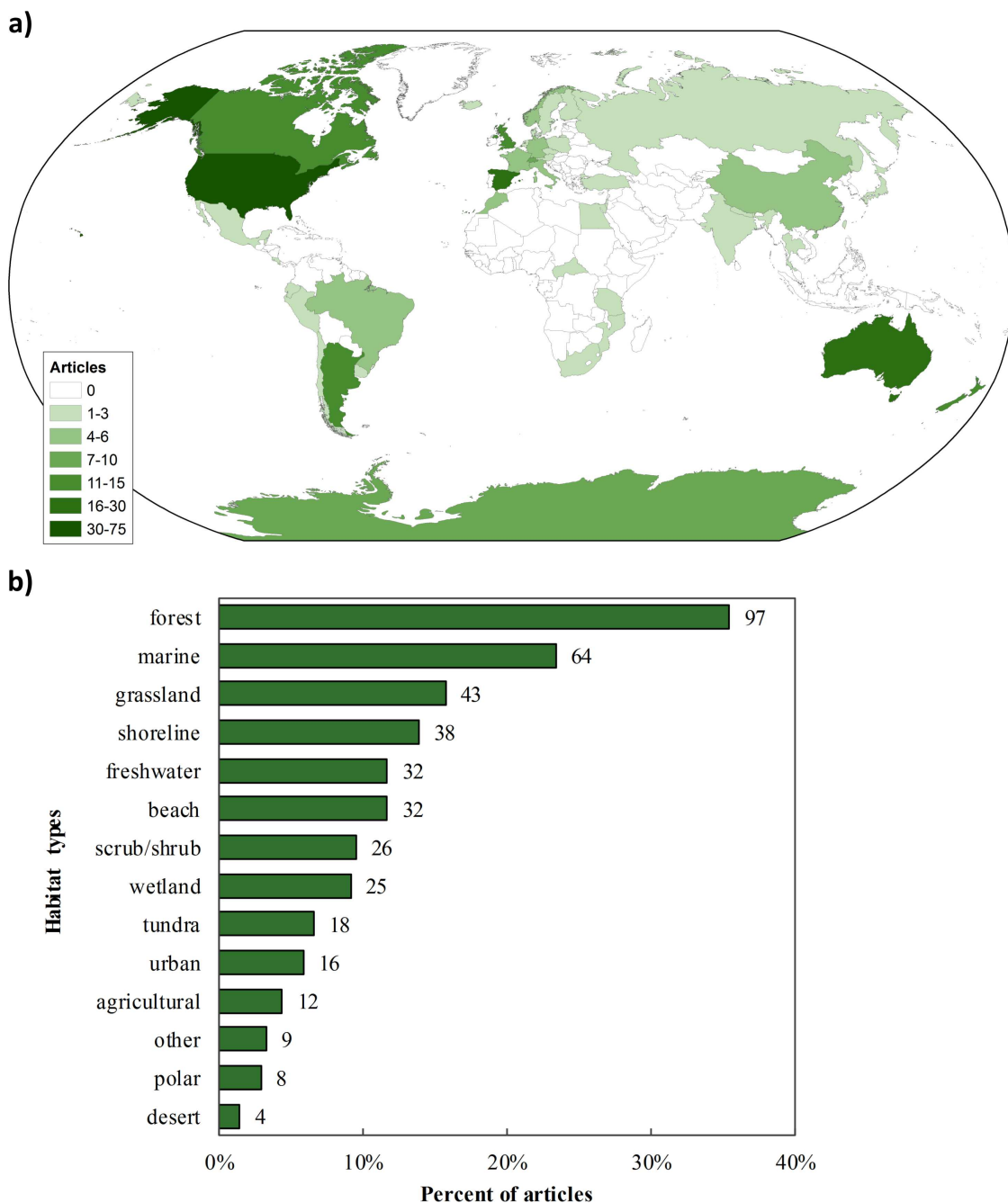


Fig 3. Distribution of published articles on the effects of non-consumptive recreation on animal species. Panel (a) shows the countries where studies were conducted, and panel b) shows the distribution of studies into major habitat type (s). Since some studies involved multiple habitat types, the sum (424) is greater than the total number of articles (274). Numbers at the end of bars represent the total number of articles in each category.

doi:10.1371/journal.pone.0167259.g003

Taxonomic groups

Research effort in our sample of articles was not proportional to the number of species within all taxonomic groups at the broadest level ($\chi^2 = 377.3$, $df = 5$, $p < 0.0001$), nor to the number of species in bird ($\chi^2 = 988.7$, $df = 5$, $p < 0.0001$) and mammal ($\chi^2 = 290.3$, $df = 3$, $p < 0.0001$)

Orders or invertebrate Classes ($\chi^2 = 98.1$, $df = 2$, $p < 0.0001$; Fig 4). Mammals (41.6%) and birds (36.9% of articles) were the focus of the majority of recreation studies, followed by invertebrates (12.4%), reptiles (5.5%), fish (5.1%), and amphibians (0.7%). Studies of a single species were more common (69.0%) than those that examined at least two species. Research on mammals focused mainly on ungulates (28.9%), carnivores (26.3% of articles), cetaceans (21.9%), and primates (12.3%). Among birds, the most commonly researched Orders were Passeriformes (passerine birds; 24.8% of articles), Charadriiformes (wading birds and gulls; 23.8%), Sphenisciformes (penguins; 13.9%), and Accipitriformes (hawks, eagles, vultures; 9.9%). Many of the invertebrate studies (35.2%) focused on the effects of snorkeling or SCUBA diving on corals, followed by studies on arachnids, bivalves, and insects (each 14.7%). The most commonly studied fish Class was Actinopterygii (ray-finned fish; 57.1%), followed by Chondrichthyes (sharks, stingrays; 42.9%). Research on reptiles focused on Orders Squamata (lizards, snakes; 78.6%) and Testudines (turtles; 21.4%).

We identified the IUCN status of the species for 68.7% of results, representing 305 unique species; the remaining results examined multiple species or species not evaluated by the IUCN. The distribution of these results into IUCN status categories was not proportional to the distribution of all animal species into these categories ($\chi^2 = 108.3$, $df = 5$, $p < 0.0001$), with many more species than expected in the least concern category (80.7%), slightly more than expected in the near threatened (6.9%), and fewer than expected in the data deficient (1.6%), vulnerable (6.5%), endangered (3.6%), and critically endangered (0.1%) categories. Endangered species that were studied included three mammals (black howler monkey *Alouatta pigra*, Hector's dolphin *Cephalorhynchus hectori*, and the Barbary macaque *Macaca sylvanus*), three fish (dusky grouper *Epinephelus marginatus*, Nassau grouper *Epinephelus striatus*, and the brownstriped gaunt *Anisotremus moricandi*), two birds (Egyptian vulture *Neophron percnopterus* and the yellow-eyed penguin *Megatypus antipodes*), two reptiles (wood turtle *Glyptemys insculpta* and Lilford's wall lizard *Podarcis lilfordi*), and the boulder star coral *Montastraea annularis*. The only critically endangered animals were the Western lowland gorilla *Gorilla gorilla gorilla* and the Mexican howler monkey *Alouatta palliata mexicana*.

Of the 274 articles analyzed, 93.1% documented at least one effect of recreation on animal populations, individuals, or communities. Negative effects of recreation were the most frequent (59.4%), followed by unclear (25.9%) and positive (14.7%) effects. Most (83.6%) of the unclear effects were behavioral responses.

Taxonomic groups with the most negative effects were amphibians ($68.4 \pm 20.2\%$ of results), reptiles ($56.3 \pm 9.2\%$), and invertebrates ($51.0 \pm 5.1\%$), while mammals ($5.3 \pm 1.9\%$) and birds ($4.3 \pm 2.0\%$) had the most positive effects (Fig 4). Among bird Orders, evidence for overall and negative effects was greatest in Accipitriformes (e.g., eagles, hawks; 70.7 ± 10.7 and $47.7 \pm 24.4\%$; Fig 4). Positive effects were greatest in Anseriformes (e.g., ducks, swans; $10.4 \pm 22.6\%$) and Passeriformes (passerine birds; $6.9 \pm 7.7\%$). Evidence of negative effects among Charadriiformes Families was greatest in Charadriidae (e.g., plovers, lapwings; $58.2 \pm 18.6\%$). Among Passeriformes Families, Corvidae (e.g., crows, crows) had the most positive effects ($56.0 \pm 4.9\%$). Among mammal Orders, Artiodactyla (even-toed ungulates) had the most negative effects ($48.5 \pm 8.0\%$) and Rodentia (rodents) had the most positive effects ($14.4 \pm 12.3\%$). At the family level, Bovidae (e.g., bison, bighorn sheep) had by far the most overall effects ($93.8 \pm 19.3\%$) and Delphinidae (dolphins) was also high ($70.8 \pm 6.8\%$). Several invertebrate Classes had considerable negative effects, including Anthozoa (corals; $56.6 \pm 4.2\%$), Gastropoda (e.g., snails, slugs; $55.5 \pm 6.7\%$), and "other" (e.g., insects, crabs; $51.4 \pm 6.0\%$). Finally, the "other" grouping of fish Classes (e.g., sharks, stingrays) had more evidence for an overall and positive effect ($64.9 \pm 8.7\%$ overall and $25.8 \pm 15.7\%$ positive) than Actinopterygii (ray-finned fish; $34.8 \pm 8.5\%$ overall and $5.4 \pm 9.2\%$ positive). Of the reptile

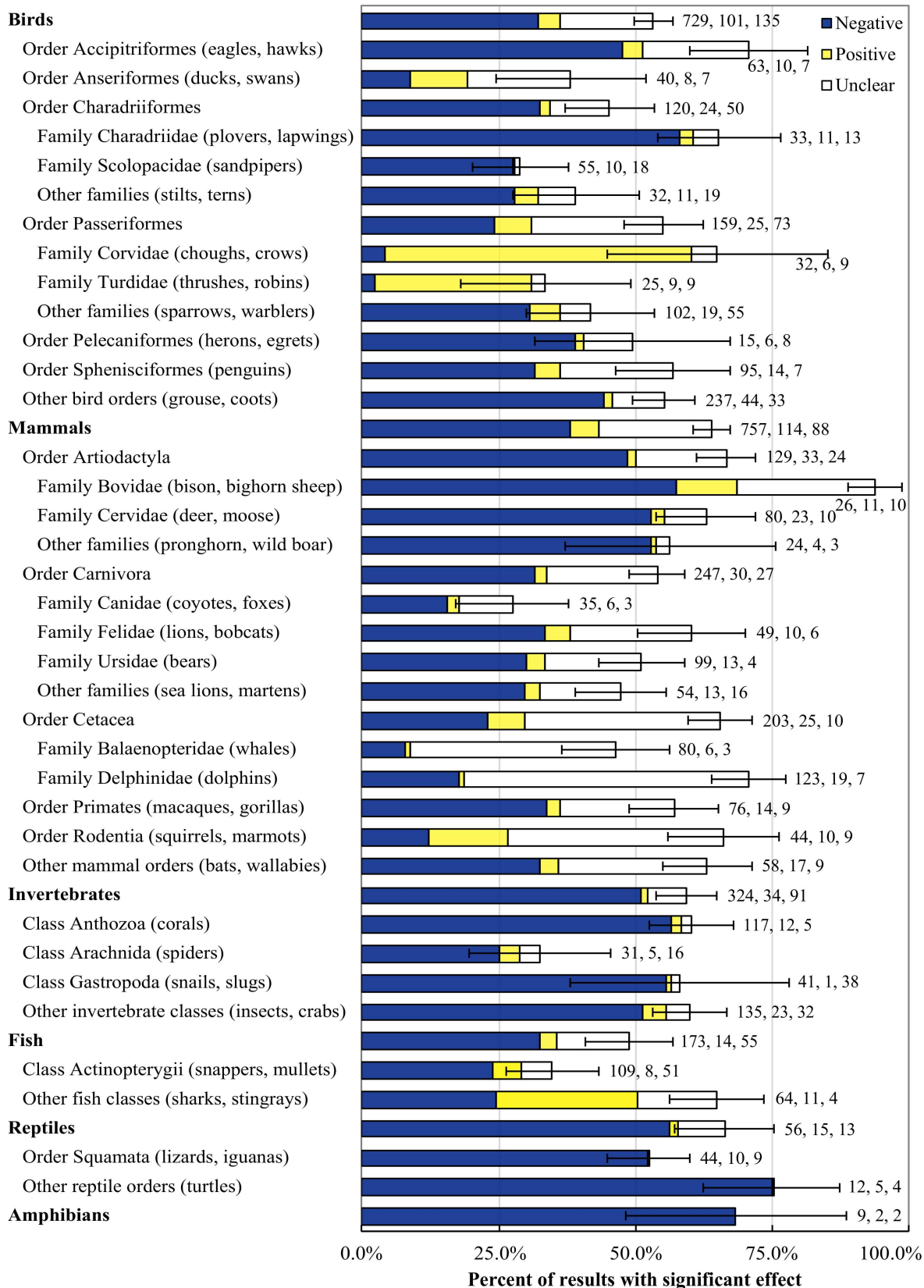


Fig 4. Evidence for an effect of recreation by taxonomic group. Evidence is measured as the proportion of results that were statistically significant. For articles that studied multiple recreation activities, species, or response variables, each combination of variables was treated as a separate result. Common names are examples of species occurring in the included articles. We present taxonomic groups that have at least 15 results and 5 species represented; the remaining taxa are included in “other” categories for comparative purposes. Numbers following bars show the number of results, number of articles, and count of unique species. Articles that studied functional groups or communities rather than individual species (e.g., insectivorous birds) were added to the relevant “other” category and were not counted as species. Error bars show standard error for the sum of all effects.

doi:10.1371/journal.pone.0167259.g004

orders, Order Testudines (turtles) had more overall effects ($75.0 \pm 12.5\%$) effects than Order Squamata (lizards, iguanas; 52.3 ± 7.5). For both Orders, all of the effects were negative. Low sample sizes precluded comparisons among amphibian taxa.

Recreation activities

The articles in our sample examined a wide variety of recreation activities (Fig 5A). Summer terrestrial activities were the most common, studied by 66.7% of articles, followed by aquatic (27.8%) and winter terrestrial (5.6%). Motorized forms of recreation, including off-highway vehicles, snowmobiles, and motorized boats, were examined in 26.3% of articles. Hiking was studied much more often than any other recreation activity (27.5% of articles). Wildlife viewing was also relatively frequently studied, with 10.3% of articles studying land-based and 6.6% studying boat-based wildlife viewing.

Winter terrestrial activities had the most evidence of overall ($77.3 \pm 7.8\%$ of results; Fig 5B) and negative ($64.4 \pm 10.1\%$) effects, compared to $58.5 \pm 2.7\%$ (overall) and $39.6 \pm 4.6\%$ (negative) for other terrestrial and $57.0 \pm 3.8\%$ (overall) and $33.4 \pm 7.1\%$ (negative) for aquatic activities. Although motorized and non-motorized activities had similar evidence for overall effects ($57.0 \pm 5.1\%$ and $58.4 \pm 2.5\%$), non-motorized had greater negative effects ($40.3 \pm 4.0\%$ versus $34.0 \pm 8.6\%$). Activities with the most evidence of overall effects included each of the snow activities (cross-country ski/snowshoeing: $81.0 \pm 8.6\%$, motorized-snow: $77.8 \pm 13.9\%$, alpine skiing: $71.0 \pm 8.2\%$), as well as boat-based wildlife viewing ($65.4 \pm 5.4\%$) and beach use ($64.8 \pm 8.2\%$; Fig 5B).

Response types

Response types were not studied evenly; behavioral (45.5% of articles) and abundance (24.1%) responses to recreation were the most common (Fig 6A). Only 9.3% of articles measured community metrics (species richness, diversity, or composition) and 1.9% measured survival. Omitting survival responses due to small sample size, community responses had the most overall effects ($64.6 \pm 6.6\%$ of results), followed by behavioral ($63.5 \pm 2.8\%$) and physiological ($62.5 \pm 4.9\%$) responses; reproductive responses ($36.7 \pm 6.3\%$) had the fewest overall effects (Fig 6B). Physiological ($52.7 \pm 4.8\%$) and occurrence ($51.3 \pm 4.6\%$) responses had the most negative effects, while behavioral responses had the most positive effects ($9.8 \pm 2.5\%$).

Management recommendations

More than one-third (40.5%) of the included articles did not provide management recommendations (Table 2). Of those that did include recommendations, the most common types were spatial restrictions (32.1%), visitor education (15.0%), and limiting visitation (14.2%), Enforcement of existing rules (6.9%) and staff training (2.2%) were the least frequently suggested management categories.

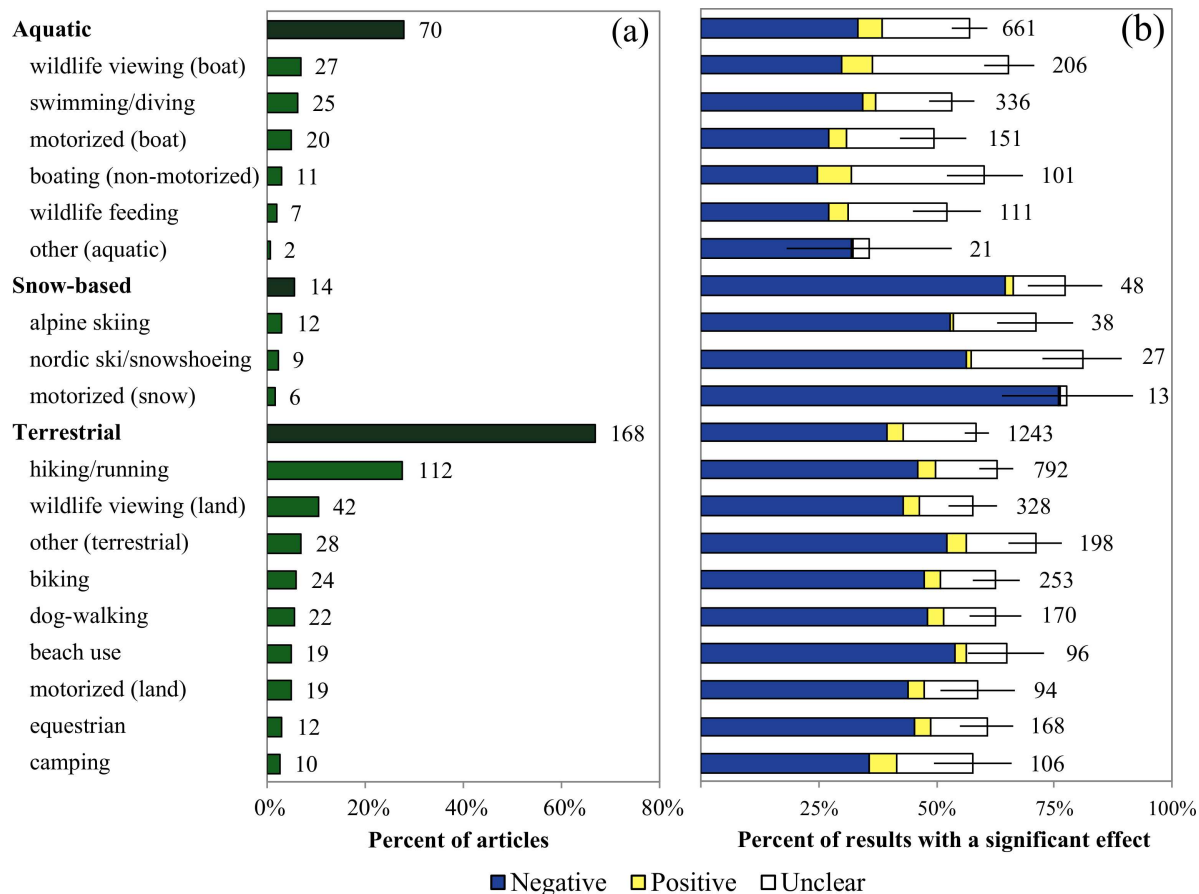


Fig 5. Recreation activities in the articles included in this review. Panel (a) shows the percent of articles that included each recreation activity (numbers of articles follow the bars), and panel (b) shows the percent of results in which a statistically significant effect of recreation on an animal species was observed (number of results follow the bars). Total percentages are divided into negative, positive, and unclear effects of recreation. Error bars show standard error for the sum of all effects.

doi:10.1371/journal.pone.0167259.g005

Discussion

Although published research on recreation effects on animals increased by an order of magnitude from 1981 to 2015, the percentage of the literature devoted to the subject remains small (0.16% of publication volume of the target journals in the peak year), and many gaps in knowledge remain. The literature is geographically biased in favor of North America and Europe, and taxonomically biased toward birds and mammals. Over 93% of reviewed articles documented at least one effect of recreation, and as expected, the majority of these effects were negative. Non-motorized and winter terrestrial activities had notable evidence for negative effects. Additionally, some of the least studied taxonomic groups (reptiles, amphibians, and invertebrates) had the greatest evidence for negative effects of recreation.

Though the amount of literature on this topic has increased in recent decades, it may not be reaching a broad audience even among conservation scientists and wildlife ecologists. Over 20% of articles were published in journals specific to a taxonomic group, geographic region, or ecosystem, whereas few were published in the broadest journals. Since the broadest journals are also among the highest-impact publications (e.g., *Science*, *Nature*), this could also indicate that the topic of recreation impacts on animals is not viewed as important within the peer-reviewed literature.

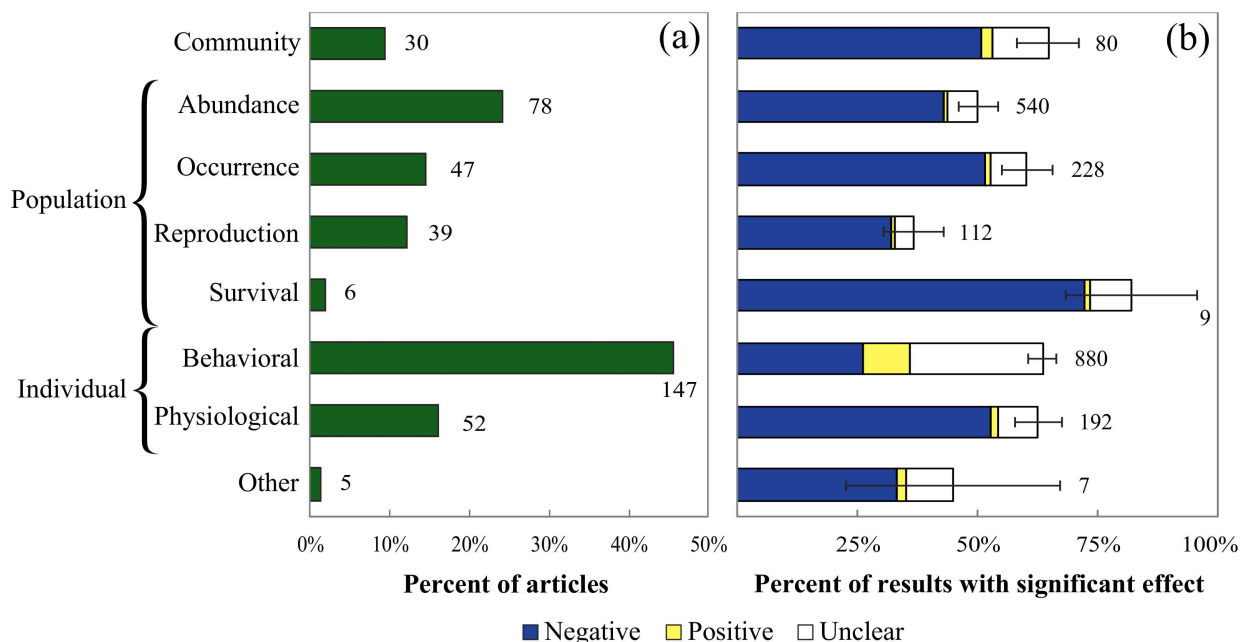


Fig 6. Types of animal responses to recreation in the articles included in this review. Response types have been categorized into community-, population-, and individual-level responses. Panel a) shows the percent of articles in which each response type is tested (numbers of articles follow the bars). Panel b) shows the percent of results in which a statistically significant effect of recreation on an animal species was observed (number of results follow the bars). Total percentages are divided into negative, positive, and unclear effects of recreation. Error bars show standard error for the sum of all effects.

doi:10.1371/journal.pone.0167259.g006

The articles had a strong geographic bias toward North America and Europe. This reflects global patterns in visitation to protected areas since over 80% of visits occur in these two continents [1]. A surprising number of studies were conducted in Antarctica, as a result of a growing ecotourism industry that often includes visits to penguin colonies [63]. As South America, Africa, and Asia contain most of the world's biodiversity hotspots [64] as well as popular ecotourism destinations including Brazil, South Africa, Thailand, and Indonesia [65], we see an immediate need for studies of recreation effects in these areas. The few studies conducted in tundra, polar, and desert habitat types is likely a result of low rates of recreation and tourism occurring in these areas. However, our findings and those of Sato et al. [39] about the impacts of alpine activities indicate that it is an important area for future study.

Further, the distribution of articles among broad taxonomic groups was skewed in favor of mammals and birds, a trend consistent with conservation science as a whole [66]. However, these are large, diverse groups that still warrant more research; for example, passerine birds were the most frequently studied avian Order in our set of articles, but the 73 species examined therein comprise ~1% of the 5,000+ species in the Order. There is also an urgent need to understand more about the potential effects of recreation on invertebrates, fish, reptiles, and amphibians. We found only two articles on amphibians, but their known sensitivity to human disturbance [67] highlights the need to understand whether and how recreation affects them. Current research on recreation effects on animals does not include many species of urgent conservation concern; only about 10% of species studied are globally threatened (IUCN status of critically endangered, endangered, or vulnerable). Recreation may not be the primary reason for their endangerment, but it is a threat worth understanding because the disturbance may take place in the very protected areas designated to conserve these species. Finally, relatively few articles (31.0%) examined more than one species, and studies of species from

multiple trophic levels were especially rare (3.6%). More research is needed on community-level effects of recreation, including potential cascading effects [68].

Examination of the study designs of the included articles revealed some notable trends. A fairly high percentage (30%) of articles included an experimental component; most of these were recreation treatments applied in order to compare behavioral responses. Over 80% of results examined recreation as a categorical variable, typically with three or fewer levels (e.g., low vs. high recreation activity). Though a categorical approach is simpler to implement and analyze, it limits the ability of researchers to evaluate how responses may change with different recreation intensities. It has proven difficult to develop hypothesized response curves representing how animals respond to increasing levels of recreational use due to the diversity of responses [69]. Future research should measure recreation across intensity gradients to help verify the existence of thresholds and the shape of these relationships.

Most (59%) of the effects of recreation on animals documented in the reviewed articles were negative effects. This was particularly true for reptiles, amphibians, and invertebrates, although sample sizes were low. Among invertebrate Classes, Anthozoa (corals) frequently had physical damage or reduced abundance in areas frequented by recreational divers [70,71]. Though the rate of negative effects was generally lower for birds, mammals, and fish, some lower taxonomic groups had more evidence for negative effects of recreation. For example, Order Accipitriformes (e.g., eagles, hawks) had more evidence for negative effects compared to other bird Orders, consistent with a prior meta-analysis of human disturbance on nesting birds of prey [41]. Family Charadriidae (e.g., plovers, lapwings) also had considerable evidence for negative effects of recreation, which parallels a recent study that found that species from this Order (Charadriiformes) were more frequently threatened by tourism than other bird Orders [19]. Of the mammals, Order Artiodactyla (e.g., deer, bison) had substantial evidence for negative effects, mostly consisting of behavioral responses to recreation activity. Many researchers have investigated factors that influence ungulate flight responses, including speed of approach, animal and human group size, and habitat type [43,45]. For fish, several studies found negative physiological effects of wildlife viewing on Class Chondrichthyes (e.g., sharks, stingrays; [72,73]), and negative effects of diving on fish communities [70].

Evidence for positive effects of recreational activity was much less common. Birds, particularly corvids, had more evidence for positive effects compared to most other broad taxonomic groups. Many corvids are urban adaptors [74], and several studies found that they quickly habituate to human disturbance, allowing them to tolerate or even thrive in the presence of recreationists [75,76], sometimes at the expense of other species [77]. Mammals also had a relatively high rate of positive effects. Of the mammal Orders, rodents had the most evidence for positive effects; all but one of these effects were behavioral and most resulted from habituation (e.g., reduced flight responses in areas with higher levels of recreation; [78,79]. Habituation to recreation was discussed in many (39.4%) of the included articles and typically resulted in positive responses in our coding system (e.g., reduced flight initiation distances in habituated animals), but whether habituation is a beneficial outcome for animals (e.g., by reducing costly behavioral responses to humans) is unclear and warrants further study [80,81].

We found that non-motorized activities had more evidence for negative effects than motorized activities. Motorized activities are often expected to be more harmful to animals because of vehicle speed and noise [43], but our results suggest the opposite across a wide range of study locations and taxa. A few articles directly compared motorized and non-motorized activities; four mammals (guanaco *Lama guanicoe*, wolverine *Gulo gulo*, coyote *Canis latrans*, and bobcat *Lynx rufus*) showed behavioral or occurrence responses to non-motorized but not to motorized recreation [22,82,83], whereas the reverse was found for Hector's dolphin (*Cephalorhynchus hectori*) behavior [84] and ghost crab (*Ocypode quadrata*) abundance [85].

However, motorized activities often cover larger spatial extents than non-motorized activities, and since most studies did not compare effects across multiple spatial scales, it is possible that their impact has been underestimated. Additionally, motorized vehicles can also cause other types of harm not explored here, such as soil loss and vegetation disturbance [86]. A meta-analysis designed to explicitly compare the magnitude of effects of motorized and non-motorized recreation would be a valuable contribution to the literature.

Our results also suggest that winter terrestrial activities have greater evidence for effects on animals than summer terrestrial or aquatic activities, though the number of articles was small. A recent review of winter recreation effects on animals [39] supports this conclusion, finding that over half of the reviewed articles reported overall detrimental effects, particularly on birds and on species richness and diversity. There are several possible explanations for this result. Movement away from recreationists may be more energetically costly in snowy conditions [87]. For many species, food availability and quality is lower during winter [82,88], limiting their ability to relocate to avoid areas with human activity. There could also be habitat effects since vegetation in alpine and sub-alpine environments regenerates slowly, so habitat degradation caused by winter recreation could be more severe than that caused by other recreational activities in more temperate climates [39,89].

Overall, authors observed individual-level (behavioral and physiological) and community-level effects more frequently than most population-level (occurrence, abundance, and reproduction) effects. Though rarely measured, negative effects of recreation on survival—a particularly important response to understand for conservation purposes—were observed 1.4 times more frequently than the next highest response types (physiology and occurrence). Behavioral metrics, which were studied far more often than other types of responses, may be popular because they can be simpler to measure and have been proposed as a proxy for demographic parameters [90]. Nonetheless, behavioral metrics may not reflect the true population consequences of anthropogenic disturbance [91]. Study duration can also influence conclusions; one long-term study found that low-level recreation had an effect on dolphin habitat use that was not observed in a short-term behavioral study [81,92], while another found that short-term behavioral responses did not result in changes in the distribution or relative abundance of waterbirds [93].

Though most articles documented recreation effects, few presented specific, practical steps to minimize impacts. About 40% of the articles did not describe any management or mitigation actions, and many more contained only vague suggestions. We see a strong need for empirical tests of the effectiveness of management actions, which were rare. Encouraging examples of successful mitigation actions do exist, such as educating divers about avoiding damage to coral reefs [94], using volunteers to deter harassment of fur seals [95], and installing fences to establish disturbance-free areas [96,97]. This type of practical evaluation of management strategies is critical in assessing the ability of protected areas to meet demands for both recreational opportunities and the conservation of biodiversity. Interviewing practitioners would be a useful direction for future research in order to assess the type and extent of management strategies currently being employed. Even where management recommendations are provided in the scientific literature, it is unclear to what extent they are received by protected area managers [98]; a search of unpublished reports and other communications on the subject would help inform how well conservation scientists are reaching decision-makers.

The effects of recreation on animals is still a relatively unknown and low-profile topic in the conservation science literature, despite growing evidence that detrimental impacts can occur from a wide variety of recreational activities. Further, biophysical disturbances associated with recreation and tourism—including habitat conversion for roads and resorts, pollution from vehicles, and the spread of invasive species—are likely to have additional effects [19], increasing

the overall impact of the recreation and tourism industry. Recreation effects may also act synergistically with other threats to biodiversity such as urbanization and land-use change [18], which may result in increased access for recreation. This is a troubling problem for managers and conservation practitioners, since recreation is an integral part of protected areas worldwide [12]. Finding an appropriate balance between biodiversity conservation and outdoor recreation is complicated, especially since impacts vary among species and recreation activities. We must start by simply acknowledging that these uses are not necessarily compatible for all species, in all locations. This will make it easier to justify additional research on this topic, establish restrictions on recreation, and encourage changes in the behavior of recreationists, leading to improved conservation outcomes.

Supporting Information

S1 Appendix. Articles about recreation effects on animals included in the literature review.

(DOCX)

S1 File. Access database containing information extracted from reviewed papers.

(ACCDB)

S1 Table. PRISMA checklist.

(DOC)

Acknowledgments

We thank A. Hess and P. Turk of the Colorado State University StatLab for helpful statistical advice. Comments from R. Knight, C. Carroll, and S. Bombaci improved the manuscript.

Author Contributions

Conceptualization: CLL SER AMM KRC.

Data curation: CLL.

Formal analysis: CLL.

Funding acquisition: SER KRC.

Investigation: CLL.

Methodology: CLL SER AMM KRC.

Project administration: SER KRC.

Supervision: SER KRC.

Visualization: CLL.

Writing – original draft: CLL.

Writing – review & editing: CLL SER AMM KRC.

References

1. Balmford A, Green JMH, Anderson M, Beresford J, Huang C, Naidoo R, et al. Walk on the Wild Side: Estimating the Global Magnitude of Visits to Protected Areas. *PLOS Biol.* 2015; 13: e1002074. doi: [10.1371/journal.pbio.1002074](https://doi.org/10.1371/journal.pbio.1002074) PMID: [25710450](https://pubmed.ncbi.nlm.nih.gov/25710450/)

2. Cordell HK. Outdoor recreation trends and futures [Internet]. Southern Research Station, Asheville, NC, USA: U.S. Department of Agriculture Forest Service; 2012. Available: http://www.srs.fs.usda.gov/pubs/gtr/gtr_srs150.pdf
3. UNWTO. UNWTO Tourism Highlights, 2014 edition [Internet]. World Tourism Organization; 2014. Available: <http://mkt.unwto.org/publication/unwto-tourism-highlights-2014-edition>
4. O'Connor S, Campbell R, Cortez H, Knowles T. Whale watching worldwide: tourism numbers, expenditures and economic benefits. Yarmouth MA, USA: prepared by Economists at Large; 2009.
5. Balmford A, Beresford J, Green J, Naidoo R, Walpole M, Manica A. A Global Perspective on Trends in Nature-Based Tourism. *PLoS Biol.* 2009; 7: e1000144. doi: [10.1371/journal.pbio.1000144](https://doi.org/10.1371/journal.pbio.1000144) PMID: [19564896](https://pubmed.ncbi.nlm.nih.gov/19564896/)
6. Wade AA, Theobald DM. Residential development encroachment on U.S. protected areas. *Conserv Biol.* 2010; 24: 151–161. doi: [10.1111/j.1523-1739.2009.01296.x](https://doi.org/10.1111/j.1523-1739.2009.01296.x) PMID: [19624528](https://pubmed.ncbi.nlm.nih.gov/19624528/)
7. Wittemyer G, Elsen P, Bean WT, Burton ACO, Brashares JS. Accelerated human population growth at protected area edges. *Science.* 2008; 321: 123–126. doi: [10.1126/science.1158900](https://doi.org/10.1126/science.1158900) PMID: [18599788](https://pubmed.ncbi.nlm.nih.gov/18599788/)
8. Naughton-Treves L, Holland MB, Brandon K. The role of protected areas in conserving biodiversity and sustaining local livelihoods. *Annu Rev Environ Resour.* 2005; 30: 219–252.
9. Reed SE, Merenlender AM. Quiet, nonconsumptive recreation reduces protected area effectiveness. *Conserv Lett.* 2008; 1: 146–154.
10. Eagles PFJ, McCool, Stephen F, Haynes CD, United Nations Environment Programme, World Tourism Organization, International Union for Conservation of Nature and Natural Resources. Sustainable tourism in protected areas: guidelines for planning and management. Gland, Switzerland: IUCN—the World Conservation Union; 2002.
11. IUCN, UNEP. The World Database on Protected Areas (WDPA) [Internet]. Cambridge, UK: UNEP-WCMC; 2014. Available: www.protectedplanet.net
12. Becken S, Job H. Protected areas in an era of global-local change. *J Sustain Tour.* 2014; 22: 507–527.
13. McCurdy LE, Winterbottom KE, Mehta SS, Roberts JR. Using nature and outdoor activity to improve children's health. *Curr Probl Pediatr Adolesc Health Care.* 2010; 40: 102–117. doi: [10.1016/j.cppeds.2010.02.003](https://doi.org/10.1016/j.cppeds.2010.02.003) PMID: [20381783](https://pubmed.ncbi.nlm.nih.gov/20381783/)
14. Louv R. Last child in the woods: Saving our children from nature-deficit disorder. Algonquin Books; 2005.
15. Bushell R, Eagles PFJ. Tourism and protected areas: benefits beyond boundaries: the Vth IUCN World Parks Congress. CABI; 2007.
16. Zhong L, Buckley RC, Wardle C, Wang L. Environmental and visitor management in a thousand protected areas in China. *Biol Conserv.* 2015; 181: 219–225.
17. Zaradic PA, Pergams ORW, Kareiva P. The impact of nature experience on willingness to support conservation. *PLoS ONE.* 2009; 4: e7367. doi: [10.1371/journal.pone.0007367](https://doi.org/10.1371/journal.pone.0007367) PMID: [19809511](https://pubmed.ncbi.nlm.nih.gov/19809511/)
18. Losos E, Hayes J, Phillips A, Wilcove D, Alkire C. Taxpayer-Subsidized Resource Extraction Harms Species. *BioScience.* 1995; 45: 446–455.
19. Steven R, Castley JG. Tourism as a threat to critically endangered and endangered birds: global patterns and trends in conservation hotspots. *Biodivers Conserv.* 2013; 22: 1063–1082.
20. Mainini B, Neuhaus P, Ingold P. Behaviour of marmots *marmota marmota* under the influence of different hiking activities. *Biol Conserv.* 1993; 64: 161–164.
21. Naylor LM, J. Wisdom M, G. Anthony R. Behavioral responses of North American elk to recreational activity. *J Wildl Manag.* 2009; 73: 328–338.
22. George SL, Crooks KR. Recreation and large mammal activity in an urban nature reserve. *Biol Conserv.* 2006; 133: 107–117.
23. Rogala JK, Hebblewhite M, Whittington J, White CA, Coleshill J, Musiani M. Human activity differentially redistributes large mammals in the Canadian Rockies national parks. *Ecol Soc.* 2011; 16.
24. Banks PB, Bryant JV. Four-legged friend or foe? Dog walking displaces native birds from natural areas. *Biol Lett.* 2007; 3: 611–613. doi: [10.1098/rsbl.2007.0374](https://doi.org/10.1098/rsbl.2007.0374) PMID: [17785262](https://pubmed.ncbi.nlm.nih.gov/17785262/)
25. Heil L, Fernandez-Juricic E, Renison D, Cingolani AM, Blumstein DT. Avian responses to tourism in the biogeographically isolated high Cordoba Mountains, Argentina. *Biodivers Conserv.* 2007; 16: 1009–1026.
26. Arlettaz R, Patthey P, Baltic M, Leu T, Schaub M, Palme R, et al. Spreading Free-Riding Snow Sports Represent a Novel Serious Threat for Wildlife. *Proc Biol Sci.* 2007; 274: 1219–1224. doi: [10.1098/rspb.2006.0434](https://doi.org/10.1098/rspb.2006.0434) PMID: [17341459](https://pubmed.ncbi.nlm.nih.gov/17341459/)

27. Müllner A, Eduard Linsenmair K, Wikelski M. Exposure to ecotourism reduces survival and affects stress response in hoatzin chicks (*Opisthocomus hoazin*). *Biol Conserv*. 2004; 118: 549–558.
28. Beale CM, Monaghan P. Modeling the effects of limiting the number of visitors on failure rates of seabird nests. *Conserv Biol*. 2005; 19: 2015–2019.
29. Finney SK, Pearce-Higgins JW, Yalden DW. The effect of recreational disturbance on an upland breeding bird, the golden plover *Pluvialis apricaria*. *Biol Conserv*. 2005; 121: 53–63.
30. Kangas K, Luoto M, Ihantola A, Tomppo E, Siikamäki P. Recreation-induced changes in boreal bird communities in protected areas. *Ecol Appl*. 2010; 20: 1775–1786. PMID: [20945775](#)
31. Riffell SK, Gutzwiller KJ, Anderson SH. Does Repeated Human Intrusion Cause Cumulative Declines in Avian Richness and Abundance? *Ecol Appl*. 1996; 6: 492–505.
32. Frid A, Dill LM. Human-caused disturbance stimuli as a form of predation risk. *Conserv Ecol*. 2002; 6: 11.
33. Boyle SA, Samson FB. Effects of Nonconsumptive Recreation on Wildlife: A Review. *Wildl Soc Bull*. 1985; 13: 110–116.
34. Duffus DA, Dearden P. Non-consumptive wildlife-oriented recreation: A conceptual framework. *Biol Conserv*. 1990; 53: 213–231.
35. Knight RL, Gutzwiller K. *Wildlife and Recreationists: Coexistence Through Management And Research*. Island Press; 1995.
36. Pomerantz GA, Decker DJ, Goff GR, Purdy KG. Assessing Impact of Recreation on Wildlife: A Classification Scheme. *Wildl Soc Bull*. 1988; 16: 58–62.
37. Barros A, Monz C, Pickering C. Is tourism damaging ecosystems in the Andes? Current knowledge and an agenda for future research. *AMBIO*. 2014; 1–17.
38. Marzano M, Dandy N. Recreationist behaviour in forests and the disturbance of wildlife. *Biodivers Conserv*. 2012; 21: 2967–2986.
39. Sato CF, Wood JT, Lindenmayer DB. The effects of winter recreation on alpine and subalpine fauna: A systematic review and meta-analysis. Lindborg R, editor. *PLoS ONE*. 2013; 8: e64282. doi: [10.1371/journal.pone.0064282](#) PMID: [23691190](#)
40. Gallagher AJ, Vianna GMS, Papastamatiou YP, Macdonald C, Guttridge TL, Hammerschlag N. Biological effects, conservation potential, and research priorities of shark diving tourism. *Biol Conserv*. 2015; 184: 365–379.
41. Martínez-Abraín A, Oro D, Jiménez J, Stewart G, Pullin A. A systematic review of the effects of recreational activities on nesting birds of prey. *Basic Appl Ecol*. 2010; 11: 312–319.
42. Showler DA, Stewart GB, Sutherland WJ, Pullin AS. What is the impact of public access on the breeding success of ground-nesting and cliff-nesting birds. *CEE Rev*. 2010; 05–010. Available: <http://www.environmentalevidence.org/wp-content/uploads/2014/07/SR16.pdf>
43. Stankowich T. Ungulate flight responses to human disturbance: A review and meta-analysis. *Biol Conserv*. 2008; 141: 2159–2173.
44. Steven R, Pickering C, Castley JG. A review of the impacts of nature based recreation on birds. *J Environ Manage*. 2011; 92: 2287–2294. doi: [10.1016/j.jenvman.2011.05.005](#) PMID: [21640470](#)
45. Wolfe SA, Griffith B, Wolfe CAG. Response of reindeer and caribou to human activities. *Polar Res*. 2000; 19: 63–73.
46. Newsome D, Cole DN, Marion JL. *Environmental impacts associated with recreational horse-riding. Environmental Impacts of Ecotourism*. Cambridge: CABI Publishing; 2004.
47. Orams MB. Feeding wildlife as a tourism attraction: a review of issues and impacts. *Tour Manag*. 2002; 23: 281–293.
48. Parsons ECM. The Negative Impacts of Whale-Watching. *J Mar Biol*. 2012; 2012: 1–9.
49. Pullin AS, Knight TM. Doing more good than harm—Building an evidence-base for conservation and environmental management. *Biol Conserv*. 2009; 142: 931–934.
50. Pullin AS, Stewart GB. Guidelines for Systematic Review in Conservation and Environmental Management. *Conserv Biol*. 2006; 20: 1647–1656. doi: [10.1111/j.1523-1739.2006.00485.x](#) PMID: [17181800](#)
51. Barto EK, Rillig MC. Dissemination biases in ecology: effect sizes matter more than quality. *Oikos*. 2012; 121: 228–235.
52. Keller VE. Effects of human disturbance on Eider ducklings *somateria mollissima* in an estuarine habitat in Scotland. *Biol Conserv*. 1991; 58: 213–228.
53. Lortie CJ, Aarssen LW, Budden AE, Koricheva JK, Leimu R, Tregenza T. Publication bias and merit in ecology. *Oikos*. 2007; 116: 1247–1253.

54. Jennions MD, Lortie CJ, Rosenberg MS, Rothstein HR. Publication and related biases. In: Koricheva J, Gurevitch J, Mengersen K, editors. *Handbook of Meta-analysis in Ecology and Evolution*. Princeton, NJ: Princeton University Press; 2013.
55. Koricheva J, Gurevitch J, Mengersen K, editors. *Handbook of meta-analysis in ecology and evolution*. Princeton, NJ: Princeton University Press; 2013.
56. Steidl RJ, Anthony RG. Experimental Effects of Human Activity on Breeding Bald Eagles. *Ecol Appl*. 2000; 10: 258–268.
57. IUCN. The IUCN Redlist of Threatened Species [Internet]. 2015. Report No.: Version 2015.4. Available: <http://www.iucnredlist.org>
58. McCullagh P. Regression Models for Ordinal Data. *J R Stat Soc Ser B Methodol*. 1980; 42: 109–142.
59. Lenth R. Ismeans: Least-Squares Means [Internet]. 2015. Available: <http://cran.r-project.org/package=lsmeans>
60. R Core Team. R: a language and environment for statistical computing. Vienna, Austria: R Foundation for Statistical Computing; 2015.
61. Christensen RHB. Ordinal—Regression Models for Ordinal Data [Internet]. 2015. Available: <http://www.cran.r-project.org/package=ordinal>
62. Bates D, Maechler M, Bolker B, Walker S. Fitting Linear Mixed-Effects Models Using lme4. *J Stat Softw*. 2015; 67: 1–48.
63. Pfeiffer S, Peter H-U. Ecological studies toward the management of an Antarctic tourist landing site (Penguin Island, South Shetland Islands). *Polar Rec*. 2004; 40: 345–353.
64. Myers N, Mittermeier RA, Mittermeier CG, da Fonseca GA, Kent J. Biodiversity hotspots for conservation priorities. *Nature*. 2000; 403: 853–858. doi: [10.1038/35002501](https://doi.org/10.1038/35002501) PMID: [10706275](https://pubmed.ncbi.nlm.nih.gov/10706275/)
65. Christ C. Tourism and biodiversity mapping tourism's global footprint [Internet]. Washington, D.C.: Conservation International (CI); 2003. Available: http://www.unep-tie.org/pc/tourism/library/mapping_tourism.htm
66. Clark JA, May RM. Taxonomic Bias in Conservation Research. *Science*. 2002; 297: 191–192. PMID: [12117005](https://pubmed.ncbi.nlm.nih.gov/12117005/)
67. Welsh HH, Ollivier LM. Stream amphibians as indicators of ecosystem stress: a case study from California's redwoods. *Ecol Appl*. 1998; 8: 1118–1132.
68. Leighton PA, Horrocks JA, Kramer DL. Conservation and the scarecrow effect: Can human activity benefit threatened species by displacing predators? *Biol Conserv*. 2010; 143: 2156–2163.
69. Monz CA, Pickering CM, Hadwen WL. Recent advances in recreation ecology and the implications of different relationships between recreation use and ecological impacts. *Front Ecol Environ*. 2013; 11: 441–446.
70. Hawkins JP, Roberts CM, Hof TV, Meyer KD, Tratalos J, Aldam C. Effects of Recreational Scuba Diving on Caribbean Coral and Fish Communities. *Conserv Biol*. 1999; 13: 888–897.
71. Zakai D, Chadwick-Furman NE. Impacts of intensive recreational diving on reef corals at Eilat, northern Red Sea. *Biol Conserv*. 2002; 105: 179–187.
72. Semeniuk CAD, Bourgeon S, Smith SL, Rothley KD. Hematological differences between stingrays at tourist and non-visited sites suggest physiological costs of wildlife tourism. *Biol Conserv*. 2009; 142: 1818–1829.
73. Semeniuk CAD, Rothley KD. Costs of group-living for a normally solitary forager: effects of provisioning tourism on southern stingrays *Dasyatis americana*. *Mar Ecol Prog Ser*. 2008; 357: 271–282.
74. Marzluff JM, Neatherlin E. Corvid response to human settlements and campgrounds: Causes, consequences, and challenges for conservation. *Biol Conserv*. 2006; 130: 301–314.
75. Jiménez G, Lemus JA, Meléndez L, Blanco G, Laiolo P. Dampened behavioral and physiological responses mediate birds' association with humans. *Biol Conserv*. 2011; 144: 1702–1711.
76. Storch I, Leidenberger C. Tourism, mountain huts and distribution of corvids in the Bavarian Alps, Germany. *Wildl Biol*. 2003; 9: 301–308.
77. Gutzwiller KJ, Riffell SK, Anderson SH. Repeated Human Intrusion and the Potential for Nest Predation by Gray Jays. *J Wildl Manag*. 2002; 66: 372–380.
78. Cooper CA, Neff AJ, Poon DP, Smith GR. Behavioral Responses of Eastern Gray Squirrels in Suburban Habitats Differing in Human Activity Levels. *Northeast Nat*. 2008; 15: 619–625.
79. Griffin SC, Valois T, Taper ML, Scott Mills L. Effects of tourists on behavior and demography of olympic marmots. *Conserv Biol*. 2007; 21: 1070–1081. doi: [10.1111/j.1523-1739.2007.00688.x](https://doi.org/10.1111/j.1523-1739.2007.00688.x) PMID: [17650256](https://pubmed.ncbi.nlm.nih.gov/17650256/)

80. Baudains TP, Lloyd P. Habituation and habitat changes can moderate the impacts of human disturbance on shorebird breeding performance. *Anim Conserv*. 2007; 10: 400–407.
81. Bejder L, Samuels A, Whitehead H, Gales N. Interpreting short-term behavioural responses to disturbance within a longitudinal perspective. *Anim Behav*. 2006; 72: 1149–1158.
82. Krebs J, Lofroth EC, Parfitt I. Multiscale Habitat Use by Wolverines in British Columbia, Canada. *J Wildl Manag*. 2007; 71: 2180–2192.
83. Malo J, Acebes P, Traba J. Measuring ungulate tolerance to human with flight distance: a reliable visitor management tool? *Biodivers Conserv*. 2011; 20: 3477–3488.
84. Bejder L, Dawson SM, Harraway JA. Responses by Hector's Dolphins to Boats and Swimmers in Porpoise Bay, New Zealand. *Mar Mammal Sci*. 1999; 15: 738–750.
85. Steiner AJ, Leatherman SP. Recreational impacts on the distribution of ghost crabs *Ocypode quadrata* fab. *Biol Conserv*. 1981; 20: 111–122.
86. Trip N van V, Wiersma YF. A Comparison of All-Terrain Vehicle (ATV) Trail Impacts on Boreal Habitats Across Scales. *Nat Areas J*. 2015; 35: 266–278.
87. Neumann W, Ericsson G, Dettki H. Does off-trail backcountry skiing disturb moose? *Eur J Wildl Res*. 2010; 56: 513–518.
88. Thiel D, Jenni-Eiermann S, Braunisch V, Palme R, Jenni L. Ski tourism affects habitat use and evokes a physiological stress response in capercaillie *Tetrao urogallus*: a new methodological approach. *J Appl Ecol*. 2008; 45: 845–853.
89. Billings WD. Arctic and Alpine Vegetations: Similarities, Differences, and Susceptibility to Disturbance. *BioScience*. 1973; 23: 697–704.
90. Wildermuth RP, Anadón JD, Gerber LR. Monitoring behavior: assessing population status with rapid behavioral assessment. *Conserv Lett*. 2013; 6: 86–97.
91. Gill JA, Norris K, Sutherland WJ. The Effects of Disturbance on Habitat Use by Black-Tailed Godwits *Limosa limosa*. *J Appl Ecol*. 2001; 38: 846–856.
92. Bejder L, Samuels A, Whitehead H, Gales N, Mann J, Connor R, et al. Decline in relative abundance of bottlenose dolphins exposed to long-term disturbance. *Conserv Biol*. 2006; 20: 1791–1798. doi: [10.1111/j.1523-1739.2006.00540.x](https://doi.org/10.1111/j.1523-1739.2006.00540.x) PMID: [17181814](https://pubmed.ncbi.nlm.nih.gov/17181814/)
93. Guillemain M, Blanc R, Lucas C, Lepley M. Ecotourism disturbance to wildfowl in protected areas: historical, empirical and experimental approaches in the Camargue, Southern France. *Biodivers Conserv*. 2007; 16: 3633–3651.
94. Medio D, Ormond RFG, Pearson M. Effect of briefings on rates of damage to corals by scuba divers. *Biol Conserv*. 1997; 79: 91–95.
95. Acevedo-Gutiérrez A, Acevedo L, Boren L. Effects of the Presence of Official-Looking Volunteers on Harassment of New Zealand Fur Seals. *Conserv Biol*. 2011; 25: 623–627. doi: [10.1111/j.1523-1739.2010.01611.x](https://doi.org/10.1111/j.1523-1739.2010.01611.x) PMID: [21129030](https://pubmed.ncbi.nlm.nih.gov/21129030/)
96. Cassini MH, Szteren D, Fernández-Juricic E. Fence effects on the behavioural responses of South American fur seals to tourist approaches. *J Ethol*. 2004; 22: 127–133.
97. Ikuta LA, Blumstein DT. Do fences protect birds from human disturbance? *Biol Conserv*. 2003; 112: 447–452.
98. Cook CN, Possingham HP, Fuller RA. Contribution of Systematic Reviews to Management Decisions. *Conserv Biol*. 2013; 27: 902–915. doi: [10.1111/cobi.12114](https://doi.org/10.1111/cobi.12114) PMID: [24001025](https://pubmed.ncbi.nlm.nih.gov/24001025/)

From: Nancy Dunn [REDACTED]
Sent: Saturday, October 12, 2019 2:21 PM
To: FGC

I was glad to see there may be changes in some of our laws regarding hunting. Waterfowl in particular some migratory have become extinct in our area of Massachusetts and I miss seeing them. We need much less hunting permissioned than is realized. I don't believe it was the intention of the Creator to have duck pheasant quail and other species on the dog and cat food cans and most dogs and cats will back that up by not eating it if they have a choice to not ingest blood. Our Creator assigned them a life not shortened by us. We don't have the right to end them.

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

L. Ryan Broddrick

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals, have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and women and other conservationists have served a critical role in conserving our waterfowl by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit waterfowl; and

WHEREAS, some sportsmen and women and other conservationists have significantly benefited waterfowl by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Mr. L. Ryan Broddrick to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the California Fish and Game Commission recognizes Mr. Broddrick's life work to lead the hunting, fishing and conservation communities in proactive and meaningful collaborative efforts that effectively promote conservation. He has served as director of the California Department of Fish and Wildlife, chair of California Waterfowl, western regional director of conservation policy for Ducks Unlimited, and executive director of the Northern California Water Association.

FINALLY, BE IT RESOLVED, that the California Fish and Game Commission further recognizes that Mr. Broddrick's conservation efforts in California wouldn't be where they are today without his concerted efforts. He has put his heart and soul into educating staff, elected leaders, business leaders, sportsmen and women, and conservationists that we have the responsibility to preserve the magic of the marsh.

Dated: December 11, 2019

Eric Sklar, President

Jacque Hostler-Carmesin, Vice President

Russell Burns, Member

Peter Silva, Member

Samantha Murray, Member

Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

Dean (Dino) A. Cortopassi

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals, have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and women and other conservationists have served a critical role in conserving our waterfowl by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit waterfowl; and

WHEREAS, some sportsmen and women and other conservationists have significantly benefited waterfowl by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Mr. Dean (Dino) A. Cortopassi to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the California Fish and Game Commission recognizes Mr. Cortopassi for his successful strategic approach to addressing wetland and waterfowl conservation issues in the Delta. He has long been concerned with subsidence issues in the Delta and was one of the pioneers in growing rice in the Delta as a means of combating soil loss.

FINALLY, BE IT RESOLVED, that the California Fish and Game Commission further recognizes Mr. Cortopassi for creating and managing The Wetland Preservation Foundation. Under the foundation, landowners will be relieved from the burden of management and levee maintenance if they agree to let a portion of their land be converted by the foundation into a wetland reserve.

Dated: December 11, 2019

Eric Sklar, President

Jacque Hostler-Carmesin, Vice President

Russell Burns, Member

Peter Silva, Member

Samantha Murray, Member

Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

John M. Eadie

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals, have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and women and other conservationists have served a critical role in conserving our waterfowl by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit waterfowl; and

WHEREAS, some sportsmen and women and other conservationists have significantly benefited waterfowl by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Dr. John M. Eadie to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the California Fish and Game Commission recognizes Dr. Eadie for his significant accomplishments in advancing undergraduate and graduate students at UC Davis, grantsmanship, University Extension, and waterfowl research. Notably, he was instrumental in starting the California Waterfowl Association College Camp at Bird Haven Ranch, providing a guided waterfowl hunt experience for UC Davis students from non-hunting backgrounds.

FINALLY, BE IT RESOLVED, that the California Fish and Game Commission further recognizes Dr. Eadie's publishing of over 100 manuscripts, principally on waterfowl ecology, and his leadership in wintering energetics, wood duck and goldeneye nesting ecology, and rice and moist-soil management.

Dated: December 11, 2019

Eric Sklar, President

Jacque Hostler-Carmesin, Vice President

Russell Burns, Member

Peter Silva, Member

Samantha Murray, Member

Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

Richard “Fresh Air Dick” Janson

WHEREAS, the Waterfowler’s Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals, have dedicated their life’s work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and women and other conservationists have served a critical role in conserving our waterfowl by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit waterfowl; and

WHEREAS, some sportsmen and women and other conservationists have significantly benefited waterfowl by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Mr. Richard “Fresh Air Dick” Janson to the Waterfowler’s Hall of Fame.

FURTHER, BE IT RESOLVED, that the California Fish and Game Commission recognizes Mr. Janson as one of the most prolific and talented duck decoy carvers of the Pacific Flyway and perhaps all North America.

FINALLY, BE IT RESOLVED, that the California Fish and Game Commission further recognizes that Mr. Janson – who carved primarily pintails, canvasbacks, and scaup – set the standard for great working-decoy carving. His work is enjoyed to this day by hunters, carvers, collectors, and lovers of fine art.

Dated: December 11, 2019

Eric Sklar, President

Jacque Hostler-Carmesin, Vice President

Russell Burns, Member

Peter Silva, Member

Samantha Murray, Member

Melissa Miller-Henson, Executive Director

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION HONORING

Mickey W. Saso

WHEREAS, the Waterfowler's Hall of Fame was established in 2006 to recognize those individuals who have made significant contributions to enhancing waterfowl and their habitats in California; and

WHEREAS, many wildlife professionals, have dedicated their life's work to management and research to conserve waterfowl and their habitats; and

WHEREAS, many sportsmen and women and other conservationists have served a critical role in conserving our waterfowl by preserving, restoring, and enhancing natural habitats, managing agricultural habitats with wildlife in mind, and implementing other land uses specifically designed to benefit waterfowl; and

WHEREAS, some sportsmen and women and other conservationists have significantly benefited waterfowl by advocating legislation and other policies that provide needed resources for nesting and wintering waterfowl populations;

NOW THEREFORE, BE IT RESOLVED, that the California Fish and Game Commission hereby recognizes the addition of Mr. Mickey W. Saso to the Waterfowler's Hall of Fame.

FURTHER, BE IT RESOLVED, that the California Fish and Game Commission recognizes Mr. Saso as one of the giants in the duck call manufacturing world, having developed the Wingsetter Duck Call Company and its legendary 8 in 1 Call. He has supported youth and conservation through the donation of thousands of his calls to various non-profits.

FINALLY, BE IT RESOLVED, that the California Fish and Game Commission further recognizes Mr. Saso for developing the 200-acre Wingsetter Ranch, creating a unique property in the riparian zone along the San Joaquin River. He also has been a valuable resource to state managers for monitoring the pulse of the waterfowling community on reservoirs and wetland areas in the Modesto vicinity.

Dated: December 11, 2019

Eric Sklar, President

Jacque Hostler-Carmesin, Vice President

Russell Burns, Member

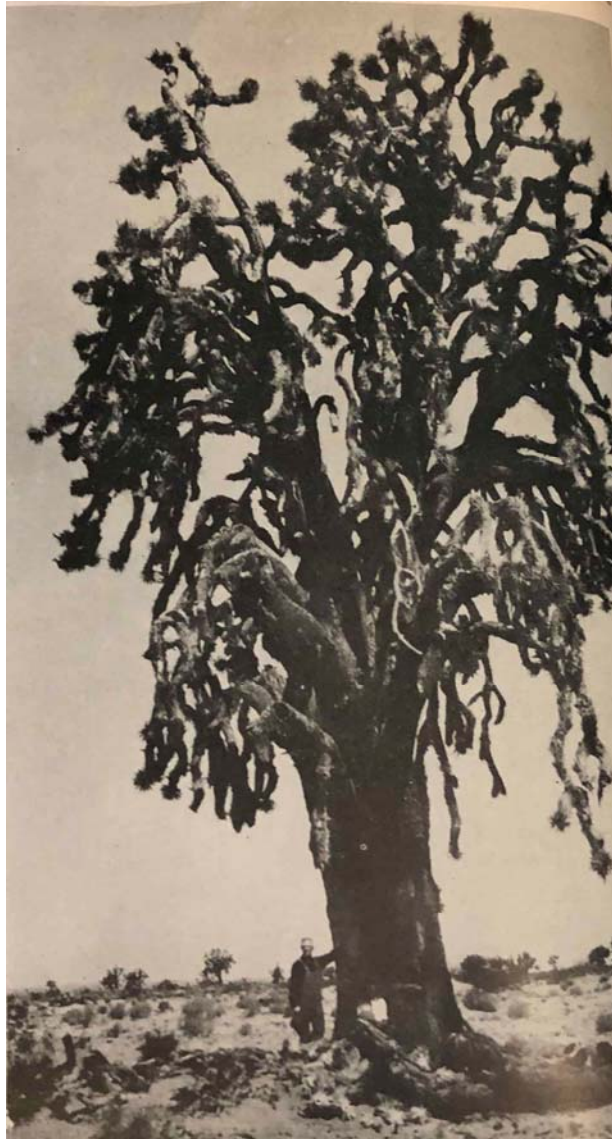
Peter Silva, Member

Samantha Murray, Member

Melissa Miller-Henson, Executive Director

BEFORE THE CALIFORNIA FISH AND GAME COMMISSION

A Petition to List the Western Joshua Tree (*Yucca brevifolia*) as Threatened under the California Endangered Species Act (CESA)



Center for Biological Diversity
October 15, 2019



Notice of Petition

For action pursuant to Section 670.1, Title 14, California Code of Regulations (CCR) and Division 3, Chapter 1.5, Article 2 of the California Fish and Game Code (Sections 2070 *et seq.*) relating to listing and delisting endangered and threatened species of plants and animals.

I. SPECIES BEING PETITIONED:

Species Name: Western Joshua tree (*Yucca brevifolia*) as either a full species, or as the subspecies *Yucca brevifolia brevifolia*.

II. RECOMMENDED ACTION: Listing as Threatened

The Center for Biological Diversity submits this petition to list the western Joshua tree (*Yucca brevifolia*) as Threatened pursuant to the California Endangered Species Act (California Fish and Game Code §§ 2050 *et seq.*, “CESA”). The western Joshua tree (*Yucca brevifolia*), long recognized as a subspecies or variety (*Yucca brevifolia brevifolia*), has recently been recognized as a full species distinct from its close relative, the eastern Joshua tree (*Yucca jaegeriana*).

This petition demonstrates that the western Joshua tree is eligible for and warrants listing under CESA based on the factors specified in the statute and implementing regulations. Specifically, the western Joshua tree meets the definition of a “threatened species” since it is “a native species or subspecies of a ... plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts” Cal. Fish & Game Code § 2067.

In the event the Commission determines that full-species taxonomy is not sufficiently established, petitioners request listing of the taxa as a subspecies/variety *Yucca brevifolia brevifolia*. Additionally, while petitioners believe that the western Joshua tree warrants protection under CESA throughout its range in California, in the event the Commission determines that it does not, the Commission must assess whether either of the two population clusters of the species (denoted as *Y. brevifolia* North [YUBR North] and *Y. brevifolia* South [YUBR South] in the petition) separately warrant listing as ecologically significant units (ESUs).

Cover photo of tallest (25 m) known *Yucca brevifolia* in western Antelope Valley in 1925 from Webber (1953). The tree was burned by vandals in 1930, generating outrage and sparking early desert protection efforts culminating in the 1936 creation of Joshua Tree National Monument.

III. AUTHOR OF PETITION:

Brendan Cummings
Center for Biological Diversity
PO Box 549
Joshua Tree, CA 92252
(510) 844-7141
bcummings@biologicaldiversity.org

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete.


Signature:  Date: 10/15/19

Table of Contents

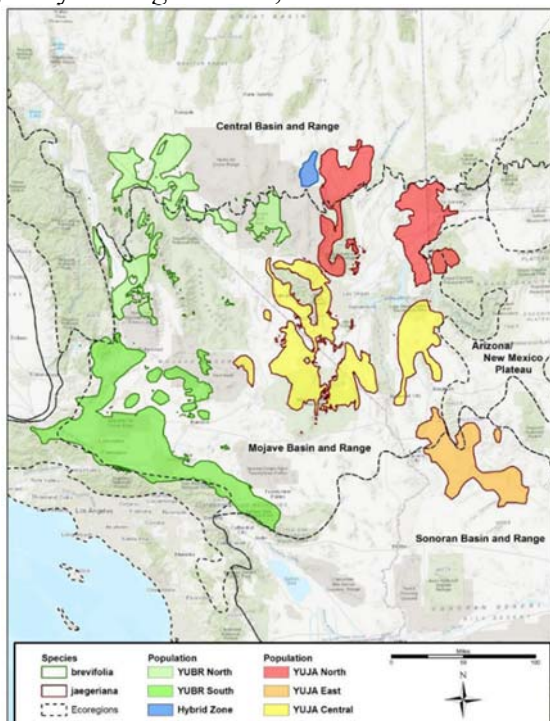
Executive Summary	1
1 Introduction.....	3
2 Life History	3
2.1 Taxonomy.....	3
2.2 Species Description	4
2.3 Reproduction and Growth	7
2.4 Habitat Requirements	14
3 Current and Historical Distribution	16
4 Abundance and Population Trends	19
5 Factors Affecting Ability to Survive and Reproduce	20
5.1 Predation.....	20
5.2 Invasive species.....	22
5.3 Wildfires.....	24
5.3.1 Joshua tree response to fire	24
5.3.2 Increasing wildfire frequency and intensity in the Mojave	27
5.4 Climate Change.....	32
5.4.1 Current and projected climate change in the range of <i>Y. brevifolia</i>	32
5.4.2 Climate change impacts on Joshua trees.....	34
5.5 Habitat Loss to Development.....	46
6 Degree and Immediacy of Threat	48
7 Inadequacy of Existing Regulatory Mechanisms	48
7.1 Regulatory Mechanisms for Greenhouse Emissions Reductions.....	48
7.2 Mechanisms to protect habitat from fire, development and other threats.....	50
7.2.1 Invasive species and fire	51
7.2.2 Habitat loss and degradation.....	52
8 USFWS’s Flawed Endangered Species Act Determination.	58
9 The Western Joshua Tree Warrants Listing under CESA.	62
10 Recommended Management and Recovery Actions	64
11 Conclusion	66
12 References Cited	66

Executive Summary

The Center for Biological Diversity submits this petition to list the western Joshua tree (*Yucca brevifolia*) as Threatened pursuant to the California Endangered Species Act (CESA). This petition demonstrates that the western Joshua tree is eligible for and warrants listing under CESA based on the factors specified in the statute and implementing regulations.

Under CESA, a “threatened species” is “a native species or subspecies of a ... plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts...” A plant is an “endangered species” when it is “in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease.” While the western Joshua tree is not at imminent risk of extinction, it faces significant and growing threats, primarily from climate change, that ultimately threaten the viability of the species in all or a significant portion of its range in California; it consequently meets the definition of a “threatened species.”

Long considered a single species with two subspecies or varieties, the Joshua tree has recently been recognized as comprised of two distinct species, the western Joshua tree (*Yucca brevifolia*) and the eastern Joshua tree (*Y. jaegeriana*). The two species are geographically separated, genetically and morphologically distinguishable, and have different obligate pollinators.



Both species occur in California, with the western Joshua tree having a boomerang-shaped range from Joshua Tree National Park, westward along the northern slopes of the San Bernardino and San Gabriel Mountains, through the Antelope Valley, northward along the eastern flanks of the southern Sierra Nevada and eastward to the edges of Death Valley National Park (green areas on

map). The eastern Joshua tree's range in California is centered in the Mojave National Preserve (yellow areas on map).

While both the western and eastern species of Joshua tree are of conservation concern, the fate of the western Joshua tree in California is particularly alarming, as recent studies indicate that the species' range is contracting at lower elevations, recruitment is limited, and mortality is increasing, all of which would likely reflect a population already starting to decline due to recent warming. Even greater changes are projected to occur over the coming decades.

Climate change represents an existential threat to western Joshua trees. Even in the absence of climate change, the convergence of factors necessary for recruitment results in successful establishment of new seedlings only a few times in a century. Such recruitment has already largely stopped at the drier, lower limits of the species' range. Prolonged droughts, which are projected to occur with greater frequency and intensity over the coming decades, will not only preclude recruitment across ever-greater areas of the species' range, but will lead to higher adult mortality, either directly due to temperature and moisture stress or indirectly due to increased herbivory from hungry rodents lacking alternative forage. Whether or not the species' pollinating moth will be able to keep pace with a changing climate is highly questionable. The Joshua tree's ability to colonize new habitat at higher elevations or latitudes is extremely limited and no such range expansion is yet occurring, even as the lower elevation and southern edge of its range is already contracting. And there is no safe refuge, as the higher elevation areas in which Joshua trees are projected to best be able to survive increasing temperatures and drying conditions are at great risk of fire due to the prevalence of invasive non-native grasses. Absent rapid and substantial reductions in GHG emissions *and* protection of habitat, the species will likely be extirpated from all or most of California by the end of the century.

In addition to climate change and fire, the western Joshua tree is threatened by habitat loss and degradation from other human activities. The portion of the species' range where management is most protective—Joshua Tree National Park—is also the area where the early impacts of climate change are already being felt most severely. Other areas of federal land that are home to the species are subject to poorly-regulated activities including off-road vehicle use, cattle grazing, power and pipeline rights-of-way and large-scale energy projects that consume or degrade habitat. And while much of the western Joshua tree's range is on public lands, approximately 40% of its range in California is on private land, of which only a tiny fraction is protected from development. Under current growth projections, virtually all of this habitat will be lost in the coming decades absent strengthened protection under the law.

The Joshua tree has long been the most iconic species of the Mojave Desert. Given the well-publicized threats facing the species in the face of climate change, it has recently become an emblem of our society's failure to address the climate crisis. But the Joshua tree is also uniquely situated to become an example of successful action to save a species threatened by climate change. Action taken in and by California to save the species can serve as a model for proactive climate adaptation efforts not just in California but around the world. Listing the species under CESA is not just a symbolically important act of California recognizing the threats the species faces from climate change, but also can serve as the impetus for meaningful management actions that can help ensure the species remains a living icon in perpetuity.

The Western Joshua Tree Warrants Listing as Threatened under the California Endangered Species Act (CESA)

1 Introduction

This petition summarizes the available scientific information regarding the taxonomy and natural history of the western Joshua tree (*Yucca brevifolia*), its distribution and abundance in California, population trends and threats, and discusses the limitations of existing management measures in protecting the species. As demonstrated below, western Joshua trees meet the criteria for protection as “threatened” under the California Endangered Species Act (CESA) and would benefit greatly from such protection.

2 Life History

2.1 Taxonomy

Joshua tree taxonomy has long been subject to some dispute and confusion. Often referenced as being within the Families Liliaceae or Agavaceae, under the molecular-based taxonomic system developed by the Angiosperm Phylogeny Group, the species is now considered as being within the Asparagaceae (AGP IV 2016; ITIS 2019).

The Joshua tree has until recently been treated by most authorities as a single species, *Yucca brevifolia* Engelm., comprised of two varieties or subspecies, *Yucca brevifolia brevifolia* (western Joshua tree) and *Yucca brevifolia jaegeriana* (eastern Joshua tree) (ITIS 2019).¹ The two forms are for the most part geographically separated, genetically and morphologically distinguishable, and have different obligate pollinators. The two forms may be the result of allopatric speciation, though some gene flow between them has been documented in a small area in Nevada (Yoder et al. 2013; Royer et al. 2016). Lenz (2007) believed the differences in flower and fruit morphology between *Y. b. brevifolia* and *Y. b. jaegeriana* as well as each having different obligate pollinators were sufficient to recognize *Y. b. jaegeriana* as a full species, *Y. jaegeriana*.

More recent studies focused on pollinator interactions have confirmed significant morphological differences in the styler canals of the flowers of the two forms, which correspond to differences in ovipositor length in their respective pollinators (Godsoe et al. 2008; Starr et al. 2013; Yoder et al. 2013). Smith et al. (2008) used genetic markers to determine that western and eastern Joshua trees likely diverged over 5 million years ago, which corresponds to the time when the Bouse Embayment, an extension of estuarine waters of the Gulf of California, extended into the Mojave, separating western and eastern areas (Pellmyr and Segraves 2003). Starr et al. (2013) and Yoder et al. (2013) also found genetic differentiation between the two forms but declined to recognize them as separate species.² Royer et al. (2016) expanded on these studies

¹ Other previously described subspecies/varieties including *Y.b. herberti*, *Y.b. weberi* and *Y.b. wolfei* are considered synonyms of *Y. brevifolia* (ITIS 2019; Wallace 2017).

² Yoder et al. (2013) noted that whether *Y. b. brevifolia* and *Y. b. jaegeriana* represent full species “is heavily dependent on the species concept we use to make that judgment.” Starr et al. (2013) noted that “[t]he validity of this

using molecular techniques and found “evidence for strong genome-wide patterns of divergence between the Joshua tree species” and noted their results “revealed extensive genetic differentiation between *Y. brevifolia* and *Y. jaegeriana*.” Royer et al. (2016) followed Lenz (2007) and recognized *Y. brevifolia* and *Y. jaegeriana* as full species.

Most recently, in a broad review of the science regarding Joshua trees, the U.S. Fish and Wildlife Service treated *Y. brevifolia* and *Y. jaegeriana* as separate species for purposes of federal Endangered Species Act (ESA) consideration (Wallace 2017; USFWS 2018; USFWS 2019).³ Petitioners follow Lenz (2007), Royer et al. (2016), Cole et al. (2017) and USFWS (2018) and treat *Y. brevifolia* and *Y. jaegeriana* as full species. However, since CESA provides for the protection of both species and subspecies, regardless of whether it is treated as a species (*Y. brevifolia*) or subspecies (*Y. b. brevifolia*), the western Joshua tree is eligible for and warrants listing under the statute.

2.2 Species Description⁴

The earliest known written description of the Joshua tree is an unflattering entry in the Fremont Report in which it was noted that “their stiff and ungraceful form makes them to the traveler the most repulsive tree in the vegetable kingdom . . .” (Fremont 1845). Over time, Joshua trees became increasingly more appreciated, with Griffin (1930) referring to them as “one of the outstanding plants of the desert,” Runyon (1930) characterizing them as “grotesque in the extreme...yet they are magnificent,” Little (1950) somewhat undecidedly calling them “picturesque or grotesque,” and Jaeger (1965) calling them “at once the most spectacular and most characteristic tree of the Mohave Desert.”

More technically, the Jepson Flora describes Joshua trees as follows:

Habit: Plant 1--15 m. *Stem:* erect, above ground, generally branched above, rosettes at tips, well above ground. *Leaf:* 15--35 cm, 0.7--1.5 cm wide, dark green, expanded base 2--4 cm, 4--5 cm wide, +- white, margins minute-serrate, yellow. *Inflorescence:* 3--5 dm, distal generally +- 1/2 exserted from rosettes. *Flower:* erect; perianth 4--7 cm, +- bell-shaped, parts lanceolate to oblong, +- fused at base, cream to +- green; filaments thick; pistil +- 3.5 cm. *Fruit:* capsule, spreading to erect in age, 6--8.5 cm, ellipsoid, dry, spongy, or leathery in youth. (Hess 2012).

Among the numerous natural history accounts of the Joshua tree, Gucker (2006), prepared for the U.S. Forest Service and readily available online,⁵ is among the most comprehensive. The following is largely adapted from Gucker (2006).

designation [two species] is not yet certain, and here, we conservatively refer to the two morphotypes as subspecies.”

³ As discussed *infra*, while the taxonomic and other life history discussions in USFWS (2018) represent a comprehensive summary of the available science, the threats analysis in the document is highly problematic and shows some evidence of political interference driving its ultimate conclusions.

⁴ Because the bulk the scientific literature cited in this petition treats Joshua trees as a single species without distinction between *Y. brevifolia* and *Y. jaegeriana*, this petition generally refers just to the “Joshua tree,” highlighting difference between the two taxa where appropriate.

The Joshua tree is a 5 to 20 meters tall, evergreen, tree-like plant. Trees exceeding 10 meters are rare. Tree size and growth form vary with site and climate conditions, as well as between the two species. *Y. brevifolia* typically have one main stout stem or trunk that measures 0.3 to 1 meter in diameter and have an expanded base. *Y. jaegeriana* typically have multiple stems. Trunks are fibrous, and the bark or periderm is soft and cork like. Bark plates measure 7.5 to 15 cm long and 2.5 to 5 cm in thickness. (Gucker 2006).



Figure 1. Western Joshua tree (*Yucca brevifolia*) and Easter Joshua tree (*Yucca jaegeriana*).

Older plants generally have extensive branching. Young trees typically lack branches and are covered with persistent reflexed leaves. Trees normally reach 1 to 3 meters tall before branching. Branches are 2 to 5 meters and fork at 0.5 to 1-meter intervals. Inner branches are typically erect, and outer branches can be horizontal or drooping. (Gucker 2006).

Leaves are clustered in rosettes at the branch ends. Clusters are commonly 0.3 to 1.5 meters long and 0.3 to 0.5 meters in diameter. Leaves are linear, needle shaped and measure 15 to 35 cm long by 0.7 to 1.5 cm wide, with enlarged bases attaching them to the branch. Leaf shape is slightly triangular and leaf margins are lined with small teeth. Spines measuring 7 to 12 mm occur at the leaf tips. Leaf clusters are longer (1-1.5 meters) on juvenile plants than on mature plants (0.3-1 meters). Outer leaf layers are thick and waxy to reduce water loss. Dead leaves are persistent and fold down, covering the branches and coating the trunks of young trees. (Gucker 2006).

Joshua tree flowers occur in dense, heavy panicles that measure 20 to 40 cm long. Individual flowers are round to egg shaped and measure 2.5 to 5 cm wide. Flowers have a musky scent, with the early botanist Trelease (1893) describing the smell as “so oppressive as to render

⁵ <https://www.fs.fed.us/database/feis/plants/tree/yucbre/all.html>

the flowers intolerable in a room.” Fruits are indehiscent capsules, which become spongy and dry with age. Egg-shaped capsules are 6 to 10 cm long and approximately 5 cm in diameter. Fruits develop at the base of the inflorescence while the upper portion is still in flower. Mature fruits contain 30 to 50 black seeds, which are flat to thickened with smooth to undulate surfaces. Seeds are 7 to 11 mm long. (Gucker 2006).



Figure 2. *Yucca brevifolia* fruit and seeds.

The two species of Joshua trees are morphologically distinguishable. *Y. jaegeriana* is sometimes referred to as dwarf Joshua tree as it is often smaller (3-6 meters tall), with shorter leaves (<22 cm) and shorter branches (0.7-1 meter) compared to *Y. brevifolia*. *Y. brevifolia* is less stocky, often 5 to 12 meters tall, with longer leaves (19-37 cm) and higher branches (2-3 meters above ground) compared to *Y. jaegeriana*. *Y. jaegeriana* displays true dichotomous branching while *Y. brevifolia* is not truly dichotomous. (Gucker 2006).

Lenz (2007) described the vegetative differences between the two species as follows:

Yucca brevifolia s.s. is arborescent with a distinct trunk and, usually, stout branches; *Y. jaegeriana* is generally smaller and branched from near the base, the branches somewhat slender. The two possess dissimilar patterns of branching, *Y. brevifolia* having pseudodichotomous (monopodial) branching; *Y. jaegeriana*, until flowering, has true dichotomous branching. The species differ in leaf length; *Y. brevifolia* having leaves 15–35 cm long, those of *Y. jaegeriana* 10–20 cm. Leaf length is variable, depending at least in part on environmental conditions. (internal citations omitted)

Additionally, Lenz (2007) noted the differences in flower morphology between *Y. brevifolia* and *Y. jaegeriana*:

Flowers of *Y. brevifolia* are nearly globular or depressed globular, the broadly ovate, fleshy, cream-colored perianth segments are strongly incurved, and the flowers never fully expand. Flowers of *Y. jaegeriana* are narrowly campanulate, conspicuously swollen at the base, somewhat constricted above, and the narrowly oblong perianth

segments are usually greenish, and recurved at their tips. The ovaries of *Y. brevifolia* are conical and taper from the base; those of *Y. jaegeriana* are lance-ovoid. Fruits of *Y. brevifolia* are ovoid to broadly ovoid; those of *Y. jaegeriana* are ellipsoid.



Figure 3: Flowers of *Y. brevifolia* (L) and *Y. jaegeriana* (R) above a 6" ruler. Source: Lenz 2007.

Studies on flower morphology in the context of pollination have concluded that the statistically greatest discernable difference between *Y. brevifolia* and *Y. jaegeriana* is in the length of the stylar canal—the path through which the female yucca moth inserts her ovipositor when laying eggs (Godsoe et al. 2008; Starr et al. 2013).

According to Warren et al. (2016), flower panicles grow primarily at the tips of branches that are oriented to the south, and when on branches that are not oriented in a southerly direction, the flower panicles themselves tend to bend or tilt toward the south. Such orientation may provide energetic and/or pollinator benefits (Warren et al. 2016).

2.3 Reproduction and Growth

Joshua trees reproduce both sexually and asexually, although patterns of sexual and clonal reproduction have not been thoroughly investigated (Sweet et al. 2019).

2.3.1 Asexual reproduction

Asexual reproduction is by rhizomes, branch sprouts, and/or basal sprouts. Rhizome production and clonal growth can be triggered by stem damage as well as certain environmental conditions. Dormant buds beneath the periderm may grow when older stems are bent or injured. Joshua trees with extensive rhizome growth and clonal form are typically shorter and have less branching than single-stemmed trees. In some cases, basal buds do not develop into distinct rhizomes, and stems grow adjacent to the main stem as sprouts. (Gucker 2006).

Some Joshua tree populations are largely if not entirely clonal, including in the Liebre Mountains and along the southern and western slopes of the Tehachapi Mountains. In these areas Joshua trees can occur in clumps nearly 30 feet (8 m) in diameter, with 30 to 40 trunk-like stems. A single clone in Gorman Creek was determined to occupy approximately one acre (0.4 ha) and was comprised of several hundred stems (Gucker 2006). Joshua trees with this growth form were previously classified as *Y. b. var. herbertii* (Webber 1953)(Figure 4) but are now known to be a clonal form of *Y. brevifolia* (ITIS 2019).



Figure 4: Type specimen of *Y. b. var. herbertii* in western Antelope Valley in 1946. Source: Webber (1953)

The extent of cloning apparently increases with increased elevation, with Joshua trees in low-elevation dry areas rarely forming more than 1 or 2 stems, but 2 to 3 stems are common, and some clumps are found, in higher, moister areas. A mix of temperature, high winds and abundant snowfall, as well as fire, may be the causal mechanisms of higher levels of Joshua tree cloning. (Gucker 2006). In a study following a large fire in Joshua Tree National Park in 1999, DeFalco et al. (2010) found that 33% of plants that were censused in burned areas sprouted from the root crown or stem after the fire compared with 15% in unburned areas. Recently, Harrower and Gilbert (2018) found enhanced clonality and lack of seedling recruitment on the lower elevation margins of the Joshua tree range in addition to the previously reported prevalence of cloning at higher elevation sites.

2.3.2 Sexual reproduction

Sexual reproduction of Joshua trees is by seed production. As described above, bisexual flowers occur in dense, heavy panicles that measure 20 to 40 cm long. Individual flowers are

round to egg shaped and measure 2.5 to 5 cm by 1 to 2 cm wide.

Esque et al. (2015) noted that while flowering has been observed in Joshua trees as small as 1 meter in some areas, trees that were over 30-years old at their study site had yet to flower. Flowering is considered episodic and rare, generally occurring only in wetter years (Gucker 2006). Reports differ on timing of flowering, with, for instance, Hess (2012) indicating April and May, Waitman et al. (2012) stating February through March, and Harrower and Gilbert (2018) indicating between February and April. Recently, Cornett (2018) reported an apparently unprecedented flowering event in November, following heavy October rains and warmer than usual temperatures immediately thereafter.

Irrespective of timing, Joshua tree flowers require insect pollination to produce seeds.

Pollination and seed production

Joshua tree, as with almost all yuccas, have an obligate pollination mutualism with yucca moths (Lepidoptera, Prodoxidae). Female moths carry pollen to Joshua tree flowers in specialized mouthparts, inject eggs into the floral ovaries using a bladelike ovipositor, and then actively apply pollen to the stigmatic surface to fertilize the flower. As a Joshua tree flower develops into a fruit, the moth eggs hatch and the emerging larvae eat a portion of the developing seeds. The moths are the sole pollinators of Joshua trees, and in turn, the Joshua tree seeds are the only food source for the moths (Pellmyr and Segraves 2003; Yoder et al. 2013).

Joshua trees are now known to be pollinated by two species of moth, *Tegeticula synthetica* and *T. antithetica*, the latter only described in 2003 by Pellmyr and Segraves. Outside of the narrow region in Nevada where *Y. brevifolia* and *Y. jaegeriana* are sympatric and hybridize, *T. synthetica* is the sole pollinator of *Y. brevifolia* and *T. antithetica* is the sole pollinator of *Y. jaegeriana*. While *T. synthetica* is about 30% larger than *T. antithetica*, the apparently more important difference in the two moths is the size of their ovipositors, with the difference in length of each matching the difference in the length of the stylar canal of their respective host plants, with the ovipositor of the western moth (*T. synthetica*) being about 50% larger than that of the eastern species (*T. antithetica*) (Pellmyr and Segraves 2003; Godsoe et al. 2008).⁶

The parallel differences between stylar canal length and ovipositor length between the two species of moths and two types of Joshua tree suggest that selection exerted by their pollinators is the best explanation for the morphological divergence of the trees. Since the female moth's ovipositor must be long enough to reach the ovules but not so long as to injure them, coevolution acting upon moth and tree should favor matching between the length of the moth's ovipositor and the flower's stylar canal (Godsoe et al. 2008; Yoder et al. 2013; Cole et al. 2017). Using molecular clock techniques, Pellmyr and Segraves (2003) concluded that the two moths diverged approximately 10 million years ago, while Smith et al. (2008) later determined that the split between the moth species likely occurred 1.14 million years ago.

⁶ In addition to the pollinating *Tegeticula* moths, bogus yucca moths of the sister genus *Prodoxus* also lay their eggs in Joshua tree flowers. Adult *Prodoxus* lack the specialized mouthparts used for pollination and the larvae feed on plant tissues other than seeds (Althoff et al. 2004).

Studies in Tikaboo Valley in Nevada where both the two moth species and the two types of Joshua trees are sympatric demonstrate that *T. antithetica* can successfully fertilize *Y. brevifolia* and reproduce in their fruits, but *T. synthetica* do not successfully rear larvae on *Y. jaegeriana* (Smith et al. 2009; Starr et al. 2013; Yoder et al. 2013). Consequently, gene flow is largely unidirectional, with flow from *Y. jaegeriana* into *Y. brevifolia* but not from *Y. brevifolia* into *Y. jaegeriana* (Starr et al. 2013).

Once pollinated, fruits form in early summer and seeds are mature in mid-summer (Waitman et al. 2012). Fruits are indehiscent capsules, which become spongy and dry with age. Egg-shaped capsules are 6 to 10 cm long and approximately 5 cm in diameter. Fruits develop at the base of the inflorescence while the upper portion is still in flower. Mature fruits contain 30 to 50 black seeds, which are flat to thickened with smooth to undulate surfaces. Seeds are 7 to 11 mm long. (Gucker 2006).

Seed predation and dispersal

While *Tegeticula* moths are necessary for pollination, their larvae are the first predators that Joshua tree seeds experience. In one study, the range of larvae per fruit was 0 to 6, with an average of 1.4. These larvae consumed or damaged 7% of seeds (Keeley et al. 1985). Borchert and DeFalco (2016) found much higher levels of larvae predation, with 19.5% damaged in a year of widespread fruiting and 42.8% damaged in a subsequent year of reduced flowering and fruiting. Seed production was more than 100 times greater in the first year of the study, leading the authors to speculate that Joshua trees may be a masting species.

Just as a portion of a Joshua tree's seed production goes to its pollinator, a large percentage of its seed production goes to its primary dispersers, various scatter-hoarding rodents. Among the current consumers (and likely dispersers) of Joshua tree seeds in California are the white-tailed antelope squirrel (*Ammospermophilus leucurus*), Mojave ground squirrel (*Xerospermophilus mohavensis*) and California ground squirrel (*Otospermophilus beecheyi*), all of which are known to climb Joshua trees to remove the fruits for later consumption and/or to eat through the desiccated fruits in situ to reach the seeds (Lenz 2001). Once fruits are on the ground, numerous other species will dismantle the fruits and eat and/or cache the seeds, including the round-tailed ground squirrel (*Xerospermophilus tereticaudus*), rock squirrel (*Otospermophilus variegatus*), Merriam's kangaroo rats (*Dipodmys merriami*), canyon mice (*Peromyscus crinitus*) and woodrats (*Neotoma sp.*) (Lenz 2001; Vander Wall et al. 2006; Waitman et al. 2012; Borchert and DeFalco 2016). Among these species, the white-tailed antelope squirrel and Merriam's kangaroo rats have been identified as the most frequent agents of seed removal and caching (Waitman et al. 2012; Borchert and DeFalco 2016).

Studies by Vander Wall et al. (2006), Waitman et al. (2012) and Borchert and DeFalco (2016) have all highlighted the importance of seed dispersal by scatter-hoarding rodents. In the study by Vander Wall et al. (2006), more than 99% of tracked seeds were removed by rodents from placement below Joshua trees, with 84% found in rodent caches at a mean maximum distance of 30 meters. Subsequent surveys found 46% of caches intact, 51% of caches missing entirely, a handful of caches largely empty but with a few remnant seeds below ground and

numerous new secondary caches established. Over the subsequent months, rodents ate most of the cached seeds. Ultimately, well under 1% of cached seeds were documented as eventually germinating from identified caches the following spring. Nevertheless, Vander Wall et al. (2006) concluded that “the dismantling of yucca pods by rodents is very important because there is no other known mechanism for Joshua tree seeds to exit the indehiscent seed pods,” and “that seeds that are not harvested by seed-caching rodents probably have no chance of establishing a seedling.”

While a rodent eats the vast majority of the seeds it removes from a Joshua tree fruit, it also acts as the primary seed disperser, moving seeds upwards of 50 meters from the source tree (Vander Wall et al. 2006; Waitman et al. 2012; Borchert and DeFalco 2016). Waitman et al. (2012) concluded that rodents not only disperse seeds, but also, via the act of caching them, increase the likelihood of germination as seeds that have been buried in soil have a much greater chance of establishing seedlings than those left on the soil surface. Consequently, the Joshua tree’s relationship with the predating rodent, which liberates its seeds from an otherwise inescapable pod, disperses them, and caches many where they have a higher chance of germination, may, as with the pollinating moth, be one of obligate mutualism (Vander Wall et al. 2006; Waitman et al. 2012).⁷

Waitman et al. (2012) also noted the limitations of the mutualistic relationship between Joshua trees and rodents, as it requires sufficient seed production such that the caching rodent collects more seeds than it can eat: “Small seed crop size along with an overabundance of rodents may shift this interaction from mutualism toward seed predation by rodents.” Given seed production is apparently greatest in wetter years, in drought years virtually all seeds may be consumed by rodents, resulting in no seedlings being produced that year.

While almost all authors recognize the current importance of rodent seed dispersal, several have hypothesized that the large effort in fruit production by Joshua trees without a specialized dispersal agent may indicate that current fruit production is an evolutionarily relict designed to attract a now extinct megaherbivore dispersal agent, with Cole et al. (2011) identifying ground sloths and Lenz (2001) suggesting Columbian mammoths. Cole et al. (2011) note that evidence supports “the concept that the species’ current mobility is constrained by the earlier extinction of the Shasta ground sloth and other possible seed vector(s).” However, Waitman et al. (2012) discount the role of the sloths in seed dispersal and conclude that “seed-caching rodents are responsible for seed dispersal today, and we suspect that they were an important, if not the sole, means of dispersal in the past.”

Additionally, several authors have identified wind as an important seed dispersal agent (e.g. Lenz 2001, citing earlier accounts), with Gucker (2006) noting that as fruits become overmature, skins crack and moisture is released, making fruits lighter and more easily wind dispersed, and that finding clumps of 2 or more seedlings is likely evidence that the dried fruits

⁷ However, unlike the Joshua tree’s relationship with *Tegeticula* moths, where both tree and moth absolutely need each other to successfully reproduce, the tree’s relationship with the rodent is more one-sided; the Joshua tree may be dependent upon the rodent to disperse its seeds, but the rodent – while certainly benefiting from the tree’s seeds – can generally subsist on other food sources in its absence.

were wind dispersed. The largest known modern dispersal distances for Joshua trees of 151 meters in the Antelope Valley and 251 meters in Lanfair Valley were recorded by Lenz (2001) and ascribed to wind. However, Waitman et al. (2012), based upon wind tunnel tests of fruits and seeds, discount wind dispersal of seeds as playing a significant role for Joshua tree reproduction.

As further discussed *infra*, whether by wind or rodents, seed dispersal of Joshua trees is generally considered quite limited, likely constraining the ability of the species to extend its range in response to changing conditions (Lenz 2001; Cole et al. 2011).

Germination and growth

In laboratory conditions, Joshua tree seeds germinate readily and do not require any pretreatment (Gucker 2006). Waitman et al. (2012) had germination rates of 99% on freshly harvested seeds, while other experiments had germination rates of 98% and 72% after 6 months and 1.5 years of storage, respectively (Gucker 2006).

Longevity of viable seeds in the soil seed bank is limited. Waitman et al. (2012) reported that “a small fraction of seeds” emerged the year following their experiment, indicating that in some circumstances viability is at least two years. Reynolds et al. (2012) observed that seeds in the ground “rapidly lost germinability through time. Longevity of seeds in the soil declined by about 50% per year, which indicates that *Y. brevifolia* has little capacity for seed dormancy.” Borchert and DeFalco (2016) noted that in most years when fruit production is enough to satiate predation by larvae and rodents, uneaten fruits may remain on the tree and “may function as a viable aerial seed bank well after fruit maturation,” since seed germinability is likely longer in an intact fruit than in the soil.

Notwithstanding very high laboratory germination rates, seedling production in the field is extremely low. Of the 1000 seeds tracked by Vander Wall et al. (2006), 836 were cached by rodents, but only three of these were documented to ultimately produce seedlings. Of seeds planted in artificial caches in enclosures that precluded rodent harvest, only 14.8% germinated (Vander Wall et al. 2006). In another enclosure study, Waitman et al. (2012) reported only 3.2% of cached seeds produced seedlings in the field, while 36% of pots in an artificial growing chamber produced seedlings. Buried seeds, both in the field and laboratory, were most likely to produce emergent seedlings when 1 to 3 cm deep, depths similar to the caches rodents were observed making (Waitman et al. 2012). Both Vander Wall et al. (2006) and Waitman et al. (2012) reported higher seedling emergence rates from caches under shrub cover. However, both studies also found that rodents cache seeds without regard to shrub cover.

Reynolds et al. (2012) described the climate conditions supporting emergence and postulated that “there are fewer opportunities of emergence in the far western Mojave Desert, and under the current climate regime *Y. brevifolia* in that area may be most vulnerable to demographic change resulting from low and infrequent recruitment and may already have occurred.” Subsequent studies (e.g. Sweet et al. 2019) have demonstrated that this demographic change due to low recruitment is already underway.

Once a seedling emerges, it faces a long, arduous path to adulthood, with high mortality

until it exceeds 25 cm in height (Esque et al. 2015). Survival of seedlings requires periods of cool temperatures, little to no herbivory, summer rain, and some amount of yearly precipitation over a period of several years (USFWS 2018).

Growth rates are dependent on factors ranging from age, precipitation, presence of nurse plants, temperature and (at least in labs) photoperiod (Gucker 2006). Over the years various studies have indicated differing rates of growth. In one study in Joshua Tree National Park, unbranched seedlings grew at an average rate of 7.6 cm/year for the first 10 years and an average of 3.8 cm/year thereafter, with other studies showing annual growth rates of was 5.9 cm/year and 11.7 cm/year (Gucker 2006). More recently, Esque et al. (2015) measured a long-term mean annual growth rate of 3.12 ± 1.96 cm over 22 years and noted that long-term growth rates in other contemporaneous studies elsewhere in the Mojave were comparable.

Lab studies suggest that cold periods are required for optimal seedling growth, as 3-year old seedlings kept at 4 °C for 2 months produced twice as many new leaves after the cold treatment as seedlings without the cold treatment. Other lab experiments suggest that day length affects the growth of seedlings, with seedlings exposed to 10 hours of daylight producing the longest and most leaves, while seedlings grown in 16 hours of daylight produced the shortest and fewest leaves (Gucker 2006).

Perhaps the most important factor in seedling survival and growth is the presence of nurse plants. Several studies have found successful seedling emergence tied to shrub cover (Bittingham and Walker 2000; Vander Wall et al. 2006; Waitman et al. 2012), with blackbrush (*Coleogyne ramississima*) generally noted as the most important nurse plant. The benefits of a shrub canopy for a young Joshua tree include increased soil moisture, decreased insolation, reduced soil temperatures, decreased evapotranspiration, increased nutrients, decreased herbivory, and/or lower wind desiccation (Bittingham and Walker 2000; Gucker 2006).



Figure 5: Young Joshua tree emerging from nurse plant.

Once established, a Joshua tree is relatively long-lived. However, aging a Joshua tree or determining maximum lifespan is difficult as the plants lack annual growth rings. While one early report of a 20-meter tall Joshua tree estimated the plant to be 1000 years old (Little 1950), most early studies postulated that large trees can be 300 years old with an average life span of 150 years (Gucker 2006). More recent studies based on growth rate and long-term monitoring have reached similar conclusions. Gilliland et al. (2006), based upon growth rates generated from a 14-year census of a Joshua tree woodland, estimated that the oldest tree was 321 years, with mean age of trees of 62.2 years. Estimates based on observed patterns of survivorship produced similar results, with a median life expectancy of 89 years, with 5% of the population projected to reach 383 years. Esque et al. (2015) estimated a generation time of 50-70 years based on data collected during a 22-year study.

Summing up reproduction and recruitment by Joshua trees, Esque et al. (2015) highlighted the challenges Joshua trees face:

[R]ecruitment of *Y. brevifolia* requires a convergence of events, including fertilization by unique pollinators, seed dispersal and caching by rodents, and seedling emergence from a transient seed bank triggered by isolated late-summer rainfall. Alignment of these convergent events likely results in successful establishment of new seedlings only a few times in a century. (internal citations omitted)

As further discussed *infra*, the Joshua tree's recruitment challenges make the species particularly vulnerable to climate change.

2.4 Habitat Requirements

Joshua trees occur in desert grasslands and shrublands in hot, dry sites on flats, mesas, bajadas, and gentle slopes in the Mojave Desert (Gucker 2006). Soils in Joshua tree habitats are silts, loams, and/or sands and variously described as fine, loose, well drained, and/or gravelly, while the plants can reportedly tolerate alkaline and saline soils (Gucker 2006). Cole et al. (2011) characterizes populations as discontinuous and reaching their highest density on the well-drained sandy to gravelly alluvial fans adjacent to desert mountain ranges.

Lenz (2001) reports that plants tolerate temperatures of -25°C to 51°C and annual precipitation ranges of 98 to 268 mm. According to USFWS (2018), the temperature range for western Joshua trees ranges from a low of -8.1°C to a mean summer high of 37.2°C and the species occurs in areas averaging more than 82 mm of rainfall and less than 738 mm of rainfall per year. Went (1957), based on field observations and laboratory experiments, noted that non-juvenile Joshua trees required annual exposure to low temperatures for optimal growth. Turner (1982) postulated that such a need for cold winter temperatures may explain why Joshua trees are largely limited to the higher and cooler periphery of the Mojave.

Temperature and precipitation are likely the prime constraints on the species, with Cole et al. (2011) noting that "the northern portion of Joshua tree's range is spatially limited by extreme winter cold events, but at lower elevations it is limited by extreme high temperature events in

summer or winter. Mean precipitation patterns primarily limit the range from the east and west, as well as above and below its elevational range during various portions of the year. Low late-spring (April and May) precipitation seems to prevent Joshua tree from growing in lower elevation portions of the Mojave Desert.” Temperature and precipitation requirements are further discussed *infra* with regard to climate impacts on the species.

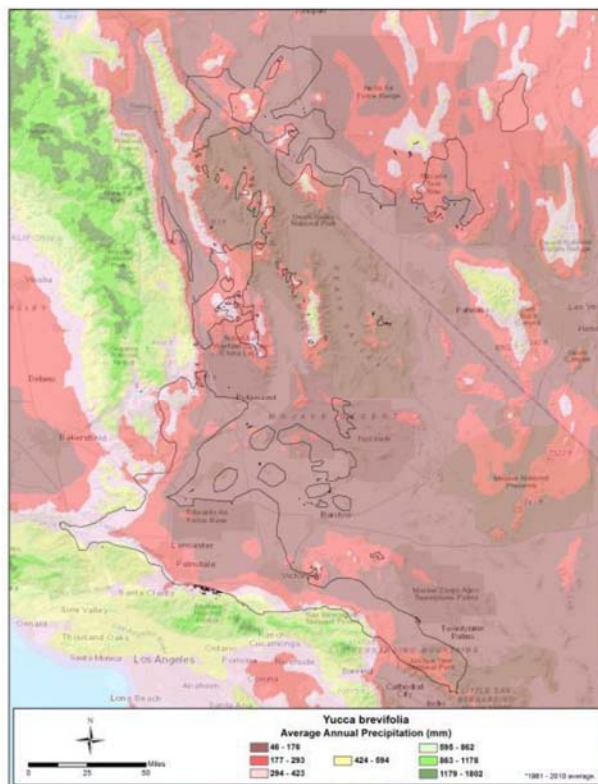


Figure 6. Average annual precipitation in range of *Y. brevifolia* (USFWS 2018).

The reported upper and lower elevation limits of Joshua trees vary significantly in the published literature (Gucker 2006). The recent Species Status Assessment by USFWS (2018) is based upon a comprehensive review of distribution records and describes the elevational range for *Y. brevifolia* as 750 meters (2461 ft) up to 2200 meters (7218 ft), and between 600 meters (1969 ft) and 2000 meters (6500 ft) for *Y. jaegeriana*.

Joshua trees are not restricted to any one desert scrub or xeric woodland community and can be found in many different plant alliances throughout their range (Turner 1982). For example, within Joshua Tree National Park, Harrower and Gilbert (2018) characterized their study area of Joshua trees as encompassing four broad eco-regional vegetation types: Sonoran–Colorado Desert scrub, Mojave–Sonoran creosote bush scrubland, Mojave mid-elevation desert, and pinyon–juniper woodland.

While Joshua tree habitat may not be limited by particular plant associations, as discussed *supra*, for successful reproduction and recruitment, Joshua trees require the presence of their obligate pollinator, rodents to disperse and cache seeds and nurse plants to shelter emerging seedlings.

3 Current and Historical Distribution

The current range of Joshua trees (both species)⁸ extends from northwestern Arizona to southwestern Utah west to southern Nevada and southeastern California at elevations between 600 and 2200 meters of elevation and between 34° to 38° latitude (USFWS 2018). The current range of the Joshua tree is but a small fraction of its range during the late Pleistocene.

Plant material from Shasta ground sloth dung and packrat middens indicates that during the Pleistocene the Joshua tree had a much larger southern distribution extending well into the Sonoran Desert, where its range may have encompassed La Paz, Maricopa, Pinal, Yuma, and Pima counties in Arizona; Imperial and Riverside counties in California; mainland Mexico; and northern Baja California, Mexico (Cole et al. 2011) (Figure 7).



Figure 7: Current and Pleistocene range of the Joshua tree. Source: USFWS (2018), based on Cole et al. (2011).

The Joshua tree's historical range contracted northward along the southern edge of its range as climates warmed at the start of the Holocene. As noted by Cole et al. (2011), this contraction was not matched by northward expansion:

Although the rapidly warming climate of the early Holocene would seem to have opened up vast new areas of potential range to the north, the fossil record does not record any significant northward expansion over the last 11,700 years.

⁸ Because the split of Joshua trees into two species has only recently been recognized, much of the literature describing their past and present range does not explicitly distinguish between the two. The current range of *Y. brevifolia* is readily discernable from that of *Y. jaegeriana* and is described *infra*. However, while the historic range of Joshua trees is broadly known from subfossil records, the portion of that range that is ascribable to each species has yet to be determined.

Cole et al. (2011) ascribed the lack of northward expansion to the Joshua tree's extremely limited dispersal ability, potentially a result of the extinction of the Shasta ground sloth which may have been a primary seed disperser for the species.

Since the end of the Pleistocene, the Joshua tree's distribution has been remarkably stable throughout the Holocene into the present day (Cole et al. 2011; Holmgren et al. 2010).

There are currently five regional populations of Joshua trees distributed across the Mojave, southern Great Basin, and western Sonoran Deserts, with the vast majority of trees occurring within the Mojave.⁹ Of the five populations, two are of *Y. brevifolia* and three of *Y. jaegeriana*, with a sixth small hybrid population in Tikaboo Valley, Nevada. One of the *Y. brevifolia* populations is entirely in California (YUBR South in Figure 8), while the other is shared with Nevada (YUBR North in Figure 8). Only one of the three *Y. jaegeriana* populations occurs in California (primarily in the Mojave National Preserve), and this population is shared with Nevada and Arizona (YUJA Central in Figure 8) (USFWS 2018).

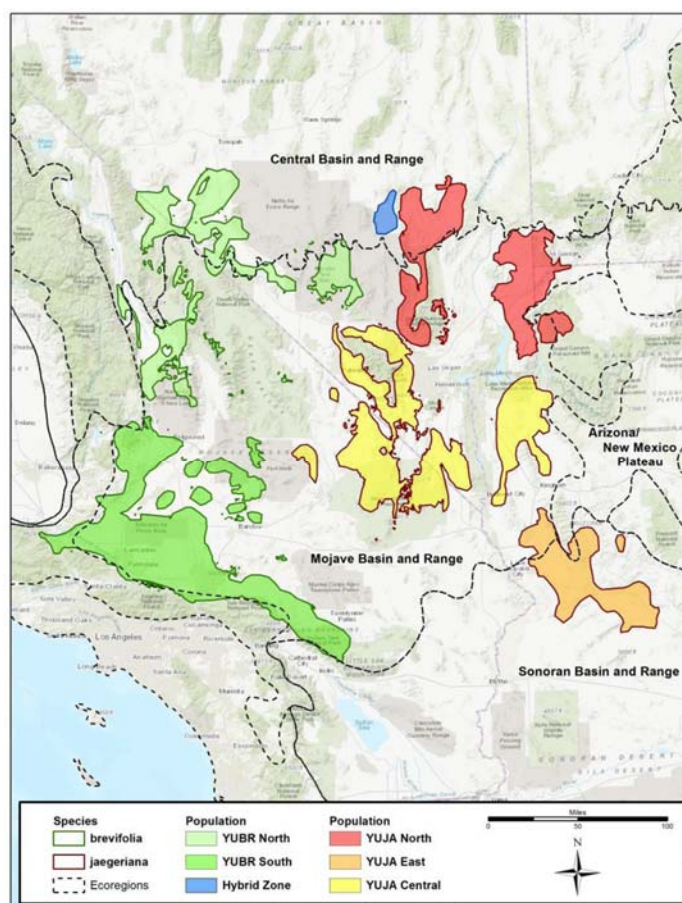


Figure 8. Current Joshua tree distribution. Source: USFWS 2018.

⁹ While numerous published studies have characterized the range of Joshua trees, USFWS (2018) is the most complete synthesis of range data; consequently, petitioners cite primary to that document in this section.

Y. brevifolia occurs almost exclusively in the Mojave Desert in unevenly distributed populations. A small portion of its northern extent occurs within the Great Basin Desert (Figure 8). The primary distinguishing feature of these two desert regions is the presence of creosote bush in the Mojave Desert and Sagebrush steppe in the Great Basin. The southern extent of *Y. brevifolia*'s range is in the Little San Bernardino Mountains of Joshua Tree National Park. The northern extent of its range is near Alkali, Nevada. The western extent is near the Hungry Valley State Vehicular Recreation Area near Gorman, California. The eastern extent of its range is in Tikaboo Valley, Nevada, where it co-occurs with *Y. jaegeriana* (USFWS 2018).

USFWS (2018), treats *Y. brevifolia* as comprised of two geographically separate populations, (YUBR) South and YUBR North.¹⁰ YUBR South is entirely within California. This population occurs within the area stretching from Joshua Tree National Park, north to Ridgecrest and Red Mountain. This area is comprised of alluvial plains, fans, and bajadas of the major valleys lying between scattered mountain ranges. On the southern and western edge of the population boundary, *Y. brevifolia* occurs in transitional areas characterized by higher elevations and more rainfall with semi-desert montane chaparral to pinyon-California juniper woodlands. There is some variation in vegetation from north to south, but the basins typically are dominated by creosote bush (*Larrea tridentate*) and white bursage (*Ambrosia dumosa*) and the higher elevations are characterized by junipers and pinyons (USFWS 2018).

In the YUBR South range, average annual rainfall varies between 82.4 mm and 738.1 mm and minimum temperatures range from -5.7°C at the upper elevational limit (2200 meters) to 4.8°C at the lower elevational limit (750 meters). Mean summer high temperature are between 23.4-37.2°C. Less than 10 percent of annual precipitation occurs in summer in most areas occupied by *Yucca brevifolia* (USFWS 2018).

The geographic area in which YUBR South is situated is comprised of 3.7 million acres, with just over 50% in private ownership, 48% federally owned, and just under 2% state, county and local owned (USFWS 2018). USFWS (2018) estimates that 3,255,088 acres of this area was suitable for Joshua trees based on soils and other habitat factors.¹¹ However, Joshua tree do not occupy the entirety of this area, as they can have a patchy and disjunct distribution. Notably, the Bureau of Land Management's (BLM's) calculation of Joshua tree woodland on lands under its jurisdiction is substantially less than this larger area estimated by USFWS (2018). USFWS (2018) mapped 841,220 acres within the area of YUBR South as on BLM lands. BLM (2006) itself calculated that only 3275 acres of "Joshua tree woodland" occur on its lands in the West Mojave Plan (WEMO) area, which includes all of YUBR South. While this extreme difference between the two estimates is partly attributable to Joshua trees occurring in other plant community types that occupy much larger areas (e.g. "blackbrush scrub" and "creosote bush scrub"), it does highlight that areas of dense concentrations of Joshua trees occupy a relatively small fraction of the larger mapped areas.

¹⁰ As discussed *infra*, each of these populations may constitute an evolutionarily significant unit (ESU).

¹¹ A peer reviewer of USFWS (2018) pointed out that "the potential distribution of Joshua tree under current climate conditions is vastly overestimated" (Smith 2018). This is discussed in greater detail in the section of the federal ESA listing decision, *infra*.

Additionally, the cities of Palmdale, Lancaster, Hesperia, Victorville, and Yucca Valley, as well as numerous smaller communities are within the mapped YUBR South area. While *Y. brevifolia* currently persists in the less-developed areas of these communities, it is absent from the more developed areas as well as the agricultural lands in the region. The Antelope Valley, where the largest of these cities are situated, is the area where the greatest habitat loss of *Y. brevifolia* has already occurred.

The YUBR North population occurs in the area north of Inyokern, along the west and north margins of Death Valley, to Goldfield, Nevada, and east to the Nevada Test Site. In contrast to the mostly creosote bush shrubland of the lower elevations in YUBR South, the vegetation of this higher and cooler zone includes single-leaf pinyon, juniper, and sagebrush. The elevation range of the species in this population is between 1500 and 2200 meters. Average annual rainfall varies between 95.8 mm and 429 mm, minimum temperatures range from -8.1 to 3.6°C, mean summer temperatures range between 20.4 and 36.3°C, and summer precipitation comprises up to a quarter of the mean annual precipitation (USFWS 2018).

In contrast to the area of YUBR South, which is majority private land, the area of YUBR North is overwhelmingly (96%) federal land (USFWS 2018). The approximately 2 million acres comprising the YUBR North area is about evenly split between California and Nevada. USFWS (2018) estimates that almost all of this area (1,941,701 acres) is suitable for Joshua trees.

4 Abundance and Population Trends

Due to the species' patchy distribution within its range, highly variable population density (4 to 840 trees per acre) and lack of range-wide population surveys, a reliable estimate of Joshua tree population size is not available (USFWS 2018). Similarly, no range-wide population trends have been documented. However, recent studies carried out in portions of the species' range indicate that density is negatively correlated with increasing temperature, the species range is contracting at lower elevations, recruitment is limited, and mortality is increasing, all of which would likely reflect a population already starting to decline.

DeFalco et al. (2010), in a study in Joshua Tree National Park, found that recent drought and fire had resulted in significant mortality of *Y. brevifolia* in the park. Five years after a fire, 80% of burned trees in the study area had died, with smaller trees (<1 m tall) dying more rapidly. But perhaps more surprising, DeFalco et al. (2010) found that unburned trees also had high mortality rates during the same study period (1999-2004), with 26% of unburned trees also dying. As with post-fire mortality, smaller trees died in the initial years of the drought with mid-size and larger trees showing effects in later years. Mortality was ascribed both to water stress itself, as well as herbivory by pocket gophers (*Thomomys bottae*), which likely turned to Joshua tree stems, roots and periderm as alternative food sources due to reduced herbaceous cover during the drought (DeFalco et al. 2010).

In a recent study, Harrower and Gilbert (2018) investigated various life-history parameters of Joshua trees in Joshua Tree National Park and found the "ratio of dead to living trees was greater at the lower elevations where the sites are warmer and drier than sites at higher elevation." Their results "suggest that the range of Joshua trees is contracting at the lower

elevations where there was no seedling recruitment and high tree mortality.” Harrower and Gilbert (2018) also note that Joshua trees “do not seem to be moving successfully into higher elevations,” potentially due to limitations on numbers of pollinating moths at these higher elevations. This finding is consistent with that of St. Clair and Hoines (2018) who found Joshua tree stand density negatively correlated with increasing temperature.

A series of small-scale studies in Joshua Tree National Park summarized in Cornett (2014) documented a 93% decline in Joshua tree abundance between 1990 and 2013 at one site, a 16% decline in Joshua tree numbers between 1988 and 2008 at second site, and a 73% decrease from 1990 through 2013 at a third site. Fire contributed to the decline at the third site, but even that site had declined by 18% prior to the fire. Cornett (2014) noted that declines at these three sites, which “represent a broad geographical sampling” of Joshua trees in the Park, and along with the documented mortality of some of the largest (and presumably oldest) trees in Park, “would seem to indicate *Yucca brevifolia* numbers are declining throughout the Park.”

Regardless of whether Joshua tree abundance is already declining, it is virtually certain that abundance will decline in the foreseeable future. The impacts of climate change, fire, habitat loss and other sources of mortality are discussed further below.

5 Factors Affecting Ability to Survive and Reproduce

As discussed in the Life History sections *supra*, Joshua tree survival and reproductive success is tied to multiple factors, many of which are influenced by climate. Importantly, survival varies greatly by size class, with relatively high survival among adults, but very high mortality rates for seedlings and smaller individuals (DeFalco et al. 2010; Esque et al. 2015). As noted by Esque et al. (2015), because *Y. brevifolia* “is long lived the current distribution of reproductive adults may mask the effects of recent changes in climate on recruitment and survival of seedlings and juveniles, which are more sensitive to the vagaries of desert conditions.” Consequently, while some impacts such as reduced recruitment may already be observable, impacts such as adult mortality and consequent population declines and range reductions may have a lag time before their presence is felt on the landscape (Svenning and Sandel 2013).

Among the factors affecting *Y. brevifolia*’s ability to survive and reproduce are predation, invasive species, wildfire, drought, climate change and habitat loss due to development. These factors are often related, synergistic, and collectively threaten the continued viability of the species.

5.1 Predation

Predation plays an important role in Joshua tree survival at every life stage. Before a seed even leaves a fruit, *Tegeticula* moth larvae eat a portion of the seeds, with Keeley et al. (1985) observing 7% of seeds in a fruit consumed or damaged (Keeley et al. 1985). Borchert and DeFalco (2016) found much higher levels of larvae predation, with 19.5% damaged in a year of widespread fruiting and 42.8% damaged in a subsequent year of reduced flowering and fruiting. Rodents then cache and ultimately consume the vast majority of seeds, with fewer than 1% of

seeds germinating (Vander Wall et al. 2006; Waitman et al. 2012; Borchert and DeFalco 2016). In drought years, virtually all seeds may be consumed by rodents, resulting in no seedlings being produced that year (Waitman et al. 2012).

Cattle have been documented grazing on the inflorescences of small Joshua trees. Lybbert and St. Clair (2017) documented floral herbivory by cows on *Yucca brevifolia* less than 2 m tall consumed 40% of inflorescences on their study plot. However, since the majority of Joshua trees flower above that 2 m threshold, only 6% of inflorescences overall were consumed by cattle. The fact that *Yucca brevifolia* evolved into a taller tree form than other yuccas might be a vestige of a growth-escape strategy to escape herbivory from a now extinct species, such as the Shasta ground sloth (Cole et al. 2011; Lybbert and St. Clair 2017).¹²

Drought years and fire also result in increased herbivory on seedlings and pre-reproductive Joshua trees (DeFalco et al. 2010; Esque et al. 2015), as the reduced availability of herbaceous forage forces small herbivores to use alternative food sources, including *Y. brevifolia* stems and leaves (DeFalco et al. 2010; Esque et al. 2015). DeFalco et al. (2010) found widespread evidence of tissue damage to Joshua trees in burned areas (28% of plants) from pocket gophers (*Thomomys bottae*), with lesser levels (16%) evident in unburned areas. Such damage occurred predominantly in lower elevation sites. In most areas Joshua tree survival rates dropped with evidence of rodent damage, with the effects most pronounced in burned areas.

In a separate study, Esque et al. (2015) found that herbivory by black-tailed jackrabbits (*L. californicus*) resulted in 55% mortality of pre-reproductive *Y. brevifolia* <25 cm tall on their study site in a single drought year. In addition to jackrabbits, Esque et al. (2015) documented damage to pre-reproductive plants from pocket gophers, white-tailed antelope squirrels (*Ammospermophilus leucurus*), and woodrats (*Neotoma sp.*).

While predation alone is likely not presently a threat to Joshua tree persistence, it can result in zero reproductive success in one or a sequence of dry years, as well as high mortality levels to seedlings and small plants (<25 cm tall), and even adults. This effect is magnified in areas that burn. Burned trees are likely physiologically more vulnerable to herbivore damage, while the lack of other herbaceous plants deprives young Joshua trees of nurse plants which shield them from herbivory. Moreover, jackrabbits, pocket gophers and other herbivores lack alternative food sources and turn to Joshua tree stems, roots and periderms for sustenance following such events (DeFalco et al. 2010; Esque et al. 2015). As discussed *infra*, both wildfire and droughts are predicted to increase in frequency and intensity in the coming decades, likely rendering the impacts of seed predation and herbivory on stressed and shrinking populations of Joshua trees more significant.

¹² Notably, cattle grazing can have significant impacts on other yuccas, with Lybbert and St. Clair (2017) documenting complete reproductive failure of *Y. baccata* and consequent apparent local extirpation of that species' pollinating moths on their study plot due to high levels of herbivory on the species' flowers by cows. *Y. baccata* is notably shorter than *Y. brevifolia* with its flowers within easy reach of cattle. The Joshua tree's evolutionary adaptation to survive sloth herbivory may have pre-adapted it to better survive cattle grazing.

5.2 Invasive species

Invasive plant species are widely established in the Mojave Desert throughout the range of *Yucca brevifolia*. And while invasive species represent a relatively small percentage of the flora, they represent a huge percentage of the biomass. Brooks and Berry (2006) found that in a high rainfall year (1995) nonnative annual species comprised 6% of the flora and 66% of the annual biomass, with those numbers increasing to 27% and 91% respectively in a low rainfall year (1999). The grasses red brome (*Bromus rubens*) and *Schismus* spp., along with the forb redstem fillaree/stork's bill (*Erodium cicutarium*) comprised 99% of the alien biomass. More recently, Sahara mustard (*Brassica tournefortii*) has spread into the Mojave, including into Joshua tree woodland (Frakes 2017; Brooks et al. 2018).



Figure 9: Carpet of desiccated invasive *Schismus* spp. between *Y. brevifolia*.

The abundance and diversity of alien species in the Mojave is positively correlated with disturbance, including livestock grazing, off-highway/off-road vehicle (OHV or ORV) use, fire, urbanization, roads, and agriculture. As summarized by Brooks and Berry (2006):

Alien annuals had high density, biomass, or cover near roads, in an area of OHV use compared to an area where OHV use was lower, in an area where both OHV use and grazing were present compared to an area where both disturbances had been excluded for at least 10 years, in two grazed areas compared with ungrazed areas, and in areas near livestock watering sites.... These studies indicate that species richness and biomass of alien annual plants are positively correlated with disturbance (internal citations omitted).

Invasive species are also aided by nitrogen deposition as a result of air pollution (Brooks 2003). As noted by Allen et al. (2009), the “western Mojave Desert is affected by air pollution generated in the Los Angeles air basin that moves inland with the predominant westerly winds.

The pollution contains both oxidized and reduced forms of nitrogen (N), which are of concern because they are deposited on soil and plant surfaces and thus fertilize plants” (internal citations omitted). Fertilization disproportionately benefits nonnative species leading to increased abundance and biomass of invasive species such as *Bromus rubens* and *Schismus* spp. (Brooks 2003; Allen et al. 2009; Allen et al. 2011; Bytnerowicz et al. 2016).

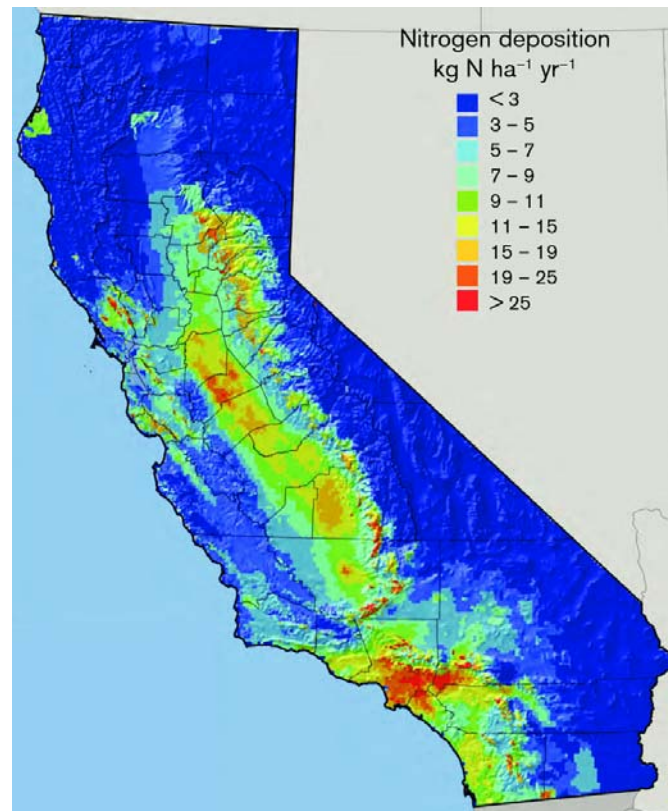


Figure 10: Map showing nitrogen deposition rates in California, with areas of high levels overlapping the range of YUBR South. Source: Bytnerowicz et al. 2016.

While the rapid spread of invasive species in the Mojave is resulting in competitive impacts on native annuals, and has also been demonstrated to have direct competitive impacts on native perennial species including creosote bush (*Larrea tridentata*) (DeFalco et al. 2007), direct competitive impacts of invasives on *Yucca brevifolia* have not been thoroughly studied. To the degree there is competition it would likely be most significant with emergent seedlings under nurse plants as this is the most vulnerable life stage of the Joshua tree (Reynolds et al. 2012).

The much bigger issue is that these invasive plants have altered fire dynamics, leading to larger and more frequent fires that are killing innumerable Joshua trees. As succinctly described by Barrows and Murphy-Mariscal (2012), “[m]ore frequent fires in the Mojave Desert are the result of the interaction of increased nitrogen deposition and the competitive advantage that nitrogen gives to invasive grasses such as red brome, *Bromus rubens*.” Similarly, Pardo et al. (2011) highlighted the dire consequences for *Y. brevifolia*: “In Joshua Tree National Park in southern California, N deposition favors the production of sufficient invasive grass biomass to sustain fires that threaten the survival of the namesake species.” As discussed below, the altered

fire regimes in the Mojave represent a significant threat to the Joshua tree at the individual and population level.



Figure 11: Fire-killed *Y. brevifolia* in a carpet of *Bromus rubens*.

5.3 Wildfires

Wildfire is one of the greatest threats to the persistence of *Yucca brevifolia*, particularly as the species' range contracts in the face of climate change and the frequency and severity of fire in the species' range increases (DeFalco et al. 2010; Holmgren et al. 2010; Vamstad and Rotenberry 2010; Cole et al. 2011; Barrows & Murphy-Mariscal 2012; Sweet et al. 2019).

5.3.1 Joshua tree response to fire

Some early researchers suggested that Joshua trees are well-adapted to fire due to the fact that damaged trees can resprout after fire (Webber 1953). Older adult trees are more fire resistant than younger trees as the apical meristems grow above the level of most ground fires while the flammable dead leaves on the main trunk that can facilitate fire spread into the crown are largely shed as the tree matures (Gunter 2006). And even if top-killed or damaged by fire, a Joshua tree can sprout from the root crown, rhizomes, and/or branches. Similarly, previous studies also found that Joshua trees can at least partially repopulate some burned areas via such sprouting (Loik et al. 2000a).

However, several longer-term studies have subsequently demonstrated that Joshua trees have relatively low post-fire survival, are slow to repopulate burned areas, and successful recruitment from resprouting requires sufficient precipitation in the years following fire (DeFalco et al. 2010; Vamstad and Rotenberry 2010; Abella et al. 2009).

As summarized by Brooks et al. (2018), “Yucca species such as Joshua tree and Mojave yucca (*Yucca schidigera*) often survive burning, but Joshua trees typically die within the first few years after fire due to drought and herbivory stress.” Moreover, Joshua trees are particularly vulnerable to fires as the “relatively small size and dense packing ratio of dead Joshua tree leaves compared with dead Mojave or banana yucca leaves increase the frequency at which they are completely burned and may explain why Joshua trees are more frequently killed by fire” (Brooks et al. 2018). It can take several decades before a Joshua tree sheds the dead leaves on its trunk, leaving the adult tree more fire resistant.

DeFalco et al. (2010) carried out a detailed study of Joshua tree survival in both burned and unburned areas of Joshua Tree National Park that paints a grim picture for species’ future in the face of increasing fire.

Five years after the Juniper Fire Complex of May 1999, approximately 80% of burned *Y. brevifolia* died compared with 26% in adjacent unburned sites. This high postfire mortality of *Y. brevifolia* is consistent with other studies including 90% mortality six years after a 1978 fire in Lower Covington Flat at Joshua Tree National Park and 64 – 95% mortality at sites censused 1 to 47yr after fires in Mojave and Sonoran deserts of California. Declining survival during the first year is attributed to immediate losses of small *Y. brevifolia* (< 1 m tall) whose active meristems close to the ground are vulnerable to extreme fire temperatures and flames that consume whole plants. As they age and grow taller, *Y. brevifolia* shed leaves from the trunk and are less likely to burn, unlike younger plants whose aging leaves are still attached and provide ladder fuel. Thus, taller plants likely sustained less proportional burn injury to the outer periderm tissue during the fire, and steep declines in this size class occurred only after the consecutive dry periods that began in the autumn months during 1999 and 2000 (internal citations omitted).¹³

Post-fire mortality in this study was likely the result of the interplay of drought and herbivory with fire. During the dry years subsequent to the fire, herbaceous plants were scarce, and pocket gophers (*Thomomys bottae*) gnawed the periderm and hollowed stems of *Y. brevifolia* causing many of them to topple. Pocket gopher damage reduced plant survivorship at low-elevation, unburned sites and diminished survival of burned plants in all but the driest site, which already had low survival (DeFalco et al. 2010).

The loss of *Y. brevifolia* was not only amplified by the lack of precipitation following the wildfire but also by herbivores that damaged burned plants. Herbaceous annual plants were scarce during the growing season following the 1999 fire, and many perennials were dormant due to low autumn through spring precipitation that triggers germination and breaks leaf dormancy. Widespread incidence of tissue damage by *T. bottae* in burned areas implies that the roots and periderm of *Y. brevifolia* that did not die immediately in the fire offered an

¹³ Noteworthy in the DeFalco et al. (2010) study is the fact that mortality of even unburned trees was high (26%) over the five years of their study. This was ascribed to a combination of drought stress and herbivory by pocket gophers. As discussed *infra*, such prolonged droughts are likely to be more frequent in a changing climate.

alternative succulent food source in denuded areas where shrubs and grasses were incinerated (DeFalco et al. 2010) (internal citations omitted).

DeFalco et al. (2010) observed that 33% of censused Joshua trees in burned areas sprouted from the root crown or stem after the fire. These are in line with other studies that found 25% of Joshua trees sprouting from the root crown after a 1978 fire (but with only 10% surviving five years later) and 28% sprouting from the root crown (and 2% from the stem) one year after a 1995 fire (Loik et al. 2000a).

Postfire sprouting prolonged Joshua tree survival in the DeFalco et al. (2010) study, but only at the wetter, high-elevation sites. As noted by DeFalco et al. (2010), “sprouting can provide some advantage to survival only when precipitation is sufficient (e.g., at higher-elevation sites or during wet years). Thus, sprouting of *Y. brevifolia* in the Mojave Desert presents an uncertain recovery strategy in postfire landscapes, especially in the face of herbivory and recurring low-precipitation years.”

One area where Joshua trees may be more adapted to fire is along the far western edge of their range. As observed by Brooks et al. (2018),

Joshua tree populations along the extreme western edge of the desert bioregion near the Sierra Nevada and Transverse Ranges often resprout and survive more readily after fire than those further east. A cycle of relatively frequent fire and resprouting can result in short, dense clusters of Joshua tree clones, such as those found near Walker Pass, in the western end of the Antelope Valley, and in pinyon-juniper woodlands at ecotones with the Transverse Ranges such as Cajon Pass. High resprouting rates of Joshua trees in these areas may have evolved in local ecotypes that became adapted to shorter fire return intervals along the western desert ecotones than in other parts of the desert bioregion.¹⁴

Recruitment of new Joshua trees into burned areas is infrequent and slow. In one study no seedlings or saplings were observed in burned areas less than 10 years old, and fewer than 10 individuals per hectare were present on burned areas more than 40 years old in Joshua Tree National Park (Brooks et al. 2018). Another study found that Joshua trees were still rare on a site 65 years after a fire (Vamstad and Rotenberry 2010).

Among the factors inhibiting Joshua tree recolonization of burned sites are the lack of seeds due to mortality of seed-producing adults and the loss of suitable establishment sites due to the burning of nurse plants (DeFalco et al. 2010; Reynolds et al. 2012). Nurse plants in arid environments are known to moderate insolation, soil moisture, temperature, and humidity

¹⁴ Notably, the distinguishable clonal form of Joshua trees in these areas was once recognized as its own subspecies or variety, *Y.b. herbertii*, which is now considered a synonym of *Y. brevifolia* (Wallace 2017). Regardless of taxonomy, Joshua trees in these areas warrant special monitoring and protection as they may hold adaptations that make them particularly resilient in the face of increasing fires and climate change.

beneath their canopies and improve conditions for seedling establishment (Reynolds et al. 2012). Nurse plants also shield seedlings from herbivory (Esque et al. 2015).

Blackbrush (*Coleogyne ramosissima*) is one of the most important nurse plants for Joshua tree seedlings (Brittingham and Walker 2000) but is also one of the most vulnerable shrubs to fire (Brooks et al. 2018). Blackbrush are highly flammable, and once ignited tend to completely combust and are killed. Blackbrush stands can take centuries to recover, with the fastest documented recovery being on the order of 50 to 75 years (Brooks et al. 2018). Because of their extreme flammability and slow recovery, the mid-elevation zone dominated by blackbrush and home to Joshua trees is likely the most susceptible area to type conversion via the grass/fire cycle as a result of the arrival of non-native grasses (Brooks et al. 2018).

In the Joshua Tree National Park fire studied by Loik et al. (2000a), blackbrush was eliminated from the burned area with no signs of recovery. Loik et al. (2000a) postulated that “the time required for Joshua trees to begin recruitment via seeds will be delayed until *C. ramosissima* becomes re-established.”

As summarized by DeFalco et al. (2010), the “recruitment of *Y. brevifolia* is a slow process even without the impediments introduced by accelerated fire-return intervals.” And with such accelerated return intervals it may be impossible: “The return of *Y. brevifolia* to prefire densities and demographic structure may take decades to centuries or be entirely unlikely, especially in light of potential changes to regional desert climate in combination with plant invasions and the potential for recurrence of subsequent fires” (Reynolds et al. 2012).

5.3.2 Increasing wildfire frequency and intensity in the Mojave

Large fires have been historically infrequent in Joshua tree woodlands, and the recent increase in fire size and frequency is partially due to invasion of exotic grasses, principally *Bromus* spp. and *Schismus* spp. (Brooks and Matchett, 2006; Vamstad and Rotenberry 2010; Klinger and Brooks 2017; Syphard et al. 2017; Brooks et al. 2018; Maloney et al. 2019).

Winters with relatively high amounts of precipitation produce an increase in biomass of native and especially non-native annual plants sufficient to carry fire in invaded habitats. The most dramatic changes have occurred in middle elevation shrublands dominated by creosote bush, blackbrush and Joshua trees. This zone is more susceptible than other areas of the Mojave Desert to increased fire size following years of high rainfall (Brooks and Matchett 2006).

The increase in fine, flashy fuel biomass from exotic plant species has increased the fire potential of these habitats sufficiently to allow for more frequent large fires than were carried by native vegetation alone (Brooks and Matchett 2006; Vamstad and Rotenberry 2010). The exotic grasses are of particular concern as they can form a continuous fuelbed for fire well into the hot, dry summer months and tend to not disarticulate as quickly as the native annual plants. While annuals, desiccated upright *Bromus* stems can be found on the landscape upwards of three years after senescence (Jurand and Abella 2013) and *Schismus* remnants can persist as fuel on the landscape for over a year (Brooks et al. 2018). Increased cover of invasive annual grass increases both the chance of a fire igniting and facilitates fire spread. This can both decrease the

time interval between the previous and subsequent fire as well as the extent of burning (Klinger and Brooks 2017).

Several recent reviews have documented fire frequency and extent in the Mojave over the past century (Tagestad et al. 2016; Syphard et al. 2017; Brooks et al. 2018). Each of these studies recognized that precipitation was a primary driver of fire frequency and extent, with wetter periods fostering the growth of invasive grasses which carry fire, and drier periods leading to fewer and smaller fires. Tagestad et al. (2016) summarized both short and long-term impacts of precipitation variation.

Long-term drought or above-average precipitation periods can have landscape-scale effects on the health and distribution of perennial plant species and the frequency and size of fires. Short-term increases in winter and summer precipitation can have an even greater effect on the likelihood of fire. High winter precipitation creates ephemeral flushes of herbaceous biomass resulting in continuous fuelbeds that promote the spread of fire. High summer precipitation brings thunderstorms with accompanying lightning and high winds which contribute to the ignition and spread of fires. Cumulative years of higher than normal precipitation also appear to have an effect on the potential for fire. This is especially a concern in areas invaded by annual grasses which exhibit a profound response to increased cool-season precipitation (internal citations omitted).

Particularly worrisome is that a sequence of wet years can lead to enormous fires, such as happened throughout the Mojave, including in the range of *Y. brevifolia* in 2005:

The 2005 Mojave Desert fire season, which burned an area equal to 132% of the total area that burned during the previous 25 years, was preceded by three extremely high precipitation years, suggesting that multiple years of high precipitation can have a cumulative effect on the accumulation of fuels (Tagestad et al. 2016).

According to Brooks et al. (2018), accounts by agency fire managers of the 2005 fires “indicate that these fires exhibited extreme fire behavior not previously observed in the Mojave Desert,” and they attributed this largely to continuous cover of taller than average red brome in the burn areas.

One consistent finding of recent California Desert fire studies is that fires are not evenly distributed by ecological zone or area, but that mid-elevation areas (the zone predominately occupied by Joshua trees) are particularly susceptible. Brooks et al. (2018) found, based upon fire data from 1972 to 2007, that “although fire occurrence across large parts of the warm deserts may be relatively low, they can be much higher and pose significant land management challenges in localized areas. The majority of fire area in the Mojave section of California occurred in the middle-elevation zone.” Brooks et al. (2018) also noted that in “the middle elevations of the Mojave Desert there was also evidence of a significant increase in annual fire area.”

Tagestad et al. (2016) similarly observed that between “1976 and 2010 there were 227 fires

in the Mojave Desert greater than 405 ha (1000 acres). These fires burned a total of 758,477 ha (1,874,230 acres) with most of the burned area occurring in the middle elevation zones receiving sufficient precipitation for growth of fuels.” Notably, blackbrush, a critical nurse plant for Joshua tree seedlings, experienced exceptional rates of burning, as “areas identified as historical blackbrush communities have experienced more multiple fires than all the other communities combined.”

Brooks et al. (2018) also found that fires in the California Desert “are clustered in regional hot spots where they are more frequent and burn more proportional area than desert-wide averages. These areas all occur in the Mojave ecological section, with one hot spot at the ecotone with the Colorado section in the vicinity of Joshua Tree National Park.” A recent mapping effort by Syphard et al. (2017) clearly shows that a disproportionate number of fires, including large fires, occur in the western Mojave range of *Y. brevifolia* (Figure 12).

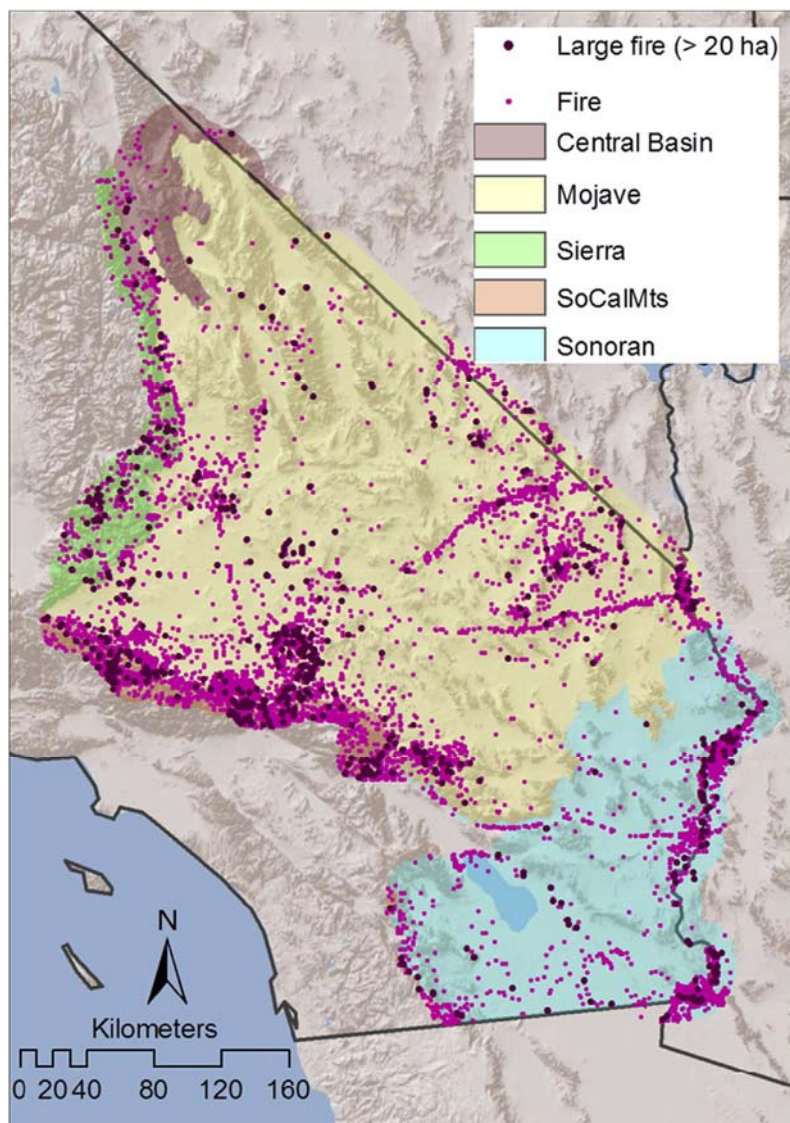


Figure 12. Fire occurrence between 1990-2010 in California Desert. Source: Syphard et al. (2019).

Fires in the Mojave are started by a mix of accidental and intentional human activities as well as lightening. Lightning frequency is higher in the desert than in any other California bioregion and is a significant source of fire (Brooks et al. 2018). Various studies have looked at the relationship of human caused versus lightening fires. One study found that the significant increase in fire frequency in the Mojave from 1980 to 1995 was associated with increased numbers of fires caused by humans, with the number of lightning-caused fires remaining constant. Although most human fires were small and started along roadsides, the less frequent large fires typically occurred in remote areas far from major roads and were started by lightning (Brooks et al. 2018). The influence of roads on fire ignitions is such that the outlines of Interstate Highways 5 and 40 can be discerned by the fire patterns reflected in the map in Figure 12.

Hopkins (2018), using data from Short (2017), tallied approximately 10,000 fires in the California desert from 1992 to 2015, and found that lightning accounted for only 10% of the fires, but 40% of the fires that burned more than 500 acres. Of the 90% that were human caused, equipment use was responsible for 22%, arson 8%, children 6%, smoking 5%, debris burning 5%, campfires 4%, and most of the remainder to unspecified miscellaneous causes.

A recent comprehensive analysis of fire records in the California Desert found that in “the Mojave, powerlines and other types of energy infrastructure (oil and gas wells, wind turbines, and power plants) were the most important anthropogenic land use contributors to large fires” (Syphard et al. 2017). The relationship between development and fire is also significant, with Syphard et al. (2019) warning that “[w]ith more fires occurring in close proximity to human infrastructure, there may also be devastating ecological impacts if development continues to grow farther into wildland vegetation.”

Fire fueled by invasive grasses is already significantly affecting Joshua tree woodlands. As Holmgren et al. (2010) summarized regarding conditions in Joshua Tree National Park (JTNP),

With each subsequent fire the native plants vanish but these invasive grasses thicken and expand, fuelling ever larger and more frequent wildfires, inducing what has been called the ‘grass–fire cycle’. Prior to 1965, fire records at the park suggest that most lightning-caused fires, which happened in May through September, seldom spread more than a few tens of metres from the strike... [*B. rubens*] spread dramatically and began fuelling large fires in both the Mojave and Sonoran Deserts. At JTNP, fires measuring in the thousands of acres burned in 1979, 1995, 1999 and 2006. The increase in fire size and frequency could transform JTNP vegetation in a matter of decades.

The specific impacts of more frequent and intense fire on Joshua trees themselves are also significant. Esque et al. (2015) described these impacts:

Recent increases in fire frequency caused by invasive species throughout the range of *Y. brevifolia* have also affected all life stages of the species, and survival from intense fires is low even among large individuals. The impact of fire on seedling and juvenile survival is particularly exacerbated because fires tend to track the same

heavy precipitation years that are most suitable for *Y. brevifolia* seedling emergence (internal citations omitted).

Perhaps most importantly, areas identified as potential late-century climate refugia for *Y. brevifolia* are particularly vulnerable to fire, with over a third of the area identified as refugia by Barrows and Murphy-Mariscal (2012) burned between 1967 and 2012, and half the refugia identified under a moderate warming scenario by Sweet et al. (2019) burned as of 2018 (Figure 13).

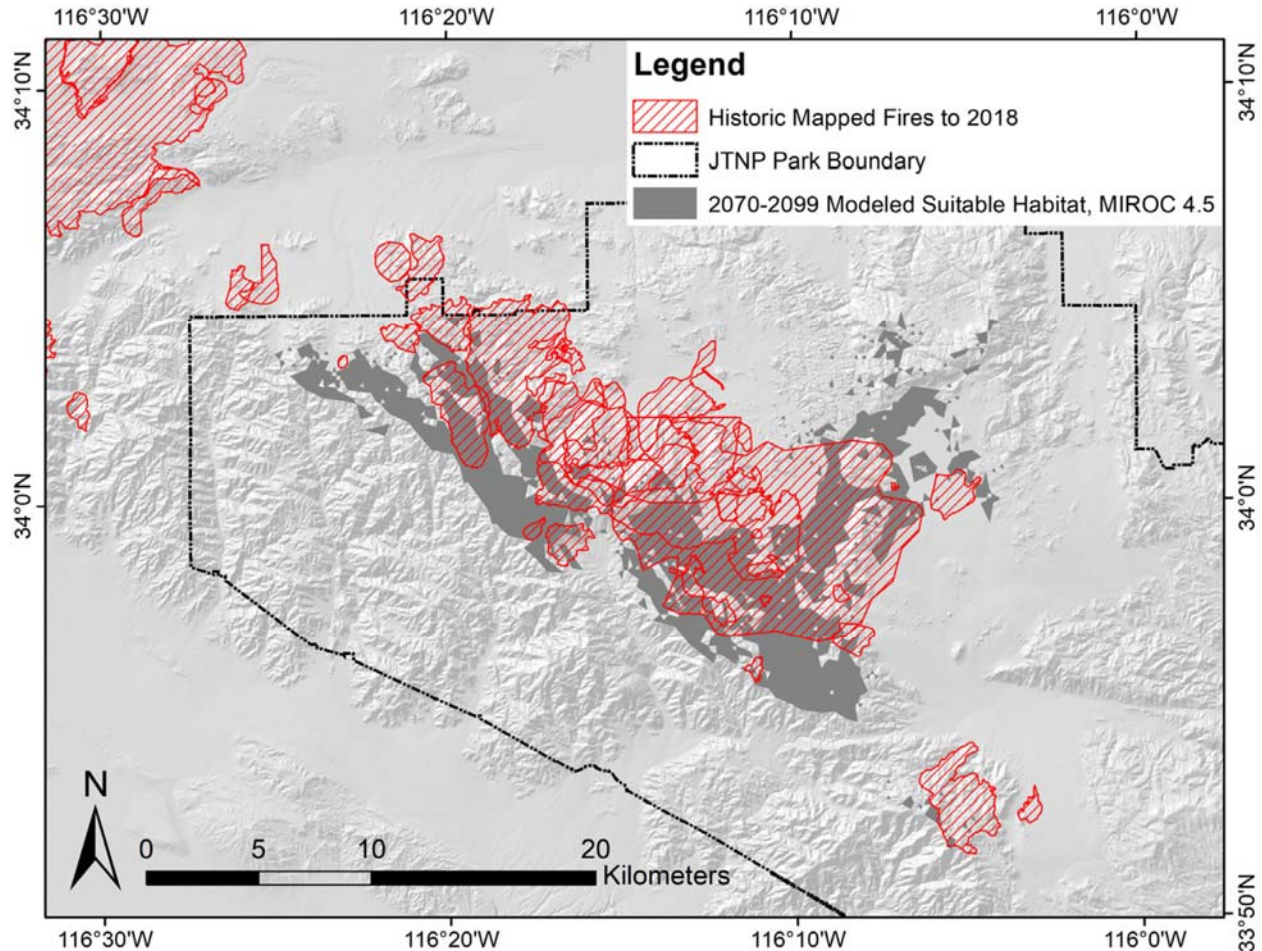


Figure 13. Historic fires in JTNP through 2018 in relation to modeled Joshua tree suitable habitat under a moderate warming scenario. Source: Sweet et al. (2019).

In sum, Joshua tree woodlands are generally not adapted to fire, and recover slowly, if at all (Abella et al. 2009; DeFalco et al. 2010; Vamstad and Rotenberry 2010; Brooks et al. 2018). Moreover, as noted by DeFalco et al. (2010), “the slower decline in survival for burned *Y. brevifolia* at the more mesic, high-elevation sites underscores the importance of postfire climate conditions on defining the demographic structure of recovering *Y. brevifolia* populations.” As discussed *infra*, a rapidly changing climate with greater heat stress and more intense droughts will make postfire recovery increasingly unlikely; and as fire increases in frequency and/or intensity, it will threaten the continued viability of ever-shrinking populations of *Y. brevifolia*.

5.4 Climate Change

Climate change represents the single greatest threat to the continued existence of *Yucca brevifolia*. Even under the most optimistic climate scenarios, western Joshua trees will be eliminated from significant portions of their range by the end of the century; under warming scenarios consistent with current domestic and global emissions trajectories, the species will likely be close to being functionally extinct in the wild in California by century's end (Dole et al. 2003; Cole et al. 2011; Sweet et al. 2019).

5.4.1 Current and projected climate change in the range of *Y. brevifolia*

A strong, international scientific consensus has established that human-caused climate change is causing widespread harms to human society and natural systems, and climate change threats are becoming increasingly dangerous. In a 2018 *Special Report on Global Warming of 1.5°C* from the Intergovernmental Panel on Climate Change (IPCC), the leading international scientific body for the assessment of climate change, describes the devastating harms that would occur at 2°C warming above pre-industrial levels, highlighting the necessity of limiting warming to 1.5°C to avoid catastrophic impacts to people and life on Earth (IPCC 2018). Average global temperature has already risen approximately 1°C (IPCC 2018).

In addition to warming, many other aspects of global climate are changing. Thousands of studies conducted by researchers around the world have documented changes in surface, atmospheric, and oceanic temperatures; melting glaciers; diminishing snow cover; shrinking sea ice; rising sea levels; ocean acidification; and increasing atmospheric water vapor (USGCRP 2017).

Climate change is increasing stress on species and ecosystems, causing changes in distribution, phenology, physiology, vital rates, genetics, ecosystem structure and processes, and increasing species extinction risk (Warren et al. 2011). A 2016 analysis found that climate-related local extinctions are already widespread and have occurred in hundreds of species, including almost half of the 976 species surveyed (Wiens 2016). A 2016 meta-analysis reported that climate change is already impacting 82% of key ecological processes that form the foundation of healthy ecosystems and on which humans depend for basic needs (Scheffers et al. 2016). The Mojave Desert in which the Joshua tree resides has already experienced many of these impacts, with, for example, bird occupancy and site-level species richness declining by about 50% over the past century (Iknayan and Beissinger 2018), and this decline linked to water stress related to increased cooling needs (Riddell et al. 2019).

Deserts have warmed and dried more rapidly over the last 50 years than other ecoregions, both globally and in the contiguous United States (USGCRP 2017). According to California's Fourth Climate Change Assessment: Inland Deserts Summary Report (Hopkins 2018), the California Desert has already experienced significant warming. Over the second half of the 20th century, daily maximum temperatures warmed by 0.4-0.7°F [0.22-0.39°C], comparing 1976-2005 with 1961-1990, and daily minimum temperatures warmed by 0.3-0.6 °F [0.17-0.33°C] over the same period.

Other studies have documented even greater warming in the range of the Joshua tree. The Washington Post, using NASA and NOAA county-level temperature datasets from 1895 to 2018, demonstrated that many areas of the United States have already had temperature increases well above the global average (Mufson et al. 2019).¹⁵ The four California counties in which *Y. brevifolia* occurs — San Bernardino, Los Angeles, Kern and Inyo — have already experienced average annual temperature increases of 1.9, 2.3, 1.7 and 2.3°C respectively.

Hopkins (2018) projects that daily maximum temperatures will increase by 5-6°F [2.8-3.3°C] for 2006-2039, by 6-10°F [3.3-5.6°C] for 2040-2069, and 8-14°F [4.4-7.8°C] for 2070-2100 on average for the region, with ranges depending on future greenhouse gas emissions (RCP 4.5 and RCP 8.5 scenarios). By the end of the century, the hottest day of the year is projected to rise by at least 6°F [3.3°C], and up to 9°F [5°C] on average. Extremely hot days, defined as temperatures >95°F [35°C], averaged 90 per year in the Mojave during the 1981-2000 period, and will increase to up to 141 days by the end of the century under RCP 8.5.

While temperature projections for the Mojave are unidirectional (it will be a lot hotter), precipitation projections are more complicated and divergent. For the suite of downscaled climate models used by Hopkins (2018), there is little projected change in average rainfall each year to the end of the century (<10%), even under different emissions scenarios. However, these projections show an increase in interannual variability, with reductions in minimum annual precipitation of up to 50% and increases in maximum annual precipitation of 40-65% by the end of the century, as well as an increase of winter precipitation (falling mainly in December, January, and February).

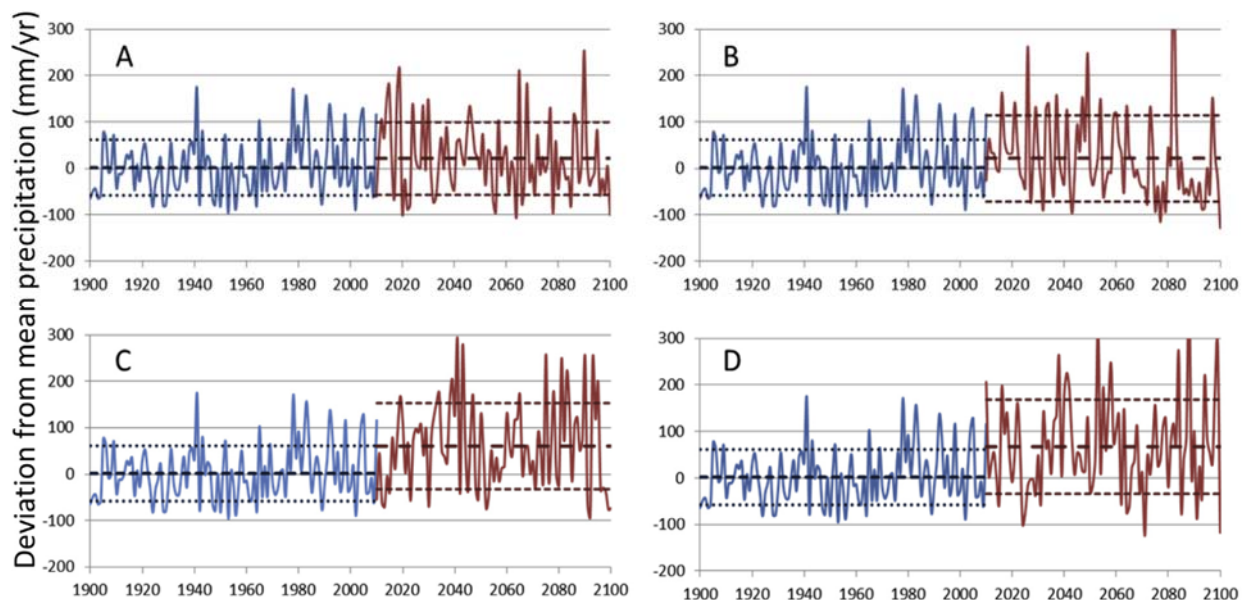


Figure 14: Plot of future modeled and historic precipitation in the Mojave Desert from global climate model/scenarios: A) GFDL/B1, B) GFDL/A2, C) IPSL/B1 and D) IPSL/A2. Source: Tagestad et al. (2016).

¹⁵ Available at <https://www.washingtonpost.com/graphics/2019/national/climate-environment/climate-change-america/>

Tagestad et al. (2016) came to similar conclusions, noting that “recent analysis of regional climate models over southwest North America indicate increased winter precipitation in the future within the Mojave ecoregion.” Tagestad et al. (2016), using climate models that best matched historic annual and seasonal precipitation records in the Mojave (GFDL_CM2.1 and IPSL_CM4), found that average annual precipitation is predicted to be higher than the historical average, although with greater annual and decadal variation, that there would be numerous, extended periods of high precipitation (Figure 14), and due to the invasive grass fueled link between winter precipitation and fire, concluded that “fire will be more prevalent in the Mojave Desert for many periods during the next century.”

In sum, average annual temperatures in the range of *Y. brevifolia* have already increased well over 1.5°C (Mufson et al. 2019), and daily maximum temperatures over the remainder of the 21st century under current emissions trajectories will increase by over 7°C (Hopkins 2018). Precipitation will increase in variability, with more extreme and prolonged droughts, while an overall increase in winter precipitation will foster more growth of invasive grasses, leading to more frequent and more intense fire (Hopkins 2018; Tagestad et al. 2016). Given Joshua trees are already suffering from the warming that has occurred to date, these additional changes pose a significant threat to the persistence of *Y. brevifolia* in California.

5.4.2 Climate change impacts on Joshua trees

Researchers have been raising the alarm about threats to the Joshua trees for decades. More than half a century ago, Webber (1953) stated of the species that “[r]egardless of the present wide distribution and large concentration of yuccas, its future appears very dim. This gloomy outlook is mainly due to the plant’s failure to reproduce and its destruction by man.” In 2000, Loik et al. (2000a) raised the specter of climate change, predicting that “[c]hanges in the local climate due to anthropogenic greenhouse gases may cause warming of the microclimate near the soil surface thereby precluding the future establishment of *Yucca brevifolia*.” A year later, Lenz (2001) noted that “Joshua trees in many areas appear physically stressed in all probability due to less than optimum growing conditions,” and speculated that “depending upon the intensity and duration of global warming its long-range survival may depend upon the availability of a refugium.”

Over the past 20 years, modeling of Joshua tree future distribution in a warming climate has become more sophisticated, has used more accurate and comprehensive distribution data, has produced projections at ever-finer spatial scales and has increasingly used field data to validate model performance. And while model projections of potential range expansion have varied greatly and have not distinguished between *Y. brevifolia* and *Y. jaegeriana*, every published modeling effort has predicted range contractions along the western edge of the Joshua tree’s range in California, which largely corresponds to the range of *Y. brevifolia* in the state. A review of these studies demonstrates that *Y. brevifolia* will face massive range contractions within the foreseeable future that threaten the continued viability of the species.

Thompson et al. (1998) published the first modeled projection of the future range of Joshua trees under changing climate conditions. Using data on temperatures and precipitation levels where the species is currently found, Thompson et al. (1998) calculated that Joshua tree potential

future habitat under doubled CO₂ conditions was almost 8-fold greater than present habitat, extending as far north as Washington state, south into Mexico and east into Texas. The modeling effort predicted retraction of range along its western edge in California. This study, which dealt with 16 different tree species, did not analyze other habitat variables or dispersal ability and used a model that poorly matched the current distribution of the species (e.g. the model predicted presence in the Coast Ranges under then current climate conditions).

Shafer et al. (2001) carried out a similar modeling effort looking at the future range of Joshua trees, finding that “[u]nder each of the future climate scenarios, its simulated potential range is fragmented and displaced northward and eastward.” The Shafer et al. (2001) study addressed 15 different species of trees, used three climate variables (mean temperature of the coldest month, growing degree days, and a moisture index) and a 25-km grid scale.¹⁶ Consequently, the results are course, but still roughly consistent with later modeling efforts (e.g. Cole et al. 2011), and most notably show almost complete extirpation of the species from California (Figure 15). The projected potential expanded range extending into northern Nevada and Utah as well as Washington state does not account for how the species might disperse into these new areas of potential habitat.

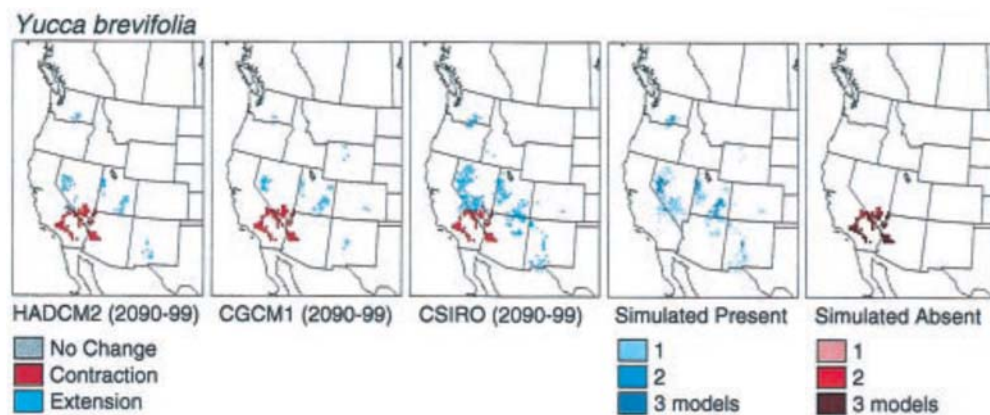


Figure 15: Modeled future range of Joshua Trees. Source: Shafer et al. (2001).

Dole et al. (2003) subsequently modeled future range for Joshua trees in a doubled CO₂ world, finding that “a considerable portion of the current range of *Y. brevifolia* will become climatically unfavorable for this species, but that significant amounts of new habitat may become available.” While Dole et al. (2003) did not take dispersal into account in the modeling, they noted that it would be a factor in real-world application, and in “the worst-case scenario, *Y. brevifolia* will migrate too slowly to fill potential new habitat, while much of its current range will become climatically unfavorable.”

Dole et al. (2003) also noted a further potential limitation in the model which assumed “the distribution of *Y. brevifolia* is in equilibrium with current climate.” Significant subsequent research (e.g. Barrows and Murphy-Mariscal 2012; Harrower and Gilbert 2018; Sweet et al.

¹⁶ The current distribution data used to develop the model in Shafer et al. (2001) is also questionable as the paper states “*Yucca brevifolia* (Joshua tree) is found in the deserts of the southwest US and northwest Mexico.” The species has likely been absent from Mexico for thousands of years (Cole et al. 2011).

2019) has confirmed that at least in the southern part of its range, current climate conditions are already deleterious to Joshua tree survival and/or reproduction. Notwithstanding these model limitations, which almost certainly overestimate projected future habitat, modeled habitat loss is roughly congruent with the key results of Shafer et al. (2001) and Cole et al. (2011), with the species disappearing from 76% of its current range. Notably, much of the new area deemed climatically suitable for *Y. brevifolia* in California is developed agricultural land in the San Joaquin Valley and therefore highly unlikely to ever actually be occupied by the species.¹⁷

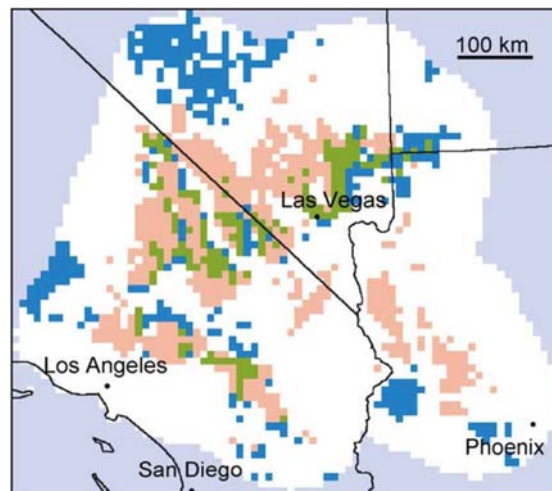


Figure 16: Modeled future range of Joshua Trees. Pink is lost range, green is maintained range and blue is expanded range. Source: Dole et al. (2003).

Cole et al. (2011) built a sophisticated species distribution model with climate and habitat variables derived from a comprehensive dataset of presence/absence data throughout the current range of the Joshua tree. Late Pleistocene and Holocene records were also compiled to generate a map of past distribution of the species. The study differed from previous models in its use of actual specific data points for presence and habitat variables for the species and the testing of the models to simulate the current range of the species.

Construction of an independent test data set of Joshua tree current presence and absence allowed the evaluation of multiple suitable climate models for Joshua tree. Model concordance was found to increase with the inclusion of measures of monthly temperature variability (maximum and minimum rather than just mean), finer spatial scale (~1 km rather than ~4 km), and applying a 40-year mid-20th-century baseline (1930–1969) climate rather than a 30-year late-20th century baseline (1970–1999).¹⁸

¹⁷ Dole et al. (2003) also modeled the impact of doubled CO₂ concentrations on the physiology of Joshua trees given there is some evidence that certain plant species are more resistant to freezing in high CO₂ conditions. Such modeling showed a 14% increase in projected new habitat and a slight increase (from 24% to 29%) of current habitat areas that would remain suitable. However, the authors recognized that the impacts of CO₂ induced warming were more significant than the physiological effects of CO₂ itself.

¹⁸ Cole et al. (2011) selected 1930 to 1969 as their climatic baseline period “because evidence suggests that Joshua tree recruitment was greater during this interval than during the latter part of the 20th century. For instance, survey results show minimal to no recent Joshua tree recruitment within the southern Mojave Desert in recent years, and

The methodology of Cole et al. (2011) consequently address many of the shortcomings of climate niche models that have been raised by some (Pearson and Dawson 2003; Fitzpatrick and Hargrove 2009).

All of the individual climate models, as well as an ensemble of 22 global circulation models (GCMs) utilized by Cole et al. (2011), project a severe (~90%) decline in the area of suitable climates for Joshua trees by 2070 to 2099, as the southern parts of its range becomes climatically unsuitable.

Cole et al. (2011) also modeled areas where the species could potentially naturally expand its range in the future, as well as areas that might be suitable for relocation or assisted migration (Figure 17).

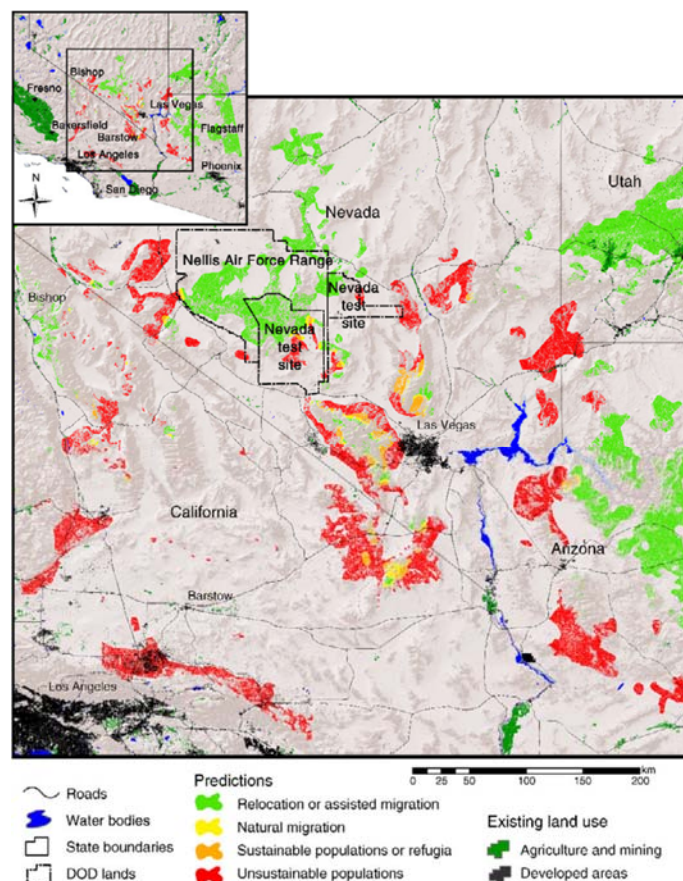


Figure 17. Areas with existing Joshua tree populations where a majority of the models used by Cole et al. (2011) predict future climates unsuitable for survival (red); current populations with future climates favorable for Joshua tree persistence (orange); areas within 2 km of current populations with future favorable climates and suitable substrates where natural migration could possibly occur (yellow); and protected areas with future favorable climates and suitable substrates where assisted migration might be possible (green). Source: Cole et al. (2011)

Joshua trees tall enough to be tallied in recent vegetation plots likely became established during this 1930–1969 interval or before.”

In determining potential natural expansion areas, Cole et al. (2011) looked at rates of migration discernable from paleontological data as well as from modern studies of seed dispersal by rodents. Such data reveals minimal actual northward range shift over the Holocene, corresponding to a migration rate of 2 meters a year. Similar migration rates could be calculated based on studies of rodent seed caching activity and Joshua tree generation time. Cole et al. (2011) postulated that their results “suggest that the species migrational capacities have been ineffective following the extinction of Pleistocene megaherbivores that may have acted as seed vectors, especially the Shasta ground sloth.” Given a 2-meters a year range expansion would total less than 200 meters by century’s end and would be largely invisible in any mapping effort, Cole et al. (2011) used “a generous estimate of potential natural migration of 2 km over the next 60 to 90 years” to designate areas of potential natural migration. This suggests that the colonization of mapped areas of natural migration might in fact also require assisted migration to occur in a meaningful timeframe.

Cole et al. (2011) summed up the relationship between the Joshua tree’s past, its present limited present dispersal abilities, and future projections to highlight the severe range contraction in will undergo in the coming decades.

As climate rapidly warmed at the start of the Holocene, the widely dispersed range of Joshua tree severely contracted from the south, leaving only the populations near what had been its northernmost limit. The Holocene and recent history of Joshua tree suggests that its migrational capacity may be severely limited. Its ability to spread northward into new suitable habitats during the Holocene may have been inhibited by the somewhat earlier extinction of its primary megafaunal dispersers, especially the Shasta ground sloth. Because GCM models project a climate warming of a similar pace and magnitude to that of the early Holocene over the next 60 to 90 years, Joshua tree could undergo a similar decline in its southernmost populations to that of the early Holocene.

Cole et al. (2011) do not predict the complete extirpation of Joshua trees from their current range, noting that the “results predict the survival of some natural Joshua tree populations throughout the next century, but most will be greatly reduced in area.” Importantly, because the authors modeled the Joshua tree present and future distribution as a single species, they did not distinguish between *Y. brevifolia* and *Y. jaegeriana*. From their mapping however, it appears that the majority of the areas for which Joshua trees are projected to persist are in the range of *Y. jaegeriana*. *Y. brevifolia* disappears almost entirely from its current range in California (Figure 17).¹⁹

¹⁹ A subsequent study by Notaro et al. (2012) included Joshua trees among 170 tree and shrub species for which they modeled projected range shifts by the end of the century. They noted that the projected northward shift of the species and decline in its southern range in response to warming was consistent with that described by Cole et al. (2011). However, unlike Cole et al. (2011), they did not consider dispersal ability in projecting range expansion and consequently concluded that the species would experience a “robust range expansion” of 143%. Importantly, their analysis was limited to the “Southwest United States” which did not include California. Consequently, regardless of other limitations of their analysis that may render the results suspect, the results shed no light on the future status of *Y. brevifolia* in California.

While the Cole et al. (2011) study looked at the future of Joshua trees throughout their range, Barrows and Murphy-Mariscal (2012) examined the status and fate of *Y. brevifolia* in Joshua Tree National Park (JTNP). The approach Barrows and Murphy-Mariscal (2012) took was one of niche modeling:

In lieu of local-scale predictions of how precipitation or temperature will shift, modeling the sensitivity of species to a gradient of climate change scenarios can provide insights as to potential effects of local-scale changes in temperature and precipitation. A useful tool in assessing species sensitivity to changing conditions is niche modeling which includes habitat variables, such as climate and terrain, in an attempt to assess the complex interaction of factors that constrain a species' distribution (internal citations omitted).

To assess the validity of the niche models, Barrows and Murphy-Mariscal (2012) used "citizen scientist" volunteers to collect Joshua tree recruitment data throughout their range in the park to determine whether modeled shifts in suitable habitat coupled with recent temperature increases approximate current demographic response patterns, specifically successful seedling recruitment. The key climate variable used was summer maximum temperature, which was changed incrementally by increasing mean maximum July temperature by 1°C, 2°C, and then 3°C.

Since the niche models were developed based on data of existing adult Joshua trees, the model projects the distribution of suitable habitat for the species when those individuals were recruited into the population, conditions when summer temperatures may have been up to 1°C cooler than current conditions. Shifting mean maximum summer temperatures upwards by 1°C, 2°C, and then 3°C resulted in modeled reductions in the extent of suitable habitat for Joshua trees of 30-35%, 66-78% and 90-98% respectively, depending upon the precipitation variables used.

The niche model Barrows and Murphy-Mariscal (2012) developed for juvenile Joshua trees (individuals 30 cm or less in height) based on their current distribution, resulted in a total suitable habitat area about half of that for adult trees. The juvenile model was a near match for the boundaries of the +1°C adult model. The match between the current juvenile model and the +1°C adult model provides some level of model validation consistent with the hypothesis that early levels of climate change may have already had an impact on Joshua tree recruitment. Put another way, adult Joshua trees in JTNP were recruited into the population under climate conditions where summer maximum temperature was approximately 1°C cooler than present; warming to date may not be fatal to established adult Joshua trees, but it has apparently already shrunk the area of suitable habitat for recruitment by half.²⁰

Barrows and Murphy-Mariscal (2012) contrasted their results to those of Dole et al. (2003)

²⁰ Barrows and Murphy-Mariscal (2012) noted that "we searched for but did not find any areas of non-fire related mortality of Joshua trees within JTNP." This seems at odds with DeFalco et al. (2010) who reported 26% mortality of unburned Joshua trees following drought in their study area in JTNP. A subsequent study by Harrower and Gilbert (2018) also documented significant non-fire mortality in the park, indicating that the current climate, at least at lower elevations, is already deleterious to adult Joshua trees.

and Cole et al. (2011), both of which indicated that similar expected levels of climate change would result in no suitable habitat for Joshua trees within the central or southern portions of their current distribution. Barrows and Murphy-Mariscal (2012) ascribed the differences as being due to the scales of analyses rather than differences in models or model assumptions, since finer-scale analysis can incorporate local adaptations as well as topographic-climate complexities that may provide refugia.

Barrows and Murphy-Mariscal (2012) declared their analysis “represents a more optimistic scenario than previously published models of climate change impacts on Joshua trees.” However, given their +3°C model found that Joshua tree range in the park could be curtailed by 90 to 98% and noted that red brome fueled wildfires could burn any remaining refugia, it is somewhat difficult to share their optimism. Moreover, Barrows and Murphy-Mariscal (2012) used a +3°C increase in summer maximum temperature as their “extreme” scenario, while Hopkins (2018) projects that summer maximum temperatures may hit that level before mid-century and may exceed +7°C by century’s end.

The most recent species distribution modeling effort for Joshua trees paints an even more concerning portrait of the species’ future. Sweet et al. (2019) sought to identify the existence and extent of potential climate refugia for *Yucca brevifolia* within JTNP. Similar to Barrows and Murphy-Mariscal (2012), this study developed species distribution models (SDMs) validated with field data:

By combining finer scale topographic and climate datasets, using more refined climate models and a more comprehensive set of Joshua tree location data, our objective was to construct SDMs to forecast this species’ response to multiple future climate scenarios. Then, with the aid of volunteer community scientists, we collected Joshua tree demographic data across their range within the park. We aimed to identify the existence and extent of potential Joshua tree climate refugia and validate this prediction using empirical demographic data on Joshua tree recruitment along a gradient that falls within and outside modeled refugia.

Sweet et al. (2019) used the species distribution modeling platform Maxent to develop relationships between Joshua tree presence points and a database of nine environmental variables including minimum and maximum temperature, precipitation, climatic water deficit (CWD), topography, and soil characteristics. They used the end-of-century (2070–2099) CMIP5 MIROC RCP 4.5, 6.0, and 8.5 emissions scenarios, representing CO₂ emissions under highly mitigated, moderately mitigated, and unmitigated scenarios, respectively. The results showed loss of the vast majority of *Y. brevifolia* suitable habitat under all scenarios. Under the RCP 4.5 and 6.0 scenarios, 18.6% and 13.9% of current occupied areas remained as refugia. However, under the RCP 8.5 scenario, which is closest to current emissions trajectories, suitable habitat was almost completely eliminated, with only 15 ha, or 0.02% remaining as refugia (Figure 18).

As with those identified by Barrows and Murphy-Mariscal (2012), the refugia identified by Sweet et al. (2019) are in areas of high fire risk, with the authors noting that the “areas mapped as Joshua tree refugia, which are found at higher elevation wetter areas, also tend to have the highest covers of invasive annual grasses.” Approximately half of the refugia mapped under the

RCP 4.5 scenario have already experienced fire in recent decades. As discussed *supra*, fire fueled by invasive grasses is a significant source of Joshua tree mortality and creates conditions that delay or preclude recruitment, and therefore has the potential to diminish the effectiveness of any climate refugia for the species.

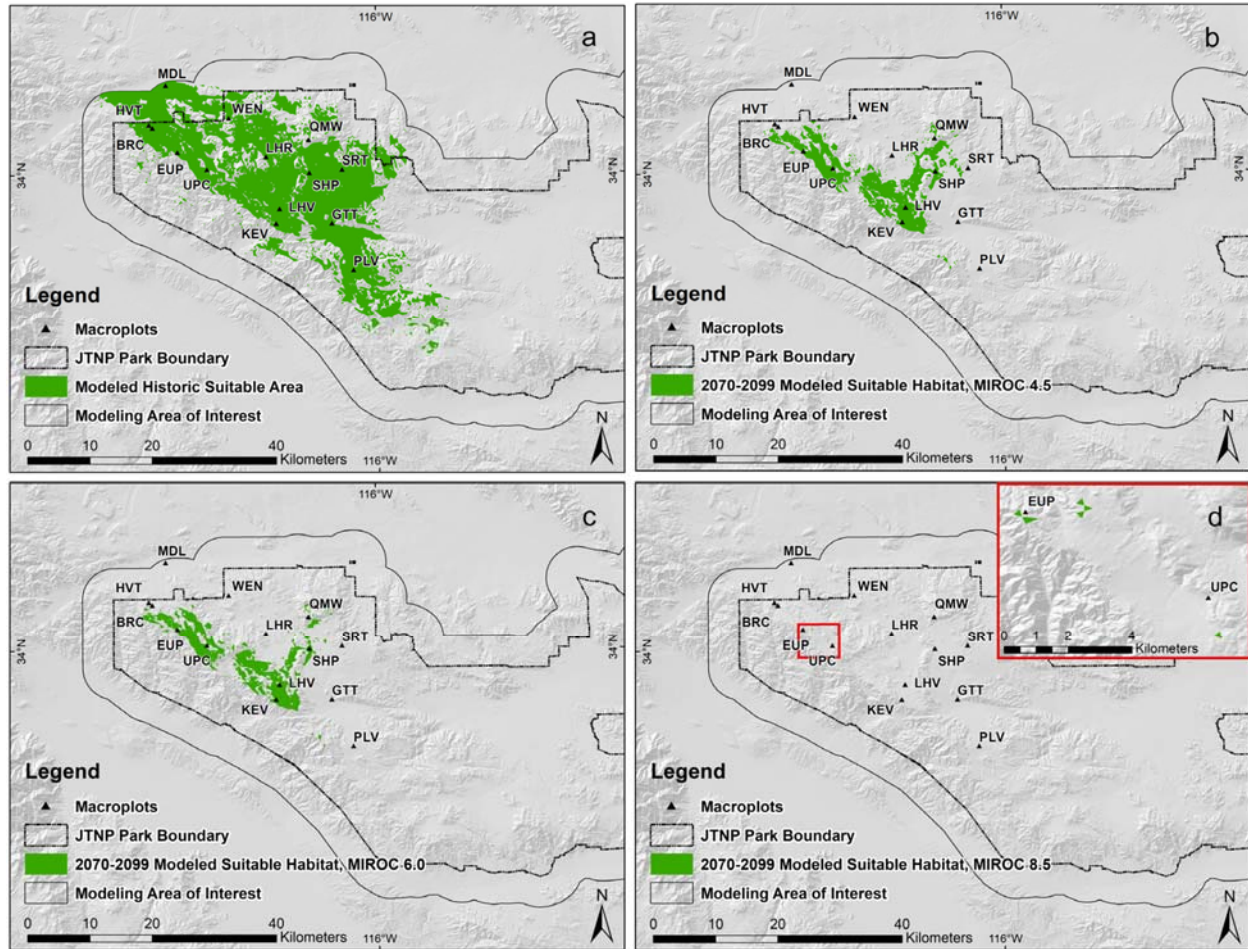


Figure 18: Map of historically suitable habitat (a) and end-of-century refugia for Joshua trees at JTNP. Modeled refugia are the area of overlap between current and future suitable habitat under 3 emission scenarios: RCP 4.5 (b), 6.0 (c), and 8.5 (d, with inset to display the modeled area). Source: Sweet et al. (2019).

The modeling results of Sweet et al. (2019) are similar to those of Barrows and Murphy-Mariscal (2012) in terms of overall trajectory and location of habitat loss in JTNP, but diverge in terms of how much area remains as refugia under their highest-warming scenarios. Barrows and Murphy-Mariscal (2012) projected between 2 and 10% of existing habitat would remain suitable in the park (916 to 4640 ha), while Sweet et al. (2019) projected only 0.02% would remain (15 ha). Sweet et al. (2019) ascribed the difference to finer scale habitat data, difference in climate scenarios used, and better and more dense information on Joshua tree presence. Put another way, the more detail we learn about the current status of Joshua trees, the bleaker their future appears.

Sweet et al. (2019) also used field data on distribution of juvenile trees (defined as smaller

than 60 cm) to validate their modeling results.²¹ They explained their rationale as follows:

Large, long-lived species, such as Joshua trees, have an advantage over short-lived species, as they can weather year-to-year variation and short-term droughts. Still, long-term persistence, especially over the time reflected in climate change estimates, depends on where and when species reproduce, recruit, and establish on a landscape. Other studies have found differences between the adult distribution and the distribution of juveniles or seedlings on the landscape. Since the establishment stage of trees and other perennial species is a vulnerable and important stage, the density of seedlings in a given area can provide early indications of future distribution shifts.

In order to study the future distribution of Joshua trees at JTNP, therefore, a field-based assessment of current recruitment patterns may be foretelling of changes in the population of Joshua trees on the landscape. Joshua tree annual survivorship is age- and precipitation-dependent; low precipitation levels have an inordinate negative impact on survivorship of smaller plants. With the levels of increased aridity that this region has already experienced, it follows that demographic shifts in Joshua trees should be apparent. The occurrence of young, healthy Joshua trees can therefore provide an empirical validation for modeled predictions of where climate refugia have already started to become established today (internal citations omitted).

Sweet et al. (2019) categorized 14 nine-hectare macroplots throughout the park that contained Joshua trees as high or low-recruiting depending on whether the density of documented juveniles was above or below the mean. They found that high-recruiting macroplots had significantly higher annual precipitation, and marginally significantly lower climatic water deficit and maximum summer temperature. Importantly, high-recruiting macroplots were geographically differentiated from low-recruiting macroplots in that they were located either within or significantly closer to predicted future refugia than low-recruiting macroplots. Moreover, when temperature and precipitation for refugia areas were plotted together with macroplots, there was considerable correspondence between the high-recruiting macroplots and the refugia. This result, which validated modeled predictions, was “not surprising—the factors that allow for recruitment (lower CWD, higher precipitation), especially in a desert environment, also differentiated, on a landscape scale, the areas supporting Joshua trees within the park.”

Studying the density of tree recruitment, Sweet et al. (2019) found early indications of a shift in Joshua tree recruitment and noted that “[i]f recruitment patterns portend the future distribution of adults on the landscape, this type of analysis allows a glimpse into changes that may occur even before those outlined in the modeled future scenarios.”

The Sweet et al. (2019) analysis was designed “to inform management with the most robust available predictions, focusing on areas where the species occurs already.” These “occupied climate refugia are most relevant to the conservation of the species for the next 50 yr, and perhaps longer.” Proper management and protection of these areas is critical the persistence

²¹ Barrows and Murphy-Mariscal (2012) also used juvenile distribution to validate their models but used a 30 cm rather than 60 cm cutoff to define “juveniles”.

of *Y. brevifolia*: “Since these refugia are also subject to threats such as fire and invasive species, management efforts aimed at reducing these threats provide on-the-ground actions that increase the likelihood that these areas will sustain this iconic species.” Management and recovery actions are further discussed *infra*.

The species distribution modeling studies discussed above individually and collectively lay out a compelling warning about the difficult future facing *Y. brevifolia* in California. Two of those studies also looked at field data and concluded that recruitment of Joshua trees was *already* being hampered by warming (Barrows and Murphy-Mariscal 2012; Sweet et al. 2019).

Additionally, multiple other field studies documenting the *current* impacts of warming, drought, invasive species, fire and other impacts on Joshua tree survival and recruitment reinforce the findings of these modeling efforts. The more recent of these studies have specifically looked at such impacts in the of context climate change (*e.g.* DeFalco et al. 2010 [fire, drought and herbivory]; Reynolds et al. 2012 [seed germination and recruitment]; Esque et al. 2015 [recruitment and juvenile growth]; Borchert and Defalco 2016 [reproduction, seed predation and dispersal]; Harrower and Gilbert 2018 [pollination]; St. Clair and Hoines 2018 [reproduction]). These studies and the documented impacts on *Y. brevifolia* are described in the sections on Reproduction, Abundance and Population Trends, and Factors Affecting Ability to Survive and Reproduce, *supra*.

Joshua tree persistence on the landscape is dependent not just on survival of Joshua trees themselves, but on successful recruitment, which is dependent upon their obligate pollinating moths, seed dispersing rodents and the presence of nurse plants. As summarized by Sweet et al. (2019), “[r]ecruitment, survival of populations, and certainly migration of the species will be affected by factors such as the availability of pollinators, dispersers, seed and seedling predators and other mutualisms on the landscape.” Climate change threatens to disrupt these essential relationships.

While multiple species can serve as its nurse plants, and a variety of rodents can act as seed dispersers, only a single species, *Tegeticula synthetica*, pollinates *Yucca brevifolia* in its California range (Pellmyr and Segraves 2003; Godsoe et al. 2008). And while clonal reproduction can prolong survival in certain locations and circumstances (DeFalco et al. 2010), ultimately long-term survival as a species likely requires the genetic diversity that sexual reproduction fosters (Harrower and Gilbert 2018). Consequently, the long-term viability of *Y. brevifolia* depends on maintaining its obligate mutualism relationship with *T. synthetica*.

A recent study by Harrower and Gilbert (2018) in JTNP sheds significant insight into the apparent fragility of the relationship between *Y. brevifolia* and *T. synthetica*. The authors succinctly lay out the problem:

Obligate mutualisms like the Joshua tree–yucca moth interaction are acutely sensitive to changes in climate. The interacting partners may respond differently, creating an asynchrony in species phenology that can lead to population decline and local extinction. Environmental changes that shift the outcome to fewer viable seeds or greater seed predation could be detrimental to both species. However, the climate

envelope within which this mutualism currently exists is narrow, and climate change effects in the Mojave Desert are expected to limit this envelope to only the highest elevations in Joshua Tree National Park (JTNP) within 90 yr, greatly reducing habitat with suitable climate and potentially extirpating the species from its namesake park (internal citations omitted).

Joshua trees are distributed across a 1200-m elevational range in JTNP from approximately 1000 m to 2200 m. Elevation gradients can serve as “natural experimental systems through systematic variation in abiotic and biotic factors,” and average daily summer temperature per site in the Harrower and Gilbert (2018) study declined steadily along the elevation gradient with the warmest site at 30.2°C and the coolest at 19.9°C. Harrower and Gilbert (2018) examined how the abundance of *Y. brevifolia* and *T. synthetica* varies by elevation and quantified how the outcome of the Joshua tree–yucca moth interaction shifts depending on the context of where it occurs and the impacts that may have on Joshua tree fitness.

The authors found a sharp dichotomy between intermediate elevation sites versus the highest and lowest sites. Tree abundance was highest at intermediate elevations, with a “marked peak at around 1250 m where the trees were numerous and large and produced many flowers; this peak coincided with a high abundance of moths, as well as high production of pods, seeds, fertile seeds, and seedlings that grew from seeds.” A positive relationship between moth abundance and successful sexual reproduction was found, with number of seedpods and fertile seeds per pod increasing with moth abundance. Moth abundance was significantly correlated with tree size, tree abundance, and number of flower panicles per tree, with larger trees having more panicles. These associations collectively indicate that reproductive success of both Joshua trees and yucca moths are greatest where the Joshua trees are abundant and vigorous, which currently is at intermediate elevations.

In stark contrast to intermediate elevation results, at the lowest and highest sites the number of dead Joshua trees peaked, while live trees were small and few and had few flowers, and no moths, seedpods, or seedlings were encountered. Reproduction was limited to clonal spread. Soil moisture was very low at the lower, warmer elevations and may have contributed to Joshua tree death. The authors noted that their observations were consistent with expectations from the models of Cole et al. (2011) and Barrows and Murphy-Mariscal (2012) and suggest that the range of Joshua trees is contracting at the lower elevations where there was no seedling recruitment and high tree mortality.

Harrower and Gilbert’s (2018) finding that at elevation extremes Joshua tree reproduction is almost exclusively clonal is consistent with previous accounts finding that Joshua tree clonality increases with elevation, but the lack of seedling recruitment and enhanced clonality at low elevations had not been previously reported. Trees produced flowers at both of the extremes, but no moths, fruit development, or seed set were observed in these areas. Consequently, the lack of seedlings could be explained by the lack of pollinators.

The presence of only clonal populations at the low and high ends of *Y. brevifolia* distribution has several very significant potential repercussions:

If trailing edge populations of (mostly clonal) Joshua trees are also those in the population that are best adapted to deal with the highest local temperatures, a lack of sexual outcrossing with populations at higher elevations could threaten overall species persistence due to reduced fitness of seedlings as the climate warms. Clones have reduced reproductive fitness, which could increase susceptibility to local extinction of the trees. The lack of pollinators, seed set, and seedlings at higher elevations suggests that Joshua trees are not currently expanding their range upslope (Harrower and Gilbert 2018) (internal citations omitted).

Harrower and Gilbert (2018) summarized the dilemma facing the *Y. brevifolia* and *T. synthetica* mutualism: “Joshua trees seem to be dying back at low elevations as predicted, but they do not seem to be moving successfully into higher elevations, where the mutualism is not successful.” Moths are absent at these higher elevations and it “remains to be seen if Joshua tree performance can improve at higher elevations and if it will be able to attract enough moths to successfully reproduce, or if moths can migrate to and survive at those locations.” Given “the survival of the species requires colonization of new habitats,” the current lack of a functioning pollination mutualism at the high elevation margins of the Joshua tree’s range raises serious doubts about the ability of the species to colonize new habitats, and ultimately to survive.²²

In sum, climate change represents an existential threat to *Y. brevifolia* in its California range. Even in the absence of climate change, the convergence of biotic and abiotic factors necessary for recruitment “results in successful establishment of new seedlings only a few times in a century” (Esque et al. 2015). Such recruitment has already largely stopped at the drier, lower limits of the species’ range (Barrows and Murphy-Mariscal 2012; Sweet et al. 2019). Prolonged droughts, which are projected to occur with greater frequency and intensity over the coming decades (Hopkins 2018), will not only preclude recruitment across ever-greater areas of the species’ range, but will lead to higher adult mortality, either directly due to temperature and moisture stress or indirectly due to increased herbivory from hungry rodents lacking alternative forage (DeFalco et al. 2010; Harrower and Gilbert 2018). Whether or not the species’ pollinating moth will be able to keep pace with a changing climate is highly-questionable (Harrower and Gilbert 2018). The Joshua tree’s ability to colonize new habitat at higher elevations or latitudes is extremely limited and no such range expansion is yet occurring, even as the lower elevation and southern edge of its range is already contracting (Cole et al. 2011; Harrower and Gilbert 2018). And there is no safe refuge, as the higher elevation areas in which Joshua trees are projected to best be able to survive increasing temperatures and drying conditions are at great risk of fire due to the prevalence of invasive grasses (Barrows and Murphy-Mariscal 2012; Sweet et al. 2019). Absent rapid and substantial reductions in GHG emissions *and* protection of habitat, the species will likely be extirpated from all or most of California by the end of the century.

²² Interestingly, certain higher elevation areas (but not the highest elevations) had the highest density of trees in the study, but very low moth abundance. These higher elevation sites were dominated by trees reproducing asexually. It is not clear whether moths are unable to thrive at these higher elevations or if the low numbers of flowers meant that location was unable to attract or support the moths. Harrower and Gilbert (2018) postulated that this elevation range, from 1500 to 1600 m, “where trees thrive but moths do not, may be an important transition zone for future work on the details of the Joshua tree–yucca moth climate mismatch.”

5.5 Habitat Loss to Development

While the overall outlook for *Y. brevifolia* is grim, the species has an advantage over many other climate-threatened species in that much of its habitat is at least nominally protected from other impacts. Its southernmost population is within the national park that bears its name, while some of its northernmost populations are in Death Valley National Park. As described in the Distribution section *supra*, YUBR North is 96% federal land, while, YUBR South is 48% federal land. Nevertheless, development presents a substantial threat to the species in a significant portion of its range.

Of the two *Y. brevifolia* populations, YUBR South has been the most impacted by human development and faces the greatest threats in its future. Over 50% of the land area comprising the habitat for this population is privately owned (USFWS 2018). The cities and towns of Apple Valley, Hesperia, Lancaster, Palmdale, Ridgecrest, Victorville, and Yucca Valley, along with many other smaller communities have been built in Joshua tree habitat in the YUBR South area. In recent decades these areas have grown rapidly, with the populations of Lancaster, Palmdale and Apple Valley all growing by approximately 36% between 2000 and 2018, Yucca Valley growing by 29.5% and Victorville by a staggering 93% during that same time period (SCAG 2019).

Human population growth in these areas and consequent loss of Joshua tree woodlands is expected to continue in the coming decades. The USFWS (2018), using the EPA's Integrated Climate and Land-Use Scenarios (ICLUS) modeling tool to predict future housing density growth in the range of the Joshua Tree, estimated that 41.6% of suitable habitat for *Y. brevifolia* in the YUBR South area would be lost to housing development by 2095 (Figure 19).²³ When combined with YUBR North, about a third of Joshua tree habitat would be lost for the species in California. Importantly, the ICLUS modeling done by USFWS only looks at housing density, not industrial, military or other development so likely represents an underestimate of development impacts.

In addition to urban growth, various other forms of development threaten Joshua tree habitat in California, including roads, highways, transmission lines, industrial facilities and large and small-scale renewable energy projects. While many of these impacts have been poorly quantified to date, according to USFWS (2018), renewable energy development has already resulted in the loss of 1.2% of mapped *Y. brevifolia* habitat, equating to about 68,000 acres. However, given USFWS included Nevada habitat in this calculation, while virtually all of the large-scale renewable energy development in the range of the species is in the YUBR South area, the actual total in California is likely closer to 2% of habitat lost to date. Under the Desert Renewable Energy Conservation Plan (DRECP) amendments to the California Desert Conservation Area (CDCA) Plan, of the 388,000 acres of development focus areas on BLM land subject to a streamlined review process to facilitate renewable energy development, approximately 50,000 acres fall within the mapped distribution for *Y. brevifolia* (USFWS 2018),

²³ In using the ICLUS model, USFWS (2018) ran development scenarios consistent with IPCC B1 and A2 climate scenarios. The 41.6% projection is from the A2 scenario which most closely matches current emissions trajectories. Under the lower-growth B1 scenario, 21.7% of YUBR South suitable habitat would be lost to housing development.

equating to more than 1% of additional habitat at risk from this type of development on federal lands and an unknown but potentially larger amount on private lands (Figure 19).²⁴

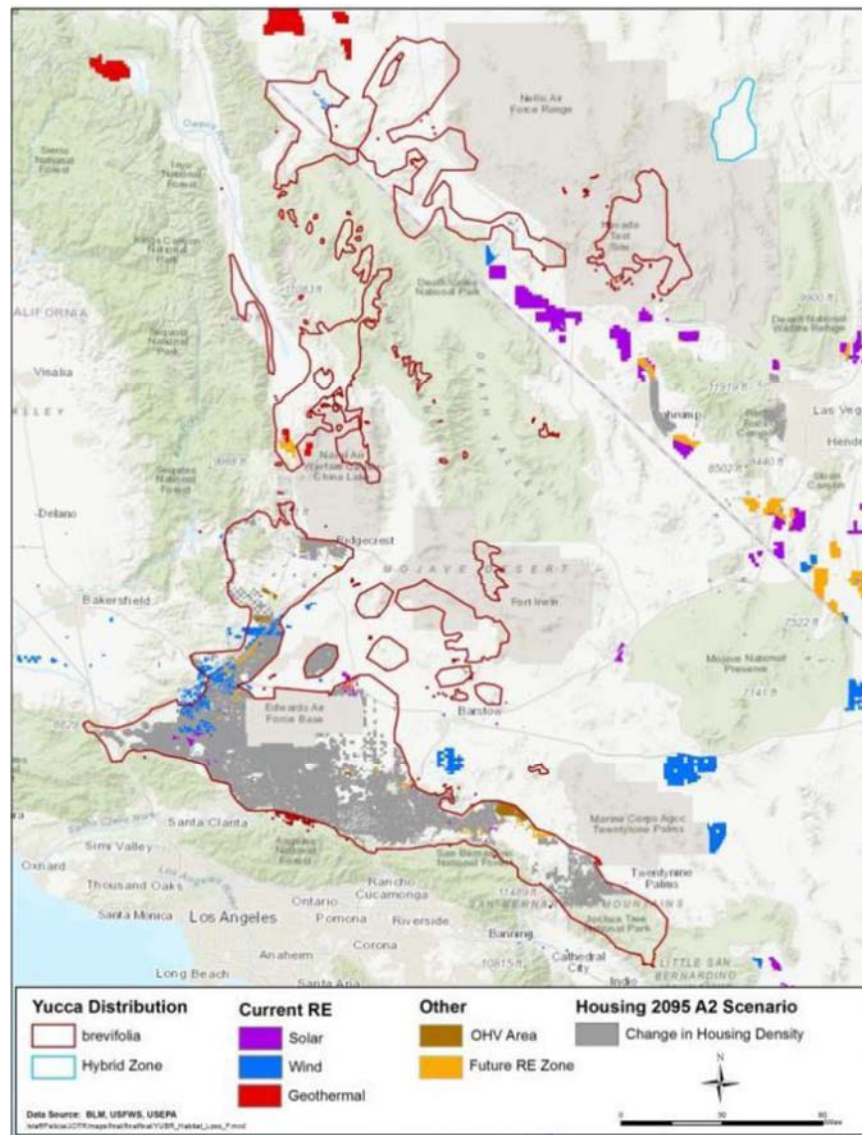


Figure 19: Map showing Joshua tree projected habitat loss due to urban growth, as well as current and projected habitat loss due to large-scale renewable energy projects. Source: USFWS (2018).

In sum, human development has already consumed hundreds of thousands of acres of habitat in the range of *Y. brevifolia*. Over the coming decades, over a million additional acres will be destroyed or degraded for housing, roads, energy projects and assorted other development (USFWS 2018). This large-scale loss or severe degradation of habitat is of conservation concern

²⁴ Notably, the Trump administration has initiated plans to roll back protections contained in the DRECP, which would likely subject additional areas of Joshua tree habitat to either renewable energy development or other forms of habitat degradation or destruction. <https://www.blm.gov/california/BLM-to-consider-changes-desert-renewable-energy-conservation-plan>.

for the species even absent the threats posed by climate change. However, given that *Y. brevifolia* in California will lose upwards of 90% of its range under likely climate scenarios, the added loss of habitat and the genetic resiliency and connectivity it provides will further push the species towards extirpation in California.

6 Degree and Immediacy of Threat

As demonstrated in the previous sections, the threats facing *Y. brevifolia* are severe and immediate. While extirpation is likely decades away, the species is already suffering the impacts of climate change, with recruitment failure and adult mortality at the hotter, lower elevation edges of its range (Barrows and Murphy-Mariscal 2012; Harrower and Gilbert 2018; Sweet et al. 2019). Moreover, the impacts of invasive grass fueled fire are already being felt, with approximately half of identified refugia areas in JTNP under moderate warming scenarios having burned in recent decades (Sweet et al. 2019). And perhaps most importantly, the impacts from current GHG emissions will continue to be felt for decades to come, with little time remaining to reduce such emissions before warming sufficient to drive *Y. brevifolia* to functional extinction becomes unavoidable. Consequently, while *Y. brevifolia* may not currently be “in serious danger of becoming extinct throughout all, or a significant portion, of its range,” it is certainly likely to become so “in the foreseeable future.” Cal. Fish & Game Code §§ 2062 & 2067.

7 Inadequacy of Existing Regulatory Mechanisms

No existing regulatory mechanism are currently in place at the international, national, state or local level that adequately address the threats facing *Y. brevifolia*.

7.1 Regulatory Mechanisms for Greenhouse Emissions Reductions

Given climate change is the greatest threat to the continued existence of the Joshua tree, ultimately the species cannot be saved absent global action to reduce such emissions. Unfortunately, such action is severely lacking in scale, speed and efficacy at all levels of government, both domestically and internationally.

The United States has contributed more to climate change than any other country. The U.S. is the world’s biggest cumulative emitter of greenhouse gas pollution, responsible for 25 percent of cumulative global CO₂ emissions since 1850, and is currently the world’s second highest emitter on an annual and per capita basis (Le Quéré et al. 2018). However, U.S. climate policy is wholly inadequate to meet the international Paris Agreement targets to avoid the worst dangers of climate change.

As summarized by the Fourth National Climate Assessment, efforts to mitigate greenhouse gas emissions do not approach the scale needed to avoid “substantial damages to the U.S. economy, environment, and human health and well-being over the coming decades”:

Climate-related risks will continue to grow without additional action. Decisions made today determine risk exposure for current and future generations and will either broaden or limit options to reduce the negative consequences of climate

change. While Americans are responding in ways that can bolster resilience and improve livelihoods, neither global efforts to mitigate the causes of climate change nor regional efforts to adapt to the impacts currently approach the scales needed to avoid substantial damages to the U.S. economy, environment, and human health and well-being over the coming decades (USGCRP 2018).

In 2016, the U.S. committed to holding the long-term global average temperature to well below 2°C and “to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels” under the international Paris Agreement. Existing U.S. domestic laws including the Clean Air Act, Energy Policy and Conservation Act and others provide authority to executive branch agencies to require greenhouse gas emissions reductions from virtually all major sources in the U.S., sufficient to meet the Paris Agreement temperature commitment.

However, the Trump administration has focused on pushing through harmful rollbacks of federal climate policy, and federal agencies are either failing to implement or only partially implementing domestic law and policy mandating greenhouse gas reductions. Trump administration rollbacks of federal climate policy include rescinding the Climate Action Plan, repealing and replacing the Clean Power Plan, a plan to dramatically expand offshore oil drilling in all oceans along U.S. coast, an attempt to rescind the Obama-era withdrawal of offshore drilling in U.S. federal waters in most of the Arctic and parts of the Atlantic, lifting of the moratorium on new federal coal leases, weakening emissions standards for cars and light duty trucks, delaying the implementation of methane emissions standards for new and modified oil and gas facilities, and the intended withdrawal from the Paris Agreement.

As a result, current U.S. climate policy has been ranked as “critically insufficient” by an international team of climate policy experts and climate scientists who concluded in September 2019:

The Trump Administration has continued with its campaign to systematically walk back US federal climate policy. If it successfully implements all the proposed actions, greenhouse gas emissions projections for the year 2030 could increase by up to 400 MtCO₂e over what was projected when President Trump first took office. That’s almost as much as the entire state of California emitted in 2016 (CAT 2019).

To meet the carbon budget for keeping temperature rise below 1.5°C, most U.S. and global fossil fuels must remain undeveloped and fossil fuel production must be phased out globally within the next several decades (Rogelj et al. 2015). However, the U.S. is now the world’s largest oil and gas producer and third-largest coal producer (OCI 2019) due to U.S. policies that aggressively promote ever greater fossil fuel production. For example, in 2005, Congress exempted fracking from the Safe Drinking Water Act in legislation known as the “Halliburton Loophole.” Thereafter, fracking spread rapidly and facilitated a dramatic increase in U.S. natural gas and crude oil production (USEIA 2016). After Congress lifted the 40-year old crude oil export ban in December 2015, crude oil exports have skyrocketed and now hover at nearly three million barrels per day—about a quarter of all U.S. production (DiChristopher 2019). U.S. subsidies are also spurring fossil fuel production. A recent study assessing the impact of major federal and state subsidies on oil production found that these subsidies push nearly half of new

oil investments into profitability, potentially increasing U.S. oil production by 17 billion barrels over the next few decades (Erikson et al. 2017). In short, U.S. policy is incentivizing rather than reducing fossil fuel production.

And while U.S. policy and emissions are going in the wrong direction under the Trump administration, the rest of the world is doing little better. As summarized by CAT (2019), current policies, if actually implemented by all nations, will still result in over 3°C of warming, and even if all pledges and targets make pursuant to the Paris Agreement were met, warming would still be on the order of 2.6 to 2.9°C (Figure 20). This level is far above the 1.5°C threshold the world needs to stay below to avoid the worst impacts of climate change.

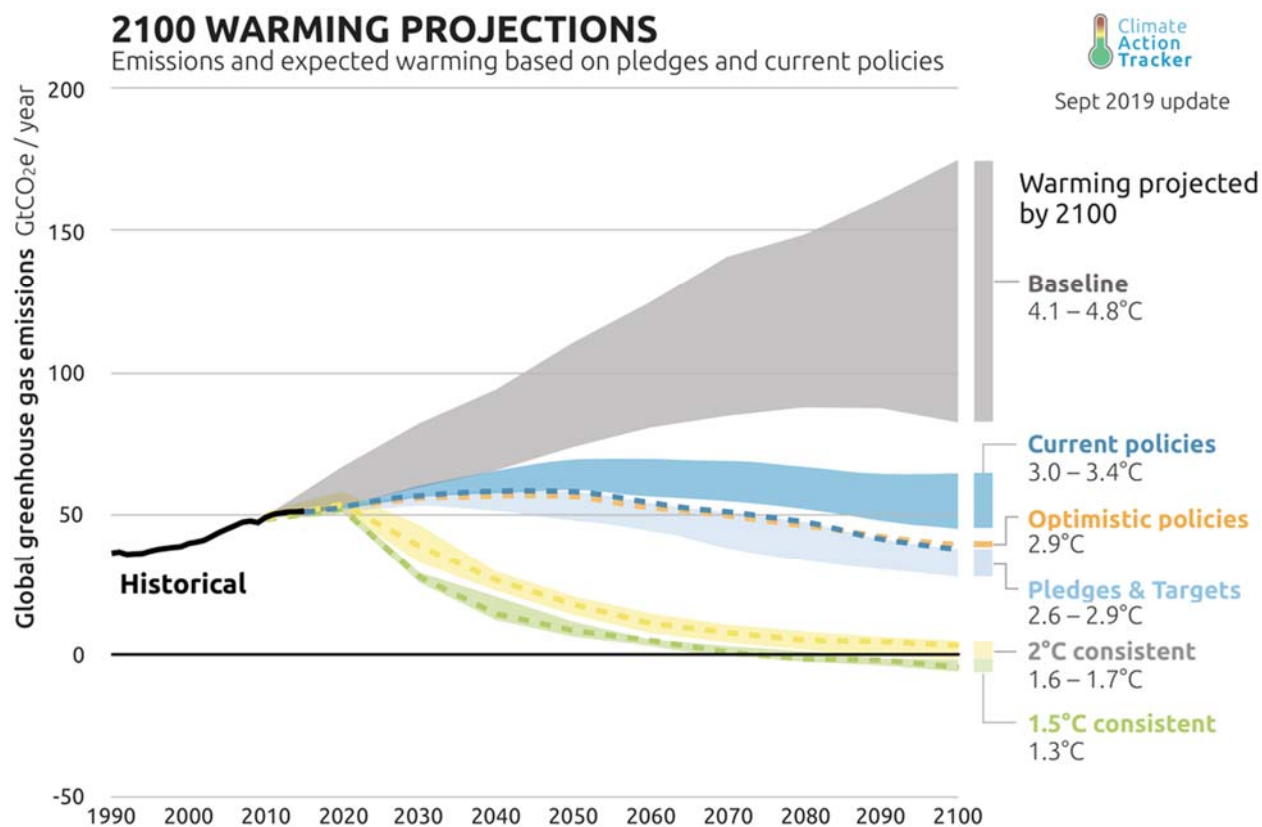


Figure 20: Graph showing mismatch between current emissions trajectories, international climate targets, and national policies and commitments. Source: CAT (2019).

In sum, both domestically and globally, government policies and commitments, not to mention actual actions, to avoid the worst impacts of climate change are woefully inadequate. These trends will lead to temperatures in the range of *Y. brevifolia* that are incompatible with reproduction and ultimately, survival of the species.

7.2 Mechanisms to protect habitat from fire, development and other threats

While the lack of effective regulatory mechanisms to address greenhouse pollution is largely determinative as to the question of whether *Y. brevifolia* qualifies for CESA protection,

mechanisms to protect the species from other threats are also insufficient.

7.2.1 Invasive species and fire

To date no legal, regulatory or management efforts have demonstrative effectiveness at addressing the severe threat that invasive species and consequent altered fire regimes pose to Joshua trees. While the National Park Service (NPS) has updated its fire management plans to address the increased threat of fire to the species, large fires continue to be a significant threat in JTNP (Sweet et al. 2019). Other areas in the species' range lack species-specific fire management plans. And while immediate suppression of fires in *Y. brevifolia* habitat can limit the spread of fires, protection of the species from fire ultimately requires invasive species management to reduce the fuel load. Given invasive species spread and abundance is linked to both disturbance (e.g. roads, ORVs, cows, urbanization) (Brooks and Berry 2006) and nitrogen deposition (Allen et al. 2009; Allen et al. 2011), each of these contributing factors will need to be addressed.

Disturbance is somewhat limited in the portions of the range of *Y. brevifolia* within national parks, but these areas harbor only approximately 10% of the species' current suitable range in California. The vast majority of the species' range in the state is on BLM, military and private lands that are not managed primarily for species protection and include activities such as ORV use, cattle grazing, military training, urban sprawl and activities that foster the spread of invasive species and/or the ignition of fires (USFWS 2018).

Notably, BLM recently (10/3/19) approved a Record of Decision for a vehicle route network in the West Mojave Planning Area, which encompasses the entire range of YUBR South and a portion of YUBR North. About a quarter of mapped Joshua tree habitat in YUBR South is on BLM land, while over half of YUBR North habitat is on BLM land. BLM approved an expansive ORV route network of 6000 miles of open vehicle routes in the plan area, ensuring that any public lands outside of wilderness will be highly fragmented, directly degrading habitat, exacerbating the spread of invasive species and increasing the number of human-caused ignitions (BLM 2019).

Nitrogen deposition impacts both disturbed and relatively undisturbed areas, with JTNP being one of the areas in the range of *Y. brevifolia* worst impacted by nitrogen deposition (Allen et al. 2011; Figure 10). As summarized by, Pardo et al. (2011), the threat is dire: "In Joshua Tree National Park in southern California, N deposition favors the production of sufficient invasive grass biomass to sustain fires that threaten the survival of the namesake species."

It is unlikely that nitrogen deposition will be adequately reduced throughout the range of *Y. brevifolia* for at least several decades, if ever. In the western areas of JTNP, nitrogen deposition is largely derived from nitric oxides (HNO_3) coming from automobile and powerplant pollution blown in from the greater Los Angeles area (Allen et al. 2009). In the eastern part of the park, deposition is largely from ammonia (NH_3) from local agricultural sources in the Coachella and Imperial Valleys (Allen et al. 2009). High rate of nitrogen deposition in the far western Mojave likely originate from a mix of smokestack and tailpipe pollution and agricultural sources in the San Joaquin Valley (Bytnerowicz et al. 2016). Even if California successfully decarbonizes its

vehicle fleet and power generation in the coming decades, nitrogen deposition from large-scale agriculture will likely continue to impact large areas of *Y. brevifolia* habitat for the foreseeable future.

Moreover, even if disturbance and nitrogen deposition are reduced and the further spread of invasive species can be curtailed, no fully-effective treatments currently exist to reduce or eliminate at a landscape scale the most pernicious invasive species (e.g. *Bromus* spp., *Schismus* spp., *Erodium cicutarium*), *Brassica tournefortii*) that have already become established in significant portions of the range of *Y. brevifolia* (Brooks et al. 2018).

7.2.2 Habitat loss and degradation

As discussed above, *Yucca brevifolia* stands to lose upwards of a third of its suitable habitat in California to development over the coming decades, including over 40% of its habitat in the YUBR South region. No existing state or federal regulatory mechanisms are currently operative in a manner that will meaningfully reduce this threat.

State and local mechanisms

A relatively small portion of the range of *Yucca brevifolia* occurs within California State Parks, including Red Rock Canyon State Park and Eastern Kern County Onyx Ranch State Vehicular Recreation Area in Kern County and Saddleback Butte State Park, Arthur B. Ripley Desert Woodland State Park, and Antelope Valley California Poppy Reserve in Los Angeles County. Collectively these make up less than 1% of the species range in the state (USFWS 2018). While these areas are protected from urban development and are generally to be managed for the protection of park resources, they alone are unlikely to prevent the decline and eventual extirpation of Joshua trees from the region. Saddleback Butte and Arthur B. Ripley Desert Woodland State Parks are small and isolated islands of protected habitat, comprised of approximately 3000 and 500 acres respectively. Antelope Valley California Poppy Reserve is approximately 1800 acres but contains only a few isolated clusters of Joshua trees. Red Rock Canyon State Park at approximately 27,000 acres is much more substantial in size, but is faced with many management challenges similar to adjacent BLM lands, particularly a proposed increase in ORV use in the Park. Similarly, the newly-created Eastern Kern County Onyx Ranch State Vehicular Recreation Area contains some Joshua tree woodland but is managed primarily for ORV use.²⁵ In any event, even if all other threats to *Y. brevifolia* in these parks were effectively managed, climate change and fire still threatened to extirpate the species from these parks over the coming decades.

The California Desert Native Plants Act, Cal. Food & Agricultural Code §§ 80001 – 80201, was passed “to protect California desert native plants from unlawful harvesting on both public and privately owned lands.” *Id.* at § 80002. Joshua trees are explicitly regulated under this provision. *Id.* at § 80073(a)(“yuccas”) & 80101(b)(1) (setting price for *Y. brevifolia* permits). The Act generally prohibits harvest of desert plants absent permits issued by the relevant county agricultural commissioner or sheriff. *Id.* at § 80073. Land clearing for agriculture and various

²⁵ Information on each of these parks is available at <https://www.parks.ca.gov/>.

other forms of development activities are generally exempted so long as the plants are not offered for sale and proper notice is given. *Id.* at § 80111. The statute also includes provisions designed to assure the survival and transplant of desert plants that are harvested pursuant to permits. *Id.* at § 80116. The Department of Fish and Wildlife is tasked with enforcing the statute. Cal. Fish & Game Code § 1925 (“The Department shall enforce the provisions of the California Desert Native Plants Act”).²⁶

Commercial collection was once seen as perhaps the greatest threat to the Joshua tree and other desert plants. As described in an early account about the threats commercial harvesters presented to the species in southern California, “As soon as they began to realize their beauty and unique character there began a wholesale foray into the desert to dig them up...At the present rate of destruction the cactus of the desert and the Joshua trees will be gone within two years” (Carr 1930). Various state and local laws and ordinances were ultimately passed to address this threat, including the California Desert Native Plants Act. While these measures have been largely effective at reducing the commercial harvest of Joshua trees, they have done little to slow the loss of habitat from agricultural conversion and development in the range of the species.

Among the local jurisdictions in the range of *Y. brevifolia* that currently have plant protection ordinances or other measures that nominally protect Joshua trees are Hesperia, Palmdale, Victorville, Yucca Valley, and Los Angeles and San Bernardino counties. While all of these provisions require consideration of Joshua tree retention in development plans, most exempt single-family homes and none act as an actual bar to tree removal, instead usually requiring transplantation, donation or making available for adoption trees removed from construction sites. *See, e.g.* Palmdale Municipal Code §§ 14.04.010 *et seq.* (requiring preservation of two Joshua trees per acre but allowing this metric to be met by donating removed trees to an offsite City-administered tree bank); Yucca Valley Ordinance 140 (allowing removal of Joshua trees for transplant if they interfere with “approved improvements or other ground disturbing activities” and “best efforts” are made to avoid the need to remove them).

The California Fish and Game Commission noted the inadequacy of these approaches when it adopted its California Policy for Native Plants in 2015:

The State’s policies and practices regarding native plants are in need of review and updating. More than 30 years ago state law focused on transplantation as a means of mitigating for listed plant species, however experience and numerous studies document that such practices are largely ineffectual over time and often damaging to species or population survival.²⁷

In sum, the California Desert Native Plants Act and similar local ordinances are, as recognized by the Commission, “largely ineffectual” at protecting imperiled plant species from habitat loss. These provisions may result in the near-term preservation of individual adult Joshua

²⁶ A similar statute, the Native Plant Protection Act provides comparable protections for “endangered or rare” native plants. Cal. Fish & Game Code §§ 1900-1913. The Joshua tree is not among the species regulated by this statute.

²⁷ Available at <https://fgc.ca.gov/About/Policies/Miscellaneous>.

trees in urban and suburban neighborhoods, but these areas are less likely to remain habitat long-term. Successful recruitment in such areas is likely constrained by lack of nurse plants and it remains highly uncertain whether pollinating moths will be able to persist with the resultant low Joshua tree densities (Harrower and Gilbert 2018)(“Having robust, dense, flowering trees is important to support and attract enough moths for successful seed set”). Consequently, these measures are inadequate to prevent extensive loss of Joshua tree habitat in the near-term and for the foreseeable future.

Other state statutes also are inadequate to protect Joshua trees from habitat loss. The California Environmental Quality Act (CEQA) is California’s landmark environmental law and establishes a state policy to prevent the “elimination of fish or wildlife species due to man’s activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities....” Cal. Pub. Res. Code § 21001(c). Towards this end, state and local agencies are required to analyze and disclose the impacts of any discretionary decision or activity. CEQA contains a substantive mandate that agencies should not approve projects as proposed if there are feasible alternatives or mitigation measures which would substantially lessen the significant environmental effects of such projects. Cal. Pub. Res. Code § 21002.

CEQA requires a “mandatory finding of significance” if a project may “substantially reduce the number or restrict the range of an endangered, rare or threatened species.” Cal. Code Regs., tit. 14, § 15065(a)(1). CDFW has interpreted this provision to apply to species of special concern, which are species that are “experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status.”²⁸ CDFW further provides that species of special concern “should be considered during the environmental review process.” *Id.*; Cal. Code Regs., tit. 14, § 15380. Thus, a potentially substantial impact on a species of special concern, threatened species, or endangered species could be construed as “per se” significant under CEQA. *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449. And under CEQA, when an effect is “significant,” the lead agency approving the project must make a finding that changes or alterations have been incorporated into the project to avoid or mitigate its significant impacts, or that such changes are within the responsibility of another agency, or that mitigation is infeasible. Cal. Pub. Res. Code § 21081(a). These provisions therefore provide some protections to species that are listed as species of special concern, threatened, or endangered.

However, Joshua trees are not listed as a species of special concern or as threatened or endangered, such that a project that has the potential to impact the species would not necessarily qualify as a “significant effect” under a lead agency’s interpretation of CEQA. In such case, CEQA’s substantive mandate to adopt all feasible alternatives or mitigation measures might not be triggered.

CEQA also requires a “mandatory finding of significance” if a project may “substantially

²⁸ California Department of Fish and Wildlife, *Species of Special Concern*, available at <https://www.wildlife.ca.gov/Conservation/SSC>.

reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community.” Cal. Code Regs., tit. 14, § 15065. Moreover, CEQA’s “Environmental Checklist” in Appendix G of the CEQA Guidelines characterizes a project’s effects as “significant” if the project would “[c]onflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.”

While these provisions might theoretically offer some protection for Joshua trees, in practice they have not provided sufficient protection. Under CEQA, lead agencies have discretion to develop their own thresholds of significance. *East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 300; Cal. Code Regs., tit. 14, § 15064(d). This allows local agencies—who are often under pressure from developers to approve projects—to make significance determinations that are inconsistent with independent scientific analysis, including CDFW’s analysis.

Even when a lead agency acknowledges that an effect is “significant,” CEQA allows a lead agency to adopt a “statement of overriding considerations” and approve a project if the agency finds that other factors outweigh the environmental costs of the project or that further mitigation is infeasible. Cal. Code Regs., tit. 14, § 15093(b); Cal. Pub. Res. Code § 21081. This means that even if a project may have a significant effect on a Joshua tree population, an agency could interpret CEQA as still allowing approval of the project. CEQA in practice is therefore inadequate to protect Joshua trees.

The Natural Community Conservation Planning Act is a voluntary conservation planning mechanism for proposed development projects within a planning area to avoid or minimize impacts to wildlife. Cal. Fish & Game Code §§ 2800-2835. The Act is designed to promote coordination among agencies and landowners to conserve unfragmented habitat areas and multihabitat management. Cal. Fish & Game Code § 2801(d).²⁹ The Act can also serve as a mechanism to authorize take of CESA listed species. *Id.* at § 2835.

There are no finalized Natural Community Conservation Plans (NCCPs) that cover the Joshua tree. One approved NCCP, the Coachella Valley MSHCP approaches the southern edge of the range of *Y. brevifolia* but does not include the species as a covered species. An NCCP that does overlap the range of the Joshua tree is the proposed Town of Apple Valley MSHCP.³⁰ This NCCP has been under development for several years with a planning agreement signed in 2017. However, *Y. brevifolia* is not on the proposed list of covered species for the NCCP. Previously, both the West Mojave Plan and the DRECP were intended to be joint plans covering both federal BLM lands and private lands subject to development, but each was ultimately implemented as a federal-only plan, neither of which treat the Joshua tree as a covered species. These plans are further discussed below. In sum, NCCPs may in the future provide some conservation benefit for Joshua trees, but have not done so to date and consequently cannot be considered as providing adequate protection in lieu of CESA listing.

²⁹ The NCCP Act is described on CDFW’s website at <https://www.wildlife.ca.gov/conservation/planning/NCCP>.

³⁰ Documents available at <https://www.wildlife.ca.gov/Conservation/Planning/NCCP/Plans/Apple-Valley-MSHCP>

Federal mechanisms

The primary federal regulatory mechanism with the potential to protect Joshua trees are management laws and plans governing federal lands. Almost all of the suitable habitat in YUBR north and half within YUBR South is on federal land. Consequently, management of these lands has an important role to play in determining the continued viability of Joshua trees in the state. As discussed above, approximately 10% of *Y. brevifolia* habitat is on NPS lands that are generally well-managed and should prevent significant habitat loss or degradation from activities such as ORV use, cattle grazing, road building or other forms of development. However, even within Death Valley National Park, the 86,400-acre Hunter Mountain Allotment is still active and overlaps with the range of *Y. brevifolia* in the park (NPS 2012). Nevertheless, these lands represent the best opportunities for active management measures to reduce the risk of fire and otherwise attempt to maintain *Y. brevifolia* on the landscape in the face of projected warming.

About 12 percent of the mapped distribution of the YUBR South population falls within military installations and a roughly comparable amount of the YUBR North population falls within such lands (USFWS 2018). The four bases in California with Joshua tree habitat - Edwards Air Force Base, Fort Irwin National Training Center, China Lake Naval Weapons Station and Twentynine Palms Marine Corps Air Ground Combat Center - have each developed Integrated Natural Resource Management Plans (INRMPs) pursuant to the Sikes Act, 6 U.S.C. §§ 670a-670o, that incorporate some avoidance and minimization measures that could reduce impacts to Joshua trees. These measures are summarized in USFWS (2018) and largely consist of avoidance where feasible and transplantation when conflicts are unavoidable. These measures largely mirror those required for private lands under state and local ordinances, which as discussed *supra*, are in the Commissions own words, “largely ineffectual.”

The majority of Joshua tree habitat on federal lands is on BLM lands. These areas are governed by the agency’s California Desert Conservation Area (CDCA) Plan as amended. The Northern and Eastern Mojave Plan (NEMO) area overlaps with most of the California range of the YUBR North populations and the West Mojave Plan (WEMO) area covers all of YUBR South and the southwestern portion on YUBR North. The 2016 Desert Renewable Energy Conservation Plan (DRECP) amendments cover the entirety of the species’ range in California. None of these plans provide adequate protection for *Y. brevifolia*. area

BLM’s NEMO plan does virtually nothing to specifically protect Joshua trees. The species is not mentioned in the Record of Decision (ROD) at all, and the only specific protection afforded to it is a prohibition on collecting downed trees for firewood (BLM 2002). Notably, Joshua tree protection is explicitly excluded from the plan’s measure to limit surface disturbance below certain thresholds:

It should be noted that some important plants, such as Joshua trees, which are important as an overstory plant but are not dominant, would not be a part of the evaluation trigger. Reestablishment of such plants could, of course, be a restoration requirement for a particular project, but they would not be used to trigger an evaluation for the purposes of reducing the cumulative disturbance total (BLM 2002).

In short, the NEMO plan was not designed with the intent of protecting Joshua trees, and the BLM apparently did not wish to have protection of the species act a barrier to any potential land-disturbing activities.

The WEMO plan is little better. As with NEMO, its ROD does not mention Joshua trees at all. The FEIS for the plan amendment was developed when the project was to also be a habitat conservation plan (HCP) covering private development in the plan area. In this context it discusses existing and proposed preservation of Joshua tree woodlands in the Antelope Valley by state and local entities, but the only specific conservation measure for Joshua trees that BLM itself takes is to prohibit harvesting of Joshua trees in designated conservation areas (BLM 2006). Given state law already prevents such harvest, this conservation measure is illusory. BLM approved the WEMO plan as a federal only plan with no HCP component. Under this alternative, BLM estimated that 54.1% of Joshua tree woodland habitat could be lost (BLM 2006).³¹

BLM recently completed an amendment to the WEMO plan dealing with vehicle routes (BLM 2019). Under this plan amendment, the route network is expanded to approximately 6000 miles of roads and trails open to ORVs. The ROD does not mention Joshua trees, the FSEIS does not meaningfully address impacts to Joshua trees, and the plan amendments do not add any specific measures to protect the species. Mentions of Joshua trees are cursory in the FSEIS, with for example, in a chart of subregions of the plan area, for one area BLM states that it “has an extensive Joshua Tree forest,” and immediately thereafter notes that “Gently terrain and good soils make ideal provide ideal OHV touring opportunities” [typos in original].³² In the ROD, BLM also reaffirms cattle grazing on all active allotments (BLM 2019). As discussed *supra*, invasive species and consequently fuel loads, and well as human-caused ignitions increase in areas subject to disturbance such as cattle grazing and ORV use (e.g. Brooks and Berry 2006). The recent plan amendment will both directly degrade Joshua tree habitat via increased vehicle use, while also indirectly exacerbating the conditions that lead to more frequent and more intense fires.

The more recent DRECP started as both a BLM plan and a state NCCP. Consequently, the environmental documents associated with it address the conservation of Joshua trees more directly than the overlapping BLM plans. However, the DRECP was ultimately adopted as a BLM-only plan, rendering much of the proposed broader conservation uncertain. Among the Joshua tree measures BLM adopted are an objective listed as “Conserve unique landscape features, important landforms, and rare or unique vegetation types identified within the BLM Decision Area, including...Areas of dense Joshua Tree woodland.” To meet this objective, the DRECP requires that for new actions, Joshua tree impacts are to be assessed in planning

³¹ As discussed in the Distribution section *supra*, “Joshua tree woodland” represents only a portion of the habitat types where the species occurs. However, it is the densest and highest quality habitat for the species.

³² The only other “analysis” of impacts to Joshua trees in the FSEIS, is an assertion repeated verbatim multiple time in the document that attempts to minimize harm from vehicles: “In remote or mountainous areas, most travel is confined to roads, so that the woodland communities (Joshua tree woodland, scrub oak, pinyon pine woodland, juniper woodland) suffer relatively fewer direct vehicle impacts” (BLM 2019).

decisions and “impacts to Joshua tree woodlands will be avoided to the maximum extent practicable, except for minor incursions” (BLM 2016).³³ In addition to the specific measures for Joshua trees, their habitat would likely gain better protection from various land designations made under the DRECP. However, the benefits for the species derived from the DRECP amendments to the CDCA Plan are in doubt, as the BLM announced that it was planning to revisit the conservation measures of the plan. See Notice of Intent to Amend the California Desert Conservation Area, Bakersfield, and Bishop Resource Management Plans and Prepare Associated Environmental Impact Statements or Environmental Assessments, 83 Fed. Reg. 4921 (February 2, 2018). That amendment process is currently ongoing.

In sum, outside of national parks and areas of congressionally designated wilderness, federal land management plans in the range of *Y. brevifolia*, if they address the species at all, at best provide for avoidance of harm to the extent “practicable” or “feasible.” Such protection is inadequate in the face of the difficulties the species will face in a rapidly changing climate.

8 USFWS’s Flawed Endangered Species Act Determination.

The strongest federal regulatory mechanism that could protect *Y. brevifolia* is the federal Endangered Species Act (ESA). However, on August 15, 2019 the USFWS found that listing Joshua trees (*Y. brevifolia* and *Y. jaegeriana*) throughout their multistate range was not warranted. Endangered and Threatened Wildlife and Plants; 12-Month Findings on Petitions to List Eight Species as Endangered or Threatened Species, 84 Fed. Reg. 41694 (August 15, 2019) (USFWS 2019). The finding was made in response to a 2015 petition by WildEarth Guardians seeking such listing.

While the 2018 species status assessment prepared by USFWS and relied upon by the agency in its decision is informative as to many aspects of Joshua tree taxonomy, natural history, distribution and threats, its conclusions are not at all determinative to the question of whether *Y. brevifolia* warrants listing under CESA. Most importantly, USFWS (2018) assessed whether Joshua Trees in their four-state range were threatened or endangered. And to the degree that the agency considered *Y. brevifolia* separately from *Y. jaegeriana*, it never examined the species’ status in just California, rather than California and Nevada combined. Under CESA, the only question is whether the species is imperiled in California. As both CDFW and the Commission have concluded—and appellate courts have upheld—the term “range” under CESA is construed to refer to the range of a species *within* California, not the worldwide range of the taxa. *California Forestry Assn. v. California Fish & Game Com.* (2007) 156 Cal.App.4th 1535, 1550-551.

Additionally, several of the analyses and conclusions contained in USFWS (2018) are flawed and served to downplay the threats and overstate the likely resilience of the species. For example, the agency used an upper “appropriate temperature range” for the species of 59°C (138°F). The same metric was used for all age classes, from seedlings to adults. This threshold

³³ DRECP documents are available at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=95675>

was based on a laboratory studies by Smith et al. (1983) in which detached leaves were placed in hot water for an hour and then examined for heat damage. The temperature at which a severed leaf demonstrates cell damage in a lab is a far different metric than the ambient temperature in which a Joshua tree can survive and successfully reproduce in the wild.³⁴ The temperature used by USFWS (2018) is higher than the hottest temperature (56.7°C; 134.1°F) ever measured on Earth. Notably, the highest lab air temperature that Smith et al. (1983) actually successfully reared Joshua trees was 45°C (113°F).³⁵

USFWS (2018) also downplays the risks of fire to *Y. brevifolia*. Using modeling to estimate invasive grass cover and link high coverage ratios (15-45%) as a proxy for increased fire frequency and severity, the agency estimated that approximately 1.4 percent of the YUBR South and 8.8 percent of the YUBR North current mapped distribution would be at risk in the next several decades. In contrast, Sweet et al. (2019) documented that half of the area of Joshua tree habitat in JTNP identified as refugia for the species under an RCP 4.5 pathway had already burned in recent decades. The total recent burn area in the park represents well over 10% of the current range of the species in the park and such fires are likely to increase within JTNP and throughout the range of the species.

Another severe limitation of USFWS (2018) is the complete discounting of species distribution modeling, which currently represents the best available science on the future status of the western Joshua tree. The agency admits that it did not carry out any such modeling, claiming that having quantitative information is somehow at odds with its goals in carrying out a status assessment.

We did not model future distribution based on predicted climate change scenarios. Instead, we used future scenarios to perform a qualitative evaluation of the impact of climate change on the current distribution. ... Our goal was to present information related to future climate outcomes, not to evaluate quantitative assessments of climate change on future Joshua tree distribution, therefore we did not construct ecological niche models (e. g., species distribution models) (USFWS 2018).

What USFWS claims it did in lieu of deploying ecological niche modeling was scenario planning, citing to Star et al. (2016) for its rationale.

Rather than focusing only on the most likely predictions, scenario planning identifies a range of possible future states. Scenarios are not predictions, and probabilities are not assigned to specific outcomes. By recognizing the limits of projections and acknowledging deep uncertainty, decision makers are not restricted to preparing for

³⁴ By way of comparison, according to industrial safety standards, a human can safely touch items as hot as 140°F without burning their hand, but prolonged exposure to air temperature of 140°F would lead to heat stress and ultimately be fatal.

³⁵ Among the various temperature ranges listed for the species in the wild, the highest is reported by Lenz (2001) as 51°C (124°F), which presumably corresponds to a one-time daily maximum temperature recorded somewhere in the species' range; this temperature is well above the average summer maximum of the hottest place in the United States, Furnace Creek in Death Valley (July average of 47°C (116°F)).

only one outcome, and can still act in the face of climate change while retaining flexibility.

USFWS (2018) also cites two older studies in an attempt to undermine the utility of such studies as well as the feasibility of doing them with regard to Joshua trees.³⁶

Furthermore, ecological niche models are often criticized for inaccurate projections of future occurrence (Fitzpatrick and Hargrove 2009, p. 2256). This is especially true for species where current distribution data are not extensive across the species range or information about physiological thresholds is lacking, such as Joshua tree (Pearson and Dawson 2003, p. 362). Given the absence of information about the adaptive capacity of Joshua tree, in combination with gaps in the occurrence data across the species' range, the probability of spurious conclusions seemed high.

The problems with USFWS's approach are many. First, USFWS did not *itself* need to model future distribution of Joshua trees, as this has already been done by multiple researchers, with Cole et al. (2011), Barrows and Murphy-Mariscal (2012) and Sweet et al. (2019) employing the most sophisticated of such efforts. Nowhere in USFWS (2018) is there even an acknowledgement that such modeling efforts have been undertaken and reported in these studies.³⁷

Second, while scenario planning may be useful in recovery planning or otherwise preparing for management responses to climate change, it has little utility in determining whether a species is "likely" to become endangered in the foreseeable future, as required by the ESA and CESA. 16 U.S.C. § 1532(20); Cal. Fish & Game Code § 2067 (ESA and CESA definitions of threatened species). In effect, USFWS (2018) is acknowledging that "[r]ather than focusing only on the most likely predictions" it instead applied a more nebulous framework that allowed it to "retain flexibility" and disregard not just the best available science, but also the plain language of the ESA.

Third, USFWS's reliance upon Pearson and Dawson (2003) and Fitzpatrick and Hargrove (2009) for its critique of ecological niche models is misplaced. The concerns raised by Pearson and Dawson (2003) and Fitzpatrick and Hargrove (2009) about the limitations of certain niche modeling efforts may be valid, but Cole et al. (2011), Barrows and Murphy-Mariscal (2012) and Sweet et al. (2019) all employed the measures raised by these earlier authors to improve the accuracy of their modeling, including, most importantly, validating their models against the current distribution of the species. Pearson and Dawson (2003) also note that information on dispersal abilities should also be included in modeling where possible, a factor clearly addressed in Cole et al. (2011).

³⁶Neither of these studies, nor Star et al. (2016), appear in the references section of USFWS (2018), indicating that they may have been added at the last-minute in an attempt to justify a legally and scientifically dubious conclusion.

³⁷Elsewhere in the document, USFWS (2018) cites to Cole et al. (2011) and Barrows and Murphy-Mariscal (2012) for other aspects of Joshua tree natural history or range. Sweet et al. (2019) had not been published at the time of USFWS (2018) but was released prior to the actual listing decision being published and should have factored into the final decision.

Additionally, the primary concern of Fitzpatrick and Hargrove (2009) is that climate change and future conditions will create novel environments with new species interactions, including many invasive species. This makes predictions about future species distribution less reliable, unless they account for such factors. But these concerns are addressed by Cole et al. (2011), Barrows and Murphy-Mariscal (2012) and Sweet et al. (2019) who examined the current and past status of *Y. brevifolia* across environmental gradients (elevation and latitude) and used increasingly finer-scale species distribution and climate data to refine their model outputs. Moreover, unlike USFWS who discarded such modeling entirely, Pearson and Dawson (2003) explicitly acknowledged the utility of such models: “In many cases, bioclimate envelope models provide perhaps the best available guide for policy making at the current time.” In the decade and half since this statement was published, such models have improved greatly and are even more useful for informing policy decisions.

Finally, USFWS’s failure to rely upon the published species distribution models was strongly criticized by one of the peer-reviewers of the status assessment.

[T]he assessment has not completed, and does not incorporate, a species distribution model, and thus draws invalid conclusions about future distributions under various climate change scenarios. Unfortunately, the problems are significant enough that the assessment’s conclusions are not scientifically sound, and should not be used for making a decision regarding whether to list Joshua trees under the ESA (Smith 2018).

Smith (2018) noted that species distribution models are the “accepted standard” for assessing future distribution of a species, described the finding of the various modeling efforts to date, compared these to the conclusions of the status assessment, and concluded that “[g]iven that the USFW assessment has not followed the conventional standards in the field for predicting future distributions, and makes predictions that are starkly different than those drawn by other workers making comparable model assumptions, I consider the assessment’s conclusions to be highly dubious.” Smith (2018) concluded with the recommendation that “[f]irst and foremost, the assessment simply MUST include a formal species distribution model.” (emphasis in original).

Smith (2018) also pointed out that the estimation of “suitable habitat” for Joshua trees was overstated in the status assessment.

[T]he way that ‘suitable habitat’ has been defined ignores important recent work on demographic trends in Joshua trees, with the result that the potential distribution of Joshua tree under current climate conditions is vastly overestimated.

Specifically, Smith (2018) pointed out USFWS (2018) had not taken into account climate change that has already occurred when it delineated such habitat.

In identifying the climate requirements for Joshua tree, the assessment uses the current distribution to determine suitable habitat.... There are two significant, interrelated problems with these assumptions. First, the current distribution of Joshua

tree includes individuals who are hundreds of years old, and that became established during pre-industrial climate conditions when global average temperatures were a full degree cooler than they are today, and about 0.75 degrees cooler than the 30-year average. Indeed, it is well established that long-lived trees can persist as relict stands of moribund adults that exist outside the range of suitable habitats required for long term population persistence.

In the case of Joshua trees in particular, we have very compelling evidence that the current distribution of mature trees does not reflect the climate requirements for successful germination and seedling establishment. For example, extensive mapping studies in Joshua Tree National Park found that seedlings occur only in a fraction of the area occupied by adults, and that this area corresponds to the predicted distribution under a 2-degree warming scenario (Barrows and Murphy-Mariscal, 2012). That is, the suitable habitat for seedlings is much smaller, includes a narrower range of climates, than would be predicted based on adult presence data. Although the Barrows and Murphy-Mariscal study considered only a small portion of the geographic range of Joshua trees, other workers have found similar patterns across the Joshua trees range.

Smith (2018) concluded that these errors rendered the conclusions of the assessment unreliable: “I consider the current assessment to not be based on the best available science, and its conclusion have no valid scientific basis.” USFWS did not address either of the primary problems identified by Smith (2018) when it finalized the status assessment.

In sum, USFWS’s determination to not protect Joshua trees under the ESA should not, and legally cannot, be a basis to fail to protect *Y. brevifolia* under CESA.

9 The Western Joshua Tree Warrants Listing under CESA.

As detailed above, in conformance with the requirements of Cal. Code Regs., tit. 14, § 670.1, this petition presents scientific information regarding the western Joshua tree’s life history, population trend, range, distribution, abundance, kind of habitat necessary for survival, factors affecting the ability to survive and reproduce, degree and immediacy of threat, impact of existing management efforts, suggestions for future management, availability of sources and information, and detailed distribution maps.³⁸

That information clearly demonstrates that the western Joshua tree (*Yucca brevifolia*) is eligible for and warrants listing under CESA based on the factors specified in the statute and implementing regulations. While *Y. brevifolia* is not at imminent risk of extinction, it still faces significant and growing threats, primarily from climate change, that ultimately threaten the viability of the species in all or a significant portion of its range in California in the foreseeable future; it consequently meets the definition of a “threatened species.”

³⁸ Information on suggestions for future management and availability of sources and information are contained in the Management Recommendations and References sections *infra*.

Under CESA, a “threatened species” is “a native species or subspecies of a ... plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts” Cal. Fish & Game Code § 2067. A plant is an “endangered species” when it is “in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease.” Cal. Fish & Game § 2062.

Moreover, CDFW has concluded—and appellate courts have upheld—that when determining whether a species is threatened or endangered under CESA, the term “range” is construed to refer to the range of a species or subspecies *within* California, not the worldwide range of the species or subspecies. *California Forestry Assn. v. California Fish & Game Com.* (2007) 156 Cal.App.4th 1535, 1550-551. This means that regardless of how *Y. brevifolia* may fair in Nevada, the Commission and CDFW can only consider the status and fate of the species in California.

Additionally, in determining the foreseeable future in the context of climate change, CDFW has treated the rest of the century as foreseeable.

In considering what the ‘foreseeable’ future is for climate change effects, the Department relied on climate change projections to the end of the 21st century, as described by the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC 2007). The IPCC models and projections have been thoroughly vetted and validated in the series of Assessment Reports produced over the past 12 years. The Department considers the climate change projections to be the best available information on global climate change (Bonham 2013).

As discussed in the climate sections above, absent rapid and substantial reductions in greenhouse gas emissions, the best available science demonstrates that by the end of this century *Y. brevifolia* will be extirpated from, at a minimum, a significant portion of its range in California. Any places it remains will be in small, isolated refugia. These areas, if any, will likely be populated with low numbers of non-reproductive adult trees, themselves threatened by fire. At such point, if not already extirpated from the state, the species will certainly be “in serious danger of becoming extinct throughout all, or a significant portion, of its range” in California and be an “endangered species.” Consequently, it is a “threatened species” today.

In the event the Commission determines that full-species taxonomy for the western Joshua tree is not sufficiently established, petitioners request listing of the taxa as a subspecies/variety *Yucca brevifolia brevifolia*. Additionally, while petitioners believe that the western Joshua tree warrants protection under CESA throughout its range in California, if the Commission determines that it does not warrant range-wide listing, the Commission must assess whether either of the two population clusters of the species, YUBR North and YUBR South separately warrant listing as ecologically significant units (ESUs).

The Commission and CDFW have long recognized that ESUs can be designated and listed under CESA, and this interpretation of CESA has been upheld by the courts. *See California*

Forestry Assn. v. California Fish & Game Com. (2007) 156 Cal.App.4th 1535, 1540 (“Consistent with the policy of the CESA, we will hold that the term ‘species or subspecies’ includes evolutionarily significant units”); *Central Coast Forest Assn. v. Fish & Game Com.* (2018) 18 Cal.App.5th 1191, 1197, fn. 4 [“CCFA II”] (“An ESU is included within the term ‘species or subspecies’ in sections 2062 and 2067.”). While the ESU concept has primarily been applied to fish, the Commission recently listed an ESU of a mammal, the Pacific Fisher, as a “threatened species.” See 14 C.C.R. 670.5(b)(6)(J) (“Fisher (*Pekania pennant*) Southern Sierra Nevada Evolutionarily Significant Unit”). Moreover, unlike the federal ESA, where listing of distinct populations segments (DPSs), of which ESUs are subcategory, is restricted to vertebrate species (16 U.S.C. § 1532(16) (definition of “species”)), the ESU concept under CESA has no such limitation and applies to all listable taxa, including plants.

The populations currently delineated as YUBR North and YUBR South have been recognized for over 40 years and recently confirmed by USFWS (2018).

Rowlands (1978, p. 72) subdivided the Joshua tree range into five regions based on differences in geographic distribution, varieties (i.e., species in this SSA), vegetation, and temperature and rainfall amounts. Based on these regions and more current distribution models (Cole *et al.* 2011, pp. 139–140), we delineated two populations of *Yucca brevifolia* [*Y. brevifolia* south (YUBR South) and *Y. brevifolia* north (YUBR North)], and three populations of *Y. jaegeriana* [*Y. jaegeriana* central (YUJA Central), *Y. jaegeriana* north (YUJA North), and *Y. jaegeriana* east (YUJA East)]. We added a sixth population, the Hybrid Zone in Tikaboo Valley, to distinguish the geographic area where both species, and their pollinators, come into contact between YUBR North and YUJA North.

The two *Y. brevifolia* populations are separated by a small gap in their range, with the northern edge of YUBR South reaching the southern parts of China Lake and the southern boundary of YUBR North reaching the northern edge of the base (Figure 8). USFWS (2018) characterizes YUBR North habitats as “somewhat drier and less diverse than YUBR South,” with the lower elevations of YUBR South comprised of mostly creosote bush shrubland, while YUBR North associated vegetation including single-leaf pinyon, juniper, and sagebrush. At its simplest, YUBR South occurs mostly in the creosote dominated Western Mojave while YUBR North occurs in the area where the Northern Mojave transitions to the Great Basin and sagebrush becomes more dominant. This significant difference in habitat between the two population is sufficient to recognize them as ESUs for separate evaluation in the event full species listing is ultimately not deemed warranted by the Commission.

10 Recommended Management and Recovery Actions

For all species imperiled due to the impending loss of their suitable habitat as a result of climate change, the most important recovery actions are those that lead to rapid and steep greenhouse gas emissions reductions so as to minimize the additional warming that will occur in the climate system. However, given inertia in both the climate system and society, significant additional warming is unavoidable even under the most optimistic climate scenarios. Species that are already showing the effects of warming will continue to suffer and decline. For many

narrowly-endemic species with limited dispersal capabilities we will soon reach a point where little else can be done other than ex situ conservation in captivity and/or via assisted migration. It is hard to be optimistic about the fate of such species, as they will likely be lost from the wild even under more moderate warming scenarios.

While the threats facing *Y. brevifolia* in the coming decades are dire, unlike more narrowly-endemic species, the species has the benefit of being long-lived, with a relatively large current distribution spread across elevational and latitudinal gradients, much of which is in protected areas. Consequently, if the species and its habitat are protected early from other threats, and with active management to enhance recruitment and survival, and potentially dispersal, the western Joshua tree has a realistic chance of persisting in the wild. In this context, recommendations for the management and recovery of the western Joshua tree are as follows:

1. The governor declares a climate emergency and takes all necessary action to set California on a path to full decarbonization of our economy by no later than 2045 (e.g. banning the sale of new fossil fuel vehicles by 2030 and requiring the generation of all electricity from carbon-free sources by 2030).
2. CDFW prepares a recovery plan for *Y. brevifolia* pursuant to Cal. Fish & Game Code § 2079.1.
3. CDFW works with local jurisdictions within the range of *Y. brevifolia* to develop NCCPs that protect from development all high-density Joshua tree habitat remaining on private lands.
4. The California Department of Parks and Recreation develops and implements management plans (including fire management plans) focused on Joshua tree protection for state park units within the range of *Y. brevifolia* (Red Rock Canyon State Park and Eastern Kern County Onyx Ranch State Vehicular Recreation Area in Kern County and Saddleback Butte State Park, Arthur B. Ripley Desert Woodland State Park and Antelope Valley California Poppy Reserve in Los Angeles County).
5. The California Department of Parks and Recreation seeks to acquire habitat to expand and connect existing state parks for protection and restoration of Joshua tree habitat.
6. CDFW expands its cooperative work with relevant federal agencies (NPS, DoD, BLM, USFWS) to better protect Joshua trees on federal land.
7. CDFW works with the University of California, California Invasive Plants Council and other institutions and agencies to develop effective measures to control the spread of invasive grasses in *Y. brevifolia* habitat.
8. CDFW works with CAL-FIRE to develop protocols for fire suppression activities within the range of *Y. brevifolia* that maximize protection of the species, while minimizing ground disturbance that may foster the spread of non-native grasses and other invasive species.
9. CDFW works with relevant entities to establish and maintain a seed bank of *Y. brevifolia* collected throughout the range of the species to ensure protection of its genetic diversity.
10. CDFW works with relevant entities to identify potential sites for assisted migration and develop protocols for carrying out such activities.

11 Conclusion

The Joshua tree has long been the most iconic species of the Mojave Desert. Given the well-publicized threats facing the species in the face of climate change, it has recently become an emblem of our society's failure to address the climate crisis. But the Joshua tree is also uniquely situated to become an example of successful action to save a species threatened by climate change. Action taken in and by California to save the species can serve as a model for proactive climate adaptation efforts not just in California but around the world. Listing the species under CESA is not just a symbolically important act of California recognizing the threats the species faces from climate change, but also can serve as the impetus for meaningful management actions that can help ensure the species remains a living icon in perpetuity.

12 References Cited

Copies of references cited in the petition are either linked to websites below or included as files on a disk accompanying a hard copy of the petition sent to the Commission.

Abella, S.R., E.C. Engel, C.L. Lund, J.E. Spencer. 2009) Early post-fire plant establishment on a Mojave Desert burn. *Madroño* 57(3):137-148.

Allen, E B. and L.H. Geiser. 2011. North American deserts. In L.H. Pardo, M.J. Robin-Abbott and C T. Driscoll (Eds.), *Assessment of Nitrogen Deposition Effects and Empirical Critical Loads of Nitrogen for Ecoregions of the United States* (pp. 133-142): General Technical Report NRS-80.

Allen, E.B., L.E. Rao, R.J. Steers, A. Bytnerowicz, and M.E. Fenn. 2009. Impacts of atmospheric nitrogen deposition on vegetation and soils at Joshua Tree National Park. *The Mojave Desert: Ecosystem Processes and Sustainability* (pp. 78–100). Las Vegas, NV: University of Nevada Press.

Althoff, D.M., K.A. Segraves, and J.P. Sparks. 2004. Characterizing the interaction between the bogus yucca moths and yuccas: do bogus yucca moths impact yucca reproductive success? *Oecologia* 140:321–327.

[APG] Angiosperm Phylogeny Group. 2016. An update of the Angiosperm Phylogeny Group classification for the orders and families of flowering plants: APG IV. *Botanical Journal of the Linnean Society*, 181 (1): 1–20.

Barrows, C.W. and M.L. Murphy-Mariscal. 2012. Modeling impacts of climate change on Joshua trees at their southern boundary: How scale impacts predictions. *Biological Conservation* 152:29–36.

Bonham 2013. Report to The Fish and Game Commission Status Review of the American Pika (*Ochotona princeps*) in California.

Borchert, M.I. and L.A. DeFalco. 2016. *Yucca brevifolia* fruit production, predispersal seed predation, and fruit removal by rodents during two years of contrasting reproduction. *American Journal of Botany* 03(5):830–836.

Brittingham, S. and L.R. Walker. 2000. Facilitation of *Yucca brevifolia* recruitment by Mojave Desert shrubs. *Western North American Naturalist* 60(4):374–383.

Brooks, M.L. 2003. Effects of increased soil nitrogen on the dominance of annual plants in the Mojave Desert. *Journal of Applied Ecology* 40:344–353.

Brooks, M.L. and K.H. Berry. 2006. Dominance and environmental correlates of alien annual plants in the Mojave Desert, USA. *Journal of Arid Environments* 67:100–124

Brooks, M.L. and J.R. Matchett. 2006. Spatial and temporal patterns of wildfires in the Mojave Desert, 1980–2004. *Journal of Arid Environments* 67:148–164.

Brooks, M.L., Minnich, R.A., Matchett, J., 2018. Southeastern Deserts Bioregion. In *Fire in California's Ecosystems* 2nd Edition. University of California Press.

[BLM] Bureau of Land Management. 2002. Northern and Eastern Mojave Plan (NEMO). DOI-BLM-CA-D010-2002-0001-RMP-EIS (Northern and Eastern Mojave RMP Amendment).

<https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=73191>

[BLM] Bureau of Land Management. 2006. West Mojave Plan (WEMO). DOI-BLM-CA-D010-2003-0001-RMP-EIS (West Mojave RMP Amendment).

<https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=72544>

[BLM] Bureau of Land Management. 2016. Desert Renewable Energy Conservation Plan (DRECP). DOI-BLM-CA-D010-2014-0001-RMP-EIS (DRECP Amendment).

<https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=95675>

[BLM] Bureau of Land Management. 2019. West Mojave Route Network Project (WMRNP). DOI-BLM-CA-D080-2018-0008-EIS (West Mojave Route Network Project SEIS)

<https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=139661>

Bytnerowicz, A., Fenn, M.E., Allen, E.B., and Cisneros, R. 2016. Ecologically relevant atmospheric chemistry. In *Ecosystems of California*. Chapter 7. Edited by E. Zavaleta and H.A. Mooney. University of California Press, Berkeley, Calif. pp. 107–128.

Carr, H. 1930. *The Lancer*. Desert Magazine, July 1930. Pasadena, CA.

[CAT] Climate Action Tracker, USA. 2019. <http://climateactiontracker.org/countries/usa>. (updated version September 19, 2019).

- Cole, K.L., K. Ironside, J. Eischeid, G. Garfin, P.B. Duffy, and C. Toney. 2011. Past and ongoing shifts in Joshua tree distribution support future modeled range contraction. *Ecological Applications* 21(1):137–149.
- Cole, W.S., A.S. James, and C.I. Smith. 2017. First Recorded Observations of Pollination and Oviposition Behavior in *Tegeticula antithetica* (Lepidoptera: Prodoxidae) Suggest a Functional Basis for Coevolution with Joshua Tree (*Yucca*) Hosts. *Annals of the Entomological Society of America* 110(4):390–397.
- Comanor, P.L. and W.H. Clark. 2000. Preliminary growth rates and a proposed age-form classification for the Joshua tree, *Yucca brevifolia* (Agavaceae). *Haseltonia* 7:37-45.
- Cornett, J.W. 2014. Population dynamics of the Joshua tree (*Yucca brevifolia*): Twenty-three year analysis, Lost Horse Valley, Joshua Tree National Park. In R. E. Reynolds (Ed.), *Not a Drop Left to Drink* (pp. 71-73): California State University Desert Studies Center, 2014 Desert Symposium.
- Cornett, J.W. 2018. Joshua trees are blooming early in the desert. It's not a good thing — you can thank climate change. *DESERT* magazine. Jan. 30, 2019
- DiChristopher, T., *US crude oil exports hit a record last week at 3.6 million barrels a day*, CONSUMER NEWS AND BUSINESS CHANNEL, Feb. 21, 2019, available at: <https://www.cnbc.com/2019/02/21/us-crude-oil-exports-hit-a-record-high-last-week.html>.
- DeFalco, L.A., T.C. Esque, S.J. Scoles-Sciulla, and J. Rodgers. 2010. Desert wildfire and severe drought diminish survivorship of the long-lived Joshua tree (*Yucca brevifolia*; Agavaceae). *American Journal of Botany* 97(2):243–250.
- DeFalco, L.A., G.C.J. Fernandez, and R.S. Nowak. 2007. Variation in the establishment of a non-native annual grass influences competitive interactions with Mojave Desert perennials. *Biological Invasions* 9:293–307.
- Dole, K.P., M.E. Loik, and L.C. Sloan. 2003. The relative importance of climate change and the physiological effects of CO₂ on freezing tolerance for the future distribution of *Yucca brevifolia*. *Global and Planetary Change* 36:137–146.
- Engelmann, G. 1871. *Yucca brevifolia*, p. 496. In C. King, Report No. 5, Geological exploration of the fortieth parallel. Government Printing Office, Washington.
- Esque, T.C., P.A. Medica, D.F. Shrylock, L.A. DeFalco, R.H. Webb, and R.B. Hunter. 2015. Direct and indirect effects of environmental variability on growth and survivorship of pre-reproductive Joshua trees, *Yucca brevifolia* Engelm. (Agavaceae). *American Journal of Botany*. 102(1):85–91.
- Erickson, P., A. Down, M. Lazarus, and D. Koplow. 2017. Effect of subsidies to fossil fuel companies on United States crude oil production. *Nature Energy* 2:891-898.

- Fitzpatrick, M.C. and W.W. Hargrove. 2009. The projection of species distribution models and the problem of non-analog climate. *Biodiversity Conservation* 18:2255–2261
- Frakes, N. 2017. Invasive Plant Management at Joshua Tree National Park. Presentation at California Invasive Plant Council Symposium, October 2017.
- Fremont, J.C. 1845. Report of the Exploring Expedition to the Rocky Mountains in the Year 1842, and to Oregon and North California in the years 1843-44. 28th Congress, 2d Session. Gales and Seaton, Washington, D.C.
- Gilliland, K.D., N.J. Huntly, and J.E. Anderson. 2006. Age and population structure of Joshua trees (*Yucca brevifolia*) in the northwestern Mojave Desert. *Western North American Naturalist* 66:202–208.
- Godsoe, W., E. Strand, C.I. Smith, J.B. Yoder, T.C. Esque, and O. Pellmyr. 2009. Divergence in an obligate mutualism is not explained by divergent climatic factors. *New Phytologist* 183:589–599.
- Godsoe, W., J.B. Yoder, C.I. Smith, and O. Pellmyr. 2008. Coevolution and divergence in the Joshua tree/yucca moth mutualism. *The American Naturalist* 171(6):816–823.
- Griffin, H.E. 1930. Preserving California Desert Scenery. *Desert Magazine*, February 1930. Pasadena, CA.
- Gucker, C.L. 2006. *Yucca brevifolia*. In: Fire Effects Information System, U. S. Dept. of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). Available: <http://www.fs.fed.us/database/feis/>.
- Harrower, J. and G. S. Gilbert. 2018. Context-dependent mutualisms in the Joshua tree–yucca moth system shift along a climate gradient. *Ecosphere* 9(9):e02439. 10.1002/ecs2.2439.
- Hess, W.J. 2012. *Yucca brevifolia*. In Jepson Flora Project (eds.) Jepson eFlora, http://ucjeps.berkeley.edu/eflora/eflora_display.php?tid=48766 (accessed on October 13, 2019).
- Holmgren, C.A., J.L. Betancourt, and K.A. Rylander. 2010. A long-term vegetation history of the Mojave-Colorado Desert ecotone at Joshua Tree National Park. *Journal of Quaternary Science* 25(2) 222–236.
- Hopkins, F. (University of California, Riverside). 2018. Inland Deserts Summary Report. California’s Fourth Climate Change Assessment. Publication number: SUM-CCCA4-2018-008.
- Iknayan, K.J. and S.R. Beissinger. 2018. Collapse of a desert bird community over the past century driven by climate change. *Proc. Natl. Acad. Sci. U.S.A.* 115:8597–8602.

[ITIS] Integrated Taxonomic Information System. 2019. ITIS Database. [Online]. Available: <http://www.itis.gov/index.html>.

[IPCC] Intergovernmental Panel on Climate Change (IPCC). 2018. Global Warming of 1.5° C: An IPCC Special Report on the Impacts of Global Warming of 1.5° C Above Pre-industrial Levels and Related Global Greenhouse Gas Emission Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty. Intergovernmental Panel on Climate Change. Available at: <http://www.ipcc.ch/report/sr15/>.

Jaeger, E. C. 1965. The California Desert. Stanford University Press. Stanford, California

Jurand, B.S. and S.R. Abella. 2013. Soil Seed Banks of the Exotic Annual Grass *Bromus rubens* on a Burned Desert Landscape. *Rangeland Ecology and Management*. 66:157–163.

Keeley, J.E. and A. Meyers. 1985. Effect of heat on seed germination of southwestern *Yucca* species. *The Southwestern Naturalist*. 30(2): 303-304.

Klinger, R. and M. Brooks. 2017. Alternative pathways to landscape transformation: invasive grasses, burn severity and fire frequency in arid ecosystems. *Journal of Ecology*. 105:1521–1533.

Lenz, L.W. 2001. Seed dispersal in *Yucca brevifolia* (Agavaceae) present and past, with consideration of the future of the species. *Aliso* 20:61–74.

Lenz, L.W. 2007. Reassessment of *Yucca brevifolia* and recognition of *Y. jaegeriana* as a distinct species. *Aliso: A Journal of Systematic and Evolutionary Botany* 24(1):97–104.

Le Quéré, C. et al. 2018. Global carbon budget 2018, 10 *Earth Syst. Sci. Data* 10:21412194.

Little, E. L. 1950. Southwestern trees: a guide to the native species of New Mexico and Arizona. Agricultural Handbook No. 9. Washington, DC: U.S. Department of Agriculture, Forest Service. 109 p.

Loik, M.E., C.D. St. Onge, and J. Rogers. 2000a. Post-fire recruitment of *Yucca brevifolia* and *Yucca schidigera* in Joshua Tree National Park, California. In J.E. Keeley, M. Baer-Keeley, and C.J. Fotheringham [eds.], *Second interface between ecology and land development in California*, 79 – 85. Open-File Report 00-62, U.S. Geological Survey, Sacramento, California, USA.

Loik, M.E., T.E. Huxman, E.P. Hamerlynck, and S.D. Smith. 2000b. Low temperature tolerance and cold acclimation for seedlings of three Mojave Desert *Yucca* species exposed to elevated CO₂. *Journal of Arid Environments*, 46(1):43–56.

Lybbert, A.H. and S.B. St. Clair. 2017. Wildfire and floral herbivory alter reproduction and pollinator mutualisms of *Yuccas* and *Yucca* moths. *Journal of Plant Ecology*. 10(5):851-858

Maloney, K.A., E.L. Mudrak, A. Fuentes-Ramirez, H. Parag, M. Schat, and C. Holzapfel. 2019. Increased fire risk in Mojave and Sonoran shrublands due to exotic species and extreme rainfall events. 10(2):e02592.

Mufson, S., C. Mooney, J. Eilperin, and J. Muyskens. 2019. 2°C: Beyond the Limit: Extreme climate change has arrived in America. Washington Post. <https://www.washingtonpost.com/graphics/2019/national/climate-environment/climate-change-america/>

National Park Service (NPS). 2012. Death Valley National Park Wilderness and Backcountry Stewardship Plan and Environmental Assessment. <https://parkplanning.nps.gov/showFile.cfm?projectID=23311&MIMETType=application%252Fpdf&filena me=DEVA%5FWilderness%5F%5F%5FBackcountry%5FStewardship%5FPlan%2Epdf&sfid=139732>

Notaro, M., A. Mauss, and J.W. Williams. 2012. Projected vegetation changes for the American Southwest: Combined dynamic modeling and bioclimatic-envelope approach. *Ecological Applications* 22(4):1365–1388.

[OCI] Oil Change International, Drilling Toward Disaster: Why U.S. Oil and Gas Expansion Is Incompatible with Climate Limits (January 2019), <http://priceofoil.org/drilling-towards-disaster>.

Pardo, L.H., M.E. Fenn, C.L. Goodale, L.H. Geiser, C.T. Driscoll, E.B. Allen, J.S. Baron, R. Bobbink, W.D. Bowman, C.M. Clark, B. Emmett, F.S. Gilliam, T.L. Greaver, S.J. Hall, E.A. Lilleskov, L. Liu, J.A. Lynch, K.J. Nadelhoffer, S. S. Perakis, M.J. Robin-Abbott, J.L. Stoddard, K.C. Weathers, and R.L. Dennis. 2011. Effects of nitrogen deposition and empirical nitrogen critical loads for ecoregions of the United States. *Ecological Applications* 21(8):3049–3082.

Pearson, R.G. and T.P. Dawson. 2003. Predicting the impacts of climate change on the distribution of species: are bioclimate envelope models useful? *Global Ecology & Biogeography* 12:361–371

Pellmyr, O. 2003. Yuccas, yucca moths, and coevolution: A review. *Annals of the Missouri Botanical Garden* 90(1):35–55.

Pellmyr, O. and K.A. Segraves. 2003. Pollinator divergence within an obligate mutualism: Two yucca moth species (Lepidoptera; Prodoxidae: *Tegeticula*) on the Joshua tree (*Yucca brevifolia*; Agavaceae). *Annals of the Entomological Society of America* 96:716–722.

Reynolds, M.B.J., L.A. DeFalco, and T.C. Esque. 2012. Short seed longevity, variable germination conditions and infrequent establishment events provide a narrow window for *Yucca brevifolia* (Agavaceae) recruitment. *American Journal of Botany* 99(10):1647–1654.

Riddell, E.A., K.J. Iknayana, B.O. Wolfc, B.S., and Steven R. Beissinger. 2019. Cooling requirements fueled the collapse of a desert bird community from climate change. *Proc. Natl. Acad. Sci. U.S.A.* <https://doi.org/10.1073/pnas.1908791116> 116:8597–8602.

- Rogelj, J., G. Luderer, R.C. Pietzker, E. Kriegler, M. Schaeffer, V. Krey, and K. Riahi. 2015. Energy system transformations for limiting end-of-century warming to below 1.5°C, 5 Nature Climate Change 519.
- Royer, A.M., M.A. Streisfeld, and C.I. Smith. 2016. Population genomics of divergence within an obligate pollination mutualism: Selection maintains differences between Joshua tree species. American Journal of Botany 03(10):1730–1741.
- Runyon, F.F. 1930. Our Natural Scenic Spots. Desert Magazine, July 1930. Pasadena, CA.
- Sanford, M.P. and N. Huntly. 2009. Selective herbivory by the desert woodrat (*Neotoma lepida*) on Joshua trees (*Yucca brevifolia*). Western North American Naturalist 69:165–170.
- Scheffers, B. R., L. De Meester, T.C.L. Bridge, A.A. Hoffmann, J.M. Pandolfi, R.T. Corlett, S.H.M. Butchart, P. Pearce-Kelly, K.M. Kovacs, D. Dudgeon, M. Pacifici, C. Rondinini, W.B. Foden, T. G. Martin, C. Mora, D. Bickford and J.E.M. Watson. 2016. The broad footprint of climate change from genes to biomes to people. Science 354:6313.
- Short, K.C., 2017. Spatial wildfire occurrence data for the United States, 1992-2015 [FPA_FOD_20170508]. 4th Edition. Fort Collins, CO: Forest Service Research Data Archive. <https://doi.org/10.2737/RDS-2013-0009.4>.
- Smith, C.I. 2018. Peer Review of USFWS Draft Species Status Assessment for Joshua Tree. Email comment, dated June 11, 2018.
- Smith, C.I., C.S. Drummond, W. Godsoe, J.B. Yoder, and O. Pellmyr. 2009. Host specificity and reproductive success of yucca moths (*Tegeticula* spp. Lepidoptera: Prodoxidae) mirror patterns of gene flow between host plant varieties of the Joshua tree (*Yucca brevifolia*: Agavaceae). Molecular Ecology 18:5218–5229.
- Smith C.I., O. Pellmyr, D.M. Althoff, M. Balcázar-Lara, J. Leebens-Mack, K.A. Segraves. 2008. Pattern and timing of diversification in Yucca (Agavaceae): specialized pollination does not escalate rates of diversification. Proceedings of the Royal Society of London, Series B: Biological Sciences 275:249–258.
- Smith, C.I., S. Tank, W. Godsoe, J. Levenick, E. Strand, T.C. Esque. 2011. Comparative phylogeography of a coevolved community: Concerted population expansions in Joshua trees and four yucca moths. PLoS One 6(10):1–18.
- Smith, C.I., W. Godsoe, S. Tank, J.B. Yoder, and O. Pellmyr. 2008. Distinguishing coevolution from covariance in an obligate pollination mutualism: Asynchronous divergence in Joshua tree and its pollinators. Evolution 62(10):2676–2687.
- Smith, S.D., T.L. Hartsock, and P.S. Nobel. 1983. Ecophysiology of *Yucca brevifolia*, an arborescent monocot of the Mojave Desert. Oecologia 60:10–17.

Smith, S.D., T.E. Huxman, S.F. Zitzer, T.N. Charlet, D.C. Housman, and J.S. Coleman. 2000. Elevated CO₂ increases productivity and invasive species success in an arid ecosystem. *Nature* 408:79–82.

[SCAG] Southern California Association of Governments. 2019. Local Profiles. <http://www.scag.ca.gov/DataAndTools/Pages/LocalProfiles.aspx>

St. Clair, S.B. and J. Hoines. 2018. Reproductive ecology and stand structure of Joshua tree forests across climate gradients of the Mojave Desert. *PLoS ONE* 13(2): e0193248.

Star, J., E.L. Rowland, M.E. Black, C.A.F. Enquist, G. Garfin, C.H. Hoffman, H. Hartmann, K.L. Jacobs, R.H. Moss and A.M. Waple. 2016. Supporting adaptation decisions through scenario planning: Enabling the effective use of multiple methods. *Climate Risk Management*. 13:88-94.

Starr, T.N., K.E. Gadek, J.B. Yoder, R. Flatz, and C.I. Smith. 2013. Asymmetric hybridization and gene flow between Joshua trees (Agavaceae: *Yucca*) reflect differences in pollinator host specificity. *Molecular Ecology* 22(2):437-49.

Svenning, J.-C. and B. Sandel. 2013. Disequilibrium Vegetation Dynamics Under Future Climate Change. *American Journal of Botany* 100(7):1266–1286.

Sweet, L.C., T. Green, J.G.C. Heintz, N. Frakes, N. Graver, J.S. Rangitsch, J.E. Rodgers, S. Heacox, and C.W. Barrows. 2019. Congruence between future distribution models and empirical data for an iconic species at Joshua Tree National Park. *Ecosphere* 10(6):e02763/ecs2.2763.

Syphard, A.D., J.E. Keeley, and J.T. Abatzoglou. 2017. Trends and drivers of fire activity vary across California aridland ecosystems. *Journal of Arid Environments* 144:110–122.

Syphard, A D., H. Rustigian-romsos, M. Mann, E. Conlisk, M.A. Moritz, and D. Ackerly. 2019. The relative influence of climate and housing development on current and projected future fire patterns and structure loss across three California landscapes. *Global Environmental Change*, 56:41–55.

Tagestad J., M. Brooks, V. Cullinan, J. Downs, and R. McKinley. 2016. Precipitation Regime Classification for the Mojave Desert: Implications for fire occurrence. *Journal of Arid Environments* 124:388–397.

Thompson, R.S., S.W. Hostetler, P.J. Bartlein, and K.H. Anderson. 1998. A Strategy for Assessing Potential Future Changes in Climate, Hydrology, and Vegetation in the Western United States. U.S. Geological Survey Circular 1153. United States Government Printing Office, Washington.

Trelease, W. 1893. Further Studies of Yuccas and Their Pollination. *Missouri Botanical Garden Annual Report*, Vol. 1893, pp. 181-226.

Turner, R.M. 1982. Mohave desertscrub. In D. Brown (Ed.), *Biotic Communities: Southwestern United States and Northwestern Mexico*. Salt Lake City, UT: University of Utah Press.

United Nations Framework Convention on Climate Change, Conference of the Parties Nov. 30-Dec. 11, 2015, Adoption of the Paris Agreement Art. 2, U.N. Doc. FCCC/CP/2015/L.9 (Dec. 12, 2015) (Paris Agreement).

[USEIA] U.S. Energy Information Administration. 2016. Hydraulically fractured wells provide two-thirds of U.S. natural gas production (May 5, 2016).
<https://www.eia.gov/todayinenergy/detail.php?id=26112>.

[USEIA] U.S. Energy Information Administration. 2016. Hydraulic fracturing accounts for about half of current U.S. crude oil production (March 15, 2016).
<https://www.eia.gov/todayinenergy/detail.php?id=25372>.

[EPA] U.S. Environmental Protection Agency. 2009. Land-Use Scenarios: National-Scale Housing-Density Scenarios Consistent with Climate Change Storylines (Final Report). U.S. Environmental Protection Agency, Washington, DC; EPA/600/R-08/076F. Available from the National Technical Information Service, Springfield, VA, and online at <http://www.epa.gov/ncea>.

[USFWS] U.S. Fish and Wildlife Service. 2018. Joshua Tree Species Status Assessment. Dated July 20, 2018. 113 pp. + Appendices A–C.

[USFWS] U.S. Fish and Wildlife Service. 2019. Endangered and Threatened Wildlife and Plants; 12-Month Findings on Petitions to List Eight Species as Endangered or Threatened Species, 84 Fed. Reg. 41694 (August 15, 2019).

[USGCRP] U.S. Global Change Research Program. 2017. Climate Science Special Report, Fourth National Climate Assessment, Volume I. <https://science2017.globalchange.gov/>.

[USGCRP] U.S. Global Change Research Program. 2018. Impacts, Risks, and Adaptation in the United States, Fourth National Climate Assessment, Volume II. <https://nca2018.globalchange.gov/>.

Vander Wall, S.B., T. Esque, D. Haines, M. Garnett, and B. Waitman. 2006. Joshua tree (*Yucca brevifolia*) seeds are dispersed by seed-caching rodents. *Ecoscience* 13:539–543.

Vamstad, M.S. and J.T. Rotenberry. 2010. Effects of fire on vegetation and small mammal communities in a Mojave Desert Joshua tree woodland. *J. Arid Environ.* 74, 1309–1318.

Waitman, B.A., S.B. Vander Wall, and T.C. Esque. 2012. Seed dispersal and seed fate in Joshua tree (*Yucca brevifolia*). *Journal of Arid Environments* 81:1–8.

Wallace, G. 2017. WEG 2015 petition to list *Yucca brevifolia*. U.S. Fish and Wildlife Service White Paper, 6 p. Carlsbad, CA.

Warren, R., J. Price, A. Fischlin, S. de la Nava Santos, and G. Midgley. 2011. Increasing impacts of climate change upon ecosystems with increasing global mean temperature rise. *Climatic Change* 106(2):141–177.

Warren, S.D, L.S. Baggett, and H. Warren. 2016. Directional Floral Orientation in Joshua Trees (*Yucca brevifolia*). *Western North American Naturalist* 76(3):374–378.

Webber, J.M. 1953. *Yuccas of the Southwest*. Agriculture Monograph No. 17. Washington, DC: U.S. Department of Agriculture, Forest Service. 97 p.

[WEG] WildEarth Guardians. 2015. Petition to List the Joshua Tree (*Yucca brevifolia*) under the Endangered Species Act.

Went, F.W. 1948. Ecology of desert plants. I. Observations on germination in the Joshua Tree National Monument, California. *Ecology* 29(3):242–253.

Went, F.W. 1957. The experimental control of plant growth. *Chronica Botanica* Volume 17. Waltham, MA: Chronica Botanica.

Wentz, J. & M.D. Gerrard, Persistent Regulations: A Detailed Assessment of the Trump Administration's Efforts to Repeal Federal Climate Protections (2019), <http://columbiaclimatelaw.com/files/2019/06/Wentz-and-Gerrard-2019-06-Persistent-Regulations.pdf>.

Wiens, J. J. 2016. Climate-related local extinctions are already widespread among plant and animal species. *PLoS Biology* 14(12):1–18.

Yoder, J.B., C.I. Smith, D.J. Rowley, R. Flatz, W. Godsoe, C. Drummond, and O. Pellmyr. 2013. Effects of gene flow on phenotype matching between two varieties of Joshua tree (*Yucca brevifolia*, Agavaceae) and their pollinators. *Journal of Evolutionary Biology* 26:1220–1233.

Memorandum

Date: November 18, 2019

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Request for 30-day Extension, Western Joshua Tree (*Yucca brevifolia*) Petition

The California Department of Fish and Wildlife (Department) requests a 30-day extension of time pursuant to Fish and Game Code section 2073.5 to allow the Department additional time to analyze and evaluate a petition to list western Joshua tree (*Yucca brevifolia*) under the California Endangered Species Act and to complete its evaluation report. This extension would change the time for completion of the Department's evaluation report from 90 days, due January 30, 2020, to 120 days, due February 28, 2020.

If you have any questions or need additional information, please contact Richard Macedo, Habitat Conservation Planning Branch Chief at (916) 653-3861.

cc: Chad Dibble, Deputy Director
Ecosystem Conservation Division
Chad.Dibble@wildlife.ca.gov

Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Wendy Bogdan
General Counsel
Office of the General Counsel
Wendy.Bogdan@wildlife.ca.gov

Richard Macedo, Chief
Habitat Conservation Planning Branch
Richard.Macedo@wildlife.ca.gov

Steven Ingram
Assistant Chief Counsel
Office of the General Counsel
Steven.Ingram@wildlife.ca.gov

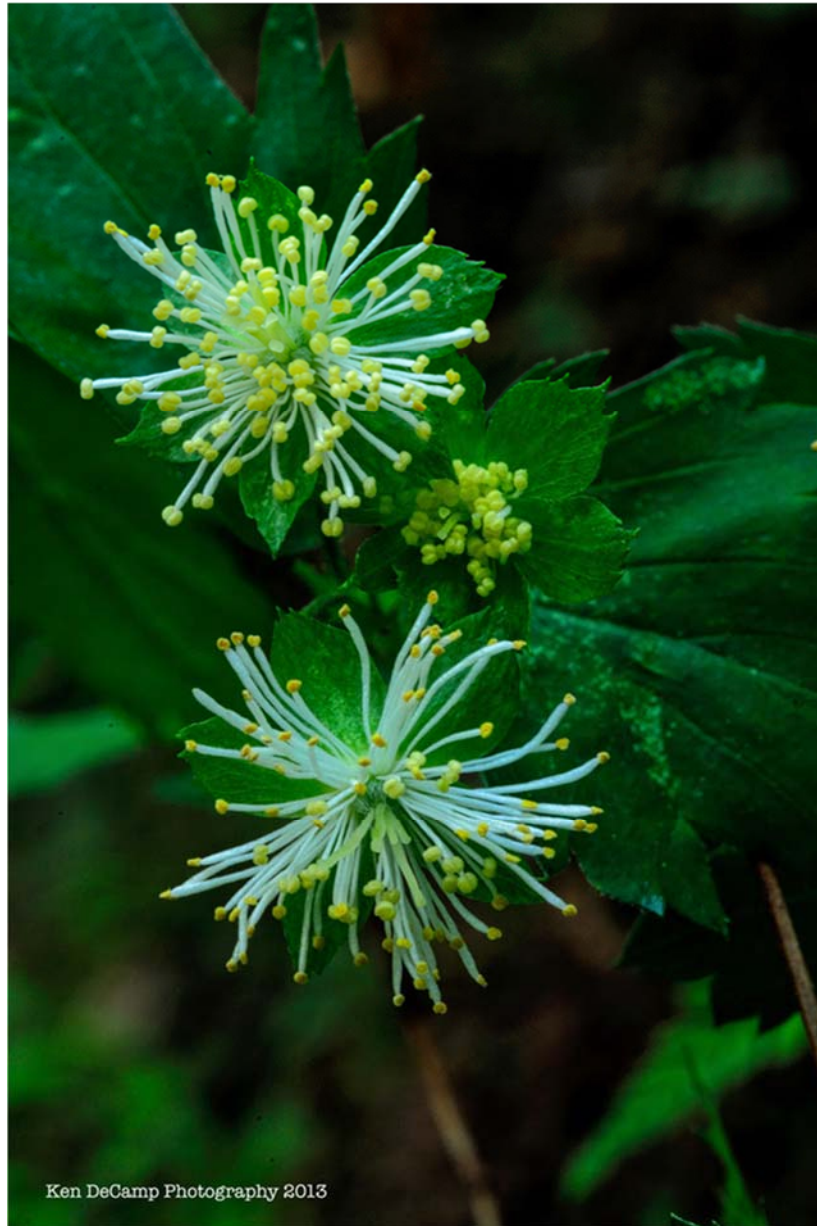
Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 18, 2019
Page 2

Lena Germinario
Staff Counsel
Office of the General Counsel
Lena.Germinario@wildlife.ca.gov

Isabel Baer
Native Plant Program Manager
Habitat Conservation Planning Branch
Isabel.Baer@wildlife.ca.gov

Michael Yaun
Legal Counsel
Fish and Game Commission
Michael.Yaun@fgc.ca.gov

PETITION TO THE STATE OF
CALIFORNIA FISH AND GAME COMMISSION
TO LIST THE SHASTA SNOW-WREATH (*NEVIUSIA CLIFTONII*)
AS ENDANGERED UNDER THE CALIFORNIA ENDANGERED SPECIES ACT



September 30, 2019
KATHLEEN S. ROCHE

NOTICE OF PETITION

For action pursuant to Section 670.1, Title 14, California Code of Regulations (CCR) (California Code 2019) and Sections 2072 and 2073 of the Fish and Game Code (California Fish and Game Code 2019) relating to listing and delisting endangered and threatened species of plants and animals.

I. SPECIES BEING PETITIONED:

Common Name: Shasta snow-wreath

Scientific Name: *Neviusia cliftonii*

II. RECOMMENDED ACTION

To list as Endangered under the California Endangered Species Act (CESA) (California Code 2019 and California Fish and Game Code 2019).

CCR § 2062. Endangered species

"Endangered species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. Any species determined by the commission as "endangered" on or before January 1, 1985, is an "endangered species."

I, Kathleen S. Roche, submit this petition to the California Fish and Game Commission (CFGC) to list the Shasta snow-wreath (*Neviusia cliftonii*) as “endangered” in California, under the California Endangered Species Act (California Fish and Game Code §§ 2050 et seq.[California Code 2019 and California Fish and Game Code 2019]) (“CESA”). This petition demonstrates that the Shasta snow-wreath clearly warrants listing under CESA based on factors specified in the statute. The California Native Plant Society (CNPS) has reviewed this petition and the CNPS Rare Plant Program Committee has assessed the petition’s scientific validity by evaluating the accuracy of information regarding taxonomy, ecology, life history, and demographic data presented herein. The CNPS Conservation Program Committee has assessed the petition’s

conservation merits by evaluating threats, stressors, and management information applicable to this species. Based upon their review of these factors, CNPS finds the current status of *Neviusia cliftonii* to merit consideration for listing as Endangered under the California Endangered Species Act. Therefore, the California Native Plant Society endorses this petition and should be considered a co-sponsor of this effort. We look forward to the Commission's response to this petition and processing of it pursuant to the procedures and timelines established at California Fish and Game Code §§ 2073 et seq. (CNPS 2019).

III. AUTHOR OF PETITION

Name: Kathleen S. Roche

Address: [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

I hereby certify that, to the best of my knowledge, all statements made in this petition are true and complete. All photos used with permission.



Date: September 30 2019: Kathleen S. Roche.

Table of Contents

NOTICE OF PETITION	2
I. SPECIES BEING PETITIONED:	2
II. RECOMMENDED ACTION	2
III. AUTHOR OF PETITION	3
EXECUTIVE SUMMARY	6
INTRODUCTION	8
RANGE OF THE SPECIES	10
LAND OWNERSHIP AND MANAGEMENT DIRECTION	14
CHRONOLOGY OF PAST EVENTS AND INVESTIGATIONS	14
CONSERVATION STATUS	16
Regulatory	16
Draft conservation strategy	18
Past Conservation Efforts	18
POPULATION STATUS	19
Demographics	19
Population Record	19
Viability	19
Mortality	20
Population viability analysis:	21
Population expansion:	21
NATURAL HISTORY	21
Taxonomy and Species Description	22
Genetics	27
Pollination	28
Habitat	33
Climate	37
Fire History	38
Geology and Soils	40
THREATS	42
Factor A. Modification or curtailment of habitat or range	42

Inundation	42
Other disturbances associated with Dam raise	43
Other Land Management Actions.....	45
Invasive Species	49
Wildfires	49
Other Habitat Factors	52
Climate Change	52
Factor B. Overutilization	54
Factor C. Disease and predation	54
Factor D. Existing regulatory mechanisms.....	56
Factor E. Other factors.....	57
Pollination and Reproduction Challenges	57
SUMMARY AND JUSTIFICATION.....	59
URGENT RECOVERY ACTIONS NEEDED	59
Priority Category 1: Tasks needed to avoid imminent species extinction.....	59
Priority Category 2: Tasks needed to maintain a viable population.....	59
Request for Critical Habitat Designation Under Federal ESA.....	61
LITERATURE CITED.....	61

EXECUTIVE SUMMARY

The Shasta snow-wreath (*Neviusia cliftonii*) is a dicot, shrub in the rose family (Rosaceae) that is native to California and is endemic (limited) to northern California. The inflorescence is an umbel-like cluster of 3 to 5 flowers. The flower is a ball of about 50 long, whiskery white stamens each about half a centimeter long. There are sometimes white petals surrounding the stamens, although the petals are often absent.

The species was first described in 1992 and is now known from a total of 24 occurrences, restricted almost entirely to National Forest System lands with 6 out of 24 occurrences not, or not completely, on federal land. It is found exclusively in western Shasta County around the perimeter of Shasta Lake in northern California.

Shasta snow-wreath is one of only two species in the genus *Neviusia*. The other species within the genus is *Neviusia alabamensis*, a rare endemic of the southeast U.S. There are no other species of *Neviusia* in California nor adjacent states. There is agreement on the classification and the scientific name of this species (California Natural Diversity Database of the California Department of Fish and Wildlife (CDFW), CNPS Calflora, NatureServe, USDA Plants Database Heikens and Ertter 2019 in Jepson eFlora, Phipps 2019 in the Flora of North America). The California Fish and Game Commission (CFGF) has not previously reviewed this species for listing. A petition is also being submitted to US Department of Interior Fish and Wildlife Service (USFWS) for listing under the US Endangered Species Act (ESA).

Shasta snow-wreath remained unrecognized so long because its flowers, the most distinguishing feature, only appear for a week to 10 days in late April or early May. When not in flower, the plant resembles common shrubs such as oceanspray (*Holodiscus discolor*) and ninebark (*Physocarpus capitatus*).

There is very little empirical data about the response of Shasta snow-wreath to various management techniques, including response to fire. To learn more, permanent monitoring plots were established in 2011-2012 to better understand the ecology, response to disturbances such as

fire, and long-term viability of this endemic species. Results of the monitoring were published in 2017.

Nearly all occurrences of Shasta snow-wreath occur on lands that are actively managed. There is one occurrence in a Research Natural Area (RNA) on the Shasta-Trinity National Forest (STNF). The Shasta snow-wreath is classified as a Sensitive species by the United States Department of Agriculture (USDA) Forest Service (FS) and the United States Department of the Interior (USDI) Bureau of Land Management (BLM). That status applies to lands managed by the respective agencies. Six of the 24 occurrences are documented on non-federal lands (private or other) and are managed under the goals of the land owner.

Shasta snow-wreath is included on the California Department of Fish and Wildlife (CDFW) Special Vascular Plants, Bryophytes, and Lichens List, with a California Rare Plant Rank of 1B.2 (rare, threatened, or endangered in CA and elsewhere) but has no status under the California Endangered Species Act. The major action (raise Shasta Dam) that will modify habitat is proposed by the USDI Bureau of Reclamation (BOR) under the project name of Shasta Lake Water Resources Investigation (SLWRI).

The Shasta snow-wreath is threatened by four general factors as specified in California Endangered Species Act (CESA), and thus warrants state protection. The four factors specified under CESA are: Modification or curtailment of habitat or range; Overutilization; Disease and Predation; Existing Regulatory Mechanisms and Other Factors.

The species is threatened with significant **modification and curtailment of habitat**, as a result of the proposal to raise Shasta Dam, inundate (flood) additional acres and move other infrastructure. This inundation and other associated actions would affect **62 percent** of all known occurrences of the plant species (9 out of 24 occurrences by inundation plus 8 by other actions) of the entire known population of Shasta snow-wreath.

Additional curtailment of habitat is anticipated from other land management actions such as mining, road and trail maintenance and vegetation management such as prescribed fire (although some fire may be beneficial).

Habitat curtailment from other processes such as wildfire, landslides and climate change are anticipated. While some fire is expected to be beneficial, the parameters of what is beneficial and what is not are not documented or quantified.

Over utilization appears to be a minor factor as do **disease and predation**. The **existing regulations** are inadequate to reduce or prevent the proposed and on-going destruction of individuals and habitat and are not responsive to other factors that when added to the changes in habitat and occurrences are likely to lead to endangerment and or complete loss of this species. **Other natural and man-made factors** also appear to be minor factors at this time although climate change and geological instability as affected by expected changes in climate and wildfires are difficult to quantify at this time.

All of the four factors interact and pose a cumulative threat to the species.

INTRODUCTION

Shasta snow-wreath was not known to science until 1992, when it was discovered northeast of Redding, California, and described as a new species in *Neviusia*, previously a monotypic genus. Shasta snow-wreath remained unrecognized so long because its flowers, the most distinguishing feature, only appear for a week to 10 days in late April or early May. When not in flower, the plant resembles common shrubs such as oceanspray (*Holodiscus discolor* (Pursh) Maxim.) and ninebark (*Physocarpus capitatus* (Pursh) Kuntze) (Shevock et al. 1992).

Another factor that helped the wiry, deciduous shrub with soft, tooth-edged leaves remain anonymous to botanists is that it grows in places dominated by poison oak (*Toxicodendron diversilobum* ((Torr. & A. Gray) Greene) (Shevock et al. 1992). Its range is far from any university, in a geographic area that is poorly explored botanically, with fewer than average numbers of specimens on file at California herbaria. Unlike many new taxa that were collected numerous times but misidentified, there are no herbarium specimens of *Neviusia cliftonii* collected before 1992.

Shevock (1993a) indicates that “We decided to take advantage of the enthusiasm displayed by botanists in the new species and arranged an organized search for Shasta snow-wreath (Nelson 1993) to search for additional occurrences May Day weekend (April 30-May 2) in 1993.”

Shasta snow-wreath is one of only two species in the genus *Neviusia*. The other species within the genus is *Neviusia alabamensis*, a rare endemic of the southeast U.S. There are no other species of *Neviusia* in California nor adjacent states. There is agreement on the classification and the scientific name of this species (California Natural Diversity Database -CNDBB-of the California Department of Fish and Wildlife-CDFW-2018a, Calflora 2019, NatureServe 2019, USDA Plants Database 2019, Heikens and Ertter 2019 in UCB Jepson eflora, Phipps 2019 in Flora of North America eflora). The common name used here follows Kartesz and Thieret (1991).

The planning process to raise Shasta Dam (SLWRI) (US GPO 1980) by the Bureau of Reclamation (BOR) has included vegetation mapping and botanical surveys in the area, increased the botanical interest and concern in the flora surrounding Shasta Lake, and resulted in documentation of many of the currently known Shasta snow-wreath sites (USDI BOR Mid-Pacific Region 2014a).

These surveys associated with the BOR proposal and additional surveys have documented 24 element occurrences (CNDDDB 2018), with Jules et al. (2017) reporting 33 occurrences by splitting CNDDDB element occurrences into sub-colonies.

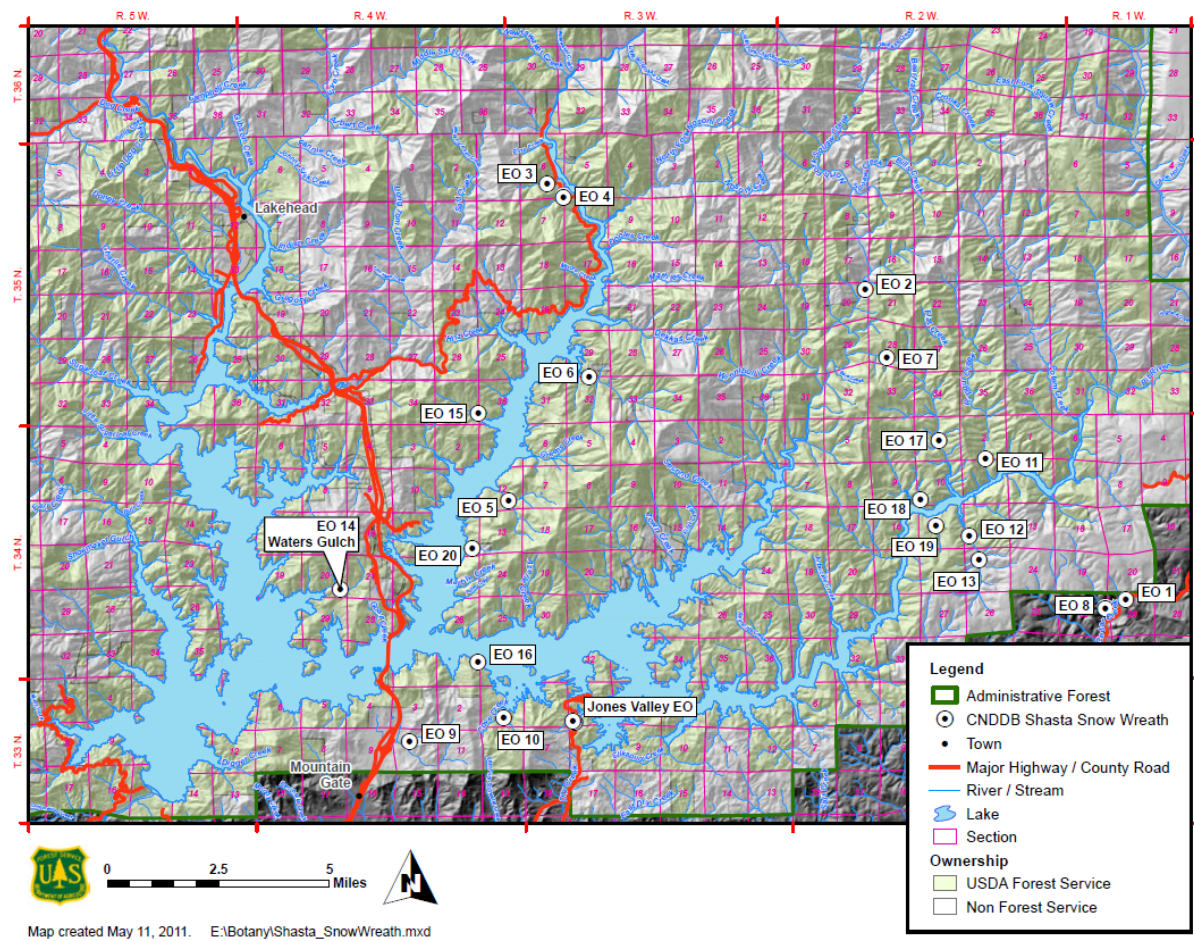
Shasta snow-wreath occurs within the Klamath Geomorphic province (USDI BOR 2014b) on Triassic age terrane (Cheng 1997, Ertter 1993). It was originally thought to occur only on limestone but is now documented to occur on other substrates (discussed in detail in following sections) (Lindstrand and Nelson 2005a, 2006). Permanent monitoring plots were established in 2011 in seven of the occurrences and an additional plot added in 2012 to better understand the ecology, response to disturbances such as fire, and long-term viability of this endemic species. These plots will be followed over time by the FS Regional Ecology Program and the Shasta-Trinity National Forest with the assistance of summer field crews hired through Humboldt State University. Shasta snow-wreath monitoring data was collected in 2011-2013 (personal communications Julie Kiersted Nelson 2013, Jules et al. 2017).

RANGE OF THE SPECIES

Shasta snow-wreath is endemic to California, occurring only near Shasta Lake in Shasta County. The total range covers about 250 square miles (NatureServe Explorer 2019; Lindstrand and Nelson 2005a, 2005b, 2006; DeWoody et al. 2012a; CNDDB 2018). There are now 24 documented element occurrences (DeWoody et al. 2012a, Lindstrand and Nelson 2005b, CNDDB 2018) (Figures 1 and 2, Table 1). Because of extensive searching between 1992-2016, it is unlikely that there will be many more occurrences discovered.

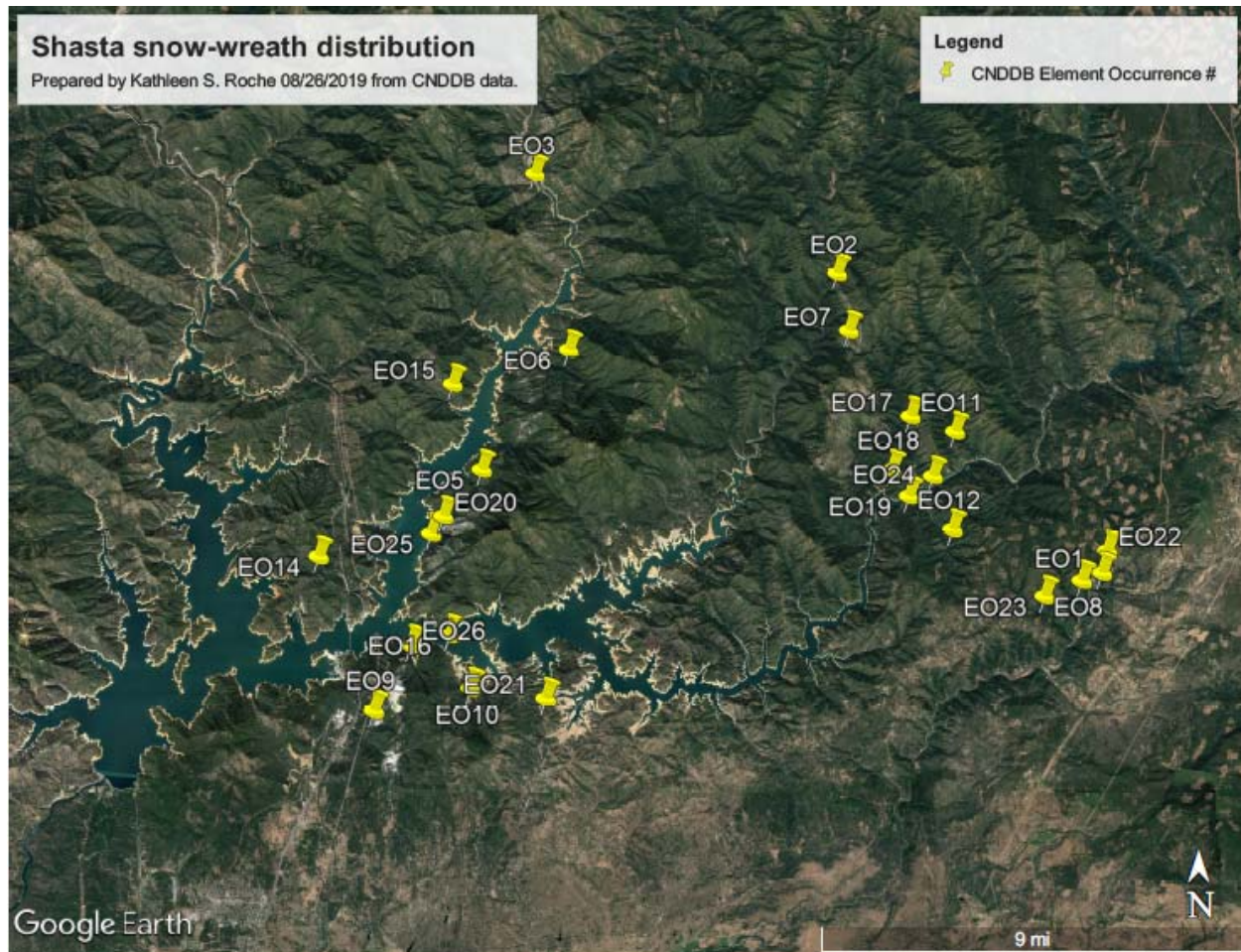
Shasta snow-wreath is presumed to have been more widespread and populations more connected along river corridors before the filling of Shasta Lake in 1948, as evidenced by the many populations that reach their lower limit at the full pool line of Shasta Lake (DeWoody et al. 2012a, Lindstrand and Nelson 2006). However, as a relict species, the geological history and resulting isolation of Shasta snow-wreath may have created an extinction debt because of time delays between the geological impacts on this species, such as destruction/isolation of habitat, and the species' potential disappearance (Jablonski 2002). The following images and table illustrate the distribution and other information about Shasta snow-wreath.

Figure 1. Shasta snow-wreath Map of Element Occurrences as of 2011.



Source: Julie Kiersted Nelson 2011, CNDDDB Element Occurrences 2011. (EOs 3 and 4 have since been combined into EO3 following more extensive survey work. The EO labeled as Jones Valley is CNDDDB EO 16.)

Figure 2. Distribution of Shasta snow-wreath 2019 Google Earth Image



Source: Kathleen S. Roche 2019a. Prepared from Google Earth Image 05/11/19 and CNDDDB Element Occurrences 2018.

Table 1. Shasta snow-wreath Element Occurrences.

Element Occurrence #	Latitude	Longitude	Size * (acres)	Ownership	Threats
1	40.77779	-122.00175	18	Non-federal	Potential mining; the Hosselkus Limestone Formation is a high-quality source material for cement production. Fires. Inferred threats: climate change.
2	40.87811	-122.11119	30	Federal	Not specified in EO record. In dense vegetation near limestone outcrop. Inferred threats physical removal through mining or road construction, wildfire, climate change*
3	40.91327	-122.24473	71	Federal	Surrounded by invasive plants (<i>Rubus discolor</i> and <i>Cytisus scoparius</i>) in 1993. Burned over in Hirz fire 2018. Inferred threats: invasive plants, wildfire, climate change.
4	No EO	--	--	--	EO removed from CNDDDB: subsumed into EO 3
5	40.81177	-122.26617	57	Federal	Not specified in EO record. Inferred threats: wildfire, climate change.

Element Occurrence #	Latitude	Longitude	Size * (acres)	Ownership	Threats
6	40.85209	-122.22906	8	Federal	Possibly threatened by logging in 1993. Road maintenance, raised lake level, and noxious weed invasion in 2010.
7	40.85834	-122.10675	72	Federal	Occurrence is found near a jeep trail. Inferred threats: physical removal, wildfire, climate change*.
8	40.77522	-122.01055	9	Federal and Private	Not specified in EO record. Inferred threats: wildfire, climate change.
9	40.73399	-122.30971	0	Non-federal	Close to mining and roads. Inferred threats: physical removal, sedimentation, invasive species*
10	40.74103	-122.26931	14	Federal	Not specified in EO. Inferred threats: inundation from Shasta Lake, wildfire, climate change*.
11	40.82440	-122.06182	2	Federal	Not specified in EO. Inferred threats: located in dense vegetation, wildfire, climate change.
12	40.79205	-122.06449	57	Federal and Private	Timber harvest proposed for area on private land in 2010 but protection measures will be used. Inferred threats wildfire, climate change, invasive species*.
13	No EO	--	--	--	EO removed from CNDDDB: subsumed into EO 12
14	40.78327	-122.33507	28	Federal	Previous trail construction probably damaged/destroyed some plants (2001). scotch broom is encroaching (2010).
15	40.84056	-122.27950	2	Federal	Not specified in EO. Inferred threats: inundation from Shasta Lake, wildfire, climate change*.
16	40.75801	-122.27866	7	Federal	Not specified in EO. Inferred threats: inundation from Shasta Lake, wildfire, climate change*.
17	40.82959	-122.08078	7	Federal	Not specified in EO. Inferred threats: wildfire, climate change, possible disturbance from off-highway vehicles.
18	40.81183	-122.08952	5	Federal	Not specified in EO. Inferred threats: inundation from Shasta Lake, wildfire, climate change*.
19	40.80306	-122.08258	10	Federal	Not specified in EO. Inferred threats: located in dense vegetation, wildfire, invasive species, climate change*.
20	40.79646	-122.28237	2	Federal	Not specified in EO. Inferred threats: dense vegetation, wildfire, invasive species, climate change.
21	40.73776	-122.23778	4	Federal	Not specified in EO. Inferred threats: roads, wildfire, invasive species, climate change.
22	40.78480	-121.99920	3	Private	Plants are outside of the timber harvest unit and in the future will be protected within the water lake protection zone.
23	40.77019	-122.02665	38	Private	Portions of site may be threatened by blackberries choking out <i>Neviusia</i> . majority of population outside harvest unit.
24	40.80973	-122.07183	1	Federal	Not specified in EO. Inferred threats: inundation from Shasta Lake, wildfire, climate change*.
25	40.79080	-122.28739	8	Federal	Not specified in EO. Inferred threats: wildfire, invasive species, climate change, possibly inundation.
26**	40.75466	-122.29479	1	Federal	Not specified in EO. Inferred threats: mining, wildfires, invasive species, climate change.
Total			116		

Source: Kathleen S. Roche 2019. EO= Element occurrence.

*Acres are extracted from CNDDDB Occurrence reports.

** Two occurrence were subsumed into other element occurrences. Total occurrences = 24.

LAND OWNERSHIP AND MANAGEMENT DIRECTION

Of the 24 documented element occurrences, all but 6 occur entirely on National Forest System (NFS) Lands that are managed by the Shasta Lake Ranger District of Shasta-Trinity National Forest, United States Department of Agriculture Forest Service (Figure 1 and 2, Table 1, CNDDDB 2018). Many of the occurrences on NFS lands are within the Whiskeytown–Shasta–Trinity National Recreation Area (NRA) as established by the U.S. Congress in 1965 (US GPO 1965). The emphasis of the NRA is to provide recreation associated with the reservoirs (lakes). The authorizing act, Public Law 89-336 also states in section 4(a)(3): “such management, utilization, and disposal of renewable natural resources as in the judgment of the respective Secretary will promote or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment.”

One occurrence is within the Devil’s Rock-Hosselkus Research Natural Area (DRH-RNA) of the Shasta-Trinity National Forest (USDA FS STNF1996, Cheng 1997). The DRH-RNA is managed for natural conditions as specified in the STNF LRMP (USDA FS STNF 1996) and FSM 4063 (USDA FS 2005). The DRH-RNA is 5,500 acres in size (Cheng 1997).

Six occurrences are partially or completely on non-federal or private lands (CNDDDB 2018) and these lands are managed to meet land owner goals.

CHRONOLOGY OF PAST EVENTS AND INVESTIGATIONS

56-33.9 million years ago - Shasta snow-wreath thought to have originated (Ertter 1993, deVore et al. 2004, Stebbins 1993).

1735 - Carl Linnaeus publishes *Systema Naturae* and established the binomial system of naming species (Linnaeus 1756). Shasta snow-wreath scientific name, *Neviusia cliftonii*, conforms to this naming system.

1850–1945 - Bully Hill area is explored and developed for mineral deposits (Albers and Robinson 1961, Lydon and O’Brien 1974).

1858 - Asa Gray named *Neviusia* as a new genus of the Rose family (Gray 1858).

1906 - Studies in flower pollination (Knuth 1906) has discussion of other members pollination strategies in other members of this tribe of plants.

- 1908-1939 - Delmar railroad operates from Bella Vista to the town of Pitt in the vicinity of the current Shasta Lake and provides services to Bully Hill Mine (Smith 2012) introducing settlers to the area.
- 1935-1945 - Bureau of Reclamation purchases and reserves lands for Shasta Lake reservoir (Stene 1996).
- 1945 - Shasta Lake is filled and inundates more than 29,500 acres (11,938 ha) (DeWoody et al. 2012a, USDI BOR 2015).
- 1945-2018 - Road within DRH-RNA intermittently maintained.
- 1948 - 2018 (estimated) - Waters gulch trail maintained intermittently with some disturbance to Shasta snow-wreath plants.
- 1965 - Legislation to establish the Whiskeytown Shasta-Trinity National Recreation Area in the State of California, and for other purposes (US GPO 1965).
- 1990's (estimated) - Road slide out occurred within DRH-RNA.
- 1992 - Shasta snow-wreath plants discovered by Dean W. Taylor and Glenn A. Clifton in May and described in Winter 1992 issue of NOVON (Shevock et al. 1992).
- 1993 - Organized search for additional element occurrences (Nelson 1993).
- 1994 - Wehr and Hopkins identify *Neviusia* in fossils at Republic, Washington (Wehr and Hopkins 1994).
- 1999 - Shasta Lake Water Resources Investigation (USDI BOR 2019) begins to investigate raising the height of Shasta Dam.
- 2001 (estimated) - Waters gulch occurrence of Shasta snow-wreath affected by brushing associated with a wildland fire response but was not burned (personal communications Julie Kiersted Nelson 2016a).
- 2004 - DeVore publishes on Fossil *Neviusia* leaves in Okanagon Highlands in southern British Columbia Canada (DeVore et al. 2004).
- 2005 - Lindstrand and Nelson describe additional occurrences of Shasta snow-wreath in Fremontia (Lindstrand and Nelson 2005a).
- 2006 - Lindstrand and Nelson describe habitat, geologic, and soil characteristics of Shasta snow-wreath in Madroño (Lindstrand and Nelson 2006).
- 2011 - Monitoring plots established (Jules et al. 2017) prescribed fire in one location Silverthorn, south side of Shasta Lake, north of Bear Mountain (Newburn and Payne 2014).

- 2011 - Green-Horse Habitat Restoration and Maintenance project planning begins 05/23/2011 (USDA Forest Service 2015).
- 2012 - Monitoring of response to prescribed fire (Jules et al. 2017).
- 2014 - Green-Horse project Draft Environmental Impact Statement (DEIS) proposing vegetation management in the area (USDA Forest Service 2015) released for comment 11/05/14.
- 2015 - On July 29, 2015, the Bureau of Reclamation transmitted to Congress the Final Feasibility Report and Environmental Impact Statement for the Shasta Lake Water Resources Investigation (USDI BOR 2015). The report describes the potential technical, environmental, economic, and financial evaluations prepared to date for alternatives to raise Shasta Dam, located approximately 10 miles northwest of Redding, California. The report also identifies next steps to identify construction cost share partners and project financing and develop the Recommended Plan. The project is intended to increase water supply and water supply reliability for agricultural, municipal and industrial, and environmental purposes and increase survival of anadromous fish populations in the upper Sacramento River.
- 2015 - Green-Horse project Draft Record of Decision (ROD) and Final Environmental Impact Statement (FEIS) posted to Shasta-Trinity National Forest webpage in December (USDA FS 2015).
- 2016 - Green-Horse project Record of Decision (Myers 2016) signed November 17, 2016.
- 2017 - Jules et al. (2017) publish results of *Neviusia* monitoring.
- 2017 - Green-Horse project implementation begins.
- 2018 – Hirz fire burns through Element Occurrence 3 (USDA FS STNF 2018).
- 2019 – Invasive plant treatment completed at Packers Bay (EPIC 2019).
- 2019 - Petition for listing filed with FWS on September 30, 2019.

CONSERVATION STATUS

Regulatory

Shasta snow-wreath is included on the California Department of Fish and Wildlife Special Vascular Plants, Bryophytes, and Lichens List (CDFW 2018a,) and *CNPS Inventory of Rare and Endangered Plants* (CNPS Rare Plant Program 2019) with a California Rare Plant Rank of [1B.2](#) (rare, threatened, or endangered in CA and elsewhere); this ranking confers conservation

status under the California Environmental Quality Act. Shasta snow-wreath is not currently listed under the California Endangered Species Act (CDFW 2018b). The intent of this document is to have it added to this list.

Shasta snow-wreath is currently listed as sensitive by the USDA Forest Service, Pacific Southwest Region under the Regional Forester's Sensitive Species list (USDA FS R5 2013, USDA FS 2005a in FSM 2670) and by the USDI BLM (2015) for California (USDI BLM 2015). Sensitive species are managed to avoid a trend towards federal listing (USDA FS 2005a in FSM 2670).

As Forest Plans are updated to the 2012 Planning Rule standards (USDA FS 2012), the Shasta-Trinity National Forest may, or may not, include Shasta snow-wreath in its "species of conservation concern (SCC)" list. Once this occurs management on the forest would then no longer be subject to the Regional Forester's Sensitive Species list. After revision, new Forest Plan components would address its status as a species of conservation concern. The SCC list will at least partially use NatureServe rankings. The NatureServe rankings (NatureServe Explorer 2019) for Shasta snow-wreath are:

- Global G2 – Imperiled,
- National N2- Imperiled,
- State of CA S2 – Imperiled.

The state status would also be considered in the evaluation of species of conservation concern as the Shasta-Trinity National Forest - Forest Plan is revised and is considered in any status for BLM public lands.

Shasta snow-wreath occurs within the Devil's Rock-Hosselkus Research Natural Area (DRH-RNA) as currently established. Research Natural Areas are managed for natural conditions. This status as an RNA could be revised with the Forest Plan Revision with the completion of additional environmental analysis specific to that status (Cheng 1997, USDA FS 2005b). The DRH-RNA has one occurrence of Shasta snow-wreath.

This petition information is being concurrently submitted to the CFGC and USFWS (Roche 2019b,c). For species listed under the Federal Endangered Species Act, the USFWS would be

consulted for plan components and project actions that may affect the listed species and/or its critical habitat.

Draft conservation strategy

Currently, there are no known draft conservation strategies other than the Forest Service Sensitive species status which applies to 19 occurrences and the Devils Rock-Hosselkus Research Natural Area policy and direction which applies to one occurrence.

Past Conservation Efforts

Shasta snow-wreath has been, and likely continues to be collected by botanists and gardeners for growing in personal gardens (reduced to possession—removed from federal ownership and committed to private ownership/possession).

Some of the Shasta snow-wreath material that has been removed from the wild might also provide for off-site conservation. The Dunsmuir Botanical Gardens in Dunsmuir, California has at least 2 specimens growing there. Located in the Dunsmuir City Park in far northern California, the Gardens encompass ten acres of hilly, wooded area with a meadow containing the various gardens. The purpose of the Dunsmuir Botanical Gardens is to enhance the natural setting of the Dunsmuir City Park for the enjoyment and horticultural education of the public through the establishment and maintenance of native and woodland plants (Dunsmuir Botanical Gardens 2014) Ertter and Shevock (1993) indicate that Members of the California Native Plant Society currently are cultivating *N. cliftonii* and that it is growing at East Bay Regional Parks Botanical Garden. Christman (2011) also documents nearby cultivation locations, while Breen (2019) and Tu (2019) document Shasta snow-wreath growing at the Hoyt Arboretum in Portland, Oregon since 1999. The California Native Plant Society, CNPS Calscape (2019) and Calflora (2019) indicate the species is occasionally available from nurseries commercially.

None of the Shasta snow-wreath is currently designated as a scientifically documented genetic resource of conservation value. There are no other known past conservation efforts other than this informal, non-systematic off-site conservation from those who have cuttings of this plant.

POPULATION STATUS

A population is a group of organisms of one species that interbreed and live in the same place at the same time (Biology 2019a).

Demographics

Demographics describe the size, structure, and distribution of a population, and spatial or temporal changes in response to birth, migration, aging, and death. Elzinga et al. (1998) indicate that a population's demographic distribution is the percentage of the population or number of individuals within classes such as seedling, non-reproductive adult, reproductive, and senescent. There is little knowledge of any age classes of Shasta snow-wreath. There are now 24 documented element occurrences (DeWoody et al. 2012a, CNDDDB 2018, Lindstrand and Nelson 2005). All of those comprise adult flowering occurrences with some degree of relatedness – e.g. of clonal origin. There are pictures of achenes. There is no confirmed documentation of seedlings. All plants grown in cultivation are clonal (from cuttings).

Population Record

The most complete population records are contained in the California Natural Diversity Database (CNDDDB 2018) and discussed in DeWoody et al. (2012a). There are now 24 documented element occurrences (DeWoody et al. 2012a, Lindstrand and Nelson 2005b, CNDDDB 2018). Because of extensive searching between 1992-2016, it is unlikely that there will be more occurrences discovered. Searches included those specific to Shasta snow-wreath and project surveys by the USDA Forest Service, Shasta-Trinity National Forest and occurred within the known distribution and beyond (personal information).

Jules et al. (2017) established monitoring plots starting in 2011 and report baseline information in their 2017 publication.

Viability

Viability is regarded as ability to survive or live successfully (Biology 2019b). The persistence of a population (population viability) into the future is based on many factors including the genetics, biology and natural history of the species, the natural disturbance elements of the area it

inhabits and anthropogenic factors that may directly threaten the persistence or may change the frequency or severity of natural disturbances and thus reduce persistence on the landscape.

Since there are no verified seedlings of Shasta snow-wreath, and there is a lack of information regarding the possible life stages, there is no opportunity to do a population viability analysis. Seed collected in 1992, did not germinate under any of the tested regimes at the University of California Botanical Garden (Ertter and Shevock 1993). There are no other reports of seed collected or of reproduction or viability testing. Achenes are known from photographs and from the type description. Achenes (seed structures) are known from photographs (Puentes 2011, Doyen 2015, Ertter and Shevock 1993) and the formal species description (Shevock et al. 1992).

De Witte and Stöcklin (2010) indicate that species' life-history and population dynamics are strongly shaped by the longevity of individuals, but life span is one of the least accessible demographic traits, particularly in clonal plants. Continuous vegetative reproduction of genets enables persistence despite low or no sexual reproduction, affecting genet turnover rates and population stability. Genet size is sometimes used to estimate age and there is some information available on genet size for Shasta snow-wreath. However, for quaking aspen, *Populus tremuloides*, molecular divergence detected by microsatellites was related to clone age with the help of demographic models of ramet and genet dynamics and indicated that genet size actually is not related to life span (De Witte and Stöcklin 2010).

The plants currently in existence are of unknown age but the species is considered a fossil species (Ertter 1993, Stebbins 1993).

Mortality

Historically, it is thought that populations were lost with the filling of Shasta Lake in 1948, as evidenced by the many populations that reach their lower limit at the full pool line of Shasta Lake (DeWoody et al. 2012a, Lindstrand and Nelson 2006). Monitoring of current populations began in 2011-2012 (Jules et al. 2017). There is no other documentation of loss of an Element Occurrence. There are two element occurrences that have been combined with other element occurrences as better data became available.

Informal observations (Nelson and Roche 2016) indicate that plants re-sprout from roots after some types of disturbances.

Shasta snow-wreath monitoring data was collected in 2011-2013 and published in 2017 (Jules et al. 2017). This on-going monitoring may provide information on persistence and mortality.

Population viability analysis:

Since there are no confirmed seedlings of Shasta snow-wreath, and incomplete information about longevity, there is no opportunity to do a population viability analysis.

Population expansion:

Shasta snow-wreath currently suffers from an inability to expand its range due to its relict status, lack of successful sexual reproduction, topographic limitations and associated climate differences and its ties to particular geological substrate/ancient terrane. It is surmised that, in the past, it was more widely distributed (DeVore et al. 2004).

It appears likely that the existing extent of the meta-population represents the potential extent of the entire meta-population.

NATURAL HISTORY

From the data available, Shasta snow-wreath appears to be an endemic, relict, long-lived, clonally propagated shrub that does occasionally produce seeds, apparently from sexual reproduction but those seeds are not confirmed to germinate in the wild or in attempts to propagate (Doyen 2015, Puentes/SPI 2011, Julie Kiersted Nelson personal communications 2016a, Erttter and Shevock 1993).

Fire and/or smoke has been documented to influence germination in a number of shrub species (Keeley 1987) and might be an influence for Shasta snow-wreath.

The following sections will discuss these characteristics in more detail.

Taxonomy and Species Description

The Shasta snow-wreath (*Neviusia cliftonii* Shevock, B. Ertter & D.W. Taylor) is a dicot, shrub in the rose family (Rosaceae) within the tribe Kerrieae.

The following information is from the Integrated Taxonomy Information System (ITIS 2016):

Kingdom	Plantae – plantes, Planta, Vegetal, plants
Subkingdom	Viridiplantae
Infrakingdom	Streptophyta – land plants
Superdivision	Embryophyta
Division	Tracheophyta – vascular plants, tracheophytes
Subdivision	Spermatophytina – spermatophytes, seed plants, phanérogames
Class	Magnoliopsida
Superorder	Rosanae
Order	Rosales
Family	Rosaceae – roses
Genus	<i>Neviusia</i> A. Gray – snow-wreath
Direct Children:	
Species	Neviusia alabamensis A. Gray – Alabama snow-wreath
Species	Neviusia cliftonii Shevock, Ertter & D.W. Taylor – Shasta snow-wreath

Shasta snow-wreath is thought to have established as a species about 56 to 33.9 million years ago based on landform, geologic age (Ertter 1993, Stebbins 1993).

Shasta snow-wreath was not known to science until 1992, when it was discovered northeast of Redding, California, and described as a new species in *Neviusia*, previously a monotypic genus (Shevock et al. 1992, Taylor 1993).

Shasta snow-wreath appears to be most closely related to Alabama snow-wreath (*Neviusia alabamensis*) a similar relict species located in the Southeastern United States (Shevock et al. 1992). The relictual nature of both species is thought to be associated with the ancient landforms that provide the respective habitat for each species. Adding to the science in support of the

relictual nature is recent identification of *Neviusia* fossils in the Okanagon Highlands of Washington (DeVore and Pigg 2007, DeVore et al. 2004, 2005, Wehr and Hopkins 1994).

In 1857, Asa Gray named *Neviusia* as a new genus of the Rose family, based on material from Alabama supplied by the Rev. Dr. Reuben Denton Nevius (Howard 1976, Gray 1857). *Neviusia* was placed in the tribe Kerriae, which at the time, it shared with two Asiatic genera, each with only a single species: *Kerria japonica* and *Rhodotypos scandens*. Potter et al. (2007) in a further study places fourth monotypic genus, *Coleogyne* in the Kerria tribe as well (Shevock 1993b).

Even though this part of Shasta County California was explored and settled in the 1850s and botanists traveled through it occasionally, Shasta snow-wreath remained incognito so long because its flowers, the most distinguishing feature, only appear for a week to 10 days in late April or early May. When not in flower, the plant resembles common shrubs such as oceanspray and ninebark (Shevock et al. 1992).

Description of Shasta snow-wreath from Shevock et al. (1992):

“Diffuse slender-branched understory shrub, stems erect, generally several, rarely > 1 cm diameter, the bark grayish near base, \pm reddish brown above, \pm exfoliating in strips, without obvious lenticels, herbage and young twigs \pm strigose, the hairs \pm 0.4 mm long; leaves alternate, primarily in upper 1/3 of plant, generally expanded at anthesis, the stipules linear-setaceous, free from the 4-10 (-15) mm-long petiole, often with small reddish glands, the leaf blade ovate to cordiform, 2-6(9 on sterile shoots) cm long, 1.5-5 (7) cm wide, \pm bicolored, bright green and sparsely strigose above, pallid and more densely strigose below, the venation craspedodromous with 3-8 2° veins per side, the margin coarsely toothed and shallowly lobed, the teeth apiculate; inflorescence \pm umbellate-corymbose, terminal mostly on short side branches, not otherwise pedunculate, the pedicels 1-3 cm long, very slender, *ca.* 0.3 mm thick (widening above); flowers(1-) 3-5 (-10), appearing after or with the leaves, the hypanthium \pm flat, \pm glabrous 2-3 mm diameter (pressed); sepals 5-6 \pm obovate 3.5-6 mm long, 2-4.5 mm wide, veiny, irregularly few toothed distally, spreading at anthesis, persisting in fruit; petals oblanceolate, 4-8 mm long, white, quickly deciduous; stamens many, *ca.* 50 or more, *ca.* equaling sepals, the filaments 4-5 mm long, white, \pm dilated, the anthers round, 0.3-0.4 mm long, yellow; pistils 3-6, the ovary densely white-strigose, the style \pm 3 mm long,

sparsely strigose; fruit \pm eccentrically ovoid achene, 3-4 mm long, brown, sparsely strigose.”

Shasta snow-wreath is currently known to clonally propagate (please also see following section on genetics). It occasionally produces achenes (Puentes 2011, Doyen 2015, Shevock et al. 1992, Ertter and Shevock 1993), apparently from sexual reproduction but the seeds within are not confirmed to germinate in the wild or in attempts to propagate (personal communications Julie Kierstead Nelson 2016b, Ertter and Shevock 1993).

Figure 3. Shasta snow-wreath (Neviusia cliftonii) achenes.



Source: Stephanie Puentes 2011 © SPI from CalPhotos

Figure 4. *Shasta snow-wreath* achenes



Source: John Doyen 2015 © John Doyen from CalPhotos.

It is currently unknown as to whether the seeds are produced from selfing (fertilization by means of pollen from the same plant) or from cross pollination (see also following section on pollination). Knuth (1906) indicates that Alabama snow wreath (*Neviusia alabamensis*) and Japanese Kerria (*Kerria japonica*) are both self-sterile (the effect of pollen on the stigma of the same flower is inactive). In the 26 years of observation by botanists, no recently germinated seedlings have been confirmed (Nelson 2016b). The reproductive biology of the native populations of Shasta snow-wreath is little understood.

The known occurrences may, in actuality, be one or several very large clone(s) (see following section on genetics for more information on Shasta snow-wreath relatedness). Alabama snow-wreath, a similar closely-related species, grows as a suckering shrub up to six feet in height and, under ideal conditions, can produce dense thickets up to several yards across. The suckering habit may be the only means of replication that Alabama snow-wreath employs (Chafin and Owers 2010).

Since there are no confirmed seedlings of Shasta snow-wreath, there is no available information on life-cycle stages, time from seedling to maturity or longevity of individual plants. It is suspected that Shasta snow-wreath has persisted on the current landscape in perhaps the approximate same distribution in which it now occurs for up to 34 million years based on the base geology and fossil record in Canada (DeVore et al. 2004, 2005, 2007, Ertter 1993, Stebbins 1993, Wehr and Hopkins 1994, Irwin 2003). This is also supported by the genetic studies presented in the following sections. Another ancient species, Quaking aspen, *Populus tremuloides*, which employs a clonal growth habit only produces seedlings after major disturbances in the western United States (Romme et al. 2005) and might provide a model for Shasta snow-wreath as might other shrubs that have seeds that germinate after fire (Keeley 1987).

Genetics

In 2009, tissue samples were collected from 21 of 24 known populations for isozyme analysis.

This study assayed 17 isozyme loci to address 3 questions (DeWoody et al. 2012a).

1. How many genetic individuals compose each population?
2. How is genetic diversity distributed within and among populations?
3. Do patterns of genetic diversity or genetic similarity among populations correspond to geographic or ecological factors?

When assessed at 17 loci, a total of 48 multilocus genotypes were identified in the collection of 410 samples, indicating Shasta snow-wreath is capable of significant vegetative reproduction. Five populations were composed of a single genet each, with an average of 3.14 genets per population and a maximum of 15 genets in a single population. Allelic diversity was low, with a maximum of 3 alleles observed at one locus. Populations were differentiated, with 85% of the allele frequency variance distributed among populations. Multivariate analysis identified 3 clusters of genetically similar populations: one cluster composed of 15 populations, a second cluster composed of 5 populations, and one population being distinct. Individuals from the distinct population displayed unique alleles at 2 loci (AAT-1 and AAT-2). The distribution of populations among clusters did not correspond to geographic (watershed) or substrate classifications, indicating that additional, unmeasured factors may influence the genetic structure of this species. Five populations were composed of a single genet each with an average or 3.14 genets per population and a maximum of 15 genets in a single population.

DeWoody et al. (2012a) indicate that:

This survey of isozyme variation in the rare endemic *Neviusia cliftonii* revealed low levels of allelic and genotypic diversity. The lack of variation within many populations (only one or 2 genets identified in 57% of populations sampled) is consistent with regular vegetative reproduction of this woody species. The genet diversity is greater than that reported for the sole congener, *N. alabamensis*, which contained only one genotype per population at its marginal range (Freiley 1994). The low levels of allelic variation may be a consequence of the narrow range occupied by

N. cliftonii, or it may be due to historic population bottlenecks. For instance, the Shasta Lake area is known as an ancient landscape, a glacial and volcanic refuge, with high numbers of endemic species (Lindstrand and Nelson 2006). The low allelic variation may be a consequence of the narrowing of the *N. cliftonii* range during the most recent glacial maximum and subsequent climate variations (Lindstrand and Nelson 2006). Alternatively, the low variation may reflect a more recent bottleneck resulting from Shasta Dam and Shasta Lake. Construction of the dam likely increased fragmentation and decreased the size of some populations, which together can change the genetic structure of populations (Honnay et al. 2007, Aguilar et al. 2008). The low levels of genotypic variation within populations prevented statistical analysis for genetic signatures of population bottlenecks (sensu Cornuet and Luikart 1996).

DeWoody et al. (2012a) also indicate that:

One possible consequence of vegetative reproduction is a greater potential for populations to be genetically distinct, as vegetatively reproducing species tend to have poor dispersal capability (Ellstrand and Roose 1987, Silvertown 2008). Plants that have mechanisms for long-distance dispersal via either pollen or seed typically display lower levels of genetic differentiation between populations than those with limited dispersal (Hamrick and Godt 1996).

Pollination

Pollination is the primary step in seed formation. Shasta snow-wreath is currently known to clonally propagate but it does also rarely produce achenes (see earlier pictures, Puentes 2011, Doyen 2015, Shevock et al. 1992, Ertter and Shevock 1993), apparently from sexual reproduction but the seeds within are not confirmed to germinate in the wild or in attempts to propagate (personal communications Julie Kierstead Nelson 2016b, Ertter and Shevock 1993).

It is currently unknown as to whether the achenes/seeds are produced from selfing (fertilization by means of pollen from the same plant) or from cross pollination. Ertter and Shevock (1993) indicate that blossoms have no scent.

Knuth (1906) indicates that Alabama snow wreath (*Neviusia alabamensis*) and Japanese Kerria (*Kerria japonica*) are both self-sterile (the effect of pollen on the stigma of the same flower is inactive).

In the 26 years of observation by botanists, no recently germinated seedlings have been confirmed (Julie Kiersted Nelson personal communications 2016a, Ertter and Shevock 1993, Jules et al. 2017).

It is undetermined if pollination occurs via wind (anemophily) or by insects (entomophily). From the structure of the flowers, it would appear that Shasta snow-wreath might be wind pollinated.

Figure 5. Shasta snow-wreath flower structure



Source: Julie Kierstead Nelson 2016c.

However, from its location in the lower canopy, it would appear that insect pollination is more likely.

Figure 6. Shasta snow-wreath in the lower canopy.



Source: Julie Kierstead Nelson 2010a from CalPhotos.

There are no recorded observations of insects visiting blossoms of Shasta snow-wreath. Ertter and Shevock (1993) document a lack of scent from the blossoms. Ertter and Shevock (1993) also document the search for pollinators during the May 1993 surveys.

Japanese Kerria (*Kerria japonica*), the only other species within the tribe Kerriaea with recorded information, is insect pollinated (Plants for a Future 2012). Knuth (1906) indicates that Alabama snow wreath (*Neviusia alabamensis*) and Japanese Kerria (*Kerria japonica*) are both self-sterile (the effect of pollen on the stigma of the same flower is inactive). Pendleton and Pendleton (1998) indicate that *Coleogyne ramosissima*, within the tribe Kerria is wind pollinated.

Because it is thought that Shasta snow-wreath is a relict species that may have originated during the Eocene tertiary geological period (56 to 33.9 million years ago) (Ertter 1993, Stebbins 1993),

there may be a pollinator that is extinct and has led to an extinction debt (the future extinction of species due to events in the past). There was significant mass extinction of insects, at the end-Permian (Permian–Triassic; P-T) (Labandeira 2005) which may have affected the available pollinators for Shasta snow-wreath.

Kuussaari et al. (2009) indicate that extinction debt is a phenomenon that can easily remain unnoticed but that should be taken into account in conservation planning. Habitat loss, climate change and invasive species are the main global threats to biodiversity constituting key single and synergistic drivers of extinctions. The effects of these components of global change can be almost immediate in some cases, but often it takes a considerable amount of time for declining populations to disappear following environmental perturbations: delayed extinctions, also called extinction debt, are an important factor to consider in biodiversity conservation. However, as long as a species that is predicted to become extinct still persists, there is time for conservation measures such as habitat restoration and landscape management.

Terminology associated with extinction events from Kuussaari et al. (2009) that helps to explain the concept is shown below.

Equilibrium state: Also known as stable state. Situation in an ecological community when the number of species is not changing because the rate of local extinctions equals the rate of local colonizations.

Extinction: The disappearance of a species. Extinction might occur locally (at the level of a habitat patch), regionally (at a landscape level) or on larger spatial scales (at country, continent or global levels).

Extinction debt: In ecological communities, the number or proportion of extant specialist species of the focal habitat expected to eventually become extinct as the community reaches a new equilibrium after environmental disturbance such as habitat destruction, climate change or invasion of exotic species. In single species, the number or proportion of populations expected to eventually become extinct after habitat change.

Extinction threshold: The minimum amount of habitat area, connectivity and quality required for a species to persist.

Focal habitat: The habitat type that is currently under observation. Focal patch is the particular habitat patch under observation.

Habitat connectivity: The amount of focal habitat in the landscape surrounding the focal habitat patch (opposite to isolation). Ideally measures of connectivity take into account both the area and distance of the surrounding patches.

Habitat loss: Decrease in area of the focal habitat, used here as a surrogate for habitat area loss and habitat fragmentation, i.e., covering a decrease in both area and connectivity of habitat patches.

Metapopulation: A set of local populations that occupy a network of habitat patches and are linked by dispersal.

Relaxation time: Also known as time lag to extinction, extinction lag, time delay to extinction, time to extinction. The time taken for a community of species to reach a new equilibrium after an environmental disturbance. Extinction debt is gradually paid during the relaxation time as the expected extinctions are realized.

Pollination biologists have shown that pollination failure can occur at all steps in the dispersal process and at several different levels. Increased risk of pollination failure is associated with pollen if it is delivered to a stigma too little, too much, too late, too mixed in composition or too poor in quality. It is associated with pollinators when they are too few or too inconstant, and with plants when they are too specialized or too selective. It is associated with populations when they are too sparse, too small in number or too uniform genetically, and with communities when they are too fragmented, genetically impoverished or under rapid modification. Understanding the causes of pollination failure in plants can aid the successful conservation and recovery of rare plants, maintenance of crop yields, and sustainable use of wild plant resources such as forest timber (Wilcock and Neiland. 2002).

Climate change could also affect pollinators and phenology (bloom timing) such that pollinators are not available during the short bloom season for Shasta snow-wreath (Yang and Rudolf 2010).

Habitat

Shasta snow-wreath grows in the dense understory of black oak (*Quercus kelloggii*), yellow pine (*Pinus ponderosa*) dominated mixed conifer forests and foothill pine (*Pinus sabiana*) blue oak (*Quercus douglasii*) habitat around Shasta Lake north of Redding, California (Shevock et al. 1992, Lindstrand and Nelson 2005a, 2006, Jules et al. 2017, CNDDB 2018, figure 6). Shasta snow-wreath occupies sites on lower slopes of steep mountain valleys on various aspects on non-wetland sites (Calflora 2019, NatureServe 2016). It occurs in riparian sites within the yellow pine forest community (Calflora 2019).

Table 2. List of Associated Species.

Scientific Name	Common Name*	CNDDB EO**	Source
<i>Acer macrophyllum</i>	bigleaf maple	1,2,3,5,6,7,12,16,18,19,24	1,2,3,5
<i>Achillea millefolium</i>	Yarrow	22	2
<i>Adiantum sp.</i>	Maidenhair fern	3	2
<i>Adiantum aleuticum</i>	Five finger maidenhair	14	2
<i>Adiantum jordanii</i>	California maidenhair fern	7	2,5
<i>Aesculus californica</i>	buckeye	5,18,21,23,26	1,2,3,4,5
<i>Alnus rhombifolia</i>	White alder	5	2,3
<i>Aquilegia formosa</i>	Columbine	14	2
<i>Aralia californica</i>	California spikenard		3,4
<i>Arbutus menziesii</i>	Madrono	1,19	1,2,4
<i>Aristolochia californica</i>	California pipevine	1,21	1,4,5
<i>Aruncus dioicus</i> var. <i>pubescens</i>	Bride's feathers		4
<i>Asarum hartwegii</i>	Hartweg's wild ginger	1,3	1,4,5
<i>Berberis sp.</i>	Oregon Grape	5	2,3
<i>Berberis aquifolium</i> var. <i>dictyota</i>	Jepson's Oregon Grape		1
<i>Calocedrus decurrens</i>	Incense cedar		4
<i>Calycanthus sp.</i>	Spicebush	1	2
<i>Calycanthus occidentalis</i>	Spicebush		1,3,4,5
<i>Ceanothus sp.</i>	Ceanothus	2	2
<i>Ceanothus integerrimus</i>	Deer brush	20	2
<i>Cercis occidentalis</i>	Western redbud	11,16,22	1,2,3,5
<i>Cercocarpus betuloides</i>	Birch leaf mountain mahogany		5
<i>Clematis lasiantha</i>	Pipestem		1
<i>Cornus sp.</i>	Dogwood		3
<i>Cornus nuttallii</i>	Mountain dogwood	5,6,8,11,12,19,24	2,4,5
<i>Cornus sericea</i>	American dogwood		1
<i>Cornus sessilis</i>	Western cornelian cherry	22	1,2,4,5
<i>Corylus cornuta</i>	Beaked hazelnut	7,11,25	2,3,5
<i>Corylus cornuta</i> var. <i>californica</i>	Beaked hazelnut	23	1,4
<i>Cynoglossum grande</i>	Houndstongue	22	2
<i>Cytisus scoparius</i>	Scotch broom	3	2

<i>Scientific Name</i>	<i>Common Name*</i>	<i>CNDDDB EO**</i>	<i>Source</i>
<i>Frangula californica</i>	California coffeeberry		3
<i>Fraxinus depetala</i>	Two petaled ash		5
<i>Fraxinus latifolia</i>	Oregon ash		3,5
<i>Holodiscus sp.</i>	oceanspray	1	2
<i>Holodiscus discolor</i>	oceanspray		1
<i>Ligusticum californicum</i>	California lovage		1
<i>Lithophragma bolanderi</i>	Hillstar	7	2
<i>Lonicera hispidula</i> var. <i>vacillans</i>	Pink honeysuckle		1
<i>Lonicera interrupta</i>	Chaparral honeysuckle	20	2
<i>Oemleria cerasiformis</i>	Oso berry	26	2
<i>Osmorhiza berteroi</i> (<i>chilensis</i>)	Sweet cicely		5
<i>Paxistima myrsinites</i>	Oregon boxwood		1,4
<i>Philadelphus sp.</i>	Wild mock orange	21	2
<i>Philadelphus lewisii</i> subsp. <i>californicus</i>	Wild mock orange	3,18,22,24,25,26	1,2,3,4,5
<i>Physocarpus sp.</i>	Ninebark	1	2
<i>Physocarpus capitatus</i>	Ninebark	14	1,2,4
<i>Pinus attenuata</i>	Scrub pine		3
<i>Pinus lambertiana</i>	Sugar pine	8,16	2
<i>Pinus ponderosa</i>	Ponderosa pine	2,8,10,14,15,16,18,21,25,26	2,3,5
<i>Pinus sabiniana</i>	Bull pine	21,25,26	2,3,5
<i>Polygala cornuta</i>	Sierra milkwort		1
<i>Prunus sp.</i>	Plum	1	2
<i>Prunus subcordata</i>	Sierra plum		1,4
<i>Pseudotsuga menziesii</i>	Douglas-fir	5,6,7,8, 11,12,15,17,18,19,22,23,24	1,2,3,4,5
<i>Quercus sp.</i>	oak	1	2
<i>Quercus chrysolepis</i>	Gold cup live oak	10,11,12,15,16,20,21,23,24,25,26	1,3,5
<i>Quercus douglasii</i>	Blue oak	10	2
<i>Quercus garryana</i> var. <i>breweri</i>	Oregon oak	5,6, 10,15,18,21,23	1,2,3,5
<i>Quercus kelloggii</i>	California black oak	5,6,7,14,15,16,23,25,26	1,2,3,5
<i>Quercus wislizenii</i>	Interior live oak		1,3,5
<i>Ribes sp.</i>	Gooseberry	14	2,3
<i>Rhamnus sp.</i>			5
<i>Rhus aromatica (trilobata)</i>	Fragrant sumac		5
<i>Rosa sp.</i>	Rose	5	2,3,5
<i>Rosa gymnocarpa</i>	Wood rose		1
<i>Rubus sp.</i>	Blackberry	23	2,3
<i>Rubus discolor</i> (<i>armeniacus</i>)	Himalayan blackberry	3	2
<i>Rubus ursinus</i>	California blackberry	22	2,5
<i>Salix sp.</i>	Willow		3
<i>Smilax californica</i>	Greenbriar	7	1,2,4
<i>Staphylea sp.</i>	Bladdernut	5	2
<i>Staphylea bolanderi</i>	Bladdernut		3,4

<i>Scientific Name</i>	<i>Common Name*</i>	<i>CNDDDB EO**</i>	<i>Source</i>
<i>Styrax officinalis</i> var. <i>californica</i>	California snowdrop bush	6,14	1,2,4,5
<i>Styrax redivivus</i>	California snowdrop bush	22	2,3,4
<i>Symphoricarpos albus</i>	Common snowberry		1,3,5
<i>Symphoricarpos alba</i> var. <i>laevigatus</i>	Common snowberry	7	2
<i>Taxus brevifolia</i>	California yew	19	2,5
<i>Toxicodendron</i>	Poison oak	1,2,5,6,21,24,26	2
<i>Toxicodendron diversilobum</i>	Poison oak	14,16,19,20	1,2,3,4,5
<i>Trientalis latifolia</i> (<i>Lysimachia latifolia</i>)	Pacific starflower		1
<i>Trillium chloropetalum</i>	Giant wakerobin		5
<i>Umbellularia</i> sp.	California bay	5,15,20,25	2,3,5
<i>Vitis</i> sp.	Wild grape	21	2
<i>Vitis californica</i>	California wild grape		1,5
<i>Viola ocellata</i>	Western heart's ease	7	2
<i>Whipplea modesta</i>	Modesty		1

1. Shevock et al. 1992
 2. CNDDDB 2018
 3. Jules et al. 2017
 4. Taylor 1993
 5. Shevock et al. 2005
- *Calflora

Shasta snow-wreath was originally thought to occur only on limestone but is now documented to occur on other substrates (Shevock et al. 2005, Lindstrand and Nelson 2005a, Lindstrand and Nelson 2006). Figure 2 (Google Earth Image 2019) illustrates the variety of substrates.

Figure 7. *Neviusia cliftonii*; (shown with *Quercus kelloggii*)



Source: Julie Kierstead Nelson 2010b.

Currently, Shasta snow-wreath is found in 24 locations that occupy about 116 acres (NatureServe 2016, CNDDDB 2018) and that are spread across about 250 square miles. The occurrences are not directly connected by occupied or even suitable habitat. (NatureServe Explorer 2016, Lindstrand and Nelson 2005a, b, Lindstrand and Nelson 2006, DeWoody et al. 2012a, K.S. Roche observations 2016).

Shasta snow-wreath is presumed to have been more widespread and populations more connected along river corridors before the filling of Shasta Lake in 1948, as evidenced by the many populations that reach their lower limit at the full pool line of Shasta Lake (DeWoody et al. 2012a, Lindstrand and Nelson 2006).

Hanski and Ovaskainen (2001) indicate that to allow for long-term metapopulation persistence, a network of habitat fragments must satisfy a certain condition in terms of number, size, and spatial configuration of the fragments. The influence of landscape structure on the threshold condition can be measured by a quantity called metapopulation capacity, which can be calculated for real fragmented landscapes. Habitat loss and fragmentation reduce the metapopulation capacity of a landscape and make it less likely that the threshold condition can be met. If the condition is not met, the metapopulation is expected to go extinct, but it takes some time following habitat loss before the extinction will occur, which generates an extinction debt in a community of species.

Vellend et al. (2006) indicate that when habitats are fragmented, species are expected to go extinct from small isolated habitat patches, but this process of “relaxation” (Diamond 1972) takes time. Until relaxation is complete, such habitat patches are said to have an “extinction debt” (Tilman et al. 1994), in that some species are destined to go locally extinct even in the absence of further perturbations.

Climate

Sawyer (2006) indicates that the middle Sacramento River country of western Shasta County, where Shasta snow-wreath occurs, experiences hot summers and rainy winters. These lands do not lie in the rain shadow of the mountains to the west, since many winter storms move up the Sacramento Valley. Areas at higher elevations receive ample precipitation (60–100 in. annually), but the canyon lands receive only half that of the mountain slopes. Winter temperatures at lower elevations are mostly above freezing, and summer temperatures are very high. Only the highest peaks hold snow into the summer.

Newburn and Payne (2014) describe the climate for the Green-Horse project area that surrounds many of the occurrences of Shasta snow-wreath as: as Mediterranean, characterized by wet, cool winters and dry, warm summers. Mean annual precipitation varies from approximately 70 inches in the upper portions of the watersheds to nearly 40 inches at the lower end. About 90 percent of the precipitation falls between October and April, the majority of which occurs as rain with very little snowpack. Summer thunderstorms are common and can release significant localized rain.

These storms can also be dry with conditions that encourage fire ignition and spread from lightning strikes, with an event in June of 2008 being an example of this pattern (Bagley Fire).

Since the Shasta snow-wreath occurs in the vicinity of Shasta Lake, Shasta Dam is the closest and most pertinent quantitative weather and climate record. The temperature and precipitation at Shasta Dam from 1981 to 2010 is summarized in the table below.

Table 3. Temperature and Precipitation Data at Shasta Dam.

Measurement	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Average Max. Temperature (F)	52.5	56.7	61.3	68.5	77.5	86.0	95.2	93.7	87.8	75.2	60.5	53.1	72.3
Average Min. Temperature (F)	38.9	41.0	43.0	47.7	54.8	62.2	68.3	66.6	62.3	54.4	45.6	40.1	52.1
Average Total Precipitation (in.)	11.12	10.05	8.74	4.37	2.58	1.30	0.20	0.40	1.05	3.40	7.86	10.74	61.82
Average Total Snow Fall (in.)	2.2	0.4	0.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.3	0.7	3.9
Average Snow Depth (in.)	0	0	0	0	0	0	0	0	0	0	0	0	0

Source: Western Regional Climate Center 2016.

Because Shasta snow-wreath is considered a living fossil (Ertter 1993, Stebbins 1993), the paleo climate is also worth examining. Wolfe (1978) indicates that the Paleocene and Eocene floras from North America...provide the basis for a number of climatic inferences: (1) An overall gradual warming took place from the Paleocene into the middle Eocene, with gradual cooling until the terminal Eocene event and (2) Cool intervals occurred during the late Paleocene, the late early to early middle Eocene, and the early late Eocene. Thus, the changes in climate may have affected the current existence, distribution and survival of Shasta snow-wreath. The paleo climate was influenced by continental movements, changes in ocean circulation patterns, building mountain ranges, and the Laurentide ice sheet (Minnich 2007). At different times, the paleo climate was warmer and dryer as well as colder and wetter than the current (Topel et al. 2012) meaning that Shasta snow-wreath appears to have considerable plasticity or adaptability to different climate regimes.

Fire History

Newburn and Payne (2014) discuss the fire history of the Green-Horse project area, which overlaps the distribution of Shasta snow-wreath, in their 2014 report:

...few forested regions have historically experienced fires as frequently and with such high variability in fire severity as the Klamath Mountains Bioregion (Taylor and Skinner 1998), this is primarily due to climatic variables and the diverse physical and biotic arrangement of the Klamath Mountains. South- and west-facing aspects and upper slope positions typically experienced higher severity fire than lower slopes and north- and east-facing aspects. On the eastern edge of the Klamath Mountains, median fire return intervals ranged from 8 to 38 years (Skinner et al. 2006). With frequent fire of low to mixed severity, fuel accumulations over most of the area were historically maintained at low levels, and landscape features such as ridge-tops and streams were often sufficient to impede fire spread (Skinner et al. 2006).

Newburn and Payne (2014) go on to indicate:

...fire suppression efforts were institutionalized after the establishment of the National Forest System (circa 1876-1905). Since the onset of fire suppression in the early 1900s, and with the increased effectiveness of mechanized suppression techniques (fire engines, aircraft, etc.) in later years, most of the fires were kept small until recent years. [Supporting references added: Calkin et al. 2014, USDI et al. 2001, Williams 2005.]

The acres burned by wildfire within the Green-Horse project area since 1920 are shown in the following table.

Table 4. Acres burned by wildfire in the Green-Horse project area 1920-2016, by decade

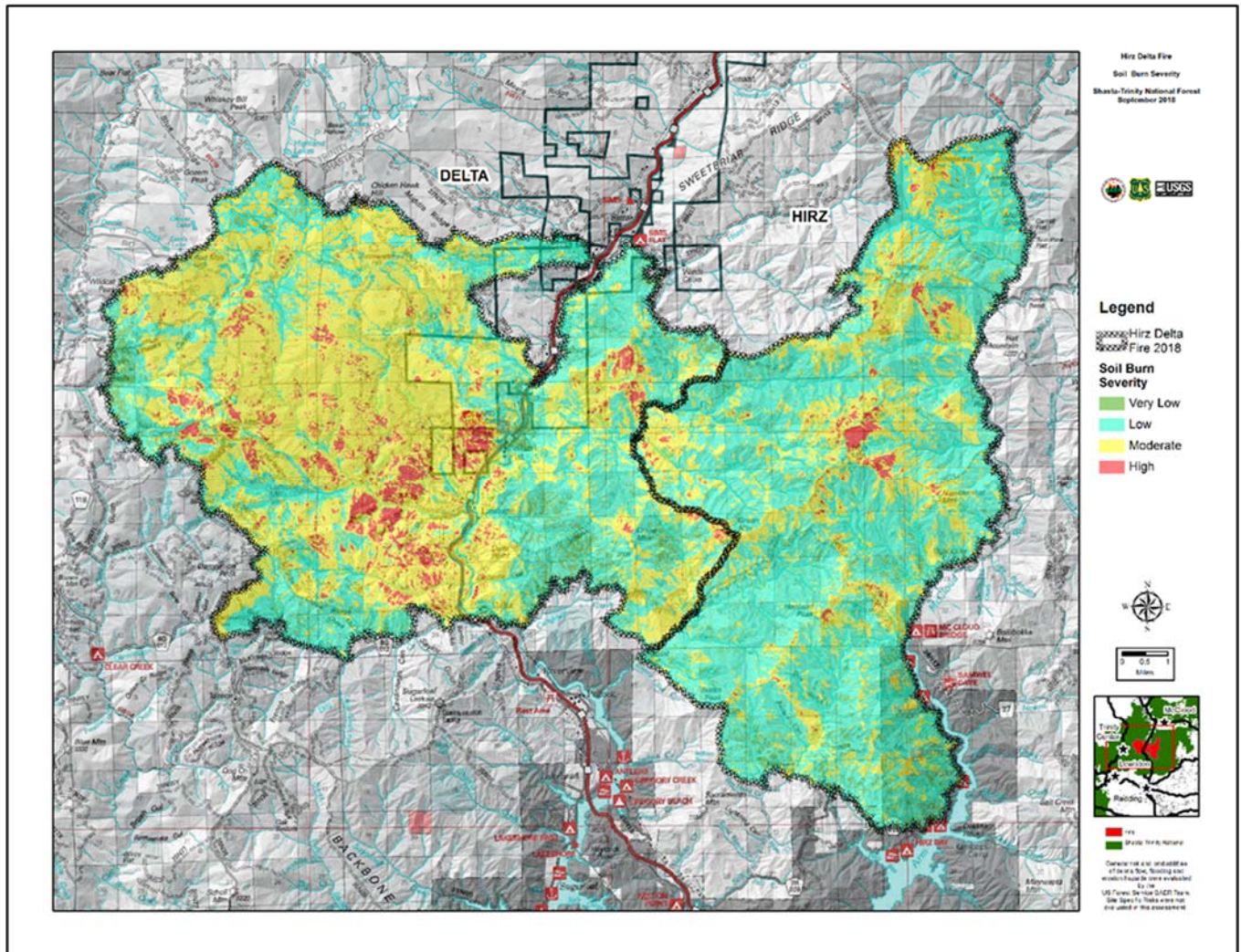
Decade	Acres Burned
1920s	7,592
1930s	20,239
1940s	247
1950s	0
1960s	0
1970s	0
1980s	0
1990s	0
2000s	51
2010s	5
Total	28,134

Source: Newburn and Payne 2014.

There were additional fires that occurred between 2016 and the present. Those have not been summarized here. There is a map of the Hirz fire of 2018 later in this document that provides a

visual comparison. The Mountain Fire (CalFire 2019) burned close to the Jones Valley habitat (Element Occurrence 16) in August 2019.

Figure 8 Hirz and Delta Fires Burn Perimeter and Final Burn Severity



Source: USDA FS STNF 2018a.

Geology and Soils

Kruckeberg (2002) indicates that plants are captive of their inanimate environments. All terrestrial higher plants are tethered to some kind of underpinning: soil rock water or other plants. In turn, the anchoring media are the products of physical and biological processes and materials. A major component of the origin and character is geological.

Shasta snow-wreath occurs within the Klamath Geomorphic province (USDI BOR Mid-Pacific Region 2014b) on Triassic age terrane (Cheng 1997, Ertter 1993).

Hotz (1971) indicates that:

The eastern Klamath belt where Shasta snow-wreath grows includes rocks that range in age from Ordovician (?) [sic] to Jurassic. Rocks of Ordovician (?) [sic] and Silurian age form an elongate belt on the east side of the province south of Yreka. A large area occupied by strata ranging in age from Devonian to Jurassic lies in the southeastern part of the province north of Redding. Both areas include lithologies typical of a eugeosynclinal environment of deposition that is, graywacke, sandstone, shale and mudstone, chert and chert pebble conglomerate, impure limestone, and a wide variety of volcanic rocks including greenstone, pillow lavas, volcanic breccias and pyroclastics of basaltic composition, spilite and keratophyre flows and pyroclastics, and andesitic flows and tuffs. Strata of the eastern Klamath belt are estimated to have an aggregate thickness of 40,000-50,000 feet.

The Devil's Rock Hosselkus limestone is Triassic in origin (Keeler-Wolf and Keeler-Wolf 1975, Keeler-Wolf 1989, Cheng 1997).

Figure 9. Distribution of Shasta snow-wreath occurrences by geologic type.

Geologic map unit	Formation	Rock type	Age	No. Shasta snow-wreath occurrences
Cb	Baird	Metasedimentary	Carboniferous	2
Cbmv	Baird	Metavolcanic	Carboniferous	1
Dc	Copley Greenstone	Metavolcanic	Devonian	1
Pmd	Quartz Diorite – Dikes	Intrusive	Permian	1
Pmml	McCloud Limestone	Carbonaceous	Permian	1
Pmn	Nosoni	Metasedimentary/ metavolcanic	Permian	1
Trh	Hosselkus Limestone	Carbonaceous	Triassic	4
Trm	Modin	Metavolcanic ¹	Triassic	3
Trp	Pit	Metasedimentary	Triassic	3

Source: Lindstrand and Nelson 2005a.

1–Also contains limestone fragments and strata.

Soils range from non-existent to thin and rocky to deep soils formed by erosion of steeper slopes (Personal observations, Google Earth image 2019, Figures 2 and 8).

Figure 10. Distribution of Shasta snow-wreath occurrences by order 3 soil type.

Order 3 soil map unit	Dominant soil type	Dominant parent material	No. Shasta snow-wreath occurrences
102	Holland Family	Metasedimentary/metavolcanic	1
105	Holland Family	Metasedimentary/metavolcanic	5
117	Holland Family, deep	Metasedimentary/metavolcanic	1
178	Marpa Family	Metasedimentary/metavolcanic	1
179	Marpa Family	Metasedimentary/metavolcanic	1
180	Marpa Family	Metasedimentary/metavolcanic	1
183	Marpa Family	Metasedimentary/metavolcanic	1
195	Millsholm Family	Sedimentary	1
204	Neuns Family	Metasedimentary/metavolcanic	1
222	Neuns Family	Metasedimentary/metavolcanic	1
250	Rock Outcrop, limestone	Limestone	3

Source: Lindstrand and Nelson 2005a.

THREATS

The threats to Shasta snow-wreath are both anthropogenic and natural and are presented below in term of the factors required under the CESA.

Factor A. Modification or curtailment of habitat or range

The Shasta snow-wreath is endangered with significant destruction, modification, and curtailment of habitat and range, as a result of a number of actions which are discussed in more detail in the following paragraphs.

Inundation

Shasta snow-wreath occurrences and potential habitat is threatened by the BOR (Federal) Action proposed to raise Shasta Dam. Shasta Lake (Reservoir) currently stores 4.55 million acre-feet (MAF) of water and covers an area of about 29,500 acres with a shoreline of about 420 miles. The proposal, if implemented, at the highest raise level would inundate additional area up to about 32,300 acres of land surrounding the existing Shasta lake (reservoir) (USDI BOR 2015). Inundation would destroy known occurrences and potential habitat as well as change hydrology and drainage of habitat areas.

The BOR in its 2013 Draft Fish and Wildlife Coordination Act Report (USDI BOR 2013) indicates that at that date:

During botany surveys and vegetation and habitat mapping surveys (NSR 2004, Lindstrand and Nelson 2005a,b, Lindstrand 2007), Shasta snow-wreath was found at nine sites within the Inundation Zone of the SLWRI. Therefore, 43 percent (9 of 21 subpopulations) of the entire known population of Shasta snow-wreath could be lost (or partly lost) by the proposed raising of Shasta Dam; other subpopulations could potentially be disturbed by the relocation of roads, bridges, campgrounds, and other facilities due to the SLWRI (Lindstrand 2007). The subpopulations found within the Inundation Zone include: (1) a single, relatively large population occurring in riparian habitat along the Ripgut Creek riverine reach (Pit River Arm); (2) a large, previously known population along Campbell Creek (McCloud River Arm); (3) a very large population in riparian habitat along both sides of Stein Creek (Pit River Arm) extending from near the Stein Creek/Shasta Lake confluence to 0.25 mile upstream; (4) a small population found at an unnamed stream south of Cove Creek in riparian and mixed woodland habitat on the right bank, at the confluence with Shasta Lake; (5 and 6) one moderate and one large population along Blue Ridge on the main body of Shasta Lake in hardwood-conifer and ponderosa pine habitats immediately above the Shasta Lake high water line; and (7) a moderate-sized population in riparian habitat along both banks of Keluche Creek (McCloud River Arm) near the Keluche Creek/Shasta Lake confluence (NSR 2004, Lindstrand 2007).

Other disturbances associated with Dam raise

Other disturbances could occur from moving facilities or changing access and associated road construction (USDI BOR 2015). USDI BOR (2013) goes on to say that in addition to the nine subpopulations of Shasta snow-wreath within the Inundation Zone, another eight subpopulations of Shasta snow-wreath are potentially threatened by non-project related activities (e.g., mining, development, fire, invasive species, and other human-related disturbances) due to their location adjacent to State highways, county roads, forest roads, trails, homes, and transmission lines (Lindstrand 2007). Therefore, only 19 percent of all the known populations of Shasta snow-wreath (4 out of 21 subpopulations) are not currently threatened by SLWRI or non-project related activities (Lindstrand 2007). (See computations based on current EO numbers below).

From USDI BOR (2013):

...the [FWS] Service believes that the SLWRI could result in adverse affects to rare and special status species in the vicinity of Shasta Lake, riparian habitat along the Sacramento River, and aquatic habitat in the Delta. It is unknown at this time if raising Shasta Lake would inundate a significant portion of the limited habitat of the following seven rare, but not federally listed, species each of which is endemic to the vicinity of Shasta Lake: Shasta snow-wreath (*Neviusia cliftonii*), Shasta salamander (*Hydromantes shastae*), Shasta sideband snail (*Monadenia troglodytes troglodytes*), Wintu sideband snail (*Monadenia troglodytes wintu*), Shasta chaparral snail (*Trilobopsis roperi*), Shasta hesperian snail (*Vespericola shasta*), and a rare undescribed variety of red huckleberry (*Vaccinium parviflorum* –aka *shastense*) but with blue berries unofficially known as “Shasta huckleberry” (Nelson and Lindstrand 2015, Lindstrand and Nelson 2005a,b; NSR 2004; Lindstrand 2007; DeWoody and Hipkins 2007 [DeWoody et al. 2012b]; Nelson, personal communications 2007). Additional habitat would be disturbed by construction-related activities and the relocation of campgrounds, roads, bridges, and other facilities above the Inundation Zone. The raising of Shasta Dam and implementation of the SLWRI would result in the loss, degradation, and fragmentation of habitat and may result in the need to further evaluate the factors threatening some of these seven species pursuant to section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (ESA).

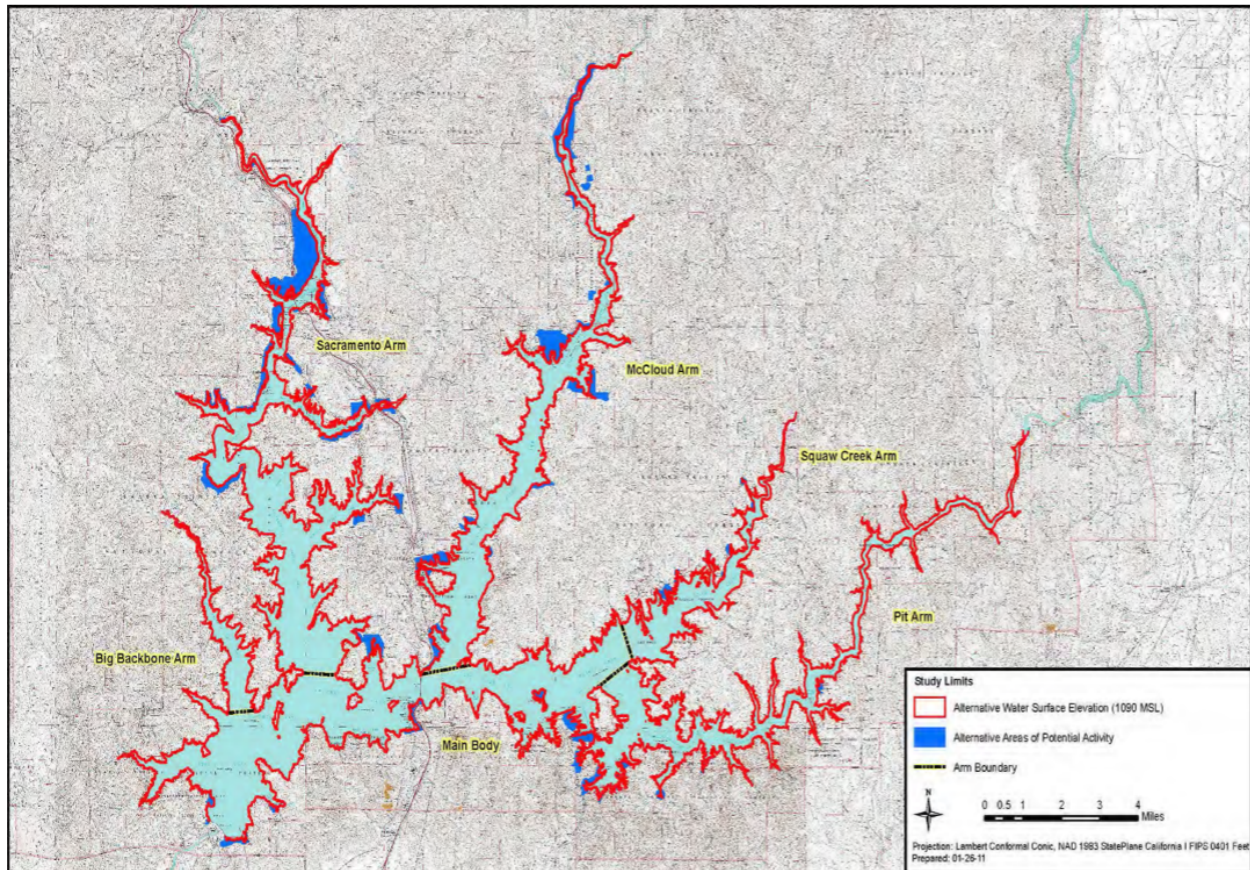
Comprehensive effects analysis is not available, but partial information indicates the following: Shasta snow-wreath, in particular, could be adversely affected USDI BOR (2013).

Since additional occurrences of Shasta snow-wreath have been documented since 2007 (now 24 element occurrences as compared to 21 in 2007, Lindstrand 2007), **62 percent** of all known occurrences of the plant species (9 out of 24 occurrences by inundation plus 8 by other actions). Nine occurrences will be partly or completely inundated or affected by activities associated with raising Shasta Dam (Lindstrand and Nelson 2005a,b; Lindstrand 2007; CDFG 2007a). The CALFED Final Programmatic Environmental Impact Statement/ Environmental Impact Review (EIS/EIR) includes Shasta snow-wreath among “evaluated species for which direct mortality as a

result of implementing CALFED actions is prohibited as a condition of the Multi-Species Conservation Strategy” (CALFED Bay Delta Program 2000a,b, US GPO 2004).

Figure 11, illustrates the areas of potential affects from the dam raise, both inundation and associated actions.

Figure 11. USDI BOR Shasta Lake and Vicinity Portion of the Primary Study Area for Enlargement.



Source –USDI BOR 2014b.

Other Land Management Actions

Other actions that may affect habitat will occur as part of the on-going management of National Forest System (NFS) Lands for fire resilience. Eight occurrences of Shasta snow-wreath (33% of 24 total) are documented within the Green-Horse project area.

The Green-Horse Project Record of Decision (Myers 2016) indicates that:

- Prescribed broadcast burning or underburning would occur on approximately 41,6251 acres.
- Hand thinning and pruning of small trees and brush, followed by hand piling and pile burning or underburning, would occur on approximately 88 acres adjacent to private property.
- Hand thinning and pruning of small trees and brush, followed by hand piling and pile burning, would occur on approximately 35 acres surrounding recreation residences at Campbell Creek.
- Hand thinning and pruning of small trees and brush, followed by hand piling and pile burning or underburning, would occur on approximately 83 acres surrounding bald eagle nest sites.
- Approximately 4.61 miles (4 acres) of dozer line would be constructed or reconstructed in order to assist fire managers in safely conducting prescribed fire.

Fuels treatments would occur over a period of 7 to 10 years using a resource treatment strategy that would allow managers to adjust treatments over time if they discover new information or changed conditions. The proposed action does not include any commercial timber harvest, new forest system road or temporary road construction, existing road reconstruction or project-related road maintenance.

Under the selected alternative, a low-intensity surface fire (31 percent predicted for the project area) would damage some above-ground portions of individual plants, while underground portions would be unaffected, and plants would recover in the short term. A low-intensity surface fire within riparian/mesic habitats would likely benefit *Neviusia cliftonii* populations indirectly by reducing riparian vegetation cover and competition for understory resources (moisture, substrate, soil minerals, understory light), resulting in increased viability of these populations, until riparian vegetation recovers.

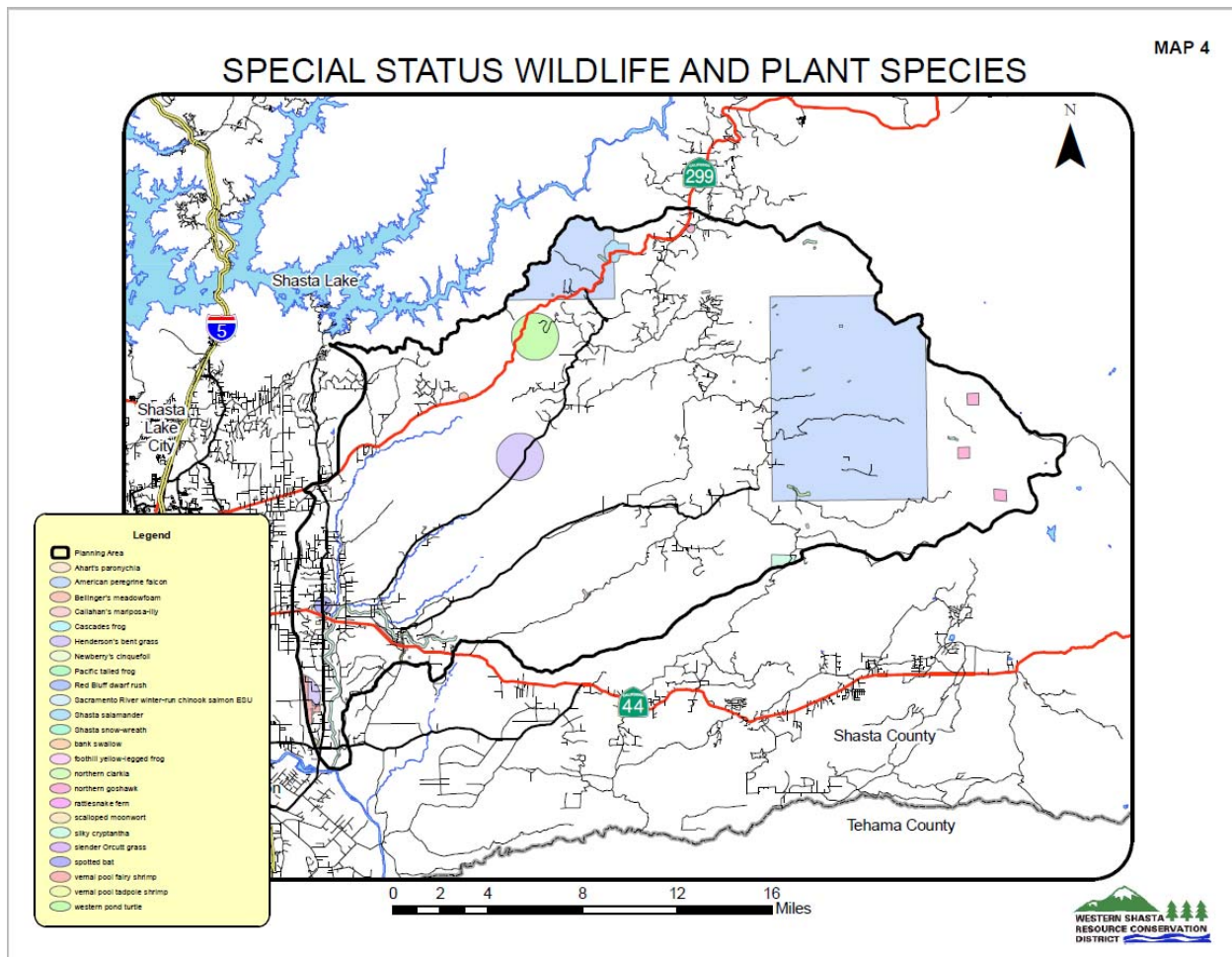
Riparian or generally mesic-associated species such as *Neviusia cliftonii* may also be affected by a loss of suitable habitat in the event of a high-intensity wildfire; however, since these species typically (although not exclusively) grow in moist environments where fire is less able to proliferate, negative impacts from these fire events may be more minor to moderate and shorter-term. If there were severe changes to the hydrologic regime from a high-intensity fire, though, negative impacts to these species would be major and longer-term.

In a high-intensity surface fire (0.03 percent predicted for the project area) –soil cover (e.g., woody debris, litter, duff) could be reduced which would also adversely impact the structural

stability of many plant species. Nutrients stored in the organic layer (such as potassium and nitrogen) vital for plant growth can also be lost or reduced in a high-intensity surface fire.

The Western Shasta Resource Conservation District under the Cow Creek Strategic Fuels Reduction Plan Update 2010 (WSRCD 2010) proposed fuelbreaks that may overlap the distribution of Shasta snow-wreath and may reduce the spread of wildfire in the area and into the area, once completed and if maintained (Figure 12).

Figure 12. Cow Creek Strategic Fuels Reduction Plan Map 4 of Special Status Wildlife and Plant Species.



Source: Western Shasta Resource Conservation District 2010.

Further, on-going vegetation encroachment including invasive species and forest trees threatens the destruction of habitat for Shasta snow-wreath.

USDI BOR (2013) indicates that Shasta snow-wreath is a slow growing species with a tendency to occur in relatively disturbed areas along the edge of the forest thus making the species especially vulnerable to invasive species (i.e., blackberry) and human-related threats (personal communications Julie Keirsted Nelson 2007).

Packers Bay invasive species project decision notice (Kennedy 2018) says:

The selected alternative would allow us to treat non-native invasive broom [Scotch broom (*Cytisus scoparius*), French broom (*Genista monspessulana*), and Spanish broom (*Spartium junceum*)] infestations, reduce or eliminate the seed bank, and re-establish native vegetation on approximately 112 acres of National Forest System lands. Treatments will include: 1) using chainsaws and hand tools to cut the broom near ground level; 2) cut vegetation will either be piled and burned, or hauled away for disposal in a landfill; 3) using hand-held herbicide applicator wands and/or hand-held spray bottles to apply the herbicide combined with a surfactant and a colorant (dye) to the freshly cut broom stumps; 4) follow-up treatments including herbicide application, hand pulling, and prescribed underburning within treated areas to kill broom seedlings and seed bank; and 5) re-vegetating treatment areas with native plants where needed to lower the potential for re-invasion of invasive plants. Two herbicides, aminopyralid and glyphosate, will be used initially and a selection process initiated to determine the most effective for cut stump treatment. Both are known to be effective on broom. This decision also includes implementing the design features, best management practices, and monitoring to protect natural resources which are described in section 4 of the Environmental Assessment (EA).

The modifications to Alternative 1 that the deciding official authorized are: Approximately 2 acres in the project area will be set aside for manual treatments without herbicides for a period of up to 10 years. Volunteers organized by the Environmental Protection Information Center (EPIC) will perform the treatments on a recurrent basis.

EPIC (2019) documents the manual treatments accomplished in 2019.

Forest Service road and trail maintenance could also threaten Shasta snow-wreath. Several populations occur immediately adjacent to roads and several populations occur immediately adjacent to trails.

Mining and logging particularly on private lands could threaten the existence of several occurrences (table 1). There are 6 of 24 (25% of total) occurrences on non-federal lands. These actions are regulated by the State of California and Shasta County. Since there is little or no requirement to protect Shasta snow-wreath, any ground disturbing actions on private land within occurrences or adjacent to occurrences could threaten individual clones and the habitat for Shasta snow-wreath.

Along with mining and logging on non-federal lands, other development within or adjacent to occurrences on private lands such as roads, houses or other structures could destroy habitat and result in the introduction of invasive species.

Invasive Species

In addition to the Packers Bay Invasive species project discussed above (Kennedy 2018, USDA FS STNF 2018), Jules et al. (2017) and CNDDDB (2018a,b) document the presence of Himalayan blackberry (*Rubus armeniacus*) which can increase rapidly and have severe effects on plant communities (CAL IPC 2004).

Wildfires

Wildfires may threaten or benefit the occurrences of Shasta snow-wreath. The Hirz Fire of 2018, removed above ground portions of clones which resulted in respouting. Jules et al. (2017) includes observations of a prescribed burn in Jones Valley in December 2011. Jules et al (2017) also note that:

The California black oak woodlands and Pacific ponderosa pine – Douglas-fir forests (Eyre 1980) where Shasta snow- wreath populations occur exhibit very high departures from pre-Euro-American settlement fire frequencies (Safford and Van de Water 2014) and the presence of relatively fire-intolerant Douglas-fir in the overstory is indicative of prolonged fire suppression. Historically, this vegetation experienced frequent wildfires with an average fire return interval of

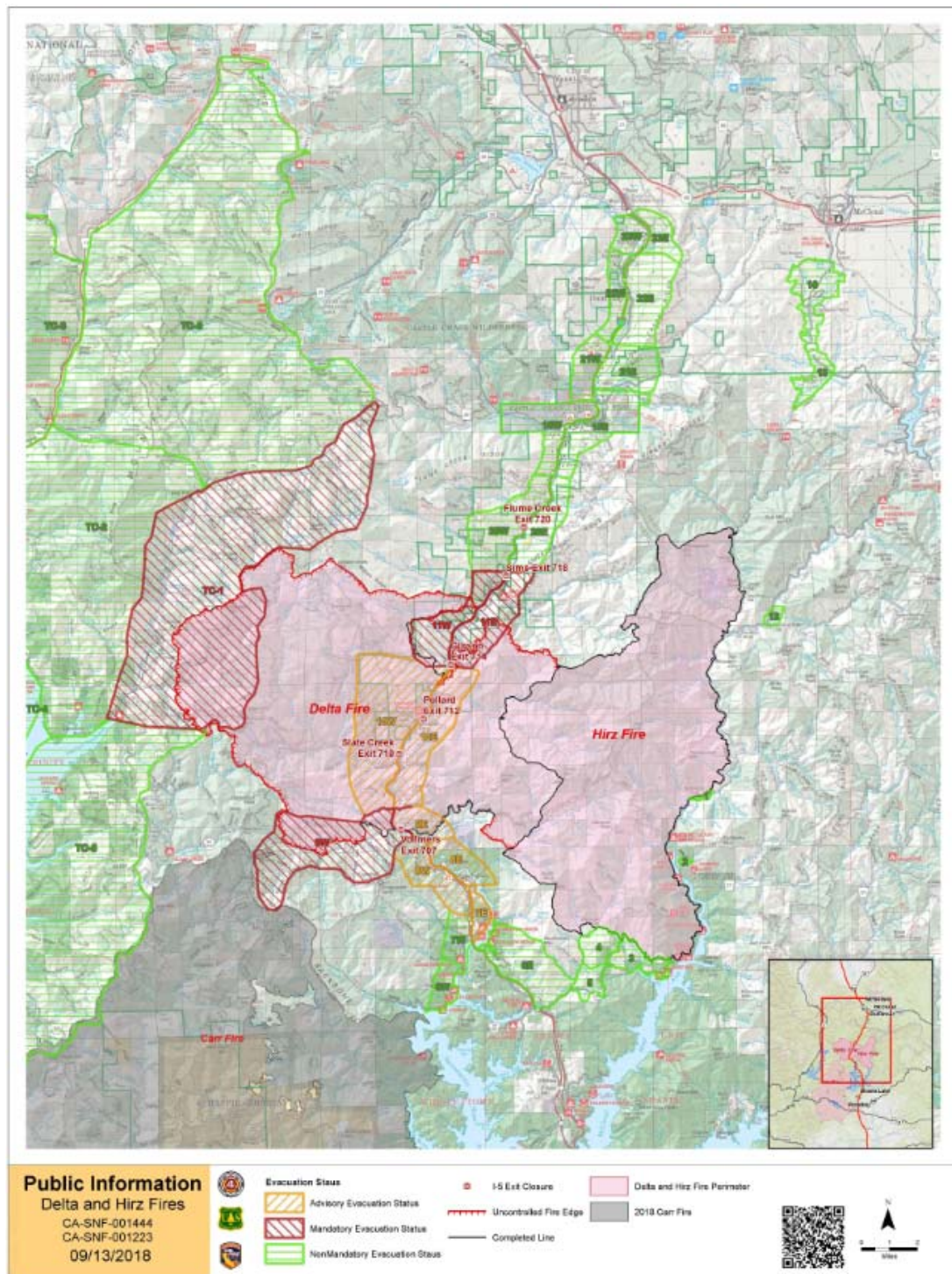
12 years (Taylor and Skinner 2003; Fry and Stephens 2006; Safford and Van de Water 2014). Restoring a more frequent fire return interval through prescribed burning or employing a mechanical fuels treatment to reduce canopy cover may benefit Shasta snow-wreath.

Repeat, short-interval fires may push ecosystems into new states, and recently there has been much discussion about disturbance regime thresholds beyond which ecosystem characteristics change dramatically due to a loss of resilience of the vegetation (Meng et al. 2014).

Wildfires can also facilitate the reproduction and/or representation of invasive species (Lambert 2010).

There is no specific information available about fire regimes in the paleo environment, however Byrne et al. (1991) indicate shifts between oak and pine as the dominant vegetation in much of northern California throughout the Holocene. These vegetation types are known to be susceptible to fire (Safford and Van de Water 2014).

Figure 13. Map of the Hirz and Delta Fires 2018.



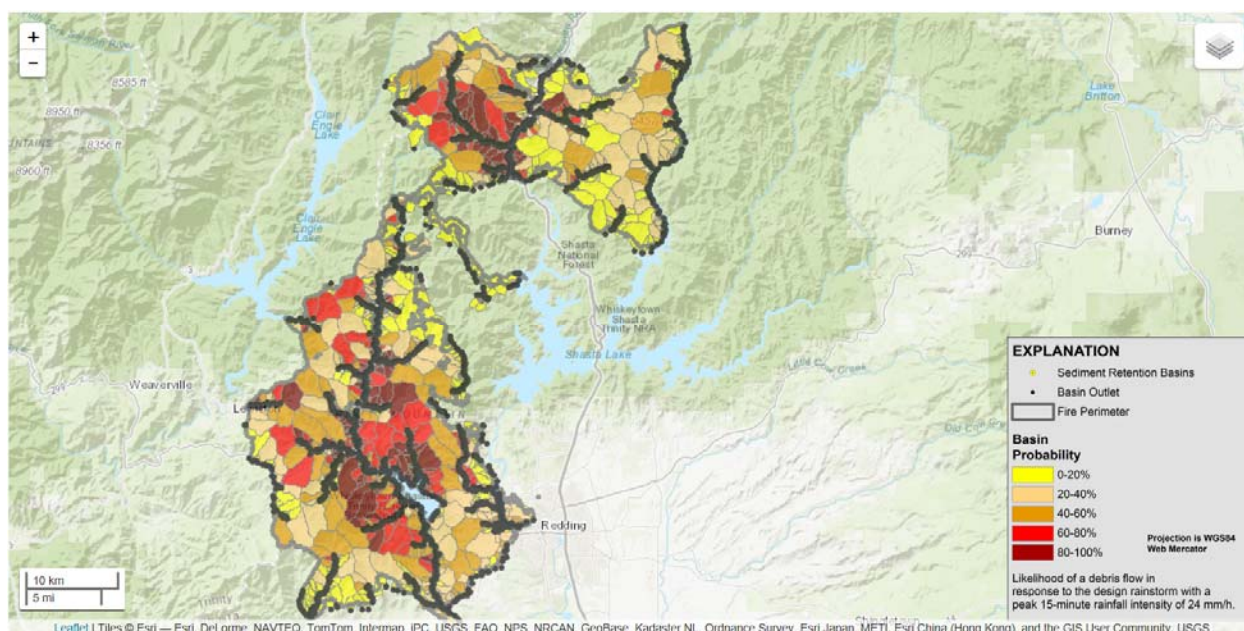
Source: NWCG Inciweb 2018.

Other Habitat Factors

Unstable Soils and Landslides

Shasta snow-wreath occurs in an area known to have unstable soils and landslides. That coupled with its occurrence in a zone of known extreme fire and precipitation events, could result in reductions in occurrences and habitat. Jules et al. (2017) documented soil slumping from prescribed fire in December of 2011. Figure 13 illustrates the risk of debris flows after recent fires.

Figure 14. Map of the Hirz and Delta Fires 2018 with likelihood of debris flow.



Source: USDI USGS Landslide Hazards Program 2018.

Climate Change

Climate change could influence the continued existence of Shasta snow-wreath (Young et al. 2012, Pacifici 2015). It is unknown how much resilience Shasta snow-wreath has to changes in temperature or moisture regimes and how those changes might influence other destructive forces such as fire and/or landslides.

Through legislation and Governor's Executive Orders, the State of California has mobilized to meet the challenges and opportunities posed by climate change. The overall strategy is embodied in reducing carbon emissions, promoting readiness for climate impacts, preserving biodiversity,

and conducting research to provide the best available science to guide our actions. In the course of this work, technical documents, strategies, and planning guidance have been produced by state agencies, including the California Department of Public Health (CDPH). The Climate Change and Health Profile Report (Maizlish 2017) seeks to provide a county-level summary of information on current and projected risks from climate change and potential health impacts. This report represents a synthesis of information on climate change and health for California communities based on recently published reports of state agencies and other public data.

Table 5. Summary of Cal-Adapt Climate Projections for the North Region.

RANGES	
Temperature Change 1990-2100	January average temperature increase of 0.5°F to 4°F by 2050 and 3°F to 6°F by 2100. July average temperature increase of 3°F to 5.5°F by 2050 and 8°F to 10°F by 2100, with larger temperature increases in the mountainous areas in the northeastern portion of the region. (Modeled high temperatures – average of all models; high carbon emissions scenario)
Precipitation	Annual precipitation is projected to decline by approximately an inch by 2050 and 2 inches by 2100 for most of the region. (CCSM3 climate model; high carbon emissions scenario)
Heat Wave	Heat wave is defined as five days above a temperature between 89°F and 99°F depending on location. By 2050 there is projected to be two to four more heat waves than 2010. Projected heat wave occurrence in 2100 is variable depending on location, between six and 15 per year.
Snowpack	March snowpack disappears by 2090 for most of the region with the exception of areas near Mt. Shasta. (CCSM3 climate model; high emissions scenario)
Wildfire Risk	Substantial increases in the likelihood of wildfires are projected in most of the region, especially in Shasta and Siskiyou counties where risks may be multiplied 6 to 14 times by the end of the century. (GFDL model, high carbon emissions scenario)

Source: Maizlish et al. 2017.

At different times, the paleo climate that Shasta snow-wreath has endured, was warmer and dryer as well as colder and wetter than the current (Töpel et al. 2012) meaning that Shasta snow-wreath appears to have considerable plasticity or adaptability to different climate regimes. However, the ability of Shasta snow-wreath to migrate to find suitable climate niches is limited due to the steep terrain and human introduced impediments.

Destruction, modification, and curtailment of the habitat for Shasta snow-wreath from human activities is an ongoing threat to its continued existence.

Factor B. Overutilization

Overutilization for commercial, recreational, scientific, or educational purposes is currently occurring and may increase in the future if the SLWRI project is implemented and brings additional human presence to the area.

Shasta snow-wreath has been, and likely continues to be collected by botanists and gardeners for growing in personal gardens (reduced to possession—removed from federal ownership and committed to private ownership/possession) and for deposit as pressed and dried herbarium specimens.

The California Native Plant Society, CNPS Calscape (2019) and Calflora (2019) indicate the species is occasionally available from nurseries commercially.

Factor C. Disease and predation

Disease and Predation could be possible threats to Shasta snow-wreath. There are no documented diseases of Shasta snow-wreath at present. Personal observations by Julie Kiersted Nelson (2016c) at Low Pass indicate that some leaves appear to be colonized by fungi.

Figure 15. Shasta snow-wreath (*Neviusia cliftonii*) with fungal spots, growing with Himalayan blackberry at Low Pass. October 2011.



Source: Julie Kierstead Nelson 2011.

Since this plant has been known to science for only a short time, the absence of evidence of disease cannot be construed as the absence of diseases. It is expected that Shasta snow-wreath would be subject to the same diseases of other similar shrubs (Oceanspray or Ninebark) such as powdery mildew (UC IPM 2018), sudden oak death (*Phytophthora ramorum*) or water mold (*Phytophthora spp.*) (Perry 2006) but so far there are no observations of these diseases. On-going monitoring could identify diseases present.

Climate change could make diseases more prevalent or make Shasta snow-wreath more susceptible to disease through stress (Elad and Pertot 2014). There is no information as to its susceptibility to other diseases such as water mold disease (*Phytophthora spp.*) or sudden oak death (*Phytophthora ramorum*). Other species within the rose family (Rosaceae) are known hosts, so it is possible that Shasta snow-wreath could be susceptible (USDA APHIS 2013).

There are also no observations of grazing damage from wildlife or cows/sheep. There are no active grazing allotments on NFS lands where Shasta snow-wreath occurs (USDA FS STNF 1996). Most of federal land on which Shasta snow-wreath occurs was acquired as part of the construction and flooding of Shasta Dam and Shasta Lake (reservoir) and as such never had federal grazing permits established. It is unknown if there are grazing permits on private lands where Shasta snow-wreath occurs.

Factor D. Existing regulatory mechanisms

The inadequacy of Existing Regulatory Mechanisms is also contributing to the threats to Shasta snow-wreath. Eighteen out of 24 (75%) occurrences are documented to be partially or completely on federal lands, either NFS or BLM administered public lands (See table 1 for details).

Shasta snow-wreath is included on the California Department of Fish and Wildlife Special Vascular Plants, Bryophytes, and Lichens List (CDFW CNDDDB 2018a) but has no state-listing status under the California Endangered Species Act (CANRA DFW Biogeographic Data Branch CNDDDB 2018b). This state listing would apply to occurrences on private lands and is considered in land management and project planning on federal lands. A state listing would be considered in the evaluation of species of conservation concern as the Shasta Trinity National Forest Land and Resource Management Plan is revised and in project planning.

Shasta snow-wreath is currently listed as sensitive by the USDA FS, Pacific Southwest Region (R5) under the Regional Forester's Sensitive Species list (USDA FS R5 2013) and by the USDI BLM (2015) for California. Sensitive species are managed to avoid a trend towards federal listing and consist of those species the Forest Service has identified as having a viability concern based on a significant current or predicted downward trend in population numbers or density and/or a significant current or predicted downward trend in habitat capability that would reduce a species' existing distribution.

As Forest Plans are updated to the 2012 Planning Rule standards (USDA FS 2012), the Shasta-Trinity National Forest (STNF) may, or may not, include Shasta snow-wreath in its "species of

conservation concern (SCC)” list. Once this occurs management on the forest would then no longer be subject to the Regional Forester’s Sensitive Species list (USDA FS R5 2013).

The SCC list will at least partially use NatureServe Rankings. The Shasta snow-wreath is listed by NatureServe (NatureServe Explorer 2019) as:

- G2 - Imperiled (Global).
- N2- Imperiled (National).
- State of CA S2 – Imperiled (State Level).

Shasta snow-wreath occurs within the Devil’s Rock-Hosselkus Research Natural Area (DRH-RNA) as currently established. Established Research Natural Areas are managed for natural conditions (Cheng 1997, USDA FS 2005). This status as an RNA could be considered for revision with the revision of the Shasta-Trinity National Forest Land and Resource Management Plan or under a separate process (USDA FS 2012).

Existing regulatory mechanisms appear to be inadequate to protect the species.

Factor E. Other factors

There are other Natural or Manmade Factors that continue to contribute to the threats to Shasta snow-wreath.

Pollination and Reproduction Challenges

Shasta snow-wreath is currently unknown to have any successful pollinators. It is undetermined if pollination occurs via wind (anemophily) or by insects (entomophily). Although there are pictures of achenes the viability of the seeds within is unknown and no seedlings have been observed. Germination attempts failed (Ertter and Shevock 1993). Only 48 genotypes have been identified.

Shasta snow-wreath occurs in an area known to have unstable soils and frequent landslides. That coupled with the its occurrence in a zone of known extreme precipitation events, could result in reductions in occurrences and habitat and influence the success of flowering and sexual reproduction if it occurs at all. Wildfires are other events that could drastically modify occurrences, habitat and pollinators. Extreme wildfire events are expected to increase under changing climatic conditions. Other weather conditions such as early or late frost could also

influence the function of flowers and insects if those are involved in reproduction at any time and thus influence reproductive success and genetic diversity.

Some of the Shasta snow-wreath material that has been removed from the wild might also provide for off-site conservation. The Dunsmuir Botanical Gardens in Dunsmuir, California has at least 2 specimens growing there. Located in the Dunsmuir City Park in far northern California, the Gardens encompass ten acres of hilly, wooded area with a meadow containing the various gardens. The purpose of the Dunsmuir Botanical Gardens is to enhance the natural setting of the Dunsmuir City Park for the enjoyment and horticultural education of the public through the establishment and maintenance of native and woodland plants (Dunsmuir Botanical Gardens 2014). Ertter and Shevock (1993) indicate that Members of the California Native Plant Society currently are cultivating *N. cliftonii* and that it is growing at East Bay Regional Parks Botanical Garden. Christman (2011) also documents off-site locations, while Breen (2019) and Tu (2019) document Shasta snow-wreath growing at the Hoyt Arboretum in Portland, Oregon since 1999. The California Native Plant Society (CNPS Calscape (2019) and Calflora (2019) indicate the species is occasionally available from nurseries commercially.

None of the Shasta snow-wreath is currently designated as a scientifically documented genetic resource of conservation value. There is no available documentation as to source or genetics of the cultivated plants.

No viable seeds of Shasta snow-wreath have been observed and no seedlings had been observed in over 20 years of informal monitoring. Seed collected in 1992, did not germinate under any of the tested regimes at the University of California Botanical Garden. There are no other reports of seed collected or of reproduction or viability testing. Achenes are known from photographs and from the type description.

Because Shasta snow-wreath occurs on an ancient landform and within topographic constrictions of that landform, it is likely unable to expand its range in response to changing circumstances including climate.

SUMMARY AND JUSTIFICATION

The Shasta snow-wreath is primarily endangered by significant destruction, modification, and curtailment of habitat and range through proposed and on-going projects but primarily by the proposed raising of the height of Shasta dam and the inundation of habitat. The SLWRI project would affect **62 percent** of all known occurrences of the plant species (9 out of 24 occurrences by inundation plus 8 by other actions) of the entire known population of Shasta snow-wreath.

Other proposed or on-going projects to manage vegetation may have both positive and negative effects on this species. Invasive plant species that can change and/or dominate Shasta snow-wreath habitat are documented within and surrounding known occurrences.

Overutilization appears to be a minor factor as do disease and predation. Other natural and man-made factors also appear to be a minor influence at this time although climate change and geological instability as affected by expected changes in climate and wildfires are difficult to quantify at this time.

The existing regulations are inadequate to reduce or prevent the proposed and on-going destruction of individuals and habitat and are not responsive to other factors that when added to the changes in habitat and occurrences are likely to lead to endangerment and or complete loss of this species.

URGENT RECOVERY ACTIONS NEEDED

Priority Category 1: Tasks needed to avoid imminent species extinction

Restriction of destruction/removal of occurrences, removal of above ground and below ground plant parts and modification of habitat for Shasta snow-wreath associated with the proposal to raise Shasta Dam such that occurrences and habitat would not be inundated or destroyed.

Priority Category 2: Tasks needed to maintain a viable population

The following list indicates priority category 2 tasks needed to maintain a viable population.

- Reduction in harmful disturbances to Shasta snow-wreath plants, plant parts and habitat that is occurring and planned to occur on federal lands. This reduction would occur as a

result of listing and consultation with USFWS and or CDFG/CDFW. Also, studies in what type and amount of disturbance might be beneficial.

- Habitat modeling through geographic information systems and field checking to determine if there are other occurrences and to ascertain best places for re-introduction. USDA-FS has the data and expertise to complete this. Alternately, this could be accomplished by independent contractors or University researchers.
- Collection and propagation of ramets/genets to conserve diversity in potential habitat and at an off-site location using best available science and plant propagation practices (Maschinski and Albrecht 2017). This would need to be funded and accomplished by independent researchers with CDFG/CDFW, USDA-FS and USFWS cooperation and coordination after listing.
- Studies in reproduction and pollination using best available science and methodology including studies of seeds and viability. This would need to be funded and accomplished by independent researchers with CDFG/CDFW, USDA-FS and USFWS cooperation and coordination after listing.
- Organized search for seedlings through-out its distribution. This would need to be funded and accomplished by independent researchers with CDFG/CDFW, USDA-FS and USFWS cooperation and coordination after listing.
- Ongoing control of invasive species and studies of effectiveness of control. This would need to be funded and accomplished by CDFG/CDFW, USDA-FS with USFWS cooperation and coordination after listing.
- Development of State level conservation agreements with non-federal landowners. This would need to be funded and accomplished by CDFG/CDFW, USFWS cooperation and coordination after listing.
- Support of actions to reduce climate change (Committee on Stabilization Targets for Atmospheric Greenhouse Gas Concentrations 2011). This would need to be funded and accomplished by the State of California, USDA-FS with USFWS cooperation and coordination after listing.
- Identification of fungal diseases currently affecting this species and determination of potential for spread and potential control. This would need to be funded and

accomplished by independent researchers with CFGC/CDFW, USDA-FS and USFWS cooperation and coordination after listing.

Request for Critical Habitat Designation Under Federal ESA

Under the California Endangered Species Act, there is no critical habitat designation process. This petition information is being concurrently submitted to the USFWS as well as the CFGC (Roche 2019b). There is a request to the USFWS to designate critical habitat under the Federal Endangered Species Act included in the Federal ESA petition. Under the Federal ESA, critical habitat is composed of the specific areas within the geographic area occupied by the species at the time it was listed, that contain the physical or biological features that are essential to the conservation of endangered and threatened species and that may need special management or protection. Critical habitat designations affect only Federal agency actions or federally funded or permitted activities. Critical habitat designations do not affect activities by private landowners if there is no Federal “nexus”—that is, no Federal funding or authorization. Federal agencies are required to avoid “destruction” or “adverse modification” of designated critical habitat. The ESA requires the designation of “critical habitat” for listed species when “prudent and determinable.” (USDI FWS 2017). Critical habitat is requested to be designated surrounding and including all occurrences on Federal Lands. This should include patches large enough to limit effects of human actions to existing occurrences and to provide for vegetative reproduction to spread from existing occurrences.

LITERATURE CITED

- Aguilar, R., M. Quesada, L. Ashworth, Y. Herrerias-Diego, J. Lobo. 2008. Genetic consequences of habitat fragmentation in plant populations: susceptible signals in plant traits and methodological approaches. *Mol Ecol.* 2008 Dec, 17(24):5177-88. doi: 10.1111/j.1365-294X.2008.03971.x.
- Albers, J. P. and J. F. Robinson. 1961. Geology and Ore deposits of East Shasta Copper-Zinc District Shasta County, California. Geological Survey Professional Paper 338. US Department of Interior. United States Government Printing Office, Washington, DC. Available at: <https://pubs.usgs.gov/pp/0338/report.pdf> [Accessed 01/11/19].
- Biology. 2019a. Biology Online dictionary. Population. Available at: <http://www.biology-online.org/dictionary/Population> [Accessed 08/28/2019].

- Biology. 2019b. Biology Online dictionary. Viability. Available at: <https://www.biology-online.org/dictionary/Viability> [Accessed 08/28/2019].
- Breen, P. J. 2019. Email communications regarding Shasta snow-wreath at Hoyt Arboretum in Portland, Oregon.
- Byrne, R., E. Edlund, S. Mensing. 1991. Holocene Changes in the Distribution and Abundance of Oaks in California. USDA Forest Service Gen. Tech. Rep. PSW-126. 1991. Available at: https://www.fs.fed.us/psw/publications/documents/psw_gtr126/psw_gtr126_03_byrne.pdf [05/13/19].
- CALFED Bay Delta Program. 2000a. CALFED Bay Delta Program: Multi-Species Conservation Strategy EIS/EIR Environmental impact statement for the CALFED Bay-Delta Program. Available at: <http://calwater.ca.gov/content/Documents/library/310.pdf> [Accessed 05/11/2019].
- CALFED. 2000b. Multi-Species Conservation Strategy. Final Programmatic EIS/EIR Technical Appendix. July. CALFED Bay-Delta Program, Sacramento, California. As cited in USDI BOR 2013.
- CalFire. 2019. Mountain Fire August 2019. Available at: <https://www.fire.ca.gov/incidents/2019/8/22/mountain-fire/> [Accessed 08/29/2019].
- Calflora. 2019. Calflora Taxon Report 5852. Available online: https://www.calflora.org/cgi-bin/species_query.cgi?where-taxon=Neviusia+cliftonii [Accessed 05/24/19].
- California Code. 2019. Title 14, Section 670.1 California Code of Regulations (CCR). Available at: [https://govt.westlaw.com/calregs/Document/ID161BF00D48011DEBC02831C6D6C108E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/ID161BF00D48011DEBC02831C6D6C108E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) [Accessed 09/09/2019]
- California Fish and Game Code. 2019. Sections 2072 and 2073 of the Fish and Game Code. Available at: http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=FGC&division=3.&title=&part=&chapter=1.5.&article=1 [Accessed 09/09/2019].
- California Native Plant Society. 2019. Evaluation of a Petition to List *Neviusia cliftonii* (Shasta snow-wreath) under the California Endangered Species Act. Available from California Native Plant Society, 2707 K Street, Suite 1, Sacramento, CA 95816-5130. cnps@cnps.org [Information available at: <https://www.cnps.org/about/contact> Accessed 09/09/2019].
- California Native Plant Society Calscape. 2019. Shasta Snow Wreath. 2019. Available on line: [https://calscape.org/Neviusia-cliftonii-\(Shasta-Snow-Wreath\)?srchr=sc5ceb14c3118b5](https://calscape.org/Neviusia-cliftonii-(Shasta-Snow-Wreath)?srchr=sc5ceb14c3118b5) [Accessed 05/26/2019].
- California Native Plant Society, Rare Plant Program. 2019. Inventory of Rare and Endangered Plants of California (online edition, v8-03 0.39). Website <http://www.rareplants.cnps.org> [accessed 19 May 2019].

- California Natural Diversity Database (CNDDDB). 2018. Available online:
<https://www.wildlife.ca.gov/Data/CNDDDB> [Accessed: 12/15/2018].
- California Department of Fish and Wildlife California (CDFW) Natural Diversity Database (CNDDDB). 2018a. Special Vascular Plants, Bryophytes, and Lichens List November 2018. Available online:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383> [Accessed 01/18/2019].
- California Natural Resources Agency (CANRA) Department of Fish and Wildlife (DFW) Biogeographic Data Branch California Natural Diversity Database (CNDDDB). 2018b. State and Federally Listed Endangered, Threatened, and Rare Plants of California. Available online:
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109390&inline> [Accessed 01/18/2019].
- California Natural Resources Agency Department of Fish and Wildlife (CDFG). 2007a. California Natural Diversity Database (CNDDDB). January 2007. As cited in USDI BOR 2013.
- CAL IPC (California Invasive Plant Council). 2004. *Rubus armeniacus* (Himalayan blackberry). Available online at: <https://www.cal-ipc.org/plants/paf/rubus-armeniacus-plant-assessment-form/> [Accessed 05/22/2019].
- Calkin, D., H. Katuwahl, M. Handa, and T. Holmes. 2014. Advances in Forest Fire Research Chapter 5 The effectiveness of suppression resources in large fire management in the US; A Review. Domingos Xavier Viegas ed. Coimbra University Press. Coimbra, Portugal. Available at: https://digitalis-dsp.uc.pt/bitstream/10316.2/34196/1/978-989-26-0884-6_170.pdf?ln=pt-pt [accessed 02/03/17].
- Chafin, L.G. and K. Owers. 2010. Alabama snow-wreath. Available at:
http://georgiawildlife.com/sites/default/files/uploads/wildlife/nongame/pdf/accounts/plants/neviusia_alabamensis.pdf [Accessed 12/19/16].
- Cheng, S. 1997. Establishment Record for Devil's Rock-Hosselkus Research Natural Area within Shasta-Trinity National Forest in Shasta County, California. Unpublished report on file, Pacific Southwest Research Station, Albany, Calif. USDA Forest Service.
- Christman, L. 2011. Shasta snow-wreath, a long hidden treasure. Redding Record Searchlight. Available at: <http://archive.redding.com/lifestyle/shasta-snow-wreath-a-long-hidden-treasure-ep-375753894-354834161.html/> [Accessed 05/23/2019].
- Committee on Stabilization Targets for Atmospheric Greenhouse Gas Concentrations. 2011. Climate Stabilization Targets: Emissions, Concentrations, and Impacts over Decades to Millennia. Board on Atmospheric Sciences and Climate Division on Earth and Life Studies National Research Council of the National Academies. The National Academies Press, Washington, D.C. Available at: www.nap.edu [Date Accessed 11/09/16].
- Cornuet, J.M., and G. Luikart. 1996. Description and power analysis of two tests for detecting recent population bottlenecks from allele frequency data. *Genetics* 144:2001–2014.

- DeCamp, Ken. 2013. Cover photo of Shasta snow-wreath. Ken DeCamp Photography. Redding, CA.
- DeVore, M.L., S.M. Moore, K.B. Pigg, and W.C. Wehr. 2004. Fossil *Neviusia* leaves (Rosaceae: Kerrieae) from the lower-middle eocene of southern British Columbia. *Rhodora*, 106(927), 197-209.
- DeVore, M.L., K.B. Pigg, W.C. Wehr. 2005. Systematics and phylogeography of selected Eocene Okanagan Highlands plants. *Canadian Journal of Earth Sciences*. Volume 53, Number 9 pp. 205-214.
- DeVore, M.L. and K.B. Pigg. 2007. A brief review of the fossil history of the family Rosaceae with a focus on the Eocene Okanagan Highlands of eastern Washington State, USA, and British Columbia, Canada. *Pl. Syst. Evol.* 266: 45–57.
- De Witte, L.C., and J. Stöcklin. 2010. Longevity of clonal plants: why it matters and how to measure it. *Annals of Botany*, 106(6), 859–870. <http://doi.org/10.1093/aob/mcq191>. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2990663/> [accessed 02/03/17].
- DeWoody, J., L. Lindstrand III, V.D. Hipkins and J.K. Nelson. 2012a. Population Genetics of *Neviusia cliftonii* (Shasta snow-wreath): Patterns of Diversity in a rare endemic. *Western North America Naturalist* 72(4) pp. 457-472.
- DeWoody, J., V.D. Hipkins, J.K. Nelson and L. Lindstrand III. 2012b. Genetic Structure of *Vaccinium parvifolium* (Ericaceae) in Northern California Reveals Potential Systematic Distinctions. *Madroño*, 59(4):196-210. 2012.
- DeWoody, J. and V.D. Hipkins. 2007. Analysis of microsatellite variation in seven populations of *Vaccinium parviflorum*, and recommendations for future study design. National Forest Genetic Electrophoresis Laboratory Preliminary Project Report submitted to Julie Kierstead Nelson, Shasta-Trinity National Forest, Redding, California, on May 21, 2007. As cited in BOR 2013. Final publication: DeWoody et al 2012b.
- Diamond, J.M. 1972. Biogeographic kinetics: estimation of relaxation times for avifaunas of southwest Pacific islands. *Proceedings of the National Academy of Sciences (USA)* 69:3199–3203.
- Doyen, J. 2015. Photo of Shasta snow wreath seeds posted to Calphoto: https://calphotos.berkeley.edu/cgi/img_query?enlarge=0000+0000+1115+3205 [05/05/19].
- Dunsmuir Botanical Garden. 2014. Dunsmuir Botanical Garden webpage. Available online: <http://dunsmuirbotanicalgardens.org/> [accessed 02/09/17].
- Elad, Y. and I. Pertot. 2014. Climate change impacts on plant pathogens and plant diseases. *Journal of Crop Improvement* 28:99-139.
- Ellstrand, N.C., and M.L. Roose. 1987. Patterns of genotypic diversity in clonal plant species. *American Journal of Botany* 74:123–131.

- Elzinga, C.L., D.W. Salzer, and J.W. Willoughby. 1998. Measuring & Monitoring Plant Populations. Bureau of Land Management National Business Center BC-650B P.O. Box 25047 Denver, Colorado 80225-0047. Available at: <https://www.blm.gov/nstc/library/pdf/MeasAndMon.pdf> [accessed 02/03/17].
- Environmental Protection Information Center (EPIC). 2019. Documentation of manual treatments. Available online: <https://www.wildcalifornia.org/blog/success-people-power-prevails> [Accessed 05/24/2019].
- Ertter, B. 1993. What is snow wreath doing in California. *Fremontia* published as 22(3): 3-4 (now filed as 21(3):3-4. Available at https://docubase.berkeley.edu/cgi-bin/pl_dochome?query_src=pl_search&collection=Fremontia&id=165 [11/12/16].
- Ertter, B. and J.R. Shevock. 1993. Snow-wreath and its relatives in the garden. In: *Shasta snow-wreath: a new genus for California*. *Fremontia* 22: 10-11.
- Eyre, F.H. 1980. Forest Cover Types of the United States and Canada, F. H. Eyre, editor, Society of American Foresters (SAF), 1980. Available online: https://books.google.com/books/about/Forest_cover_types_of_the_United_States.html?id=x74I5C6q2ZwC [Accessed 05/24/2019].
- Freiley, K.J. 1994. Clonal diversity patterns in marginal populations of the geographically restricted *Neviusia alabamensis* (Rosaceae). *Southwestern Naturalist* 39: 34–39.
- Fry, D.L., and S.L. Stephens. 2006. Influence of humans and climate on the fire history of a ponderosa pine-mixed conifer forest in the southeastern Klamath Mountains, California. *Forest Ecology and Management* 223.1-3 (2006): 428-438. Available online: https://nature.berkeley.edu/stephenslab/wp-content/uploads/2015/04/Fry_Stephens_2006.pdf [Accessed 05/24/2019].
- Google Earth 2019. Image of vicinity of Shasta Lake, California USA. [Accessed 05/11/2019].
- Gray, A. 1858. ""*Neviusia*", a New Genus of Rosaceæ". *Memoirs of the American Academy of Arts and Sciences*, Volume 6.
- Hamrick, J.L., and M.J.W. Godt. 1996. Effects of life history traits on genetic diversity in plant species. *Philosophical Transactions of the Royal Society B—Biological Sciences* 351:1291–1298.
- Hanski, I., and O. Ovaskainen. 2002. Extinction debt at extinction threshold. *Conservation biology* 16.3 (2002): 666-673.
- Heikens, A.L. and B. Ertter. 2012. *Neviusia cliftonii*. In *Jepson Flora Project* (eds.) *Jepson eFlora*, http://ucjeps.berkeley.edu/eflora/eflora_display.php?tid=69861 [Accessed on 09/18/19].
- Honnay, O., H. Jacquemyn, K. Nackaerts, P. Breyne and K. van Looy. 2010. Patterns of population genetic diversity in riparian and aquatic plant species along rivers. *Journal of Biogeography* 37:1730–1739.

- Hotz, P.E. 1971. Geology of Lode Gold Districts in the Klamath Mountains, California and Oregon. Geological Survey Bulletin 1290. Available at: <https://pubs.usgs.gov/bul/1290/report.pdf> [12/22/16].
- Howard, R.A. 1976. In Defense of the Rev. Dr. Reuben D. Nevius and the Plant Called *Neviusia*. *Arnoldia* Vol. 36, No. 2 (Mar./Apr. 1976), pp. 57-65.
- Integrated Taxonomy Information System (ITIS). 2016. https://www.itis.gov/servlet/SingleRpt/SingleRpt?search_topic=TSN&search_value=25265#null [Date accessed 12/06/16].
- Irwin, W.P. 2003. Correlation of the Klamath Mountains and Sierra Nevada Sheet 1: Map showing accreted terranes and plutons of the Klamath Mountains and Sierra Nevada. U.S. Department of the Interior U.S. Geological Survey. Available online: https://ngmdb.usgs.gov/Prodesc/proddesc_54412.htm [Accessed 01/23/2019].
- Jablonski, D. 2002. Survival without recovery after mass extinctions. *PNAS* June 11, 2002, vol. 99, no. 12: 8139–8144.
- Jules, E.S., J.I. Jackson, R.J. Butz, H.M. Kurkjian. 2017. Population Structure and Site Characteristics of the Rare Shasta Snow-Wreath (*Neviusia cliftonii*), *Madroño* 64(4).
- Kartesz, J.T. and J.W. Thieret. 1991. Common Names for Vascular Plants: Guidelines for Use and Application. *Sida* 14(3): 421-434.
- Keeler-Wolf T. and V. Keeler-Wolf 1975. A survey of the scientific values in the proposed Hosselkus Limestone Research Natural Area, Shasta-Trinity National Forests, Unpublished report in the library of the Pacific Southwest Forest and Range Experiment Station, Berkeley and on file at Shasta-Trinity National Forest Supervisor's office, Redding, CA, USA. As cited in Cheng 1997.
- Keeler-Wolf, T. 1989. Ecological survey of the proposed Devil's Rock research natural area, Shasta-Trinity National Forests, Shasta County, California. Unpublished report in the library of the Pacific Southwest Forest and Range Experiment Station, Berkeley and on file at Shasta-Trinity National Forests Supervisor's office, Redding, CA, USA. As cited in Cheng 1997.
- Keeley, J. E. 1987. Role of Fire in Seed Germination of Woody Taxa in California Chaparral. *Ecology* 68 (2).
- Kennedy, A. 2018. Packers Bay Invasive Plant Species Removal Project Decision Notice. United States Department of Agriculture Forest Service Shasta-Trinity National Forest. Available online: https://www.fs.usda.gov/nfs/11558/www/nepa/64917_FSPLT3_4285838.pdf [Accessed 01/20/2019].
- Knuth, P. 1906. Handbook of flower pollination. Clarendon Press, Oxford, England.
- Kruckeberg, A.R. 2002. Geology and Plant Life: The Effects of Landforms and Rock Types on Plants. University of Washington Press. Seattle, WA. Available at: <https://books.google.com/books?hl=en&lr=&id=SYQoYVnMLY4C&oi=fnd&pg=PP11&dq=influence+of>

- [+geological+substrate+on+vegetation&ots=ZKJy5AKlTB&sig=VEmt1xjJwIY8lzkdVabV4zOjUW8#v=onepage&q=influence%20of%20geological%20substrate%20on%20vegetation&f=false](#) [Date accessed: 12/22/16].
- Kuussaari, M., R. Bommarco, R.K. Heikkinen, A. Helm, J. Krauss, R. Lindborg, E. Öckinger, M. Pärtel, J. Pino, F. Roda, and C. Stefanescu. 2009. Extinction debt: a challenge for biodiversity conservation. *Trends in ecology & evolution*, 24(10), pp.564-571.
- Labandeira, C.C. 2005. The Fossil Record of Insect Extinction: New Approaches and Future Directions. *American Entomologist*. Available online: <https://academic.oup.com/ae/article-pdf/51/1/14/18742535/ae51-0014.pdf> [Accessed 01/18/2019].
- Lambert, A.M., C.M. D'Antonio, and T.L. Dudley. 2010. Invasive Species and Fire in California Ecosystems. Vol 38:2/38:3. Available at: http://rivrlab.msi.ucsb.edu/sites/rivrlab.msi.ucsb.edu/files/publications/frem38.2_38.3_lambert_etal.pdf [05/14/2019].
- Lindstrand III, L. 2007. Shasta Lake Water Resources Investigation Selected Special-Status Species Review. Presented on November 15, 2007 by Len Lindstrand, North State Resources, Inc., Redding, California at the U.S. Bureau of Reclamation, Sacramento, California. As cited in USDI BOR 2013.
- Lindstrand III, L. and J.K. Nelson. 2006. Habitat, Geologic, and Soil Characteristics of Shasta Snowwreath (*Neviusia cliftonii*) Populations. *Madroño*, Vol. 53, No. 1 (January-March 2006), pp. 65-68.
- Lindstrand III, L. & J.K. Nelson. 2005a. Shasta snow-wreath: New occurrences and habitat associations. *Fremontia* 33(2): 24-26.
- Lindstrand, L and J.K. Nelson. 2005b. Noteworthy collections. *Madrono* 52:128.
- Linnaeus, C. 1735. *Systema Naturae*. Johann Friedrich Gmelin, Tubingen, Germany.
- Lydon, P.A., and J.C. O'Brien. 1974. Mines and mineral resources of Shasta County, California. California Division of Mines and Geology. Available online: https://archive.org/stream/minesandmineral06lydo/minesandmineral06lydo_djvu.txt [Accessed 10/17/16].
- Maizlish N., D. English, J. Chan, K. Dervin, P. English. 2017. Climate Change and Health Profile Report: Shasta County. Sacramento, CA: Office of Health Equity, California Department of Public Health; 2017. https://www.cdph.ca.gov/Programs/OHE/CDPH%20Document%20Library/CHPRs/CHPR089Shasta_County2-23-17.pdf. Accessed [01/17/19].
- Maschinski J. and M.A. Albrecht. 2017. Center for Plant Conservation's Best Practice Guidelines for the reintroduction of rare plants. *Plant Divers.* 2017;39(6):390-395.

- Meng, R., P.E. Dennison, C. M. D'Antonio and M.A. Moritz. 2014. Remote Sensing Analysis of Vegetation Recovery following Short-Interval Fires in Southern California Shrublands. PLOS ONE Volume 9 Issue 1. Available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0110637> [05/14/2019].
- Minnich, R.A. 2007. Climate, Paleoclimate, and Paleovegetation. In Terrestrial vegetation of California. eds. Av Michael G. Barbour, Todd Keeler-Wolf, Allan A. Schoenherr. 3rd edition. University of California Press. London. England.
- Myers, D.R. 2016. Green-Horse project Record of Decision signed November 17, 2016. United States Department of Agriculture (USDA) Forest Service (FS) Shasta-Trinity National Forest. Available at: https://www.fs.usda.gov/nfs/11558/www/nepa/60566_FSPLT3_3906448.pdf [Accessed 05/23/2019].
- National Wildfire Coordination Group (NWCg) Inciweb. 2018. Delta & Hirz Fires PIO Map 9-13-18. Available online: Delta & Hirz Fires PIO Map 9-13-18. Available at: <https://inciweb.nwcg.gov/incident/map/6191/25/88511> [01/18/2019].
- NatureServe Explorer. 2019. *Neviusia cliftonii*. Available at: http://explorer.natureserve.org/servlet/NatureServe?sourceTemplate=tabular_report.wmt&loadTemplate=species_RptComprehensive.wmt&selectedReport=RptComprehensive.wmt&summaryView=tabular_report.wmt&elKey=145922&paging=home&save=true&startIndex=1&nextStartIndex=1&reset=false&offPageSelectedElKey=128124&offPageSelectedElType=species&offPageYesNo=true&post_processes=&radiobutton=radiobutton&selectedIndexes=128124&selectedIndexes=145922. [01/19/2019].
- Nelson, J.K. 2016a. Personal communications regarding Waters Gulch occurrences.
- Nelson, J.K. 2016b. Personal communications regarding Shasta snow wreath. To K.S. Roche regarding propagation and lack of seedling germination.
- Nelson, J.K. 2016c. Shasta snow wreath flower structure– Photo Julie Kierstead Nelson 2016. Available online: https://www.calflora.org/cgi-bin/noccdetail.cgi?seq_num=po114663 [accessed 01/23/2019].
- Nelson, J.K. 2016d. Personal observations of Shasta snow-wreath at Low Pass.
- Nelson, J.K. 2013. Personal communications --Shasta Snow Wreath (*Neviusia cliftonii*) monitoring, Shasta-Trinity National Forest 04/26/2013.
- Nelson, J.K. 2011 CNDBB Element Occurrences 2011. Map image supplied to K.S. Roche.
- Nelson, J.K. 2011. Shasta snow-wreath (*Neviusia cliftonii*) with fungal spots, growing with Himalayan blackberry at Low Pass. October 2011.
- Nelson, J.K. 2010a. *Neviusia cliftonii*. Calphotos. Available online: https://calphotos.berkeley.edu/cgi/img_query?enlarge=0000+0000+0910+1265 [Accessed 05/24/2019].

- Nelson, J.K. 2010b. *Neviusia cliftonii*; (shown with *Quercus kelloggii*) Available online: https://calphotos.berkeley.edu/cgi/img_query?enlarge=0000+0000+0910+1263 [Accessed 05/24/2019].
- Nelson, J.K. 2007. personal communications to Lindstrand regarding threats to Shasta snow-wreath as cited in USDI BOR 2013.
- Nelson, J.K. 1993. *Neviusia* Notes. On file at Shasta-Trinity National Forests Supervisor's Office, Redding, CA.
- Nelson, J.K., L. Lindstrand III. 2015. A New Species of *Vaccinium* (Ericaceae) From the Southeastern Klamath Mountains and the Sierra Nevada, California, With Two Subspecies. *Madroño* 62(3). (13 August 2015).
- Nelson, J.K. and K. Roche. 2016. Observations of Shasta snow wreath at Waters Gulch trail.
- Newburn, B and L. Payne. 2014. Green-Horse Habitat Restoration and Maintenance Project Fire, Fuels, Air Quality and Vegetation Report. Available at: http://data.ecosystem-management.org/nepaweb/nepa_project_exp.php?project=29469 [accessed 02/01/17].
- North State Resources, Inc. (NSR). 2004. Shasta Lake Water Resources Investigation Technical Report. Volume I Natural Resource Characterization. Draft July 2004. Prepared by North State Resources, Inc., Redding, California for U.S. Bureau of Reclamation, Mid-Pacific Region, Sacramento, California. As cited in USDI BOR 2013 Draft Fish and Wildlife Coordination Act Report Appendix.
- Pacifici, M., W.B. Foden, P. Visconti, J.E.M. Watson, S.H.M Butchart, K.M. Kovacs, B.R. Scheffers, D.G. Hole, T.G. Martin, H.R. Akcakaya, R.T. Corlett, B. Huntley, D. Bickford, J.A. Carr, A.A. Hoffmann, G.F. Midgley, P. Pearce-Kelly, R.G. Pearson, S.E. Williams, S.G. Willis, B. Young and C. Rondinini. 2015. Assessing species vulnerability to climate change. *Nature climate change.*, 5. pp. 215-225.
- Pendleton, B., and R. Pendleton. 1998. Pollination Biology of *Coleogyne ramosissima* (Rosaceae). *The Southwestern Naturalist*, 43(3), 376-380. Retrieved from <http://www.jstor.org/stable/30055383> [Accessed 07/18/2019}.
- Perry, E. J. 2006. Phytophthora Root and Crown Rot in the Garden. Technical Editor: M. L. Flint. Pest Notes Publication 74133 University of California Agriculture and Natural Resources. UC Cooperative Extension, Stanislaus Co. Available online: <http://ipm.ucanr.edu/PMG/PESTNOTES/pn74133.html> [Accessed 01/17/2019].
- Phipps, J.B. 2019. Rosaceae. In: Flora of North America Editorial Committee, eds. 1993+. Flora of North America North of Mexico. 19+ vols. New York and Oxford. Volume 9. Available online: http://www.efloras.org/florataxon.aspx?flora_id=1&taxon_id=250100288 [Accessed 09/18/19].
- Plants for A Future. 2012. *Kerria japonica*. Available at: <https://pfaf.org/user/Plant.aspx?LatinName=Kerria+japonica> [accessed 07/07/2019].

- Potter, D., T. Eriksson, R.C. Evans, S. Oh, J.E.E. Smedmark, D.R. Morgan, M. Kerr, K.R. Robertson, M. Arsenault, T.A. Dickinson, and C.S. Campbell. 2007. Phylogeny and classification of Rosaceae. *Pl. Syst. Evol.* 266: 5–43 (2007).
- Puentes (Mattson), S. 2011. Photo of Shasta snow wreath seeds posted to Calphoto:
http://calphotos.berkeley.edu/cgi-bin/img_query?rel-taxon=begins+with&where-taxon=Neviusia+cliftonii
 [Date access 12/07/16].
- Roche, K. S. 2019a. Shasta Snow-wreath distribution based on 2018 CNDDDB Element Occurrences and Google Earth Image of vicinity of Shasta Lake, California USA. [Accessed 05/11/2019].
- Roche, K.S. 2019b. Before the Secretary of the Interior Petition to Protect the Shasta snow-wreath (*Neviusia cliftonii*) under the Endangered Species Act. Prepared and published at Bend, OR.
- Roche, K.S. 2016. Personal observations of Shasta snow-wreath.
- Romme, W.H., M.G. Turner, G.A. Tuskan, R. A. Reed. 2005. Establishment, Persistence, and Growth of Aspen (*Populus tremuloides*) Seedlings in Yellowstone National Park. *Ecology*, Vol. 86, No. 2 (Feb., 2005), pp. 404-418.
- Safford, H.D.; K.M. Van de Water. 2014. Using fire return interval departure (FRID) analysis to map spatial and temporal changes in fire frequency on national forest lands in California. Res. Pap. PSW-RP-266. Albany, CA: U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station. 59 p.
- Sawyer, J.O. 2006. Northwest California: A Natural History. 1st ed., University of California Press, 2006. Available at: www.jstor.org/stable/10.1525/j.ctt1pp3qm [Date Accessed 12/22/16].
- Shevock, J.R. 1993a. How rare is Shasta snow-wreath. *Fremontia* published as 22(3): 3-4 (now filed as 21(3):3-4. Available at: https://docubase.berkeley.edu/cgi-bin/pl_dochome?query_src=pl_search&collection=Fremontia&id=165 [Date accessed 11/12/16].
- Shevock, J.R. 1993b. How plants get their names and why names change. *Fremontia* 21(1):19-24. Available at: https://docubase.berkeley.edu/cgi-bin/pl_dochome?query_src=pl_search&collection=Fremontia&id=105 [05/15/2019].
- Shevock, J.R., B. Ertter, and D.W. Taylor. 1992. *Neviusia cliftonii* (Rosaceae: Kerrieae), an intriguing new relict species from California. *Novon* 2: 285-289.
- Shevock, J.R., B. Ertter, D.W. Taylor. 2005. Noteworthy Collections. *Madroño*, Vol. 52, No. 2, pp. 125–130, 2005.
- Silvertown, J. 2008. The evolutionary maintenance of sexual reproduction: evidence from the ecological distribution of asexual reproduction in clonal plants. *International Journal of Plant Sciences* 169:157–168.

- Skinner, C.N., A.H. Taylor and J.K. Agee. 2006. Klamath Mountains bioregion. In: Sugihara, Neil G.; Van Wagtenonk, Jan W.; Shaffer, Kevin E.; Fites-Kaufman, Joann and Thode, Andrea E. (eds.). Fire in California's ecosystems. pp. 170-194. Available at: https://www.fs.fed.us/psw/publications/skinner/psw_2006_skinner002.pdf [accessed 02/03/17].
- Smith, D. 2012. Travelin' in Time: Shasta County once had its own skunk train. Redding Record Searchlight. Redding, CA. Available online: <http://archive.redding.com/lifestyle/travelin-in-time-shasta-county-once-had-its-own-skunk-train-ep-375204730-354472221.html/> [Accessed 05/23/2019].
- Stebbins, G. L. 1993. Another step forward in understanding plan evolution. In: Shasta snow-wreath: a new genus for California. *Fremontia* 22: 10-11.
- Stene, E.A. 1996. Shasta Division Central Valley Project. Bureau of Reclamation. Available at: <https://www.usbr.gov/projects/pdf.php?id=107> [Accessed 05/23/2019].
- Taylor, D.W. 1994. Shasta snow-wreath: a new genus in California. A new discovery in California. *Fremontia* published as 22(3): 3-4 (now filed as 21(3):3-4. Available online: https://docubase.berkeley.edu/cgi-bin/pl_dochome?query_src=pl_search&collection=Fremontia&id=165 [Accessed 11/12/16].
- Taylor, A.H. and C.N. Skinner. 1998. Fire history and landscape dynamics in a late-successional reserve, Klamath Mountains, California, USA. *Forest Ecology and Management* 111(2 and3):285-301. Available at: [https://www.fs.fed.us/psw/publications/skinner/psw_1998_skinner\(taylor\)001.pdf](https://www.fs.fed.us/psw/publications/skinner/psw_1998_skinner(taylor)001.pdf) [accessed 02/03/17].
- Tilman, D., R.M. May, C.L. Lehman, and M.A. Nowak. 1994. Habitat destruction and the extinction debt. *Nature* 371:65–66.
- Töpel, M, A. Antonelli, C. Yesson, and B. Eriksen. 2012. Past climate change and plant evolution in western North America: a case study in Rosaceae. *PLoS One* 7.12 (2012): e50358. Available at: <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0050358&type=printable> [accessed 07/11/19].
- Tu, M. 2019. Email communications regarding Shasta snow-wreath at Hoyt Arboretum in Portland, Oregon.
- United States Department of Agriculture (USDA) Animal and Plant Inspection Service (APHIS). 2013. APHIS List of Regulated Hosts and Plants Proven or Associated with *Phytophthora ramorum* August 2013. USDA Animal and Plant Health Inspection Service (APHIS). Available at: http://www.aphis.usda.gov/plant_health/plant_pest_info/pram/downloads/pdf_files/usdaprlist.pdf [Accessed 05/03/19].
- United States Department of Agriculture (USDA) Forest Service (FS) 2005a. Forest Service Manual 2670. USDA Forest Service, Washington DC. Available at: https://www.fs.fed.us/cgi-bin/Directives/get_dirs/fsm?2600 [Accessed 09/26/2019].

- United States Department of Agriculture (USDA) Forest Service (FS) 2005b. Forest Service Manual 4063. USDA Forest Service. Available at: www.fs.fed.us/dirindexhome/fsm/4000/4060.doc [Accessed 12/16/16].
- United States Department of Agriculture (USDA) Forest Service (FS) 2012. 36 CFR Part 219 RIN 0596–AD02 National Forest System Land Management Planning (2012 Planning Rule). Federal Register/Vol. 77, No. 68/Monday, April 9, 2012/Rules and Regulations, page 21162 et seq. US Government Printing Office. Available online: https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5362536.pdf [Accessed 01/19/2019].
- United States Department of Agriculture (USDA) Forest Service (FS), Pacific Southwest Region (R5). 2013. Regional Forester’s Sensitive Species list. Available online: <https://www.fs.usda.gov/main/r5/plants-animals/plants> [Accessed 05/25/2019].
- United States Department of Agriculture (USDA) Forest Service (FS) Shasta Trinity National Forest (STNF). 2018. Hirz-Delta Fire Burned-Area Report. On file at STNF Headquarters, Redding, CA.
- United States Department of Agriculture (USDA) Forest Service (FS) Shasta-Trinity National Forest (STNF). 2015. Final Environmental Impact Statement Green-Horse Habitat Restoration and Maintenance Project. Available at: https://www.fs.usda.gov/nfs/11558/www/nepa/60566_FSPLT3_2595816.pdf [Accessed 05/16/19].
- United States Department of Agriculture (USDA) Forest Service (FS) Shasta-Trinity National Forest (STNF). 2014. Draft Environmental Impact Statement Green-Horse Habitat Restoration and Maintenance Project. Available at: https://www.fs.usda.gov/nfs/11558/www/nepa/60566_FSPLT3_2370550.pdf [Accessed 05/23/2019].
- United States Department of Agriculture (USDA) Forest Service (FS) Shasta Trinity National Forest (STNF). 1996. Land and Resource Management Plan. Available at: <http://www.fs.usda.gov/detailfull/stnf/landmanagement/planning/?cid=stelprdb5108815&width=full> [Accessed 12/16/16].
- United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS). 2019. The PLANTS Database (<http://plants.usda.gov>, 9 September 2019). National Plant Data Team, Greensboro, NC 27401-4901 USA. [Accessed 07/08/19].
- United States Department of the Interior (USDI) Bureau of Land Management (BLM). 2015. Special Status Plants in California, Including BLM Designated Sensitive Species. Available at: <https://www.blm.gov/sites/blm.gov/files/programs-natural-resources-native-plants-california-special-status-plants-detailed-list.pdf> [05/25/19].
- United States Department of the Interior (USDI), Bureau of Land Management (BLM), National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), Bureau of Indian Affairs (BIA), Geological Survey (GS),

- Bureau of Reclamation (BOR), U.S. Department of Agriculture (USDA) U.S. Forest Service (FS), Department of Energy (DOE), Department Of Defense (DOD), Department Of Commerce (DOC) National Oceanic and Atmospheric Administration (NOAA)/National Weather Service (NWS), U.S. Environmental Protection Agency (EPA), Federal Emergency Management Agency (FEMA), National Association of State Foresters. 2001. Review and Update of the 1995 Federal Wildland Fire Management Policy. National Interagency Fire Center, Boise, Idaho. Available at: https://www.nifc.gov/PIO_bb/Policy/FederalWildlandFireManagementPolicy_2001.pdf [Accessed 02/03/17].
- United States Department of the Interior (USDI) Bureau of Reclamation (BOR) Mid-Pacific Region (MPR) 2019. Shasta Lake Water Resources Investigation History. Available at: <https://www.usbr.gov/mp/ncao/slwri/docs/> [08/28/2019].
- United States Department of the Interior (USDI) Bureau of Reclamation (BOR) Mid-Pacific Region (MPR). 2015. Feasibility Report Shasta Lake Water Resources Investigation, California. Prepared by: United States Department of the Interior Bureau of Reclamation Mid-Pacific Region. Available at: <https://www.usbr.gov/mp/ncao/slwri/docs/feasability/slwri-final-fr-full.pdf> [Accessed 05/11/19].
- United States Department of the Interior Bureau of Reclamation Mid-Pacific Region (USDI BOR). 2015. Feasibility Report Shasta Lake Water Resources Investigation, California. Prepared by: United States Department of the Interior Bureau of Reclamation Mid-Pacific Region. Available at: <https://www.usbr.gov/mp/ncao/slwri/docs/feasability/slwri-final-fr-full.pdf> [Accessed 05/11/19].
- United States Department of the Interior (USDI) Bureau of Reclamation (BOR) Mid-Pacific Region (MPR). 2014a. Botanical Resources and Wetlands Technical Report Shasta Lake Water Resources Investigation, California. Available at: https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=22607 [accessed 01/24/2019].
- United States Department of the Interior (USDI) Bureau of Reclamation (BOR) Mid-Pacific Region (MPR). 2014b. Geologic Technical Report Shasta Lake Water Resources Investigation, California. Available at: https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=22612 [accessed 01/24/2019].
- United States Department of the Interior (USDI) Bureau of Reclamation (BOR) Mid-Pacific Region (MPR). 2013. Draft Fish and Wildlife Coordination Act Report Appendix Shasta Lake Water Resources Investigation, California. Available at: https://www.usbr.gov/mp/nepa/documentShow.cfm?Doc_ID=14138 [accessed 02/09/17].
- United States Department of the Interior (USDI) Fish and Wildlife Service (FWS). 2017. Critical Habitat What is it? Available online: https://www.fws.gov/endangered/esa-library/pdf/critical_habitat.pdf [Accessed 01/18/2019].

- United States Department of the Interior (USDI) U.S. Geological Survey (GS) - Landslide Hazards Program. 2018. Hirz and Delta Fire (Shasta - Trinity National Forest, CA). Available online: https://landslides.usgs.gov/hazards/postfire_debrisflow/detail.php?objectid=226 [Accessed 01/17/2019].
- United States Government Printing Office (GPO). 2004. Public Law 108–361. Water Supply, Reliability, and Environmental Improvement Act. Available at: <https://www.govinfo.gov/app/details/PLAW-108publ361> [Accessed 09/27/2004].
- United States Government Printing Office (GPO). 1980. An Act To authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes. Available at: <https://www.govinfo.gov/content/pkg/STATUTE-94/pdf/STATUTE-94-Pg1505.pdf> [Accessed 09/26/2019].
- United States Government Printing Office (GPO). 1965. An Act to establish the Whiskeytown Shasta-Trinity National Recreation Area in the State of California, and for other purposes. Available at: <https://www.govinfo.gov/content/pkg/STATUTE-79/pdf/STATUTE-79-Pg1295.pdf> [Accessed 09/16/2019].
- University of California IPM. 2018. Powdery Mildew. Agriculture and Natural Resources, University of California. Online at: <http://ipm.ucanr.edu/QT/powderymildewcard.html> [Accessed 01/18/2019].
- Vellend, M., K. Verheyen, H. Jacquemyn, A. Kolb, H. Van Calster, G. Peterken, and M. Hermy. 2006. Extinction debt of forest plants persists for more than a century following habitat fragmentation. *Ecology* 87, no. 3 (2006): 542-548.
- Wehr, W.C., and D.Q. Hopkins. 1994. The Eocene orchards and gardens of Republic, Washington. *Washington Geology* 22.3 (1994): 27-34.
- Western Regional Climate Center. 2016. Monthly climate summary Shasta Dam, California (048135) Period of Record: 01/01/1943 to 06/10/2016. Western Regional Climate Center (WRCC) Reno, NV. Available online at: <http://www.wrcc.dri.edu/cgi-bin/cliMAIN.pl?ca8135> [Accessed 01/24/2019].
- Western Shasta Resource Conservation District (WSRCD). 2010. Cow Creek Strategic Fuels Reduction Plan Update 2010. Available at: <http://www.westernshastarc.org/Docs/FireSafePlans/FirePlanswithExhibits/CowCreekFirePlan2010.pdf> [accessed 02/09/17].
- Wilcock, C. and R. Neiland. 2002. Pollination failure in plants: why it happens and when it matters. *Trends in Plant Science* Vol.7 No.6 June 2002 Available at: <http://www.efn.uncor.edu/departamentos/divbioeco/otras/bioflor/cursopregrado/PDF%202011/WILCOCK%202002%20pollination%20failure.pdf> [Access date 12/06/2016].

- Williams, G.A. 2005. The USDA Forest Service — The First Century. USDA Forest Service. Washington DC.
Available at:
https://www.fs.fed.us/sites/default/files/media/2015/06/The_USDA_Forest_Service_TheFirstCentury.pdf
[accessed 02/03/17].
- Wolfe, J. A. 1978. A Paleobotanical Interpretation of Tertiary Climates in the Northern Hemisphere: Data from fossil plants make it possible to reconstruct Tertiary climatic changes, which may be correlated with changes in the inclination of the earth's rotational axis. *American Scientist*, Vol. 66, No. 6 (November-December 1978), pp. 694-70.
- Yang, L.H. and V.H. Rudolf. 2010. Phenology, ontogeny and the effects of climate change on the timing of species interactions. *Ecol Lett*. 2010 Jan;13(1):1-10. doi: 10.1111/j.1461-0248.2009.01402.x. Epub 2009 Nov 23.
- Young, B.E., K.R. Hall, E. Byers, K. Gravuer, G. Hammerson, A. Redder, and K. Szabo. 2012. Rapid Assessment of Plant and Animal Vulnerability to Climate Change. Chapter 7 in *Wildlife Conservation in a Changing Climate*, University of Chicago Press, Chicago, IL. Available online:
<http://www.natureserve.org/sites/default/files/publications/files/ns161.05-young-et-al.pdf> [accessed 01/23/2019).

Prepared by Kathleen S. Roche, B.S. ecology and chemistry, B.S. Forest Management, 39 years of environmental analysis for the USDA Forest Service in various locations.



Memorandum

Date: October 28, 2019

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Request for 30-day Extension, Shasta Snow-Wreath (*Neviusia cliftonii*) Petition

The California Department of Fish and Wildlife (Department) requests a 30-day extension of time pursuant to Fish and Game Code Section 2073.5 to allow the Department additional time to analyze and evaluate a petition to list Shasta snow-wreath (*Neviusia cliftonii*) under the California Endangered Species Act and to complete its evaluation report. This extension would change the time for completion of the Department's evaluation report from 90 days, due January 8, 2020, to 120 days, due February 7, 2020.

If you have any questions or need additional information, please contact Richard Macedo, Branch Chief, Habitat Conservation Planning Branch at (916) 653-3861.

ec: Chad Dibble
Deputy Director
Ecosystem Conservation Division
chad.dibble@wildlife.ca.gov

Stafford Lehr
Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Wendy Bogdan
General Counsel
Office of the General Counsel
Wendy.Bogdan@wildlife.ca.gov

Richard Macedo
Chief
Habitat Conservation Planning Branch
Richard.macedo@wildlife.ca.gov

Melissa Miller-Henson
Executive Director
Fish and Game Commission
October 28, 2019
Page 2

Steven Ingram
Assistant Chief Counsel
Office of the General Counsel
Steven.Ingram@wildlife.ca.gov

Lauren Goodmiller
Attorney
Office of the General Counsel
Lauren.Goodmiller@wildlife.ca.gov

Isabel Baer
Native Plant Program Manager
Habitat Conservation Planning Branch
Isabel.baer@wildlife.ca.gov

Michael Yaun
Legal Counsel
Fish and Game Commission
Michael.Yaun@fgc.ca.gov

Memorandum

Date: November 19, 2019

To: Melissa Miller-Henson, Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the December 11, 2019 Fish and Game Commission Meeting:
*Recommendations for Designation of new Wild Trout Waters for 2019***

Fish and Game Code, Section 7260(c), grants the Fish and Game Commission (Commission) the authority to designate Heritage Trout Waters recognizing the beauty, diversity, historical significance, and special value of California's native trout. Designations are limited to waters that: support populations that best exemplify indigenous strains of native trout within their historic drainages; provide anglers with an opportunity to catch native trout in a manner that promotes the conservation of native trout; where stocking of hatchery trout has been restricted; and where angling regulations maintain the wild trout fishery through natural reproduction.

Fish and Game Code, Section 1727(b), requires the Department of Fish and Wildlife (Department) to annually prepare a list of no less than 25 miles of stream or stream segments and at least one lake deemed suitable for designation as Wild Trout Waters and to submit this list to the Commission. To comply with these requirements, the Department proposes the following waters:

North Fork Smith River, from the confluence with Middle Fork Smith River upstream to the Oregon state line, including Stoney Creek, Diamond Creek, North Fork Diamond Creek, and excluding all other tributaries (Del Norte County).

This proposed Heritage Trout Water designation incorporates approximately 33 miles of perennial stream habitat, most of which are located on public lands administered by the U.S. Forest Service, Six Rivers National Forest. The North Fork Smith River and its tributaries contain self-sustaining populations of both Coastal Cutthroat Trout and Coastal Rainbow Trout within their historic range/native drainages and is a fast-action fishery (> 2 fish per hour), with trophy trout (>18") potential. The Smith River watershed is of state and national importance with National Recreational Area and Wild and Scenic River designations, prized salmonid fisheries, and the prestigious status of the longest free-flowing, undammed river system in the United States - making this fishery a unique resource in the state and a quintessential candidate for Heritage Trout designations.

The Department has conducted annual direct observation (snorkel) and intermittent angling surveys of this portion of the Smith River drainage, both of which support designation as a high-quality stream fishery, with robust populations of both Coastal Cutthroat and Rainbow trout. This designation will expand upon, and be contiguous with, the 2016, 2017, and 2018 designations in the South Fork Smith River drainage, which included: South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eightmile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County) (2016,2017); South Fork Smith River, from the confluence with Goose Creek upstream to the confluence with Blackhawk Creek, including Goose Creek and Hurdgyurdy Creek and excluding all other tributaries; and South Fork Smith River, from the confluence with Craigs Creek upstream to Goose Creek, including Craigs Creek, Rock Creek and Coon Creek and excluding all other tributaries (Del Norte County) (2018). The Department has consulted both Del Norte County Fish and Game Advisory Committee and Smith River Alliance regarding previous and current designations within the Smith River watershed.

Hilton Lake # 5 (Mono County). Hilton Lake #5 is located at the latitude/longitude of 37°28'37.99" N, 118°45'39.39W and elevation of 10,700 feet, in the Hilton Creek drainage, near Tom's Place.

Hilton Lake #5 is part of an interconnected lake complex known as Hilton Creek Lakes and is a fast-action fishery (>2 fish per hour) for Brook Trout. There are 10 lakes within this basin, eight of which support self-sustaining trout fisheries with varying species composition. Anglers have the opportunity to achieve a so-called "Sierra Grand Slam" (catching four trout species within the same day, including Brown, Brook, Rainbow and Golden trout in the Hilton Creek Lakes basin).

The basin is located in a remote and scenic wilderness setting. This Wild Trout designation expands upon the 2018 designation of Hilton Lake #4 and Hilton Lake #1 (aka Davis Lake) and 2017 designation of Hilton Lake #2 and incorporates approximately 6 surface acres of aquatic habitat. The HWTP has conducted angling assessments and visual reconnaissance of spawning habitat, both of which support designation as a high quality, self-sustaining, lake fishery. Future proposed designation of other lakes in the drainage is planned, with the long-term intent of having all the lakes supporting self-sustaining trout fisheries within the basin designated as Wild Trout Waters. Further evaluation of the visitor use patterns, fishing pressure, and potential harvest in Hilton Lake #3 is required.

The Department has verified that no restoration of amphibians or other native aquatic species is planned within the drainage; thus, no conflict exists with managing this area for recreational angling into the future.

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 19, 2019
Page 3

The recommended streams and lakes meet existing criteria to satisfy the requirements for designation as Wild and/or Heritage Trout Waters and no changes in angling regulations are necessary at this time.

If you have any questions or need additional information, please contact

Kevin Shaffer, Chief, Fisheries Branch at (916) 327-8841 or
kevin.shaffer@wildlife.ca.gov.

Attachments

cc: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@Wildlife.ca.gov

Kevin Shaffer, Chief
Fisheries Branch
Kevin.Shaffer@Wildlife.ca.gov

Karen Mitchell
Senior Environmental Scientist
Fisheries Branch
Karen.Mitchell@Wildlife.ca.gov

COMMISSION DESIGNATED WILD TROUT WATERS

It is the policy of the Fish and Game Commission to:

I. Designate certain state waters to be managed exclusively for wild trout.

Commission designated wild trout waters should provide a quality experience by providing the angler with an opportunity to fish in aesthetically pleasing and environmentally productive waters with trout populations whose numbers or sizes are largely unaffected by the angling process.

Waters designated by the Commission for wild trout management shall meet the following criteria:

A. Angler Access:

1. Open for public angling with unrestricted access when of sufficient dimensions to accommodate anglers without overcrowding.

or

2. Open for public angling with controlled access under a plan approved by the Commission setting forth the number of anglers and the method of distribution.

B. Able to support, with appropriate angling regulations, wild trout populations of sufficient magnitude to provide satisfactory trout catches in terms of number or size of fish.

II. Wild trout waters shall be managed in accordance with the following stipulations:

A. Domestic strains of catchable-sized trout shall not be planted in designated wild trout waters.

B. Hatchery-produced trout of suitable wild and semi-wild strains may be planted in designated waters, but only if necessary to supplement natural trout reproduction.

C. Habitat protection is of utmost importance for maintenance of wild trout populations. All necessary actions, consistent with State law, shall be taken to prevent adverse impact by land or water development projects affecting designated wild trout waters.

III. The Department shall prepare and periodically update a management plan for each water designated as a wild trout water.

IV. Certain designated wild trout waters may be further designated by the Commission as "Heritage Trout Waters", to recognize the beauty, diversity, historical significance, and special values of California's native trout. Heritage Trout Waters shall meet the following additional criteria:

A. Only waters supporting populations that best exemplify indigenous strains of native trout within their historic drainages may qualify for designation.

B. Heritage Trout Waters shall be able to provide anglers with the opportunity to catch native trout consistent with the conservation of the native trout present.

V. Recognizing the importance of native trout to California's natural heritage, the Department shall emphasize education and outreach efforts to inform the public about our native trout, their habitats, and the activities for restoration of native trout when implementing the Heritage Trout Program.

A. Implement a Heritage Trout Angler Recognition Certificate through which anglers will have the opportunity to have their catches of California native trout recognized by the Commission. The criteria for receiving the formal recognition shall be maintained by the Department's Heritage and Wild Trout Program. To receive a certificate of recognition, anglers shall submit an application with supporting materials to the Department for review.

The following waters are designated by the Commission as "wild trout waters":

1. American River, North Fork, from Palisade Creek downstream to Iowa Hill Bridge (Placer County).
2. Carson River, East Fork, upstream from confluence with Wolf Creek excluding tributaries (Alpine County).
3. Clavey River, upstream from confluence with Tuolumne River excluding tributaries (Tuolumne County).
4. Fall River, from Pit No. 1 powerhouse intake upstream to origin at Thousand Springs including Spring Creek, but excluding all other tributaries (Shasta County).
5. Feather River, Middle Fork, from Oroville Reservoir upstream to Sloat vehicle bridge, excluding tributaries (Butte and Plumas counties).
6. Hat Creek, from Lake Britton upstream to Hat No. 2 powerhouse (Shasta County).
7. Hot Creek, from Hot Springs upstream to west property line of Hot Creek Ranch (Mono County).
8. Kings River, from Pine Flat Lake upstream to confluence with South and Middle forks excluding tributaries (Fresno County).
9. Kings River, South Fork, from confluence with Middle Fork upstream to western boundary of Kings Canyon National Park excluding tributaries (Fresno County).
10. Merced River, South Fork, from confluence with mainstem Merced River upstream to western boundary of Yosemite National Park excluding tributaries (Mariposa County).
11. Nelson Creek, upstream from confluence with Middle Fork Feather River excluding tributaries (Plumas County).
12. Owens River, from Five Bridges crossing upstream to Pleasant Valley Dam excluding tributaries (Inyo County).
13. Rubicon River, from confluence with Middle Fork American River upstream to Hell Hole Dam excluding tributaries (Placer County).
14. Yellow Creek, from Big Springs downstream to confluence with the North Fork of the Feather River (Plumas County).
15. Cottonwood Creek, upstream from confluence with Little Cottonwood Creek, including tributaries (Inyo County).
16. Klamath River, from Copco Lake to the Oregon border (Siskiyou County).
17. McCloud River, from Lake McCloud Dam downstream to the southern boundary of Section 36, T38N, R3W, M.D.B. & M. (Shasta County).
18. Deep Creek, from confluence with Green Valley Creek downstream to confluence with Willow Creek (San Bernardino County).
19. Middle Fork Stanislaus River, from Beardsley Afterbay Dam to Sand Bar Diversion Dam (Tuolumne County).
20. Truckee River, from confluence with Trout Creek downstream to the Nevada State line (excluding the property owned by the San Francisco Fly Casters Club) (Nevada and Sierra counties).
21. Sespe Creek, a 25-mile section between the Lion Campground and the boundary of the U.S. Forest Service, Los Padres National Forest (Ventura County).
22. East Fork Carson River, from Hangman's Bridge near Markleeville downstream to the Nevada state line (Alpine County).
23. Bear Creek, Bear Valley Dam (impounding Big Bear Lake) downstream to the confluence with the Santa Ana River (San Bernardino County).
24. Lavezolla Creek (Sierra County).
25. Laurel Lake #1 and Laurel Lake #2 (Mono County).

26. Middle Fork San Joaquin River - Northern boundary of the Devils Postpile National Monument downstream to the Lower Falls (3.6 miles); and footbridge just above the confluence with Shadow Creek downstream to the footbridge just above upper Soda Springs Campground (4 miles) (Madera County).
27. South Fork Kern River watershed from its headwaters downstream to the southern boundary of the South Sierra Wilderness (Tulare County).
28. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).
29. Eagle Lake, north of Susanville (Lassen County).
30. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).
31. Heenan Lake, near Markleeville and Monitor ~~Pass~~, Pass (Alpine County).
32. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).
33. Sacramento River, including tributaries, from Box Canyon Dam downstream to Scarlett Way in Dunsmuir (Siskiyou County) and from the county bridge at Sweetbriar downstream to Lake Shasta (Shasta County).
34. Long Lake (Plumas County).
35. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).
36. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).
37. Lower Honeymoon Lake (Fresno County).
38. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).
39. Royce Lake # 2 (Fresno County).
40. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).
41. Parker Lake (Mono County).
42. South Fork San Joaquin River and all tributaries from Florence Lake upstream to the boundary of Kings Canyon National Park including the Piute Creek drainage (Fresno County).
43. Sallie Keyes Lakes (Fresno County).
44. Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (Shasta and Tehama counties).
45. Pauley Creek from the confluence with the Downie River upstream to the headwaters (Sierra County).
46. Caples Creek from the confluence with the Silver Fork American River upstream to Caples Lake Dam (El Dorado and Alpine counties).
47. Putah Creek from Lake Solano upstream to Monticello Dam on Lake Berryessa (Solano and Yolo counties).
48. Lake Solano (Solano and Yolo counties).
49. Milton Reservoir (Nevada and Sierra counties).
50. Gerle Creek Divide Reservoir (El Dorado County).
51. Manzanita Lake (Shasta County).
52. Maggie Lake (Tulare County).
53. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County).
54. Hilton Lake #1 (Davis Lake) (Mono County).
55. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz

Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).

56. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).

57. Hilton Lake # 2 (Mono County).

58. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).

59. Hilton Lake # 4 (Mono County).

60. North Fork Smith River, from the confluence with Middle Fork Smith River upstream to the Oregon state line, including Stoney Creek, Diamond Creek, North Fork Diamond Creek, and excluding all other tributaries (Del Norte County).

61. Hilton Lake # 5 (Mono County). Hilton Lake #5 is located at the latitude/longitude of 37°28'37.99"N, 118°45'39.39W and elevation of 10,700 feet, in the Hilton Creek drainage, near Tom's Place.

The following "wild trout waters" are further designated by the Commission as "heritage trout waters".

1. Clavey River, upstream from confluence with Tuolumne River, excluding tributaries (Tuolumne County).

2. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).

3. Eagle Lake, north of Susanville, (Lassen County).

4. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).

5. Heenan Lake, near Markleeville and Monitor Pass (Alpine County).

6. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).

7. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).

8. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).

9. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).

10. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).

11. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County).

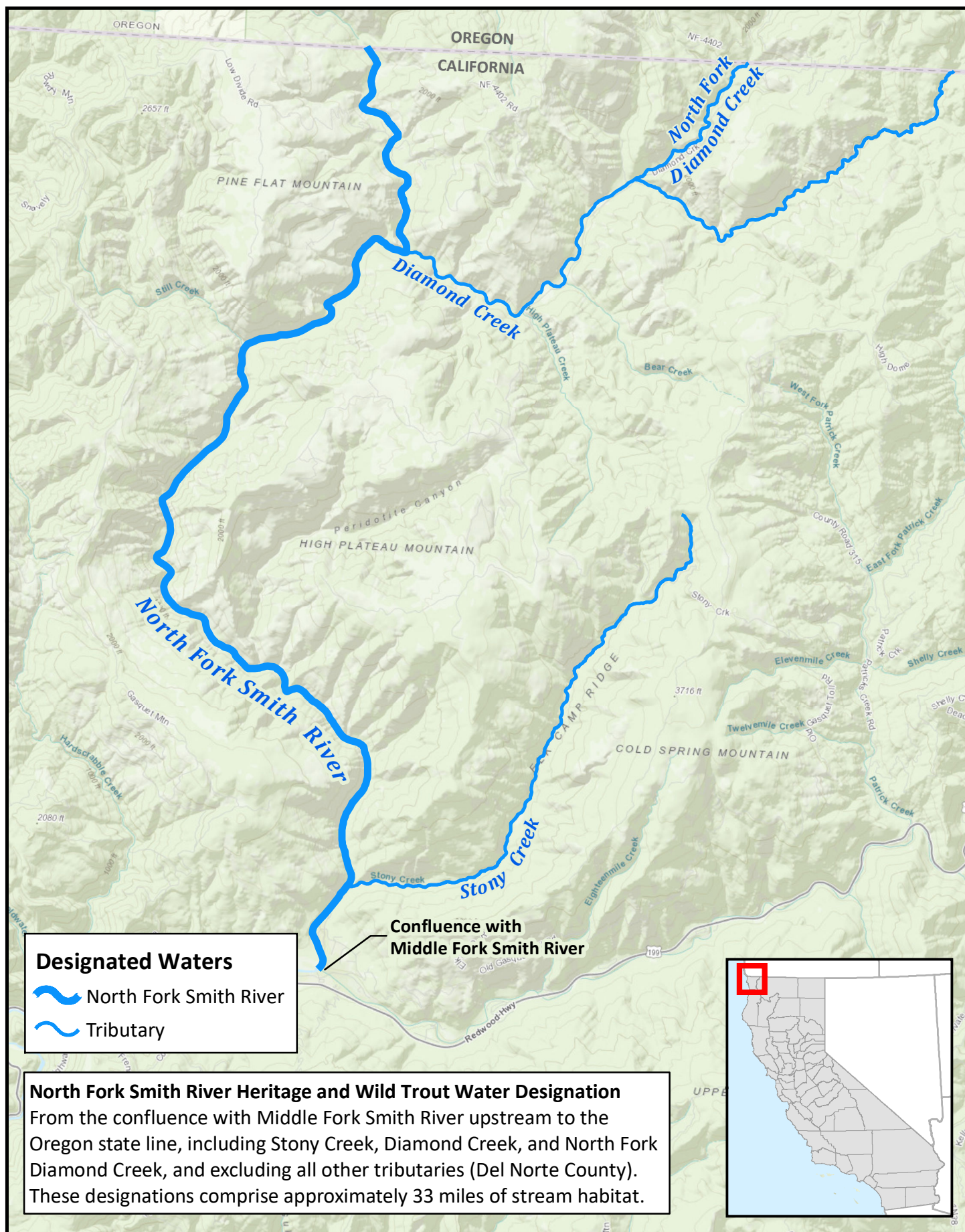
12. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).

13. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).

14. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).

(Amended: 01/04/94; 06/22/95; 03/06/97; 11/06/98; 04/02/99; 12/08/00; 04/03/03;
12/12/08; 11/04/09; 10/21/10; 11/17/11; 11/07/12; 11/06/13; 12/03/14; 12/10/15;
10/20/16; 10/3/2017; 9/21/2018)

North Fork Smith River Designated Heritage and Wild Trout Waters - 2019

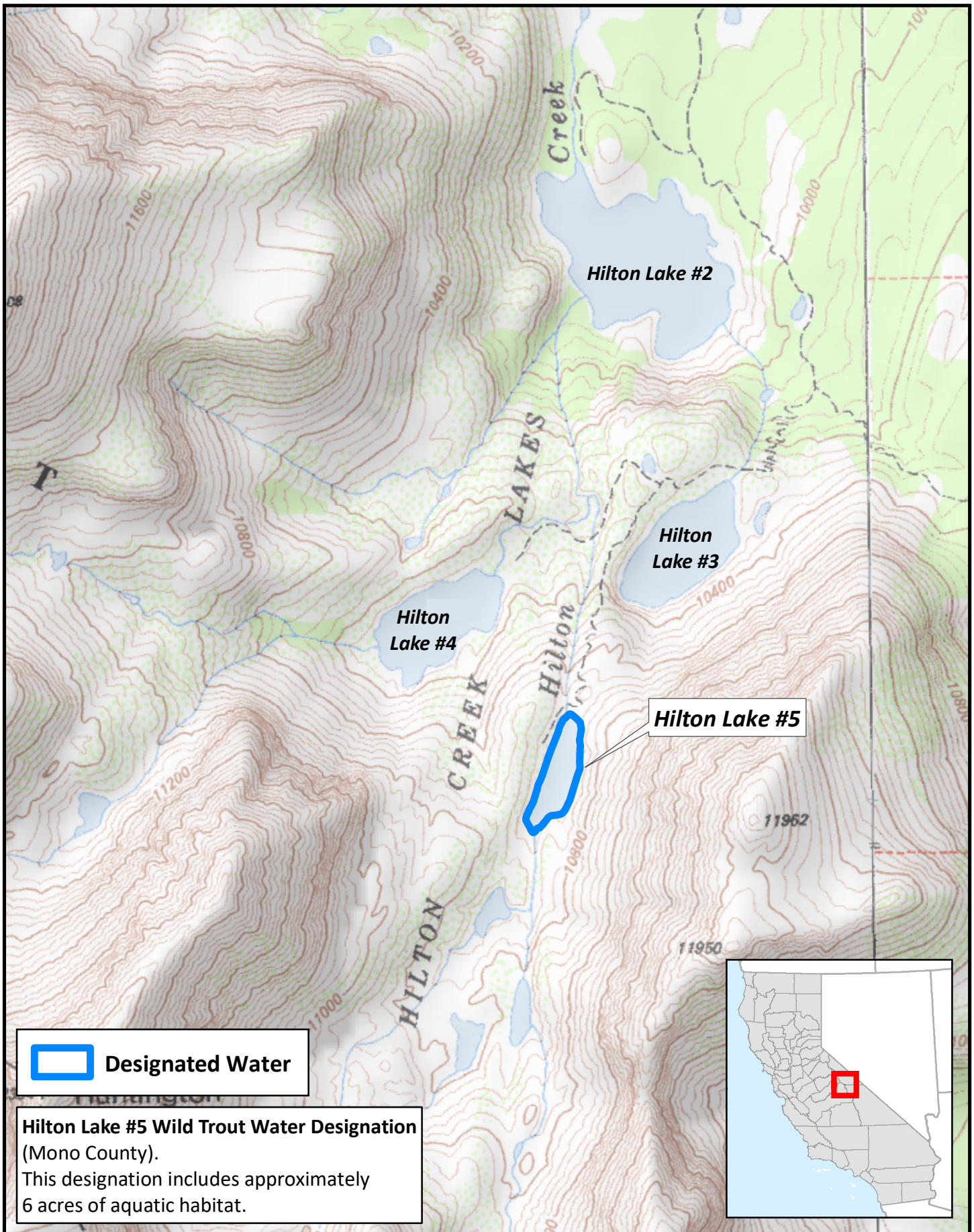


0 2 Miles

California Department of Fish and Wildlife
 Fisheries Branch GIS, August 2019
 Basemap source: Esri



Hilton Lake #5 Designated Wild Trout Water - 2019



STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 473
Title 14, California Code of Regulations
Re: Possession of Nongame Animals: Nutria

I. Date of Initial Statement of Reasons: June 11, 2019

II. Dates and Locations of Scheduled Hearings

- | | | |
|-------------------------|-----------|-------------------|
| (a) Notice Hearing: | Date: | August 7, 2019 |
| | Location: | Sacramento |
| (b) Discussion Hearing: | Date: | October 9, 2019 |
| | Location: | Valley Center |
| (c) Adoption Hearing: | Date: | December 11, 2019 |
| | Location: | Sacramento |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

This amendment of Section 473 would protect the State's wildlife, wetland habitats, waterways, water supplies, water conveyance and flood protection infrastructure, and agriculture from the detrimental impacts caused by invasive nutria (*Myocastor coypus*) by banning the possession of live nutria and thereby preventing new introductions of nutria in the state. The Department of Fish and Wildlife ("Department") has implemented a multi-million dollar nutria eradication program, and this regulation is an important part of this effort.

Current Regulation

Section 671, Importation, Transportation and Possession of Live Restricted Animals, restricts the possession of many non-native species. Nutria are a mammal of the order Rodentia; subsection 671(c)(2)(J) designates all rodents, including nutria, as a "detrimental animal." Nonetheless, possession of live nutria is authorized "under permit issued by the department," i.e., a "Restricted Species Permit."

Subsection 671.1, Permits for Restricted Species, describes the types of Restricted Species Permits issued by the Department and the qualifications needed to obtain a Restricted Species Permit. In addition, subsection 671.1(c)(5) sets forth the criteria for denying a new Restricted Species Permit application and the amendment of an

existing permit. The criteria include failure to comply with the terms and conditions of the permit; failure to comply with state, federal, or municipal statutes or regulations; or, if the Department finds that application documents do not support the statement of use of the requested restricted species. But these denial criteria do not authorize the Department to deny an application solely because the applicant would like to possess a live nutria.

Section 650 authorizes the Department to issue permits to take or possess wildlife for scientific, educational, and/or propagation purposes ("Scientific Collecting Permits"). Like Section 671, Section 650 also provides for the legal possession of live nongame mammals, including nutria. Subsection 650(r), which addresses Permit Denial, sets forth criteria for denial of a new Scientific Collecting Permit application and the amendment of an existing permit. As with Restricted Species Permits, the Department does not have the authority to deny a request from a Scientific Collecting Permit applicant solely because the applicant would like to possess live nutria.

Section 679, Possession of Wildlife and Wildlife Rehabilitation, also provides for the legal possession of live nongame mammals, including nutria, by wildlife rehabilitation facilities authorized under a Department-issued permit to rehabilitate injured, diseased, or orphaned animals. Subsection 679(e)(2)(E) specifies that the Department may deny a permit if either an applicant fails to allow an inspection, the facility does not meet standards set forth in the Minimum Standards for Wildlife Rehabilitation, 2000, Third Edition, or if the applicant fails to meet all applicable standards specified in subsections 679(e)(2)(A)-(D). If the applicant is in good standing and qualified to handle and treat injured or diseased nutria, the Department does not have the authority to deny the request.

Section 473, Possession of Nongame Animals, states "Any nongame bird or mammal that has been legally taken pursuant to this chapter may be possessed." This regulation does not prohibit the possession of nutria pursuant to a Department-issued permit.

Proposed Regulation

The amendment of Section 473 makes it clear that the possession of a live nutria, including a live nutria possessed pursuant to a Department-issued permit, is unlawful. This amendment states:

"(b) It is unlawful to possess live nutria (*Myocastor coypus*), and the Department shall not issue any permit authorizing possession of any live nutria."

Thus, the proposed amendment to Section 473 would make any possession of live nutria unlawful and authorize the Department to deny any application for the possession of live nutria.

Background

Nutria are semi-aquatic rodents native to South America and are one of the world's most destructive invasive species. Nutria are notorious for the extensive damage their herbivory and burrowing cause to wetlands, water conveyance infrastructure, and agriculture. Nutria were initially introduced to North America for the fur trade in the early 1900s and farmed in California in the 1930s-40s. Following the collapse of the market, nutria were released into the environment and established feral populations. Nutria were subsequently eradicated from the state in the 1970s.

In March 2017, a pregnant nutria was discovered in a managed wetland in California's San Joaquin Valley. Recognizing the extensive impacts nutria will undoubtedly cause to California's wetlands and wildlife, water conveyance and flood protection infrastructure, and California's agriculture, the Department responded by instituting an Incident Command System ("ICS") and redirecting staff and resources to implement long-term planning and eradication efforts. Since that time over 525 nutria have been taken, with additional detections confirmed, across San Joaquin, Stanislaus, Merced, Fresno, Mariposa, and Tuolumne Counties. The State's response now includes the Department of Food and Agriculture, U.S. Department of Agriculture, Department of Water Resources, and U.S. Fish and Wildlife Service. This effort has already cost the State millions of dollars to respond to this introduction and resulting infestation. In FY 19-20, the Department is slated to receive an on-going budget from the Legislature to address the problem, an \$8.5 million grant from the Sacramento-San Joaquin Delta Conservancy, and will transition from the ICS to a dedicated, long-term Nutria Eradication Program; we anticipate the successful eradication of nutria from California, in total, will cost the State tens of millions of dollars.

Other State's Efforts at Eradication of Nutria

Resulting from broader introductions for the fur trade, nutria are now established in nearly 20 states, with most notable feral populations in Louisiana and the Chesapeake Bay. While both regions documented environmental damages in the 1950s, by the 1990s Louisiana had documented damage to and/or complete loss of over 100,000 coastal wetland acres and the Chesapeake Bay documented loss of over 50% of the marsh habitat within the Blackwater National Wildlife Refuge. Oregon and Washington have very high relative densities of nutria and have experienced extensive damage from nutria burrowing into levees, canals, and waterways.

The Chesapeake Bay Nutria Eradication Program was established in 2002, has now spent over \$17 million to remove approximately 14,000 nutria from the Peninsula, and anticipates declaring successful eradication within the next few years. In contrast, the nutria population in Louisiana has been estimated in the millions and beyond eradication. Since 2002, Louisiana has paid up to \$2.0 million per year in \$5/tail bounties for harvest of up to 400,000 nutria every year in an effort to contain

the population and reduce environmental damage. The populations in the Pacific Northwest are also beyond eradication, and the states have not been able to secure adequate funding for control.

(b) Goals and Benefits of the Regulation:

The goal of this regulation change is to prevent the possession of live nutria in California. This regulation will benefit the Department, the State, and its resources, by reducing the potential for future, additional introductions via released or escaped nutria. Ultimately, this regulation protects California's wetlands, waterways, infrastructure, water supplies, human health and safety, and agriculture.

(c) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section 4150, Fish and Game Code.

Reference: Sections 2118, 3005.5, and 4150, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change:

"Discovery of Invasive Nutria in California" (Attachment A)

"Nutria Eradication Program Update" (Attachment B)

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

Implementation of the eradication effort is ongoing and has been supported by individuals and environmental and agricultural groups interested in the protection of the environment and infrastructure from damage by nutria. To date, the following meetings regarding nutria have been held:

3/12/2018	CDFW outreach meeting to Ag Commissioners, trappers - San Luis NWR
3/12/2018	CDFW outreach meeting to Water Agencies, Land Managers - San Luis NWR
3/28/2018	Delta Conservancy Board Meeting
4/11/2018	Senate Ag Informational Committee Meeting
4/11/2018	Wildlands IPM Symposium
5/17/2018	Delta Protection Commission Meeting
5/19/2018	Grasslands Water District Public Meeting
5/22/2018	California Ag Commissioners and Sealers Association Spring Meeting
5/24/2018	Wildlife Conservation Board
6/13/2018	MARAC (Mutual Aid Region Information Exchange Meeting)
6/13/2018	San Joaquin Farm Bureau Board Meeting
6/22/2018	Central Valley Flood Protection Board
7/11/2018	San Joaquin Farm Bureau Federation Workshop/Coalition for a Sustainable Delta
7/16/2018	WAFWA AIS Committee

7/18/2018	MARAC meeting - Region IV (Modesto)
7/25/2018	MARIX Meeting - Region V (Fresno)
7/27/2018	Department of Water Resources field staff
8/6/2018	Stanislaus County Ag Advisory Board Meeting
8/16/2018	CA Invasive Species Council Meeting
8/21/2018	San Joaquin County Board of Supervisors Meeting
8/22/2018	State Parks' Division of Boating and Waterways field staff
8/23/2018	Rotary Club of Newman
9/5/2018	Collaborative Science and Adaptive Management Program - Policy Group Meeting
9/11/2018	Bay-Delta Science Conference
10/23/2018	San Joaquin Farm Bureau Water Committee
11/5/2018	Delta Stewardship Council - Delta Interagency Implementation Committee (DPIIC)
11/6/2018	Delta Rec District Winter Weather Briefing (CalOES hosted)
11/8/2018	Alameda County grower CE training
11/8/2018	California Invasive Plant Council
11/14/2018	SSJ Delta Conservancy Board Meeting
11/14/2018	CA Forest Pest Council Meeting
11/29/2018	Association of Applied IPM Ecologists Conference (Visalia)
12/6/2018	Delta Independent Science Board non-native species workshop
2/7/2019	Western Section of the Wildlife Society Annual Meeting
3/19/2019	Wildlands IPM Symposium
4/4/2018	Yolo Basin Foundation Flyway Nights
4/8/2019	Delta Plan Interagency Implementation Committee
4/12/2019	Mokelumne River Association
4/30/2019	Assembly Committee on Water, Parks, and Wildlife Hearing on AJR-8
5/18/2019	Grasslands Water District Public Meeting
5/21/2019	California Association of Ag Commissioners and Sealers Association Spring Meeting
5/24/2019	Central Valley Flood Protection Board
6/5/2019	California Invasive Species Action Week - Lunchtime Webinar Series

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change: No alternative was considered.

(b) No Change Alternative:

If no regulatory change occurs, live nutria could be lawfully possessed by holders of restricted species, wildlife, rehabilitation, and scientific collecting permits.

Possession of these animals would increase the risk of accidental or intentional reintroduction of nutria, frustrating Department efforts to eradicate this non-native invasive species and reverse the severe environmental impacts it causes.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action: None.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action is an additional component of the state's nutria eradication program that is anticipated to minimize the costly risks to infrastructure and resources that nutria pose. Reducing the potential for the spread of escaped nutria should help protect California's business activities that draw upon well-functioning wetlands, waterways, infrastructure, and water supplies, such as agriculture and associated businesses.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission anticipates no impacts on the creation or elimination of jobs within the state and no impact on the creation of new businesses or the elimination of existing businesses because the proposed amendment is anticipated to aid in the preservation of existing water infrastructure with no cost to current business activities. The Commission anticipates benefits to the health and welfare of California residents by the protection of water supplies. The proposed action is not anticipated to directly affect worker safety. The Commission anticipates benefits to the State's environment by supporting strategies that further the control of invasive species.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

No new costs to the State. Additionally, the proposed action will aid in the prevention of future importations and releases, preventing loss of state agency and/or federal funding to response costs.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission anticipates no impacts on the creation or elimination of jobs within the state because the proposed action would have such limited scope to affect businesses or the demand for labor.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate any effects of the proposed regulation on the creation of new businesses or the elimination of existing businesses within the state because it would not directly affect the demand for business products or services.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate the any effects of the proposed regulation on the expansion of businesses currently doing business within the state because the proposed action would not directly affect the demand for business products or services.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission anticipates benefits to the health and welfare of California residents by contributing toward the protection of water supplies.

(e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate benefits to worker safety because the proposed amendment would not impact working conditions.

(f) Benefits of the Regulation to the State's Environment:

The Commission anticipates benefits to the State's environment through support of strategies that control damaging invasive species.

(g) Other Benefits of the Regulation: None.

Informative Digest/Policy Statement Overview

This amendment of Section 473 would ban the possession of live nutria to prevent new introductions of nutria in the state. Nutria affect the State's wildlife by damaging wetland habitats, and put waterways, water supplies, water conveyance and flood protection infrastructure, and agriculture at risk from damage through their burrowing and herbivory of aquatic vegetation. The Department has implemented a multi-million dollar nutria eradication program, and this regulation is an integral part of this effort.

Possession of nutria is only possible under a permit issued by the Department. But, the permit denial provisions in California Code of Regulations, Title 14, subsection 671.1(c)(5), sections 670 and 650 have no provisions for banning the possession of live nutria in California.

Section 473 provides exceptions to FGC 4150, allowing for the possession of legally taken non-game birds and mammals, including rodents such as nutria, but not prohibiting the possession of live nutria pursuant to a Department-issued permit. Thus, the Commission proposes an addition to subsection 473(b) stating:

“It is unlawful to possess live nutria (*Myocastor coypus*), and the Department shall not issue any permit authorizing possession of any live nutria.”

Goals and Benefits of the Regulation:

The goal of this regulation change is to prohibit any possession of live nutria and ensure the Department no longer issues permits allowing the possession of live nutria in California. This regulation will benefit the Department, State, and its resources by reducing the potential for future, additional introductions via released or escaped nutria and thereby protect California's wildlife, wetland habitats, waterways, water supplies, water conveyance and flood protection infrastructure, and agriculture.

Proposed Regulatory Language

Section 473, Title 14, CCR, is amended to read:

§ 473. Possession of Nongame Animals.

(a) Any nongame bird or mammal that has been legally taken pursuant to this chapter may be possessed.

(b) It is unlawful to possess live nutria (*Myocastor coypus*), and the Department shall not issue any permit authorizing possession of any live nutria.

Note: Authority cited: Section 4150, Fish and Game Code. Reference: ~~Section~~ Sections 2118, 3005.5, and 4150, Fish and Game Code.

Discovery of invasive nutria in California

Landowners, we need your help...

CDFW has deployed nutria survey teams from the Delta through the San Joaquin Valley and needs written access permissions to enter or cross private properties for the purposes of conducting nutria surveys and, where detected, implementing trapping efforts. Landowners and tenants, [we need your help](#); so CDFW can survey for and remove destructive nutria from your properties, complete and submit the [Nutria Project Temporary Entry Permit](#).

How to Report a Sighting

Suspected observations or potential signs of nutria should be **photographed** and immediately reported to CDFW's [Invasive Species Program online](#), by e-mail to invasives@wildlife.ca.gov, or by phone at (866) 440-9530. Observations on state or federal lands should be immediately reported to local agency staff on the property. Reports will be followed up on by the interagency nutria response team and will help in their eradication effort. If possible, photos of animals should include views of the whiskers, front or hind foot, or tail; for optimal photos of tracks, include an object for size reference (e.g., pencil, quarter, wallet) and take the photo from the side, at an angle ($\leq 45^\circ$) to cast shadows into the track.

Please consult the [nutria identification flyer \(PDF\)](#) or "Nutria Identification" section below for reference images and other commonly confused species. Additionally, the Delta Stewardship Council has developed a convenient [nutria pocket guide](#) to aid in field identification of nutria; to request the printed pocket guide(s), please contact CDFW at Invasives@wildlife.ca.gov or (866) 440-9530.

General Information

For general information on nutria biology and ecology please see the [nutria species profile page](#).



Large, male nutria trapped in a private wetland in Merced County, June 2017. CDFA photo.

Nutria Impacts

Through their extensive herbivory and burrowing habits, nutria have devastating impacts on wetland habitats, agriculture, and water conveyance/flood protection infrastructure. Nutria consume up to 25% of their body weight in above- and below-ground plant material each day. Due to their feeding habits, up to 10 times the amount of plant material consumed is destroyed, causing extensive damage to the native plant community, soil structure, and nearby agricultural crops. The loss of plant cover and soil organic matter results in severe erosion of soils, in some cases converting marsh to open water. Further, nutria burrow into banks and levees, creating complex dens that span as far as 6 meters deep and 50 meters into the bank and often cause severe streambank erosion, increased sedimentation, levee failures, and roadbed collapses.



Wetland loss caused by nutria damage in Blackwater National Wildlife Refuge, Delmarva Peninsula, Chesapeake Bay. Left, normal marsh in 1939 before nutria introduction in the 1940s. Right, by 1989, over 50% of the Refuge's marshes had been converted to open water due to the destructive feeding habits of nutria. Photos courtesy of USFWS.



An exclosure experiment in a Louisiana marsh demonstrating the severe ecological damages caused by nutria herbivory in wetland habitats. Photo courtesy of Louisiana Dept. of Wildlife and Fisheries.





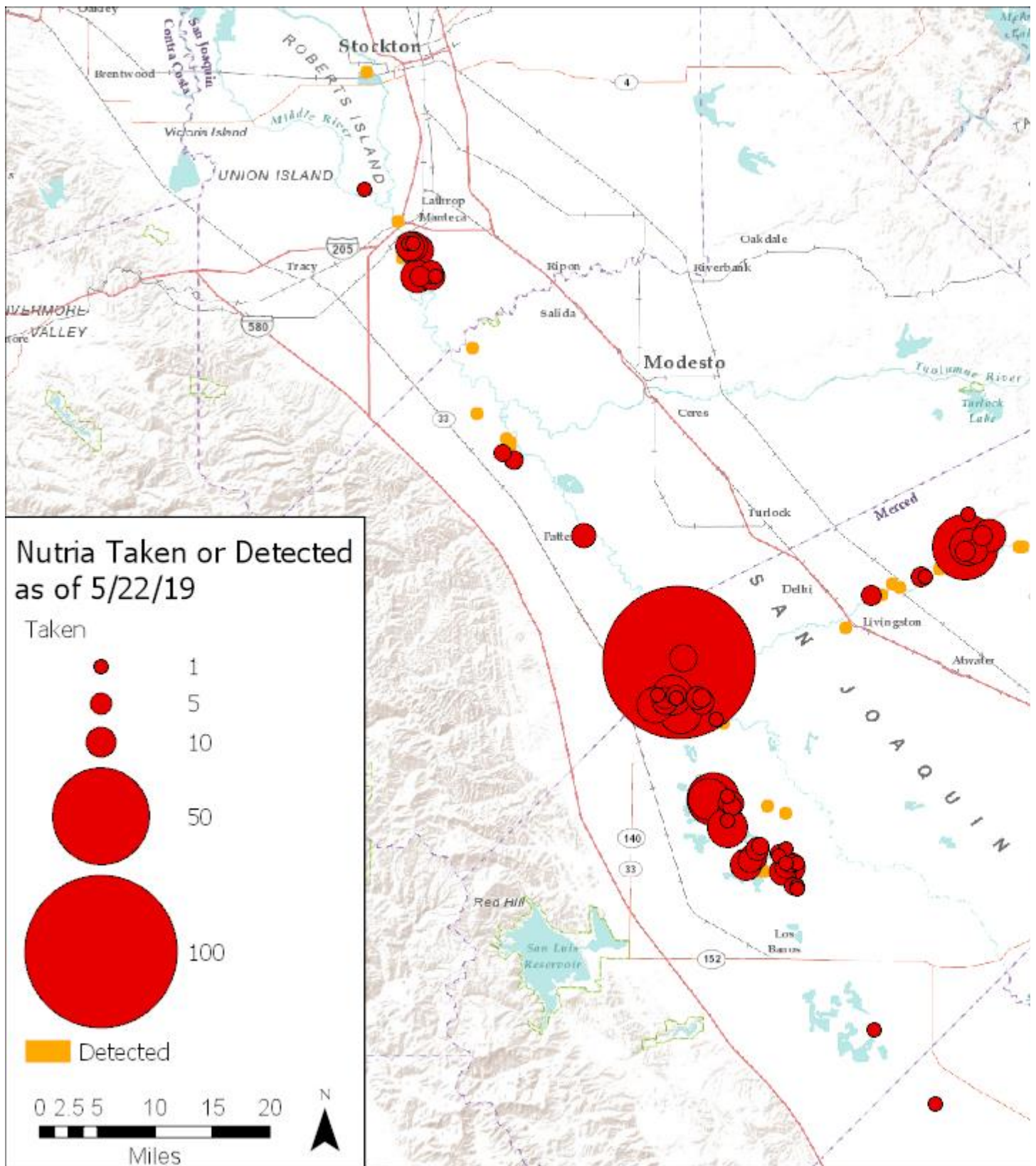
Nutria burrowing causes extensive damage to water infrastructure, banks, and levees, and creates a hazard for people, livestock, and machine operators. Potential levee and dike failures due to nutria burrowing have serious implications for flood protection, water delivery, and agricultural irrigation in California. Left, nutria burrow in Tualatin National Wildlife Refuge in Oregon. Photo courtesy of USFWS. Right, extensive burrowing damage by nutria in Oregon. Photo courtesy of Trevor Sheffels, PSU.

Discovery in California

Confirmed detections of nutria in California can be viewed in the [nutria detection map \(PDF\)](#). As of May 22, 2019, 510 nutria have been taken in California, with several additional animals confirmed present, across Merced, Stanislaus, San Joaquin, Fresno, Tuolumne, and Mariposa Counties. In September 2018, the first reproducing population of nutria within the legal Sacramento-San Joaquin Delta boundary was discovered south of Lathrop (San Joaquin County). In May 2019, a nutria was detected near Rough and Ready Island, approximately 16 miles north of the nearest known population and previous detections.

Nutria Taken in California, by County (as of 5/22/19)

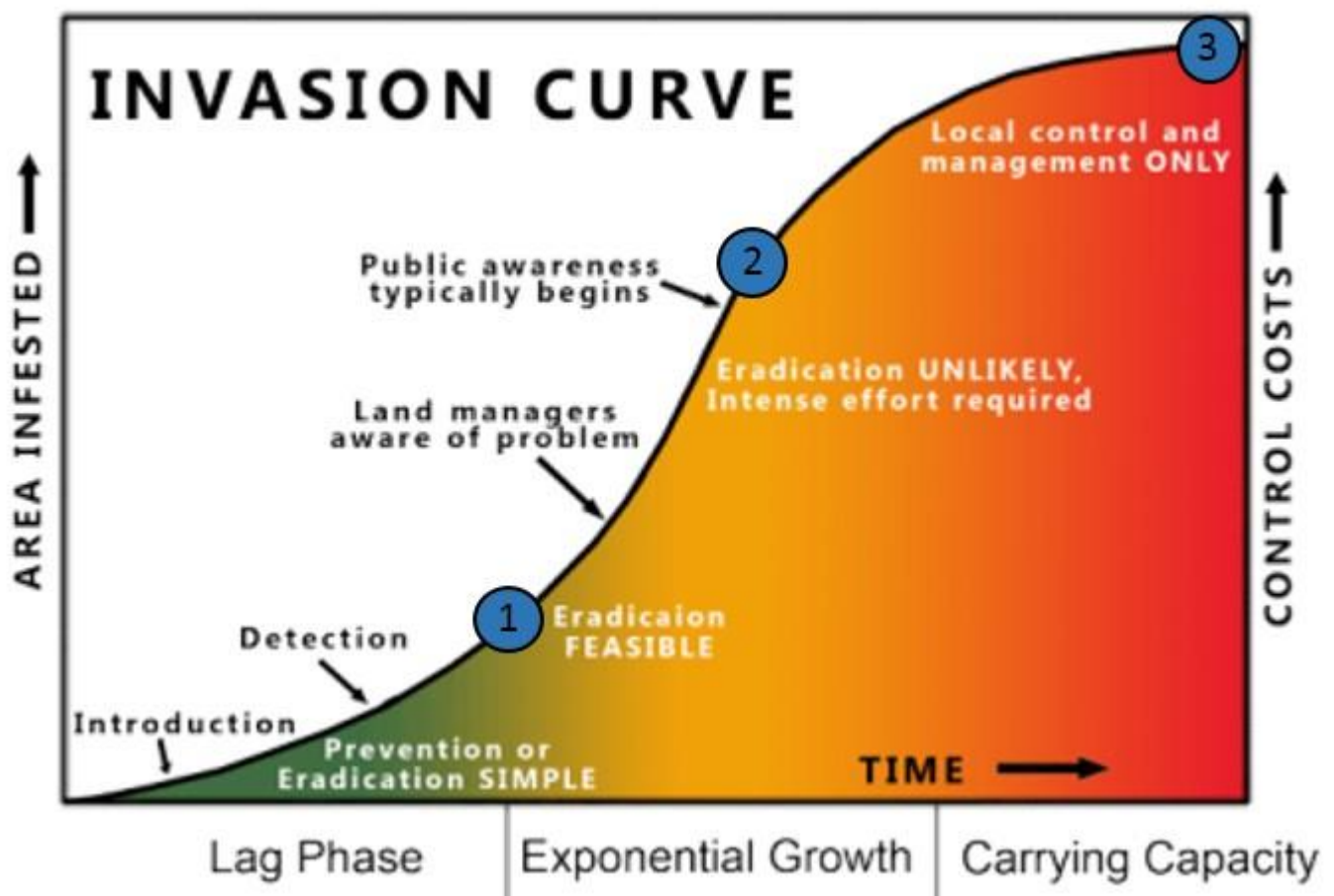
Total	Merced	San Joaquin	Stanislaus	Mariposa	Fresno
510	430	65	12	2	1



Eradication Effort

CDFW is collaborating with other agencies and local partners to develop the most effective strategy for eradicating nutria from California. As depicted in the "Invasion Curve" figure below, invasive species infestations typically experience a lag phase, while population size and area infested are relatively small, successful eradication is most feasible, and control efforts are most cost-efficient. As time progresses, the population size, area infested, and costs required for control increase exponentially, and the probability of successful eradication is lost.

Conceptually, (1) represents where we believe the current extent of the nutria population is in California; eradication is feasible with rapid response; (2) represents the nutria population in the Chesapeake Bay (Delmarva Peninsula) prior to implementation of the [Chesapeake Bay Nutria Eradication Project \(CBNEP\)](#). The CBNEP strategically removed over 14,000 nutria from 2000-2015 and has not detected a nutria since early 2015. (3) represents the [nutria population in Louisiana](#), where population control costs up to \$2 million dollars each year for bounty harvests alone.



Currently, there is a small window of opportunity to successfully eradicate the population of nutria from California. As time progresses, the population size and geographic area of infestation are increasing, along with the effort, resources, and funds required for successful eradication. Over time, the probability of successful eradication decreases, and California would be left to manage and mitigate the devastating impacts of nutria on wetlands, agriculture, and water conveyance/flood control infrastructure.

The interagency Nutria Response Team includes representatives from CDFW, the California Departments of Food and Agriculture, Parks and Recreation, and Water Resources, the U.S. Department of Agriculture, the U.S. Fish and Wildlife Service and local county agricultural commissioner offices. The team is currently preparing an eradication plan, the first stage of which is determining the full extent of the infestation. Assistance from local landowners and the public throughout the Central Valley, Sacramento-San Joaquin Delta, and beyond is critical to successfully delineating the population.

Take by Landowners/Hunters

CDFW has classified nutria as a nongame mammal. [Fish and Game Code §4152](#) specifies property owners or their agents (who possess written permission from the owner or tenant) may take nutria at any time by any legal means to address damage to crops or property. Restrictions apply to the use of traps and types of traps. Nutria are a Restricted Species in California under the California Code of Regulations, Title 14, Section 671, and cannot be imported, transported, or possessed live in the state of California.

Given their very similar appearances, particularly in overlapping size classes, citizens should take extra precaution to [distinguish nutria from other aquatic mammals \(PDF\)](#); the majority of nutria reports received by CDFW have been muskrats, as have been some "nutria" featured in the media. Any nutria taken on private or public land should be reported to CDFW as soon as possible for purposes of delineating the extent of the infestation. At minimum, CDFW needs photos to confirm identification; preferably, CDFW needs the carcass to determine sex, age, and reproductive status.

Nutria Identification

Nutria are large, semi-aquatic rodents that reach up to 2.5 feet in body length, 12- to 18-inch tail length and +20 pounds in weight. Nutria strongly resemble native beaver and muskrat, but are distinguished by their round, sparsely haired tails and white whiskers (see CDFW's [nutria ID guide \(PDF\)](#) or Delta Stewardship Council's [nutria pocket guide](#)). Both nutria and muskrat often have white muzzles, but muskrats have dark whiskers, nearly triangular (laterally compressed) tails and reach a maximum size of five pounds. Beavers have wide, flattened tails and dark whiskers and reach up to 60 pounds. Other small mammals can sometimes be mistaken for nutria if seen briefly or in low light conditions, including river otters and mink.



Adult nutria discovered in a private pond in Tuolumne County, east of Don Pedro Reservoir. Though muskrats may have a white muzzle, both muskrats and beaver have dark whiskers. Nutria have characteristic white whiskers, and most often have conspicuous, dark ears with light-colored fur underneath, as seen in this image. Photo courtesy of Peggy Sells.





California has several aquatic mammals that occur in the same habitats and may be confused with nutria. Top left, muskrat, note the nearly triangular tail and dark whiskers that distinguish muskrats from small nutria, photo courtesy of Missouri Dept. of Conservation. Top right, American beaver, note the broad, flat tail that, along with dark whiskers, distinguishes small beavers from nutria, CDFW photo. Bottom, American mink, note the fully furred tail, dark whiskers, and weasel-like body form, photo courtesy of Alaska Dept. of Fish and Game.

2017-07-12 7:56:06 AM



Left, juvenile river otters, pictured here in a cattail marsh, may also be mistaken for nutria. Note the long body and thick, fully-furred tail, CDFW photo. Right adult river otter, photo courtesy of National Park Service.



Nutria often have a dark undercoat, with lighter-colored guard hairs. Their dark, conspicuous ears, with lighter fur underneath, are helpful in distinguishing nutria from other aquatic mammals when their round tail is not clearly visible. CDFW photos.



Left, nutria front foot, showing the four toes visible in tracks and the barely visible fifth, residual toe on the inner, lower area of the foot. Right, nutria hind foot, showing the webbing between the inner four toes and outer, fifth toe free from webbing. CDFW photos.

Habitat

Nutria can be found anywhere in or near freshwater or estuaries. Thus far, they have been found in cattail and tule marshes, ponds, canals, sloughs, and rivers. All currently known locations are upstream of the Sacramento-San Joaquin Delta, which provides a vast amount of ideal and interconnected habitat for nutria.

Look for nutria and signs of nutria presence in wetlands, canals, rivers, and creeks, along levees and riparian areas, in flooded agricultural fields adjacent to waterways, and in the transition zone between wetland and terrestrial habitat.

Because nutria are wasteful feeders, signs of presence typically include cut, emergent vegetation (e.g. cattails and bulrushes), with only the basal portions eaten and the cut stems left floating, or grazed tops of new growth. Nutria create runs between feeding sites and burrows. Nutria often pile cuttings to create feeding/grooming platforms. Nutria construct burrows with entrances typically below the water line, though changing water levels may reveal openings. Nutria tracks have four visible front toes and, on their hind feet, webbing between four of five toes. Tracks are often accompanied by narrow tail drags.&





Nutria cuttings have a 45 degree angle bite and often have a residual strip attached to the stem. CDFW photos.



Top left, nutria often pile their vegetation cuttings into feeding/grooming beds. Top right, cattails cut by nutria and left lying in the marsh, a characteristic sign of nutria presence. Bottom, a vegetation clearing or "eat out" with cuttings floating throughout the area, characteristic signs of nutria herbivory damage. CDFW photos.



Nutria create "runs" in the vegetation between feeding areas and near entry/exit points along the water's edge. CDFW photo.



Nutria scat is distinctly grooved and floats on the water's surface. CDFW photos.



Left, closeup of nutria tracks showing webbing between 4 of 5 toes on the hind foot. CDFW photo. Right, nutria tracks and tail drag. Photo courtesy of USDA.

Habitat Conservation Planning Branch

1700 9th Street, 2nd Floor, Sacramento, CA 95811
Mailing: P.O. Box 944209, Sacramento, CA 94244-2090
(916) 653-4875



CDFW Invasive Species Program
1416 Ninth Street, 12th Floor
Sacramento CA 95814



Nutria Eradication Program Update

Since implementing the Nutria Eradication Incident Command System in March 2018, the California Department of Fish and Wildlife's redirected field crews, along with three USDA-Wildlife Services trappers and the California Department of Food and Agriculture's delimitation crews, have:

- Completed full and/or rapid assessments on over 480K acres
- Set up 753 camera stations
 - Conducted over 2845 camera checks
- Confirmed nutria within 143 [40-acre] cells (Figure 1)
- Deployed 1269 trap sets for a total of 16018 trap nights
- Taken or accounted for the take of 525 nutria (since Mar 2017)
 - Merced- 438
 - San Joaquin- 69 (68 from Walthall Slough)
 - Stanislaus- 15
 - Mariposa- 2
 - Fresno- 1
- Of 521 necropsies:
 - 1.18 sex ratio (M:F)
 - Of the females captured:
 - 25% of juvenile (2-6 mos.) females have been pregnant
 - 59% of subadult (6-14 mos.) females have been pregnant
 - 75% of adult (>14 months of age) females have been pregnant
 - Along with the pregnant females, 626 fetal nutria have been removed from the population
 - Litter size ranged from 2-11, with an average of 6.1
 - Average litter size for adult females (> 14 mos.) is 6.8

With dedicated program funding anticipated through the Governor's FY 19-20 budget and grants from the Wildlife Conservation Board, U.S. Fish and Wildlife Service, and Sacramento-San Joaquin Delta Conservancy (SSJDC), including a new \$8.5 M award from the SSJDC, the Department is currently building a dedicated team of 30-40 to eradicate nutria from California. The Department expects to transition from the ICS into the dedicated program during summer 2019.

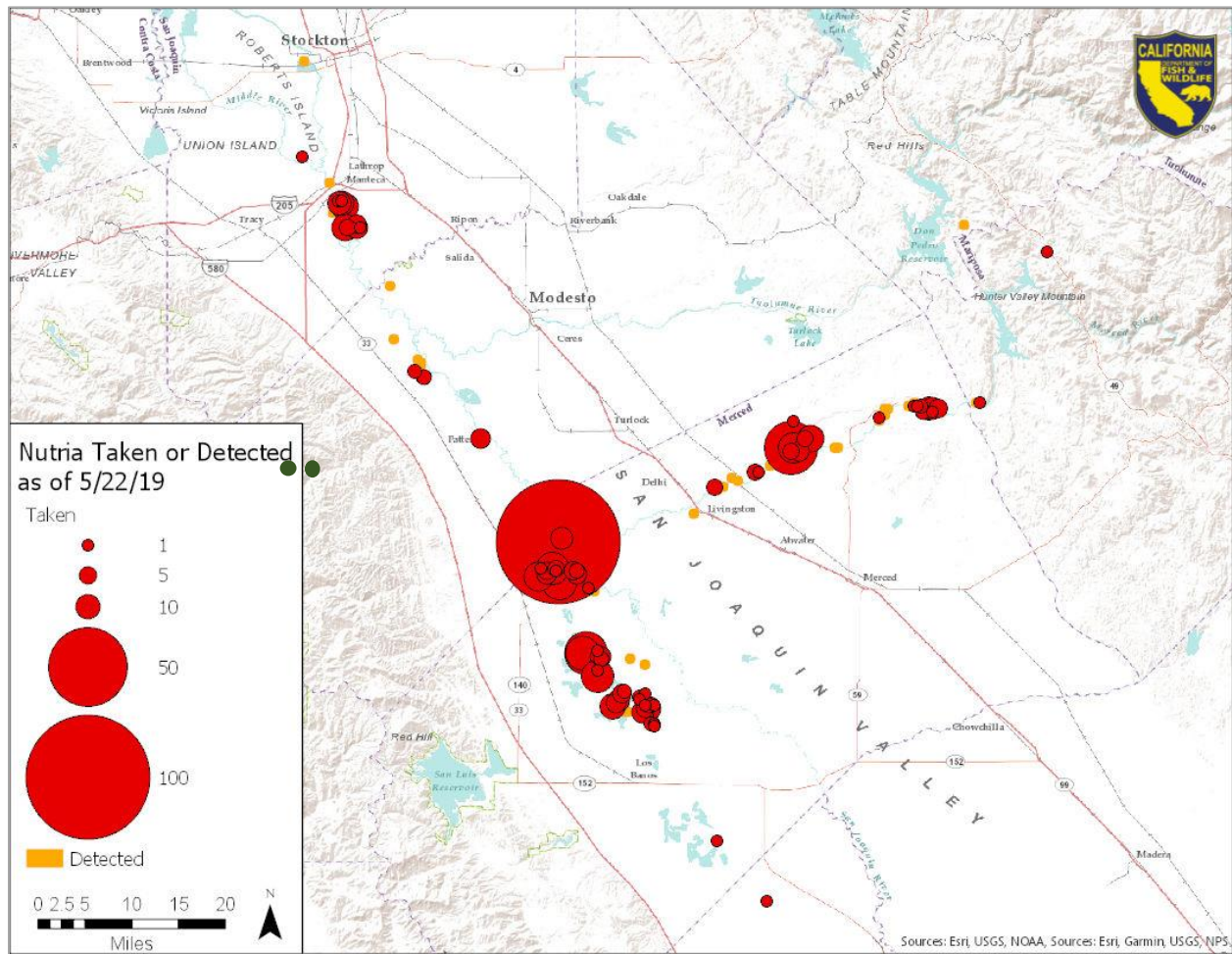


Figure 1. As of June 2019, 525 nutria have been taken or otherwise confirmed taken in California, with the following distribution of take by county: Merced – 438; San Joaquin – 69; Stanislaus – 15; Mariposa – 2; Fresno – 1; Tuolumne – 0; confirmed present. Map of take densities by 40-acre cell is as of 5/22/19.

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: N/A

From: (Public Agency):
California Fish and Game Commission
PO Box 944209, Sacramento, CA
94244-2090
(Address)

Project Title: Amend Title 14, CCR, Section 473, Possession of Non-game Animals: Nutria

Project Applicant: California Fish and Game Commission

Project Location - Specific:

Statewide

Project Location - City: N/A Project Location - County: N/A

Description of Nature, Purpose and Beneficiaries of Project:

The amendment of Section 473 would ban the possession of live nutria (*Myocastor coypus*), to prevent new introductions of the destructive rodent to the state.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
☒ Categorical Exemption. State type and section number: Sections 15307, 15308, Title 14, CCR
☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The proposed amendments do not have the possibility of impact on the environment because the changes are an effort to protect the State's wildlife, wetland habitats, waterways, water supplies, water conveyance and flood protection infrastructure, and agriculture from the detrimental impacts caused by invasive nutria (*Myocastor coypus*).

Lead Agency

Contact Person: Melissa Miller-Henson Area Code/Telephone/Extension: 916-653-4899

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☒ Yes ☐ No

Signature: _____ Date: _____ Title: Executive Director

☒ Signed by Lead Agency ☐ Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR: _____
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

DRAFT

December 12, 2019

ATTACHMENT TO NOTICE OF EXEMPTION Amendment of Section 473, Title 14, California Code of Regulations Possession of Nongame Animals: Nutria

The California Fish and Game Commission (Commission) has taken final action under the Fish and Game Code and the Administrative Procedure Act (APA) with respect to the project discussed on December 11, 2019. In taking its final action for the purposes of the California Environmental Quality Act (CEQA, Pub. Resources Code, § 21000 *et seq.*), the Commission adopted the regulations relying on the CEQA exemption for projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Regulations

In an effort to protect the State's wildlife, wetland habitats, waterways, water supplies, water conveyance and flood protection infrastructure, and agriculture from the detrimental impacts caused by invasive nutria (*Myocastor coypus*), the amendment of Section 473 would ban the possession of live nutria to prevent new introductions of the destructive rodent to the state. The Department of Fish and Wildlife has implemented a multi-million dollar nutria eradication program and the regulation is an important part of this effort.

Categorical Exemptions to Protect Natural Resources and the Environment

The purpose of this explanation is to describe staff's analysis of use of the categorical exemptions under the California Environmental Quality Act (CEQA) as it relates to this regulatory action.

The Commission's adoption of the proposed regulations is an action subject to CEQA. The review by Department staff pursuant to CEQA Guidelines Section 15300, Title 14, CCR, leads staff to conclude that adoption of the regulations would properly fall within the Class 7 and Class 8 categorical exemptions (sections 15307, 15308). These two exemptions are related to agency actions authorized by statute to protect natural resources and the environment.

The proposed amendments do not have the possibility of impact on the environment because the changes are an effort to protect the State's wildlife, wetland habitats, waterways, water supplies, water conveyance and flood protection infrastructure, and agriculture from the detrimental impacts caused by invasive nutria (*Myocastor coypus*),

No Exceptions to Categorical Exemptions Apply

As to the exceptions to categorical exemptions set forth in CEQA Guidelines section 15300.2, including the prospect of unusual circumstances and related effects, staff has reviewed all of the available information possessed by the Department relevant to the issue and does not believe adoption of the regulations poses any unusual circumstances that would constitute an exception to the categorical exemptions set forth above.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret Duncan margaret.duncan@	EMAIL ADDRESS wildlife.ca.gov	TELEPHONE NUMBER 916 653-4674
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Section 473 Title 14, CCR, Re: Possession of Nongame Animals: Nutria			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|----------------------------------------------------------------|---------------------------------------------------------------------------|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Presently there are no businesses or persons to be impacted by this regulation***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
 - a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - d. Describe other economic costs that may occur: _____
2. If multiple industries are impacted, enter the share of total costs for each industry: _____
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
 If YES, enter the annual dollar cost per housing unit: \$ _____
 Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
 Explain the need for State regulation given the existence or absence of Federal regulations: _____
 Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
 Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: No other alternative were considered.
 The proposed action was found to be the most effective and least burdensome to affected private persons and businesses.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE



[Signed] D. Farrell, Staff Services Manager, CDFW Budget Branch

DATE

June 19, 2019

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY



[Signed] Melissa A. Miller-Henson, Acting Executive Director, FGC

DATE

July 16, 2019

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STAFF SUMMARY FOR AUGUST 7-8, 2019
(For background purposes only)

11. DELTA FISHERIES MANAGEMENT POLICY

Today's Item

Information ☐

Action ☒

Discuss the potential adoption of a Delta Fisheries Management Policy and compatibility of the FGC Striped Bass Policy.

Summary of Previous/Future Actions

- | | |
|-----------------------------------------------|----------------------------------|
| • Delta Fisheries Forum | May 24, 2017; Sacramento |
| • WRC discussion | Sep 20, 2018; WRC, Sacramento |
| • WRC discussion | Jan 10, 2019; WRC, Ontario |
| • WRC discussion and recommendation | May 16, 2019; WRC, Sacramento |
| • FGC accepted WRC recommendation to schedule | Jun 12-13, 2019; Redding |
| • Today's discussion | Aug 7-8, 2019; Sacramento |

Background

In Jun 2016, FGC received a regulation change petition (Tracking Number 2016-011) from the Coalition for a Sustainable Delta and others requesting to increase the bag limit and reduce the minimum size limit for striped bass and black bass in the Sacramento-San Joaquin Delta (Delta) and rivers tributary to the Delta. The expressed intent of the petition was to reduce predation by non-native bass on fish that are native to the Delta and listed as threatened or endangered under the federal or California endangered species acts, including winter-run and spring-run Chinook salmon, Central Valley steelhead, and delta smelt.

While the regulation change petition was formally withdrawn prior to FGC action, FGC requested that WRC schedule a discussion to explore the issue more comprehensively; the request also included a review of the existing FGC Striped Bass Policy that was adopted in 1996 and focuses on restoring and maintaining striped bass for recreational fishing opportunity (Exhibit 6). FGC staff was directed to hold a half-day forum focused on the State's vision for managing fisheries in the Delta for the benefit of native fish species and sport fisheries, implementation of the State's vision, and soliciting stakeholder input on potential actions FGC could consider related to this topic.

Held in May 2017, the forum was publicized and open to the public. The forum included a state agency panel discussion, an overview of FGC's policies and regulations for sport fisheries in the Delta, and a full group discussion. The discussion included two presentations by representatives for the original petition, consistent with direction provided by FGC. One of the recommendations that emerged from that forum was FGC adoption of a policy for fisheries management in the Delta that would provide science-based guidance to balance native fish needs with sport fishing opportunities in management decisions. The Coalition for a Sustainable Delta offered a proposed draft policy which, together with stakeholder and DFW input, formed the basis for the initial draft policy.

At its Sep 2018, Jan 2019, and May 2019 meetings, WRC discussed the draft policy and in May developed a recommendation that FGC schedule consideration of the draft policy. At its Jun

STAFF SUMMARY FOR AUGUST 7-8, 2019
(For background purposes only)

2019 meeting, FGC received the draft Delta Fisheries Management Policy advanced from WRC (Exhibit 5). At that meeting and following, stakeholders raised several significant issues with the draft policy. Following considerable public comment regarding the draft policy and current Striped Bass Policy, FGC accepted WRC's recommendation and directed staff to add the draft policy to the Aug 2019 meeting for discussion.

At this time, staff believes that additional discussions between stakeholders and staff of DFW and FGC are warranted to explore how to resolve the identified issues before FGC considers the draft Delta Fisheries Management Policy and any potential changes to the FGC Striped Bass Policy. Postponing discussion would allow dialogue to proceed and give additional stakeholders the chance to participate in ongoing discussions. Staff recommends that FGC consider new draft policies (based on discussions with stakeholders) at its Dec 2019 meeting in Sacramento, which will facilitate participation by stakeholders from in and around the Delta. If approved, FGC staff will provide a progress update at FGC's Oct 2019 meeting.

Significant Public Comments

1. The American Sportfishing Association and Coastside Fishing Club ask FGC to focus on the root causes of poor Delta health and oppose any effort to reduce long-term recreational fishing opportunities (Exhibit 1).
2. The California Sportsfishing League emphasizes the economic importance of striped bass, states that predation from non-native game fish in the Delta is a "red herring", and opposes a repeal of the FGC Striped Bass Policy. The league states that reductions in fishing opportunity run counter to the State's R3 project and ask that discussions be scheduled near the greater Sacramento area (Exhibit 2).
3. The Northern California Guides and Sportsmen's Association states that predation on salmonid species is a minor stressor. The association asks that the item be tabled until Dec to allow for ongoing discussions to ensue, and that any further FGC conversations take place in the vicinity of the potential impacts of the draft Delta Fisheries Management Policy (Exhibit 3).
4. The Congressional Sportsman's Foundation states that striped bass contribute to a healthy Delta ecosystem and that predation is not a significant factor driving Delta fish population abundances. They oppose the repeal of the Striped Bass Policy (Exhibit 4).

Recommendation

FGC staff: Postpone discussion of the draft policy to the Dec 2019 FGC meeting to allow FGC and DFW staff time to work with stakeholders on ways to address the issues that have been raised.

Exhibits

1. Letter from the American Sportfishing Association and Coastside Fishing Club, received Jul 25, 2019
2. Letter from the California Sportsfishing League, received July 25, 2019
3. Letter from the Northern California Guides and Sportsmen's Association, received July 25, 2019

STAFF SUMMARY FOR AUGUST 7-8, 2019

(For background purposes only)

4. Letter from the Congressional Sportsman's Foundation, received July 25, 2019
5. Draft Delta Fisheries Management Policy, revised Aug 1, 2019
6. FGC Striped Bass Policy, adopted Apr 5, 1996

Motion/Direction

Moved by _____ and seconded by _____ that the Commission postpones discussion of the draft Delta Fisheries Management Policy and Commission's Striped Bass Policy until the December 2019 meeting.

California Fish and Game Commission

Developing a Delta Fisheries Management Policy

December 3, 2019 version of draft Delta Fisheries Management Policy
tracked against the August 1, 2019 draft version

It is the policy of the Commission that:

The Sacramento-San Joaquin Delta has faced, and continues to experience, declines in pelagic fishes and anadromous salmonids. This policy is intended to guide management decisions that could affect fish species and other aquatic resources. The Delta, for the purposes of this policy, means the Sacramento-San Joaquin Delta as defined in Section 12220 of the California Water Code. "Delta fisheries" includes listed species, species of greatest conservation need, native species, and game fish. It is the policy of the Fish and Game Commission (Commission) that:

- I. The Commission and Department of Fish and Wildlife (Department) shall seek to collaborate and coordinate with other agencies whose actions may affect with jurisdiction over species and other resources in the Sacramento-San Joaquin Delta (Delta) and its tributaries as the Department manages Delta they manage fisheries, state and federally listed fish species, such as salmonids and smelt, and other aquatic resources. The Commission and Department will provide feedback to other agencies on any actions in the Delta that could have significant, adverse impacts to California's fisheries.
- II. The Commission and Department shall strive to manage these resources holistically, sustainably, and consistent with the direction of the legislature to protect, restore, and enhance the Delta ecosystem.
- III. The Department shall rely on credible the best available science (as defined by Section 33 of the Fish and Game Code) to develop strategies and recommendations for managing Delta fisheries, and listed species in the Delta. Using this information, the Department shall strive to improve habitat conditions (such as water temperature for and flows, water quality, and food) and manage other stressors (such as disease, predation and prey availability, and competition) alleviate threats to promote recovery of Delta fisheries (where applicable), listed species.
- IV. Recognizing that listed species have highest priority, theThe Department shall manage Delta fisheries listed fish species to protect and enhance each species' abundance, distribution, and genetic integrity to support their each species' resiliency and (where applicable) recovery.
- V. The Department shall manage Delta fisheries in a manner that provides for maximizing sustainable recreational angling opportunities while avoiding or minimizing adverse effects to native and listed species, species of greatest conservation need, and recovery activities.
- I. ~~Based on current best available science and evaluations of past management of Delta fisheries, the Commission and Department shall not develop or enhance fisheries in the~~

~~Delta which may pose a direct threat to the survival of, or significantly limit, recovery of a listed species.~~

- VI. To the extent feasible, the Commission and the Department shall support scientific research on habitat or species improvement projects and investments to help ~~advance~~ the policy goals set forth herein. The Department should determine and identify clear, objective-based~~consider identified~~ research needs when developing research and recovery project plans, making research investments, making research and recovery funding decisions, and when reviewing and/or authorizing research projects. ~~The Department may consider the permitted scientific sampling of non-native fish outside sport fishing size and bag limits to advance scientific research to support native species in the Delta, where statutorily permitted and practical.~~ Where feasible, the Department should encourage and permit recreational anglers to contribute to scientific research of native and non-native species on predator-prey relationships to help inform efforts to protect and enhance Delta fisheries; such studies should be carefully considered in light of the overall population goals for, and effect on, both the study target and related ~~native~~ species.

Clean version of draft Delta Fisheries Management Policy as revised December 3, 2019

It is the policy of the Commission that:

The Sacramento-San Joaquin Delta has faced, and continues to experience, declines in pelagic fishes and anadromous salmonids. This policy is intended to guide management decisions that could affect fish species and other aquatic resources. The Delta, for the purposes of this policy, means the Sacramento-San Joaquin Delta as defined in Section 12220 of the California Water Code. "Delta fisheries" includes listed species, species of greatest conservation need, native species, and game fish. It is the policy of the Fish and Game Commission (Commission) that:

- I. The Commission and Department of Fish and Wildlife (Department) shall seek to collaborate and coordinate with other agencies whose actions may affect species and other resources in the Delta and its tributaries as the Department manages Delta fisheries and other aquatic resources. The Commission and Department will provide feedback to other agencies on any actions in the Delta that could have significant, adverse impacts to California's fisheries.
- II. The Commission and Department shall strive to manage these resources holistically, sustainably, and consistent with the direction of the legislature to protect, restore, and enhance the Delta ecosystem.
- III. The Department shall rely on credible science (as defined by Section 33 of the Fish and Game Code) to develop strategies and recommendations for managing Delta fisheries. Using this information, the Department shall strive to improve habitat conditions (such as water temperature and flows, water quality, and food) and manage other stressors (such as disease, predation and prey availability, and competition) to promote recovery of Delta fisheries (where applicable).
- IV. Recognizing that listed species have highest priority, the Department shall manage Delta fisheries to protect and enhance each species' abundance, distribution, and genetic integrity to support their resiliency and (where applicable) recovery.
- V. The Department shall manage Delta fisheries in a manner that provides for maximizing sustainable recreational angling opportunities while avoiding or minimizing adverse effects to native and listed species, species of greatest conservation need, and recovery activities.
- VI. To the extent feasible, the Commission and the Department shall support scientific research on habitat or species improvement projects and investments to help the policy goals set forth herein. The Department should determine and identify clear, objective-based research needs when developing research and recovery project plans, making research investments, making research and recovery funding decisions, and when reviewing and/or authorizing research projects. Where feasible, the Department should encourage and permit recreational anglers to contribute to scientific research of native and non-native species to help inform efforts to protect and enhance Delta fisheries; such studies should be carefully considered in light of the overall population goals for, and effect on, both the study target and related species.

California Fish and Game Commission

Revising the Striped Bass Policy

December 3, 2019 versions of draft revised Striped Bass Policy
tracked against currently-adopted version

Stakeholder Draft Version 1:

It is the policy of the Commission that:

- I. The Department of Fish and ~~Game~~ Wildlife shall work toward stabilizing and then restoring the presently declining striped bass fishery of the Sacramento-San Joaquin Estuary. This ~~goal~~ is consistent with Commission policy that the Department shall emphasize programs that ensure, enhance, and prevent loss of sport fishing opportunities.
- II. The Department shall ensure that actions to increase striped bass abundance are consistent with the Department's long-term mission and public trust responsibilities including those related to threatened and endangered species and other species of special concern. Recognizing issues associated with potential incidental take of these species, the department's goal is to restore the striped bass population to a healthy, self-sustaining growing population and robust recreational fishery. An appropriate target objective is to restore the population to 1 million adults within the next 5 to 10 years. an appropriate interim objective is to restore the striped bass population to the 1980 population level of 1.1 million adults within the next 5-10 years.
- ~~III. The long-term striped bass restoration goal, as identified in the Department's 1989 Striped Bass Restoration Plan, is 3 million adults.~~
- ~~IV.~~ III. The Department shall work toward these goals through any appropriate means. Such means may include actions to help maintain, restore, and improve habitat; beneficial to striped bass, reduce impacts of invasive aquatic vegetation, improve water quality, reduce loss of striped bass, pen-rearing of fish salvaged from water projects and diversions, fish screens; and artificial propagation and assess the status and population of striped bass in the Delta.

Stakeholder Draft Version 2:

It is the policy of the Commission that:

- I. The Department of Fish and Game ~~Wildlife~~ shall ~~work toward stabilizing and then restoring the presently declining~~ monitor and manage striped bass fishery ~~of in~~ the Sacramento-San Joaquin Estuary. This goal is consistent with Commission policy that the Department shall emphasize programs that ensure, enhance, and prevent loss of ~~sport fishing~~ recreational angling opportunities.
- II. The Department shall ensure that actions to increase striped bass abundance are consistent with the Department's long-term mission and public trust responsibilities including those related to threatened and endangered species and other species of ~~special concern~~ greatest conservation need. In light of the foregoing, the Department will seek to achieve a sustainable striped bass population in order to maintain or increase recreational angling opportunities, taking into account the availability of habitat to support the species as well as the need to avoid taking any action that would result in incidental take of listed species.
- ~~III. The long-term striped bass restoration goal, as identified in the Department's 1989 Striped Bass Restoration Plan, is 3 million adults.~~
- ~~IV.~~ III. The Department shall work toward these goals through any appropriate means. Such means may include actions to help maintain, restore, and improve habitat; beneficial to striped bass, reduce impacts of invasive aquatic vegetation, improve water quality, reduce loss of striped bass, pen-rearing of fish salvaged from water projects and diversions, fish screens, and artificial propagation and assess the status and population of striped bass in the Delta.

Commission Staff Draft Version:

It is the policy of the Commission that:

- I. The Department of Fish and ~~Game-Wildlife~~ shall ~~work toward stabilizing and then restoring the presently declining~~ monitor and manage the striped bass fishery of the Sacramento-San Joaquin Estuary. ~~This goal is consistent with Commission policy that the Department shall emphasize programs that ensure, enhance, and prevent loss of sport fishing opportunities.~~
- II. The Department shall ensure that actions to increase striped bass abundance are consistent with the Department's long-term mission and public trust responsibilities including those related to threatened and endangered species and other species of greatest conservation need, special concern. Recognizing issues associated with potential incidental take of these species, ~~an appropriate interim objective is to restore the striped bass population to the 1980 population level of 1.1 million adults within the next 5-10 years.~~ the Department shall strive to maintain a healthy, self-sustaining striped bass population in support of a robust recreational fishery.
- III. ~~The long-term striped bass restoration goal, as identified in the Department's 1989 Striped Bass Restoration Plan, is 3 million adults.~~
- IV-III. The Department shall work toward these goals through any appropriate means. Such means may include actions to help maintain, restore, and improve habitat; beneficial to striped bass, reduce impacts of invasive aquatic vegetation, improve water quality, reduce loss of striped bass, pen-rearing of fish salvaged from water projects and diversions, fish screens; and artificial propagation and assess the status and population of striped bass in the Delta.



Mr. Eric Sklar, President
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

November 27, 2019

RE: Striped Bass and Delta Fisheries Management Policies

Dear President Sklar and Members of the Fish and Game Commission:

The Congressional Sportsmen's Foundation (CSF) is supportive of the amendments made to the Delta Fisheries Management Policy with the statutory definition of "credible science" included. However, CSF has remaining concerns over the amendments to the Striped Bass Policy.

Established in 1989, the Congressional Sportsmen's Foundation (CSF) works with the Congressional Sportsmen's Caucus, the largest, most active bipartisan caucus on Capitol Hill with nearly 250 Members of Congress from both the House and Senate. Fifteen years ago, CSF extended the legislative network from Washington, DC to states across the country, establishing the bipartisan National Assembly of Sportsmen's Caucuses, which today is made up of 49 state legislative caucuses, and includes over 2,500 legislators. Ten years ago, CSF established a bipartisan Governors Sportsmen's Caucus, which includes more than half the governors from throughout the country. Together, this collective force of bipartisan elected officials works to protect and advance hunting, angling, recreational shooting and trapping for the nearly 40 million sportsmen and women who spend \$90 billion annually on our outdoor pursuits.

The California Outdoor Sporting Caucus joined the National Assembly of Sportsmen's Caucuses in 2004 to represent the interest of the Golden State's 1.82 million hunters and anglers, who spend \$3.5 billion annually and support more than 56,000 jobs within the state.

CSF commends the ongoing efforts of the Commission and the California Department of Fish and Wildlife (Department) to work with stakeholders to update these policies responsibly to manage Delta resources holistically and sustainably to protect and enhance the Delta ecosystem. However, CSF is concerned that without objective standards for working toward stabilizing and then restoring the presently declining striped bass fishery of the Sacramento-San Joaquin Estuary, under section I, the policy is ineffective.

In 1996, the Commission recognized the importance of the Striped Bass recreational fishery in the Sacramento-San Joaquin Estuary by implementing measurable objectives in the form of restorative population levels and time frame achievement markers. While population targets in numbers of fish are

The Sportsman's Voice in the Nation's Capitols

difficult to estimate and hard to achieve on a consistent basis, there are other methods to estimate population abundance and sustainability that could be used as management criteria. CSF appreciates the intent of the policy to stabilize and restore the striped bass populations, but the 2019 draft Striped Bass Policy lacks any measurable objectives and without such markers, limits the Commission's ability to ensure these policies are being upheld.

Thus, CSF respectfully requests that the Commission consider adopting an objective standard for stabilizing and then restoring the presently declining striped bass fishery, to ensure that both the Commission and the Department can effectively manage striped bass that contribute to a healthy Delta ecosystem and provides an economically valuable and recreationally important fishery.

CSF thanks the Commission for its continued dedication to managing the Delta fisheries resources holistically, including managing for striped bass and species of greatest concern that contribute to a productive, sustainable and economically viable recreational fishery.

Sincerely,



Chris Horton
Senior Director Fisheries Program
Congressional Sportsmen's Foundation



Aoibheann Cline
Western States Coordinator
Congressional Sportsmen's Foundation

Jacob Stout

[REDACTED]

[REDACTED]

[REDACTED]

27 November 2019

Mr. Eric Sklar
President
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

RE: Comments on Proposed Amendments to Striped Bass Policy

Dear President Sklar and Commissioners:

My name is Jacob Stout, I'm a 24-year-old angler from West Sacramento. My passion for these local waters borderlines on the deranged. That passion has taken me to study Fisheries Management at Humboldt State University. I have dedicated my entire life to protect the integrity of the fisheries I grew up fishing.

I've been fishing these waters my entire life and striped bass have been one of the most incredible species I've ever had the privilege to enjoy. I'm also speaking on behalf of my friends and family and community when I tell you how important these fish are. That being said, it's also a controversial species that I still have much to learn about. I've seen the boils of striper feasting as the hatchery trucks dump their salmonids in the water. I've also seen returning adult "jack:" salmon down the throat of 40lb stripers. So, I already understand the concern that salmonids, another cherished fishery of mine, are negatively affected by stripers.

However, I do not believe that Striped bass are a main culprit for the decline of salmonids in the Central Valley. Nor do I believe that the science supports the hypothesis that reducing the striped bass population will increase juvenile salmonid survival. The Central Valley is a disturbed ecosystem that has been dammed, diverted, and irrigated extensively. I spend many hours on the water and have seen thousands of salmon and steelhead in irrigation canals where they die with no hope of successful reproduction. My home is on the Deep Water Ship Channel where I personally witness thousands of fish every year swim in circles in "the locks" where they are either caught by hook and line or they die and decompose with no hope of successfully spawning.

I urge you to prioritize the protection of these species (salmon, steelhead, and stripers). Please spend our tax dollars ensuring these species have more high quality spawning, rearing and transitional habitats. Please don't let stripers become a scapegoat. Please hold water management agencies accountable for their impacts on species of the California Central Valley. Thank you.

Sincerely,

Jacob Stout
HSU AFS Vice President
HSU Freshwater Fisheries Biology Junior

[Redacted]

[Redacted]









Dr. Cynthia Le Doux-Bloom



25 November 2019

Mr. Eric Sklar
President
California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814

RE: Comments on Delta Fisheries Management Policy and Striped Bass Policy

Dear President Sklar and Commissioners:

Since 1989, I have been employed by the State of California's Departments of Fish and Wildlife and Water Resources as a biologist, associate biologist, and lastly as a senior environmental scientist. I became an American Fisheries Society, Certified Fisheries Professional in 2004. I was elected to several fish-related Board of Directors, and currently sit on the Salmonid Restoration Federation Board since 2014. I earned my undergraduate degree in Biology at UC Santa Cruz, my masters at San Jose State University via Moss Landing Marine Laboratories, and my doctorate in Animal Biology at UC Davis studying sub-adult Striped Bass distribution, habitat use, and movement patterns in the Sacramento-San Joaquin Estuary.

Science shows that the Delta's native fish decline is not largely due to predation by Striped Bass.

This is the first letter that I have written to the Fish and Game Commission (FGC) over my 30-year career. I convey this fact as a measure of my concern, disappointment, and frustration with the FGC on another misguided attempt to amend the Striped Bass Policy (4/5/1996) and failure to meet the commitments made in 1996 to restore the declining population. The FGC must make decisions based upon the decades of defensible science and expert scientists' testimonies reporting that the population declines in the Delta's native fishes are a result of over-allocation of water between competing interests, and not predation by the "Scapecfish" Striped Bass.

The Striped Bass population has been declining since at least the early 1990s as evident in the Striped Bass Policy which (1). recognized "the decline in the Striped Bass fishery in the Sacramento-San Joaquin Estuary" and "emphasized programs to prevent loss of sport fishing opportunities"; (2). committed to "restore the adult population to 1.1 million adults within 5-10 years; and (3). committed to the "long-term restoration goal of 3 million adults." More recent studies have shown that multiple fish species' populations have declined in Delta, including Striped Bass (Sommer et al. 2007; and others).

Predation is one of several much larger factors attributing to juvenile salmonid mortality as they migrate to the Pacific Ocean. Entrainment (e.g., suctioned up along with 10 million acre-feet of water) into the Central Valley and State Water Projects, elimination of floodplain rearing habitat, smaller water diversions, lack of food availability, and poor water quality are widely recognized factors influencing juvenile salmonid mortality. Predation on juvenile salmonids by piscivorous avians, and aquatic and marine mammals remains relatively unstudied in the Sacramento-San Joaquin Estuary. Populations of

pelicans, cormorants, mergansers, river otters, harbor seals, and sea lions have increased since the 1960s and 70s due to changes in pesticide regulations, hunting regulation, and Marine Mammal Protection Act, while the Striped Bass population has continued to decline.

Relevant Striped Bass Reproductive Life History and Female Age at Sexual Maturity

Striped Bass is an anadromous (spawn in rivers, young rear in estuarine and marine habitats, adults use all habitats), iteroparous (spawns multiple times over life time), long-lived (>20 years) fish. Females and males become sexually mature at different ages and lengths. Most females reach sexual maturity at five or six years old at approximately 20 inches in length, while males mature at 2 years old at approximately 8.5 inches in length (Moyle 1976; CDFG 1989). Striped Bass do not have external body characteristics to distinguish males from females. The sex of mature fish can be determined once captured by applying pressure near the fish's vent to expel sperm or eggs. In late spring, when river water temperatures warm near 65F, females broadcast spawn eggs which can be fertilized by many males.

Fishing Regulation inherently reduce the Striped Bass Population Due to Female Sex-Bias Size Length

The current California Striped Bass Fishing regulation catch size is 18 inches in length. Age at Length studies have shown that Striped Bass reaching 18 inches can be three years old, but generally under six years old. Since female Striped Bass reach sexual maturity at approximately 20 inches, the current 18 inches regulation removes females from the population prior to reaching sexual maturity. This results in a reduction of females to perpetuate the population. The average six-year-old female produces 500,000 eggs while a 15-year-old female (> 46 inches) can produce three million eggs. Removing three to five-year-old sexually immature females from the population potentially equates to eliminating millions of future juvenile Striped Bass from the population.

The current California fishing regulation continues to contribute to the decline of the population and inhibits restoration of the population - completely contrary to the mandate of the Striped Bass Policy. Amending the Striped Bass Policy is unnecessary because the current fishing regulation has and continues to reduce the reproductive potential of the population. If the goal of the Striped Bass Policy is to "restore the adult population" then the catch length should be increased to at least 26 inches and a maximum catch length (e.g., 39 inches or greater released) should be explored.

Among the U.S. East Coast States (e.g., CT, DE, MA, ME, NC, NH, NJ, NY, and VA) where Striped Bass populations have also declined and the Policy goals are to restore the population, the minimum catch length is 28 inches with a bag limit of two fish per day. Additionally, some States also have a maximum catch length of 38 inches with fish over this length being released. These fishing regulations are ensuring that all females have the opportunity to become sexually mature and spawn at least once prior to being removed from the population. Additionally, the maximum catch length is protecting larger females which have the highest fecundity (e.g., greatest number of eggs).

Negative Societal Impacts and Workforce Implications from Further Reducing Fishing Opportunities

I retired from State Service earlier this year, and now teach and conduct research on anadromous fishes as a retired annuitant at Humboldt State University's Department of Fisheries Biology. Rarely a day goes by when I am not asked by students about how a "girl became a fisheries scientist, especially way back then..." Laughing, I usually answer by asking, "Why do you want to be a fisheries biologist?". The answer is always the same regardless of gender, ethnicity, age, socio-economic status, year of undergraduate or

graduate education, or where raised – they all reply, “I love fishing”. It’s my answer, also. Family traditions turn into adolescent passions which lead to careers in the Natural Resource fields.

Like many of my students, I spent a lot of time with my family fishing for Striped Bass because the fishery is open year-around, and unlike the other two fisheries that are open year-round (e.g., Black Bass and White Sturgeon), fisherpersons have a high likelihood of catching a Striper nearly anywhere, anytime in the Sacramento-San Joaquin Estuary.

The FGC recognized an overall social disconnect from nature and wildlife in its first-ever set of six core values. Further reducing the Striped Bass population by increasing the bag limits and decreasing catch length will not reduce the social disconnect from nature and wildlife, in fact it negatively impacts society – Especially families who spend their bonding time while fishing on the riverbank or boat, most likely for Striped Bass.

Concluding Remarks

Scientific studies have shown that the Delta’s native fish decline is not largely due to predation by Striped Bass, the Striped Bass population continues to decline, and other piscivorous predator populations have increased in the Sacramento-San Joaquin Estuary.

Current California fishing regulation inherently reduces the Striped Bass population due to the female sex-bias size length which removes females prior to sexual maturity and first spawning. The fishing regulation contributes to the decline of the population and inhibits its restoration.

The continued discussion around increasing or removing the bag and size limits on Striped Bass is perceived by some (e.g., Coalition for a Sustainable Delta) as a “low-cost, no brainer” solution to increasing the survival of native fishes in the Delta. In reality, amending the existing Striped Bass Policy is very costly to society (e.g., family integrity) and contributes to the “brain drain” of California’s future Natural Resources workforce, and will not result in the recovery of the Delta’s native fishes. The FGC should remain committed to the mandates in the Striped Bass Policy of restoring the adult population made over two decades ago.

Lastly, I suggest that the FGC investigate the concept of separately managing the 140-year-old Sacramento-San Joaquin Estuary Striped Bass population and the transient populations straying into other watersheds (e.g., Carmel, Russian, Eel and Klamath rivers). If the FGC is interested in my idea, I would gladly discuss my proposal.

Sincerely,



Dr. Cynthia Le Doux-Bloom

Literature Cited

- California Department of Fish and Game. 1989. Striped bass restoration and management plan for the Sacramento-San Joaquin Estuary Phase I. 39 p.
- Moyle, P.B. 1976. Inland Fishes of California. University of California Press, Berkeley. Los Angeles, CA.
- Sommer, T. et al. 2007. The collapse of pelagic fishes in the upper San Francisco Estuary. *Fisheries* 32(6):270-277.

From: Michael Evert [REDACTED]
Sent: Wednesday, November 27, 2019 3:44 PM
To: FGC
Subject: Comments on item #9 on the Dec. 11th FGC agenda

November 26, 2019

To: Fish and Game Commission Members

Re: Dec. 11th Fish and Game Commission Meeting.
Agenda Item #9 – Delta Fisheries Management Policy & Striped Bass
Policy

Dear Commissioners - Maintain today's striper limit!

I ask that the current limit on striped bass (2 fish over 18") be retained. This fishery has been around for over 100 years and is one of the three primary fisheries in the SF Bay and Delta, along with our salmon and halibut. The striped bass and salmon fisheries have co-existed for decades, until the last several years.

Why the decline? Overfishing? Water exports?

My current personal fishing experiences in the last 5 years have been poor (declining size of striped bass), and the poor results of the annual F&G Trawl Netting Survey in the Delta tells us that the striper fishery has crashed.

If we don't retain the current limits for stripers, the striped bass fishery will quickly be gone, resulting in serious negative consequences to remaining struggling salmon and halibut fisheries which will then be overfished.

Below are examples of the results of the Annual Dept. of Fish and Game's Fall Trawl Netting Survey in the Delta to determine the health of our fisheries:

1967: 18,677 juvenile stripers netted.

1998: 1,224 juvenile stripers netted.

2011: 272 juvenile stripers netted.

2018: Only 72 juvenile stripers netted.

So what is happening?

Please recognize that removing the current striped bass limit will result in the elimination of the striped bass.

This will result in enormous economic losses to businesses in the Delta and the SF Bay, such as guides, boat dealers, boat repair shops, bait shops, RV parks and launch ramps, motels, restaurants, gas stations - you name it.

This is a big deal!

Keep today's limit! An even better solution to improve the striper fishery would be to change the current keep limit from two fish per day to ONE fish per day.

Always,
Michael Evert, a fisherman

California Fish and Game Commission

Staff Report on Staff Time Allocation and Activities

December 3, 2019

Commission staff time is a tangible and invaluable asset. Especially since the Commission's staff is so small, where and how staff members spend their time is important. This report identifies where Commission staff allocated time to general activity categories (see table; sample tasks for each general category begin on the next page) and to specific activities during October and November 2019.

The general allocation table summarizes time across all staff classifications, though some classifications require a greater emphasis on certain task categories than others. For example, advisors can spend 30% or more of their time on special projects due to committee project assignments, while regulatory analysts spend up to 70% of their time on regulatory program tasks.

Of note during this reporting period is a substantial increase in staff time for special projects. Items such as web accessibility, strategic planning, California Fishing Communities Definitions Workshop, California Law Revision Commission tentative recommendation for a new Fish and Wildlife Code and other tasks have increased in recent months. Increased leave time in November is the result of staff illnesses and the Thanksgiving holiday. Finally, of significant note is that during this reporting period, commission staff reports zero vacancies; except for a brief period in 2018, this is the first occurrence of having no vacancies in many years.

General Allocation

Task Category	October Staff Time	November Staff Time
Regulatory Program	18%	13%
Non-Regulatory Program	3%	4%
Commission/Committee Meetings	29%	19%
Legal Matters	5%	6%
External Affairs	6%	5%
Special Projects	13%	14%
Administration	22%	19%
Leave Time	10%	26%
Unfilled Positions	0%	0%
Total Staff Time ¹	105%	105%

¹ Total staff time is greater than 100% due to overtime

Activities for October 2019

- Prepared for and conducted two publicly noticed meetings (October 8 Tribal Committee; October 9-10 Commission)
- Began preparations for one publicly noticed meeting (November 5 Marine Resources Committee)
- Participated in the Policy Advisory Committee for Marine Protected Areas working groups
- Assisted in the production of and participated in the Sea Grant State Fellow recruitment screening and interviews
- Conducted stakeholder discussion about draft delta fisheries management policy and potential revisions to Commission Striped Bass Policy
- Participated in multi-agency Chronic Wasting Disease Task Force meeting
- Participated in plastic pollution interagency meeting with California Natural Resources Agency
- Participated in MPA Statewide Leadership Team and *Other Uses Subgroup* meetings
- Conducted joint meeting with DFW Regulations Unit
- Prepared for and conducted Coastal Fishing Communities Definition Workshop
- Participated in northern spotted owl stakeholder forum
- Began sesquicentennial planning

Activities for November 2019

- Finalized preparations for and conducted one publicly noticed meeting (November 5 Marine Resources Committee)
- Began preparations for one publicly noticed meeting (December 11-12 Commission)
- Participated in the California Hunting and Conservation Coalition meeting
- Began deputy executive director recruitment
- Conducted stakeholder discussion about draft delta fisheries management policy and potential revisions to Commission Striped Bass Policy
- Conducted Sea Grant State Fellow interviews
- Participated in Red Abalone Fishery Management Plan Project Team and Administrative Team meetings
- Began in-person strategic planning interviews
- Participated in Nimbus Hatchery Tour
- Participated in the California Natural Resources Agency's Marine Protected Areas Milestones meeting
- Participated in the Integrated Ocean Observing for a Changing California Coastline workshop

General Allocation Categories with Sample Tasks

Regulatory Program

- Coordination meetings with DFW to develop timetables and notices
- Prepare and file notices, re-notices, and initial/final statements of reasons
- Prepare administrative records

Non-Regulatory Program

- DFW partnership, including joint development of management plans and concepts
- Process and analyze non-regulatory requests

- Track and respond to public comments
- Consult, research and respond to inquiries from the Office of Administrative Law

- Develop, review and amend Commission policies
- Research and review adaptive management practices
- Review and process California Endangered Species Act petitions

Commission/Committee Meetings and Support

- Research and compile subject-specific information
- Review and develop policies
- Develop and distribute meeting agendas and materials
- Agenda and debrief meetings
- Prepare meeting summaries, audio files and voting records
- Research and secure meeting venues

- Develop and distribute after-meeting memos/letters
- Make travel arrangements for staff and commissioners
- Conduct onsite meeting management
- Process submitted meeting materials
- Provide commissioner support (expense claims, office hours, etc.)
- Process and analyze regulatory petitions

Legal Matters

- Public Records Act requests
- Process appeals and accusations
- Process requests for permit transfers

- Process kelp and state water bottom leases
- Litigation
- Prepare administrative records

External Affairs

- Engage and educate legislators, monitor legislation
- Maintain state, federal and tribal government relations

- Correspondence
- Respond to public inquiries
- Website maintenance

Special Projects

- Coastal Fishing Communities
- Fisheries Bycatch Workgroup
- Streamline routine regulatory actions
- Strategic planning

- Aquaculture best management practices
- Website accessibility issues
- Service Based Budgeting Initiative

Administration

- Staff training and development
- Purchases and payments
- Contract management
- Personnel management
- Budget development and tracking
- Health and safety oversight
- Internal processes and procedures
- Document archival

Leave Time

- Holidays
- Sick leave
- Vacation or annual leave
- Jury duty
- Bereavement

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Fish and Wildlife Code

December 2018

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN **January 1, 2020**.

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

California Law Revision Commission
c/o UC Davis School of Law
Davis, CA 95616
<commission@clrc.ca.gov>

SUMMARY OF TENTATIVE RECOMMENDATION

In 2010, the Secretary of the Natural Resources Agency was directed to convene a committee to develop and submit a “strategic vision” for the Fish and Game Commission and the Department of Fish and Game (now the Department of Fish and Wildlife.) The resulting report recommended that the Law Revision Commission be tasked with cleaning up the Fish and Game Code.

In response to that report, Senator Fran Pavley and Assembly Member Jared Huffman (the Chairs of the Senate Natural Resources and Water Committee and the Assembly Water, Parks, and Wildlife Committee at that time) requested that the Commission conduct a comprehensive review and clean-up of the Fish and Game Code, noting “the need for a comprehensive, thorough review and updating of the Fish and Game Code, to identify obsolete, inconsistent or duplicative sections, and to provide support for more readily understood and enforceable fish and wildlife regulations.” Authority to conduct that study was granted by concurrent resolution in 2012 and reaffirmed in subsequent resolutions.

In order to achieve the greatest degree of improvement to the organization and expression of the Fish and Game Code, the Commission decided to prepare a recommendation that would repeal the existing code and replace it with a new Fish and Wildlife Code. The new code would continue the substance of the former code in a more user-friendly form, without making any significant substantive change to the effect of existing law.

This tentative recommendation presents a complete draft of the proposed Fish and Wildlife Code. It was prepared pursuant to Resolution Chapter 158 of the Statutes of 2018.

FISH AND WILDLIFE CODE

1 In 2010, the Secretary of the Natural Resources Agency was directed to convene
2 a committee to develop and submit a “strategic vision” for the Fish and Game
3 Commission and the Department of Fish and Game (now the Department of Fish
4 and Wildlife.)¹ The resulting report recommended, among other things, that the
5 Law Revision Commission be tasked with cleaning up the Fish and Game Code.²

6 In response to that recommendation, Senator Fran Pavley and Assembly
7 Member Jared Huffman (the Chairs of the Senate Natural Resources and Water
8 Committee and the Assembly Water, Parks, and Wildlife Committee at that time)
9 requested that the Commission conduct a comprehensive review and clean-up of
10 the Fish and Game Code, noting “the need for a comprehensive, thorough review
11 and updating of the Fish and Game Code, to identify obsolete, inconsistent or
12 duplicative sections, and to provide support for more readily understood and
13 enforceable fish and wildlife regulations.”³ In 2012, the Legislature directed the
14 Commission to conduct the requested study:

15 [The] Legislature approves for study by the California Law Revision
16 Commission the new topic listed below:

17 Whether the Fish and Game Code and related statutory law should be revised to
18 improve its organization, clarify its meaning, resolve inconsistencies, eliminate
19 unnecessary or obsolete provisions, standardize terminology, clarify program
20 authority and funding sources, and make other minor improvements, without
21 making any significant substantive change to the effect of the law[.]⁴

22 In order to achieve the greatest degree of improvement to the organization and
23 expression of the Fish and Game Code, the Commission decided to prepare a
24 recommendation that would repeal the existing code and replace it with a new Fish
25 and Wildlife Code. The new code would continue the substance of the former code
26 in a more user-friendly form, without making any significant substantive change to
27 the effect of existing law.

28 This tentative recommendation presents a complete draft of the proposed Fish
29 and Wildlife Code. The general character and noteworthy features of the proposed
30 legislation are discussed below.

1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies*, A13 (April 2012).

3. See Memorandum 2012-5, pp. 22-23.

4. 2012 Cal. Stat. res. ch. 108 (ACR 98 (Wagner)).

PURPOSE

The purpose of the proposed law is to improve the organization and expression of the Fish and Game Code, to make it easier to understand, use, and maintain, without making any significant substantive changes to the effect of that law.

The Fish and Game Code was last recodified in 1957.⁵ While some provisions of the Code have not changed since then, the Code has a whole has been extensively modified and supplemented over the course of the last 61 years. That change has occurred piecemeal, with hundreds of individual bills and initiatives aimed at addressing specific issues as they arise.

Over time, that kind of uncoordinated change can lead to structural disorganization. New provisions are added in whatever location seems correct at the time, rather than according to a systematic plan. As a result, provisions addressing different topics may be grouped together and provisions addressing a common topic may be spread to multiple locations.

For example, Division 2 of the existing Fish and Game Code is headed “Department of Fish and Wildlife.” That division contains 22 chapters. As expected, some of the provisions of Division 2 establish the department and define its general duties and powers. However, the great majority of the provisions in that division do not. Instead, they govern a miscellaneous collection of regulatory programs, on a wide range of topics. In most cases, those programs have more in common with the content of other divisions of the code than they do with Division 2. For example, Chapter 7.2 of Division 2 addresses “Trout Management.” One would expect that content to be located in Division 3 (“Fish and Game Generally”) or Division 6 (“Fish”), rather than in Division 2 (“Department of Fish and Wildlife”). Similar issues exist throughout the code.

Structural disorganization makes it harder and more costly to use the code. A member of the public, judge, attorney, or policy maker who needs to find the law governing a particular topic cannot rely on the code’s organizational headings as a reliable guide. Instead, a user will need to search the entire code to find relevant law, which may be scattered across several locations.

For all of those reasons, it would be beneficial to recodify the Fish and Game Code. Recodification would allow for a reassessment of the overall content of the code and the creation of a new organizational structure that better suits the current state of the law. Provisions that govern a common topic could be grouped together, with headings that create a logical connection between related subjects. That is the purpose of the proposed law.

5. 1957 Cal. Stat. ch. 456.

NONSUBSTANTIVE REFORM

In directing the Commission to conduct this study, the Legislature specifically provided that the Commission should not recommend any “significant substantive change to the effect of the law.”⁶

The Commission has exercised care to abide by that limitation, ensuring that the proposed law would not result in any significant substantive change in outcomes under the affected statutes.

Specific measures taken by the Commission to avoid making any significant substantive change in the law are described below.

Objective and Participatory Study Process

The Commission’s study process is well-suited to the development of a nonsubstantive reform of the Fish and Game Code, for the following reasons:

- The Commission is neutral and objective, with no special interest in the subject of fish and game. The Commission has no motivation to introduce significant substantive changes into fish and game law.
- The Commission has considerable experience in drafting legislation to recodify complex bodies of law without making any significant substantive change.⁷
- The Commission’s work is transparent. All materials are publicly distributed. All deliberations are conducted at open public meetings.
- The Commission actively solicits input from affected interest groups. Interim drafts of the proposed law were provided to those groups for review. Any objection that a change would have a substantive effect were carefully analyzed and addressed by the Commission. Any future objections will be treated similarly.
- In proposing legislative reform, the Commission prepares a thorough report that explains the purpose and effect of the proposed law, and sets out a complete draft of the proposed legislation, with a detailed table of contents and a table showing the disposition of every affected section. This report facilitates public review of the proposed law.

Commission Comments

In preparing a recommendation, the Commission drafts an explanatory “Comment” for every section that is added, amended, or repealed.⁸ A Comment

6. *Id.*

7. For example, in 2009 the Commission recommended the nonsubstantive recodification of the deadly weapon statutes, an important and sensitive body of law. See *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm’n Reports 217 (2009); enacted as 2010 Cal. Stat. ch. 178, 2010 Cal. Stat. ch. 711. After beginning its work on the Fish and Game Code, the Commission was assigned the task of preparing nonsubstantive recodifications of the California Public Records Act and specified statutes governing hazardous materials. See 2018 Cal. Stat. ch. res. 158.

indicates the derivation of a section and often explains its purpose, its relation to other law, and potential issues concerning its meaning or application.

For the most part, the Comments in this tentative recommendation state expressly, for each affected section, that the proposed law is not intended to make any change to the substance of the affected provision.

On completion of a final recommendation, the full recommendation, including the proposed legislation and the Comments, will be presented to the Legislature and the Governor. If legislation is introduced to effectuate the proposed law, the full recommendation will be provided to each member of every policy committee that reviews the legislation.

Commission materials that have been placed before and considered by the Legislature are considered evidence of legislative intent,⁹ and are entitled to great weight in construing statutes.¹⁰ The materials are a key interpretive aid for practitioners as well as courts,¹¹ and courts may judicially notice and rely on them.¹² Courts at all levels of the state¹³ and federal¹⁴ judicial systems use

8. The Comments follow each section of the proposed legislation *infra*.

9. See, e.g., *Fair v. Bakhtiari*, 40 Cal. 4th 189, 195, 147 P.3d 653, 657, 51 Cal. Rptr. 3d 871, 875 (2006) (“The Commission’s official comments are deemed to express the Legislature’s intent.”); *People v. Williams*, 16 Cal. 3d 663, 667-68, 547 P.2d 1000, 128 Cal. Rptr. 888 (1976) (“The official comments of the California Law Revision Commission on the various sections of the Evidence Code are declarative of the intent not only of the draft[ers] of the code but also of the legislators who subsequently enacted it.”).

10. See, e.g., *Dep’t of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.*, 40 Cal. 4th 1, 12-13 n.9, 145 P.3d 462, 469 n.9, 50 Cal. Rptr. 3d 585, 593 n.9 (2006) (Commission’s official comments are persuasive evidence of Legislature’s intent); *Hale v. S. Cal. IPA Med. Group, Inc.*, 86 Cal. App. 4th 919, 927, 103 Cal. Rptr. 2d 773, 778 (2001):

In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute. (*Kern v. County of Imperial* (1990) 226 Cal.App.3d 391, 400, fn. 8, 276 Cal.Rptr. 524; *Coopers & Lybrand v. Superior Court* (1989) 212 Cal.App.3d 524, 535, fn. 7, 260 Cal. Rptr. 713.) In particular, reports and interpretive opinions of the Law Revision Commission are entitled to great weight. (*Schmidt v. Southern Cal. Rapid Transit Dist.* (1993) 14 Cal.App.4th 23, 30, fn. 10, 17 Cal.Rptr.2d 340.)

11. Cf. 7 B. Witkin, *Summary of California Law Constitutional Law* § 123, at 230 (10th ed. 2005) (Commission reports as aid to construction); Gaylord, *An Approach to Statutory Construction*, 5 Sw. U. L. Rev. 349, 384 (1973).

12. See, e.g., *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 133 Cal. App. 4th 26, 34 Cal. Rptr. 3d 520 (2005) (providing overview of materials that may be judicially noticed in determining legislative intent); *Hale*, 86 Cal. App. 4th at 927; *Barkley v. City of Blue Lake*, 18 Cal. App. 4th 1745, 1751 n.3, 23 Cal. Rptr. 2d 315, 318-19 n.3 (1993).

13. See, e.g., *Sullivan v. Delta Air Lines, Inc.*, 15 Cal. 4th 288, 298, 935 P.2d 781, 63 Cal. Rptr. 2d 74 (1997) (California Supreme Court); *Admin. Mgmt. Services, Inc. v. Fid. & Deposit Co. of Md.*, 129 Cal. App. 3d 484, 488, 181 Cal. Rptr. 141 (1982) (court of appeal); *Rossetto v. Barross*, 90 Cal. App. 4th Supp. 1, 5-6, 110 Cal. Rptr. 2d 255 (2001) (appellate division of superior court).

14. See, e.g., *California v. Green*, 399 U.S. 149, 154 n.3 (1970) (United States Supreme Court); *S. Cal. Bank v. Zimmerman (In re Hilde)*, 120 F.3d 950, 953 (9th Cir. 1997) (federal court of appeals); *Williams v. Townsend*, 283 F. Supp. 580, 582 (C.D. Cal. 1968) (federal district court); *Ford Consumer Fin. Co. v.*

1 Commission materials to construe statutes enacted on Commission
2 recommendation.¹⁵

3 The Commission's Comments will make clear that, with a small number of
4 specifically identified exceptions, the proposed law should be construed as a
5 nonsubstantive reorganization of the law.

6 *Statements of Legislative Intent*

7 The proposed law would be known as the Fish and Wildlife Code of 2020.¹⁶ It
8 would include a number of codified general provisions to expressly state the
9 purpose and effect of the recodification.

10 Proposed Section 10 would make clear that a provision of the proposed law is
11 intended as a restatement and continuation of the provision that it restates, rather
12 than a new enactment, and that any reference to a restated provision is deemed to
13 include a reference to the section that restates it (and vice versa):

14 (a) A provision of this code, insofar as it is substantially the same as a
15 previously existing provision relating to the same subject matter, shall be
16 construed as a restatement and continuation thereof, and not as a new enactment.

17 (b) A reference in a statute or regulation to a previously existing provision that
18 is restated and continued in this code shall, unless a contrary intent appears, be
19 deemed a reference to the restatement and continuation.

20 (c) A reference in a statute or regulation to a provision of this code that is
21 substantially the same as a previously existing provision, shall, unless a contrary
22 intent appears, be deemed to include a reference to the previously existing
23 provision.

24 (d) A reference in a regulation to a provision of the former Fish and Game
25 Code, rather than to the provision of this code that continues the former provision,
26 has no effect on the validity of the regulation.

27 In addition, proposed Sections 15 and 20 would make clear that restatement of a
28 provision is not intended to have any effect, positive or negative, on a judicial

McDonell (*In re McDonell*), 204 B.R. 976, 978-79 (B.A.P. 9th Cir. 1996) (bankruptcy appellate panel); *In re Garrido*, 43 B.R. 289, 292-93 (Bankr. S.D. Cal. 1984) (bankruptcy court).

15. See, e.g., *Jevne v. Superior Court*, 35 Cal. 4th 935, 947, 111 P.3d 954, 962, 28 Cal. Rptr. 3d 685, 694-95 (2005) (Commission report entitled to substantial weight in construing statute); *Collection Bureau of San Jose v. Rumsey*, 24 Cal. 4th 301, 308 & n.6, 6 P.3d 713, 718 & n.6, 99 Cal. Rptr. 2d 792, 797 & n.6 (2000) (Comments to reenacted statute reiterate the clear understanding and intent of original enactment); *Brian W. v. Superior Court*, 20 Cal. 3d 618, 623, 574 P.2d 788, 791, 143 Cal. Rptr. 717, 720 (1978) (Comments persuasive evidence of Legislature's intent); *Volkswagen Pac., Inc. v. City of Los Angeles*, 7 Cal. 3d 48, 61-63, 496 P.2d 1237, 1247-48, 101 Cal. Rptr. 869, 879-80 (1972) (Comments evidence clear legislative intent of law); *Van Arsdale v. Hollinger*, 68 Cal. 2d 245, 249-50, 437 P.2d 508, 511, 66 Cal. Rptr. 20, 23 (1968) (Comments entitled to substantial weight), *overruled on other grounds*, *Privette v. Superior Court*, 5 Cal. 4th 689, 696, 854 P.2d 721, 21 Cal. Rptr. 2d 72 (1993); *County of Los Angeles v. Superior Court*, 62 Cal. 2d 839, 843-44, 402 P.2d 868, 870-71, 44 Cal. Rptr. 796, 798-99 (1965) (statutes reflect policy recommended by Commission).

16. See proposed Section 1(b) *infra*. The title will require adjustment if the proposed legislation is enacted in a different year.

1 interpretation of the restated provision or a judicial holding regarding the
2 provision's constitutionality:

3 15. (a) A judicial decision interpreting a provision of the former Fish and Game
4 Code is relevant in interpreting any provision of this code that restates or
5 continues that provision of the former Fish and Game Code.

6 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
7 has not evaluated the correctness of any judicial decision interpreting a provision
8 of the former Fish and Game Code.

9 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
10 does not, reflect any assessment of any judicial decision interpreting any
11 provision of the former Fish and Game Code.

12 20. (a) A judicial decision determining the constitutionality of a provision of the
13 former Fish and Game Code is relevant in determining the constitutionality of any
14 provision of this code that restates or continues that provision of the former Fish
15 and Game Code.

16 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
17 has not evaluated the constitutionality of any provision enacted by that act, or the
18 correctness of any judicial decision determining the constitutionality of any
19 provision of the former Fish and Game Code.

20 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
21 does not, reflect any determination of the constitutionality of any provision
22 enacted by that act.

23 The provisions discussed above are particularly important with respect to
24 provisions that were added by initiative or to effectuate an initiative. They would
25 make clear that the initiative provisions are continued in the proposed law and are
26 not new enactments. They would also make clear that enactment of the proposed
27 law should not be construed as acquiescence in any court case construing the
28 continued provisions or an indication that the Legislature has assessed the
29 constitutionality of the provisions. The proposed law would take no stand on and
30 have no effect on such issues.

31 *Conservative Drafting*

32 Any large body of statutes will include some language that could be stated more
33 clearly. The Commission has taken a conservative approach to such language,
34 leaving it mostly unchanged.

35 There are three main reasons for this approach:

36 (1) With a recodification of this magnitude, it would not be reasonable
37 to expect reviewers to scrutinize a large number of stylistic or
38 grammatical changes to determine whether they would have a
39 problematic substantive effect.

40 (2) It is common for statutory language to be the product of
41 negotiation, where compromise depended on the precise wording
42 of the language. Such compromises should not be undone solely
43 for reasons of stylistic improvement.

(3) Many provisions in the Fish and Game Code were added by initiative. The California Constitution sharply restricts the Legislature’s ability to amend an initiative statute.¹⁷ However, in this context, “amend” means to alter the substance of the law added by initiative. “In deciding whether [a] particular provision amends [an initiative statute], we simply need to ask whether it prohibits what the initiative authorizes, or authorizes what the initiative prohibits.”¹⁸ Continuing the language of initiative statutes without significant change helps to avoid any possibility that an impermissible amendment would be made. This is reinforced by the rule in proposed Section 10(a), discussed *supra*, which provides that “[a] provision of this code, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be construed as a restatement and continuation thereof, and not as a new enactment.” It is further reinforced by the Commission’s Comments to the provisions at issue, which uniformly declare that the provisions are continued without substantive change. Recall that Commission Comments are considered to be evidence of legislative intent.¹⁹

However, there are three situations in which the proposed law would make significant changes to existing language:

- (1) Provisions that are difficult to understand were restated for clarity.
- (2) Provisions that contain clear errors were revised to correct the errors.
- (3) In a small number of cases, minor substantive or technical improvements were made.

In every instance where language would be significantly changed, the proposed change is identified in a Note that follows the affected section. This will make it easier for reviewers to focus on those provisions. Notes are also used to provide information, without posing a question (e.g., to identify sections that were added or amended by 2018 legislation).

Legislative Process

After the Commission completes its study process and issues a final recommendation, the proposed law would be scrutinized carefully in the legislative process. This would serve as a final safeguard against any unintended substantive change in the law.

17. See Cal. Const. art. 2, § 10 (“The Legislature may amend or repeal a referendum statute. The Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without the electors’ approval.”).

18. *People v. Superior Court (Pearson)*, 48 Cal. 4th 564, 571; 227 P.3d 858; 107 Cal. Rptr. 3d 265 (2010).

19. See discussion of Commission Comments, *supra*.

DRAFTING APPROACH

Structure of Proposed Law

The existing Fish and Game Code is organized into four levels: divisions, parts, chapters, and articles. Some existing codes include a fifth organizational level: titles. The proposed Fish and Wildlife Code would use titles, as an additional organizational level between parts and chapters. This provides as much latitude as possible to group similar provisions together, and then combine similar groupings into a logical hierarchical structure.

The provisions of the proposed Fish and Wildlife Code would be numbered to avoid over-crowding and leave room for future development of the law.

This approach complies with the Legislature's directive to improve the organization of the Fish and Game Code.²⁰ It allows for a more coherent and intuitive organizational structure, which should make it easier for a reader to find relevant provisions within the statute.

Short, Simple Sections

One common problem in statutory drafting is code sections that are excessively long. Excessively long sections can obscure relevant details of law, especially if a single section addresses several different subjects.

A better approach is to divide the law into a larger number of smaller sections, with each section limited to a single subject. Short sections have numerous advantages. They enhance readability and understanding of the law, and make it easier to locate and refer to pertinent material. In contrast to a long section, a short section can be amended without undue technical difficulties and new material can be inserted where logically appropriate, facilitating sound development of the law. The use of short sections is the preferred drafting technique of the California Code Commission,²¹ the Legislature,²² the Legislative Counsel,²³ and the Law Revision Commission.²⁴

For those reasons, the proposed law would divide lengthy sections into shorter and simpler provisions.

Definitions

As with existing law, the proposed law would group most of the definitions that have code-wide application near the beginning of the proposed law, in alphabetical

20. 2016 Cal. Stat. res. ch. 150.

21. California Code Commission, *Drafting Rules and Principles for Use of California Code Commission Draftsmen*, 1947-48 Report, app. G, at 4.

22. Senate & Assembly Joint Rule 8 (May 14, 2009).

23. Legislative Counsel of California, *Legislative Drafting Manual* 26-28 (1975).

24. Commission Staff Memorandum 76-24 (Feb. 17, 1976); First Supplement to Commission Staff Memorandum 85-64 (May 31, 1985).

1 order. This approach makes it easier for members of the public, attorneys, judges,
2 and the Legislature to quickly determine whether a term is subject to a statutory
3 definition.

4 Definitions that have a narrower scope of application have been located near the
5 provisions that they govern (often in a dedicated location near the beginning of
6 that law, along with other general provisions).

7 There is one definition that is likely to be confusing in some situations. The
8 existing definition of “fish,” which applies to the entire Fish and Game Code,
9 includes animals that are not considered fish biologically (i.e., invertebrates and
10 amphibians).²⁵ It is not clear whether every use of that term is intended to have the
11 defined meaning. Notwithstanding that potential source of confusion, the
12 Commission is not recommending any change to the application of the
13 definition.²⁶ Making such a change would require a determination of legislative
14 intention in hundreds of sections, which is not practicable in this study.

15 **Cross-References**

16 The Fish and Game Code contains numerous cross-references. The
17 reorganization of existing law will require that the existing references be updated
18 to reflect the numbering of the new code.

19 To facilitate review of the cross-reference updates made in this tentative
20 recommendation, the Commission has provided two tables, located at the end of
21 the proposed legislation. Those tables show the disposition of each provision of
22 existing law and the derivation of each provision of the proposed law.

23 There are also many provisions in other codes that refer to the Fish and Game
24 Code. Those cross-references will also need to be conformed to the proposed law.
25 Revisions to make those conforming changes will be included in a separate
26 tentative recommendation.

27 **REQUEST FOR PUBLIC COMMENT**

28 The Commission seeks public comment on its tentative recommendation.
29 Comments supporting the proposed approach are just as important as comments
30 suggesting changes to that approach or expressing other views.

25. See Fish & Game Code § 45.

26. See proposed Section 380 *infra*.

FISH AND WILDLIFE CODE

Note: The document that follows contains a proposed recodification of the existing Fish and Game Code

A draft of an official Commission “Comment” follows each proposed code section. Those Comments will be included in any final recommendation.

The Comments indicate the source of each recodified provision and describe how it compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation.

There is a “disposition table” at the end of the proposed legislation. It summarizes, in tabular form, the disposition of every provision of the existing code. If an existing provision would not be continued in the new code, the table identifies that provision as “not cont’d.”

After the disposition table, there is a “derivation table.” That table shows the source of every provision of the proposed Fish and Wildlife Code. Provisions that do not have a source in existing law are identified as “New.”

Some code sections in the proposed recodification are followed by a “Note.” These Notes are intended to be temporary, and will not be part of the Commission’s final recommendation. **They provide information and flag issues on which the Commission would particularly like to receive public comment.**

However, the Commission welcomes public comment on *any* issue relating to the content of the recodification. Comments should be directed to Brian Hebert at bhebert@clrc.ca.gov.

TABLE OF CONTENTS

DIVISION 1. GENERAL PROVISIONS.....	1
PART 1. PRELIMINARY PROVISIONS.....	1
§ 1. Code title	1
§ 5. Application of part	1
§ 10. Restatement and continuation	1
§ 15. Judicial decisions.....	2
§ 20. Constitutionality of provisions	2
§ 25. No impairment of privileges or rights	2
§ 30. Effect of headings.....	3
§ 35. Reference to specified part of code	3
§ 40. Reference to statute includes amendments and additions	3
§ 45. Delegation	3
§ 50. Use of English in statements and reports	4
§ 55. Tenses	4
§ 60. Gender	4
§ 65. Number.....	4
§ 70. Days.....	4
§ 75. Mailed notice	4
§ 80. “Shall” and “may”	5
§ 85. Order, rule, and regulation	5
§ 90. Possession of animal taken out of state	5
§ 95. Animal parts	5
§ 100. Conforming rule change	5
PART 2. DEFINITIONS.....	6
TITLE 1. GENERALLY APPLICABLE DEFINITIONS.....	6
§ 200. Application of definitions.....	6

§ 205. “Adaptive management”	6
§ 210. “Affix”	6
§ 215. “Anadromous fish”	6
§ 220. “Angling”	7
§ 225. “Aquaculture”	7
§ 230. “Bag limit”	7
§ 235. “Bird”	7
§ 245. “Buy”	7
§ 250. “Chumming”	7
§ 255. “Closed season”	8
§ 280. “Commission”	8
§ 285. “Commissioner”	8
§ 290. “County”	8
§ 295. “Credible science”	8
§ 300. “Day”	8
§ 305. “Department”	8
§ 310. “Director”	9
§ 315. “District”	9
§ 320. “Ecosystem-based management”	9
§ 325. “Exotic nonresident game bird”	9
§ 330. “Finfish”	9
§ 335. “Fish”	9
§ 340. “Fully protected amphibian”	9
§ 345. “Fully protected bird”	10
§ 350. “Fully protected fish”	10
§ 355. “Fully protected mammal”	10
§ 360. “Fully protected reptile”	11
§ 365. “Fur-bearing mammal”	11
§ 370. “Game bird”	11
§ 375. “Game mammal”	11
§ 380. “Guide boat”	12
§ 385. “Hook” and related terms	12
§ 390. “Kelp”	13
§ 395. “Limited entry fishery”	13
§ 400. “Mammal”	13
§ 405. “Marine finfish aquaculture”	13
§ 410. “Migratory game bird”	13
§ 415. “Mile”	14
§ 420. “Native California trout”	14
§ 425. “Net”	14
§ 430. “Nongame bird”	14
§ 435. “Nongame mammal”	14
§ 440. “Nonresident”	15
§ 445. “Oath”	15
§ 450. “Open season” and “season”	15
§ 455. “Person”	15
§ 460. “Possession limit”	15
§ 465. “Project”	16
§ 470. “Purchase”	16
§ 475. “Raw fur”	16
§ 480. “Recycled water” or “reclaimed water”	16

§ 485. “Resident”	16
§ 490. “Resident game bird”	16
§ 500. “Sell”	17
§ 505. “Signature” or “subscription”	17
§ 510. “Slurp gun”	17
§ 515. “Spiny lobster”	17
§ 520. “Spouse”	17
§ 525. “State”	17
§ 530. “State waters”	18
§ 535. “Take”	18
§ 540. “Transport”	18
§ 545. “Upland game bird”	18
§ 550. “Waters of the state,” “waters of this state”	19
§ 555. “Week”	19
§ 560. “Wildlife”	19
TITLE 2. MARINE LIFE DEFINITIONS.....	19
§ 600. Application of definitions	19
§ 605. “Adaptive management”	20
§ 610. “Bycatch”	20
§ 615. “Depressed”	21
§ 620. “Discards”	21
§ 625. “Essential fishery information”	21
§ 630. “Fishery”	21
§ 635. “Marine living resources”	22
§ 640. “Maximum sustainable yield”	22
§ 645. “Optimum yield”	22
§ 650. “Overfished”	22
§ 655. “Overfishing”	22
§ 660. “Participants”	23
§ 665. “Population”	23
§ 670. “Restricted access”	23
§ 675. “Stock”	23
§ 680. “Sustainable,” “sustainable use,” and “sustainability”	23
DIVISION 2. ADMINISTRATION	24
PART 1. FISH AND GAME COMMISSION	24
TITLE 1. ORGANIZATION	24
§ 900. Fish and Game Commission	24
§ 905. Findings and declarations	24
§ 910. Officers	25
§ 915. Compensation and expenses.....	25
§ 920. Meetings	25
§ 925. Marine resources committee	26
§ 930. Wildlife resources committee.....	26
§ 935. Commission staff.....	26
§ 940. Code of conduct	27
TITLE 2. POWERS AND DUTIES.....	27
CHAPTER 1. REGULATION OF TAKE AND POSSESSION GENERALLY	27
Article 1. Authority	27
§ 1000. General authority	27
§ 1005. Limitations on authority	28
§ 1010. Birds and mammals	28

§ 1015. Fish, amphibians, and reptiles	28
§ 1020. Factors to be considered	28
§ 1025. Regulation that supersedes statute	29
Article 2. Procedure	29
§ 1100. Application of article	29
§ 1105. General rulemaking procedure	29
§ 1110. Distribution of regulations	30
§ 1115. Exemption from time requirements	31
§ 1120. Effective date of regulation	31
§ 1125. Effective period	31
CHAPTER 2. OTHER REGULATION	31
§ 1200. Commission practices and processes	31
§ 1205. Disposition of accidentally killed birds and mammals	31
CHAPTER 3. EMERGENCY REGULATIONS	32
§ 1250. Emergency regulations	32
CHAPTER 4. INVESTIGATION AND ADJUDICATION	32
§ 1300. Authority to compel testimony and production of evidence	32
§ 1305. Hearings governed by Administrative Procedures Act	32
PART 2. DEPARTMENT OF FISH AND WILDLIFE	33
TITLE 1. ORGANIZATION	33
§ 1500. Department of Fish and Wildlife	33
§ 1505. Administration and enforcement of code	33
§ 1510. Commission sets general department policy	33
§ 1515. Director	33
§ 1520. Deputy director	33
§ 1525. Director as appointing power for all department employees	34
§ 1530. Incorporation of specified law on state agencies	34
TITLE 2. DEPARTMENT EMPLOYEES	34
§ 1600. Appointment of employees	34
§ 1605. Legal defense of officers and deputies	34
§ 1610. Entry onto private land	35
§ 1615. Landowner complaint policy	35
TITLE 3. GENERAL POWERS AND DUTIES	36
§ 1675. Mission, core programs, service-based budget review	36
§ 1700. Authority of department to take	38
§ 1705. Capture and sale of birds and mammals	38
§ 1710. Importation, propagation, and distribution of birds, mammals, or fish	38
§ 1715. Inspection	38
§ 1720. Investigation of disease	39
§ 1725. Environmental review of effect on salmon and steelhead	39
§ 1730. Feeding animals	39
§ 1740. Informal consultative procedures	39
§ 1745. Biological research	40
§ 1750. Educational displays	40
§ 1755. Gift of personal property from county	40
TITLE 4. COORDINATION WITH OTHER ENTITIES	41
§ 1900. Service agreements	41
§ 1905. Funding agreements	41
§ 1910. Science institute	41
§ 1915. Federal Water Pollution Control Act joint powers agreement	42

TITLE 5. REAL PROPERTY	43
CHAPTER 1. DEPARTMENT-MANAGED LANDS	43
§ 2000. Definitions	43
§ 2005. Non-profit operation	43
§ 2010. Management and operation contracts	43
§ 2015. Property uses	43
§ 2020. Use fees and permits	44
§ 2030. Free access	44
§ 2035. Use of funds	45
§ 2040. Leasing of department-managed lands	45
CHAPTER 2. OTHER DUTIES AND AUTHORITY	45
§ 2100. Management and listing of real property	45
§ 2105. Rights of way	46
§ 2110. Grazing permits	46
TITLE 6. INSURANCE AND LIABILITY	46
§ 2200. Insurance	46
§ 2205. Insurance relating to boarding of boats	46
§ 2210. Indemnification relating to fish screen, ladder, weir, or trap	47
TITLE 7. UNLAWFUL ACTS	47
§ 2300. Submission of false or misleading information	47
PART 3. DEPARTMENT AND COMMISSION	47
§ 2400. General policy	47
§ 2405. Strategic planning	48
§ 2410. Resource management decisionmaking methods	48
PART 4. DISTRICTS	48
§ 2500. Fish and Wildlife Districts	48
§ 2505. District 2505	49
§ 2510. District 2510	49
§ 2515. District 2515	49
§ 2520. District 2520	50
§ 2525. District 2525	50
§ 2530. District 2530	51
§ 2535. District 2535	51
§ 2540. District 2540	51
§ 2545. District 2545	52
§ 2550. District 2550	52
§ 2555. District 2555	52
§ 2560. District 2560	52
§ 2565. District 2565	52
§ 2570. District 2570	53
§ 2575. District 2575	53
§ 2580. District 2580	53
§ 2585. District 2585	54
§ 2590. District 2590	54
§ 2595. District 2595	55
§ 2600. District 2600	55
§ 2605. District 2605	55
§ 2610. District 2610	55
§ 2615. District 2615	56
§ 2620. District 2620	56
§ 2625. District 2625	56

§ 2630. District 2630	57
§ 2635. District 2635	57
§ 2640. District 2640	57
§ 2645. District 2645	58
§ 2650. District 2650	58
§ 2655. District 2655	58
§ 2660. District 2660	58
§ 2665. District 2665	59
§ 2670. District 2670	59
§ 2675. District 2675	60
§ 2680. District 2680	60
§ 2685. District 2685	60
PART 5. GENERAL LICENSE PROVISIONS	61
TITLE 1. LICENSES GENERALLY	61
CHAPTER 1. FORM AND VALIDITY	61
§ 2800. Form	61
§ 2810. Licenses uniquely numbered	61
§ 2815. Validity	61
§ 2820. Validity of stamp	61
CHAPTER 2. ISSUANCE	62
§ 2900. Issuance generally	62
§ 2905. Issuance	62
§ 2910. Terms and conditions of issuance	62
§ 2915. Applicant information confidential	62
§ 2920. Proof of statements or facts	63
§ 2925. Temporary document	63
§ 2930. Limitation on number of licenses issued to one person	63
§ 2935. License voucher.....	64
§ 2940. Issuance of hunting tags for fundraising purposes	64
CHAPTER 3. FEES.....	65
§ 3000. Commission authority to set or change license fees	65
§ 3005. Application fee	65
§ 3010. Credit card payment	66
CHAPTER 4. VIOLATIONS.....	66
§ 3050. Unlawful acts.....	66
TITLE 2. LICENSE AGENTS	66
CHAPTER 1. AUTHORIZED LICENSE AGENT	66
§ 3200. Application and approval generally	66
§ 3205. Nonprofit as license agent for sale of lifetime licenses.....	67
§ 3210. Wildlife area passes and native species stamps.....	67
CHAPTER 2. AUTOMATED LICENSE DATA SYSTEM	67
§ 3250. Provision of licenses.....	67
§ 3255. Remittance	68
§ 3260. Advertisement of Automated License Data System website	69
CHAPTER 3. FINANCIAL PROVISIONS	70
§ 3350. Handling charge	70
§ 3360. Failure of license agent to account	70
§ 3365. Separate accounting required	71
§ 3370. Bond	71
§ 3375. Preferred claim	71

PART 6. GENERAL FINANCIAL PROVISIONS	72
TITLE 1. STATE	72
CHAPTER 1. LEGISLATIVE FINDINGS, DECLARATIONS, AND INTENT	72
§ 3450. Legislative findings and declarations of 1978 (as amended in 2006)	72
§ 3455. Legislative findings and declarations of 1990	72
§ 3460. Legislative findings and declarations of 1992	73
§ 3465. Statement of legislative intent regarding funding	73
§ 3470. Statement of legislative intent regarding nongame program funding	75
CHAPTER 2. ACCOUNTING	75
§ 3500. Fish and Game Preservation Fund	75
§ 3505. Fund condition statement	75
§ 3510. Accounting method	76
§ 3515. Program descriptions	76
§ 3520. Payroll and other costs	76
§ 3525. Basic principle of cost accounting system	76
CHAPTER 3. REVENUE	77
Article 1. Deposit of Revenue	77
§ 3600. Default deposit rule	77
§ 3605. Deposit of license revenue	77
§ 3610. Deposit and apportionment of fines and forfeitures	77
Article 2. Gifts, Grants, Donations, and Related Matters	78
§ 3650. Deposit of gifts and bequests	78
§ 3655. Funding agreements	78
§ 3660. Grants and donations for financing of K9 program	78
§ 3665. Commemorative license	78
§ 3670. Wildlife officer stamp	79
Article 3. Fees	79
§ 3750. Department authority to set or change fees	79
§ 3755. Inflation based changes in fees	80
CHAPTER 4. EXPENDITURES	81
§ 3800. Expenditures generally	81
§ 3805. Secret witness program	81
§ 3810. Loans to General Fund	81
TITLE 2. COUNTIES	81
§ 3900. County fish and wildlife propagation fund	81
§ 3905. Agreement between counties	82
§ 3910. Expenditures subject to Gov't Code § 29000 et seq	82
§ 3915. Authorized expenditures	82
§ 3920. Audit	83
DIVISION 3. LAW ENFORCEMENT	84
PART 1. PERSONNEL	84
TITLE 1. DEPARTMENT	84
§ 4100. Deputized law enforcement officer as peace officer	84
§ 4105. Minimum age of wildlife officer	84
§ 4110. Deputy as peace officer	84
§ 4115. Employee deputized to check sport fishing licenses	85
TITLE 2. COUNTY	85
§ 4200. Appointment of county wildlife officer	85
§ 4205. Removal of county wildlife officer	85
§ 4210. Salary	86
§ 4215. Authority	86

§ 4220. Quarterly activity report	86
§ 4225. Appointment of deputy	86
§ 4230. Deputy powers, duties, salary, and expenses	86
§ 4235. Source of payment of deputy salary and expenses	86
PART 2. GENERAL PROCEDURES	87
§ 4300. Rewards	87
§ 4305. Employee expenditure to procure evidence	87
§ 4310. Environmental crimes task force	87
§ 4315. Electronic management of citations	88
§ 4320. Dashboard cameras	88
§ 4325. Emblems	89
§ 4330. “Conviction” for purposes of suspension, revocation, or forfeiture of license or permit	89
§ 4335. Collection of administrative penalty	89
PART 3. PENALTIES GENERALLY	90
§ 4400. Misdemeanor as default criminal penalty	90
§ 4405. Violation of regulations generally	90
§ 4415. Suspension or revocation of license for failure to appear or pay fine	90
§ 4420. Failure to appear is misdemeanor	91
§ 4425. Additional penalty for secret witness program	91
PART 4. PENALTIES FOR SPECIFIC MATTERS	91
TITLE 1. GENERAL ADMINISTRATIVE REQUIREMENTS	91
§ 4450. Failure of license agent to account	91
§ 4452. Entry permit for department managed lands	91
TITLE 2. TAKING AND POSSESSING IN GENERAL	92
CHAPTER 1. CRIMINAL PENALTIES	92
§ 4460. Violation for personal gain	92
§ 4462. Knowing and intentional acts	93
§ 4464. Torture of animal	93
CHAPTER 2. CIVIL AND ADMINISTRATIVE REMEDIES	94
Article 1. Civil Action	94
§ 4470. Damages	94
Article 2. Administrative Penalties	96
§ 4480. Definitions	96
§ 4482. Administrative penalty for acts done for profit or personal gain	96
§ 4484. Application of article	97
§ 4486. Consultation regarding penalty sought	98
§ 4488. Administrative penalty based on constructive knowledge	98
§ 4490. Penalty amounts	98
§ 4492. Procedure	98
§ 4494. Penalty does not preclude forfeiture	101
§ 4496. Counsel	101
§ 4498. Limitation period	101
§ 4500. Deposit of penalties and revenue	101
§ 4502. Implementing regulations	101
§ 4504. Guidelines for administrative penalties	102
Article 3. Seizure of Take	102
§ 4510. Seizure of take	102
§ 4512. Sale or donation of seized take	103
§ 4514. Reuse of seized take	103
§ 4516. Donation or destruction of seized take	103

§ 4518. Purchase of seized take	104
TITLE 3. HUNTING, TRAPPING AND FISHING GENERALLY	104
CHAPTER 1. LICENSE SUSPENSION OR REVOCATION	104
§ 4550. Suspension or revocation of license	104
§ 4552. Suspension or revocation for specified offenses	104
§ 4554. Effect of termination of probation and dismissal of charges	105
§ 4556. Procedures governing revocation or suspension	105
CHAPTER 2. FORFEITURE	105
§ 4570. Forfeiture of device or apparatus	105
§ 4572. Forfeiture of vehicle	107
CHAPTER 3. HUNTING AND FISHING GUIDES	107
§ 4590. Commission revocation of guide license	107
§ 4592. Court revocation of guide license	108
§ 4594. Court revocation of privilege to hunt, fish, or guide	108
CHAPTER 4. MISCELLANEOUS OFFENSES	108
§ 4600. Interference with lawful activities	108
§ 4602. Scientific permit revocation	109
TITLE 4. HUNTING	109
CHAPTER 1. UNLAWFUL TAKE	109
§ 4700. Taking without license	109
§ 4702. Violation of specific regulations	109
§ 4704. Ancillary consequences for specified violations	110
§ 4706. Punishment for third and subsequent convictions	110
§ 4708. Triple possession limit	111
§ 4710. Taking during trespassing	111
§ 4712. Use of sodium cyanide	112
§ 4714. Lead ammunition	112
CHAPTER 2. HUNTING-RELATED INJURIES	112
§ 4750. Failure to aid injured person	112
§ 4752. Reporting injury	112
§ 4754. Killing or wounding of human being while hunting	113
§ 4756. Petition for new trial	113
§ 4758. Killing or wounding domestic animal while hunting	113
§ 4760. Report of court order prohibiting take of bird or mammal	114
§ 4762. Proof of financial responsibility	114
§ 4764. Cancellation of guarantee of financial responsibility	115
§ 4766. Additional financial responsibility based on claim or judgment	115
CHAPTER 3. HUNTING CLUB	115
§ 4770. Commercial hunting club	115
TITLE 5. TRAPPING	116
§ 4800. Unmarked trap	116
§ 4802. Body-gripping trap	116
§ 4804. Fur dealer license	116
§ 4806. Violation by trapping licensee	116
TITLE 6. FISHING	117
CHAPTER 1. VIOLATION OF SPECIFIED REGULATIONS	117
§ 4850. Violation of specific regulations	117
CHAPTER 2. FISHING LICENSES	117
Article 1. Sport Fishing License	117
§ 4860. Fishing without required validation	117
§ 4862. Valid license in possession	118

§ 4864. Fishing in specified waters without ocean enhancement validation	119
Article 2. Commercial Fishing License	119
§ 4870. Suspension or revocation	119
§ 4872. License revocation or suspension proceeding at commission meeting	119
§ 4874. License forfeiture	120
§ 4876. Approaching federal vessel	120
Article 3. Live Freshwater Fish Bait License	121
§ 4880. Revocation	121
CHAPTER 3. COMMERCIAL VESSELS	121
Article 1. Commercial Fishing Vessel Registration	121
§ 4900. Suspension or revocation of registration for specified violations	121
Article 2. Commercial Salmon Vessel Permit	123
§ 4910. Revocation of permit based on fraud	123
§ 4912. Appeal of revocation or denial or permit transfer	123
§ 4914. Reversal of revocation order or denial of permit renewal or transfer	123
§ 4916. Suspension or revocation of commercial salmon fishing privilege	123
§ 4918. Determination of civil damages following suspension or revocation	124
Article 3. Passenger Fishing Boat	125
§ 4930. Forfeiture, suspension, or revocation of license	125
§ 4932. License suspension for unlawful sale or purchase of fish	125
§ 4934. Commercial boat registration suspension for unlawful sale or purchase of fish	125
CHAPTER 4. NETS AND TRAPS	127
Article 1. Geographical Restrictions	127
§ 4950. Waters upstream from Carquinez Bridge	127
Article 2. Gill and Trammel Nets	127
§ 4960. Provisions not exclusive	127
§ 4962. Violation of Section 18040, 18045, 18050, or 18065	127
§ 4964. Sharks and swordfish	128
Article 3. Seizure of Nets and Traps	128
§ 4975. Tagging	128
§ 4980. Removal of seized net from vessel	128
§ 4982. Bond	129
§ 4984. Exceptions to release of net or trap on bond	129
§ 4986. Forfeiture	130
§ 4988. Surrender of net obtained on bond	130
Article 4. Lost Net	130
§ 5000. Lost set net	130
CHAPTER 5. FISHERIES	130
§ 5050. Nearshore fishery violation	130
CHAPTER 6. FISH-RELATED COMMERCE	131
§ 5100. Suspension of license	131
§ 5102. Suspension based on specified convictions	131
§ 5104. Reporting take of shark or swordfish	131
§ 5106. Marine aquaria pet trade	132
§ 5108. Sale or disposition of fish or amphibians in specified circumstances	132
CHAPTER 7. LANDING FEES	133
§ 5150. Landing fees	133
CHAPTER 8. COMMERCIAL FISHING REPORTS	133
§ 5170. Suspension or revocation of commercial fishing license or privileges	133
§ 5172. Required record of fishing activities	133

TITLE 7. WILDLIFE PROPAGATION, DOMESTICATION, POSSESSION, AND SALE	133
CHAPTER 1. IMPORTATION, TRANSPORTATION, AND POSSESSION GENERALLY	133
§ 5200. Penalty	133
§ 5204. Civil action	134
§ 5206. Additional costs and fees.....	134
§ 5208. Confiscated animal	134
§ 5210. Permit revocation	135
CHAPTER 2. AQUATIC ORGANISMS	135
§ 5250. Planting of fish	135
§ 5252. Placement of aquatic organisms	135
§ 5254. Importation of diseased aquatic organism.....	136
§ 5256. Permit to move quarantined aquatic plant or animal.....	136
§ 5258. Importation of aquatic plant or animal	136
§ 5260. Placement of aquatic nuisance species.....	136
§ 5262. Potentially diseased plants or animals.....	137
§ 5264. Permit required for importation of live aquatic organism	137
§ 5266. Caulerpa algae	138
CHAPTER 3. MAMMALS	138
§ 5280. Elk	138
§ 5282. Elephants	138
CHAPTER 4. DOMESTICATION.....	138
§ 5290. Domestication of game animals	138
CHAPTER 5. IVORY	139
§ 5300. Criminal penalty	139
§ 5302. Payment of reward	139
§ 5304. Forfeiture	140
§ 5306. Enforcement under Penal Code Section 653o.....	140
§ 5308. Administrative penalty	140
TITLE 8. BIRDS	141
CHAPTER 1. BIRDS GENERALLY	141
§ 5310. Bird nest or eggs.....	141
CHAPTER 2. PROTECTED BIRDS	141
§ 5320. Fully protected bird	141
CHAPTER 3. GAME BIRDS	142
§ 5330. Trophy wild turkey	142
§ 5332. Pigeon	142
CHAPTER 4. NONGAME BIRDS	143
§ 5340. Taking nongame bird	143
§ 5342. Taking or possession of migratory nongame bird	143
§ 5344. Possession of parts of nongame bird	143
CHAPTER 5. BIRDS-OF-PREY	144
§ 5350. Birds-of-prey	144
TITLE 9. MAMMALS.....	145
CHAPTER 1. PROTECTED MAMMALS	145
§ 5400. Fully protected mammal.....	145
§ 5402. Mountain lion	146
CHAPTER 2. GAME MAMMALS	146
Article 1. Game Mammals Generally.....	146
§ 5450. Trophy mammals.....	146
Article 2. Bears	147
§ 5460. Use of signal-emitting device to traffic in bear parts	147

§ 5462. Commercial use of bear parts	147
§ 5466. Forfeiture of bear tags	148
Article 3. Deer.....	148
§ 5480. Forfeiture of deer tags	148
Article 4. Sheep.....	149
§ 5490. Bighorn sheep.....	149
CHAPTER 3. NONGAME MAMMALS [RESERVED].....	149
CHAPTER 4. MARINE MAMMALS	149
§ 5520. Marine mammals.....	149
§ 5522. Orca	149
CHAPTER 5. BURROS	149
§ 5540. Burros	149
§ 5542. Burro sanctuary	150
TITLE 10. FISH	150
CHAPTER 1. PROTECTED FISH	150
§ 5600. Fully protected fish.....	150
CHAPTER 2. TYPES OF FISH	150
Article 1. Anchovies	150
§ 5650. Anchovies	150
Article 2. Bass.....	150
§ 5660. White bass	150
Article 3. Carp.....	151
§ 5670. Grass carp	151
Article 4. Halibut	151
§ 5680. Halibut	151
Article 5. Herring	152
§ 5690. Herring	152
§ 5692. Revocation of herring permit	152
Article 6. Marlin.....	152
§ 5700. Marlin	152
Article 7. Salmon	153
§ 5710. Salmon.....	153
Article 8. Sardine	153
§ 5720. Sardine	153
Article 9. Sturgeon.....	154
§ 5730. Sturgeon	154
§ 5732. Sturgeon egg processing.....	154
TITLE 11. INVERTEBRATES	155
CHAPTER 1. ABALONE.....	155
§ 5800. Take of abalone from ocean waters.....	155
§ 5802. Prohibited take of abalone	155
§ 5804. Prohibited take of abalone in excess amounts	157
§ 5806. Suspension of license or permit based on pending criminal charge.....	158
§ 5808. Revocation of license or permit upon conviction.....	158
CHAPTER 2. CRAB	159
Article 1. Crab Generally	159
§ 5820. Crab	159
Article 2. Dungeness Crab	160
§ 5830. Taking or landing Dungeness crab without permit	160
§ 5832. Additional penalty for fishing without permit.....	160
§ 5834. Ocean waters	161

§ 5836. Trap limit program	161
CHAPTER 3. LOBSTER	162
§ 5850. Lobster permit requirement	162
§ 5852. Suspension of permit pending criminal proceeding	162
CHAPTER 4. MUSSELS	163
§ 5860. Dreissenid mussel control	163
§ 5862. Liability of reservoir owner or manager.....	163
CHAPTER 5. SEA CUCUMBER	163
§ 5870. Commission regulation	163
CHAPTER 6. SQUID	164
§ 5880. Revocation of privileges for materially false statements	164
TITLE 12. AMPHIBIANS	164
§ 5900. Fully protected amphibians	164
TITLE 13. REPTILES	164
§ 5950. Fully protected reptiles	164
TITLE 14. PLANTS.....	165
CHAPTER 1. KELP	165
§ 6000. License revocation or nonrenewal.....	165
TITLE 15. HABITAT CONSERVATION AND ENHANCEMENT	165
§ 6050. Wildlife area pass	165
§ 6052. Wildlife habitat enhancement and management area.....	166
§ 6054. Shared Habitat Alliance for Recreational Enhancement Program	166
TITLE 16. PROTECTED AND MANAGED AREAS	166
§ 6100. Violation of specific regulations	166
§ 6102. Prohibited conduct in refuges.....	167
§ 6104. Unlawful take in marine protected area	167
TITLE 17. ACTIVITIES THAT AFFECT WILDLIFE	168
CHAPTER 1. ENDANGERED SPECIES AND OTHER PROTECTED WILDLIFE	168
§ 6200. Forfeiture of proceeds from take of endangered, threatened, or protected animals	168
§ 6202. Violation of California Endangered Species Act	168
§ 6204. Violation of specified provisions	169
§ 6206. Deposit of fines and forfeitures	169
CHAPTER 2. PLANNING AND MITIGATION	169
§ 6250. Nonpayment of CEQA fee	169
CHAPTER 3. WATER POLLUTION	170
Article 1. Criminal Enforcement.....	170
§ 6300. Base penalty	170
§ 6302. Additional penalty	170
Article 2. Civil Enforcement.....	170
§ 6320. Civil penalty for water pollution	170
§ 6322. Additional penalty based on volume of discharge	171
§ 6324. Limitation on application of civil penalty	171
§ 6326. Apportionment of penalty	171
§ 6328. Civil action	172
CHAPTER 4. WATER OBSTRUCTION AND DIVERSION	173
Article 1. Streambed Alteration	173
§ 6350. Streambed alteration.....	173
§ 6352. Civil penalty	173
§ 6354. Civil action	174
§ 6356. Apportionment of civil penalties	174

Article 2. Obstruction in Districts 2505, 2510, 2515, 2525, 2530, 2535, 2540, 2545, 2550, 2555, 2560, 2565, 2595, 2600, 2605, 2660, and 2665	174
§ 6380. Civil penalty	174
§ 6382. Civil penalties are not fines or forfeitures	175
§ 6384. Apportionment of civil penalty for violation connected to cultivation of controlled substance	175
§ 6386. Apportionment of civil penalty for violation unconnected to cultivation of controlled substance	175
§ 6388. Administrative penalty	176
§ 6390. Administrative penalties are not fines or forfeitures	176
§ 6392. Apportionment of administrative penalty for violation connected to cultivation of controlled substance	176
§ 6394. Apportionment of administrative penalty for violation unconnected to cultivation of controlled substance	176
§ 6396. Definition of “controlled substance”	177
Article 3. Obstruction in District 2520	177
§ 6410. Obstruction of Klamath River	177
CHAPTER 5. MINING	177
§ 6500. Vacuum or suction dredging	177
CHAPTER 6. CULTIVATION OR PRODUCTION OF CONTROLLED SUBSTANCE	177
§ 6550	
. “Controlled substance” defined	177
§ 6552. Cultivation or production of controlled substance on public land	178
§ 6554. Cultivation or production of controlled substance on other land	179
§ 6556. Consideration of civil penalty in conjunction with other penalties	180
§ 6558. Apportionment of penalty	180
§ 6560. Imposition of administrative penalty by Department of Fish and Wildlife	181
DIVISION 4. INTER-JURISDICTIONAL AGREEMENTS	182
PART 1. UNITED STATES	182
TITLE 1. ACCEPTANCE OF FEDERAL ACTS	182
§ 7200. Assent to Public Law 415, 75th Congress	182
§ 7205. Assent to Public Law 681, 81st Congress	183
TITLE 2. MANAGEMENT OF FISH AND WILDLIFE ON MILITARY LANDS	183
§ 7210. Statement of policy	183
§ 7215. Coordination and cooperation with military services	183
§ 7220. Regulations and agreements authorized	184
§ 7225. Management plans and programs	184
TITLE 3. FEDERAL BIRD RESERVATIONS	184
§ 7230. Acceptance of Migratory Bird Conservation Act	184
§ 7235. Consent of concerned county	184
§ 7240. Insufficient payments from United States to county	185
§ 7245. Federal compliance with state law	185
§ 7250. Conditions on continuing consent	185
§ 7255. Additional consent	185
PART 2. STATES AND OTHER JURISDICTIONS	186
TITLE 1. RECIPROCAL AGREEMENTS WITH ADJOINING STATES	186
§ 7300. Reciprocal sport fishing license agreements	186
§ 7305. Reciprocal operational agreement with law enforcement	186
§ 7310. Status of law enforcement officers of adjoining states	187
TITLE 2. INFORMATION RELEASE	188
§ 7315. Release of information to other jurisdictions	188

TITLE 3. CALIFORNIA-ARIZONA COMPACT	188
§ 7320. California-Arizona Compact authorized	188
TITLE 4. WILDLIFE VIOLATOR COMPACT	188
CHAPTER 1. GENERAL PROVISIONS	188
§ 7325. Enactment of Wildlife Violator Compact	188
§ 7330. Statement of policy	189
§ 7335. Purposes of title	189
CHAPTER 2. DEFINITIONS	189
§ 7340. Application of chapter	189
§ 7345. “Board”	190
§ 7350. “Citation”	190
§ 7355. “Collateral”	190
§ 7360. “Compact manual”	190
§ 7365. “Compliance”	190
§ 7370. “Conviction”	190
§ 7375. “Court”	191
§ 7380. “Home state”	191
§ 7385. “Issuing state”	191
§ 7390. “License”	191
§ 7400. “Licensing authority”	191
§ 7405. “Participating state”	191
§ 7410. “Personal recognizance”	192
§ 7415. “State”	192
§ 7420. “Suspension”	192
§ 7425. “Terms of the citation”	192
§ 7430. “Wildlife”	192
§ 7435. “Wildlife law”	192
§ 7440. “Wildlife officer”	193
§ 7445. “Wildlife violation”	193
CHAPTER 3. ISSUING STATE VIOLATION PROCEDURES	193
§ 7450. Issuance of citation	193
CHAPTER 4. HOME STATE PROCEDURES	194
§ 7455. Action by home state	194
CHAPTER 5. RECIPROCAL RECOGNITION OF SUSPENSION	194
§ 7460. Recognition of suspension in other state	194
CHAPTER 6. APPLICABILITY OF OTHER LAWS	194
§ 7465. Right of participating state to apply its own laws	194
CHAPTER 7. COMPACT ADMINISTRATOR PROCEDURES	195
§ 7470. Establishment, duties, and powers	195
CHAPTER 8. ENTRY INTO COMPACT AND WITHDRAWAL	196
§ 7475. Application of compact	196
CHAPTER 9. AMENDMENTS TO THE COMPACT	196
§ 7480. Amendment	196
CHAPTER 10. CONSTRUCTION AND SEVERABILITY	197
§ 7485. Liberal construction	197
§ 7490. Severability	197
TITLE 5. PACIFIC MARINE FISHERIES COMPACT	197
CHAPTER 1. THE COMPACT	197
§ 7500. Authority to execute compact	197
§ 7505. Form and content of compact	197
§ 7510. Operation of compact	201

CHAPTER 2. THE COMMISSION	201
§ 7550. Members	201
§ 7555. Term	201
§ 7560. Compensation	202
§ 7565. Performance	202
§ 7570. Annual report	202
§ 7575. Execution of compact	203
DIVISION 5. NATIVE AMERICANS	203
PART 1. GENERAL PROVISIONS	203
§ 7600. Application of code	203
§ 7605. Tribal committee	203
PART 2. SPECIFIC PROVISIONS	204
CHAPTER 1. YUOK TRIBE	204
§ 7650. Fishing	204
CHAPTER 2. STATE-TRIBAL AGREEMENTS ON INDIAN FISHING BY COVELLO INDIAN COMMUNITY	205
Article 1. Legislative Findings	205
§ 7720. Legislative findings	205
Article 2. Definitions	205
§ 7725. Application of definitions	205
§ 7730. “Covelo Indian Community”	206
§ 7735. “Historic 1873 Round Valley Indian Reservation”	206
§ 7740. “Take”	206
§ 7745. “Traditional Indian fishing practice”	206
Article 3. Negotiation and Approval of Agreement	206
§ 7750. Subject of negotiations	206
§ 7755. Submission of agreement to commission	206
§ 7760. Commission review and approval	207
§ 7765. Meetings	207
Article 4. Enforceability of an Agreement or Compact	207
§ 7775. Enforcement governed by agreement	207
§ 7780. Regulations	207
CHAPTER 3. STATE-TRIBAL AGREEMENTS ON INDIAN FISHING ON THE KLAMATH RIVER	207
Article 1. Legislative Findings	207
§ 7850. Legislative findings	207
Article 2. Definitions	209
§ 7855. Application of definitions	209
§ 7860. “Ceremonial or religious purposes”	209
§ 7865. “Commercial fishing”	209
§ 7870. “Disputed area”	209
§ 7875. “Hoopa Valley Reservations”	209
§ 7880. “Klamath Fishery Management Council”	209
§ 7885. “Klamath River Indian Tribes”	210
§ 7890. “Subsistence purposes”	210
§ 7900. “Take”	210
§ 7905. “Traditional Indian fishing practice”	210
§ 7910. “Yurok Reservation”	210
Article 3. Negotiation and Approval of Agreement	211
§ 7925. Subject of negotiations	211
§ 7930. Timing	211
§ 7935. Commercial sale of salmon	211

Article 4. Enforceability of an Agreement or Compact	211
§ 7950. Enforcement governed by agreement	211
§ 7955. Regulations	212
DIVISION 6. HUNTING, TRAPPING, AND FISHING	212
PART 1. GENERAL PROVISIONS	212
TITLE 1. GENERAL PROHIBITIONS AND OBLIGATIONS	212
CHAPTER 1. GENERAL PROHIBITIONS	212
§ 8000. Unauthorized take	212
§ 8005. Accidental take	212
§ 8010. Unlawful possession	213
§ 8015. Season and possession limits	213
CHAPTER 2. SPECIAL PROHIBITIONS	214
§ 8110. Torture	214
§ 8115. Prize	214
§ 8120. Property damage	215
§ 8125. Lights	216
§ 8130. Interference with lawful activities	217
§ 8135. Signs	217
§ 8140. Use of sodium cyanide	218
§ 8145. Explosives	218
CHAPTER 3. OBLIGATIONS	219
§ 8300. Possession of license	219
§ 8305. Display of license, take, and equipment	219
TITLE 2. SPECIAL SEASONS AND LIMITS	219
§ 8700. Fire seasons	219
§ 8705. Reduced limits based on scarcity	219
§ 8710. Prohibited take in protected areas	220
§ 8715. Opening identified waters to take	221
§ 8720. Restricted take in Fish and Wildlife District 2655	221
TITLE 3. HUNTING AND FISHING GUIDES	222
CHAPTER 1. GUIDES GENERALLY	222
§ 8800. “Guide” defined	222
§ 8805. Guide license required	222
§ 8810. Exception	223
§ 8815. Grazing permit required	223
§ 8820. Regulations	223
§ 8825. Records	223
CHAPTER 2. LICENSE APPLICATION	224
§ 8900. Information required	224
§ 8905. License fee	224
§ 8910. License duration	224
§ 8915. Surety bond	225
§ 8920. Grounds for refusal of license	225
§ 8925. Appeal of refusal	225
TITLE 4. SPECIAL LICENSES	225
CHAPTER 1. LIFETIME LICENSES	225
§ 9105. Deposit of fees from lifetime licenses	225
CHAPTER 2. SURVIVAL SCHOOL	226
§ 9150. Survival School	226
CHAPTER 3. SCIENTIFIC RESEARCH	227
§ 9200. Permit for scientific, educational, or propagation take or possession	227

§ 9205. Issuance of permit to public, private, or nonprofit entity	229
§ 9210. Transport of take pursuant to scientific or propagation permit	229
PART 2. HUNTING	230
TITLE 1. GENERAL PROVISIONS	230
CHAPTER 1. GENERAL LICENSURE REQUIREMENT	230
§ 9500. Take without license or entitlement	230
CHAPTER 2. PROHIBITED METHODS	230
§ 9550. Shooting from vehicle	230
§ 9555. Prohibited shotguns	230
§ 9560. Trap gun	230
§ 9565. Other prohibited methods of taking	231
§ 9570. Herding with vehicle	232
§ 9575. Remote use of computer or other device.....	232
§ 9580. Unlawful entry onto land.....	233
§ 9585. Bird or mammal calls	233
§ 9590. Hunting at night.....	233
CHAPTER 3. OTHER PROHIBITIONS AND REQUIREMENTS	234
§ 9700. Occupied buildings.....	234
§ 9705. Public roads	234
§ 9710. Intoxication.....	234
§ 9715. Possession of loaded long gun in vehicle	234
§ 9720. Hunting dogs	235
§ 9725. Removal of hunting dog collar	235
§ 9730. Bounty	235
§ 9735. Bird or mammal in possession of another	235
§ 9740. Capture or possession of live wild mammal or bird.....	236
CHAPTER 4. NONLEAD AMMUNITION	236
§ 10000. Nonlead ammunition required in California condor range	236
§ 10005. Taking of wildlife in general	236
§ 10010. Certification.....	237
§ 10015. Providing reduced cost nonlead ammunition	237
§ 10020. Report on California condors	238
§ 10025. Government officials exempted	238
§ 10030. Notice	238
TITLE 2. HUNTING LICENSES.....	238
CHAPTER 1. GENERAL PROVISIONS	238
§ 10200. Eligibility	238
§ 10205. Hunter education	239
§ 10210 (repealed July 1, 2020). Fees.....	239
§ 10210 (operative on July 1, 2020). Fees	240
§ 10215. Job Corps enrollees	241
§ 10220. Term of license	241
§ 10225. Lifetime license	241
§ 10230. “Free Hunting Day”	242
CHAPTER 2. MILITARY PERSONNEL	243
§ 10300. Disabled veteran or recovering service member	243
§ 10305. Occupant of military medical facility.....	244
§ 10310. Special hunt by military personnel.....	245
CHAPTER 3. COLORADO RIVER HUNTING LICENSES	245
§ 10350. Qualification for license	245
§ 10355. Additional qualification.....	245

§ 10360. Allowed take	245
§ 10365. Fee and term	245
TITLE 3. HUNTER SAFETY	246
§ 10400. Legislative declaration	246
§ 10405. Hunter instruction	246
§ 10410. Fee and expenses	247
§ 10415. Loss or destruction of certificate	247
§ 10420. Material for instructors	248
TITLE 4. EXTENDED HUNTING	248
§ 10500. Authority of commission	248
§ 10505. Required hearing	249
§ 10510. Notice of hearing	249
§ 10515. Commission decision	249
TITLE 5. COMMERCIAL HUNTING CLUB	249
§ 10600. Definitions	249
§ 10605. License required	250
§ 10610. Exceptions	250
§ 10615. Application for license	251
§ 10620. Fee	251
§ 10625. Transfer of license	252
§ 10630. Term and authority	252
TITLE 6. COOPERATIVE HUNTING AREAS	252
§ 10700. Cooperative hunting areas	252
TITLE 7. POSSESSION OF BIRDS AND MAMMALS AFTER SEASON	253
§ 10800. “Donor intermediary” defined	253
§ 10805. Possession out of season	253
§ 10810. Required documentation	254
§ 10815. Exception	254
§ 10820. Implementing legislation or regulations	254
§ 10825. Cold storage	254
§ 10830. Taxidermy	255
PART 3. TRAPPING	256
TITLE 1. GENERAL PROHIBITIONS AND REQUIREMENTS	256
CHAPTER 1. GENERAL PROHIBITIONS	256
§ 11000. Inspection and removal of animals	256
§ 11005. Signs warning of conibear traps	256
§ 11010. Killing of trapped animal	257
§ 11015. Removing or disturbing trap	257
§ 11020. Unmarked trap	258
CHAPTER 2. BODY-GRIPPING TRAPS	258
§ 11100. Definitions	258
§ 11105. Use of body-gripping trap for recreation or commerce in fur	259
§ 11110. Use of body-gripping trap generally	259
CHAPTER 3. OTHER TRAPS	260
§ 11150. Steel-jawed, saw-toothed, or spiked jaw trap	260
§ 11155. Conibear traps	260
TITLE 2. LICENSES	261
CHAPTER 1. TRAPPING LICENSE	261
§ 11200. Required license	261
§ 11205. Sale of raw fur	262
§ 11210. Standards for license	262

§ 11215. Fee for license	262
§ 11220. Authorization and term.....	262
§ 11225. Statement of prior year's take	263
§ 11230. Issuance to nonresident	263
§ 11235. Commission regulations	263
CHAPTER 2. FUR DEALER LICENSE	264
§ 11300. Required license	264
§ 11305. Fee for license	264
§ 11310. Authorization and term.....	264
§ 11315. Fur agent license.....	264
§ 11320. Display of license	265
§ 11325. Record of transfers	265
§ 11330. Annual report.....	265
§ 11335. Confidentiality of documents	265
§ 11340. Regulation	265
§ 11350. Purchase of raw fur from unlicensed person	266
PART 4. FISHING GENERALLY	266
TITLE 1. GENERAL PROVISIONS	266
§ 11500. Restriction on take based on human health risk	266
§ 11505. Take from propagation or conservation facilities.....	267
§ 11510. Fish spear or gaff	267
§ 11515. Possession when size or weight cannot be determined	267
§ 11520. Possession when species cannot be determined	268
§ 11525. Removal of eggs	268
§ 11535. Use of artificial bait	268
§ 11540. Predatory fish	268
TITLE 2. FISHERIES GENERALLY	269
CHAPTER 1. TROUT AND STEELHEAD CONSERVATION AND MANAGEMENT PLANNING ACT OF 1979.....	269
§ 11700. Name of act	269
§ 11705. Declaration of policy	269
§ 11710. Declaration of need	269
§ 11715. Determinations by department	270
§ 11720. Declaration regarding funding	270
§ 11725. Declaration of intended development.....	271
§ 11730. Update of trout management plan	271
§ 11735. Priority for stocking native hatchery-produced species	272
§ 11740. Intradepartmental strategic trout management team	273
CHAPTER 2. SALMON, STEELHEAD TROUT, AND ANADROMOUS FISHERIES PROGRAM ACT	274
§ 11800. Title	274
§ 11805. Definitions	274
§ 11810. Legislative findings	274
§ 11815. Legislative policy declarations	275
§ 11820. Nonprofit salmon release and return operations.....	275
§ 11825. Creation of program	276
§ 11830. Consultation with other agencies	276
§ 11835. Report of determined elements of program.....	276
§ 11840. Ineligibility	277
§ 11845. Program elements	277
§ 11850. Study of effect of reduced flow	277
CHAPTER 3. KEENE-NIELSEN FISHERIES RESTORATION ACT OF 1985	278

§ 11900. Title	278
§ 11905. Legislative findings and declarations	278
§ 11910. Fisheries Restoration Account	279
§ 11915. Partial funding of projects	280
§ 11920. Administrative costs of Advisory Committee on Salmon and Steelhead Trout	281
§ 11925. Allocation from Cigarette and Tobacco Products Surtax Fund	281
§ 11930. Consultation with other agencies and committees in determining projects	281
§ 11935. Consultation with other agencies and committees in developing projects.....	281
§ 11940. Recommendation of California Water Commission to Congress	281
CHAPTER 4. HATCHERY AND INLAND FISHERIES FUND	282
§ 12000. Creation of fund	282
§ 12005. Authorized purposes	282
CHAPTER 5. EXPERIMENTAL FISHING PERMIT	284
§ 12050. Definitions	284
§ 12055. Issuance and conditions of experimental fishing permit	285
§ 12060. Procedure	285
§ 12065. Period of validity	285
§ 12070. Fee	286
§ 12075. Reporting	286
TITLE 3. CONSERVATION AND MANAGEMENT OF MARINE LIVING RESOURCES	287
CHAPTER 1. GENERAL POLICIES	287
§ 12100. Findings and declarations	287
§ 12105. Scope of regulations	288
CHAPTER 2. MARINE FISHERIES GENERALLY	288
§ 12150. Declaration of policy	288
§ 12155. Management	289
§ 12160. Commission regulation	290
§ 12165. Collaborative process	290
CHAPTER 3. FISHERIES SCIENCE	291
§ 12200. Legislative findings and declarations	291
§ 12205. External peer review program	291
CHAPTER 4. COMMISSION AND DEPARTMENT	292
§ 12250. Report to Commission	292
§ 12255. Additional report content	293
CHAPTER 5. FISHERY MANAGEMENT PLANS – GENERAL POLICIES	293
§ 12300. Finding and declaration	293
§ 12305. White seabass fishery management plans	294
§ 12310. Effect of commission regulations.....	294
§ 12315. Basis and use of plans	294
§ 12320. Nearshore fishery	295
§ 12325. Submission, content, and consideration of master plan	295
§ 12330. Interim protocols	296
CHAPTER 6. FISHERY MANAGEMENT PLAN PREPARATION, APPROVAL, AND REGULATIONS.....	296
§ 12400. Preparation of plans and amendments	296
§ 12405. Use of peer review panel	297
§ 12410. Availability for public review	297
§ 12415. Public hearings	298
§ 12420. Copy to Legislature	298
§ 12425. Adoption of implementing regulations	298
CHAPTER 7. CONTENTS OF FISHERY MANAGEMENT PLANS	299

§ 12500. Summary of plan	299
§ 12505. Procedure for review and amendment.....	299
§ 12510. Fishery research protocol	299
§ 12515. Conservation and management measures.....	300
§ 12520. Incorporation of existing conservation and management measures.....	300
§ 12525. Minimizing adverse effects on habitat	300
§ 12530. Bycatch information	301
§ 12535. Overfishing information	301
§ 12540. Other required information.....	301
CHAPTER 8. EMERGING FISHERIES	302
§ 12600. Legislative declaration and duty of commission	302
§ 12605. “Emerging fishery”	302
§ 12610. “Established fishery”	302
§ 12615. Department monitoring requirement	303
§ 12620. Commission authority	303
§ 12625. Compliance with requirements for fishery management plan generally.....	303
§ 12630. Fee	304
§ 12635. Incorporation into fishery management plan.....	304
§ 12640. Conflict of chapter with other sections	304
PART 5. SPORT FISHING	305
TITLE 1. GENERAL PROVISIONS	305
§ 12800. Application of other provisions	305
§ 12805. Scope of part.....	305
TITLE 2. LICENSING.....	305
CHAPTER 1. GENERAL PROVISIONS	305
§ 12850. Authority to take.....	305
§ 12855. “Sport fishing”.....	305
CHAPTER 2. REQUIREMENTS	305
Article 1. General Provisions.....	305
§ 12900. Valid license in possession.....	305
§ 12905. Fishing with two rods	306
§ 12910. Ocean sport fishing in specified waters.....	306
Article 2. Colorado River.....	307
§ 12950. “Colorado River”.....	307
§ 12955. Fishing on Colorado River	307
§ 12960. Colorado River shoreline fishing	307
§ 12965. Effectiveness of article	308
CHAPTER 3. EXCEPTIONS.....	308
§ 13000. Persons under the age of 16 years	308
§ 13005. Public pier, ocean waters, aquaculture facility	308
§ 13010. Fishing on private property	308
§ 13020. Free sport fishing days	309
CHAPTER 4. FEES.....	309
Article 1. Sport Fishing License	309
§ 13100. Sport fishing license	309
§ 13105. Lifetime sport fishing license	310
§ 13110. Job Corps enrollee	311
Article 2. Reduced Fee Licenses.....	311
§ 13150. Reduced fee license	311
Article 3. Free Licenses	312
§ 13200. Free license for individuals	312

§ 13205. Free group sport fishing license for persons with disabilities	313
§ 13210. Free group sport fishing license for military personnel with injuries or disabilities	314
§ 13215. Funding for free licenses	314
Article 4. Validations	315
§ 13250. Second rod validation	315
§ 13255. Sport fishing ocean enhancement validation	315
CHAPTER 5. PENALTIES	ERROR! BOOKMARK NOT DEFINED.
CHAPTER 6. RECIPROCAL LICENSING	316
§ 13350. Operation of chapter	316
§ 13355. Responsibilities of state commissions relating to licenses and special use stamps and validations	316
§ 13360. Terms of special use validations	316
§ 13365. Conditional provisions relating to California licenses and special use validations	317
CHAPTER 7. ISSUANCE	317
§ 13400. Compensation for license agent	317
§ 13405. Colorado River special use validations	317
TITLE 3. TAKE LIMITS	318
§ 13500. Bag limits	318
TITLE 4. COMMERCE	318
§ 13600. Unauthorized purchase or sale	318
§ 13605. Disposition of fish or amphibians caught on sport fishing vessel	318
TITLE 5. PROCESSING AND WASTE	319
§ 13700. Canning or smoking	319
§ 13705. Fish offal	319
§ 13710. Deterioration and waste	319
TITLE 6. SPORT FISHING REGULATIONS	319
§ 13800. Conforming to federal regulations	319
§ 13805. Conforming of sport fishing regulations to federal regulations	320
TITLE 7. SPECIAL PROGRAMS	320
CHAPTER 1. BAY-DELTA SPORT FISHING ENHANCEMENT STAMP	320
§ 13900. Deposit and use of funds	320
§ 13905. Advisory committee	321
§ 13910. Grant program	322
§ 13915. Additional responsibilities of department	322
CHAPTER 2. JUNIOR FISHING RESERVE	323
§ 13950. Districts 2510 and 2515	323
PART 6. COMMERCIAL FISHING AND RELATED ACTIVITY	323
TITLE 1. GENERAL PROVISIONS	323
CHAPTER 1. DEFINITIONS	323
§ 14200. “Stamp”	323
§ 14205. “Vessel owner”	323
CHAPTER 2. APPLICATION	324
§ 14250. Application of part	324
§ 14255. Application of other provisions	324
§ 14260. General authority for commercial take	324
CHAPTER 3. PROHIBITIONS	324
§ 14300. Prohibition against use of gear to take fish except as authorized	324
§ 14305. Interference with use of fishing gear	325
§ 14310. Deterioration or waste	325

CHAPTER 4. REGULATION	325
§ 14350. Prohibition against use of gear to take fish except as authorized.....	325
TITLE 2. COMMERCIAL FISHING.....	326
CHAPTER 1. LICENSE AND RELATED ENTITLEMENTS	326
Article 1. Requirements	326
§ 14500. Activity requiring license	326
§ 14505. Possession and display of identification.....	327
Article 2. Issuance.....	327
§ 14550. Additional application requirements for license	327
§ 14555. Denial of application based on prior dishonored check	327
§ 14560. Conditions of license or other entitlement	328
§ 14565. Additional conditions for limited entry fishery permit	329
Article 3. Fees	329
§ 14600. Fee	329
§ 14605. Late fee for renewal after deadline.....	330
§ 14610. Refund of fee based on death	331
§ 14615. Payment of fee by another.....	331
§ 14620. Commercial fishing ocean enhancement validation.....	331
Article 4. Transfer.....	332
§ 14650. Deferral while enforcement pending	332
CHAPTER 2. COMMERCIAL FISHING VESSELS.....	332
Article 1. Boat Registrations and Other Vessel Permits	332
§ 14750. Application of article	332
§ 14755. Activity requiring registration	332
§ 14760. Term	332
§ 14765. Fee for registration	332
§ 14770. Refund of fee based on death	333
§ 14775. Posting of registration on vessel.....	333
§ 14780. Issuance of registration number	333
§ 14785. Display of registration number.....	333
§ 14790. Report of lost, destroyed, or sold vessel.....	334
Article 2. Obligations and Prohibitions	334
§ 14850. Change of address	334
§ 14855. Additional application requirement for permit or other entitlement	334
§ 14860. Required insurance	334
§ 14865. Prohibition against multiple entitlements of same type	335
§ 14870. Preparation of fish on commercial fishing vessel for human consumption	335
§ 14875. Possession of specified fish on board commercial fishing vessel	336
§ 14880. Take or possession pursuant to sportfishing license	336
Article 3. Fuel Conservation Assistance Program.....	336
§ 15000. Purpose of program	336
§ 15005. Report to Legislature	337
CHAPTER 3. AIRCRAFT	337
§ 15050. Required registration	337
§ 15055. Requirement that registration be carried onboard	337
§ 15060. Fee for registration	337
CHAPTER 4. GEOGRAPHIC RESTRICTIONS	338
Article 1. Take	338
§ 15100. Take in Tomales Bay.....	338
§ 15105. Take only in baitfish traps	338
Article 2. Sale or Purchase.....	339

§ 15150. Sale or purchase of fish in District 2670 or Smith River	339
Article 3. Out-of-State Delivery of Fish	339
§ 15200. Permit to deliver fish out of state	339
TITLE 3. NETS GENERALLY	340
CHAPTER 1. GENERAL PROVISIONS	340
§ 15300. Length of meshes	340
§ 15305. Use near pier, wharf, jetty, breakwater, or dock	340
§ 15310. Recovery of isolated fish	341
CHAPTER 2. PUBLIC NUISANCE	341
§ 15400. Seizure	341
CHAPTER 3. SPECIAL RULES FOR IDENTIFIED WATERS	341
§ 15500. Districts 2625 and 2630	341
§ 15505. Districts 2630 and 2640	342
§ 15510. District 2685	342
§ 15515. Area upstream from Antioch area	342
§ 15520. Area in or near Klamath, Smith, Eel, Mad, Van Dusen, or Mattole Rivers	343
§ 15525. Take of mullet or carp in Salton Sea and New and Alamo Rivers	343
§ 15530. Salton Sea and New and Alamo Rivers	343
§ 15535. Possession of certain gear near Salton Sea and New and Alamo Rivers	344
§ 15540. Waters upstream from Carquinez Bridge	344
CHAPTER 4. SET NETS	345
Article 1. General Provisions	345
§ 15600. “Set net”	345
§ 15605. Markings	345
§ 15610. Breaking strength of footrope	346
§ 15615. Lost net	346
CHAPTER 5. ROUND HAUL NETS	347
Article 1. General Provisions	347
§ 15650. “Round haul net”	347
Article 2. Special District Rules	347
§ 15700. District 2505	347
§ 15705. District 2525	347
§ 15710. District 2540	347
§ 15715. District 2570	347
§ 15720. District 2575	347
§ 15725. District 2580	347
§ 15730. District 2585	348
§ 15735. District 2590	348
§ 15740. District 2595	348
§ 15745. District 2610	348
§ 15750. District 2615	348
§ 15755. District 2620	348
§ 15760. District 2625	348
§ 15765. District 2630	349
§ 15770. District 2635	350
§ 15775. District 2640	350
§ 15780. District 2645	351
§ 15785. District 2650	351
CHAPTER 6. BAIT NETS	351
§ 15900. “Bait net”	351
§ 15902. Authority of commission	351

§ 15910. Districts allowing use of bait nets	351
§ 15915. District 2630	352
CHAPTER 7. BEACH NETS	352
Article 1. General Provisions	352
§ 16000. “Beach net”	352
Article 2. Special District Rules.....	352
§ 16010. Possession on boat prohibited	352
§ 16015. Permitted use	353
§ 16020. Prohibition	353
§ 16025. District 2590	353
§ 16030. District 2625	353
CHAPTER 8. TRAWL NETS	353
Article 1. General Provisions	353
§ 16100. Legislative declaration	353
§ 16105. Conformity with federal regulations	354
§ 16110. Commission and department authority	354
§ 16115. “Trawl net”	355
Article 2. Prohibitions.....	355
§ 16150. Mesh size	355
§ 16155. Bag or cod-end	355
§ 16160. Prohibited roller gear	355
§ 16165. Bottom trawling in ocean waters	356
§ 16170. Required permit for vessel	356
§ 16175. Chafing gear	356
Article 3. Special District Rules.....	357
§ 16250. District 2550	357
§ 16255. District 2570	357
§ 16260. District 2575	357
§ 16265. District 2590	357
§ 16270. District 2615	357
§ 16275. District 2620	357
§ 16280. District 2625	358
§ 16285. District 2630	358
§ 16290. District 2635	358
§ 16295. District 2640	358
§ 16300. District 2645	358
§ 16305. District 2650	358
§ 16310. District 2685	358
Article 4. Special Rules for Identified Waters	359
§ 16350. Golden Gate Bridge area	359
§ 16355. Small cod-end mesh in specified area	359
CHAPTER 9. DIP NETS	359
Article 1. General Provisions	359
§ 16400. Permitted except where specifically restricted	359
Article 2. Special District Rules.....	359
§ 16450. District 2505	359
§ 16455. District 2515	359
§ 16460. District 2525	360
§ 16465. District 2540	360
§ 16470. District 2550	360
§ 16475. District 2625	360

§ 16480. District 2640	360
CHAPTER 10. BAITED HOOP NETS	360
Article 1. General Provisions [Reserved]	360
Article 2. Special District Rules.....	360
§ 16550. District 2620	360
§ 16555. District 2625	361
CHAPTER 11. CHINESE SHRIMP NETS	361
Article 1. General Provisions [Reserved]	361
Article 2. Special Rules for Identified Waters	361
§ 16650. Golden Gate Bridge area	361
TITLE 4. GILL NETS AND TRAMMEL NETS	361
CHAPTER 1. GENERAL PROVISIONS	361
§ 16800. Statement of intent	361
§ 16805. Legislative declarations	361
CHAPTER 2. MARINE RESOURCES PROTECTION ACT OF 1990	362
§ 16850.1. Statement of codification and implementation.....	362
§ 16850.2. Meaning of references	362
§ 16850.3. Prohibited use of gill or trammel net to take rockfish	363
§ 16850.4. Authorized use of gill nets and trammel nets	363
§ 16850.5. Permit process during transitional period.....	363
§ 16850.6. Fees for permit during transitional period.....	364
§ 16850.9. Use of funds in Marine Resources Protection Account	364
§ 16850.11. Unlawful take	365
§ 16850.12. Department monitoring of take	365
§ 16850.13. Use of gill nets and trammel nets	365
§ 16850.14. Ecological reserves.....	366
§ 16850.15. Closures to protect wildlife	366
§ 16850.16. Severability of provisions of chapter	367
CHAPTER 3. USE OF GILL NETS IN PARTICULAR DISTRICTS	367
§ 17000. Additional rules for Districts 2590, 2615 and 2620	367
§ 17005. “Impacted fisherman”	369
§ 17010. Order by department.....	369
§ 17015. Additional rules for specified northern California ocean waters	370
§ 17020. Ocean area south of Point Conception	371
§ 17025. Salton Sea and New and Alamo Rivers	372
CHAPTER 4. GILL AND TRAMMEL NETS	372
§ 18000. Legislative declaration	372
§ 18005. Required permit.....	372
§ 18010. Grandfathered and transferred permits	373
§ 18015. Appeal of permit denial.....	374
§ 18020. Regulations.....	374
§ 18025. Permit fee	375
§ 18030. Incidental catch of swordfish or marlin.....	375
§ 18035. Districts 2505, 2525, and 2540.....	375
§ 18040. Take of salmon, steelhead, or striped bass	376
§ 18045. Sale or possession for sale of salmon, steelhead, or striped bass	376
§ 18050. Purchase of salmon, steelhead, or striped bass.....	376
§ 18055. Districts 2515, 2535, and 2675.....	376
§ 18060. Districts 2570, 2575, 2580, 2585, and 2590.....	377
§ 18065. Districts 2595, 2600, and 2605	377
§ 18070. Point Reyes ocean area.....	377

§ 18075. Monterey County ocean area	378
§ 18080. Permissible net length	378
§ 18085. Districts 2615, 2620, 2625, and 2645	378
§ 18090. District 2630	379
§ 18095. South of Point Reyes headlands	380
§ 18100. Conversion of gill net to trammel net	380
CHAPTER 5. TRAMMEL NETS	380
§ 18200. “Trammel net”	380
§ 18205. Districts 2505, 2525, and 2540	380
§ 18210. Districts 2590, 2615, 2620, and 2625	381
§ 18215. District 2630	381
CHAPTER 6. TAKE OF SHARK AND SWORDFISH	381
§ 18300. Required permit	381
§ 18305. Transfer of permit (operative until March 31, 2019)	382
§ 18305. Transfer of permit (operative on March 31, 2019)	383
§ 18310. Application	383
§ 18315. Possession and use of permit	383
§ 18320. Specification of vessel	383
§ 18325. Fee	384
§ 18330. Eligibility for permit	384
§ 18335. Minimum landing requirement	384
§ 18340. Conditions for late application	384
§ 18345. Allowed locations and conditions for use of net	385
§ 18350. Mesh size	386
§ 18355. Seasonal prohibitions	386
§ 18360. Prohibited areas	387
§ 18365. Additional prohibitions	387
§ 18370. Take of thresher shark	388
§ 18375. Closure of fishery by director	388
§ 18380. Surrender of permit	388
§ 18385. Sale of swordfish	389
§ 18395. Legislative intent regarding marlin	389
§ 18400. Transitional program	389
§ 18405. Disclaimer	390
CHAPTER 7. TAKE OF OTHER FISH	391
§ 18500. Yellowtail, barracuda, and white sea bass	391
§ 18505. California halibut generally	391
§ 18510. Special rules for California halibut	392
TITLE 5. FISHING LINES	393
CHAPTER 1. GENERAL PROVISIONS	393
§ 18700. Legislative declaration	393
§ 18705. Permitted length	393
§ 18710. “Set line”	393
§ 18715. “Troll line”	393
§ 18720. “Vertical fishing line”	394
CHAPTER 2. SPECIAL DISTRICT RULES	394
§ 18800. District 2570	394
§ 18805. District 2575	395
§ 18810. District 2590	396
§ 18815. District 2615	397
§ 18820. District 2620	398

§ 18825. District 2625	399
CHAPTER 3. SET LINES	400
§ 18900. Set line	400
CHAPTER 4. TROLL LINES	400
Article 1. General Provisions	400
§ 18950. Use of troll line	400
Article 2. Special District Rules	401
§ 19000. District 2570	401
§ 19005. District 2575	401
§ 19010. District 2590	401
§ 19015. District 2595	401
§ 19020. District 2600	402
§ 19025. District 2605	402
§ 19030. District 2610	402
§ 19035. District 2615	402
§ 19040. District 2620	402
§ 19045. District 2625	402
§ 19050. District 2630	402
TITLE 6. TRAPS	403
CHAPTER 1. GENERAL PROVISIONS	403
§ 19150. “Definitions”	403
§ 19200. Allowed use of traps	403
§ 19205. Required permit	403
§ 19210. Destruction device	404
§ 19215. Required maintenance	404
§ 19220. Abandonment	404
§ 19225. Marking	404
§ 19230. Required marking of trap	404
CHAPTER 2. DISTURBANCE OF TRAPS	405
§ 19300. Disturbance of trap	405
§ 19305. Permit to pull or raise trap	405
§ 19310. Publicly employed safety personnel	405
§ 19315. Retrieval of commercial crab traps	406
CHAPTER 3. NUISANCE	408
§ 19400. Abatement of nuisance	408
CHAPTER 4. TRAPPING OF FINFISH	408
§ 19500. Criteria for use of trap	408
§ 19505. Take of species generally	409
§ 19510. Marine species	409
§ 19515. Special rules for Districts 2590, 2595 and 2600	410
CHAPTER 5. BAITFISH TRAPS	410
§ 19600. Baitfish traps	410
§ 19605. Fish that may be taken	410
§ 19610. Trap size	411
TITLE 7. OTHER GEAR	411
CHAPTER 1. GENERAL PROVISIONS	411
§ 19800. Slurp guns	411
§ 19805. Miscellaneous tools	411
§ 19810. Spears, harpoons, bows, and arrows	411
CHAPTER 2. DEVELOPMENT OF ALTERNATIVE FISHING GEAR	412
§ 19900. Revocation or non-renewal of permit	412

§ 19910. Request to terminate permit	412
TITLE 8. COMMERCIAL TAKE OF FRESHWATER FISH	414
CHAPTER 1. GENERAL PROVISIONS [<i>RESERVED</i>]	414
CHAPTER 2. TAKE.....	414
§ 20100. Allowed take	414
§ 20105. Centrachidae	414
TITLE 9. FISH-RELATED BUSINESSES	415
CHAPTER 1. GENERAL PROVISIONS	415
Article 1. Definitions	415
§ 20150. Application	415
§ 20155. “Commercial fisherman”	415
§ 20160. “Import”	415
§ 20165. “Process fish”	415
§ 20170. “Wholesale”	416
Article 2. Licensing Generally	416
§ 20200. Activity requiring license	416
§ 20205. Types of licenses	416
§ 20210. Conditions of license	417
§ 20215. Term of license	418
§ 20220. License on premises of business	418
§ 20225. Possession and display of identification	418
§ 20230. Fee for multi-function fish business license	419
§ 20235. Denial of application based on prior dishonored check	419
CHAPTER 2. SPECIALTY LICENSES.....	420
Article 1. General Provisions	420
§ 20300. Licensing for persons engaged in multiple businesses	420
Article 2. Fish Importer.....	420
§ 20350. Required license	420
§ 20355. Fee	420
Article 3. Fish Processor	420
§ 20400. Required license	420
§ 20405. Fee	421
Article 4. Fish Receiver	421
§ 20450. Required license	421
§ 20455. License fee.....	421
§ 20460. Cooperative association.....	422
Article 5. Fish Retailer	422
§ 20500. Required license	422
§ 20505. Fee	422
Article 6. Fish Wholesaler	422
§ 20550. Required license	422
§ 20555. Fee	423
Article 7. Marine Aquaria Receiver.....	423
§ 20600. Required license	423
§ 20605. License fee.....	423
§ 20610. Source of indigenous organisms	424
CHAPTER 3. MARINE AQUARIA PET TRADE	424
§ 20700. Definitions	424
§ 20705. Permit requirement	424
§ 20710. Permitted organisms	424
§ 20715. Scope of permit	426

§ 20720. Prohibited take or possession	426
§ 20725. Methods of take	427
§ 20730. Permit fee	428
§ 20735. Concurrent take or possession under scientific collector's permit.....	428
§ 20740. Closure of fishery	428
TITLE 10. LANDING FEES AND RECEIPTS	429
CHAPTER 1. GENERAL PROVISIONS	429
§ 20900. Definitions	429
§ 20905. Information from marine aquaria receivers	429
CHAPTER 2. LANDING FEE.....	429
§ 20950. Persons required to pay fee	429
§ 20955. Calculation of fee	430
§ 20960. Remittance of fee	431
CHAPTER 3. LANDING RECEIPTS	431
Article 1. Completion.....	431
§ 21000. Persons required to complete receipt.....	431
§ 21010. Method of completion by commercial fisherman	434
§ 21015. Advance notification to agent when specified fish landed.....	434
§ 21020. Content of receipt	435
§ 21025. Additional requirements applicable to completion of landing receipts.....	436
Article 2. Retention and Delivery of Copies	436
§ 21100. When receipt completed by fish receiver or marine aquaria receiver.....	436
§ 21105. When receipt completed by commercial fisherman	437
§ 21110. Delivery of copy to agent	437
§ 21115. Landing of groundfish	438
Article 3. Delivery to Department	438
§ 21150. Delivery of landing receipt to department.....	438
§ 21155. Unused landing receipts	439
CHAPTER 4. TRANSPORTATION RECEIPTS	439
§ 21200. Issuance of transportation receipt book.....	439
§ 21205. Purpose	439
§ 21210. Persons required to complete	439
§ 21215. Time of completion	440
§ 21220. Method of completion	440
§ 21225. Content	440
§ 21230. Retention and delivery of copies	442
§ 21235. Delivery to department.....	442
§ 21240. Void receipts	442
§ 21245. Unused receipts	442
CHAPTER 5. ACCOUNTING RECORDS	443
§ 21300. Accounting records	443
CHAPTER 6. PAYMENT AND USE OF FEE.....	444
§ 21350. Quarterly payment to department.....	444
§ 21355. Use of landing fee	444
§ 21360. Exceptions to use of landing fee	444
§ 21365. Overpayment of fee	445
§ 21370. Legal process to prevent collection of fee.....	446
§ 21375. Legal process to recover overpaid landing fee.....	446
CHAPTER 7. MISCELLANEOUS PROVISIONS	447
§ 21450. Weighmasters	447
§ 21455. Requirement to make catch available for inspection and sampling	447

TITLE 11. FISH PROCESSING.....	448
CHAPTER 1. GENERAL PROVISIONS	448
§ 21600. Definitions	448
§ 21605. Commission regulation	448
§ 21610. Department inspection.....	448
§ 21615. Grading of fish by commission	449
CHAPTER 2. REDUCTION PERMITS AND LICENSES	449
§ 21650. Authority of commission	449
§ 21655. Required finding	449
§ 21660. Hearing	449
§ 21665. Limit on number of permits	449
§ 21670. License to dispose of dead or dying fish	450
§ 21675. No limit on court authority	450
CHAPTER 3. VIOLATIONS.....	450
Article 1. Required Practices	450
§ 21750. Containers to allow viewing of fish and fish offal	450
Article 2. Prohibitions.....	450
§ 21800. Affirmative authorization of fish reduction required	450
§ 21805. Prohibited reduction	451
§ 21810. Unloading or weighing of specified fish	451
Article 3. Enforcement.....	451
§ 21850. Complaint alleging violation	451
§ 21855. Nuisance	452
TITLE 12. PASSENGER FISHING BOATS	453
§ 21900. Application of chapter	453
§ 21905. Activity requiring license	453
§ 21910. Commercial boat registration	454
§ 21915. License fee.....	454
§ 21920. Maintenance of records	454
§ 21930. Fishing from commercial passenger fishing boat	454
§ 21935. Ocean fishing.....	455
§ 21950. Possession limit for specified fish	455
TITLE 13. LIVE FRESHWATER FISH FOR BAIT	455
§ 22100. When license required	455
§ 22105. Term of license	456
§ 22110. License fee.....	456
§ 22120. Take only of permitted species	456
§ 22125. Restriction on gear used to take certain species	456
§ 22130. Exemption	456
TITLE 14. COMMERCIAL FISHING REPORTS	457
§ 22200. Required record of fishing activities	457
§ 22205. Confidentiality of department records.....	457
§ 22210. Compilation of reports by department	458
TITLE 15. COMMERCIAL FISHERIES	458
CHAPTER 1. MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.....	458
Article 1. General Provisions.....	458
§ 22300. Defined terms	458
§ 22305. Declaration of legislative findings	459
§ 22310. Declaration of policy	459
§ 22315. Inapplicability of Administrative Procedure Act	460
Article 2. Adoption of New Regulations	460

§ 22400. Required public hearing	460
§ 22405. Adoption of regulations to conform state law	461
§ 22410. Hearing and report to Legislature prerequisite to adoption of regulation	461
§ 22415. Report to Legislature of need to conform state law	461
Article 3. Repeal or Amendment of Regulations.....	462
§ 22450. Amendment or repeal of regulation by director	462
§ 22455. Hearing and report to Legislature prerequisite to amendment or repeal of regulation	462
CHAPTER 2. LIMITED ENTRY FISHERIES	463
§ 22500. Eligibility	463
§ 22505. Partnerships	463
§ 22510. Accidental death of permittee.....	464
§ 22515. Transfer of permit of deceased permittee.....	465
CHAPTER 3. NEARSHORE FISHERIES MANAGEMENT ACT	465
§ 22600. Name	465
§ 22605. Legislative declaration	465
§ 22610. Definitions	466
§ 22615. Funding.....	466
§ 22620. Adoption of regulations.....	467
§ 22625. Costs of act	467
§ 22630. Required permit.....	467
§ 22635. Use of permit fees	468
CHAPTER 4. FAR OFFSHORE FISHERY	468
§ 22700. “Far offshore fishery”	468
§ 22705. Legislative declaration	469
§ 22710. Landing of fish taken in far offshore fishery.....	469
§ 22715. Declaration of intended landing	469
§ 22720. Prohibited fishing during declared trip.....	470
CHAPTER 5. RESTRICTION OR CLOSURE OF FISHERIES	470
§ 22800. Restriction on take based on unsustainable fishing.....	470
§ 22805. Removal of restriction	471
§ 22810. Appeal of closure or restriction	471
§ 22815. Development of alternative fisheries or alternative fishing gear	471
CHAPTER 6. COMMERCIAL FISHERIES CAPACITY REDUCTION PROGRAM	472
§ 22900. Federal groundfish buy-back program	472
§ 22905. Establishment of program	472
§ 22910. Capacity reduction fee.....	472
§ 22915. Regulation conforming state law with federal law.....	472
TITLE 16. MISCELLANEOUS PROGRAMS	473
CHAPTER 1. INSURANCE POOLING.....	473
§ 23100. Loss or damage to vessel or machinery.....	473
CHAPTER 2. EDUCATIONAL AND SCIENTIFIC PROGRAMS	473
§ 23150. Take for educational or scientific purposes.....	473
CHAPTER 3. MARKETING.....	473
§ 23200. Collection of an assessment on behalf of marketing council or commission	473
DIVISION 7. WILDLIFE PROPAGATION, DOMESTICATION, POSSESSION, AND SALE	474
PART 1. AQUACULTURE	474
TITLE 1. GENERAL PROVISIONS	474
§ 23300. Applicability of part	474
§ 23305. Governing provisions	474

TITLE 2. ADMINISTRATION	474
CHAPTER 1. AGENCY DUTIES AND POWERS	474
§ 23350. Coordination of agencies	474
§ 23355. Commission regulation	475
§ 23360. Preparation of environmental impact reports by department	475
§ 23365. Department aquaculture coordinator	476
CHAPTER 2. FEES AND COSTS	477
§ 23500. Costs for requested inspections	477
§ 23505. Evaluation of fees by department	477
TITLE 3. REGISTRATION	477
CHAPTER 1. GENERAL PROVISIONS	477
§ 23600. Registration requirement	477
§ 23605. Required information	477
§ 23610. Department review of registration	478
§ 23615. Denial of application based on prior dishonored check	478
CHAPTER 2. FEES	479
§ 23700. Registration fee (effective until January 1, 2023)	479
§ 23700. Registration fee (operative on January 1, 2023)	479
§ 23705. Surcharge fee (effective until January 1, 2023)	480
§ 23705. Surcharge fee (operative January 1, 2023)	480
§ 23710. Delinquent fee payment (effective until January 1, 2023)	481
§ 23710. Delinquent fee payment (operative January 1, 2023)	481
§ 23715. Expenditure of collected funds	482
§ 23720. Sales and production records	482
TITLE 4. AQUATIC ORGANISMS	483
§ 23800. Regulation of placement of organisms	483
§ 23805. Operation detrimental to adjacent wildlife	483
§ 23810. Permit required to place organisms	483
§ 23815. Movement of fish between registered aquaculturists	483
§ 23820. Fee for use of public land and waters	483
TITLE 5. ACQUISITION OF ORGANISMS	484
§ 23900. Sources for brood stock	484
§ 23905. Collection of organisms by registered aquaculturist	484
§ 23910. Sale of organisms by department	484
§ 23915. Ownership of progeny	484
TITLE 6. LEASING OF STATE WATER BOTTOMS	485
CHAPTER 1. GENERAL PROVISIONS	485
§ 24000. Authority and procedure	485
§ 24005. Lease required for marine finfish aquaculture	485
§ 24010. Standards for leases and regulation	485
§ 24015. Exemption from standards for specified restoration or enhancement plans	487
§ 24020. Disclaimer of application to other marine finfish aquaculture law or regulation	488
CHAPTER 2. LEASE PROCEDURE	488
§ 24100. Application for lease	488
§ 24105. Public notice of application	488
§ 24110. Notification to State Lands Commission	488
§ 24115. Lease to new bidders	489
CHAPTER 3. TERMS OF LEASE	489
§ 24200. Term of lease	489
§ 24205. Rent increases by Legislature	489

§ 24210. Renewal of lease	490
§ 24215. Periodic reports to commission	490
§ 24220. Oyster leases	490
CHAPTER 4. RIGHTS AND RESPONSIBILITIES OF LESSEE	491
§ 24300. Payment of rent	491
§ 24305. Lessee responsibility for infringement	491
§ 24310. Lessee rights to organisms	491
§ 24315. Accommodation of public activity in leased area	491
§ 24320. Termination of lease	492
§ 24325. Assignment of lease	492
CHAPTER 5. PROHIBITIONS	492
§ 24400. Protection of leased area	492
TITLE 7. DISEASE CONTROL	493
CHAPTER 1. ADMINISTRATION	493
§ 24500. Responsibilities for disease control	493
§ 24505. Inspection of areas by department	493
§ 24510. Aquaculture Disease Committee	493
§ 24515. Recommendation of regulations	494
§ 24520. Authorized action by director	494
§ 24525. Quarantine or destruction of other plants or animals infected with nonlisted disease	495
§ 24530. Coordination of action in government and private facilities	495
§ 24535. Investigation of reported disease or parasite	495
§ 24540. Prevention of importation of diseased aquatic plant or animal	495
§ 24545. Permit to move quarantined plant or animal	496
CHAPTER 2. CLAIMS	496
§ 24600. Compensation to owner of destroyed plant or animal	496
§ 24605. Claims against the department	497
§ 24610. Disallowing of claim	497
§ 24615. Liability for disease eradication	497
TITLE 8. IMPORTATION OF AQUATIC PLANTS AND ANIMALS	497
§ 24700. Application of title	497
§ 24705. Required approval by department	498
§ 24710. Prohibited importation	498
§ 24715. Application for importation	498
§ 24720. Application of California Environmental Quality Act	499
TITLE 9. AQUACULTURE DEVELOPMENT COMMITTEE	499
§ 24800. Composition of committee	499
§ 24805. Term of membership	499
§ 24810. Compensation	500
§ 24815. Meetings	500
§ 24820. Function of committee	500
TITLE 10. PROHIBITIONS	500
CHAPTER 1. GENERAL PROVISIONS	500
§ 24900. Unlawful taking	500
§ 24905. Prohibited fish cultural operations	500
CHAPTER 2. EXOTIC OR TRANSGENIC SPECIES	501
§ 24950. Application of chapter	501
§ 24955. Definitions	501
§ 24960. Prohibitions	501
§ 24965. Research pursuant to permit	502

§ 24970. Notification of permit application	502
PART 2. FISH HATCHERIES	502
TITLE 1. FISH HATCHERIES GENERALLY	502
§ 25100. Fish hatcheries	502
§ 25105. Liability arising from lease of real property	502
§ 25110. Claim for damages	503
§ 25115. Bird exclosures	503
§ 25120. County fish hatcheries	503
§ 25125. Nonprofit hatcheries	503
§ 25130. Mount Whitney Fish Hatchery	504
§ 25135. Transgenic species of salmonids	504
TITLE 2. ANADROMOUS FISH HATCHERIES	505
§ 25200. Permit to operate hatchery	505
§ 25205. Financial capability	505
§ 25210. Restrictions	505
§ 25215. Fish property of state	505
§ 25220. Conditions of permit	505
§ 25225. Disclaimer of state liability	506
TITLE 3. COOPERATIVE SALMON AND STEELHEAD REARING FACILITIES	506
§ 25300. Department agreement	506
§ 25305. Demonstration of financial ability	506
§ 25310. Property of state	507
§ 25315. Release determined by Commission	507
§ 25320. Funding of agreements	507
§ 25325. Department to make fish available	507
§ 25330. Location of release	507
PART 3. FISH PLANTING	508
TITLE 1. GENERAL PROVISIONS	508
§ 25400. Application of part	508
§ 25405. Spawn and ova	508
§ 25410. Permit to stock fish	508
§ 25415. Planting of fish	508
§ 25420. Fish cultural operations and scientific investigations	509
TITLE 2. AQUATIC NUISANCE SPECIES	509
§ 25500. Damages	509
§ 25505. Response costs	510
§ 25510. Reward	510
TITLE 3. ARTIFICIAL REEFS	510
§ 25600. Legislative findings and declaration	510
§ 25605. Definitions	511
§ 25610. Department administration	511
§ 25615. Elements of program	511
§ 25620. Allocation	511
TITLE 4. OCEAN FISHERY RESEARCH	512
§ 25700. Legislative findings and declaration	512
§ 25705. Definitions	513
§ 25710. Purpose of program	513
§ 25715. Creation of advisory panel	513
§ 25720. Administration of program	514
§ 25725. Use of funds	514
§ 25730. Contracting with nonprofit organizations	514

§ 25735. Participation by other entities	515
§ 25740. Name of program location	515
TITLE 5. MISCELLANEOUS PROVISIONS	515
§ 25850. Youth camps	515
§ 25855. Urban fishing program	515
PART 4. DOMESTICATION OF GAME ANIMALS	516
TITLE 1. GAME ANIMALS GENERALLY	516
§ 26000. License requirement	516
§ 26005. Sale of carcass	516
§ 26010. Class 1 and class 2 licenses	517
§ 26015. License fee	517
§ 26020. Term of license	517
§ 26025. Display of license	517
§ 26030. Carriers for hire	517
§ 26035. Tag requirement	518
§ 26040. Fee for tag	518
§ 26045. Report to Department	518
§ 26050. Poultry processing plants	518
§ 26055. Sale of meat by keeper of establishment	519
§ 26060. Sale of meat by retail meat dealer	519
§ 26065. Confinement and escape	520
§ 26070. Killing of domesticated game animals	520
§ 26075. Evidence of domesticated status	520
§ 26085. Domesticated reindeer	520
TITLE 2. MIGRATORY GAME BIRDS	521
§ 26200. Definition	521
§ 26205. License requirement	521
§ 26210. License to raise and release	521
§ 26215. Posting of area	522
§ 26220. Additional regulatory requirements	522
§ 26225. Care of birds	522
§ 26230. Inspection of birds and facilities	522
§ 26235. Condition of birds	522
§ 26240. Blinds	523
§ 26245. Shooting or taking near release point	523
§ 26250. Birds injured or killed	523
§ 26255. Retrieving dog	524
§ 26260. Seal	524
§ 26265. Inspection fee	524
§ 26270. Shooter required to have hunting license	524
§ 26275. Federal requirements	524
PART 5. PROPAGATION OF FUR-BEARING MAMMALS	525
§ 26400. Applicability of other code provisions	525
PART 6. IMPORTATION, TRANSPORTATION, AND POSSESSION	525
TITLE 1. GENERAL PROVISIONS	525
§ 26500. “Wild animal”	525
§ 26505. “Enforcing officers”	525
§ 26510. Legislative findings and declarations	526
TITLE 2. RESTRICTIONS	526
CHAPTER 1. GENERAL PROVISIONS	526
§ 26600. Adoption of regulations relating to importation and possession	526

§ 26605. Designated exemption from permit requirement.....	527
§ 26610. Commission to adopt regulations providing guidance to enforcing officers	527
§ 26615. Department to publish list of prohibited animals	527
§ 26620. Department to furnish descriptive explanatory material	527
CHAPTER 2. CLASSES OF RESTRICTED ANIMALS	528
§ 26700. Restricted birds	528
§ 26705. Restricted mammals	528
§ 26710. Restricted amphibians	529
§ 26715. Restricted fish	530
§ 26720. Restricted reptiles	530
§ 26725. Restricted invertebrates	530
§ 26730. Animals restricted by designation	531
§ 26735. Addition or deletion of animals from restriction	531
CHAPTER 3. ADDITIONAL PROHIBITIONS	531
§ 26850. Prohibition relating to gain, amusement, or sport	531
§ 26855. Prohibited take	531
§ 26860. Prohibited release of wild animal	532
§ 26865. Elk	532
§ 26870. Elephants	532
CHAPTER 4. LOCAL ENTITIES	533
§ 27020. Eligible local entity	533
TITLE 3. PERMITS	533
§ 27200. Issuance of permit	533
§ 27205. Denial of permit	534
§ 27210. Special entities	534
§ 27215. Fees	535
§ 27220. Advisory committee	535
§ 27225. Inspection of facilities	536
§ 27230. Permit for animal acquired prior to 1975	536
§ 27235. Required content of permit application	537
§ 27240. Content of permit	537
§ 27245. Distribution of copies of permit	537
§ 27250. Progeny of imported or possessed animals	537
§ 27255. Local ordinances	538
§ 27260. Required reporting of health and safety risk	538
§ 27265. Commission regulations relating to identification of health and safety risk	538
§ 27270. Department to establish registry	538
§ 27275. Required reporting of escape or release	538
§ 27280. Commission regulations relating to taking possession of permitted animal	539
TITLE 4. INSPECTION OF ARRIVING ANIMAL	539
§ 27400. Special definition of “enforcing officer”	539
§ 27405. Notification of law enforcement of arriving wild animal	539
§ 27410. Discovery of disease during inspection	540
§ 27415. Periodic subsequent examination of animal	540
TITLE 5. NONNATIVE WILD ANIMALS	540
§ 27500. “Nonnative wild animal”	540
§ 27505. Prohibitions	541
§ 27510. Animals found at large	541
TITLE 6. MAMMALS USED FOR HIRE	541
§ 27600. “Mammal”	541
§ 27605. Animal Trust Fund	542

§ 27610. Grants and donations	542
§ 27615. Regulations relating to grant program.....	542
TITLE 7. MISCELLANEOUS PROVISIONS	542
§ 27700. Prohibited release of wild animal.....	542
§ 27705. Civil action to recover costs	542
§ 27710. Regulations relating to caging standards	543
PART 7. IMPORTATION AND TRANSPORTATION OF LIVE PLANTS AND ANIMALS	543
TITLE 1. BIRDS	543
§ 28000. Prohibition against transport of specified live birds.....	543
TITLE 2. AQUATIC PLANTS AND ANIMALS.....	543
§ 28100. Potentially diseased plants or animals.....	543
§ 28105. Aquaculture exception.....	544
§ 28110. Approval from department required for importation	544
§ 28115. Packaging	544
PART 8. AQUATIC INVASIVE SPECIES	545
TITLE 1. GENERAL PROVISIONS [RESERVED]	545
TITLE 2. CAULERPA ALGAE	545
§ 28250. Prohibition	545
PART 9. IMPORTATION AND TRANSPORTATION OF DEAD ANIMALS	545
TITLE 1. DEAD WILD ANIMALS	545
§ 28400. Application of title	545
§ 28405. Transportation of more than bag limit.....	545
§ 28410. Marking on packaging containing animal	546
§ 28415. Parcel post generally prohibited	546
§ 28420. Transport of specified birds.....	546
§ 28425. Requirements for importation or possession	546
TITLE 2. DEAD DOMESTICATED BIRDS AND MAMMALS	547
§ 28500. Transport by common carrier	547
§ 28505. Domesticated game birds raised outside state	547
PART 10. PROHIBITED SALE AND POSSESSION FOR SALE.....	548
TITLE 1. POSSESSION IN EATING ESTABLISHMENT	548
§ 28600. Prohibition	548
TITLE 2. IVORY AND RHINOCEROS HORNS	548
§ 28650. Definitions	548
§ 28655. Prohibition	549
§ 28660. Prima facie evidence	550
TITLE 3. SALE OR PURCHASE OF BIRD OR MAMMAL FOUND IN WILD.....	550
§ 28750. Prohibition	550
DIVISION 8. BIRDS	551
PART 1. GENERAL PROVISIONS	551
§ 28900. Governance by other provisions	551
§ 28905. Bird nest or eggs.....	551
§ 28910. Sale or purchase of game or nongame bird	551
§ 28915. Control of birds unduly preying on other animals	551
PART 2. DISEASE CONTROL	551
TITLE 1. GENERAL PROVISIONS [RESERVED]	551
TITLE 2. AVIAN INFLUENZA WILDLIFE SURVEILLANCE ACT	551
§ 29050. Name of act	551
§ 29055. Findings and declarations	552
§ 29060. Consultation among agencies to develop plan	552

§ 29065. Avian Influenza Working Group.....	552
PART 3. CLASSES OF BIRDS	553
TITLE 1. MIGRATORY BIRDS.....	553
§ 29200. Taking.....	553
§ 29205. License to permit feeding	554
§ 29210. Commission regulations relating to Migratory Bird Treaty Act	554
§ 29215. Commission regulation in the absence of federal regulation	554
§ 29220. Effective date of regulation	555
§ 29225. President as ex officio member of Migratory Bird Conservation Commission	555
TITLE 2. GAME BIRDS	555
CHAPTER 1. GENERAL PROVISIONS	555
§ 29350. Use of mammal	555
§ 29355. Use of vehicle	555
§ 29360. Use of dog during closed season	556
§ 29365. Game bird club license	556
§ 29370. Waste	556
§ 29375. Transport out of state.....	556
CHAPTER 2. UPLAND GAME BIRDS	557
§ 29500. Taking.....	557
§ 29505. Upland game bird validation	557
§ 29510. Collectible upland game bird stamp.....	557
§ 29515. Upland Game Bird Account	557
§ 29520. Use of funds	558
§ 29525. Acquired land	558
§ 29530. Involvement with nonprofit organization.....	558
§ 29540. Review by advisory committee	559
§ 29545. Non-applicability of other statutory requirements	559
CHAPTER 3. RESIDENT GAME BIRDS	559
§ 29650. Regulations	559
CHAPTER 4. EXOTIC NONRESIDENT GAME BIRDS	559
§ 29700. Regulations.....	559
§ 29705. Release	560
TITLE 3. NONGAME BIRDS	560
CHAPTER 1. GENERAL PROVISIONS [<i>RESERVED</i>].....	560
CHAPTER 2. TAKING AND POSSESSION	560
§ 29850. Taking nongame bird	560
§ 29855. Taking or possession of migratory nongame bird	560
§ 29860. Taking of nongame birds injuring crops or property	560
CHAPTER 3. NONGAME BIRD PARTS	561
§ 30000. Possession of parts of nongame bird	561
§ 30005. Exception for possession of parts of nongame bird by Native American	561
§ 30010. Salvaging of nongame birds	561
§ 30015. Sale of parts of nongame bird	562
TITLE 4. BIRDS OF PREY	562
§ 30100. Falconry registration and licensing	562
§ 30105. Falconry license.....	562
§ 30110. Taking or possession	563
§ 30115. Cooperative contracts with the United States Fish and Wildlife Service.....	563
TITLE 5. FULLY PROTECTED BIRDS	563
§ 30200. Take or possession prohibited	563
§ 30205. Department research.....	564

§ 30210. Possession of legally imported fully protected birds	564
PART 4. SPECIFIC TYPES OF BIRDS	564
TITLE 1. BIRD OF PARADISE	565
§ 30300. Prohibited take, sale, or purchase	565
TITLE 2. CONDORS	565
CHAPTER 1. GENERAL PROVISIONS	565
§ 30350. Fully protected bird	565
§ 30355. Provisions not exclusive	565
CHAPTER 2. CONSERVATION	565
Article 1. California Condor Preservation Project	565
§ 30360. California condor preservation project	565
§ 30365. Joint planning with federal authorities	566
§ 30370. Breeding program	566
§ 30375. Release program	566
§ 30380. Use of funds for administrative costs	566
§ 30385. Monitoring of programs	566
§ 30390. Report to Legislature	567
§ 30395. Department to seek funding	567
Article 2. Northern California Condor Restoration Program	567
30425. Take	567
TITLE 3. DUCKS AND GEESE	568
§ 30500. Classification	568
§ 30505. Required validation	568
§ 30510. Taking in District 2580 or 2585	568
§ 30515. State duck hunting validation	569
§ 30520. Collectible state duck stamp	569
§ 30525. Promotional material	569
§ 30530. State Duck Stamp Account	569
§ 30535. Allocation of funds in State Duck Stamp Account	570
§ 30540. Use of funds	570
§ 30560. Project prerequisites	570
§ 30565. Advisory committee	571
§ 30570. Exemptions	571
§ 30575. Contracts, grants, and reimbursement of controlling entity	571
TITLE 4. EGRET	571
§ 30700. Prohibited take, sale, or purchase	571
TITLE 5. GOURA	572
§ 30750. Prohibited take, sale, or purchase	572
TITLE 6. NUMIDI	572
§ 30800. Prohibited take, sale, or purchase	572
TITLE 7. OSPREY	572
§ 30850. Prohibited take, sale, or purchase	572
TITLE 8. PHEASANT	572
§ 30900. Classification	572
§ 30905. Provisions not exclusive	572
§ 30910. Prohibited take	573
TITLE 9. PIGEON	573
§ 31000. Classification	573
§ 31005. Provisions not exclusive	573

TITLE 10. SPARROW AND STARLING	573
§ 31050. Authorized take or possession	573
TITLE 11. WILD TURKEY	574
§ 31100. Classification	574
§ 31110. Depredation permit for wild turkeys	574
§ 31115. Access by licensed hunters for depredator control of wild turkeys	575
DIVISION 9. MAMMALS	576
PART 1. GENERAL PROVISIONS	576
TITLE 1. APPLICATION OF OTHER PROVISIONS	576
§ 31400. Governance by other provisions	576
TITLE 2. DOGS PURSUING OR INJURING MAMMALS	576
CHAPTER 1. GENERAL PROVISIONS	576
§ 31500. Definitions	576
§ 31505. Hound tag program	577
§ 31510. Use of dog to pursue specified mammals	578
CHAPTER 2. UNCONTROLLED DOGS	579
§ 31550. Capture or dispatch by department	579
§ 31555. Seizure or dispatch generally	580
TITLE 3. DEPREDATOR CONTROL	581
§ 31600. Department take of depredator	581
§ 31605. Immature mammals in den	581
§ 31610. Identification of depredator	582
PART 2. DISEASE CONTROL	582
§ 31700. Disease outbreak	582
PART 3. CLASSES OF MAMMALS	583
TITLE 1. GAME MAMMALS	583
CHAPTER 1. GENERAL PROVISIONS	583
§ 31800. Waste of game mammal	583
§ 31805. Report on reduced-price tags	583
CHAPTER 2. BIG GAME MANAGEMENT ACCOUNT	584
§ 31900. Account established	584
§ 31905. Use of funds	584
§ 31910. Non-profit organizations	584
§ 31915. Advisory committee	585
§ 31920. Online information	585
§ 31925. Exemptions	585
§ 31930. Accountability	585
§ 31935. Transfer of funds from other accounts	585
TITLE 2. FUR-BEARING MAMMALS	586
§ 32150. Allowed methods of taking	586
§ 32155. Take and possession	586
TITLE 3. NONGAME MAMMALS	586
CHAPTER 1. GENERAL PROVISIONS	586
§ 32300. Take or possession	586
§ 32305. Protection of property	587
§ 32310. Agreements relating to control of harmful nongame mammals	588
CHAPTER 2. MARINE MAMMALS	588
§ 32500. Taking	588
TITLE 4. FULLY PROTECTED MAMMALS	588
§ 32700. Take generally prohibited	588
§ 32705. Take for scientific purposes	589

§ 32710. Imported animal	589
PART 4. SPECIFIC TYPES OF MAMMALS	590
TITLE 1. ANTELOPE	590
CHAPTER 1. GENERAL PROVISIONS	590
§ 32900. Classification	590
§ 32905. Provisions not exclusive	590
CHAPTER 2. TAGS	590
§ 32950. Issuance of tags (operative until July 1, 2025)	590
§ 32950. Issuance of tags (operative July 1, 2025)	591
§ 32960. Deposit of fees	592
§ 32965. Sale of tag by nonprofit organization	592
TITLE 2. BEAR	592
CHAPTER 1. GENERAL PROVISIONS	592
§ 33100. Classification	592
§ 33105. Provisions not exclusive	593
§ 33110. Bear taken out of state	593
CHAPTER 2. TAKE GENERALLY	593
§ 33200. Metal-jawed trap prohibited	593
§ 33205. Tag required	593
§ 33210. Use of tag	593
§ 33215. Countersigning	594
§ 33220. Retention of skin and head	594
§ 33225. Killing bear held in captivity	595
CHAPTER 3. TAGS	595
§ 33300. Issuance of tag (operative until July 1, 2025)	595
§ 33300. Issuance of tag (operative on July 1, 2025)	595
§ 33305. Deposit of fees	596
§ 33310. Time period when tags are valid	596
CHAPTER 4. POPULATION MANAGEMENT	596
§ 33400. Seasons	596
CHAPTER 5. USE OF PARTS	597
§ 33450. Personal use of bear parts	597
§ 33455. Commercial use of bear parts	597
CHAPTER 6. TAKE TO PROTECT PROPERTY	598
§ 33500. Take to protect property	598
§ 33505. Protection of livestock or crops	598
§ 33510. Bear killing livestock	598
§ 33515. Use of dogs	599
§ 33520. Depredation permit	600
CHAPTER 7. TAKE FOR SCIENTIFIC PURPOSES	601
§ 33600. Scientific research	601
CHAPTER 8. MISCELLANEOUS PROVISIONS	602
§ 33650. Bears within San Bernardino and Riverside counties	602
TITLE 3. BEAVER	603
§ 33700. Fur-bearing mammal	603
§ 33705. Provisions not exclusive	603
§ 33710. Depredation permit	603
TITLE 4. BOBCAT	604
CHAPTER 1. GENERAL PROVISIONS	604
§ 33750. Provisions not exclusive	604
§ 33755. Definition of “pursue”	604

CHAPTER 2. TAKE GENERALLY	604
§ 33800. Trapping on private land	604
§ 33805. Joshua Tree National Park.....	605
§ 33810. Parks, preserves, and conservancies	605
§ 33815. Trapping fees	606
§ 33820. Effect of chapter	606
CHAPTER 3. PURSUIT TO PROTECT PROPERTY	606
§ 33900. Pursuit to protect livestock or crops	606
§ 33905. Depredation permit.....	606
CHAPTER 4. PURSUIT FOR SCIENTIFIC PURPOSES	607
§ 33950. Pursuit in furtherance of scientific research	607
TITLE 5. BURRO	608
§ 34050. Provisions not exclusive	608
§ 34055. Prohibitions	608
§ 34060. Burro sanctuary	609
§ 34065. Prohibited conduct in burro sanctuary	610
TITLE 6. DEER	610
CHAPTER 1. GENERAL PROVISIONS	610
§ 34100. Game mammal	610
§ 34105. Provisions not exclusive	610
§ 34110. Retention of deer head.....	611
§ 34115. Killing deer held in captivity	611
§ 34120. Transport out of state.....	611
§ 34125. Transport into state.....	611
CHAPTER 2. TAGS.....	612
§ 34200. Required tag or permit.....	612
§ 34205. Tagging of deer	612
§ 34210. Countersigning	612
§ 34215. Issuance of tags	613
§ 34220. Design and makeup of tag	613
§ 34225. Fee	613
§ 34230. Duration of tag	614
§ 34240. Deposit of fees.....	614
§ 34245. Sale of tag by nonprofit organization	615
CHAPTER 3. BOW HUNTING.....	615
§ 34350. Archery season	615
§ 34355. Taking with bow and arrow	615
CHAPTER 4. USE OF PARTS	616
§ 34400. Commercial use of deer meat	616
§ 34405. Importation of deer meat	617
§ 34410. Use of skin or hide of deer	617
§ 34415. Needless waste of deer	617
CHAPTER 5. GAME REFUGES	618
§ 34450. Opening of game refuge for taking of deer	618
CHAPTER 6. POPULATION MANAGEMENT	618
§ 34500. Declaration of legislative policy	618
§ 34505. Deer herd management units	619
§ 34510. Management unit plans	619
§ 34515. Biennial report to Legislature and Commission	620
§ 34520. Annual recommendations by department.....	620
§ 34525. Affected counties.....	621

§ 34530. Department recommendations relating to deer hunting	623
§ 34535. Feeding of deer	624
CHAPTER 7. TAKE TO PROTECT PROPERTY	624
§ 34600. Permit to take deer.....	624
§ 34605. Access by licensed hunters for depredator control.....	626
TITLE 7. ELK	627
CHAPTER 1. GENERAL PROVISIONS	627
§ 34800. Game mammal	627
§ 34805. Provisions not exclusive	627
§ 34810. Killing elk held in captivity	627
CHAPTER 2. TAGS	628
§ 34850. Issuance of tags (operative until 7/1/2025)	628
§ 34850. Issuance of tags (operative on 7/1/2025).....	629
34865. Deposit of fees	629
§ 34870. Sale of tag by nonprofit organization	630
CHAPTER 3. POPULATION MANAGEMENT	630
§ 34955. Tule elk management plan	630
§ 34960. Relocation.....	630
CHAPTER 4. TAKE TO PROTECT PROPERTY	631
§ 35000. Depredation permit.....	631
TITLE 8. FOXES	633
§ 35200. Classification	633
§ 35205. Provisions not exclusive	633
§ 35210. Take for profit	633
§ 35215. Protection of property	633
TITLE 9. MOUNTAIN LION	634
CHAPTER 1. GENERAL PROVISIONS	634
§ 35305. Provisions not exclusive	634
§ 35310. Rulemaking limitation	634
§ 35315. “Agent”	635
CHAPTER 2. SPECIAL PROTECTIONS	635
§ 35350. Prohibitions on take and possession	635
CHAPTER 3. PUBLIC SAFETY AND PROTECTION OF PROPERTY	636
§ 35400. Removal by department	636
§ 35405. Permit to protect property	636
§ 35410. Confirmation of depredation	636
§ 35415. Permit conditions.....	636
§ 35420. Expedited permit	637
§ 35425. Report to department	637
§ 35430. Immediate taking of encountered depredator	637
§ 35435. Method of taking	638
§ 35440. Use of nonlethal procedures	638
CHAPTER 4. TAKE FOR SCIENTIFIC PURPOSES	638
§ 35500. Research	638
TITLE 10. MUSKRAT	640
§ 35600. Fur-bearing mammal	640
§ 35605. Provisions not exclusive	640
§ 35610. Protection of property	640
§ 35615. Importation or transportation of live muskrat	641
TITLE 11. RABBIT AND HARE	641
§ 35700. Classification	641

§ 35705. Protection of crops	641
§ 35710. Taking of jackrabbit injuring property	642
TITLE 12. SEA OTTER	643
§ 35750. Classification	643
§ 35755. Regulation of cat litter	643
TITLE 13. SHEEP	644
CHAPTER 1. GENERAL PROVISIONS	644
§ 35800. Classification	644
§ 35805. Provisions not exclusive	644
§ 35810. Legislative declaration of policy	644
§ 35815. Development of plans for population management	644
§ 35820. Sale of tag by nonprofit organization	645
§ 35825. Deposit of fees	645
CHAPTER 2. NELSON BIGHORN SHEEP	645
§ 35900. Issuance of tags (operative until 7/1/25)	645
§ 35900. Issuance of tags (operative on 7/1/25)	646
§ 35915. Use of revenue	648
TITLE 14. SQUIRREL	648
§ 36000. Classification	648
§ 36005. Provisions not exclusive	648
§ 36010. Protection of property	648
§ 36015. Depredation permit	649
TITLE 15. WHALE	650
CHAPTER 1. WHALES GENERALLY	650
§ 37000. Classification	650
§ 37005. Provisions not exclusive	651
CHAPTER 2. ORCA	651
§ 37050. California Orca Protection Act	651
TITLE 16. WILD PIG	652
CHAPTER 1. GENERAL PROVISIONS	652
§ 37100. Game mammal	652
§ 37105. “Wild pigs”	652
§ 37110. Provisions not exclusive	653
CHAPTER 2. TAKE GENERALLY	653
§ 37150. Tag requirement	653
§ 37155. Tagging of wild pig	653
CHAPTER 3. TAGS	654
§ 37200. Design and issuance of wild pig tag	654
§ 37205. Obtaining tag	654
§ 37210. Period of validity of tag	654
§ 37215. Fees for wild pig tag	655
§ 37220. Deposit of fees	655
CHAPTER 4. POPULATION MANAGEMENT	656
§ 37300. Management plan	656
CHAPTER 5. TAKE TO PROTECT PROPERTY	656
§ 37350. “Damage”	656
§ 37355. Protection of property	656
§ 37360. Depredation permit	658
§ 37365. Access by licensed hunters	659
TITLE 17. WILD RODENT	660
§ 37450. Classification	660

§ 37455. Prohibitions	660
§ 37460. Trapping	661
DIVISION 10. FISH	661
PART 1. GENERAL PROVISIONS	661
§ 37800. Governance by other provisions	661
§ 37805. Scope of commercial provisions	661
§ 37810. “Vessel owner”	661
PART 2. DISEASE CONTROL	662
§ 37950. Application of title	662
§ 37955. Authorized entry by department	662
§ 37960. Public nuisance	662
§ 37965. Conditional destruction	662
§ 37970. Posting of notices	662
§ 37975. Prohibited transportation within state	663
§ 37980. Expense of examination	663
PART 3. CLASSES OF FISH	663
TITLE 1. FULLY PROTECTED FISH	663
§ 38200. Prohibition on take and possession	663
TITLE 2. GROUND FISH	664
CHAPTER 1. GENERAL PROVISIONS <i>[RESERVED]</i>	664
CHAPTER 2. COMMERCIAL PROVISIONS	664
§ 38350. Application of title	664
§ 38355. Federal groundfish regulations	664
§ 38360. Marine species of finfish	664
§ 38365. Retention of landing receipt	665
PART 4. ANCHOVIES	665
TITLE 1. ANCHOVIES GENERALLY	665
§ 38450. Provisions not exclusive	665
TITLE 2. COMMERCIAL PROVISIONS	665
CHAPTER 1. PRELIMINARY PROVISIONS	665
§ 38500. Application of title	665
CHAPTER 2. MANAGEMENT OF RESOURCE	665
§ 38550. Policy declaration	665
§ 38555. Area south of Point Mugu	666
§ 38560. Humboldt Bay	666
PART 5. BARRACUDA	667
TITLE 1. BARRACUDA GENERALLY	667
§ 38700. Provisions not exclusive	667
§ 38705. Delivery of barracuda taken from waters off coast of Mexico	667
TITLE 2. COMMERCIAL PROVISIONS	667
§ 38750. Application of title	667
§ 38755. Size restrictions	668
§ 38760. Use of purse seines or round haul nets	668
PART 6. BASS	669
TITLE 1. BASS GENERALLY	669
CHAPTER 1. PRELIMINARY PROVISIONS	669
§ 38800. Provisions not exclusive	669
CHAPTER 2. SPECIFIC TYPES OF BASS	669
§ 38850. Black bass	669
§ 38855. Giant seabass	670
§ 38860. Spotted bass	670

§ 38865. Striped bass	670
§ 38870. White bass	671
§ 38875. White sea bass	671
CHAPTER 3. BLACK BASS CONSERVATION AND MANAGEMENT ACT OF 1980	671
§ 38900. Name of act	671
§ 38905. Declaration of preservation	672
§ 38910. Declaration relating to funding	672
§ 38915. Components of management program	672
TITLE 2. COMMERCIAL PROVISIONS	673
CHAPTER 1. PRELIMINARY PROVISIONS	673
§ 38950. Application of title	673
CHAPTER 2. STRIPED BASS	673
§ 39000. Take with purse or round haul net.....	673
§ 39005. Required return to water.....	673
§ 39010. Possession, offer for sale, sale, or purchase	673
CHAPTER 3. WHITE SEA BASS	674
§ 39050. Undersized white sea bass	674
§ 39055. Use of purse seines or round haul nets	674
CHAPTER 4. OTHER BASS	674
§ 39100. Giant seabass	674
§ 39105. Kelp bass, sand bass, or spotted bass	675
PART 7. CARP	675
TITLE 1. CARP GENERALLY	675
CHAPTER 1. PRELIMINARY PROVISIONS	675
§ 39150. Application of title	675
§ 39155. Provisions not exclusive.....	675
CHAPTER 2. GRASS CARP	676
§ 39200. Preexisting grass carp programs.....	676
§ 39205. Legislative declaration	676
§ 39210. Department regulations	676
§ 39215. Certification by providers.....	677
§ 39220. Information required for permit	677
§ 39225. Permit conditions.....	678
§ 39230. Permit and inspection fees.....	678
§ 39235. Report by permittee	678
§ 39240. Consultation with Department of Food and Agriculture.....	679
§ 39245. Suspension of permit issuance process	679
TITLE 2. COMMERCIAL PROVISIONS	679
§ 39300. Application of title	679
§ 39305. Use of traps.....	679
PART 8. CATFISH.....	680
TITLE 1. CATFISH GENERALLY <i>[RESERVED]</i>	680
TITLE 2. COMMERCIAL PROVISIONS	680
§ 39400. Application of title	680
§ 39405. Provisions not exclusive.....	680
§ 39410. Prohibited sale	680
PART 9. CROAKER	680
TITLE 1. CROAKER GENERALLY.....	680
§ 39500. Provisions not exclusive.....	680
TITLE 2. COMMERCIAL PROVISIONS	681
§ 39550. Application of title	681

§ 39555. Yellowfin croaker, spotfin croaker, or California corbina	681
PART 10. GRUNION	681
TITLE 1. GRUNION GENERALLY	681
§ 39600. Provisions not exclusive	681
TITLE 2. COMMERCIAL PROVISIONS	681
§ 39650. Application of title	681
§ 39655. Season	681
PART 11. HAGFISH	682
TITLE 1. HAGFISH GENERALLY	682
§ 39700. Provisions not exclusive	682
TITLE 2. COMMERCIAL PROVISIONS	682
§ 39750. Application of title	682
§ 39755. Definitions	682
§ 39760. Take	682
PART 12. HALIBUT	683
TITLE 1. HALIBUT GENERALLY	683
§ 39800. Provisions not exclusive	683
§ 39805. Conformity with other law	683
TITLE 2. COMMERCIAL PROVISIONS	684
CHAPTER 1. PRELIMINARY PROVISIONS	684
§ 39850. Application of title	684
CHAPTER 2. TAKE, POSSESSION, OR SALE	684
Article 1. General Provisions	684
§ 39900. Season	684
§ 39905. Size restrictions	684
Article 2. Halibut Bottom Trawl Permit	684
§ 39950. Permit requirement	684
§ 39955. Issuance	685
§ 39960. Transfers generally	685
§ 39965. Permitted transfers	685
§ 39970. Permit fees	687
§ 39975. Application of federal permit	687
§ 39980. Commission regulation	687
§ 39985. Inoperative date of article	688
Article 3. Halibut Trawl Grounds	688
§ 40100. California halibut trawl grounds	688
§ 40115. Other requirements	690
§ 40120. Season for take	691
§ 40125. Incidental take or possession of halibut	692
PART 13. HERRING	692
TITLE 1. HERRING GENERALLY	692
§ 40250. Provisions not exclusive	692
TITLE 2. COMMERCIAL PROVISIONS	692
CHAPTER 1. PRELIMINARY PROVISIONS	692
§ 40300. Application of title	692
CHAPTER 2. PERMIT	693
§ 40350. Permit required for take	693
§ 40355. Limit on number of permits issued	693
§ 40360. Fee for permit	693
§ 40365. Permit requirements	693
§ 40370. Herring fishery experience points	694

§ 40375. Issuance of single permit to two individuals	694
§ 40380. Transfer of permit generally	696
§ 40385. Regulations relating to transfer of permits	696
§ 40390. Transfer fee	697
§ 40395. Drawing for expired permits	697
§ 40400. Adjustment of fees	697
§ 40405. Temporary substitution of crewmember	697
§ 40410. Periodic review of regulations and policies	698
§ 40415. Regulation relating to use of gill nets.....	698
§ 40420. Determination relating to use of round haul nets in Districts 2600 and 2605.....	698
§ 40425. Herring research and management account.....	698
§ 40430. San Francisco Bay herring stamp.....	699
§ 40435. Funds to be deposited in herring research and management account	699
§ 40440. Proof of crewmember experience.....	700
§ 40455. Commission regulation	700
CHAPTER 3. TAKE OF HERRING EGGS	700
§ 40500. Permit to take herring eggs.....	700
§ 40505. Payment of royalty	700
§ 40510. Permit limitations	700
§ 40515. Exception for incidental take of aquatic plants	701
PART 14. MACKEREL	701
TITLE 1. MACKEREL GENERALLY	701
§ 40550. Provisions not exclusive	701
TITLE 2. COMMERCIAL PROVISIONS	702
§ 40600. Application of title	702
§ 40605. Authorized take	702
§ 40610. Federal fishery regulations	702
PART 15. MARLIN.....	702
TITLE 1. MARLIN GENERALLY	702
§ 40700. Provisions not exclusive	702
§ 40705. Transport of marlin meat out of state	703
§ 40710. Department monitoring of take	703
TITLE 2. COMMERCIAL PROVISIONS	703
§ 40750. Application of title	703
§ 40755. Marlin meat	703
§ 40760. Importation for producing fish cakes	703
PART 16. SABLEFISH	704
TITLE 1. SABLEFISH GENERALLY	704
§ 40850. Provisions not exclusive	704
TITLE 2. COMMERCIAL PROVISIONS	704
§ 40900. Application of title	704
§ 40905. Required permit.....	704
PART 17. SALMON.....	705
TITLE 1. SALMON GENERALLY	705
CHAPTER 1. PRELIMINARY PROVISIONS	705
§ 40950. Provisions not exclusive	705
§ 40955. Legislative determination	705
CHAPTER 2. TAKE OR POSSESSION	706
§ 41000. Salmon spawning areas	706
§ 41005. Hook other than in mouth.....	706
§ 41010. Conformity with federal law	707

CHAPTER 3. IMPORTATION	707
§ 41050. Importation of undersized salmon	707
TITLE 2. COMMERCIAL PROVISIONS	708
CHAPTER 1. PRELIMINARY PROVISIONS	708
§ 41300. Application of title	708
§ 41305. Definitions	708
CHAPTER 2. COMMERCIAL SALMON TROLLERS ENHANCEMENT AND RESTORATION PROGRAM	709
§ 41350. Declaration of legislative intent	709
§ 41355. Commercial fishing salmon stamp requirement	709
§ 41360. Use of fees from commercial fishing salmon stamps	710
§ 41365. Source of other funds for program	711
§ 41370. Allocation of funds	712
§ 41375. Funding priority	712
§ 41380. Advisory Committee	712
§ 41385. Creation of artwork or related material for sale	713
§ 41390. Inoperative date of chapter	714
CHAPTER 3. PERMISSIONS AND PROHIBITIONS	714
§ 41450. Authorized take	714
§ 41455. Possession, sale, offer for sale, or purchase	714
§ 41460. Sale during period when take unlawful	715
§ 41465. Take at mouth of Humboldt Bay	715
§ 41470. Sale, possession, or transport of silver salmon in specified districts	715
§ 41475. Undersized salmon	716
§ 41480. Take for commercial purpose in District 2570 or 2575	716
§ 41485. Take with purse or round haul net	716
§ 41490. Use of trawl net	716
§ 41495. Required return to water if caught in net	717
CHAPTER 4. HIGH SEAS INTERCEPTION OF SALMON	717
§ 41600. Definitions	717
§ 41605. Prohibited acts generally	717
§ 41610. Prohibited acts on vessel known to contain unlawfully obtained salmon	718
CHAPTER 5. COMMERCIAL SALMON VESSEL PERMITS	719
Article 1. General Provisions	719
§ 41650. Legislative declaration	719
§ 41655. Severability of provisions	720
§ 41660. Regulation and administrative procedures	720
§ 41665. Commercial take or possession on vessel	720
§ 41670. Take for sport purposes	720
§ 41675. Conditions for issuance of any permit	721
§ 41680. Inapplicability of limited fishery eligibility provision	721
§ 41685. Allowable number of permitted vessels	721
§ 41690. New entry permit	722
§ 41695. Application for new entry permit	722
§ 41700. Drawing for new entry permits	722
§ 41705. Review of new entry provisions	723
§ 41710. Issuance of new entry permit	723
§ 41715. Renewal required prior to expiration	724
§ 41720. Department to send renewal notice and application	724
§ 41725. Renewal of permit	724
§ 41730. Issuance of permit after renewal	725

§ 41735. Change of ownership of vessel.....	725
§ 41740. Replacement vessel permit.....	726
§ 41745. Fishing potential classification system for replacement vessels	727
§ 41750. Request for review of vessel before submission of transfer application	728
§ 41755. Transfer application based on lost, stolen, or destroyed vessel.....	728
§ 41760. Issuance of replacement vessel permit	729
§ 41765. Term of permit for replacement vehicle	729
§ 41775. Appeal of denial or permit transfer	729
§ 41780. Reversal of denial of permit renewal or transfer	730
§ 41795. Display of permit expiration date	730
§ 41800. Commercial fishing salmon stamp.....	730
Article 2. Commercial Salmon Fishing Review Board	730
§ 41900. Creation of board.....	730
§ 41905. Legislative declaration	731
§ 41910. Adoption of regulations by director	731
§ 41915. Composition of board	731
§ 41920. Exemption of board members	731
§ 41925. Member terms	732
§ 41930. Removal of board member	732
§ 41935. Member compensation	732
§ 41940. Meeting attendance by director or designee.....	732
§ 41945. Function of board	732
§ 41950. Duties of review board	732
§ 41955. Obligation of board members.....	733
CHAPTER 6. SALMON MANAGEMENT	733
§ 42050. Department consultation	733
CHAPTER 7. MISCELLANEOUS PROVISIONS	733
§ 42100. Take from commercial passenger fishing boat.....	733
§ 42110. Missing adipose fin	735
PART 18. SARDINES	735
TITLE 1. SARDINES GENERALLY	735
§ 42200. Provisions not exclusive.....	735
TITLE 2. COMMERCIAL PROVISIONS	736
CHAPTER 1. GENERAL PROVISIONS	736
§ 42250. Application of title	736
§ 42255. Declaration of legislative intent	736
§ 42260. Conformity with federal fishery regulations	736
§ 42265. Take or possession	736
CHAPTER 2. MISCELLANEOUS PROVISIONS	736
§ 42350. Compliance with use stated on landing receipt	736
PART 19. SHAD.....	737
TITLE 1. SHAD GENERALLY	737
§ 42450. Provisions not exclusive.....	737
§ 42455. Importation of shad	737
TITLE 2. COMMERCIAL PROVISIONS	737
§ 42500. Application of title	737
§ 42505. Take with purse or round haul net.....	737
PART 20. SHARKS	737
TITLE 1. SHARKS GENERALLY	737
§ 42600. Provisions not exclusive.....	737
§ 42605. Take generally	738

§ 42610. Shark fins.....	738
§ 42615. Report by Ocean Protection Council.....	739
TITLE 2. COMMERCIAL PROVISIONS	739
CHAPTER 1. PRELIMINARY PROVISIONS	739
§ 42700. Application of title	739
CHAPTER 2. SHARK PARTS	739
§ 42750. Shark fin or tail.....	739
CHAPTER 3. ANGEL SHARKS	740
§ 42800. Measurement	740
§ 42805. Size restrictions	740
§ 42810. Take in gill or trammel net.....	740
CHAPTER 4. BASKING SHARKS	740
§ 42850. Regulation	740
CHAPTER 5. LEOPARD SHARKS	741
§ 42900. Groundfish.....	741
§ 42905. Take	741
CHAPTER 6. WHITE SHARKS.....	741
§ 42950. Take for commercial purpose.....	741
§ 42955. Collection of data	742
PART 21. STURGEON	742
TITLE 1. STURGEON GENERALLY	742
CHAPTER 1. PRELIMINARY PROVISIONS	742
§ 43100. Provisions not exclusive.....	742
CHAPTER 2. TAKE, POSSESSION, OR SALE	742
§ 43150. Take or possession	742
CHAPTER 3. IMPORTATION	743
§ 43200. Importation of sturgeon.....	743
CHAPTER 4. STURGEON EGG PROCESSING	743
§ 43250. Required license	743
§ 43255. License fee.....	743
§ 43260. License term	744
§ 43265. Required documentation	744
§ 43270. Retention and inspection of documentation	745
TITLE 2. COMMERCIAL PROVISIONS	745
§ 43350. Application of title	745
§ 43355. Required return to water if caught in net.....	745
PART 22. SURFPERCH.....	746
TITLE 1. SURFPERCH GENERALLY	746
§ 43500. Provisions not exclusive.....	746
TITLE 2. COMMERCIAL PROVISIONS	746
§ 43550. Application of title	746
§ 43555. Take	746
PART 23. SWORDFISH	747
TITLE 1. SWORDFISH GENERALLY.....	747
§ 43600. Provisions not exclusive.....	747
TITLE 2. COMMERCIAL PROVISIONS	747
§ 43650. Application of title	747
§ 43655. Permit requirement	747
PART 24. TROUT	748
TITLE 1. TROUT GENERALLY	748
CHAPTER 1. PRELIMINARY PROVISIONS	748

§ 43800. Provisions not exclusive	748
§ 43805. Legislative declaration	748
CHAPTER 2. SHIPMENT OF TROUT	749
§ 43850. Transport of trout	749
§ 43855. Shipment of trout into area where season closed	749
CHAPTER 3. STEELHEAD TROUT	750
Article 1. General Provisions	750
§ 43900. Provisions not exclusive	750
Article 2. Take	750
§ 43950. Hook other than in mouth	750
Article 3. Report-Restoration Card	750
§ 44000. Required trout fishing report-restoration card	750
§ 44005. Use of revenue	751
§ 44010. Inoperative date of article	751
TITLE 2. COMMERCIAL PROVISIONS	752
CHAPTER 1. TROUT GENERALLY	752
§ 44100. Application of title	752
§ 44105. Sale or purchase	752
CHAPTER 2. STEELHEAD AND DOLLY VARDEN TROUT	752
§ 44200. Taken from out of state	752
§ 44205. Take with purse or round haul net	752
PART 25. TUNA	753
TITLE 1. TUNA GENERALLY	753
CHAPTER 1. PRELIMINARY PROVISIONS	753
§ 44300. Provisions not exclusive	753
CHAPTER 2. TAKE OR POSSESSION	753
§ 44350. Conformity with federal law	753
TITLE 2. COMMERCIAL PROVISIONS	753
CHAPTER 1. PRELIMINARY PROVISIONS	753
§ 44400. Application of title	753
CHAPTER 2. SPECIFIC TYPES OF TUNA	753
§ 44450. Albacore	753
§ 44455. Bluefin tuna	754
§ 44460. Pacific bonito	754
§ 44465. Skipjack	754
§ 44470. Yellowfin tuna	754
PART 26. YELLOWTAIL	755
TITLE 1. YELLOWTAIL GENERALLY	755
CHAPTER 1. PRELIMINARY PROVISIONS	755
§ 44600. Provisions not exclusive	755
CHAPTER 2. IMPORTATION	755
§ 44650. Delivery of yellowtail taken from waters off coast of Mexico	755
TITLE 2. COMMERCIAL PROVISIONS	755
§ 44750. Application of title	755
§ 44755. Size restrictions	755
§ 44760. Possession restrictions	756
§ 44765. Use of purse seines or round haul nets	756
DIVISION 11. INVERTEBRATES	757
PART 1. GENERAL PROVISIONS	757
§ 45000. Governance by other provisions	757
§ 45005. Scope of commercial provisions	757

§ 45010. Take or possession in tidal area.....	757
PART 2. DISEASE CONTROL <i>[RESERVED]</i>	758
PART 3. CLASSES OF INVERTEBRATES	758
TITLE 1. CRUSTACEANS	758
CHAPTER 1. PRELIMINARY PROVISIONS	758
§ 45250. Use as bait	758
CHAPTER 2. COMMERCIAL PROVISIONS	758
§ 45300. Application of title	758
§ 45305. Take with powered equipment	758
TITLE 2. MOLLUSKS	759
CHAPTER 1. PRELIMINARY PROVISIONS	759
§ 45400. Use as bait	759
§ 45405. Take with powered equipment	759
CHAPTER 2. MOLLUSK PURIFICATION	759
§ 45450. Specified districts	759
§ 45455. Sanitary surveys	759
§ 45460. Certification of water quality	760
§ 45465. Royalty	760
CHAPTER 3. SHELLFISH	760
§ 45500. Authority of State Department of Public Health	760
§ 45505. Prohibited take.....	761
§ 45510. Notice of contamination	761
§ 45515. Enforcement	762
CHAPTER 2. COMMERCIAL PROVISIONS <i>[RESERVED]</i>	762
PART 4. ABALONE	762
TITLE 1. ABALONE GENERALLY.....	762
CHAPTER 1. PRELIMINARY PROVISIONS	762
§ 45650. Mollusk.....	762
§ 45655. Provisions not exclusive	762
CHAPTER 2. TAKE.....	762
§ 45700. Take from ocean waters	762
CHAPTER 3. IMPORTATION	763
§ 45750. Requirements	763
CHAPTER 4. GEOGRAPHIC RESTRICTIONS	763
§ 45800. Moratorium on take, possession, or landing	763
§ 45805. Commercial restriction on take	764
§ 45810. Collection as broodstock by aquaculturist	764
CHAPTER 5. RECREATIONAL ABALONE MANAGEMENT PROGRAM	764
§ 45950. “Program”	764
§ 45955. Use of fees	764
§ 45960. Program elements	765
CHAPTER 6. ABALONE RECOVERY AND MANAGEMENT PLAN	765
§ 46000. Declaration of legislative intent	765
§ 46005. Elements of plan	766
§ 46010. Funding of plan	766
§ 46015. Action following adoption of plan	767
§ 46020. Priority for previous commercial permittees	767
CHAPTER 7. RECREATIONAL ABALONE ADVISORY COMMITTEE.....	767
§ 46050. Committee requirements	767
TITLE 2. COMMERCIAL PROVISIONS	769
CHAPTER 1. PRELIMINARY PROVISIONS	769

§ 46100. Application of title	769
CHAPTER 2. ABALONE RESOURCES RESTORATION AND ENHANCEMENT PROGRAM	769
§ 46150. Funding of program	769
PART 5. CLAMS	769
TITLE 1. CLAMS GENERALLY	769
CHAPTER 1. PRELIMINARY PROVISIONS	769
§ 46200. Mollusk	769
§ 46205. Provisions not exclusive	770
CHAPTER 2. PISMO CLAMS	770
§ 46250. Possession	770
§ 46255. Shipping	770
§ 46260. Importing	770
CHAPTER 3. MISCELLANEOUS PROVISIONS	770
§ 46300. Digging instruments	770
TITLE 2. COMMERCIAL PROVISIONS	771
CHAPTER 1. PRELIMINARY PROVISIONS	771
§ 46350. Application of title	771
CHAPTER 2. TAKE	771
§ 46400. When take permitted	771
§ 46405. Commission regulation of take of freshwater claims for commercial purpose	771
§ 46410. Littlenecks, chiones and hard-shell cockles	771
§ 46415. Northern razor clams	772
§ 46420. Pismo clams	772
§ 46425. Washington clams and gappers	772
PART 6. CRAB	773
TITLE 1. CRAB GENERALLY	773
CHAPTER 1. PRELIMINARY PROVISIONS	773
§ 46500. Crustacean	773
§ 46505. Provisions not exclusive	773
CHAPTER 2. IMPORTATION	773
§ 46550. Importation of crab meat	773
TITLE 2. COMMERCIAL PROVISIONS	773
CHAPTER 1. PRELIMINARY PROVISIONS	773
§ 46800. Application of title	773
§ 46855. Definitions	774
CHAPTER 2. TAKE AND POSSESSION	774
§ 47000. Use of trawl or drag net	774
§ 47005. Concurrent take for commercial and sport purposes	774
§ 47010. Restrictions on eligibility to take crab	774
§ 47015. Crab meat and frozen crab	775
CHAPTER 3. DUNGENESS CRAB	775
Article 1. General Provisions	775
§ 47050. Provisions not exclusive	775
§ 47055. Prohibited sale of take from specified waters	775
§ 47060. Take in Crescent City Harbor area	776
§ 47065. Use of trawl or drag net south of Point Reyes	776
§ 47070. Size and sex restrictions	776
Article 2. Geographic Restrictions	777
§ 47150. Delayed opening season in District 2570, 2575, 2580, or 2585	777
§ 47155. Ocean waters	777
Article 3. Seasons Generally	778

§ 47300. Seasons	778
§ 47305. Extension of season	778
Article 4. Delayed Opening Seasons	779
§ 47350. Authority of director to order delay	779
§ 47355. Authority of director to order quality testing	779
§ 47360. Testing guidelines	779
§ 47365. Delay in season opening in District 2570, 2575, 2580, or 2585 based on testing	779
§ 47370. Sale of crab meat extracted for testing	780
§ 47375. Inoperative date of article	780
Article 5. Use of Traps Generally	781
§ 47450. Use of traps	781
§ 47455. Setting and baiting of traps	781
§ 47460. Incidental take	782
§ 47465. Report to Legislature	782
Article 6. Trap Limit Program	782
§ 47600. “Council”	782
§ 47605. Legislative declaration	783
§ 47610. Adoption of program	783
§ 47615. Program requirements	783
§ 47620. Tier requirements	783
§ 47625. Program participant requirements	784
§ 47630. Fee waiver for military service	785
§ 47635. Transit with valid out-of-state tags	785
§ 47640. Department accounting	785
§ 47645. Lost tags	785
§ 47650. Appeal of trap tag allocation	785
§ 47655. Submission of proposed program to task force	786
§ 47660. Dungeness Crab Account	787
§ 47665. Inoperative date of article	787
Article 7. Dungeness Crab Task Force	787
§ 47800. Task force	787
§ 47805. Election of representatives	788
§ 47810. Alternates	789
§ 47815. Responsibilities of task force	789
§ 47820. Subcommittees	790
§ 47825. Grant	790
§ 47830. Task force recommendations	790
§ 47835. Inoperative date of article	790
Article 8. Entanglement Risk Assessment and Mitigation	791
§ 47850. Definitions	791
§ 47855. Regulations	791
§ 47860. Mitigation	792
§ 47865. Prohibition	793
§ 47870. Sunset	793
CHAPTER 4. DUNGENESS CRAB VESSEL PERMITS	794
Article 1. General Provisions	794
§ 47900. Permit requirement	794
§ 47905. Fees for permit	794
§ 47910. Inoperative date of article	794
Article 2. Issuance	794

§ 48100. No new permits	794
§ 48105. Death of permittee	795
§ 48110. Eligibility	795
§ 48115. Inoperative date of article	796
Article 3. Transfer Generally	796
§ 48300. Application for transfer	796
§ 48305. Fees for transfer	796
Article 4. Specific Rules Governing Transfer	796
§ 48310. Restriction on transfer	796
§ 48315. Transfer to purchaser of vessel	797
§ 48320. Transfer to replacement vessel	797
§ 48325. Transfer to replacement vessel in specified circumstances	797
§ 48330. Transfer to vessel of greater capacity owned by permit holder	798
§ 48335. Restriction on transfer to larger vessel	798
§ 48340. Transfer where permitted vessel damaged, lost, or destroyed	798
§ 48345. Transfer to new vessel	800
§ 48350. Transfer on death of permitholder	800
§ 48355. Length of vessel	800
§ 48360. Inoperative date	801
Article 5. Miscellaneous Provisions	801
§ 48500. Legislative declaration	801
§ 48505. Location where permits valid	802
§ 48510. Assistance of unpermitted vessel	802
CHAPTER 5. ROCK CRAB	802
§ 48650. Rock crab season	802
§ 48655. Take of rock crab	803
§ 48660. Incidental take	803
PART 7. CRAYFISH	804
TITLE 1. CRAYFISH GENERALLY	804
§ 48950. Crustacean	804
§ 48955. Provisions not exclusive	804
TITLE 2. COMMERCIAL PROVISIONS	804
§ 49000. Application of title	804
§ 49005. Take	804
§ 49010. Use of traps	804
§ 49015. Take in Lake Tahoe	805
§ 49020. Overfishing in Sacramento-San Joaquin Delta	805
PART 8. KRILL	805
TITLE 1. KRILL GENERALLY	805
§ 49150. Crustacean	805
TITLE 2. COMMERCIAL PROVISIONS	806
§ 49200. Application of title	806
§ 49205. Take	806
PART 9. LOBSTER	806
TITLE 1. LOBSTER GENERALLY	806
§ 49300. Crustacean	806
§ 49305. Provisions not exclusive	806
§ 49310. Take of spiny lobster	806
§ 49315. Importing of spiny lobster	807
TITLE 2. COMMERCIAL PROVISIONS	807
CHAPTER 1. PRELIMINARY PROVISIONS	807

§ 49450. Application of title	807
CHAPTER 2. PERMIT	807
§ 49500. Required permit.....	807
§ 49505. Display of permit number	808
§ 49510. Limit on number of permits issued	808
CHAPTER 3. TAKE.....	808
§ 49600. Season for take	808
§ 49605. Size limitation	808
§ 49610. Possession or landing on vessel	808
§ 49615. Filing of criminal complaint.....	809
CHAPTER 4. LOBSTER TRAPS.....	809
§ 49700. Use of trap	809
§ 49705. Construction of trap.....	809
§ 49710. Locations where traps may be used.....	810
§ 49715. Incidental take of other species	811
CHAPTER 5. OTHER PROHIBITIONS	811
§ 49750. Prohibition on sale of lobsters taken while skindiving	811
§ 49755. Preserving	811
PART 10. MONARCH BUTTERFLIES	811
TITLE 1. MONARCH BUTTERFLIES GENERALLY	811
§ 49825. Provisions not exclusive.....	811
TITLE 2. CONSERVATION.....	812
§ 49850. Conservation Authority	812
PART 11. MUSSELS	813
TITLE 1. MUSSELS GENERALLY	813
§ 49900. Mollusk.....	813
§ 49905. Provisions not exclusive.....	813
TITLE 2. DREISSENID MUSSELS	813
CHAPTER 1. MANAGEMENT BY DEPARTMENT.....	813
§ 49950. General prohibition	813
§ 49955. Report of discovery by any entity	813
§ 49960. Authority of department to inspect.....	813
§ 49965. Restricted access to designated areas	814
§ 49970. Involvement of other agencies	815
§ 49975. Inapplicability of division of Public Resources Code	815
§ 49980. Water supply agency cooperation	815
§ 49985. Department authority to adopt regulations	816
§ 49990. Immunity from liability	816
§ 50000. Inoperative date	816
CHAPTER 2. RESERVOIR OWNERS OR MANAGERS.....	816
§ 50100. Inapplicability of chapter	816
§ 50105. Duties where water activities are permitted	816
§ 50110. Duties where water activities are not permitted	817
§ 50115. Duties where reservoir not open to public.....	817
§ 50120. Applicability of chapter to governmental entities	817
§ 50125. Adoption of regulations by department.....	817
TITLE 3. COMMERCIAL PROVISIONS	818
§ 50250. Application of title	818
§ 50255. Take	818

PART 12. SCALLOPS	818
TITLE 1. SCALLOPS GENERALLY	818
§ 50350. Mollusk.....	818
TITLE 2. COMMERCIAL PROVISIONS	818
§ 50400. Application of title	818
§ 50405. Sale or purchase	818
PART 13. SEA CUCUMBERS	819
TITLE 1. SEA CUCUMBERS GENERALLY	819
§ 50450. Provisions not exclusive	819
TITLE 2. COMMERCIAL PROVISIONS	819
§ 50500. Application of title	819
§ 50505. Take, possession, or landing	819
§ 50510. Permit	819
§ 50515. Transfer of permit.....	820
§ 50520. Commission regulation	821
§ 50525. Inoperative date of chapter.....	821
PART 14. SEA URCHINS	821
TITLE 1. SEA URCHINS GENERALLY	821
§ 50650. Provisions not exclusive	821
§ 50655. Department grant	822
TITLE 2. COMMERCIAL PROVISIONS	823
§ 50700. Application of title	823
§ 50705. Permit required	823
§ 50710. Allowed appliances	823
PART 15. SHRIMP AND PRAWNS	824
TITLE 1. SHRIMP AND PRAWNS GENERALLY	824
§ 50850. Crustacean	824
§ 50855. Provisions not exclusive	824
TITLE 2. COMMERCIAL PROVISIONS	824
CHAPTER 1. PRELIMINARY PROVISIONS	824
§ 50950. Application of title	824
§ 50955. “Shrimp” or “prawns”	824
CHAPTER 2. TAKE.....	825
Article 1. General Provisions.....	825
§ 51000. Take generally allowed	825
§ 51005. Take for commercial purpose.....	825
§ 51010. Required bycatch reduction device	825
§ 51015. Use of traps.....	825
Article 2. Geographic Restrictions.....	826
§ 51050. Take south of Point Concepcion	826
Article 3. Use of Trawl Nets	826
§ 51100. Permit	826
§ 51105. Geographic restrictions	827
§ 51110. Incidental take while fishing for pink shrimp	827
§ 51115. Incidental take while fishing for ridgeback or spotted prawn	828
PART 16. SQUID	828
TITLE 1. SQUID GENERALLY	828
§ 51300. Mollusk.....	828
§ 51305. Provisions not exclusive	828

TITLE 2. COMMERCIAL PROVISIONS	828
CHAPTER 1. PRELIMINARY PROVISIONS	828
§ 51350. Application of title	828
CHAPTER 2. TAKE.....	828
§ 51400. When take permitted	828
§ 51405. Unlawful activities in District 2590	829
CHAPTER 3. MARKET SQUID	829
§ 51450. Legislative declaration	829
§ 51455. Purchase of squid from vessel	830
§ 51460. Adoption of fishery management plan and regulations	830
§ 51465. Management of fishery.....	831
§ 51470. Permit fee	831
§ 51475. Statements relating to permit.....	831
§ 51485. No limit on authority of director or commission.....	831
DIVISION 12. AMPHIBIANS	832
PART 1. GENERAL PROVISIONS	832
§ 51900. Governance by other provisions.....	832
§ 51905. Use as bait	832
PART 2. DISEASE CONTROL	832
§ 52000. Application of title	832
§ 52005. Authorized entry by department.....	832
§ 52010. Public nuisance	832
§ 52015. Conditional destruction	833
§ 52020. Posting of notices	833
§ 52025. Prohibited transportation within state	833
§ 52030. Expense of examination	833
PART 3. CLASSES OF AMPHIBIANS	833
TITLE 1. FULLY PROTECTED AMPHIBIANS.....	833
§ 52200. Prohibition on take and possession	833
TITLE 2. NATIVE AMPHIBIANS	834
§ 52300. “Native amphibian”	834
§ 52305. Commission to establish rules.....	834
PART 4. SPECIFIC TYPES OF AMPHIBIANS	835
TITLE 1. FROGS.....	835
CHAPTER 1. PRELIMINARY PROVISIONS	835
§ 52400. “Frog”	835
§ 52405. Provisions not exclusive	835
CHAPTER 2. TAKE OR POSSESSION	835
§ 52450. General prohibition on take or possession	835
§ 52455. Prohibited take by firearm	835
§ 52460. Lawful possession limited to authorized number of frogs	835
§ 52465. Disposal permit	836
CHAPTER 3. FROG JUMPING CONTESTS	836
§ 52500. “Frog-jumping contest”	836
§ 52505. Applicability of chapter.....	836
§ 52510. Exemption from other law	836
§ 52515. Disposition of dead frog	837
§ 52520. No modification of provision by commission.....	837
DIVISION 13. REPTILES	837
PART 1. GENERAL PROVISIONS	837
§ 52800. Governance by other provisions.....	837

PART 2. DISEASE CONTROL <i>[RESERVED]</i>	837
PART 3. CLASSES OF REPTILES	837
TITLE 1. FULLY PROTECTED REPTILES	837
§ 53000. Prohibition on take and possession	837
TITLE 2. NATIVE REPTILES.....	838
§ 53100. “Native reptiles”	838
§ 53105. Commission to establish rules and regulations	838
PART 4. SPECIFIC TYPES OF REPTILES	839
TITLE 1. ALLIGATORS AND RELATED ANIMALS	839
§ 53200. Use or sale of meat or hides	839
TITLE 2. RATTLESNAKES	839
§ 53250. Take	839
TITLE 3. TORTOISES AND TURTLES	839
§ 53300. Provisions not exclusive	839
§ 53305. General prohibitions	839
§ 53310. Possession by institutions	839
§ 53315. Tortoises acquired before 1973	840
DIVISION 14. PLANTS	840
PART 1. GENERAL PROVISIONS	840
§ 53500. Governance by other provisions	840
PART 2. DISEASE CONTROL	840
TITLE 1. AQUATIC PLANTS.....	840
§ 53600. Application of title	840
§ 53605. Inspection	840
§ 53610. Public nuisance	841
§ 53615. Deleterious plants	841
§ 53620. Notices.....	841
§ 53625. Transportation within state	841
§ 53630. Expense of examination	841
PART 3. CLASSES OF PLANTS	842
TITLE 1. NATIVE PLANT PROTECTION ACT	842
§ 53800. Legislative intent	842
§ 53803. “Native plant”	842
§ 53805. Criteria.....	842
§ 53810. Designation.....	842
§ 53815. Notice to affected land owner	843
§ 53820. Prohibited activities	843
§ 53825. Regulation	843
§ 53830. Enforcement authority	843
§ 53835. Arrest	844
§ 53840. Application of Penal Code Section 384a.....	844
§ 53845. State agency programs	844
§ 53850. Department activities.....	844
§ 53855. Exemptions	845
TITLE 2. CALIFORNIA DESERT NATIVE PLANTS	846
§ 53900. Department enforcement of Act	846
§ 53905. Cooperation with Department of Food and Agriculture	846
§ 53910. Effect of Act on department activities.....	846
PART 4. SPECIFIC TYPES OF PLANTS	847
TITLE 1. KELP AND OTHER AQUATIC PLANTS.....	847
CHAPTER 1. GENERAL PROVISIONS	847

§ 54000. Provisions not exclusive	847
§ 54005. Commission rulemaking	847
§ 54010. Application of title	847
CHAPTER 2. COMMERCIAL PROVISIONS	847
Article 1. Kelp Harvest License	847
§ 54025. License requirement	847
§ 54030. Issuance of license	847
§ 54040. Scientific and educational permits	848
Article 2. Kelp Harvest Royalties	848
§ 54050. Royalty	848
§ 54055. Weight records	848
Article 3. Kelp Bed Leases	849
§ 54075. Description and regulation of kelp beds	849
§ 54080. Exclusive lease of kelp bed	849
§ 54085. Application	849
§ 54090. Deposit	850
§ 54095. Commission action on application	850
§ 54100. Terms of lease	850
§ 54105. Renewal	850
§ 54110. Renewal of leases in effect on specified dates	851
§ 54115. Renegotiated terms	851
§ 54120. Royalty payment	851
§ 54125. Assignment	852
§ 54130. DGS approval	852
§ 54135. Official record of lease	852
§ 54140. State Lands Commission	853
Article 4. Closure of Kelp Beds	853
§ 54175. Notice of proposed closure	853
§ 54180. Hearing	853
CHAPTER 3. NONCOMMERCIAL USE OF KELP	853
§ 54200. Commission regulation	853
§ 54205. Governance by other provisions	854
CHAPTER 4. AGAR-BEARING MARINE PLANTS	854
Article 1. General Provisions	854
§ 54300. Provisions not exclusive	854
§ 54305. Application of title	854
Article 2. Drying	854
§ 54325. Permit requirement	854
§ 54330. Permit issuance	854
DIVISION 15. HABITAT CONSERVATION AND ENHANCEMENT	854
PART 1. GENERAL PROVISIONS	854
TITLE 1. CONSERVATION OF WILDLIFE RESOURCES	855
§ 54500. “Wildlife” defined	855
§ 54505. Policy	855
§ 54510. Department jurisdiction	856
TITLE 2. CONSERVATION OF AQUATIC RESOURCES	856
§ 54525. Policy	856
TITLE 3. DEPARTMENT AUTHORITY	857
§ 54550. Habitat improvement	857
§ 54555. Contracts for habitat improvement	857

TITLE 4. SIGNIFICANT NATURAL AREAS	858
§ 54570. Findings and declarations	858
§ 54575. Definitions	859
§ 54580. Identification of wildlife corridors	859
§ 54585. Significant Natural Areas Program	859
§ 54590. Vegetation mapping standard	860
§ 54595. Cooperation with public and private entities	861
§ 54600. Voluntary protections	862
§ 54605. Disclaimers	863
PART 2. HABITAT CONSERVATION AND ENHANCEMENT PROGRAMS	863
TITLE 1. WILDLIFE CONSERVATION LAW OF 1947	863
CHAPTER 1. GENERAL PROVISIONS	863
§ 54700. Short title	863
§ 54705. Definitions	863
§ 54710. Policy	863
CHAPTER 2. WILDLIFE CONSERVATION BOARD	864
Article 1. Administration	864
§ 54750. Establishment and composition of board	864
§ 54755. Board chair	864
§ 54760. Travel expenses	865
§ 54765. Participation of legislators	865
§ 54770. Interim investigating committee	865
Article 2. Powers and Purposes	865
§ 54800. Studies	865
§ 54805. Determination	866
§ 54810. Consideration of greenhouse gas emissions	866
§ 54815. Acquisition of property rights	866
§ 54820. Acquisition of property for public access	867
§ 54825. Notice of intent to acquire property	867
§ 54830. Purchase price of acquired property	868
§ 54835. Condemnation of wildlife conservation easement	868
§ 54840. Farm lands	869
§ 54845. Receipt of grants, gifts, donations, and other financial support	869
§ 54850. Award of grant or loan	869
§ 54855. Construction of facilities	869
§ 54860. Purchase of equipment	870
§ 54865. Public access to recreational areas	870
§ 54870. Proceeds from sale or disposition of fish hatchery	870
§ 54875. Wildlife Restoration Fund	870
§ 54880. San Francisco Baylands Restoration Program	871
§ 54885. Cooperation with federal agencies	872
CHAPTER 3. OAK WOODLANDS CONSERVATION ACT	872
Article 1. General Provisions	872
§ 54900. Short title	872
§ 54905. Definitions	872
§ 54910. Legislative intent	873
§ 54915. Authority to affect local policy or land use decisionmaking	874
Article 2. Oak Woodlands Conservation Fund	874
§ 54925. Fund established	874
§ 54930. Deposits	874
§ 54935. Minimum deposit requirement	874

§ 54940. Use of funds	874
§ 54945. California Forest Legacy Program	875
§ 54950. Memorandum of understanding with Department of Forestry and Fire Protection	876
§ 54955. Expenditure pursuant to Public Resources Code Section 5096.350(a)(4)	876
§ 54960. Grant criteria	877
§ 54965. Qualification for grant	877
§ 54970. Use of eminent domain	878
§ 54975. Use of grant funds by city or county planning department	878
CHAPTER 4. MONARCH BUTTERFLY AND POLLINATOR RESCUE PROGRAM	878
55000. Program established	878
55005. Guidelines.....	879
55010. Monarch Butterfly and Pollinator Rescue Fund Account	879
TITLE 2. HABITAT RESTORATION AND ENHANCEMENT ACT	880
CHAPTER 1. GENERAL PROVISIONS	880
§ 55100. Short title	880
§ 55105. Definitions	880
§ 55110. Effect of title.....	881
§ 55115. Report	881
§ 55120. Sunset	881
CHAPTER 2. HABITAT RESTORATION AND ENHANCEMENT ACCOUNT	881
§ 55150. Creation	881
§ 55155. Receipt of funds	881
§ 55160. Availability	882
CHAPTER 3. PROJECT APPROVAL	882
Article 1. Project Not Certified by Water Board	882
§ 55200. Request to approve project	882
§ 55205. Content of request	882
§ 55210. Application fee	883
§ 55215. Approval	883
§ 55220. Denial	884
§ 55225. Notice of completion	884
§ 55230. Monitoring report	884
Article 2. Project Certified by Water Board	885
§ 55300. Request to approve project	885
§ 55305. Content of request	885
§ 55310. Application fee	885
§ 55315. Publication of notice.....	886
§ 55320. Determination of completeness	886
§ 55325. Reporting requirements	886
Article 3. Approval and Suspension	886
§ 55350. Director's approval.....	886
§ 55355. Notice of suspension	887
§ 55360. Objection	887
§ 55365. Final decision	887
§ 55370. Liability	887
TITLE 3. FISH AND WILDLIFE HABITAT ENHANCEMENT ACT OF 1984	888
CHAPTER 1. GENERAL PROVISIONS	888
§ 55500. Short title	888
§ 55505. Declaration of purpose	888
§ 55510. Definitions	888

CHAPTER 2. HABITAT ENHANCEMENT PROGRAM	889
§ 55525. Appropriation of funds	889
§ 55530. Administrative costs of Wildlife Conservation Board	890
§ 55535. Administrative costs of State Coastal Conservancy	890
§ 55540. Limitations	890
§ 55545. Use of funds for specified lands	891
§ 55550. Limitations on acquisition of title	891
§ 55555. Further limitations on use of funds	891
§ 55560. Additional limitations on use of funds	891
CHAPTER 3. FISCAL PROVISIONS	892
§ 55600. Issuance of bonds	892
§ 55605. Collection of revenue to pay principle and interest on bonds	892
§ 55610. Appropriation from General Fund	893
§ 55615. Fish and Wildlife Habitat Enhancement Fund	893
§ 55620. Loan from General Fund	893
§ 55625. Special treatment of specified bond proceeds	893
§ 55630. Budget bill	894
§ 55635. State General Obligation Bond Law	894
§ 55640. Wildlife Habitat Enhancement Program Finance Committee	895
§ 55645. Deposit of premiums and accrued interest	895
§ 55650. Budget appropriation	895
§ 55655. Proceeds of bonds not proceeds of taxes	895
§ 55660. Severability	895
TITLE 4. WILDLIFE AND NATURAL AREAS CONSERVATION PROGRAM	896
CHAPTER 1. GENERAL PROVISIONS	896
§ 55700. Short title	896
§ 55705. Declaration of purpose	896
§ 55710. Definitions	897
CHAPTER 2. HABITAT CONSERVATION PROGRAM	897
§ 55725. Deposits	897
§ 55730. Expenditures	898
§ 55735. Priorities	898
§ 55740. Limitations on use of funds	899
§ 55745. Priorities	899
§ 55750. Limitation on use of funds	900
§ 55755. Further limitation on use of funds	900
§ 55760. Additional limitation on use of funds	900
§ 55765. Administrative costs of Wildlife Conservation Board	900
§ 55770. Staffing	900
TITLE 5. CALIFORNIA WILDLIFE PROTECTION ACT OF 1990	901
CHAPTER 1. GENERAL PROVISIONS	901
§ 55800. Findings and declarations	901
§ 55805. Further findings and declarations	902
CHAPTER 2. CALIFORNIA WILDLIFE PROTECTION	902
§ 55825. Definitions	902
§ 55830. Habitat Conservation Fund	903
§ 55835. Continuous appropriations	903
§ 55840. Continuous appropriations (contingent operation)	904
§ 55845. Priorities	904
§ 55850. Expenditure reporting	905
§ 55855. Expenditure conditions	905

§ 55860. Inability to make specified expenditures	906
§ 55865. Use of conservation corps	906
§ 55870. Management plan	906
§ 55875. Unallocated Account in the Cigarette and Tobacco Products Surtax Fund	906
§ 55880. Fund transfers	907
§ 55885. Effect of specified provisions	907
§ 55890. Land acquisition law	908
§ 55895. Application of CEQA	908
§ 55900. Public access to acquired lands	908
§ 55905. Reappropriation of transferred funds	909
TITLE 6. NATIVE SPECIES CONSERVATION AND ENHANCEMENT	909
CHAPTER 1. GENERAL PROVISIONS	909
§ 56000. Short title	909
§ 56005. Findings and declarations	909
§ 56010. General policy	910
CHAPTER 2. WILDLIFE AREAS	910
§ 56025. Comment by licensed hunters	910
§ 56030. Areas requiring wildlife area pass or license	910
CHAPTER 3. NATIVE SPECIES CONSERVATION AND ENHANCEMENT ACCOUNT	911
§ 56050. Creation of account	911
§ 56055. Deposit of funds	911
§ 56060. Donor appreciation	911
§ 56065. Encouraging donations	911
§ 56070. Deposit of fee revenue	912
§ 56075. Legislative finding and declaration	912
§ 56080. Wildlife area pass	912
§ 56085. Native species stamp	913
§ 56090. Promotional activity	913
CHAPTER 4. ENDANGERED AND RARE FISH, WILDLIFE, AND PLANT SPECIES CONSERVATION AND ENHANCEMENT ACCOUNT	914
§ 56100. Creation of account	914
§ 56105. Deposit of funds	914
§ 56110. Encouraging donations	914
CHAPTER 5. NATIVE CALIFORNIA WILDLIFE REHABILITATION VOLUNTARY TAX CONTRIBUTION FUND	915
§ 56150. Maintenance of fund	915
§ 56155. Competitive grant program	915
§ 56160. Grant requirements	915
TITLE 7. SHARED HABITAT ALLIANCE FOR RECREATIONAL ENHANCEMENT PROGRAM	916
CHAPTER 1. GENERAL PROVISIONS	916
§ 56200. Legislative intent	916
§ 56205. Definitions	916
CHAPTER 2. PROGRAM ADMINISTRATION	916
§ 56225. Program established	916
§ 56230. Implementation	917
§ 56235. Priorities	917
§ 56240. Grants and agreements	917
§ 56245. Landowner agreements	917
§ 56250. Limitations on agreements	918
§ 56255. Modification or cancellation of agreement	918

§ 56260. Landowner protections and remedies	918
§ 56265. Waiver of liability	918
§ 56270. Regulations	919
§ 56275. Enforcement of regulations	919
§ 56280. Personal information of landowner	919
§ 56285. Annual reports	919
§ 56290. Application of other law	919
CHAPTER 3. FINANCES	919
§ 56325. SHARE Account established	919
§ 56330. Funding.....	920
§ 56335. Deposit and expenditure	920
§ 56340. Reimbursement of other persons and entities	920
TITLE 8. ENHANCEMENT AND MANAGEMENT OF FISH AND WILDLIFE AND THEIR HABITAT ON PRIVATE LANDS	921
CHAPTER 1. GENERAL PROVISIONS	921
§ 56500. Policy	921
CHAPTER 2. ESTABLISHMENT AND REGULATION	921
§ 56525. License to operate wildlife habitat enhancement and management area	921
§ 56530. License application.....	921
§ 56535. Plan and license	922
§ 56545. Boundary posting	922
§ 56550. Review and reporting	922
§ 56555. Regulations	923
§ 56560. Application of other license and fee requirements	923
CHAPTER 3. EFFECT.....	923
§ 56575. Public access	923
§ 56580. Public access roads.....	923
§ 56585. Animal taken in area	924
§ 56590. Take of deer.....	924
§ 56595. Hunting during the rut	924
TITLE 9. THE CALIFORNIA WATERFOWL HABITAT PROGRAM.....	925
§ 56700. Contract for conservation of waterfowl and habitat	925
§ 56705. Contract term and contents.....	925
§ 56710. Recordation of contract	926
§ 56715. Renewal of contract.....	926
§ 56720. Modification of terms	927
§ 56725. Change in ownership	927
§ 56730. Priorities	927
§ 56735. Application of Public Contract Code	927
§ 56740. California Waterfowl Habitat Preservation Account	927
TITLE 10. SALTON SEA RESTORATION.....	928
CHAPTER 1. GENERAL PROVISIONS	928
§ 56800. Short title	928
§ 56805. Legislative intent	928
§ 56810. Findings and declarations	928
§ 56815. Definitions	929
§ 56820. Effect of article	930
§ 56825. Quantification Settlement Agreement	930
CHAPTER 2. FINANCES	930
§ 56850. Creation and use of Salton Sea Restoration Fund	930
§ 56855. Funds appropriated pursuant to Water Code § 79565.....	931

§ 56860. Deposited funds	931
§ 56865. Limitation on use of funds	932
CHAPTER 3. SALTON SEA RESTORATION	932
§ 56900. Preferred alternative	932
§ 56905. Salton Sea Species Conservation Habitat Project	932
§ 56910. Secretary responsibilities	933
§ 56915. Department of Water Resources restoration efforts	933
§ 56920. Department of Water Resources contracts	933
§ 56925. Department of Water Resources design-build procurement authority	934
§ 56930. Feasibility study	934
§ 56935. Local, publicly derived input	934
§ 56940. Delay prohibited	935
§ 56945. Salton Sea ecosystem	935
§ 56950. Facilities	935
TITLE 11. INLAND WETLANDS CONSERVATION PROGRAM	935
CHAPTER 1. DEFINITIONS	935
§ 57000. Application	935
§ 57005. “Fund”	936
§ 57510. “Board”	936
§ 57515. “Inland area”	936
§ 57520. “Program”	936
§ 57525. “Nonprofit organization”	936
CHAPTER 2. THE INLAND WETLANDS CONSERVATION PROGRAM	936
§ 57550. Creation	936
§ 57555. Administration	936
§ 57560. Purpose and goal of program	937
§ 57565. Acquisition of interest in land	937
§ 57570. Federal surplus land sales	937
§ 57575. Land transactions	937
§ 57580. Grants and loans	937
§ 57585. Lease of nonwetlands habitat for restoration	938
§ 57590. Sale of restored habitat	938
§ 57595. Grant and loan preferences	938
§ 57600. Wetland creation preferences	938
§ 57605. Report	939
CHAPTER 3. FINANCES	939
§ 57625. Inland Wetlands Conservation Fund created	939
§ 57630. Deposits	939
§ 57635. Use of funds	939
§ 57640. Continuous appropriation	939
§ 57645. Funding	940
§ 57650. Acceptance of financial support	940
§ 57655. Surplus funds	940
TITLE 12. CALIFORNIA RIPARIAN HABITAT CONSERVATION PROGRAM	940
CHAPTER 1. GENERAL PROVISIONS	940
§ 57700. Short title	940
§ 57705. Findings and declarations	940
§ 57710. Primary concern	941
CHAPTER 2. ADMINISTRATION	941
§ 57725. California Riparian Habitat Conservation Program	941
§ 57730. Activities	942

§ 57735. Department authority	942
§ 57740. Grants	942
TITLE 13. ADOPT A LAKE	943
§ 57775. Findings and declarations	943
§ 57780. Implementation	943
TITLE 14. CALIFORNIA WINTER RICE HABITAT INCENTIVE PROGRAM	944
§ 57790. Definitions	944
§ 57795. Establishment of program	944
§ 57800. Contracts	944
§ 57805. Land near military runway or international airport	945
§ 57810. Application of Public Contract Code	945
§ 57820. Term and content of contract	945
57825. Loss of property use	946
§ 57830. Modification of contract	947
§ 57835. California Winter Rice Habitat Incentive Program Account	947
TITLE 15. NESTING BIRD HABITAT INCENTIVE PROGRAM	947
§ 57850. Definition	947
§ 57855. Establishment of program	947
§ 57860. Purpose of program	948
§ 57865. Requirements	948
§ 57870. Program guidelines and criteria	948
§ 57875. Funding	949
§ 57880. Relation to California Waterfowl Habitat Program	950
§ 57885. Consultation with other entities	950
PART 3. FINANCES	950
TITLE 1. FEDERAL AID IN WILDLIFE RESTORATION ACT	950
§ 58000. Expenditures	950
§ 58005. Application for grant money	951
§ 58010. Description of funded projects and programs	951
§ 58015. Consultation with advisory committees	951
TITLE 2. FISH AND GAME MITIGATION AND PROTECTION ACCOUNTS	951
§ 58050. Establishment of Accounts	951
§ 58055. Deposits	952
§ 58060. Transfer to another account	952
TITLE 3. HABITAT MAINTENANCE ASSESSMENT DISTRICTS	953
§ 58075. Short title	953
§ 58080. Assessment districts	953
DIVISION 16. PROTECTED AND MANAGED AREAS	953
PART 1. REFUGES	953
TITLE 1. REFUGES GENERALLY	954
§ 58500. Commission regulation of refuges	954
§ 58505. Commission powers	954
§ 58515. Enforcement	954
§ 58520. Take in refuge	955
§ 58525. Application of provisions governing Fish and Wildlife District	955
§ 58530. Flight restrictions	955
TITLE 2. FISH REFUGES	955
CHAPTER 1. FISH REFUGES GENERALLY	955
§ 58550. Prohibitions	955
§ 58555. Commission control of fish	956
CHAPTER 2. SPECIFIC FISH REFUGES	956

Article 1. General Provisions	956
§ 58600. Described areas	956
Article 2. Pacific Grove Marine Gardens Fish Refuge	956
§ 58625. Description	956
§ 58630. Take of fish within refuge	956
TITLE 3. GAME REFUGES	957
CHAPTER 1. GAME REFUGES GENERALLY	957
§ 58700. Prohibitions	957
§ 58705. Take from navigable waters	957
§ 58710. Commission control of mammals and birds	957
§ 58715. Acquisition of land for game refuge	957
§ 58720. Possession of weapon in game refuge	958
§ 58725. Possession of bird or mammal in game refuge	958
§ 58730. Posted notices	959
§ 58735. Management and control	959
§ 58740. Education and outreach	959
CHAPTER 2. SPECIFIC GAME REFUGES	960
Article 1. General Provisions	960
§ 58800. Described areas	960
Article 2. Game Refuge 1C	960
§ 58825. Description	960
Article 3. Game Refuge 1F	961
§ 58850. Description	961
Article 4. Game Refuge 1G	961
§ 58875. Description	961
Article 5. Game Refuge 1H	962
§ 58900. Description	962
Article 6. Game Refuge 1I	962
§ 58925. Description	962
Article 7. Game Refuge 1J	963
§ 58950. Description	963
Article 8. Game Refuge 1N	963
§ 58975. Description	963
Article 9. Game Refuge 1P	964
§ 59000. Description	964
Article 10. Game Refuge 1R	964
§ 59025. Description	964
Article 11. Game Refuge 1S	965
§ 59050. Description	965
Article 12. Game Refuge 1V	965
§ 59075. Description	965
Article 13. Game Refuge 2A	966
§ 59100. Description	966
Article 14. Game Refuge 3F	966
§ 59125. Description	966
Article 15. Game Refuge 3G	966
§ 59150. Description	966
Article 16. Game Refuge 4D	967
§ 59175. Description	967
§ 59180. Firearm prohibition	968
Article 17. Game Refuge 4G	968

§ 59200. Description	968
Article 18. California Sea Otter Game Refuge	969
§ 59225. Description	969
§ 59230. Privately owned land	969
Article 19. Farallon Islands Game Refuge.....	969
§ 59250. Description	969
§ 59255. Regulated activity	970
Article 20. Johnsville Game Refuge	970
§ 59275. Description	970
§ 59280. Firearms and other devices.....	971
§ 59285. Possession.....	971
Article 21. Mount Tamalpais Game Refuge	971
§ 59300. Description	971
§ 59305. Take by private land owner	972
§ 59310. Firearm use by high school militia	972
§ 59315. Special rules on take.....	972
Article 22. Preston School of Industry Game Refuge.....	973
§ 59350. Description	973
TITLE 4. FISH AND GAME REFUGES	973
CHAPTER 1. FISH AND GAME REFUGES GENERALLY.....	973
§ 59400. Fish and game refuge is both a fish refuge and game refuge	973
CHAPTER 2. SPECIFIC FISH AND GAME REFUGES	973
Article 1. General Provisions.....	973
§ 59425. Described areas	973
Article 2. San Francisco Fish and Game Refuge	973
§ 59450. Description	973
§ 59455. Transport of animals.....	974
§ 59460. Use of land for water supply purposes	974
TITLE 5. WATERFOWL REFUGES	975
CHAPTER 1. WATERFOWL REFUGES GENERALLY	975
§ 59500. Prohibition	975
CHAPTER 2. SPECIFIC WATERFOWL REFUGES	975
Article 1. General Provisions.....	975
§ 59525. Described areas	975
Article 2. San Leandro Waterfowl Refuge	975
§ 59550. Description	975
TITLE 6. MARINE LIFE REFUGES.....	976
CHAPTER 1. MARINE LIFE REFUGES GENERALLY	976
§ 59600. Prohibition	976
CHAPTER 2. SPECIFIC MARINE LIFE REFUGES	976
Article 1. General Provisions.....	976
§ 59625. Described areas	976
Article 2. Bodega Marine Life Refuge	976
§ 59650. Description	976
§ 59655. Director.....	976
§ 59670. Prohibitions	977
§ 59675. University of California	977
Article 3. Catalina Marine Science Center Marine Life Refuge.....	977
§ 59700. Description	977
§ 59705. Director.....	978
§ 59710. Prohibitions	978

§ 59715. Exceptions to prohibitions	978
Article 4. City of Encinitas Marine Life Refuge.....	979
§ 59750. Description	979
Article 5. Dana Point Marine Life Refuge.....	979
§ 59775. Description	979
§ 59780. Director.....	980
§ 59785. Take	980
§ 59790. Entry prohibition	980
§ 59795. Exceptions to prohibitions.....	981
§ 59800. “Intertidal zone” defined	982
Article 6. Doheny Beach Marine Life Refuge	982
§ 59825. Description	982
§ 59830. Take of fish in refuge	982
Article 7. Hopkins Marine Life Refuge	983
§ 59850. Description	983
§ 59855. Director.....	983
§ 59860. Special prohibition	983
§ 59865. Exceptions to prohibition	983
Article 8. Irvine Coast Marine Life Refuge.....	984
§ 59900. Description	984
§ 59905. Take of fish in refuge	984
Article 9. James V. Fitzgerald Marine Reserve	985
§ 59925. Description	985
§ 59930. Take of fish in refuge	985
Article 10. Laguna Beach Marine Life Refuge.....	986
§ 59950. Description	986
§ 59955. Take of fish in refuge	986
Article 11. Newport Beach Marine Life Refuge.....	987
§ 59975. Description	987
§ 59980. Take of fish in refuge	987
Article 12. Niguel Marine Life Refuge.....	987
§ 60000. Description	987
§ 60005. Take of fish in refuge	988
Article 13. Point Fermin Marine Life Refuge.....	988
§ 60025. Description	988
§ 60030. Take of fish in refuge	988
Article 14. San Diego Marine Life Refuge.....	989
§ 60050. Description	989
§ 60055. University of California	989
Article 15. South Laguna Beach Marine Life Refuge	989
§ 60075. Description	989
§ 60080. Take of fish in refuge	990
TITLE 7. QUAIL REFUGES	990
CHAPTER 1. QUAIL REFUGES GENERALLY	990
§ 60200. Prohibition	990
CHAPTER 2. SPECIFIC QUAIL REFUGES.....	990
Article 1. General Provisions.....	990
§ 60225. Described areas	990
Article 2. Bolinas Quail Refuge.....	991
§ 60250. Description	991

TITLE 8. CLAM REFUGES	991
CHAPTER 1. CLAM REFUGES GENERALLY	991
§ 60300. Prohibition	991
CHAPTER 2. SPECIFIC CLAM REFUGES	991
§ 60325. Pismo clam bearing beaches	991
PART 2. MARINE LIFE PROTECTION ACT	992
TITLE 1. GENERAL PROVISIONS	992
§ 60400. Short title	992
§ 60405. Legislative findings and declarations	992
§ 60410. Definitions	993
§ 60415. Ocean Protection Council authority	994
§ 60420. Consultation with United States Navy	994
TITLE 2. PROTECTIONS.....	994
§ 60450. Take of fish in MPA or marine life reserve	994
§ 60455. Impact analysis	995
TITLE 3. MARINE LIFE PROTECTION PROGRAM.....	995
§ 60475. Marine Life Protection Program	995
§ 60480. Program elements	996
TITLE 4. MASTER PLAN	996
§ 60500. Master plan	996
§ 60505. Content of master plan	997
§ 60510. Workgroup actions	999
§ 60515. Peer review	999
§ 60520. Adoption of master plan	999
§ 60525. MPA siting	1000
§ 60530. Petitions of interested persons.....	1001
§ 60535. Other authority	1001
PART 3. MARINE MANAGED AREAS	1001
§ 60550. Designation, deletion, or modification of marine recreational management areas	1002
§ 60555. Marine Managed Areas Improvement Act.....	1002
PART 4. WILDLIFE MANAGEMENT AREAS, GAME FARMS, AND PUBLIC SHOOTING GROUNDS	1003
TITLE 1. GENERAL PROVISIONS	1003
§ 60600. Department powers	1003
§ 60605. State ownership and regulation	1003
§ 60610. Acquired property	1003
TITLE 2. PROTECTIONS.....	1004
§ 60625. Unlawful entry upon wildlife management area or public shooting ground.....	1004
§ 60630. Regulation of take in public shooting ground	1004
TITLE 3. OPERATION	1004
§ 60650. Acquired lands to operate on nonprofit basis	1004
§ 60655. Multiple recreational use	1004
§ 60660. Facilities	1004
§ 60665. Fees for use privileges.....	1005
§ 60670. Shooting permits	1005
§ 60675. Output of state game farm	1005
§ 60680. Payments to offset local taxes and assessments	1005
§ 60685. Mosquitos	1006
PART 5. WILDLIFE AREAS, RANGES, AND RESERVES	1007
§ 60700. Exchange or sale of property within specified areas	1007

§ 60705. Mineral rights	1008
§ 60710. Apiculture in wildlife area.....	1009
§ 60715. Lower Sherman Island	1010
§ 60720. Fish and wildlife enhancement facilities	1011
PART 6. ECOLOGICAL RESERVES	1011
TITLE 1. ECOLOGICAL RESERVES GENERALLY	1011
§ 60750. Legislative declaration	1011
§ 60755. “Ecological reserve” defined.....	1012
§ 60760. Acquisition of property	1012
§ 60765. Regulation of ecological reserves.....	1012
§ 60770. Ownership and regulation of property	1012
§ 60775. Valid title to acquired property	1013
§ 60780. Prohibited entry	1013
§ 60785. Facilities and programs	1013
§ 60790. Ecological reserves not wildlife management areas.....	1013
TITLE 2. SPECIFIC ECOLOGICAL RESERVES	1013
§ 60850. Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund	1013
§ 60855. Magnesia Spring Ecological Reserve	1014
PART 7. PROTECTED SPAWNING AREAS	1014
§ 60900. Protected spawning areas	1014
PART 8. WILDERNESS AREAS	1016
§ 60950. Vehicle prohibition.....	1016
§ 60955. Exception to vehicle prohibition	1016
DIVISION 17. ACTIVITIES THAT AFFECT WILDLIFE	1017
PART 1. CALIFORNIA ENDANGERED SPECIES ACT	1017
TITLE 1. GENERAL PROVISIONS	1017
CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS.....	1017
§ 62000. Short title	1017
§ 62005. Need for conservation	1017
§ 62010. General policy	1017
§ 62015. Scope of required mitigation	1018
§ 62020. Project approval and alternatives	1018
§ 62025. Mitigation and enhancement in lieu of infeasible alternatives.....	1018
§ 62030. Duty of state entities.....	1019
§ 62035. Cooperation of landowners	1019
CHAPTER 2. DEFINITIONS	1019
§ 62100. Application	1019
§ 62105. Candidate species	1019
§ 62110. Conserve, conserving, and conservation	1019
§ 62115. Endangered species	1020
§ 62120. Feasible.....	1020
§ 62125. Project.....	1020
§ 62128. Recover and recovery	1020
§ 62130. State lead agency	1021
§ 62135. Threatened species	1021
TITLE 2. LISTING OF ENDANGERED AND THREATENED SPECIES	1021
CHAPTER 1. GENERAL PROVISIONS	1021
§ 62200. Establishment and maintenance of lists	1021
§ 62205. Criteria.....	1021
§ 62210. Notice of pending actions.....	1022
CHAPTER 2. LISTING PROCESS.....	1022

Article 1. Petition	1022
§ 62250. Guidelines	1022
§ 62255. General content requirements	1022
§ 62260. Specific content requirements	1022
§ 62265. Referral of petition to department	1023
§ 62270. Publication of notice of petition	1023
§ 62275. Department-initiated petition	1023
§ 62280. Department evaluation and recommendation	1024
§ 62285. Public input during evaluation	1024
§ 62290. Amendment of petition	1024
Article 2. Public Hearing and Meeting	1025
§ 62350. Scheduling	1025
§ 62355. Public hearing	1025
§ 62360. Closure of public hearing and record	1025
§ 62365. Reopening administrative record	1025
§ 62370. Continuation of meeting	1026
§ 62375. Commission findings	1027
§ 62380. Notice of acceptance	1027
Article 3. Department Review	1027
§ 62400. Review	1027
§ 62405. Timing	1028
§ 62410. Draft status review report	1028
§ 62415. Final report	1028
§ 62420. Scope of inquiry	1029
Article 4. Commission Decision	1029
§ 62450. Meeting	1029
§ 62455. Public hearing	1029
§ 62460. Closure of public hearing and record	1030
§ 62465. Reopening administrative record	1030
§ 62470. Continuation of meeting	1030
§ 62475. Commission findings	1031
§ 62480. Writ of mandate	1032
§ 62485. Emergency regulation	1032
Article 5. Ongoing Review	1032
§ 62500. Five-year review of listed species	1032
§ 62505. Five-year review of species listed by both Commission and US Department of Interior	1033
§ 62510. Timing of initial five-year review	1033
§ 62515. Written report of five-year review results	1033
§ 62520. Discretionary review	1034
§ 62525. Triennial report	1034
TITLE 3. TAKE, IMPORTATION, EXPORTATION, OR SALE	1034
CHAPTER 1. PROHIBITION	1034
§ 62600. Take, possession, purchase, or sale	1034
§ 62605. Candidate species	1035
CHAPTER 2. GENERAL EXCEPTIONS	1035
§ 62650. Take for scientific, educational, or management purposes	1035
§ 62655. Take of fish authorized by specified provisions	1035
§ 62665. Take of fish authorized by Commission	1035
§ 62670. Take authorized by department	1035
§ 62675. Sale of organism by person who possessed it before it was listed	1036

§ 62680. Possession of animal possessed before it was listed	1036
CHAPTER 3. INCIDENTAL TAKE	1037
§ 62700. Incidental take	1037
§ 62705. Incidental take authorized by federal entity	1038
CHAPTER 4. SPECIFIC EXCEPTIONS	1039
Article 1. Quantification Settlement Agreement	1039
§ 63300. Take from specified effects of implementation of agreement.....	1039
§ 63305. Application of Section 63300	1039
§ 63310. Restoration study	1041
§ 63315. Advisory committee	1043
§ 63320. No exemption from other laws	1044
§ 63325. Related assessment by Resources Agency	1044
Article 2. Chinook Salmon	1044
§ 63350. Findings and declarations	1044
§ 63355. Enhancement of survival permit	1045
§ 63360. Experimental population	1046
Article 3. Rough Sculpin.....	1046
§ 63400. Spring Creek Bridge	1046
Article 4. Threespine Stickleback	1047
§ 63450. Bouquet Creek	1047
§ 63455. Metropolitan Water District of Southern California water supply facility	1048
Article 5. Lost River and Shortnose Sucker.....	1050
§ 63475. Klamath Hydroelectric Settlement Agreement	1050
Article 6. Limestone Salamander.....	1050
§ 63500. Ferguson Slide Permanent Restoration Project	1050
Article 7. Bluntnose Leopard Lizard	1052
§ 63510. Allensworth Community Services District	1052
CHAPTER 5. EXPERIMENTAL POPULATIONS	1052
§ 63550. Enhancement of survival permit	1052
§ 63555. Experimental population	1053
§ 63560. Public outreach	1054
CHAPTER 6. PERMIT APPLICATION FEE	1054
§ 63600. Definitions	1054
§ 63605. Collection and use of fee	1055
§ 63610. Timing	1056
§ 63615. Fee amounts.....	1056
§ 63620. Adjustment of fee amount	1057
§ 63625. Additional fee to cover costs	1057
§ 63630. Periodic review of fee amount	1058
§ 63635. Endangered Species Permitting Account	1058
§ 63640. Article XIII B of the California Constitution	1058
TITLE 4. AGRICULTURE	1059
CHAPTER 1. GENERAL PROVISIONS	1059
§ 63700. Accidental take in the course of lawful agricultural activities	1059
§ 63705. Routine and ongoing agricultural activities	1059
§ 63710. Application to take of fish species	1059
§ 63715. Application to timber harvesting	1059
CHAPTER 2. VOLUNTARY PROGRAM	1059
§ 63750. Authorization of voluntary programs	1059
§ 63755. Program requirements	1060
§ 63760. Take occurring while management practices followed.....	1060

§ 63765. Renewal of programs	1060
§ 63770. Report on program effects	1061
§ 63775. Nonrenewal or modification of program	1061
§ 63780. Educational outreach by nonprofit entity	1061
TITLE 5. CALIFORNIA STATE SAFE HARBOR AGREEMENT PROGRAM ACT	1062
CHAPTER 1. GENERAL PROVISIONS	1062
§ 63900. Short title	1062
§ 63905. Findings	1062
§ 63910. Definitions	1062
§ 63915. Purpose and effect	1064
§ 63920. Regulations	1064
§ 63925. List of qualified persons and program administrators	1064
§ 63930. Federal safe harbor agreement	1064
§ 63935. Sunset date	1065
CHAPTER 2. SAFE HARBOR AGREEMENT	1065
Article 1. Permissible take	1065
§ 63950. Department authorization of otherwise prohibited take	1065
§ 63955. Owens pupfish	1066
Article 2. Agreement	1066
§ 64000. Information to be submitted by landowner	1066
§ 64005. Treatment of proprietary information	1067
§ 64010. Department access to land or water proposed for enrollment	1068
§ 64015. Alteration or modification of enrolled property	1068
§ 64020. Advance notice of specified matters	1069
§ 64025. Department access to land after receiving notice	1069
§ 64030. Conveyance of enrolled land or water	1069
§ 64035. Agreement amendment	1070
§ 64040. Suspension or revocation of agreement	1070
§ 64045. Liability	1070
§ 64050. Neighboring landowner	1071
Article 3. Special Circumstances	1072
§ 64075. Forest land subject to conservation easement	1072
TITLE 6. RECOVERY PLAN	1072
§ 64100. Development of nonregulatory recovery plan	1072
§ 64105. Plan content	1073
§ 64110. Guidelines and criteria	1074
PART 2. PLANNING AND MITIGATION	1074
TITLE 1. GENERAL PROVISIONS	1074
§ 64400. Planning and environmental compliance division	1074
TITLE 2. NATURAL COMMUNITY CONSERVATION PLANNING ACT	1075
CHAPTER 1. GENERAL PROVISIONS	1075
§ 64500. Short title	1075
§ 64505. Findings and declarations	1075
§ 64510. Further findings and declarations	1076
§ 64515. Definitions	1076
§ 64520. Regulations	1078
§ 64530. Department compensation	1078
CHAPTER 2. PLANNING	1078
§ 64550. Authority to undertake planning	1078
§ 64555. Cooperative agreement to conduct planning	1079
§ 64560. Agreement requirements	1079

§ 64565. Implementation agreement	1080
§ 64570. Public participation in plan development and review	1081
§ 64575. Public review prior to approval	1082
§ 64580. Plan approval	1082
§ 64585. Approval of agreement not a “project”	1083
CHAPTER 3. IMPLEMENTATION	1083
§ 64600. Department actions	1083
§ 64605. Authorized take	1084
§ 64610. Assurances	1084
§ 64615. No effect on application of CEQA	1085
§ 64620. CEQA analysis	1085
§ 64625. Data and reports available for public review	1086
§ 64630. Use of conservation corps	1086
§ 64635. Injunctive relief	1086
§ 64640. Suspension of take or revocation of permit	1086
§ 64645. Breach of proportionality between take and conservation	1086
§ 64650. Local government authority to acquire land or water	1086
§ 64655. Effect on take in specified circumstances	1087
§ 64660. San Diego dedication of open space	1088
TITLE 3. ADVANCE MITIGATION AND REGIONAL CONSERVATION	
INVESTMENT STRATEGIES	1089
CHAPTER 1. GENERAL PROVISIONS	1089
Article 1. Legislative Findings and Intent	1089
§ 64700. Findings and declarations	1089
§ 64705. Legislative intent	1090
Article 2. Definitions	1090
§ 64710. Application	1090
§ 64715. Administrative draft natural community conservation plan	1090
§ 64720. Areas of conservation emphasis	1090
§ 64725. Compensatory mitigation	1090
§ 64730. Conservation action	1091
§ 64735. Conservation easement	1091
§ 64740. Focal species	1091
§ 64745. Habitat enhancement action	1091
§ 64750. Performance-based milestones	1091
§ 64755. Performance standards	1092
§ 64760. Permanently protect	1092
§ 64765. Regional conservation assessment	1092
§ 64770. Regional conservation investment strategy	1092
§ 64775. Regional level	1093
§ 64780. Sensitive species	1093
Article 3. Implementation and Scope	1093
§ 64800. Guidelines	1093
§ 64805. Fees	1093
§ 64810. Limitations	1093
§ 64815. Report to Legislature	1094
§ 64820. Effect on specified statutes	1094
CHAPTER 2. REGIONAL CONSERVATION ASSESSMENT	1094
§ 64850. Voluntary	1094
§ 64855. Proposal and approval	1094
§ 64860. Requirements	1094

CHAPTER 3. REGIONAL CONSERVATION INVESTMENT STRATEGY	1096
Article 1. Regional Conservation Investment Strategy Generally.....	1096
§ 64900. Purpose	1096
§ 64905. Voluntary	1096
§ 64910. Content	1096
§ 64915. Considerations	1098
§ 64920. Incorporation of regional conservation assessment.....	1098
§ 64925. Format	1098
§ 64930. Consistent metrics.	1098
§ 64935. Proposal and approval	1099
Article 2. Procedure	1099
§ 64960. Notice of intent	1099
§ 64965. Department review and acceptance of draft	1099
§ 64970. Public meeting and comment	1100
§ 64975. Notice of meeting	1100
§ 64980. Notice of final draft	1101
§ 64985. Department review of final draft	1101
§ 64990. Limitation on department rejection	1101
§ 64995. Internet publication	1101
§ 65000. Duration.....	1101
Article 3. Effect.....	1102
§ 65050. Effect on public agencies	1102
§ 65055. Effect on other processes.....	1102
§ 65060. Effect on project proponent.....	1103
CHAPTER 4. MITIGATION CREDITS	1104
§ 65100. Creation	1104
§ 65105. Requirements	1104
§ 65110. Use of mitigation credits	1105
§ 65115. Long-term durability of enhancement action	1105
§ 65120. Mitigation credit agreement	1105
§ 65125. Creation process	1106
§ 65130. Project that quantifiably exceeds compensatory mitigation requirements.....	1108
§ 65135. Release of mitigation credits	1109
§ 65140. Effect on conservation bank or mitigation bank	1110
§ 65145. Application to natural community conservation plan	1110
§ 65150. Application to Delta water conveyance facilities.....	1110
§ 65155. Internet publication	1110
TITLE 4. CONSERVATION BANK AND MITIGATION BANK APPLICATIONS AND	
FEES	1111
CHAPTER 1. GENERAL PROVISIONS	1111
Article 1. Findings and Declarations	1111
§ 65300. Findings and declarations.....	1111
Article 2. Definitions	1112
§ 65305. Application	1112
§ 65310. Bank	1112
§ 65315. Bank enabling instrument.....	1112
§ 65320. Bank sponsor	1113
§ 65325. Conservation bank	1113
§ 65330. Conservation easement.....	1113
§ 65335. Mitigation bank	1113
§ 65340. Person	1114

§ 65345. Prospectus.....	1114
Article 3. Scope.....	1114
§ 65400. Submissions prior to January 1, 2013	1114
CHAPTER 2. APPLICATION PROCEDURE.....	1114
Article 1. Prospectus	1114
§ 65450. Optional draft prospectus	1114
§ 65455. Submission	1115
§ 65460. Review.....	1116
§ 65465. Decision.....	1116
§ 65470. Guidelines.....	1116
Article 2. Bank Agreement Package.....	1117
§ 65500. Submission	1117
§ 65505. Content	1117
§ 65510. Fee	1118
§ 65515. Review.....	1118
§ 65520. Request for supplemental information	1118
§ 65525. Changes proposed by applicant during review.....	1119
§ 65530. Extension of time for review	1119
§ 65535. Resubmission after negative determination	1119
Article 3. Bank Amendment	1119
§ 65550. Submission	1119
§ 65555. Review.....	1120
§ 65560. Fee amount	1120
§ 65565. Payment of fee.....	1121
§ 65570. Decision.....	1121
§ 65575. Request for supplemental information	1122
§ 65580. Changes proposed by applicant during review.....	1122
§ 65585. Extension of time	1122
§ 65590. Extension of time	1123
§ 65600. Resubmission after negative determination	1123
CHAPTER 3. IMPLEMENTATION.....	1123
§ 65650. General approval requirement.....	1123
§ 65655. Compliance review.....	1123
§ 65660. Database	1123
§ 65665. Annual report.....	1124
§ 65670. Implementation and compliance fees	1124
§ 65675. Fee adjustment.....	1125
§ 65680. Deposit of fees.....	1125
§ 65685. Guidelines.....	1125
§ 65690. Reimbursement of costs	1125
TITLE 5. SACRAMENTO-SAN JOAQUIN VALLEY WETLANDS MITIGATION	
BANK ACT OF 1993	1126
CHAPTER 1. GENERAL PROVISIONS	1126
Article 1. Short Title	1126
§ 65800. Short title	1126
Article 2. Findings, Declarations, and Intent	1126
§ 65805. Findings and declarations.....	1126
§ 65810. Legislative intent	1128
§ 65815. Purpose	1128
§ 65820. Goal	1128
Article 3. Definitions	1128

§ 65850. Application	1128
§ 65855. Bank site or mitigation bank site	1128
§ 65860. Credit	1128
§ 65865. Operator	1129
§ 65870. Permittee	1129
§ 65875. Qualifying urban area	1129
§ 65880. Sacramento-San Joaquin Valley	1130
CHAPTER 2. WETLANDS MITIGATION BANKS	1130
§ 65950. Standards and criteria	1130
§ 65955. Ricelands	1130
§ 65960. Application	1131
§ 65965. Determination is “project”	1131
§ 65970. Memorandum of understanding requirement	1131
§ 65975. Content of memorandum of understanding	1132
§ 65980. Payment to county	1132
CHAPTER 3. WETLANDS	1133
§ 66050. Creation of wetland or vernal pool	1133
§ 66055. Determination and classification of wetlands	1133
§ 66060. Pricing and costs	1134
§ 66065. Reimbursement of department expenses	1134
CHAPTER 4. DISCHARGE INTO WETLANDS	1134
§ 66100. Compensation	1134
§ 66105. Conditions on compensation	1135
§ 66110. Permittee obligations	1135
§ 66115. Last date for qualification of bank sites	1135
TITLE 6. PROJECT FEES	1135
§ 66200. Fee to defray costs	1135
§ 66205. CEQA filing fee	1136
§ 66210. Exceptions to CEQA filing fee	1136
§ 66215. Fee amount	1136
§ 66220. County clerk	1137
§ 66225. Remittance of fee	1137
§ 66230. Nonpayment	1138
§ 66235. Number of fees per project	1138
§ 66240. Effect on specified department duties	1138
§ 66245. Coastal Commission permit process	1138
§ 66250. Federal agencies	1139
PART 3. POLLUTION	1140
TITLE 1. WATER POLLUTION	1140
CHAPTER 1. PROHIBITIONS	1140
Article 1. Contaminants	1140
§ 66500. Prohibition	1140
§ 66505. Exception	1140
§ 66510. Affirmative defense	1141
Article 2. Refuse	1141
§ 66525. Prohibition	1141
CHAPTER 2. CLEAN-UP	1142
§ 66700. Continuing pollution	1142
§ 66705. Responsible party obligations	1142
§ 66710. Department clean-up of petroleum products	1143
§ 66715. Civil liability for damages and clean-up costs	1144

CHAPTER 3. FISHING CLOSURE.....	1144
§ 66800. Closure	1144
§ 66805. Assessment of closure	1145
§ 66810. Immediate reopening	1145
§ 66820. Expedited testing	1146
§ 66825. Assessment of fish aboard vessel in closed area	1146
§ 66830. Action in response to OEHHA assessment	1146
§ 66835. Consultation with affected groups.....	1147
§ 66840. Reimbursement of costs	1147
TITLE 2. CALIFORNIA MARINE RESOURCES LEGACY ACT	1147
CHAPTER 1. GENERAL PROVISIONS	1147
Article 1. Preliminary Provisions.....	1147
§ 67000. Short title	1147
§ 67005. Findings and declarations	1147
§ 67010. Definitions	1148
§ 67015. No limitation of other authority or duties.....	1149
Article 2. Program Generally	1150
§ 67050. Nature of program	1150
§ 67055. Application approval	1150
§ 67060. Funding.....	1150
§ 67065. Proposal for partial removal is a project	1150
§ 67070. No limitation on liability	1151
§ 67075. Partial removal is not mitigation	1151
§ 67080. Regulation	1151
CHAPTER 2. PARTIAL REMOVAL OF OFFSHORE OIL STRUCTURES	1152
Article 1. Application.....	1152
§ 67100. Application generally	1152
§ 67105. Application content	1152
§ 67110. Application completeness	1153
§ 67115. Financial assurances	1153
§ 67120. Startup costs	1154
§ 67125. Environmental review	1154
Article 2. Determination of Net Benefit	1154
§ 67150. Council determination of net benefit.....	1154
§ 67155. Establishment of criteria.....	1154
§ 67160. Making the determination	1155
§ 67165. Specified benefits excluded from determination.....	1155
§ 67170. Assistance of other entities.....	1155
§ 67175. Finality of determination	1156
§ 67180. Timeliness	1156
Article 3. Determination of Cost Savings.....	1156
§ 67200. Commission determination	1156
§ 67205. Assistance of other entities.....	1156
§ 67210. Consideration of government entity estimates	1156
§ 67215. Duties of applicant	1157
§ 67220. Finality of determination	1157
§ 67225. Timeliness	1157
Article 4. Application Approval	1157
§ 67250. Department responsibilities	1157
§ 67255. Standards for granting conditional approval	1158
§ 67260. Conditional approval	1159

§ 67265. Apportionment of cost savings	1159
§ 67270. Final approval	1160
§ 67275. Requirements for state to take title	1160
§ 67280. Advisory spending plan	1161
TITLE 3. OIL SUMPS	1161
§ 67400. Definition of “oil sump”	1161
§ 67405. Hazard to wildlife	1161
§ 67410. Immediate and grave danger to wildlife	1161
§ 67415. Regulations	1162
§ 67420. No limitation on other department authority or duties	1162
TITLE 4. FINANCES	1162
§ 67500. Fish and Wildlife Pollution Account	1162
§ 67505. Deposit of specified funds	1163
§ 67510. Continuous appropriation	1164
§ 67515. Expenditures	1164
§ 67520. Maximum funds on deposit	1165
§ 67525. Prudent reserve	1165
§ 67530. Expenditures from specified subaccounts	1166
§ 67535. Cost accounting system	1167
PART 4. WATER DIVERSION, OBSTRUCTION, AND ALTERATION	1167
TITLE 1. DAMS, CONDUITS, AND SCREENS	1167
CHAPTER 1. GENERAL PROVISIONS	1167
Article 1. Definitions	1167
§ 68000. Definitions	1167
Article 2. Application of Chapter to United States	1168
§ 68050. Legislative intent	1168
§ 68055. Application to construct or enlarge dam	1168
§ 68060. Application content	1168
CHAPTER 2. PROHIBITED OBSTRUCTIONS	1169
Article 1. General Prohibition	1169
§ 68100. Obstruction generally	1169
Article 2. Prohibition in Specified Districts	1169
§ 68105. Obstruction in specified districts	1169
CHAPTER 3. FISHWAYS	1170
Article 1. General Prohibitions and Obligations	1170
§ 68300. Damage or obstruction	1170
§ 68305. Maintenance	1170
§ 68310. Water flow	1170
§ 68315. Fishing in impounded waters	1170
§ 68320. Liability limitation	1171
Article 2. Requirements for Existing Dams	1171
§ 68400. Department examination of dams	1171
§ 68405. Required fishway	1171
§ 68410. Additional structures	1171
Article 3. Requirements for New and Enlarged Dams	1171
§ 68500. Application to build or enlarge dam	1171
§ 68505. Initial determination of necessity	1172
§ 68510. Hearing	1172
§ 68515. Deposition of witnesses in hearing	1172
§ 68520. Notice of fishway requirement	1172
Article 4. Requirements in District 2560	1173

§ 68600. Dams constructed in District 2560	1173
§ 68605. Release of water from dam in District 2560	1173
Article 5. Alternatives	1173
§ 68650. Hatchery in lieu of fishway	1173
§ 68655. Hatchery size and location	1174
§ 68660. Provision of electricity to hatchery	1174
§ 68665. Use of water to operate hatchery	1174
§ 68670. Fish planting in lieu of fishway or hatchery	1174
§ 68675. Sale of fish to be planted	1174
CHAPTER 4. CONDUITS AND SCREENS: DIVERSIONS OVER 250 CUBIC FEET PER SECOND	1175
Article 1. General provisions	1175
§ 68800. Application of title	1175
Article 2. Screen Requirements	1175
§ 68850. General requirement	1175
§ 68855. Content of order	1176
§ 68860. Duty to install and maintain screen	1176
§ 68865. Acceptance	1176
§ 68870. Inefficient screen	1177
§ 68875. Department election to install screen	1177
Article 3. Costs.....	1177
§ 68900. Department contribution	1177
§ 68905. Additional contribution	1177
§ 68910. Return of surplus contribution.....	1178
§ 68915. Source of funds.....	1178
§ 68920. Contribution exception	1178
§ 68925. Screen standards	1178
§ 68930. Cost agreement	1179
CHAPTER 5. CONDUITS AND SCREENS: DIVERSIONS OF 250 CUBIC FEET PER SECOND OR LESS.....	1179
Article 1. General Provisions.....	1179
§ 69000. Application of title	1179
Article 2. Screen or Bypass Requirements	1180
§ 69050. General requirement	1180
§ 69055. Screen standards	1180
§ 69060. Sufficient water for bypass.....	1180
§ 69065. Written notice and agreement.....	1181
§ 69070. Disagreement.....	1181
§ 69075. Duty to maintain screen or bypass	1182
§ 69080. Temporary removal or closure	1182
§ 69085. Source of funds.....	1182
CHAPTER 6. SPECIFIC AREAS.....	1182
Article 1. Isabella Dam	1182
§ 69200. Isabella Dam.....	1182
Article 2. Klamath River Fish and Wildlife District (Division 2670)	1183
§ 69250. Prohibition	1183
TITLE 2. DIVERSION OF WATER FROM STREAMS	1183
CHAPTER 1. DIVERSION DELETERIOUS TO SALMON OR STEELHEAD	1183
§ 69500. Diversion deleterious to salmon or steelhead.....	1183
§ 69505. Notice of determination.....	1183
§ 69510. Provision of information to owner	1184
§ 69515. Department approval requirement.....	1184

CHAPTER 2. ENFORCEMENT OF WATER CODE PROVISIONS	1184
§ 69550. Violations deleterious to fish and wildlife	1184
TITLE 3. FISH AND WILDLIFE PROTECTION AND CONSERVATION	1185
CHAPTER 1. GENERAL PROVISIONS	1185
§ 69700. Findings and declarations	1185
§ 69705. Definitions	1185
§ 69710. Violation of title	1185
§ 69715. Extension of time	1185
§ 69720. Agreements governed by former law	1185
CHAPTER 2. PROHIBITION AND AGREEMENTS	1186
Article 1. General Prohibition	1186
§ 69750. General prohibition and exception	1186
Article 2. Agreement Process	1187
§ 69775. Information provided to entity submitting notification	1187
§ 69780. Fees	1188
§ 69785. Fee payment prior to processing notification	1188
§ 69790. Suspension of process	1188
§ 69795. Draft agreement	1189
§ 69800. Prohibited conditions	1189
§ 69805. Response to draft agreement	1189
§ 69810. Failure to respond to draft agreement	1189
§ 69815. Work required by court order, administrative order, or notice	1189
Article 3. Duration and Extension	1190
§ 69850. Default maximum term	1190
§ 69855. Extension of agreement	1190
§ 69860. Maximum extension	1190
§ 69865. Continuation pending resolution of extension request	1190
§ 69870. Failure to submit timely extension request	1191
§ 69875. Long-term agreements	1191
§ 69880. Long-term agreement log	1192
§ 69885. Suspension or revocation of agreement	1192
Article 4. Arbitration Panel	1193
§ 70050. Appointment of panel	1193
§ 70055. Composition of panel	1193
§ 70060. Authority of panel	1193
§ 70065. Decision	1193
§ 70070. Expenses	1194
§ 70075. Court review	1194
Article 5. Exceptions and Special Rules for Specific Activities	1194
§ 70150. Emergency exception	1194
§ 70155. Water supply, drainage, flood control, water treatment	1195
§ 70160. Timber harvest plan as notification	1195
§ 70165. Licensed cannabis cultivation	1196
§ 70170. Area agreement regarding cannabis cultivation	1197
PART 5. MINING	1198
TITLE 1. VACUUM OR SUCTION DREDGING	1198
CHAPTER 1. GENERAL PROVISIONS	1198
§ 71000. Definitions	1198
§ 71005. Exception for recreational mining	1198
§ 71010. Regulations	1199
CHAPTER 2. PROHIBITIONS AND REQUIREMENTS	1199

§ 71050. General prohibition	1199
§ 71055. Geographic limitations	1199
§ 71060. Unanticipated water level change.....	1199
§ 71065. Unlawful possession of equipment	1200
§ 71075. Equipment inspection	1200
CHAPTER 3. PERMITS	1200
Article 1. Application and Issuance	1200
§ 71200. Permit application	1200
§ 71205. Issuance of permit	1201
§ 71255. Permit fees	1201
§ 71260. Other limitations	1201
Article 2. Environmental Impact Report.....	1202
§ 71280. Moratorium and regulation review	1202
TITLE 2. MINING MITIGATION PLANS	1203
§ 71500. Submission of plan	1203
§ 71505. Plan is site-specific	1204
§ 71510. Criteria for approval	1204
§ 71515. Public review and comment	1204
§ 71520. Monthly reports	1204
§ 71525. Monitoring and evaluation	1204
§ 71530. Reimbursement of department costs	1205
TITLE 3. MINING IN SPECIFIC AREAS	1205
CHAPTER 1. TRINITY AND KLAMATH RIVER FISH AND WILDLIFE DISTRICT (DISTRICT 2675)	1205
Article 1. General Provisions	1205
§ 71700. No affect on other laws	1205
§ 71705. No limitation of authority of specified entities	1205
§ 71710. No application to specified federal activities	1205
Article 2. Prohibitions.....	1206
§ 71750. Mining operations generally.....	1206
§ 71755. Contaminants	1206
§ 71760. Hydraulic mining.....	1206
§ 71765. Public nuisance	1207
PART 6. OTHER ACTIVITIES	1207
TITLE 1. FORESTRY AND AGRICULTURE	1207
CHAPTER 1. TIMBER HARVEST PLANS	1207
§ 72000. Department review	1207
CHAPTER 2. CANNABIS CULTIVATION	1208
§ 72200. Findings and Declarations	1208
§ 72205. Watershed enforcement program	1208
§ 72210. Multiagency task force	1208
§ 72215. Regulations	1208
TITLE 2. ACTIVITIES THAT AFFECT WATERING PLACES	1209
§ 72500. Prohibition of activities that affect watering places	1209
TITLE 3. AIRPORTS	1209
CHAPTER 1. MANAGEMENT OF WILDLIFE AT PUBLIC USE AIRPORTS	1209
§ 72800. Statement of policy.....	1209
§ 72805. Recognition of federal requirements	1209
§ 72810. Federal actions not a violation of this code	1210
§ 72815. Limitation of authorized take	1210
§ 72820. Monitoring of authority and compliance.....	1210

§ 72825. Reimbursement of costs	1211
DISPOSITION OF EXISTING LAW	1213
DERIVATION OF PROPOSED LAW	1245

Fish and Game Code (repealed)

SECTION 1. The Fish and Game Code is repealed.

Fish and Wildlife Code (added)

SEC. 2. The Fish and Wildlife Code is added, to read:

DIVISION 1. GENERAL PROVISIONS

PART 1. PRELIMINARY PROVISIONS

§ 1. Code title

1. (a) This code shall be known as the Fish and Wildlife Code.

(b) The act that added this code shall be known and may be cited as the “Fish and Wildlife Code of 2020.”

Comment. Subdivision (a) of Section 1 is comparable to former Fish and Game Code Section 1.

Subdivision (b) is new. It provides a convenient means of referring to the recodification of the former Fish and Game Code.

§ 5. Application of part

5. Unless the provision or context otherwise requires, the provisions of this part govern the construction of this code.

Comment. Section 5 is new. It is a common general provision in the codes. See, e.g., Prob. Code § 6.

§ 10. Restatement and continuation

10. (a) A provision of this code, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be construed as a restatement and continuation thereof, and not as a new enactment.

(b) A reference in a statute or regulation to a previously existing provision that is restated and continued in this code shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.

(c) A reference in a statute or regulation to a provision of this code that is substantially the same as a previously existing provision, shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

(d) A reference in a regulation to a provision of the former Fish and Game Code, rather than to the provision of this code that continues the former provision, has no effect on the validity of the regulation.

Comment. Subdivision (a) of Section 10 continues the first sentence of former Fish and Game Code Section 3 without substantive change.

Subdivision (b) is drawn from Government Code Section 9604.

Subdivision (c) is drawn from Family Code Section 2.

1 Subdivision (d) is new. It is added to make clear that any delay in updating regulations to
2 reflect the enactment of this code does not have any effect on the validity of the regulation. A
3 regulation continues to be valid even if it refers to a former Fish and Game Code provision.

4 **§ 15. Judicial decisions**

5 15. (a) A judicial decision interpreting a provision of the former Fish and Game
6 Code is relevant in interpreting any provision of this code that restates or
7 continues that provision of the former Fish and Game Code.

8 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
9 has not evaluated the correctness of any judicial decision interpreting a provision
10 of the former Fish and Game Code.

11 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
12 does not, reflect any assessment of any judicial decision interpreting any provision
13 of the former Fish and Game Code.

14 **Comment.** Section 15 is new. Subdivision (a) makes clear that case law construing a
15 predecessor provision of the former Fish and Game Code is relevant in construing its successor
16 provision or provisions in the Fish and Wildlife Code.

17 Subdivisions (b) and (c) make clear that in enacting the act that created the Fish and Wildlife
18 Code of 2020, the Legislature has not taken any position on any judicial opinion interpreting any
19 provision of the former Fish and Game Code. These provisions only apply to the act that created
20 this code. They have no effect on the use of any prior or subsequent enactments in construing
21 statutes.

22 **§ 20. Constitutionality of provisions**

23 20. (a) A judicial decision determining the constitutionality of a provision of the
24 former Fish and Game Code is relevant in determining the constitutionality of any
25 provision of this code that restates or continues that provision of the former Fish
26 and Game Code.

27 (b) However, in enacting the Fish and Wildlife Code of 2020, the Legislature
28 has not evaluated the constitutionality of any provision enacted by that act, or the
29 correctness of any judicial decision determining the constitutionality of any
30 provision of the former Fish and Game Code.

31 (c) The enactment of the Fish and Wildlife Code of 2020 is not intended to, and
32 does not, reflect any determination of the constitutionality of any provision
33 enacted by that act.

34 **Comment.** Section 20 is new. Subdivision (a) makes clear that case law determining the
35 constitutionality of a predecessor provision of the former Fish and Game Code is relevant in
36 determining the constitutionality of its successor provision or provisions in the Fish and Wildlife
37 Code of 2020.

38 Subdivisions (b) and (c) make clear that in enacting the Fish and Wildlife Code of 2020, the
39 Legislature has not taken any position on the constitutionality of any provision of that act, or of
40 any provision of the former Fish and Game Code.

41 **§ 25. No impairment of privileges or rights**

42 25. This code shall not impair any privilege granted or right acquired under any
43 of the laws of this State prior to the date it takes effect.

1 **Comment.** Section 25 continues the second sentence of former Fish and Game Code Section 3
2 without substantive change.

3 **§ 30. Effect of headings**

4 30. Division, part, title, chapter, article, and section headings do not in any
5 manner affect the scope, meaning, or intent of the provisions of this code.

6 **Comment.** Section 30 continues former Fish and Game Code Section 4 without substantive
7 change.

8 **§ 35. Reference to specified part of code**

9 35. Unless otherwise expressly stated:

10 (a) “Division” means a division of this code.

11 (b) “Part” means a part of the division in which that term occurs.

12 (c) “Title” means a title of the part in which that term occurs.

13 (d) “Chapter” means a chapter of the division, part, or title, as the case may be,
14 in which that term occurs.

15 (e) “Article” means an article of the chapter in which that term occurs.

16 (f) “Section” means a section of this code.

17 (g) “Subdivision” means a subdivision of the section in which that term occurs.

18 (h) “Paragraph” means a paragraph of the subdivision in which that term occurs.

19 (i) “Subparagraph” means a subparagraph of the paragraph in which that term
20 occurs.

21 **Comment.** Subdivisions (a) through (e) of Section 35 are new. They are similar to Probate
22 Code Section 8, except that references to “title” have been added.

23 Subdivisions (f) and (g) of Section 35 restate former Fish and Game Code Section 73 without
24 substantive change.

25 **§ 40. Reference to statute includes amendments and additions**

26 40. Whenever reference is made to any portion of this code or of any other law
27 of this state, the reference applies to all amendments and additions heretofore or
28 hereafter made.

29 **Comment.** Section 40 continues former Fish and Game Code Section 5 without substantive
30 change.

31 **§ 45. Delegation**

32 45. Whenever a power is granted to, or duty is imposed upon, a public officer,
33 the power may be exercised or the duty may be performed by a deputy of the
34 officer, or by a person authorized, pursuant to law, by the officer, unless this code
35 expressly provides otherwise.

36 **Comment.** Section 45 continues former Fish and Game Code Section 6 without substantive
37 change.

1 **§ 50. Use of English in statements and reports**

2 50. Whenever a statement or report is required to be made, it shall be made in
3 the English language. Nothing in this section shall prohibit the department from
4 providing an unofficial translation of a statement or report in a language other than
5 English.

6 **Comment.** Section 50 continues former Fish and Game Code Section 7 without substantive
7 change.

8 See also Gov't Code §§ 7290-7299.8 (Dymally-Alatorre Bilingual Services Act).

9 **§ 55. Tenses**

10 55. The present tense includes the past and future tenses, and the future, the
11 present.

12 **Comment.** Section 55 continues former Fish and Game Code Section 8 without substantive
13 change.

14 **§ 60. Gender**

15 60. The masculine gender includes the feminine and the neuter.

16 **Comment.** Section 60 continues former Fish and Game Code Section 9 without substantive
17 change.

18 **§ 65. Number**

19 65. The singular number includes the plural, and the plural, the singular.

20 **Comment.** Section 65 continues former Fish and Game Code Section 10 without substantive
21 change.

22 **§ 70. Days**

23 70. Whenever in this code the doing of an act between certain dates or from one
24 date to another is allowed or prohibited, the period of time thereby indicated
25 includes both dates specified. The first date specified designates the first day of the
26 period, and the second day specified designates the last day of the period. No
27 period of time specified in this code exceeds one year unless otherwise expressly
28 provided.

29 **Comment.** Section 70 continues former Fish and Game Code Section 11 without substantive
30 change.

31 **§ 75. Mailed notice**

32 75. Unless otherwise specified by statute, any notice or other written
33 communication required to be sent to any person by this code or regulations
34 adopted pursuant to this code is sufficient notice, if sent by first-class mail to the
35 last address furnished to the department by that person.

36 **Comment.** Section 75 continues former Fish and Game Code Section 13 without substantive
37 change.

1 **§ 80. “Shall” and “may”**

2 80. “Shall” is mandatory and “may” is permissive.

3 **Comment.** Section 80 continues former Fish and Game Code Section 79 without substantive
4 change.

5 **§ 85. Order, rule, and regulation**

6 85. “Order,” “rule,” and “regulation” are used interchangeably and each includes
7 the others.

8 **Comment.** Section 85 continues former Fish and Game Code Section 64 without substantive
9 change.

10 **§ 90. Possession of animal taken out of state**

11 90. A provision of this code relating to the possession of birds, mammals, fish,
12 reptiles, or amphibians applies to birds, mammals, fish, reptiles, or amphibians
13 taken either in or outside of this state.

14 **Comment.** Section 90 continues former Fish and Game Code Section 2013 without substantive
15 change.

16 **§ 95. Animal parts**

17 95. A provision of this code that applies to a whole animal also applies to a part
18 of the animal.

19 **Comment.** Section 95 continues former Fish and Game Code Section 80 without substantive
20 change.

21 **§ 100. Conforming rule change**

22 100. (a) The commission or the department may make a conforming rule change
23 without complying with the rulemaking procedure specified in Article 5
24 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2
25 of the Government Code, if the rule change meets all of the requirements of this
26 section.

27 (b) To proceed under this section, the commission or department shall submit all
28 of the following to the Office of Administrative Law:

29 (1) A completed and signed form STD 400.

30 (2) A statement declaring that each proposed rule change in the submission is a
31 conforming rule change.

32 (3) A copy of the text of each regulation to be changed, with strikeout and
33 underscore showing the changes.

34 (c) On receipt of a submission described in subdivision (b), the Office of
35 Administrative Law shall file the changed regulations with the Secretary of State
36 and have them published in the California Code of Regulations.

37 (d) “Conforming rule change” means a change to a regulation in Title 14 of the
38 California Code of Regulations that deletes a reference to a former provision of
39 the Fish and Game Code and replaces it with a reference to the provision of this
40 code that restates or continues the former provision. “Conforming rule change”

1 includes a change to a regulation's citation of authority or reference, to delete a
2 reference to a former provision of the Fish and Game Code and replace it with a
3 reference to the provision of this code that restates or continues the former
4 provision.

5 **Comment.** Section 100 is new.

6 PART 2. DEFINITIONS

7 TITLE 1. GENERALLY APPLICABLE 8 DEFINITIONS

9 § 200. Application of definitions

10 200. Unless a provision or the context otherwise requires, the definitions in this
11 part govern the construction of this code and all regulations adopted pursuant to
12 this code.

13 **Comment.** Section 200 continues former Fish and Game Code Section 2 without substantive
14 change.

15 § 205. “Adaptive management”

16 205. “Adaptive management,” unless otherwise specified in this code, means
17 management that improves the management of biological resources over time by
18 using new information gathered through monitoring, evaluation, and other credible
19 sources as they become available, and adjusts management strategies and practices
20 to assist in meeting conservation and management goals. Under adaptive
21 management, program actions are viewed as tools for learning to inform future
22 actions.

23 **Comment.** Section 205 continues former Fish and Game Code Section 13.5 without
24 substantive change.

25 § 210. “Affix”

26 210. “Affix” means physically attach to, or imprint on, an electronic validation
27 to a license document.

28 **Comment.** Section 210 continues former Fish and Game Code Section 16 without substantive
29 change.

30 § 215. “Anadromous fish”

31 215. “Anadromous fish” means fish that spawn in fresh water and spend a
32 portion of their lives in the ocean.

33 **Comment.** Section 215 continues former Fish and Game Code Section 14 without substantive
34 change.

1 **§ 220. “Angling”**

2 220. “Angling” means the taking of, or attempting to take, fish by hook and line
3 with the line held in the hand, or by hook and line with the line attached to a pole
4 or rod that is closely attended or held in the hand in a manner that the fish
5 voluntarily takes the bait or lure in its mouth.

6 **Comment.** Section 220 continues former Fish and Game Code Section 15 without substantive
7 change.

8 **§ 225. “Aquaculture”**

9 225. (a) “Aquaculture” means that form of agriculture devoted to the
10 propagation, cultivation, maintenance, and harvesting of aquatic plants and
11 animals in marine, brackish, and fresh water.

12 (b) “Aquaculture” does not include species of ornamental marine or freshwater
13 plants and animals not utilized for human consumption or bait purposes that are
14 maintained in closed systems for personal, pet industry, or hobby purposes,
15 however, these species continue to be regulated under Part 7 (commencing with
16 Section 26500) of Division 7.

17 **Comment.** Section 225 continues former Fish and Game Code Section 17 without substantive
18 change.

19 **§ 230. “Bag limit”**

20 230. “Bag limit” means the maximum limit, in number or amount, of birds,
21 mammals, fish, reptiles, or amphibians that may lawfully be taken by any one
22 person during a specified period of time.

23 **Comment.** Section 230 continues former Fish and Game Code Section 18 without substantive
24 change.

25 **§ 235. “Bird”**

26 235. “Bird” means a wild bird or part of a wild bird.

27 **Comment.** Section 235 continues former Fish and Game Code Section 22 without substantive
28 change.

29 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
30 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
31 affect the meaning of any other provision of this code that includes or omits a reference to a
32 “part” of an animal.

33 **§ 245. “Buy”**

34 245. “Buy” includes an offer to buy, purchase, barter, exchange, or trade.

35 **Comment.** Section 245 continues former Fish and Game Code Section 24 without substantive
36 change.

37 **§ 250. “Chumming”**

38 250. “Chumming” means the placing in the water of fish, or other material upon
39 which fish feed, for the purpose of attracting fish to a particular area in order that
40 they may be taken.

1 **Comment.** Section 250 continues former Fish and Game Code Section 27 without substantive
2 change.

3 **§ 255. “Closed season”**

4 255. “Closed season” means that period of time during which the taking of
5 birds, mammals, fish, amphibians, or reptiles is prohibited.

6 **Comment.** Section 255 continues former Fish and Game Code Section 29 without substantive
7 change.

8 **§ 280. “Commission”**

9 280. “Commission” means the Fish and Game Commission.

10 **Comment.** Section 280 continues the first clause of former Fish and Game Code Section 30
11 without substantive change.

12 **§ 285. “Commissioner”**

13 310. “Commissioner” means a member of the Fish and Game Commission.

14 **Comment.** Section 285 continues the second clause of former Fish and Game Code Section 30
15 without substantive change.

16 **§ 290. “County”**

17 290. “County” includes city and county.

18 **Comment.** Section 290 continues former Fish and Game Code Section 32 without substantive
19 change.

20 **§ 295. “Credible science”**

21 295. “Credible science” means the best available scientific information that is
22 not overly prescriptive due to the dynamic nature of science, and includes the
23 evaluation principles of relevance, inclusiveness, objectivity, transparency,
24 timeliness, verification, validation, and peer review of information as appropriate.
25 Credible science also recognizes the need for adaptive management, as scientific
26 knowledge evolves.

27 **Comment.** Section 295 continues former Fish and Game Code Section 33 without substantive
28 change.

29 **§ 300. “Day”**

30 300. “Day” means calendar day.

31 **Comment.** Section 300 continues the first clause of former Fish and Game Code Section 35
32 without substantive change.

33 **§ 305. “Department”**

34 305. “Department” means the Department of Fish and Wildlife.

35 **Comment.** Section 305 continues former Fish and Game Code Section 37 without substantive
36 change.

1 **§ 310. “Director”**

2 310. “Director” means the Director of Fish and Wildlife.

3 **Comment.** Section 310 continues former Fish and Game Code Section 39 without substantive
4 change.

5 **§ 315. “District”**

6 315. “District” means fish and wildlife district.

7 **Comment.** Section 315 continues former Fish and Game Code Section 41 without substantive
8 change.

9 **§ 320. “Ecosystem-based management”**

10 320. “Ecosystem-based management” means an environmental management
11 approach relying on credible science that recognizes the full array of interactions
12 within an ecosystem, including humans, rather than considering single issues,
13 species, or ecosystem services in isolation.

14 **Comment.** Section 320 continues former Fish and Game Code Section 43 without substantive
15 change.

16 **§ 325. “Exotic nonresident game bird”**

17 325. “Exotic nonresident game bird” means a bird of the order Galliformes that
18 is not established as a wild resident population in this state.

19 **Comment.** Section 325 continues former Fish and Game Code Section 3514 without
20 substantive change.

21 **§ 330. “Finfish”**

22 330. “Finfish” means any species of bony fish or cartilaginous fish.

23 **Comment.** Section 330 is drawn from Section 1.46 of Title 14 of the California Code of
24 Regulations. It is added for drafting convenience.

25 **§ 335. “Fish”**

26 335. “Fish” means a wild fish, mollusk, crustacean, invertebrate, amphibian, or
27 part, spawn, or ovum of any of those animals.

28 **Comment.** Section 335 continues former Fish and Game Code Section 45 without substantive
29 change.

30 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
31 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
32 affect the meaning of any other provision of this code that includes or omits a reference to a
33 “part” of an animal.

34 **§ 340. “Fully protected amphibian”**

35 340. “Fully protected amphibian” means any of the following amphibians:

36 (a) Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*).

37 (b) Limestone salamander (*Hydromantes brunus*).

38 (c) Black toad (*Bufo boreas exsul*).

Comment. Section 340 continues former Fish and Game Code Section 5050(b)(3)-(5) without substantive change.

§ 345. “Fully protected bird”

345. “Fully protected bird” means any of the following birds:

- (a) American peregrine falcon (*Falco peregrinus anatum*).
- (b) Brown pelican.
- (c) California black rail (*Laterallus jamaicensis coturniculus*).
- (d) California clapper rail (*Rallus longirostris obsoletus*).
- (e) California condor (*Gymnogyps californianus*).
- (f) California least tern (*Sterna albifrons browni*).
- (g) Golden eagle.
- (h) Greater sandhill crane (*Grus canadensis tabida*).
- (i) Light-footed clapper rail (*Rallus longirostris levipes*).
- (j) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).
- (k) Trumpeter swan (*Cygnus buccinator*).
- (l) White-tailed kite (*Elanus leucurus*).
- (m) Yuma clapper rail (*Rallus longirostris yumanensis*).


Comment. Section 345 continues former Fish and Game Code Section 3511(b) without substantive change.

§ 350. “Fully protected fish”

350. “Fully protected fish” means any of the following fish:

- (a) Colorado River squawfish (*Ptychocheilus lucius*).
- (b) Humpback sucker (*Xyrauchen texanus*).
- (c) Lost River sucker (*Deltistes luxatus* and *Catostomus luxatus*).
- (d) Modoc sucker (*Catostomus microps*).
- (e) Mohave chub (*Gila mohavensis*).
- (f) Owens pupfish (*Cyprinodon radiosus*).
- (g) Rough sculpin (*Cottus asperimus*).
- (h) Shortnose sucker (*Chasmistes brevirostris*).
- (i) Thicktail chub (*Gila crassicauda*).
- (j) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

Comment. Section 350 continues former Fish and Game Code Section 5515(b) without substantive change.

 **Note.** Proposed Section 350 would continue Section 5515(b), which was amended by 2018 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 355. “Fully protected mammal”

355. “Fully protected mammal” means any of the following mammals:

- (a) Bighorn sheep (*Ovis canadensis*), except Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) as provided by subdivision (b) of Section 35900
- (b) Guadalupe fur seal (*Arctocephalus townsendi*).

- 1 (c) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).
- 2 (d) Northern elephant seal (*Mirounga angustirostris*).
- 3 (e) Pacific right whale (*Eubalaena sieboldi*).
- 4 (f) Ring-tailed cat (genus *Bassariscus*).
- 5 (g) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).
- 6 (h) Southern sea otter (*Enhydra lutris nereis*).
- 7 (i) Wolverine (*Gulo luscus*).


8 **Comment.** Section 355 continues former Fish and Game Code Section 4700(b) without
9 substantive change.

10 **§ 360. “Fully protected reptile”**

11 360. “Fully protected reptile” means either of the following reptiles:

- 12 (a) Blunt-nosed leopard lizard (*Gambelia sila*).
- 13 (b) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).

14 **Comment.** Section 360 continues former Fish and Game Code Section 5050(b)(1)-(2) without
15 substantive change.

16  **Note.** Proposed Section 360 would continue Section 5050(b)(1)-(2), which was amended by
17 2018 Cal. Stat. ch. 224 as an urgency measure.

18 **§ 365. “Fur-bearing mammal”**

19 365. “Fur-bearing mammal” means any of the following mammals:

- 20 (a) Badger.
- 21 (b) Beaver.
- 22 (c) Fisher.
- 23 (d) Gray fox.
- 24 (e) Kit fox.
- 25 (f) Mink.
- 26 (g) Muskrat.
- 27 (h) Pine marten.
- 28 (i) Raccoon.
- 29 (j) Red fox.
- 30 (k) River otter.

31 **Comment.** Section 365 continues former Fish and Game Code Section 4000 without
32 substantive change.

33 **§ 370. “Game bird”**

34 370. “Game bird” means a resident game bird or a migratory game bird.


35 **Comment.** Section 370 continues former Fish and Game Code Section 3500(c) without
36 substantive change.

37 **§ 375. “Game mammal”**

38 375. (a) “Game mammal” means any of the following mammals:

- 39 (1) Black and brown or cinnamon bear (genus *Euarctos*).

- 1 (2) Deer (genus *Odocoileus*).
2 (3) Elk (genus *Cervus*).
3 (4) Jackrabbit and varying hare (genus *Lepus*), cottontails, brush rabbits, pigmy
4 rabbits (genus *Sylvilagus*).
5 (6) Mountain lion (genus *Felis*).
6 (7) Prong-horned antelope (genus *Antilocapra*).
7 (8) Tree squirrel (genus *Sciurus* and *Tamiasciurus*).
8 (9) Wild pig, including feral pig and European wild boar (genus *Sus*).
9 (b) Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) are game
10 mammals only for the purposes of sport hunting described in subdivision (b) of
11 Section 35900.
12 (c) Notwithstanding subdivision (a) or any other provision of this code, the
13 mountain lion (genus *Felis*) shall not be listed as, or considered to be, a game
14 mammal by the department or the commission.
15 (d) Section 1025 does not apply to subdivision (b). Neither the commission nor
16 the department shall adopt any regulation that conflicts with or supersedes this
17 subdivision, or subdivision (c).
18 **Comment.** Subdivisions (a) and (b) of Section 375 continue former Fish and Game Code
19 Section 3950 without substantive change.
20 Subdivisions (c) and (d) restate former Fish and Game Code Section 3950.1 without
21 substantive change.

22  **Note.** Existing Fish and Game Code Section 3950.1 (which would be continued by proposed
23 Section 375(b) and (c)) was added to the existing code in 1990 by an initiative statute,
24 Proposition 117. The Commission believes that the nonsubstantive continuation of that provision
25 in proposed Section 375 would not be an impermissible amendment. See discussion of initiative
26 statutes *supra* at notes 20-22 and associated text.

27 **§ 380. “Guide boat”**

28 380. “Guide boat” means a boat or vessel under 25 feet in length, which is used
29 by a guide, who is licensed under Title 3 (commencing with Section 8800) of Part
30 1 of Division 6, in inland waters for any of the following purposes:

- 31 (1) For the business of packing or guiding.
32 (2) For compensation, to assist another person in taking or attempting to take
33 any fish or amphibian.
34 (3) For compensation, to assist another person in locating any bird or mammal.

35 **Comment.** Section 380 continues former Fish and Game Code Section 46 without substantive
36 change.

37 **§ 385. “Hook” and related terms**

38 385. “Hook” or “fishhook” means an implement to catch or hold fish or
39 amphibians. “Single hook” means any hook with one point and with or without a
40 barb; “double hook” means any hook with two points and with or without barbs;
41 “treble or triple hook” means any hook with three points and with or without

1 barbs. “Snag” or “gaff” hooks are hooks with or without handles used to take fish
2 in such manner that the fish does not take the hook voluntarily in its mouth.

3 **Comment.** Section 385 continues former Fish and Game Code Section 48 without substantive
4 change.

5 **§ 390. “Kelp”**

6 390. “Kelp” means kelp or other marine aquatic plants and the seeds thereof.

7 **Comment.** Section 390 continues former Fish and Game Code Section 51 without substantive
8 change.

9 **§ 395. “Limited entry fishery”**

10 395. “Limited entry fishery” means a fishery in which the number of persons
11 who may participate or the number of vessels that may be used in taking a
12 specified species of fish is limited by statute or regulation.

13 **Comment.** Section 395 continues former Fish and Game Code Section 8100 without
14 substantive change.

15 **§ 400. “Mammal”**

16 400. “Mammal” means a wild or feral mammal or part of a wild or feral
17 mammal, but not a wild, feral, or undomesticated burro.

18 **Comment.** Section 400 continues former Fish and Game Code Section 54 without substantive
19 change.

20 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
21 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
22 affect the meaning of any other provision of this code that includes or omits a reference to a
23 “part” of an animal.

24 **§ 405. “Marine finfish aquaculture”**

25 405. “Marine finfish aquaculture” means the propagation, cultivation, or
26 maintenance of finfish species in the waters of the Pacific Ocean that are regulated
27 by this state.

28 **Comment.** Section 405 continues former Fish and Game Code Section 54.5 without
29 substantive change.

30 **§ 410. “Migratory game bird”**

31 410. “Migratory game bird” means any of the following birds:

32 (a) Band-tailed pigeon.

33 (b) Coot.

34 (c) Duck.

35 (d) Gallinule.

36 (e) Goose.

37 (f) Jacksnipe.

38 (g) Western mourning dove.

39 (h) White-winged dove.

1 **Comment.** Section 410 continues former Fish and Game Code Section 3500(b) without
2 substantive change.

3 **§ 415. “Mile”**

4 415. “Mile” means either a statute mile (5,280 feet) or a nautical mile (6,077
5 feet) depending on the application. Statute miles shall be the unit of measurement
6 for all land masses, rivers, streams, creeks, and inland bodies of water. Nautical
7 miles shall be the unit of measurement for all marine waters.

8 **Comment.** Section 415 continues former Section 55 without substantive change.

9 **§ 420. “Native California trout”**

10 420. “Native California trout” means any of the following fish:

- 11 (a) California golden trout.
- 12 (b) Coastal cutthroat trout.
- 13 (c) Coastal rainbow trout/steelhead.
- 14 (d) Eagle Lake rainbow trout.
- 15 (e) Goose Lake redband trout.
- 16 (f) Kern River rainbow trout.
- 17 (g) Lahontan cutthroat trout.
- 18 (h) Little Kern golden trout.
- 19 (i) McCloud River redband trout.
- 20 (j) Paiute cutthroat trout.
- 21 (k) Warner Valley redband trout.

22 **Comment.** Section 420 continues former Fish and Game Code Section 7261 without
23 substantive change.

24 **§ 425. “Net”**

25 425. “Net” means any gear made of any kind of twine, thread, string, rope, wire,
26 wood, or other materials used for the gilling, entangling, trapping, or impounding
27 of fish.

28 **Comment.** Section 425 continues former Fish and Game Code Section 56 without substantive
29 change.

30 **§ 430. “Nongame bird”**

31 430. “Nongame bird” means a bird occurring naturally in California that is not a
32 game bird or fully protected bird.

33 **Comment.** Section 430 continues the first sentence of former Fish and Game Code Section
34 3800(a) without substantive change.

35 **§ 435. “Nongame mammal”**

36 435. “Nongame mammal” means any of the following mammals:

- 37 (a) A mammal occurring naturally in California that is not a game mammal,
38 fully protected mammal, or fur-bearing mammal.

(b) A house cat (*Felis domesticus*) found within the limits of a fish and game refuge, except if in the residence of its owner or on the grounds adjacent to that residence.


Comment. Subdivision (a) of Section 435 continues the first sentence of former Fish and Game Code Section 4150 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 4151 without substantive change.

§ 440. “Nonresident”

440. “Nonresident” means a person who is not a resident as defined in Section 485.

Comment. Section 440 restates former Fish and Game Code Section 57 to reconcile the definition of the term “nonresident” with the definition of the term “resident” in former Fish and Game Code Section 70. See also Section 660 (“resident”).

 **Note.** Proposed Section 440 would restate existing Fish and Game Code Section 57 to eliminate an overlap between the definition of “nonresident” in that section and the definition of “resident” in existing Section 70 (which would be continued by proposed Section 660).

The Commission requests public comment on whether the revision would have any problematic effect.

§ 445. “Oath”

445. “Oath” includes affirmation.

Comment. Section 445 continues former Fish and Game Code Section 60 without substantive change.

§ 450. “Open season” and “season”

450. “Open season” means that period of time during which the taking of birds, mammals, fish, reptiles, or amphibians is allowed as prescribed in this code and regulations adopted by the commission. If used to define the period of time during which take is allowed, “season” means “open season.”

Comment. Section 450 continues former Fish and Game Code Section 62 without substantive change.

§ 455. “Person”

455. “Person” means any natural person or any partnership, corporation, limited liability company, trust, or other type of association.

Comment. Section 455 continues former Fish and Game Code Section 67 without substantive change.

§ 460. “Possession limit”

460. “Possession limit” means the maximum, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may be lawfully possessed by one person.

Comment. Section 460 continues former Fish and Game Code Section 19 without substantive change.

1 **§ 465. “Project”**

2 465. For the purposes of this code, unless the context otherwise requires,
3 “project” has the same meaning as defined in Section 21065 of the Public
4 Resources Code.

5 **Comment.** Section 465 continues the definition of “project” in former Fish and Game Code
6 Section 711.2(a) without substantive change.

7 **§ 470. “Purchase”**

8 470. “Purchase” means “buy” as defined in Section 245.

9 **Comment.** Section 470 continues former Fish and Game Code Section 68 without substantive
10 change.

11 **§ 475. “Raw fur”**

12 475. “Raw fur” means any fur, pelt, or skin that has not been tanned or cured,
13 except that salt-cured or sun-cured pelts are raw furs.

14 **Comment.** Section 475 continues the second sentence of former Fish and Game Code Section
15 4005(a) without substantive change.

16 **§ 480. “Recycled water” or “reclaimed water”**

17 480. “Recycled water” or “reclaimed water” has the same meaning as “recycled
18 water” as defined in subdivision (n) of Section 13050 of the Water Code.

19 **Comment.** Section 480 continues former Fish and Game Code Section 89 without substantive
20 change.

21 **§ 485. “Resident”**

22 485. “Resident” means any person who has resided continuously in the State of
23 California for six months or more immediately prior to the date of application for a
24 license or permit, any person on active military duty with the Armed Forces of the
25 United States or auxiliary branch thereof, or any person enrolled in the Job Corps
26 established pursuant to Section 2883 of Title 29 of the United States Code.

27 **Comment.** Section 485 continues former Section 70 without substantive change.

28 **§ 490. “Resident game bird”**

29 490. “Resident game bird” means any of the following birds:

- 30 (a) California quail and varieties thereof.
- 31 (b) Dove of the genus *Streptopelia*, including, but not limited to, spotted dove,
32 ringed turtledove, and Eurasian collared-dove.
- 33 (c) Gambel’s or desert quail.
- 34 (d) Hungarian partridge.
- 35 (e) Mountain quail and varieties thereof.
- 36 (f) Red-legged partridge, including the chukar and other varieties thereof.
- 37 (g) Ring-necked pheasant and varieties thereof.
- 38 (h) Ruffed grouse.
- 39 (i) Sage hens or sage grouse.

1 (j) Sooty or blue grouse and varieties thereof.

2 (k) Wild turkey.

3 **Comment.** Section 490 continues former Fish and Game Code Section 3500(a) without
4 substantive change.

5 **§ 500. “Sell”**

6 500. “Sell” includes offer or possess for sale, barter, exchange, or trade.

7 **Comment.** Section 500 continues former Fish and Game Code Section 75 without substantive
8 change.

9 **§ 505. “Signature” or “subscription”**

10 505. “Signature” or “subscription” includes mark when the signer or subscriber
11 cannot write, such signer’s or subscriber’s name being written near the mark by a
12 witness who writes his own name near the signer’s or subscriber’s name; but a
13 signature or subscription by mark can be acknowledged or can serve as a signature
14 or subscription to a sworn statement only when two witnesses also sign their own
15 names.

16 **Comment.** Section 505 continues former Fish and Game Code Section 81 without substantive
17 change.

18 **§ 510. “Slurp gun”**

19 510. “Slurp gun” means a self-contained, hand-held device used to capture fish
20 by rapidly drawing water containing fish into a closed chamber.

21 **Comment.** Section 510 continues former Fish and Game Code Section 82 without substantive
22 change.

23 **§ 515. “Spiny lobster”**

24 515. “Spiny lobster” refers to the species *Panulirus interruptus*.

25 **Comment.** Section 515 continues former Fish and Game Code Section 8250 without
26 substantive change.

27 **§ 520. “Spouse”**

28 520. “Spouse” includes “registered domestic partner,” as required by Section
29 297.5 of the Family Code.

30 **Comment.** Section 520 continues former Fish and Game Code Section 9.2 without substantive
31 change.

32 **§ 525. “State”**

33 525. “State” means the State of California, unless applied to the different parts
34 of the United States. In the latter case, it includes the District of Columbia and the
35 territories.

36 **Comment.** Section 525 continues former Fish and Game Code Section 83 without substantive
37 change.

1 **§ 530. “State waters”**

2 530. “State waters” means “waters of the state,” as defined in Section 550.

3 **Comment.** Section 530 continues a part of former Fish and Game Code Section 89.1 without
4 substantive change.

5 **§ 535. “Take”**

6 535. “Take” means hunt, pursue, catch, capture, or kill, or attempt to hunt,
7 pursue, catch, capture, or kill.

8 **Comment.** Section 535 continues former Fish and Game Code Section 86 without substantive
9 change.

10 **§ 540. “Transport”**

11 540. “Transport” includes offer or receive for transportation.

12 **Comment.** Section 540 continues former Fish and Game Code Section 88 without substantive
13 change.

14 **§ 545. “Upland game bird”**

15 545. “Upland game bird” means any of the following birds:

16 (a) Band-tailed pigeon.

17 (b) California quail and varieties thereof.

18 (c) Dove of the genus *Streptopelia*, including, but not limited to, spotted dove,
19 ringed turtledove, and Eurasian collared dove.

20 (d) Gambel’s or desert quail.

21 (e) Hungarian partridge.

22 (f) Jacksnipe.

23 (g) Mountain quail and varieties thereof.

24 (h) Red-legged partridge including the chukar and other varieties.

25 (i) Ring-necked pheasant and varieties thereof.

26 (j) Ruffed grouse.

27 (k) Sage hen or sage grouse.

28 (l) Sooty or blue grouse.

29 (m) Western mourning dove.

30 (n) White-tailed ptarmigan.

31 (o) White-winged dove.

32 (p) Wild turkey.

33 **Comment.** Section 545 continues former Fish and Game Code Section 3683 without
34 substantive change.

35 **Notes.** (1) Existing Fish and Game Code Section 3683 separately lists the upland game birds
36 that are resident game birds, and those that are migratory game birds. Proposed Section 545
37 would list all upland game birds without indicating whether a listed bird was a resident or
38 migratory game bird.

39 **The Commission invites comment on whether that revision is appropriate.**

(2) Existing Fish and Game Code Section 3683(a)(8) identifies a white-tailed ptarmigan as a resident game bird that is also an upland game bird. However, existing Section 3500, which identifies resident game birds, does not list any ptarmigan as a resident game bird.

The Commission invites comment on this apparent discrepancy, and the proper classification of the white-tailed ptarmigan.

§ 550. “Waters of the state,” “waters of this state”

550. “Waters of the state” or “waters of this state” have the same meaning as “waters of the state” as defined in subdivision (e) of Section 13050 of the Water Code.

Comment. Section 550 continues a part of former Fish and Game Code Section 89.1 without substantive change. See also Section 530 (“state waters”).

§ 555. “Week”

555. “Week” means calendar week.

Comment. Section 555 continues the second clause of former Fish and Game Code Section 35 without substantive change.

§ 560. “Wildlife”

560. “Wildlife” means and includes all wild animals, birds, plants, fish, amphibians, reptiles, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability.

Comment. Section 560 continues former Fish and Game Code Section 89.5 without substantive change.

TITLE 2. MARINE LIFE DEFINITIONS

§ 600. Application of definitions

600. The definitions in this chapter govern the construction of the following provisions, and all regulations adopted pursuant to those provisions:

(a) Title 6 (commencing with Section 4850) of Part 4 of Division 3

(b) Part 4 (commencing with Section 11500) and Part 6 (commencing with Section 14200) of Division 6.

(c) Title 4 commencing with Section (25700) of Part 3 of Division 7.

(d) Title 2 (commencing with Section 38200) of Part 3,

Part 12 (commencing with Section 39800), Part 13 (commencing with Section 40250), and Part 14 (commencing with Section 40550) of Division 10.

(i) Chapter 2 (commencing with Section 41350), Chapter 4 (commencing with Section 41600), and Chapter 5 (commencing with Section 41650) of Title 2 of Part 17 of Division 10.

(e) Part 4 (commencing with Section 45650), Part 6 (commencing with Section 46500), Part 9 (commencing with Section 49300), Part 13 (commencing with Section 50450), Part 14 (commencing with Section 50650), Part 15 (commencing

with Section 50850) and Part 16 (commencing with Section 51300) of Division 11.

(f) Section 54525.

(g) Title 2 (67000) of Part 3 of Division 17.

Comment. Section 600 continues former Fish and Game Code Section 90 without substantive change.

Notes. (1) Proposed Section 600 incorporates the revision of Section 90 made by 2018 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

(2) Existing Section 90 specifically prescribes the application of the definitions in existing Sections 90.1 through 99. In doing so, Section 90 provides in part that the definitions apply to “Division 6 (commencing with Section 5500).” That very large division spans hundreds of sections — Sections 5500 through 9101— all under the very general heading of “Fish.” In the proposed law, Division 6 was broken up and distributed to multiple locations in the proposed Fish and Wildlife Code. That makes it difficult to continue the existing cross-reference to Division 6 without some modification. It could be done, but would result in a much longer and more complicated cross-reference than the one set out in Section 600. Exact continuation of the existing cross-reference would also be problematic, because it would expressly apply the definitions to provisions that do not use the defined terms or that use the terms in connection with freshwater fish and fisheries (contrary to their intended application to marine life).

The cross-reference in proposed Section 600 was assembled by searching for every use of the defined terms in existing Division 6 and creating targeted cross-references to the provisions that use the terms. For the most part, the cross-references are to identifiable blocks of law that contain the relevant provisions, rather than to a long list of individual sections. That approach increases ease of use and it also anticipates the possibility that the defined terms could be used in related provisions in the future.

The cross-references do not include provisions that use the defined terms but that appear to apply to freshwater, rather than marine life (i.e., existing Sections 6401, 6440-6453, 7145, 7260, 7361, 8491, 8492).

The Commission invites comment on the approach taken in proposed Section 600. In particular, it would be helpful to know whether the cross-references could be further simplified. For example, could proposed Sections 600(d) and (e) simply refer to Divisions 10 (Fish) and 11 (Invertebrates) respectively?

§ 605. “Adaptive management”

605. “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.

Comment. Section 605 continues former Fish and Game Code Section 90.1 without substantive change.

§ 610. “Bycatch”

610. “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.

1 **Comment.** Section 610 continues former Fish and Game Code Section 90.5 without
2 substantive change.

3 **§ 615. “Depressed”**

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

12 **Comment.** Section 615 continues former Fish and Game Code Section 90.7 without
13 substantive change.

14 **§ 620. “Discards”**

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

18 **Comment.** Section 620 continues former Fish and Game Code Section 91 without substantive
19 change.

20 **§ 625. “Essential fishery information”**

21 625. “Essential fishery information,” with regard to a marine fishery, means
22 information about fish life history and habitat requirements; the status and trends
23 of fish populations, fishing effort, and catch levels; fishery effects on fish age
24 structure and on other marine living resources and users, and any other
25 information related to the biology of a fish species or to taking in the fishery that is
26 necessary to permit fisheries to be managed according to the requirements of this
27 code.

28 **Comment.** Section 625 continues former Fish and Game Code Section 93 without substantive
29 change.

30 **§ 630. “Fishery”**

31 630. “Fishery” means both of the following:

32 (a) One or more populations of marine fish or marine plants that may be treated
33 as a unit for purposes of conservation and management and that are identified on
34 the basis of geographical, scientific, technical, recreational, and economic
35 characteristics.

36 (b) Fishing for, harvesting, or catching the populations described in subdivision
37 (a).

38 **Comment.** Section 630 continues former Fish and Game Code Section 94 without substantive
39 change.

1 **§ 635. “Marine living resources”**

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

5 **Comment.** Section 635 continues former Fish and Game Code Section 96 without substantive
6 change.

7 **§ 640. “Maximum sustainable yield”**

8 640. “Maximum sustainable yield” in a marine fishery means the highest
9 average yield over time that does not result in a continuing reduction in stock
10 abundance, taking into account fluctuations in abundance and environmental
11 variability.

12 **Comment.** Section 640 continues former Fish and Game Code Section 96.5 without
13 substantive change.

14 **§ 645. “Optimum yield”**

15 645. “Optimum yield,” with regard to a marine fishery, means the amount of
16 fish taken in a fishery that does all of the following:

17 (a) Provides the greatest overall benefit to the people of California, particularly
18 with respect to food production and recreational opportunities, and takes into
19 account the protection of marine ecosystems.

20 (b) Is the maximum sustainable yield of the fishery, as reduced by relevant
21 economic, social, or ecological factors.

22 (c) In the case of an overfished fishery, provides for rebuilding to a level
23 consistent with producing maximum sustainable yield in the fishery.

24 **Comment.** Section 645 continues former Fish and Game Code Section 97 without substantive
25 change.

26 **§ 650. “Overfished”**

27 650. “Overfished,” with regard to a marine fishery, means both of the following:

28 (a) A depressed fishery.

29 (b) A reduction of take in the fishery is the principal means for rebuilding the
30 population.

31 **Comment.** Section 650 continues former Fish and Game Code Section 97.5 without
32 substantive change.

33 **§ 655. “Overfishing”**

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

39 **Comment.** Section 655 continues former Fish and Game Code Section 98 without substantive
40 change.

1 **§ 660. “Participants”**

2 660. “Participants” in regard to a fishery means the sportfishing, commercial
3 fishing, and fish receiving and processing sectors of the fishery.

4 **Comment.** Section 660 continues former Fish and Game Code Section 98.2 without
5 substantive change.

6 **§ 665. “Population”**

7 665. “Population” means a species, subspecies, geographical grouping, or other
8 category of fish capable of management as a unit.

9 **Comment.** Section 665 continues a part of former Fish and Game Code Section 98.5 without
10 substantive change.

11 **§ 670. “Restricted access”**

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

16 **Comment.** Section 670 continues former Fish and Game Code Section 99 without substantive
17 change.

18 **§ 675. “Stock”**

19 675. “Stock” means “population,” as defined in Section 665.

20 **Comment.** Section 675 continues a part of former Fish and Game Code Section 98.5 without
21 substantive change.

22 **§ 680. “Sustainable,” “sustainable use,” and “sustainability”**

23 680. “Sustainable,” “sustainable use,” and “sustainability,” with regard to a
24 marine fishery, mean both of the following:

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

27 (b) Securing the fullest possible range of present and long-term economic,
28 social, and ecological benefits, maintaining biological diversity, and, in the case of
29 fishery management based on maximum sustainable yield, taking in a fishery that
30 does not exceed optimum yield.

31 **Comment.** Section 680 continues former Fish and Game Code Section 99.5 without
32 substantive change.

DIVISION 2. ADMINISTRATION

PART 1. FISH AND GAME COMMISSION

TITLE 1. ORGANIZATION

§ 900. Fish and Game Commission

900. There is in the Resources Agency the Fish and Game Commission created by Section 20 of Article IV of the Constitution.

Comment. Section 900 continues former Fish and Game Code Section 101 without substantive change.

§ 905. Findings and declarations

905. (a) The Legislature finds and declares that the scope and responsibilities of the commission have significantly expanded over the years as the size and diversity of California's population have increased, and as the scientific knowledge of the habitat conservation and ecosystem-based management needs of wildlife has expanded. The members of the commission are expected to make complex public policy and biological decisions on behalf of the people of California. The commission is created by the California Constitution, which does not include any criteria or qualifications for selection and appointment of commissioners.

(b) It is therefore the intent of the Legislature to encourage the Governor and the Senate Committee on Rules to consider the following minimum qualifications in selecting, appointing, and confirming commissioners to serve on the commission:

(1) The degree to which the appointee will enhance the diversity of background and geographic representation of the commission.

(2) The appointee's demonstrated interest and background in, and familiarity with, wildlife and natural resources management programs at the state or federal level.

(3) The appointee's previous experience in public policy decisionmaking, including government processes involving public participation.

(4) The appointee's commitment to prepare for and attend meetings and subcommittee meetings of the commission and to comply with all applicable state conflict-of-interest laws.

(5) The extent of the appointee's exposure to and experience with the basic science underpinning the management of living natural resources.

(6) The appointee's diversity of knowledge of natural resource issues and related scientific disciplines, including, but not limited to, outdoor recreation.

Comment. Section 905 continues former Fish and Game Code Section 101.5 without substantive change.

1 **§ 910. Officers**

2 910. (a) The commissioners shall annually elect one of their number as president
3 and one as vice president, by a concurrent vote of at least three commissioners.

4 (b) The president or vice president may be removed from the position of
5 president or vice president by a vote, at any time, of at least three commissioners.

6 (c) In the event of a vacancy in either the position of president or vice president,
7 the commission shall fill that vacancy at the next regularly scheduled meeting of
8 the commission. The elected successor president or vice president shall serve for
9 the unexpired term of the predecessor until the annual election pursuant to
10 subdivision (a).

11 (d) The commission may not adopt or enforce a policy or a regulation that
12 provides for the president and vice president to be chosen by seniority nor may the
13 commission adopt or enforce any other policy or regulation that would make a
14 commissioner ineligible to be elected as president or vice president of the
15 commission.

16 **Comment.** Section 910 continues former Fish and Game Code Section 102 without substantive
17 change.

18 **§ 915. Compensation and expenses**

19 915. (a) Each of the commissioners shall receive one hundred dollars (\$100) for
20 each day of actual service performed in carrying out his or her official duties
21 pursuant to law, but the amount of this compensation shall not exceed for any one
22 commissioner the sum of five hundred dollars (\$500) for any one calendar month.
23 In addition to this compensation, the commissioners shall receive their actual and
24 necessary expenses incurred in the performance of their duties.

25 (b) The compensation and expenses provided in this section shall be paid out of
26 the Fish and Game Preservation Fund.

27 **Comment.** Section 915 continues former Fish and Game Code Section 103 without substantive
28 change.

29 **§ 920. Meetings**

30 920. (a) The commission shall hold no fewer than eight regular meetings per
31 calendar year, if the commission has adequate funding for related travel, including
32 funding for department travel. The commission may also hold special meetings or
33 hearings to receive additional input from the department and the public.

34 (b) The commission shall announce the dates and locations of meetings for the
35 year by January 1 of that year, or 60 days prior to the first meeting, whichever
36 comes first. Meeting locations shall be accessible to the public and located
37 throughout the state. To the extent feasible, meetings shall be held in state
38 facilities. In setting the dates and locations for regular meetings, the commission
39 shall also consider the following factors:

40 (1) Recommendations of the department.

41 (2) Opening and closing dates of fishing and hunting seasons.

1 (3) The schedules of other state and federal regulatory agencies whose
2 regulations affect the management of fish and wildlife of this state.

3 (c) The commission shall cause the notice of the schedule for regular meetings,
4 and notice of any change in the date and location of a meeting, to be disseminated
5 to the public in a manner that will result in broad dissemination and that complies
6 with the Administrative Procedure Act (Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

8 **Comment.** Section 920 continues former Fish and Game Code Section 110 without substantive
9 change.

10 **§ 925. Marine resources committee**

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

19 **Comment.** Section 925 continues former Fish and Game Code Section 105 without substantive
20 change.

21 **§ 930. Wildlife resources committee**

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

30 **Comment.** Section 930 continues former Fish and Game Code Section 106 without substantive
31 change.

32 **§ 935. Commission staff**

33 935. The commission may employ a staff, including an executive director, to
34 assist the commission in conducting its operations, but neither the commission nor
35 its staff shall have or be given any powers in relation to the administration of the
36 department.

37 **Comment.** Section 935 continues former Section 104 without substantive change.

1 **§ 940. Code of conduct**

2 940. The commission shall adopt a code of conduct that requires, at a minimum,
3 that a commissioner adhere to the following principles:

4 (a) A commissioner shall faithfully discharge the duties, responsibilities, and
5 quasi-judicial actions of the commission.

6 (b) A commissioner shall conduct his or her affairs in the public's best interest,
7 following principles of fundamental fairness and due process of law.

8 (c) A commissioner shall conduct his or her affairs in an open, objective, and
9 impartial manner, free of undue influence and the abuse of power and authority.

10 (d) A commissioner understands that California's wildlife and natural resources
11 programs require public awareness, understanding, and support of, and
12 participation and confidence in, the commission and its practices and procedures.

13 (e) A commissioner shall preserve the public's welfare and the integrity of the
14 commission, and act to maintain the public's trust in the commission and the
15 implementation of its regulations and policies.

16 (f) A commissioner shall not conduct himself or herself in a manner that reflects
17 discredit upon state laws or policies, regulations, and principles of the
18 commission.

19 (g) A commissioner shall not make, participate in making, or in any other way
20 attempt to use his or her official position to influence a commission decision in
21 which the member has a financial interest.

22 **Comment.** Section 940 continues former Fish and Game Code Section 107 without substantive
23 change.

24 **TITLE 2. POWERS AND DUTIES**

25 **CHAPTER 1. REGULATION OF TAKE AND POSSESSION GENERALLY**

26 **Article 1. Authority**

27 **§ 1000. General authority**

28 1000. (a) There is hereby delegated to the commission the power to regulate the
29 taking or possession of birds, mammals, fish, amphibians, and reptiles.

30 (b) No power is delegated to the commission by this section to regulate either of
31 the following:

32 (1) The taking, possessing, processing, or use of fish, amphibians, kelp, or other
33 aquatic plants for commercial purposes.

34 (2) The taking or possession of a spike buck or spotted fawn. "Spike buck"
35 means a male deer with unbranched antlers on both sides that are more than three
36 inches in length. "Spotted fawn" means a deer one year of age or less that has
37 spotted pelage.

1 (c) This section and any regulations adopted pursuant to this section have no
2 effect on any provision of this code or any regulation adopted pursuant to this code
3 that relates to a matter described in paragraph (1) of subdivision (b).

4 **Comment.** Section 1000 continues former Fish and Game Code Section 200 without
5 substantive change.

6 **§ 1005. Limitations on authority**

7 1005. Nothing in this article confers upon the commission any power to regulate
8 any natural resources or commercial or other activity connected therewith, except
9 as specifically provided.

10 **Comment.** Section 1005 continues former Fish and Game Code Section 201 without
11 substantive change.

12 **§ 1010. Birds and mammals**

13 1010. Any regulation of the commission adopted pursuant to this chapter
14 relating to resident game birds, game mammals and furbearing mammals may
15 apply to all or any areas, districts, or portions of those areas or districts, at the
16 discretion of the commission, and may do any or all of the following as to any or
17 all species or subspecies:

- 18 (a) Establish, extend, shorten, or abolish open seasons and closed seasons.
- 19 (b) Establish, change, or abolish bag limits and possession limits.
- 20 (c) Establish and change areas or territorial limits for their taking.
- 21 (d) Prescribe the manner and the means of taking.
- 22 (e) Establish, change, or abolish restrictions based upon sex, maturity, or other
23 physical distinctions.

24 **Comment.** Section 1010 continues former Fish and Game Code Section 203 without
25 substantive change.

26 **§ 1015. Fish, amphibians, and reptiles**

27 1015. Any regulation of the commission adopted pursuant to this chapter that
28 relates to fish, amphibians, and reptiles, may apply to all or any areas, districts, or
29 portion of those areas or districts, at the discretion of the commission, and may do
30 any or all of the following as to any or all species or subspecies:

- 31 (a) Establish, extend, shorten, or abolish open seasons and closed seasons.
- 32 (b) Establish, change, or abolish bag limits, possession limits, and size limits.
- 33 (c) Establish and change areas or territorial limits for their taking.
- 34 (d) Prescribe the manner and the means of taking.

35 **Comment.** Section 1015 continues former Fish and Game Code Section 205 without
36 substantive change.

37 **§ 1020. Factors to be considered**

38 1020. When adopting regulations pursuant to Section 1010, the commission
39 shall consider populations, habitat, food supplies, the welfare of individual
40 animals, and other pertinent facts and testimony.

1 **Comment.** Section 1020 continues former Fish and Game Code Section 203.1 without
2 substantive change.

3 **§ 1025. Regulation that supersedes statute**

4 1025. (a) Any regulation adopted pursuant to this chapter may supersede any
5 section of this code designated by number in the regulation, but shall do so only to
6 the extent specifically provided in the regulation. A regulation that is adopted
7 pursuant to this section shall be valid only to the extent that it makes additions,
8 deletions, or changes to this code under one or both of the following
9 circumstances:

10 (1) The regulation is necessary for the protection of fish, wildlife, and other
11 natural resources under the jurisdiction of the commission.

12 (2) The commission determines that an emergency exists or will exist unless the
13 action is taken. An emergency exists if there is an immediate threat to the public
14 health, safety, and welfare, or to the population or habitat of any species.

15 (b) A regulation that is adopted pursuant to this section shall be supported by
16 written findings adopted by the commission at the time of the adoption of the
17 regulation setting forth the basis for the regulation.

18 (c) A regulation adopted pursuant to this section shall remain in effect for not
19 more than 12 months from its effective date.

20 **Comment.** Section 1025 continues former Fish and Game Code Section 219 without
21 substantive change.

22 Article 2. Procedure

23 **§ 1100. Application of article**

24 1100. (a) Except as provided in subdivision (b), this article applies to a
25 commission regulation that governs the take or possession of any bird, mammal,
26 fish, amphibian, or reptile.

27 (b) This article does not apply to a regulation governed by subdivision (b) of
28 Section 1000, or by Section 1005.

29 (c) Except as expressly provided, this article does not supersede any other
30 applicable law that governs the adoption, amendment, or repeal of a regulation.

31 **Comment.** Section 1100 continues former Fish and Game Code Section 250 without
32 substantive change.

33 **§ 1105. General rulemaking procedure**

34 1105. (a) When adopting, amending, or repealing a regulation governed by this
35 article, the commission shall conduct the following steps at separate public
36 meetings:

37 (1) Approve the submission of a notice of proposed action to the Office of
38 Administrative Law.

1 (2) Consider public comment on the proposed action. The department shall
2 participate in this process by reviewing and responding to all public comment.

3 (3) Make a final decision on the proposed action.

4 (b) The meetings required by this section may be regular or special meetings.

5 (c) The meetings required by this section shall be duly noticed to the public in
6 accordance with subdivision (c) of Section 920, and with the Administrative
7 Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
8 Division 3 of Title 2 of the Government Code).

9 (d) Within 45 days after the commission makes a final decision to adopt, amend,
10 or repeal a regulation governed by this article, the department shall publish and
11 distribute the regulation to each county clerk, district attorney, and judge of the
12 superior court in the state.

13 **Comment.** Section 1105 continues former Fish and Game Code Section 255 without
14 substantive change.

15 **§ 1110. Distribution of regulations**

16 1110. (a) The commission and the department may do anything that is deemed
17 necessary and proper to publicize and distribute a regulation governed by this
18 article so that persons likely to be affected will be informed of them. The failure of
19 the commission to provide any notice of a regulation governed by this article,
20 beyond what is required by Chapter 3.5 (commencing with Section 11340) of Part
21 1 of Division 3 of Title 2 of the Government Code, does not impair the validity of
22 the regulation.

23 (b) Notwithstanding any other law, the commission and the department may
24 contract with private entities to print regulations governed by this article, and other
25 public information. The printing contract shall include criteria to ensure that the
26 public information provided in the publication is easy to reference, read, and
27 understand.

28 (c) Printing contracts authorized by this section for which no state funds are
29 expended are not subject to Chapter 2 (commencing with Section 10290) of Part 2
30 of Division 2 of the Public Contract Code, except for Article 2 (commencing with
31 Section 10295) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

32 (d) Material printed pursuant to subdivision (b) that contains advertisements
33 shall meet all specifications prescribed by the department. The printed material
34 shall not contain advertisements for tobacco products, alcohol, firearms, and
35 devices prohibited pursuant to Section 32625 of the Penal Code, Article 2
36 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4 of Part 6
37 of the Penal Code, or any provision listed in Section 16590 of the Penal Code, or
38 firearms not authorized by the commission as a legal method of sport hunting,
39 political statements, solicitations for membership in organizations, or any other
40 statement, solicitation, or product advertisement that is in conflict with the
41 purposes for which the material is produced, as determined by the commission.

1 (e) Neither the department nor the commission shall contract with private
2 entities to print the materials described in subdivision (b) if the letting of those
3 contracts will result in the elimination of civil service positions.

4 (f) The department or the license agent may give a copy of the current applicable
5 published regulations governed by this article to each person issued a license, at
6 the time the license is issued.

7 **Comment.** Section 1110 continues former Fish and Game Code Section 260 without
8 substantive change.

9 **§ 1115. Exemption from time requirements**

10 1115. A regulation governed by this article is not subject to the time periods for
11 the adoption, amendment, or repeal of a regulation prescribed in Sections 11343.4,
12 11346.4, 11346.8, and 11347.1 of the Government Code.

13 **Comment.** Section 1115 continues former Fish and Game Code Section 265 without
14 substantive change.

15 **§ 1120. Effective date of regulation**

16 1120. The adoption, amendment, or repeal of a regulation governed by this
17 article shall become effective at the time specified in the regulation, but not sooner
18 than the date of the filing.

19 **Comment.** Section 1120 continues former Fish and Game Code Section 270 without
20 substantive change.

21 **§ 1125. Effective period**

22 1125. A regulation governed by this article shall remain in effect for the period
23 specified in the regulation or until superseded by subsequent regulation of the
24 commission or by statute.

25 **Comment.** Section 1125 continues former Fish and Game Code Section 275 without
26 substantive change.

27 **CHAPTER 2. OTHER REGULATION**

28 **§ 1200. Commission practices and processes**

29 1200. By July 1, 2013, the commission shall adopt rules to govern the business
30 practices and processes of the commission.

31 **Comment.** Section 1200 continues former Fish and Game Code Section 108 without
32 substantive change.

33 **§ 1205. Disposition of accidentally killed birds and mammals**

34 1205. The commission may adopt regulations that it deems necessary for the
35 disposition of birds or mammals that are killed accidentally.

36 **Comment.** Section 1205 continues former Section 301 without substantive change.

1 CHAPTER 3. EMERGENCY REGULATIONS

2 **§ 1250. Emergency regulations**

3 1250. Notwithstanding any other provision of this code, the commission, when
4 adopting, amending, or repealing a regulation pursuant to authority vested in it by
5 this code, may, after at least one hearing, adopt, amend, or repeal that regulation
6 pursuant to Section 11346.1 of the Government Code, if it makes either of the
7 following findings:

8 (a) That the adoption, amendment, or repeal is necessary for the immediate
9 conservation, preservation, or protection of birds, mammals, fish, amphibians, or
10 reptiles, including, but not limited to, their nests or eggs.

11 (b) That the adoption, amendment, or repeal is necessary for the immediate
12 preservation of the public peace, health and safety, or general welfare.

13 **Comment.** Section 1250 continues former Fish and Game Code Section 399 without
14 substantive change.

15 CHAPTER 4. INVESTIGATION AND ADJUDICATION

16 **§ 1300. Authority to compel testimony and production of evidence**

17 1300. The commission or any person appointed by it to conduct a hearing may,
18 in any investigation or hearing, cause the deposition of witnesses, residing within
19 or without the state, to be taken in the manner prescribed by law for deposition in
20 civil actions in the superior courts of this state under Title 4 (commencing with
21 Section 2016.010) of Part 4 of the Code of Civil Procedure, and may compel the
22 attendance of witnesses and the production of documents and papers.

23 **Comment.** Section 1300 continues the first sentence of former Fish and Game Code Section
24 309(a) without substantive change.

25 **§ 1305. Hearings governed by Administrative Procedures Act**

26 1305. Any deliberation conducted by the commission, or conducted by any
27 person appointed by the commission to conduct hearings, is deemed to be a
28 proceeding required to be conducted pursuant to Chapter 5 (commencing with
29 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or
30 similar provision, within the meaning of paragraph (3) of subdivision (c) of
31 Section 11126 of the Government Code.

32 **Comment.** Section 1305 continues former Fish and Game Code Section 309(b) without
33 substantive change.

PART 2. DEPARTMENT OF FISH AND WILDLIFE

TITLE 1. ORGANIZATION

§ 1500. Department of Fish and Wildlife

1500. (a) There is in the Natural Resources Agency a Department of Fish and Wildlife administered through the director.

(b) The Department of Fish and Wildlife shall succeed to, and is vested with, all the duties, powers, purposes, responsibilities, property, and jurisdiction previously vested in the Department of Fish and Game.

(c) Whenever the term “Department of Fish and Game” appears in a law, the term means the “Department of Fish and Wildlife.”

(d) No existing supplies, forms, insignias, signs, logos, uniforms, or emblems shall be destroyed or changed as a result of changing the name of the Department of Fish and Game to the Department of Fish and Wildlife, and those materials shall continue to be used until exhausted or unserviceable.

Comment. Section 1500 continues former Fish and Game Code Section 700 without substantive change.

§ 1505. Administration and enforcement of code

1505. This code shall be administered and enforced through regulations adopted only by the department, except as otherwise specifically provided by this code or where this code requires the commission to adopt regulations.

Comment. Section 1505 continues former Fish and Game Code Section 702 without substantive change.

§ 1510. Commission sets general department policy

1510. General policies for the conduct of the department shall be formulated by the commission. The director shall be guided by those policies and shall be responsible to the commission for the administration of the department in accordance with those policies.

Comment. Section 1510 continues former Fish and Game Code Section 703(a) without substantive change.

§ 1515. Director

1515. The director shall be appointed by the Governor, and receive the annual salary provided for by Chapter 6 (commencing at Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 1515 continues former Section 701 without substantive change.

§ 1520. Deputy director

1520. There shall be one deputy director of the department who shall be a civil executive officer and shall be appointed by the Governor and serve at the pleasure

1 of the Governor. The compensation of the deputy director shall be fixed by the
2 director pursuant to law. The deputy director shall have duties as shall be assigned,
3 from time to time, by the director, and shall be responsible to the director for the
4 performance of those duties.

5 **Comment.** Section 1520 continues former Section 701.3 without substantive change.

6 **§ 1525. Director as appointing power for all department employees**

7 1525. (a) Notwithstanding any other provision of law, the director is the
8 appointing power of all employees within the department, and all employees in the
9 department are responsible to the director for the proper carrying out of the duties
10 and responsibilities of their respective positions.

11 (b) The changes made to subdivision (a) during the 2001-02 Regular Session of
12 the Legislature are declaratory of existing law.

13 **Comment.** Section 1525 continues former Section 704 without substantive change.

14 **§ 1530. Incorporation of specified law on state agencies**

15 1530. The provisions of Chapter 2 (commencing at Section 11150) of Part 1 of
16 Division 3 of Title 2 of the Government Code shall govern and apply to the
17 conduct of the department in every respect. Wherever in that chapter the term
18 “head of the department” or similar designation occurs, for the purposes of this
19 section it shall mean the director.

20 **Comment.** Section 1530 continues former Fish and Game Code Section 706 without
21 substantive change.

22 **TITLE 2. DEPARTMENT EMPLOYEES**

23 **§ 1600. Appointment of employees**

24 1600. The director shall, from time to time, employ or appoint, with or without
25 pay, those deputies, clerks, assistants, and other employees as the department may
26 need to discharge in proper manner the duties imposed upon it by law.

27 **Comment.** Section 1600 continues former Section 850 without substantive change.

28 **§ 1605. Legal defense of officers and deputies**

29 1605. It is the duty of the attorney for the department to act as counsel in
30 defense of any officer or deputy of the department, in any suit for damages
31 brought against the officer or deputy, on account of injuries to persons or property
32 alleged to have been received as a result of the negligence or misconduct of the
33 officer or deputy, occurring while the officer or deputy was performing official
34 duties.

35 **Comment.** Section 1605 continues former Fish and Game Code Section 707 without
36 substantive change.

1 **§ 1610. Entry onto private land**

2 1610. (a) Notwithstanding any provision of law, the status of a person as an
3 employee, agent, or licensee of the department does not confer upon that person a
4 special right or privilege to knowingly enter private land without the consent of
5 the owner, a search warrant, or an inspection warrant.

6 (b) Subdivision (a) does not apply to employees, agents, or licensees of the
7 department in the event of an emergency. For purposes of this section,
8 “emergency” means a sudden, unexpected occurrence, involving a clear and
9 imminent danger demanding immediate action to prevent or mitigate loss of, or
10 damage to, wildlife, wildlife resources, or wildlife habitat.

11 (c) Subdivision (a) does not apply to a sworn peace officer authorized pursuant
12 to subdivision (e) of Section 830.2 of the Penal Code or, if necessary for law
13 enforcement purposes, to other departmental personnel accompanying a sworn
14 peace officer. Subdivision (a) shall not be construed to define or alter any
15 authority conferred on those peace officers by any other law or court decision.

16 (d) Subdivision (a) does not apply to, or interfere with, the authority of
17 employees or licensees to enter and inspect land in conformance with Section
18 4604 of the Public Resources Code.

19 (e) This section is not intended to expand or constrain the authority, if any, of
20 employees, agents, or licensees of the department to enter private land to conduct
21 inspections pursuant to Section 21615 of this code or Section 8670.5, 8670.7, or
22 8670.10 of the Government Code.

23 (f) If the department conducts a survey or evaluation of private land pursuant to
24 this section, that results in the preparation of a document or report, the department
25 shall, upon request and without undue delay, provide the landowner either a copy
26 of the report or a written explanation of the department’s legal authority for
27 denying the request. The department may charge a fee for each copy, not to exceed
28 the direct costs of duplication.

29 **Comment.** Section 1610 continues former Section 857 without substantive change.

30 **§ 1615. Landowner complaint policy**

31 1615. The department, in cooperation with landowners and landowner
32 organizations, shall develop a statewide policy and procedure for recording and
33 processing landowner complaints regarding alleged misconduct by personnel of
34 the department and a written protocol that ensures compliance with Section 1610.

35 **Comment.** Section 1615 continues former Section 858(a) without substantive change.

TITLE 3. GENERAL POWERS AND DUTIES

§ 1675. Mission, core programs, service-based budget review

1675. (a) (1) The department's mission is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment of the public.

(2) The department's core programs are the following:

(A) Management of departmental lands and facilities.

(B) Biodiversity conservation.

(C) Hunting, fishing, and public use.

(D) Enforcement.

(E) Spill prevention and response.

(F) Communication, education, and outreach.

(3) The department, as a part of a service-based budget review, shall identify strategic goals that reflect the core programs identified in paragraph (2) and support the department's mission and statutory requirements.

(b) (1) The department shall contract with an independent entity to conduct a comprehensive service-based budget review and to consult on the development of a service-based budget tracking system. The selected contractor shall have experience conducting similar reviews and consulting on similar systems for a comparably sized state agency or department.

(2) The service-based budget review shall study and report on all of the following topics:

(A) For each strategic goal identified pursuant to paragraph (3) of subdivision (a), a definition of the service standards and essential activities required for the department to meet its mission and statutory requirements.

(B) Detailed cost estimates and staffing requirements for meeting the service standards and requirements identified pursuant to subparagraph (A), including applicable administrative costs.

(C) An analysis of how current service levels, activities, expenditures, and staffing levels compare with the service standards and costs identified pursuant to subparagraphs (A) and (B), respectively. The analysis shall explicitly identify instances and associated costs where the department is not currently meeting its mission or statutory requirements, as well as where it may be conducting activities outside its mission and statutory requirements.

(D) An analysis of the department's existing revenue structure and program activities supported by those fund sources. The analysis shall identify any instances where the nature of the activity suggests a different funding source, such as user fees or the General Fund, or a different revenue structure that could be allowable or more appropriate to support the activity, or both allowable and more appropriate to support the activity.

(E) The service-based budget review conducted pursuant to this section shall build upon the California Fish and Wildlife Strategic Vision: Recommendations

1 for Enhancing the State’s Fish and Wildlife Management Agencies, issued in April
2 2012, and the Supporting Healthy Fish and Wildlife Populations in California and
3 Getting People Outdoors: An Expenditure Concept to Invest in Our Natural
4 Heritage for All Californians, issued on November 2, 2017.

5 (3) (A) The service-based budget tracking system shall incorporate data
6 collected for the review pursuant to paragraph (2), including the costs and staffing
7 levels associated with both existing service levels and the service level standards
8 developed pursuant to subparagraph (A) of paragraph (2).

9 (B) The service-based budget tracking system shall allow the department to
10 continuously analyze service levels across its programs and the degree to which
11 service standards are being met.

12 (C) The service-based budget tracking system shall be developed as a tool to
13 inform ongoing and future fiscal decisionmaking processes.

14 (D) The service-based budget tracking system shall be the property of the state
15 even if it is developed using nonstate funding provided pursuant to subdivision
16 (d).

17 (4) To meet the goals of this subdivision, the department shall collect
18 information necessary to inform service-based budgeting.

19 (c) In conducting the service-based budget review and developing the service-
20 based budget tracking system pursuant to subdivision (b), the department shall
21 meet all of the following deadlines:

22 (1) By December 15, 2018, the department shall do all of the following:

23 (A) Enter into a contract with the independent entity to complete the service-
24 based budget review.

25 (B) Form an internal leadership team within the department to oversee and
26 manage the service-based budget review.

27 (C) Form an external advisory committee to advise the department and
28 independent entity on conducting the service-based budget review.

29 (D) Submit a report to the relevant budget and policy committees of the
30 Legislature and the Legislative Analyst’s Office summarizing the status of these
31 activities.

32 (2) By April 15, 2020, the department shall report in its legislative oversight
33 hearings regarding the status of the service-based budget review.

34 (3) By January 15, 2021, the department shall submit the final service-based
35 budget review report to the relevant budget and policy committees of the
36 Legislature and the Legislative Analyst’s Office.


37 (4) By April 15, 2021, the department shall report in its legislative oversight
38 hearings how the findings of the service-based budget review have been
39 incorporated into the department’s operations and budget and any changes the
40 department proposed to its operations or budget resulting from the service-based
41 budget review.

(d) (1) The department may enter into one or more agreements to accept funds from any person, nonprofit organization, or other public or private entity for purposes of this section.

(2) Funding provided pursuant to this subdivision may be used by the department for department staff, development of information technology systems, or other costs associated with the service-based budget review and the service-based budget tracking system.

(3) The Department of Finance may authorize expenditure of the funds provided pursuant to this subdivision no sooner than 30 days after providing notification of the expenditure to the chairperson of the Joint Legislative Budget Committee.

Comment. Section 1675 continues former Fish and Game Code Section 712.1 without substantive change.

 **Note:** Proposed Section 1675 would continue Section 712.1, which was added by 2018 Cal. Stat. ch. 51, with immediate effect.

§ 1700. Authority of department to take

1700. Nothing in this code or any other law shall prohibit the department from taking, for scientific, propagation, public health or safety, prevention or relief of suffering, or law enforcement purposes, fish, amphibians, reptiles, mammals, birds, and the nests and eggs thereof, or any other form of plant or animal life.

Comment. Section 1700 continues former Fish and Game Code Section 1001 without substantive change.

§ 1705. Capture and sale of birds and mammals

1705. The department may capture and sell birds and mammals, at prices to be fixed by the commission, to persons engaged in the domestication and sale thereof in this state.

Comment. Section 1705 continues former Fish and Game Code Section 1004 without substantive change.

§ 1710. Importation, propagation, and distribution of birds, mammals, or fish

1710. The department may import, propagate, and distribute birds, mammals, and fish.

Comment. Section 1710 continues former Fish and Game Code Section 1007 without substantive change.

§ 1715. Inspection

1715. The department may inspect the following:

(a) All boats, markets, stores and other buildings, except dwellings, and all receptacles, except the clothing actually worn by a person at the time of inspection, where birds, mammals, fish, reptiles, or amphibians may be stored, placed, or held for sale or storage.

1 (b) All boxes and packages containing birds, mammals, fish, reptiles, or
2 amphibians that are held for transportation by any common carrier.

3 **Comment.** Section 1715 continues former Fish and Game Code Section 1006 without
4 substantive change.

5 **§ 1720. Investigation of disease**

6 1720. The department shall investigate all diseases of, and problems relating to,
7 birds, mammals, or fish, and establish and maintain laboratories to assist in such
8 investigation.

9 **Comment.** Section 1720 continues former Section 1008 without substantive change.

10 **§ 1725. Environmental review of effect on salmon and steelhead**

11 1725. Whenever the department is required, or provided an opportunity, to
12 assess the adequacy of a project or to provide a detailed environmental impact
13 statement or similar document pursuant to Public Law 91-190 or Section 21100,
14 21101, or 21102 of the Public Resources Code, or any other provision of law, it
15 shall determine the extent to which salmon and steelhead resources will be
16 protected from damage by the project in question, together with the extent to
17 which the agency or person preparing the plans for such project has incorporated
18 therein plans for increasing the salmon or steelhead resources of this state. To the
19 fullest practicable extent, the department shall advise the commission at one of its
20 regular scheduled meetings of the state's comments on the project. In no event
21 shall more than one regular commission meeting transpire between the time the
22 department renders comments to the requesting person or agency and the time it
23 reports its findings to the commission.

24 **Comment.** Section 1725 continues former Fish and Game Code Section 1015 without
25 substantive change.

26 **§ 1730. Feeding animals**

27 1730. The department, in accordance with policies established by the
28 commission, may provide for the feeding of game birds, mammals, or fish when
29 natural foods are not available for that purpose, and may provide suitable area or
30 areas for that feeding, and may for those purposes expend money as is necessary
31 from the Fish and Game Preservation Fund.

32 **Comment.** Section 1730 continues former Fish and Game Code Section 1502 without
33 substantive change.

34 **§ 1740. Informal consultative procedures**

35 1740. (a) It is the policy of the state to anticipate and resolve potential conflicts
36 between the management, conservation, and protection of fish and wildlife
37 resources and their habitat and private and public activities that may affect them.

38 (b) Accordingly, the department may use any informal consultative procedures
39 prior to taking any formal action that will assist in the achievement of this policy.

1 (c) Any costs incurred by the department in engaging in informal consultative
2 procedures, including, but not limited to, fees charged by any neutral party acting
3 in the capacity of a mediator, discussion facilitator, or convener, are a proper
4 charge against any funds lawfully available to the department for this purpose.

5 (d) The authority conferred by this section is not intended, and shall not be
6 construed, to increase, decrease, duplicate, or supersede any other authority of the
7 department or the commission under this code or any other provision of law.

8 (e) As used in this section, “formal action” means any of the following:

9 (1) The adoption, amendment, or repeal of any rule, regulation, or order.

10 (2) Entering into, amending, or canceling an agreement.

11 (3) The issuance, suspension, or revocation of any permit, license, or other
12 entitlement.

13 **Comment.** Section 1740 continues former Section 1017 without substantive change.

14 **§ 1745. Biological research**

15 1745. The department shall expend funds necessary for biological research and
16 field investigation and for the collection and diffusion of statistics and information
17 that pertain to the conservation, propagation, protection, and perpetuation of birds
18 and their nests and eggs, and of mammals, reptiles, amphibians, and fish.

19 **Comment.** Section 1745 continues former Fish and Game Code Section 1000 without
20 substantive change.

21 **§ 1750. Educational displays**

22 1750. For the purpose of exhibiting fish and wildlife educational material at
23 fairs, hunting shows, or sport fishing shows and making other public displays, and
24 to make conservation educational materials on fish and wildlife available for any
25 public use, including fairs, hunting shows, sport fishing shows, schools, and civic
26 organizations, the department may:

27 (a) Accept on behalf of the state donations of money and services from any
28 person to defray any expenses that may be incurred by the department in
29 connection with those activities.

30 (b) Charge admissions or make a charge for the use of any departmental material
31 or exhibits to be used in a fair, hunting show, or sport fishing show, or by a civic
32 organization.

33 **Comment.** Section 1750 continues former Fish and Game Code Section 1005 without
34 substantive change.

35 **§ 1755. Gift of personal property from county**

36 1755. Notwithstanding Section 11005 of the Government Code, the department
37 may accept gifts of personal property if the donor is a county of the state and the
38 gift is purchased with fine money derived from fish and wildlife violations. The
39 department shall notify the Department of Finance 30 days in advance of
40 accepting these gifts.

1 **Comment.** Section 1755 continues former Fish and Game Code Section 1005.5 without
2 substantive change.

3 TITLE 4. COORDINATION WITH OTHER ENTITIES

4 **§ 1900. Service agreements**

5 1900. The department may enter into one or more agreements to accept services
6 from any person, nonprofit organization, or other public or private entity for
7 purposes relating to conservation programs, projects, and activities by the
8 department. Under the direction of the department, these services shall supplement
9 existing staff resources. Agreements for services for the management and
10 operation of department-managed lands shall be subject to the provisions of
11 Sections 2000 through 2035, inclusive.

12 **Comment.** Section 1900 continues former Fish and Game Code Section 1226(b) without
13 substantive change.

14 **§ 1905. Funding agreements**

15 1905. Notwithstanding any other law, the department may enter into one or
16 more agreements with any person, nonprofit organization, or other public or
17 private entity, as may be appropriate, to assist the department in its efforts to
18 secure long-term private funding sources for purposes relating to conservation
19 programs, projects, and activities by the department. The authority to enter into an
20 agreement under this section shall include, but not be limited to, the authority to
21 secure donations, memberships, corporate and individual sponsorships, and
22 marketing and licensing agreements.

23 **Comment.** Section 1905 continues former Section 1227 without substantive change.

24 **§ 1910. Science institute**

25 1910. (a) The director, in consultation with the Natural Resources Agency, shall
26 establish a formal program, which may be called the Science Institute, to assist the
27 department and commission in obtaining independent scientific review and
28 recommendations to help inform the scientific work of the department and the
29 commission. The program shall include one or more ad hoc independent scientific
30 committees consisting of independent scientists who are scientific experts in their
31 fields with expertise in biological sciences and with a range of multidisciplinary
32 expertise pertinent to the work of the department and the commission, and which
33 may be convened pursuant to this section. The purpose of the program shall be to
34 assist the department and the commission in obtaining and establishing an
35 independent and objective view of the scientific issues underlying important
36 policy decisions.

37 (b) The objectives of the program shall include, but not necessarily be limited to,
38 the following:

1 (1) Providing independent scientific guidance of the scientific research,
2 monitoring, and assessment programs that support the department's and the
3 commission's work with fish and wildlife species and their habitats.

4 (2) Providing the best available independent scientific information and advice to
5 guide and inform department and commission decisions.

6 (3) Promoting and facilitating independent scientific peer review.

7 (4) Promoting science-based adaptive management.

8 (5) Ensuring scientific integrity and transparency in decisionmaking.

9 (c) The department may consult with members of the ad hoc scientific
10 committees to assist the department in identifying other independent scientific
11 experts with specialized expertise as needed for independent peer review of
12 department reports, including, but not limited to, status review reports prepared for
13 purposes of informing decisions on petitions for listing of species under the
14 California Endangered Species Act (Part 1 (commencing with Section 62000) of
15 Division 17).

16 (d) The department shall consult with independent scientific advisors to develop
17 and revise as necessary a scientific integrity policy to guide the work of the
18 department and the commission. The scientific integrity policy may include, but is
19 not necessarily limited to, an ethical code of conduct for department scientists,
20 standards for independent peer review, and other best practices for ensuring
21 scientific integrity and public confidence in department and commission work
22 products and decisions.

23 (e) For marine fisheries and other marine resources, the department may utilize
24 the California Ocean Science Trust for the purposes of this section.

25 **Comment.** Section 1910 continues former Fish and Game Code Section 715 without
26 substantive change.

27 **§ 1915. Federal Water Pollution Control Act joint powers agreement**

28 1915. (a) The director or one or more of the director's designees may accept the
29 office of director or alternate director of an entity established by a joint powers
30 agreement providing for the establishment and conduct of an areawide waste
31 management planning process in accordance with the provisions of Section 208 of
32 the Federal Water Pollution Control Act.

33 (b) The office of director or alternate director of a joint powers entity established
34 pursuant to subdivision (a) is deemed compatible with the office of director of the
35 department, and with the office or employment of persons that the director may so
36 designate to serve the entity.

37 **Comment.** Subdivisions (a) and (b) of Section 1915 continue former Fish and Game Code
38 Section 701.5 without substantive change.

39 Subdivision (c) continues former Fish and Game Code Section 711.2(b) without substantive
40 change.

1 TITLE 5. REAL PROPERTY

2 CHAPTER 1. DEPARTMENT-MANAGED LANDS

3 § 2000. Definitions

4 2000. For purposes of this chapter, the following terms have the following
5 meanings:

6 (a) “Department-managed lands” includes lands, or lands and water, acquired
7 for public shooting grounds, state marine (estuarine) recreational management
8 areas, ecological reserves, and wildlife management areas. This subdivision does
9 not apply to Section 2040.

10 (b) “Nonconsumptive uses” means compatible uses other than hunting and
11 fishing.

12 **Comment.** Section 2000 continues former Fish and Game Code Section 1745(a) without
13 substantive change.

14 § 2005. Non-profit operation

15 2005. Department-managed lands shall be operated on a nonprofit basis by the
16 department.

17 **Comment.** Section 2005 continues former Fish and Game Code Section 1745(b)(1) without
18 substantive change.

19 § 2010. Management and operation contracts

20 2010. (a) The department may enter into contracts or other agreements for the
21 management and operation of department-managed lands with nonprofit
22 conservation groups, recognized under Section 501(c) of the Internal Revenue
23 Code, or resource conservation districts, as described in Chapter 3 (commencing
24 with Section 9151) of Division 9 of the Public Resources Code.

25 (b) The contracts or other agreements authorized pursuant to this section are not
26 subject to Part 2 (commencing with Section 10100) of Division 2 of the Public
27 Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of
28 Division 4 of the Military and Veterans Code.

29 (c) The contracts or other agreements authorized pursuant to this section shall
30 adhere to the goals and objectives included in an approved management plan and
31 shall be consistent with the purpose for which the lands were acquired and
32 managed by the department. Any changes to the management plan shall be subject
33 to public review and comment.

34 **Comment.** Section 2010 continues former Fish and Game Code Section 1745(b)(2) without
35 substantive change.

36 § 2015. Property uses

37 2015. (a) Multiple recreational use of department-managed lands is desirable
38 and that use shall be encouraged by the commission. Except for hunting and

1 fishing purposes, only minimum facilities to permit other forms of multiple
2 recreational use, such as camping, picnicking, boating, or swimming, shall be
3 provided.

4 (b) Hunting, fishing, wildlife viewing, wildlife photography, conservation
5 education, and fish and wildlife research are priority uses compatible with
6 department-managed lands, except for ecological reserves where uses shall be
7 considered on an individual basis.

8 (c) Public uses of department-managed lands not described in subdivision (a) or
9 (b), or subdivision (b) of Section 2020, shall be authorized by regulations adopted
10 by the commission. The commission may require the purchase of a special use
11 permit for these other uses.

12 **Comment.** Section 2015 continues former Section 1745(c) and (d) without substantive change.

13 **§ 2020. Use fees and permits**

14 2020. (a) Except as provided in Sections 4452 and 56080, to defray the costs
15 associated with multiple use, the commission may determine and fix the amount
16 of, and the department shall collect, fees for any use privileges. Only persons
17 holding valid hunting licenses may apply for or obtain shooting permits for
18 department-managed lands.

19 (b) The department shall require the purchase of an entry permit for
20 nonconsumptive uses of department-managed lands, if the department finds that it
21 is practical and would be cost effective for the state to collect entry permit fees.

22 (c) The following shall apply if the department requires the purchase of an entry
23 permit pursuant to subdivision (b):

24 (1) The department shall require the purchase of an entry permit for
25 nonconsumptive uses of a department-managed land only if a sign providing
26 notice of the requirement has been posted at the department-managed land.

27 (2) To the extent feasible, the department shall allow nonconsumptive users to
28 purchase an entry permit onsite.

29 (3) The department shall use the Automated License Data System to sell an
30 entry permit.

31 (4) A nonconsumptive user shall have an entry permit in his or her immediate
32 possession while on department-managed lands.

33 **Comment.** Section 2020 continues former Fish and Game Code Section 1745(e)-(g) without
34 substantive change. See also Section 4452 (enforcement).

35 **§ 2030. Free access**

36 2030. The commission and department may continue to allow free access to a
37 department-managed land if the commission or department finds the best interests
38 of that area would be served by not fixing a fee for use privileges.

39 **Comment.** Section 2030 continues former Section 1745(j) without substantive change.

1 **§ 2035. Use of funds**

2 2035. (a) Except as provided in Section 2040, the moneys generated pursuant to
3 this chapter shall be deposited in the Native Species Conservation and
4 Enhancement Account within the Fish and Game Preservation Fund, and shall be
5 available, upon appropriation by the Legislature, to the department for the
6 management and operation of its lands.

7 (b) To the extent that the department is able to identify the source of the fee
8 revenue collected, the department shall provide no less than 35 percent of the
9 funds generated pursuant to this section to the department-managed lands from
10 which the fee revenues were collected.

11 **Comment.** Section 2035 continues former Fish and Game Code Section 1745(i) without
12 substantive change.

13 **§ 2040. Leasing of department-managed lands**

14 2040. (a) Notwithstanding any other provision of this code, the department may
15 lease department-managed lands for agricultural activities, including, but not
16 limited to, grazing, where consistent with the purpose for which the lands were
17 acquired, and compatible with the department's approved management plan for
18 the area, if available.

19 (b) The moneys collected from agricultural leases entered into pursuant to
20 subdivision (a) shall be deposited by the department into the Wildlife Restoration
21 Fund and, upon appropriation by the Legislature, may be used to support the
22 management, maintenance, restoration, and operations of department-managed
23 lands.

24 **Comment.** Section 2040 continues former Fish and Game Code Section 1745.1 without
25 substantive change.

26 **CHAPTER 2. OTHER DUTIES AND AUTHORITY**

27 **§ 2100. Management and listing of real property**

28 2100. (a) Subject to an appropriation of funds by the Legislature for that
29 purpose, for parcels wholly within its jurisdiction acquired on or after January 1,
30 2002, the department shall prepare draft management plans for public review
31 within 18 months of the recordation date.

32 (b)(1) On or before February 1 of each year, the department shall submit a list of
33 lands acquired during the previous two fiscal years and the status of the
34 management plans for each acquisition to the fiscal committees of each house of
35 the Legislature.

36 (2) Each fiscal committee in the Legislature shall consider the lists described in
37 paragraph (1) in its budget decisions for the department.

38 **Comment.** Section 2100 continues former Section 1019 without substantive change.

1 **§ 2105. Rights of way**

2 2105. (a) The department may obtain for the state rights of way over private
3 lands for the purpose of furnishing access for the public to lands or waters open to
4 public hunting or fishing, whenever rights of way are determined by the
5 commission to be necessary for public use. The rights of way shall not be acquired
6 by eminent domain proceedings.

7 (b) The department may construct or cause to be constructed any fences, signs,
8 or other structures as are necessary for the protection of a right of way, and the
9 cost of the construction shall be met out of the funds available to the department.

10 **Comment.** Section 2105 continues former Fish and Game Code Section 1009 without
11 substantive change.

12 **§ 2110. Grazing permits**

13 2110. The department, by and with the approval of the Department of General
14 Services, may sell grazing permits or otherwise dispose of excess vegetation or
15 other products, produced on lands acquired by the department.

16 **Comment.** Section 2110 continues former Fish and Game Code Section 1010 without
17 substantive change.

18 **TITLE 6. INSURANCE AND LIABILITY**

19 **§ 2200. Insurance**

20 2200. (a) The department may procure insurance for any of the following
21 purposes:

22 (1) For itself and landowners who agree to permit the department to use their
23 land as cooperative hunting, fishing, conservation or recreational areas, against
24 any liability resulting from the operation of those hunting, fishing, conservation or
25 recreational areas.

26 (2) For its employees or other persons authorized by the department to conduct
27 hunter education training courses against any public liability or property damage
28 resulting from that training.

29 (b) The cost of insurance procured pursuant to subdivision (a) shall be a proper
30 charge against and shall be paid out of the Fish and Game Preservation Fund.

31 **Comment.** Section 2200 continues former Fish and Game Code Section 1011 without
32 substantive change.

33 **§ 2205. Insurance relating to boarding of boats**

34 2205. The department may procure insurance for its employees for injury or
35 death against the liability of the owner or operator of any vessel boarded by an
36 employee as an observer.

37 **Comment.** Section 2205 continues former Fish and Game Code Section 1012 without
38 substantive change.

1 **§ 2210. Indemnification relating to fish screen, ladder, weir, or trap**

2 2210. In any lease, easement, or right-of-way in which the department leases
3 real property or obtains a grant of easement or right-of-way in real property for the
4 purpose of constructing, operating, or maintaining a fish screen, fish ladder,
5 fishweir, or fishtrap, the department may agree to indemnify and hold harmless the
6 lessor or grantor by reason of the uses of authorized by the lease, easement, or
7 right-of-way. Insurance may be purchased by the Department of General Services
8 to protect the department against loss or expense arising out of the lease,
9 easement, or right-of-way.

10 **Comment.** Section 2210 continues former Fish and Game Code Section 1013 without
11 substantive change.

12 **TITLE 7. UNLAWFUL ACTS**

13 **§ 2300. Submission of false or misleading information**

14 2300. (a) It is unlawful to submit, or conspire to submit, any false, inaccurate, or
15 otherwise misleading information on any application or other document offered or
16 otherwise presented to the department for any purpose, including, but not limited
17 to, obtaining a license, tag, permit, or other privilege or entitlement pursuant to
18 this code or regulations adopted pursuant to this code.

19 (b) For purposes of this section, “department” includes any department
20 employee, license agent, or any person performing the duties of a department
21 employee or license agent.

22 **Comment.** Section 2300 continues former Fish and Game Code Section 1054(a) and (c)
23 without substantive change.

24 See also Section 4874 (enforcement).

25 **PART 3. DEPARTMENT AND COMMISSION**

26 **§ 2400. General policy**

27 2400. It is the policy of the state that the department and commission do all of
28 the following:

29 (a) Seek to create, foster, and actively participate in effective partnerships and
30 collaborations with other agencies and stakeholders to achieve shared goals and to
31 better integrate fish and wildlife resource conservation and management with the
32 natural resource management responsibilities of other agencies.

33 (b) Participate in interagency coordination processes that facilitate consistency
34 and efficiency in review of projects requiring multiple permits, including, but not
35 necessarily limited to, joint state, federal, and local permit review teams that
36 enable early consultation with project applicants, and provide improved sharing of
37 data, information, tools, and science to achieve better alignment of planning,
38 policies, and regulations across agencies.

1 **Comment.** Section 2400 continues former Fish and Game Code Section 703.5 without
2 substantive change.

3 **§ 2405. Strategic planning**

4 2405. (a) The department and the commission shall develop a strategic plan to
5 implement proposals arising from any of the following:

6 (1) The strategic vision developed and submitted to the Governor and the
7 Legislature pursuant to Section 12805.3 of the Government Code.

8 (2) Any legislation enacted relating to the strategic vision process.

9 (3) The department's own proposals for reform.

10 (b)(1) The department and the commission may contract for consultants to assist
11 in the preparation of the strategic plan pursuant to subdivision (a).

12 (2) Contracts entered into pursuant to paragraph (1) shall terminate no later than
13 December 31, 2015.

14 (3) Contracts entered into pursuant to paragraph (1) shall be exempt from Part 2
15 (commencing with Section 10100) of Division 2 of the Public Contract Code.

16 **Comment.** Section 2405 continues former Fish and Game Code Section 1020 without
17 substantive change.

18 **§ 2410. Resource management decisionmaking methods**

19 2410. It is the policy of the state that the department and commission use
20 ecosystem-based management informed by credible science in all resource
21 management decisions to the extent feasible. It is further the policy of the state
22 that scientific professionals at the department and commission, and all resource
23 management decisions of the department and commission, be governed by a
24 scientific quality assurance and integrity policy, and follow well-established
25 standard protocols of the scientific profession, including, but not limited to, the
26 use of peer review, publication, and science review panels where appropriate.
27 Resource management decisions of the department and commission should also
28 incorporate adaptive management to the extent possible.

29 **Comment.** Section 2410 continues former Fish and Game Code Section 703.3 without
30 substantive change.

31 **PART 4. DISTRICTS**

32 **§ 2500. Fish and Wildlife Districts**

33 2500. (a) For the protection of fish and wildlife, the state is divided into districts
34 to be known and designated as provided in this part.

35 (b) Unless otherwise provided, the townships and ranges specified in this part
36 are referred to the Mount Diablo base and meridian.

37 **Comment.** Section 2500 continues former Fish and Game Code Section 11000 without
38 substantive change.

1 **§ 2505. District 2505**

2 2505. (a) The following constitutes Fish and Wildlife District 2505:

3 Those portions of the following counties not included in other districts: Shasta,
4 Tehama, Plumas, Butte, Sierra, Sutter, Yuba, Nevada, Placer, Sacramento,
5 Madera, Tulare; those portions of San Joaquin County lying east and north of the
6 east bank of the San Joaquin River and not included in District 2540; those
7 portions of Stanislaus and Merced Counties lying east of the west bank of the San
8 Joaquin River; those portions of Fresno County lying east of the west bank of
9 Fresno Slough, Fish Slough and Summit Lake; those portions of Kings County
10 lying east of the main power line of the San Joaquin Light and Power Company,
11 crossing the north line of Kings County in Section 4, T. 18 S., R. 19 E., southerly
12 to its crossing of State Highway No. 41 between Secs. 21 and 22, T. 21 S., R. 19
13 E., and east of State Highway No. 41 southerly to its intersection with State
14 Highway No. 33, and easterly of State Highway No. 33 from said intersection to
15 the south line of said county in Section 36, T. 24 S., R. 18 E.; those portions of
16 Kern County lying east of State Highway No. 33 between the northerly line of said
17 county in Section one (1), T. 25 S., R. 18 E., M. D. B. & M., and the City of Taft
18 and U. S. Highway No. 399 between the City of Taft and the City of Maricopa,
19 and lying north of State Highway No. 166 from the City of Maricopa easterly to
20 the intersection of said highway with U.S. Highway No. 99 in Section twelve (12),
21 T. 11 N., R. 20 W., S. B. B. & M., and lying east of U.S. Highway No. 99 from the
22 above-mentioned point of intersection to where the said U.S. highway crosses the
23 northern boundary line of Los Angeles County, not included in other districts.

24 (b) Any reference to “District 1” shall be construed as a reference to District
25 2505.

26 **Comment.** Subdivision (a) of Section 2505 continues former Fish and Game Code Section
27 11001 without substantive change.

28 Subdivision (b) is new.

29 **§ 2510. District 2510**

30 2510. (a) The following constitutes Fish and Wildlife District 2510:

31 Those portions of the following counties not included in other districts: Alpine,
32 El Dorado, Amador, Calaveras, Tuolumne and Mariposa.

33 (b) Except as otherwise provided, all of the provisions of this code relating to
34 District 2505 shall apply to District 2510.

35 (c) Any reference to “District 1 3/8” shall be construed as a reference to District
36 2510.

37 **Comment.** Subdivisions (a) and (b) of Section 2510 continue former Fish and Game Code
38 Section 11002 without substantive change.

39 Subdivision (c) is new.

40 **§ 2515. District 2515**

41 2515. (a) The following constitutes Fish and Wildlife District 2515:

1 Those portions of the Counties of Del Norte, Siskiyou, Trinity, and Humboldt
2 not included in other districts.

3 (b) Any reference to “District 1 1/2” shall be construed as a reference to District
4 2515.

5 **Comment.** Subdivision (a) of Section 2515 continues former Fish and Game Code Section
6 11003 without substantive change.

7 Subdivision (b) is new.

8 **§ 2520. District 2520**

9 2520. (a) The following constitutes Fish and Wildlife District 2520:

10 Those portions of the County of Modoc not included in other districts and that
11 portion of the County of Siskiyou lying east of the Weed-Klamath Falls Highway
12 between the north line of the County of Siskiyou and the Town of Weed and east
13 of the Pacific Highway between the Town of Weed and the junction of Pacific
14 Highway and the McCloud-Fall River Mills Highway and north and east of the
15 McCloud-Fall River Mills Highway to the Siskiyou and Shasta county line and
16 that part of Shasta County lying north and east of the McCloud-Fall River Mills
17 Highway to its junction with the road to Lake Britton at Dickson Flat and east of
18 that road through Burney Falls State Park to its junction with the Hat Creek-
19 Lassen Highway at the Redding-Alturas Highway and east of the Hat Creek-
20 Lassen Highway to Lassen Volcanic National Park and north and east to the north
21 and east boundary of Lassen Volcanic National Park to its junction with the
22 Lassen county line. That part of Lassen County north and east of the north and east
23 boundary of the Lassen Volcanic National Park to its junction with the north line
24 of District 2665 and east of the east boundary of District 2665 to its junction with
25 the Lassen-Plumas county line approximately one mile southeast of Coyote Peak
26 in Sec. 24, T. 28 N., R. 10 E. and north and west of the Plumas-Lassen county line
27 between the boundary of District 1915 and the Susanville-Taylorsville road.

28 (b) Any reference to “District 1 3/4” shall be construed as a reference to District
29 2520.

30 **Comment.** Subdivision (a) of Section 2520 continues former Fish and Game Code Section
31 11004 without substantive change.

32 Subdivision (b) is new.

33 **§ 2525. District 2525**

34 2525. (a) The following constitutes Fish and Wildlife District 2525:

35 Those portions of the following counties not included in other districts:
36 Mendocino, Glenn, Colusa, Yolo, Solano, Napa, Sonoma, and Marin; that portion
37 of San Francisco Bay lying westerly of a line drawn from California Point to San
38 Quentin Point; that portion of San Francisco Bay lying westerly of a line drawn
39 from San Quentin Point to San Pedro Point, in Marin County; that portion of San
40 Pablo Bay lying westerly of a line drawn from San Pedro Point to the south side of
41 the mouth of Novato Creek; and that portion of San Pablo Bay lying northerly of a

1 line drawn due east from the south side of the mouth of Novato Creek to the
2 westerly shore of Mare Island.

3 (b) Any reference to “District 2” shall be construed as a reference to District
4 2525.

5 **Comment.** Subdivision (a) of Section 2525 continues former Fish and Game Code Section
6 11005 without substantive change.

7 Subdivision (b) is new.

8 **§ 2530. District 2530**

9 2530. (a) The following constitutes Fish and Wildlife District 2530:

10 Lake County and the waters of Clear Lake.

11 (b) Any reference in this code to Clear Lake refers to District 2530.

12 (c) Except as otherwise provided, all of the provisions of this code relating to
13 District 2525 apply to District 2530.

14 (d) Any reference to “District 2 1/4” shall be construed as a reference to District
15 2530.

16 **Comment.** Subdivisions (a) through (c) of Section 2530 continue former Fish and Game Code
17 Section 11006 without substantive change.

18 Subdivision (d) is new.

19 **§ 2535. District 2535**

20 2535. (a) The following constitutes Fish and Wildlife District 2535:

21 Those portions of T. 24 N., R. 18 and 19 W.; 23 N., R. 17 and 18 W.; 22 N., R.
22 17 and 18 W.; 21 N., R. 17 W., west of the summit of the divide between the
23 Pacific Ocean and the south fork of the Eel River.

24 All of T. 12, 13, 14, 15, 16, 17, 18 N., R. 16 W.; and T. 12, 13, 14, 15, 16, 17,
25 18, 19 and 20 N., R. 17 W., and T. 17 and 18 N., R. 18 W.

26 All being townships located in western Mendocino County.

27 (b) Any reference to “District 2 1/2” shall be construed as a reference to District
28 2535.

29 **Comment.** Subdivision (a) of Section 2535 continues former Fish and Game Code Section
30 11007 without substantive change.

31 Subdivision (b) is new.

32 **§ 2540. District 2540**

33 2540. (a) The following constitutes Fish and Wildlife District 2540:

34 Those portions of the following counties not included in other districts: San
35 Francisco, Contra Costa, Alameda, San Mateo, Santa Cruz, Santa Clara, San
36 Benito, Monterey, San Joaquin, Stanislaus, Merced, Fresno, and Kings.

37 (b) Any reference to “District 3” shall be construed as a reference to District
38 2540.

39 **Comment.** Subdivision (a) of Section 2540 continues former Fish and Game Code Section
40 11008 without substantive change.

41 Subdivision (b) is new.

1 **§ 2545. District 2545**

2 2545. (a) The following constitutes Fish and Wildlife District 2545:

3 Those portions of the following counties not included in other districts: San Luis
4 Obispo, Santa Barbara, Ventura, and Kern.

5 (b) Except as otherwise provided all of the provisions of this code applicable to
6 District 2540 apply to District 2545.

7 (c) Any reference to “District 3 1/2” shall be construed as a reference to District
8 2545.

9 **Comment.** Subdivisions (a) and (b) of Section 2545 continue former Fish and Game Code
10 Section 11009 without substantive change.

11 Subdivision (c) is new.

12 **§ 2550. District 2550**

13 2550. (a) The following constitutes Fish and Wildlife District 2550:

14 Those portions of the following counties not included in other districts: San
15 Bernardino, Riverside, and Orange.

16 (b) Any reference to “District 4” shall be construed as a reference to District
17 2550.

18 **Comment.** Subdivision (a) of Section 2550 continues former Fish and Game Code Section
19 11010 without substantive change.

20 Subdivision (b) is new.

21 **§ 2555. District 2555**

22 2555. (a) The following constitutes Fish and Wildlife District 2555:

23 All of Los Angeles County not included within other districts.

24 (b) Except as otherwise provided, all of the provisions of this code applicable to
25 District 2550 apply to District 2555.

26 (c) Any reference to “District 4 1/8” shall be construed as a reference to District
27 2555.

28 **Comment.** Subdivisions (a) and (b) of Section 2555 continue former Fish and Game Code
29 Section 11011 without substantive change.

30 Subdivision (c) is new.

31 **§ 2560. District 2560**

32 2560. (a) The following constitutes Fish and Wildlife District 2560:

33 Those portions of the Counties of Mono and Inyo not included in other districts.

34 (b) Any reference to “District 4 1/2” shall be construed as a reference to District
35 2560.

36 **Comment.** Subdivision (a) of Section 2560 continues former Fish and Game Code Section
37 11012 without substantive change.

38 Subdivision (b) is new.

39 **§ 2565. District 2565**

40 2565. (a) The following constitutes Fish and Wildlife District 2565:

1 Those portions of the Counties of San Diego and Imperial not included in other
2 districts.

3 (b) Any reference to “District 4 3/4” shall be construed as a reference to District
4 2565.

5 **Comment.** Subdivision (a) of Section 2565 continues former Fish and Game Code Section
6 11013 without substantive change.

7 Subdivision (b) is new.

8 **§ 2570. District 2570**

9 2570. (a) The following constitutes Fish and Wildlife District 2570:

10 The ocean waters and tidelands of the State to the high-water mark lying
11 between the northern boundary of this State and a line extending due west from
12 the west end of the north jetty at the entrance of Humboldt Bay, excluding all
13 sloughs, streams, and lagoons.

14 (b) Any reference to “District 6” shall be construed as a reference to District
15 2570.

16 **Comment.** Subdivision (a) of Section 2570 continues former Fish and Game Code Section
17 11014 without substantive change.

18 Subdivision (b) is new.

19 **§ 2575. District 2575**

20 2575. (a) The following constitutes Fish and Wildlife District 2575:

21 The ocean waters and tidelands of the State to high-water mark between a line
22 extending due west from the west end of the north jetty at the entrance of
23 Humboldt Bay and the southern boundary of Mendocino County, excluding the
24 ocean waters between the north and south jetties at the entrance of Humboldt Bay
25 from the westerly end of each of said jetties in the Pacific Ocean to their
26 respective aprons on the shores of Humboldt Bay, and also excluding all sloughs,
27 streams, and lagoons.

28 (b) Any reference to “District 7” shall be construed as a reference to District
29 2575.

30 **Comment.** Subdivision (a) of Section 2575 continues former Fish and Game Code Section
31 11015 without substantive change.

32 Subdivision (b) is new.

33 **§ 2580. District 2580**

34 2580. (a) The following constitutes Fish and Wildlife District 2580:

35 The waters and tidelands to high-water mark of Humboldt Bay lying north of a
36 straight line running east from the center of apron at the approach of the south
37 jetty at the entrance of Humboldt Bay to the east shore line of the bay, including
38 the entrance of Humboldt Bay not included in District 2575, and excluding all
39 rivers, streams, and sloughs emptying into the bay.

40 (b) Any reference to “District 8” shall be construed as a reference to District
41 2580.

Comment. Subdivision (a) of Section 2580 continues former Fish and Game Code Section 11016 without substantive change.

Subdivision (b) is new.

§ 2585. District 2585

2585. (a) The following constitutes Fish and Wildlife District 2585:

The waters and tidelands to high-water mark of Humboldt Bay lying south of a straight line running east from the center of apron at the approach to the south jetty at the entrance of Humboldt Bay to the east shore line of the bay, excluding all rivers, streams, and sloughs emptying into the bay.

(b) Any reference to “District 9” shall be construed as a reference to District 2585.

Comment. Subdivision (a) of Section 2585 continues former Fish and Game Code Section 11017 without substantive change.

Subdivision (b) is new.

§ 2590. District 2590

2590. (a) The following constitutes Fish and Wildlife District 2590:

The ocean waters and the tidelands of the State to high-water mark lying between the southern boundary of Mendocino County and a line extending west from the Pigeon Point lighthouse in San Mateo County, including the waters of Tomales Bay to a line drawn from the mouth of the unnamed creek approximately 1500 feet north of Tomasini Point southwesterly 218° magnetic to the mouth of the unnamed creek at Shell Beach, and excluding Bodega Lagoon and all that portion of Bolinas Bay lying inside of Bolinas bar, that portion of San Francisco Bay lying east of a line drawn from Point Bonita to Point Lobos and all rivers, streams, and lagoons.

(b) Any reference to “District 10” shall be construed as a reference to District 2590.

Comment. Subdivision (a) of Section 2590 continues former Fish and Game Code Section 11018 without substantive change.

Subdivision (b) is new.

Note. The second paragraph of existing Fish and Game Code Section 11018 reads as follows: “The amendment of this section by the Legislature at the 1963 Regular Session has no effect on the cultivation of oysters by persons licensed under Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6.”

The amendment referenced in this language changed the description of one of the geographical areas that comprise existing Fish and Game District 10. See 1965 Cal. Stat. ch. 1487. The statutory article referenced in the paragraph was repealed in 1971, and was not unambiguously continued in any presently existing sections of the code. See 1971 Cal. Stat. ch. 347. The cultivation of oysters is now more generally regulated under the aquaculture provisions of the existing code, and pursuant to oyster leases. See existing Fish and Game Code Sections 15406.5, 15406.7.

The Commission believes the second paragraph of existing Section 11018 is now obsolete, and would not be continued by proposed Section 2590.

The Commission invites comment on the discontinuation of the second paragraph of existing Section 11018 in the proposed law.

1 **§ 2595. District 2595**

2 2595. (a) The following constitutes Fish and Wildlife District 2595:

3 The waters and tidelands of San Francisco Bay to high-water mark bounded as
4 follows: Beginning at the extreme westerly point of Point Bonita; thence in a
5 direct line to the extreme westerly point of Point Lobos; thence around the shore
6 line of San Francisco Bay to the foot of Powell Street; thence in a direct line
7 northwesterly to Peninsula Point, the most southerly extremity of Belvedere
8 Island; thence in a direct line westerly to the easternmost point of the ferry dock at
9 Sausalito; thence southerly and westerly around the shore of San Francisco Bay to
10 the point of beginning.

11 (b) Any reference to “District 11” shall be construed as a reference to District
12 2595.

13 **Comment.** Subdivision (a) of Section 2595 continues former Fish and Game Code Section
14 11019 without substantive change.

15 Subdivision (b) is new.

16 **§ 2600. District 2600**

17 2600. (a) The following constitutes Fish and Wildlife District 2600:

18 The waters and tidelands of San Francisco Bay to high-water mark not included
19 in Districts 2595 and 2605, the waters and tidelands to high-water mark of San
20 Leandro Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County,
21 Raccoon Strait, San Pablo Bay, the Carquinez Strait to the Carquinez Bridge, and
22 all lands and waters included within the exterior boundaries of these districts and
23 excluding all tributary sloughs, creeks, bays, rivers, and overflowed areas not
24 specifically described herein.

25 (b) Any reference to “District 12” shall be construed as a reference to District
26 2600.

27 **Comment.** Subdivision (a) of Section 2600 continues former Fish and Game Code Section
28 11020 without substantive change.

29 Subdivision (b) is new.

30 **§ 2605. District 2605**

31 2605. (a) The following constitutes Fish and Wildlife District 2605:

32 The waters and tidelands to high-water mark of San Francisco Bay lying to the
33 south of a line drawn between the Ferry Building at the foot of Market Street in
34 San Francisco and the mouth of the Oakland Creek or estuary in Alameda County,
35 excluding all streams, sloughs, and lagoons.

36 (b) Any reference to “District 13” shall be construed as a reference to District
37 2605.

38 **Comment.** Subdivision (a) of Section 2605 continues former Fish and Game Code Section
39 11022 without substantive change.

40 Subdivision (b) is new.

41 **§ 2610. District 2610**

42 2610. (a) The following constitutes Fish and Wildlife District 2610:

1 The waters and tidelands to high-water mark of that portion of Monterey Bay
2 lying to the south of a line drawn 100° magnetic from the extreme northerly point
3 of Point Pinos in a straight line easterly to the eastern shore of Monterey Bay.

4 (b) Any reference to “District 16” shall be construed as a reference to District
5 2610.

6 **Comment.** Subdivision (a) of Section 2610 continues former Fish and Game Code Section
7 11024 without substantive change.

8 Subdivision (b) is new.

9 **§ 2615. District 2615**

10 2615. (a) The following constitutes Fish and Wildlife District 2615:

11 The waters and tidelands to high-water mark of Monterey Bay and the Pacific
12 Ocean, lying between a line extending west from Pigeon Point Lighthouse and a
13 line extending west from Yankee Point, Carmel Highlands in Monterey County,
14 excluding the areas included in District 2610, and excluding all rivers, creeks,
15 sloughs and lagoons emptying into the Pacific Ocean and Monterey Bay within the
16 boundaries thus defined.

17 (b) Any reference to “District 17” shall be construed as a reference to District
18 2615.

19 **Comment.** Subdivision (a) of Section 2615 continues former Fish and Game Code Section
20 11025 without substantive change.

21 Subdivision (b) is new.

22 **§ 2620. District 2620**

23 2620. (a) The following constitutes Fish and Wildlife District 2620:

24 The ocean waters of the State and tidelands to high-water mark not included in
25 other districts, lying between a line extending due west from Yankee Point,
26 Carmel Highlands, in Monterey County, and a line extending from Point Rincon
27 near or at the common boundaries between Santa Barbara and Ventura Counties
28 westerly through Richardson Rock, and excluding all rivers, streams, sloughs, and
29 lagoons.

30 (b) Any reference to “District 18” shall be construed as a reference to District
31 2620.

32 **Comment.** Subdivision (a) of Section 2620 continues former Fish and Game Code Section
33 11026 without substantive change.

34 Subdivision (b) is new.

35 **§ 2625. District 2625**

36 2625. (a) The following constitutes Fish and Wildlife District 2625:

37 The ocean waters of the State and tidelands to high-water mark, and islands off
38 the coast and waters adjacent thereto, lying southerly of Fish and Wildlife District
39 1870, and northerly of a westerly extension of the boundary line between the
40 Republic of Mexico and San Diego County, excepting Districts 2630, 2635, 2640,
41 2645, and 2650, and excluding all rivers, streams, sloughs, lagoons, and bays.

1 (b) Any reference to “District 19” shall be construed as a reference to District
2 2625.

3 **Comment.** Subdivision (a) of Section 2625 continues former Fish and Game Code Section
4 11027 without substantive change.

5 Subdivision (b) is new.

6 **§ 2630. District 2630**

7 2630. (a) The following constitutes Fish and Wildlife District 2630:

8 The ocean waters and tidelands to high-water mark lying between the southerly
9 extremity of Malibu Point and the westerly extremity of Rocky Point (Palos
10 Verdes Point), excluding all rivers, streams and lagoons.

11 (b) Any reference to “District 19A” shall be construed as a reference to District
12 2630.

13 **Comment.** Subdivision (a) of Section 2630 continues former Fish and Game Code Section
14 11028 without substantive change.

15 Subdivision (b) is new.

16 **§ 2635. District 2635**

17 2635. (a) The following constitutes Fish and Wildlife District 2635:

18 The ocean waters and tidelands to high-water mark northerly of the following
19 line:

20 Beginning at the west end of the San Pedro Breakwater, thence in an extended
21 line following the axis of said San Pedro Breakwater, the middle breakwater and
22 the Long Beach Breakwater to the east end of the latter, thence to the outer end of
23 the west jetty of Anaheim Bay.

24 (b) Except as otherwise provided, all of the provisions of this code applicable to
25 Districts 2550 and 2555 apply to District 2635.

26 (c) Any reference to “District 19B” shall be construed as a reference to District
27 2635.

28 **Comment.** Subdivision (a) of Section 2635 continues former Fish and Game Code Section
29 11029 without substantive change.

30 Subdivision (b) is new.

31 **§ 2640. District 2640**

32 2640. (a) The following constitutes Fish and Wildlife District 2640:

33 Santa Catalina Island and the portion of the waters of the state within three
34 nautical miles of the island’s coast line on the northerly, easterly, and southerly
35 side of the island, lying between a line extending three nautical miles west
36 magnetically from the extreme westerly end of Santa Catalina Island to a line
37 extending three nautical miles southwest magnetically from the most southerly
38 promontory of China Point.

39 (b) Any reference to “District 20” shall be construed as a reference to District
40 2640.

41 **Comment.** Subdivision (a) of Section 2640 continues former Fish and Game Code Section
42 11030 without substantive change.

1 Subdivision (b) is new.

2 **§ 2645. District 2645**

3 2645. (a) The following constitutes Fish and Wildlife District 2645:

4 The waters lying around Santa Catalina Island, within three nautical miles of the
5 coast line of the island, which are not included in District 2640.

6 (b) Any reference to “District 20A” shall be construed as a reference to District
7 2645.

8 **Comment.** Subdivision (a) of Section 2645 continues former Fish and Game Code Section
9 11031 without substantive change.

10 Subdivision (b) is new.

11 **§ 2650. District 2650**

12 2650. (a) The following constitutes Fish and Wildlife District 2650:

13 The waters and tidelands to high water mark of San Diego Bay lying inside of a
14 straight line drawn from the southerly extremity of Point Loma to the offshore end
15 of the San Diego breakwater.

16 (b) Any reference to “District 21” shall be construed as a reference to District
17 2650.

18 **Comment.** Subdivision (a) of Section 2650 continues former Fish and Game Code Section
19 11032 without substantive change.

20 Subdivision (b) is new.

21 **§ 2655. District 2655**

22 2655. (a) The following constitutes Fish and Wildlife District 2655:

23 All of Imperial County and those portions of Riverside and San Bernardino
24 Counties lying south and east of the following line: Starting at the intersection of
25 Highway 99 with the north boundary of Imperial County, thence north along that
26 highway to the intersection with Highway 60 and 70; thence east along Highway
27 60 and 70 to its intersection with the Cottonwood Springs Road in Sec. 9, T. 6 S.,
28 R. 11 E.; thence north along that road and the Mecca Dale Road to Amboy; thence
29 east along Highway 66 to the intersection with Highway 95; thence north along
30 Highway 95 to the California-Nevada boundary.

31 (b) Any reference to “District 22” shall be construed as a reference to District
32 2655.

33 **Comment.** Subdivision (a) of Section 2655 continues former Fish and Game Code Section
34 11033 without substantive change.

35 Subdivision (b) is new.

36 **§ 2660. District 2660**

37 2660. (a) The following constitutes Fish and Wildlife District 2660:

38 The lands and waters lying within the drainage area of Rubicon and Little
39 Rubicon Rivers above their confluence in Sec. 13, T. 13 N., R. 13 E.; all lands and
40 waters lying within the drainage area of the South Fork of the American River and
41 all its tributaries above Chili Bar Bridge on the Placerville-Georgetown Highway;

1 all of the lands and waters lying within the drainage area of Webber Creek above
2 the Mother Lode Highway between El Dorado and Placerville; the waters of Lake
3 Tahoe and the Truckee River, and all streams flowing into that lake and river, and
4 all lands and waters within the drainage basin of that lake and river lying within
5 this State; the waters of Silver Lake, Twin Lakes, Twin Lake, Blue Lakes,
6 Meadow Lake, Wood Lake, Winnemucca Lake and Scott's Lake, Burnside Lake,
7 the Carson River, the West Fork of the Carson River, Willow Creek and
8 Markleeville Creek and all tributaries of those streams and all streams flowing into
9 those lakes and all lands and waters lying within the drainage basin of those lakes,
10 rivers and streams within this State; all the waters of the Cosumnes River and its
11 tributaries, and all lakes lying within the watershed of that river and tributaries
12 above the bridge on the Mother Lode Highway between Plymouth and Nashville,
13 all being within the Counties of Alpine, Amador, and El Dorado.

14 (b) Any reference to "District 23" shall be construed as a reference to District
15 2660.

16 **Comment.** Subdivision (a) of Section 2660 continues former Fish and Game Code Section
17 11034 without substantive change.

18 Subdivision (b) is new.

19 **§ 2665. District 2665**

20 2665. (a) The following constitutes Fish and Wildlife District 2665:

21 The waters of Lake Almanor and all streams flowing into that lake and all lands
22 lying within the drainage basin of those streams and lake, all being within the
23 Counties of Plumas and Lassen.

24 (b) Any reference to "District 25" shall be construed as a reference to District
25 2665.

26 **Comment.** Subdivision (a) of Section 2665 continues former Fish and Game Code Section
27 11035 without substantive change.

28 Subdivision (b) is new.

29 **§ 2670. District 2670**

30 2670. (a) The following constitutes Fish and Wildlife District 2670:

31 The waters of the Klamath River as described in the initiative act to create the
32 Klamath River Fish and Game District, approved by the electors on November 4,
33 1924, which initiative act provides:

34 The Klamath River Fish and Game District is hereby created and shall consist
35 of the Klamath River and the waters thereof, following its meanderings from
36 the confluence of the Klamath River and the Shasta River in the County of
37 Siskiyou to the mouth of the Klamath River in Del Norte County.

38 (b) Any reference to the "Klamath River district" shall be construed as a
39 reference to District 2670.

40 **Comment.** Subdivision (a) of Section 2670 continues the first three paragraphs of former Fish
41 and Game Code Section 11036 without substantive change.

42 Subdivision (b) is new.

1 **§ 2675. District 2675**

2 2675. (a) The following constitutes Fish and Wildlife District 2675:

3 The Klamath River and the waters thereof, following its meanderings from the
4 mouth of the Klamath River in Del Norte County to its confluence with the
5 Salmon River, and also the Trinity River and the waters thereof, following its
6 meanderings from its confluence with the Klamath River in the County of
7 Humboldt to its confluence with the south fork of the said Trinity River.

8 (b) Any reference to the “Trinity and Klamath River District” shall be construed
9 as a reference to District 2675.

10 **Comment.** Subdivision (a) of Section 2675 continues former Fish and Game Code Section
11 11037 without substantive change.

12 Subdivision (b) is new.

13 **§ 2680. District 2680**

14 2680. (a) The following constitutes Fish and Wildlife District 2680:

15 The ocean waters and tidelands lying within the following boundaries:

16 Beginning at the south side of the pier at San Simeon thence westerly three
17 miles, thence southerly to a point three miles west of the southern boundary of the
18 state park at Cambria in San Luis Obispo County, thence easterly to the southwest
19 point of the state park at Cambria.

20 (b) All of the provisions relating to District 2620 shall apply to District 2680.

21 (c) Any reference to “District 118” shall be construed as a reference to District
22 2680.

23 **Comment.** Subdivisions (a) and (b) of Section 2680 continue former Fish and Game Code
24 Section 11038 without substantive change.

25 Subdivision (c) is new.

26 **§ 2685. District 2685**

27 2685. (a) The following constitutes Fish and Wildlife District 2685:

28 The ocean and tidelands to high-water mark, not included in other districts,
29 excluding all rivers, streams, sloughs, and lagoons, bounded by a line beginning at
30 the intersection of the common boundary of Monterey and San Luis Obispo
31 Counties with the mean high-water mark, thence due west two miles to a point,
32 thence by a line following the coast line and parallel to it southerly to a point two
33 miles south of the intersection of the common boundary of Santa Barbara and
34 Ventura Counties with the mean high-water mark, thence north to the intersection
35 of the common boundary of Santa Barbara and Ventura Counties with the mean
36 high-water mark.

37 (b) Except as otherwise provided, all of the provisions relating to District 2620
38 shall apply to District 2685.

39 (c) Any reference to “District 118.5” shall be construed as a reference to District
40 2685.

41 **Comment.** Subdivisions (a) and (b) of Section 2685 continue former Fish and Game Code
42 Section 11039 without substantive change.

43 Subdivision (c) is new.

PART 5. GENERAL LICENSE PROVISIONS

TITLE 1. LICENSES GENERALLY

CHAPTER 1. FORM AND VALIDITY

§ 2800. Form

(a) The commission shall determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses, and may require and prescribe the form of applications therefor and the form of any contrivance to be used in connection therewith.

(b) For programs where the department has fee-setting authority, the department has the authority described in subdivision (a).

Comment. Section 2800 restates former Fish and Game Code Section 1050(b) without substantive change.

§ 2810. Licenses uniquely numbered

2810. Licenses of each class shall be uniquely numbered. Every license shall contain its expiration date and the fee for which it is issued. If no fee is either required by this code or established by the commission pursuant to Section 3000, the license shall so indicate.

Comment. Section 2810 continues former Fish and Game Code Section 1051 without substantive change.

§ 2815. Validity

2815. Any license, permit, tag, stamp, or other entitlement authorized pursuant to this code is not valid until it is filled out completely and accurately and the fee authorized or identified in statute or regulation for the license is received and paid to the department or its agent. It is the responsibility of the user to ensure that the license, permit, tag, stamp, or other entitlement is filled out completely and accurately.

Comment. Section 2815 continues former Fish and Game Code Section 1050.1 without substantive change.

See also Section 4874 (enforcement).

§ 2820. Validity of stamp

2820. Any stamp issued pursuant to this part is not valid unless affixed to the appropriate license document.

Comment. Section 2820 continues former Fish and Game Code Section 1052.5 without substantive change.

See also Section 4874 (enforcement).

CHAPTER 2. ISSUANCE

§ 2900. Issuance generally

2900. The department may issue and shall collect payment for any entitlement, document, or authorization for which a fee is authorized pursuant to this code.

Comment. Section 2900 continues former Fish and Game Code Section 1054.5 without substantive change.

§ 2905. Issuance


2905. All licenses, permits, tags, reservations, and other entitlements authorized by this code shall be prepared and issued by the department.

Comment. Section 2905 continues former Fish and Game Code Section 1050(a) without substantive change.

§ 2910. Terms and conditions of issuance

2910. Whenever this code provides for a permit, license, tag, reservation, application, or other entitlement, the commission, in accordance with the provision, shall prescribe the terms and conditions under which the permit, license, tag, reservation, application, or other entitlement shall be issued, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority. The department shall issue the permit, license, tag, reservation, application, or other entitlement in accordance therewith and with the applicable provisions of law.

Comment. Section 2910 continues former Fish and Game Code Section 1050(c) without substantive change.

 **Note.** The last sentence of proposed Section 2910 appears to be superfluous. See proposed Sections 2905 (duty of department to issue license), 2910(a)-(b) (terms under which license can be issued). **Can that sentence be deleted without causing a problem?**

§ 2915. Applicant information confidential

2915. (a) Except as otherwise provided in this section, the names and addresses contained in records submitted and retained by the department for the purpose of obtaining recreational fishing and hunting licenses are confidential and are not public records.

(b) Notwithstanding any other provision of law, the department may release the confidential information described in subdivision (a) under the following circumstances:

(1) To an agent or authorized family member of the person to whom the information pertains.

(2) To an officer or employee of another governmental agency when necessary for the performance of his or her official duties.

(3) In accordance with Section 7315.

(4) Pursuant to a court order.

1 **Comment.** Section 2915 continues former Fish and Game Code Section 1050.6 without
2 substantive change.

3 **§ 2920. Proof of statements or facts**

4 2920. (a) The department may require the applicant for a license, tag, permit, or
5 other privilege or entitlement to show proof of the statements or facts required for
6 the issuance of the license, tag, permit, or other privilege or entitlement.

7 (b) For purposes of this section, “department” includes any department
8 employee, license agent, or any person performing the duties of a department
9 employee or license agent.

10 **Comment.** Section 2920 continues former Fish and Game Code Section 1054(b)-(c) without
11 substantive change.

12 See also Section 4874 (enforcement).

13 **§ 2925. Temporary document**

14 2925. Notwithstanding any other provision of this code, the department may
15 issue a temporary document that allows the holder of a license, permit, license tag,
16 license stamp, application, reservation, or other entitlement purchased through the
17 Internet to enjoy the privileges of the entitlement for a period not to exceed 30
18 calendar days from the date of purchase.

19 **Comment.** Section 2925 continues former Fish and Game Code Section 1050.3 without
20 substantive change.

21 **§ 2930. Limitation on number of licenses issued to one person**

22 2930. A person shall not obtain more than one license, permit, reservation, or
23 other entitlement of the same class, or more than the number of tags authorized by
24 statute or regulation for the same license year, except under one of the following
25 conditions:

26 (a) A nonresident hunting license issued pursuant to paragraph (4) or (5) of
27 subdivision (a) of Section 10210, or a short-term sport fishing license issued
28 pursuant to paragraph (3), (4), or (5) of subdivision (a) of Section 13100.

29 (b) The loss or destruction of an unexpired license, tag, permit, reservation, or
30 other entitlement, except a stamp or endorsement, provided that all the following
31 requirements are met:

32 (1) The applicant certifies the loss or destruction of the license, tag, permit,
33 reservation, or other entitlement by signed affidavit.

34 (2) There is proof, as determined by the department, that the original license, tag,
35 permit, reservation, or other entitlement was issued.

36 (3) The applicant pays a base fee of five dollars (\$5). The base fee shall be
37 adjusted annually pursuant to Section 3755, not to exceed the fee for the original
38 entitlement. The adjustment shall apply to the hunting license years commencing
39 on or after July 1, 1996, and the fishing license years commencing on or after
40 January 1, 1996.

1 (c) The loss or destruction of a stamp or endorsement imprinted on a base
2 license that was issued through the Automated License Data System, on payment
3 of a base fee of three dollars (\$3) for each stamp or endorsement replaced on any
4 base license document. The base fee shall be adjusted annually pursuant to Section
5 3755, not to exceed the fee for the original entitlement. The base fee shall apply to
6 the 2011 license year.

7 **Comment.** Section 2930 restates former Fish and Game Code Sections 1053.1(a) without
8 substantive change.

9 See also Section 4874 (enforcement).

10 **§ 2935. License voucher**

11 2935. (a) The department may allow a person to purchase a license voucher as a
12 gift for a licensee when the licensee's complete and accurate personal information,
13 as defined in regulation, is not provided by the license buyer at the time of
14 purchase.

15 (b) A license purchase voucher entitles the holder of the voucher to redeem it for
16 the specific license, permit, tag, or other privilege or entitlement, and license year
17 for which it was purchased.

18 (c) A license purchase voucher shall expire and be considered void if not
19 redeemed within the license year for which it was purchased.

20 (d) A license purchase voucher may be issued and redeemed by a person
21 authorized by the department to issue licenses.

22 (e) The license agent handling fee, as provided under Section 3350, shall only
23 apply to the sale of the license purchase voucher.

24 **Comment.** Section 2935 continues former Fish and Game Code Section 1061(a)-(e) without
25 substantive change.

26 **§ 2940. Issuance of hunting tags for fundraising purposes**

27 2940. (a) The department shall establish, and keep current, written policies and
28 procedures relating to the application process and the award of hunting tags for
29 fundraising purposes, as authorized pursuant to Section 32950, 34850, 34215, or
30 35900.

31 (b) The policies and procedures shall include, but need not be limited to, all of
32 the following:

33 (1) The application process and criteria.

34 (2) A standard application format.

35 (3) An appeal process.

36 (4) A requirement that all applications shall remain sealed until on or after a
37 filing date specified by the department.

38 (c) The department shall make the policies and procedures available to
39 interested parties 30 days before their implementation and shall receive and
40 consider any related recommendations.

1 (d) The department shall not require a minimum tag sale price, except as
2 otherwise provided in this code.

3 (e) It is the intent of the Legislature that the department develop policies and
4 procedures that seek to maximize both the revenues received by the department
5 and participation by qualified nonprofit organizations making application to sell
6 the tags as sellers of the tags.

7 **Comment.** Section 2940 continues former Section 1054.8 without substantive change.

8 CHAPTER 3. FEES

9 § 3000. Commission authority to set or change license fees

10 3000. (a) In any of the following circumstances, the commission may, by
11 regulation, establish or change the amount of a fee for an application or for the
12 issuance of a license, tag, permit, application, reservation, or other entitlement:

13 (1) This code does not specify whether the fee is to be collected.

14 (2) This code does not specify the amount of the fee.

15 (3) This code does not prohibit, by express reference to this section, the
16 commission from adjusting a statutorily imposed fee.

17 (b) Fees established by the commission shall be in an amount sufficient to
18 recover all reasonable administrative and implementation costs of the department
19 and commission relating to the program with regard to which the fee is paid. The
20 commission may establish a fee structure that provides for the phasing in of new
21 fees leading up to full cost recovery for the department and commission, provided
22 that full cost recovery is achieved within five years of the establishment of the fee.

23 (c) The commission may change the amount of a fee in accordance with Section
24 3755.

25 (d) This section does not apply to fees set by the department pursuant to Section
26 3750.

27 **Comment.** Section 3000 restates former Fish and Game Code Section 1050(d) without
28 substantive change.

29 § 3005. Application fee

30 3005. (a) Whenever this code provides for a license, tag, permit, reservation, or
31 other entitlement, the commission or department, as applicable, may establish a
32 nonrefundable application fee, not to exceed the lesser of (1) seven dollars and
33 fifty cents (\$7.50) or (2) an amount sufficient to pay the department's costs for
34 issuing the license, tag, permit, reservation, or other entitlement.

35 (b) The commission or department, as applicable, may adjust the application fee
36 in accordance with Section 3755.

37 **Comment.** Section 3005 restates former Fish and Game Code Section 1050(f) without
38 substantive change.

1 **§ 3010. Credit card payment**

2 3010. The department may accept a credit card charge as a method of payment.
3 Any contract executed by the department with credit card issuers or draft
4 purchasers shall be consistent with Section 6159 of the Government Code.
5 Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3
6 of the Civil Code, the department may impose a surcharge in an amount to cover
7 the cost of providing the credit card service, including reimbursement for any fee
8 or discount charged by the credit card issuer.

9 **Comment.** Section 3010 continues former Fish and Game Code Section 1050.5 without
10 substantive change.

11 CHAPTER 4. VIOLATIONS

12 **§ 3050. Unlawful acts**

13 3050. It is unlawful for any person to do any of the following:

14 (a) Transfer any license, tag, stamp, permit, application, or reservation.

15 (b) Use or possess any license, tag, stamp, permit, application, or reservation
16 that was not lawfully issued to the user or possessor thereof or that was obtained
17 by fraud, deceit, or the use of a fake or counterfeit application form.

18 (c) Use or possess any fake or counterfeit license, tag, stamp, permit, permit
19 application form, band, or seal, made or used for the purpose of evading any of the
20 provisions of this code, or regulations adopted pursuant to this code.

21 (d) Predate, fail to date, or alter any date of any license, tag, or permit.

22 (e) Postdate the date of application or the date of issuance of the license, tag, or
23 permit. This subdivision does not apply to the date that a license, tag, or permit is
24 valid.

25 (f) Alter, mutilate, deface, duplicate, or counterfeit any license, tag, permit,
26 permit application form, band, or seal, or entries thereon, to evade the provisions
27 of this code, or any regulations adopted pursuant to this code.

28 **Comment.** Section 3050 continues former Fish and Game Code Section 1052 without
29 substantive change.

30 See also Section 4874 (enforcement).

31 TITLE 2. LICENSE AGENTS

32 CHAPTER 1. AUTHORIZED LICENSE AGENT

33 **§ 3200. Application and approval generally**

34 3200. (a) Any person, except a commissioner, officer, or employee of the
35 department, may submit an application to the department to be a license agent to
36 issue licenses, permits, reservations, tags, or other entitlements.

(b) A person shall only be authorized to be a license agent to issue licenses, permits, reservations, tags, and other entitlements, upon the written approval of the department.

Comment. Section 3200 continues former Fish and Game Code Section 1055.1(a)-(b) without substantive change.

§ 3205. Nonprofit as license agent for sale of lifetime licenses

3205. (a) The department may designate a nonprofit organization, organized pursuant to the laws of this state, or the California chapter of a nonprofit organization, organized pursuant to the laws of another state, as a license agent for the sale of lifetime licenses issued pursuant to Sections 10225 and 13105. These licenses may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code.

(b) An agent authorized to issue lifetime sport fishing licenses and lifetime hunting licenses under this section is exempt from subdivisions (a) and (c) of Section 3350. The license agent shall remit to the department the fees from the sale of lifetime licenses as defined in Sections 3031.2 and 13105.

Comment. Section 3205 continues former Fish and Game Code Section 1055.1(g) without substantive change.

Notes. (1) Does the exemption in proposed Section 3205(b) apply to any type of license sold by a license agent authorized to sell lifetime licenses under that section? Or does the exemption only apply to lifetime licenses sold by such a license agent?
(2) Are “nonprofit organizations” the only persons who can act as license agents for the sale of lifetime licenses?

§ 3210. Wildlife area passes and native species stamps

3210. The department may authorize any person other than a commissioner or an officer or employee of the department to issue, as an agent of the department, annual wildlife area passes and native species stamps, and to sell promotional materials and nature study aids pursuant to, and subject to the requirements of, this part. An agent thus authorized may add a handling charge pursuant to Section 3350 to the fee prescribed in Chapter 3 (commencing with Section 56050) of Title 6 of Part 2 of Division 15 for each annual wildlife area pass or native species stamp issued.

Comment. Section 3210 continues former Fish and Game Code Section 1055.3 without substantive change. Cross-references to repealed subdivisions of former Fish and Game Code Section 1055 are not continued.

CHAPTER 2. AUTOMATED LICENSE DATA SYSTEM

§ 3250. Provision of licenses

3250. (a) The department may provide licenses, permits, reservations, tags, or other entitlements to authorized license agents and shall collect, prior to delivery,

an amount equal to the fees for all licenses, permits, reservations, tags and other entitlements provided.

(b) Any licenses, permits, reservations, tags, or other entitlements provided pursuant to this section that remain unissued at the end of the license year may be returned to the department for refund or credit, or a combination of refund and credit, within six months of the item expiration date. No credit may be allowed after six months following the last day of the license year.

(c) Any license agent who pays the fees prior to delivery for licenses, permits, reservations, tags, or other entitlements is exempt from Sections 3360, 3365, and 3370.

Comment. Subdivision (a) of Section 3250 continues the first sentence of former Fish and Game Code Section 1055.1(c) without substantive change.

Subdivision (b) continues the third and fourth sentences of former Fish and Game Code Section 1055.1(c) without substantive change.

Subdivision (c) continues the second sentence of former Fish and Game Code Section 1055.1(c) without substantive change.

Notes. (1) Section 1055.1(c) was modeled after language in Section 1055(d), which describes license agents who prepay the Department of Fish and Wildlife for physical licenses and then sell them to the public. As a result of that origin, the language does not do a very good job of describing the ALDS system. **The Commission invites comment on whether proposed Section 3250(a) could be restated for greater accuracy.**

(2) The Commission's understanding is that ALDS is a print-on-demand system. Licenses are only printed when they have been purchased. Consequently, it is not clear that proposed Section 3250(b) has any meaningful application. The inclusion of that provision in existing Section 1055.1(c) may have been inadvertent. **The Commission requests public comment on whether the provision should be deleted as unnecessary.**

(3) Similarly, proposed Section 3250(c) continues the second sentence of existing Section 1055.1(c), which provides express exemptions for an ALDS license agent who pays for licenses "prior to delivery." The Commission's understanding is that ALDS sales are never pre-paid. Instead, charges for ALDS license sales are logged and electronic transfers are made periodically, after the fact. **The Commission requests public comment on whether the exemptions in Section 1055.1(c) apply to ALDS sales.**

§ 3255. Remittance

3255. (a) Except as provided in subdivision (b), each license agent authorized pursuant to Section 3200 shall remit to the department the fees prescribed in this code or in regulations adopted pursuant to this code for all licenses, permits, reservations, tags, and other entitlements by electronic means, such as electronic fund transfer. In order to facilitate the prompt remittance of revenues, the department is authorized to withdraw funds from the bank account of the license agent, including adjustments, by electronic transfer. License agents shall ensure that the total fees required for all licenses, permits, reservations, tags, or other entitlements necessary to perform the electronic transfer are available on the date specified by the license agent contract.

1 (b) A license agent shall report to the department on or before the end of the
2 next business day of the department any losses of fees received from the issuing of
3 licenses, permits, reservations, tags, or other entitlements.

4 (c) Except as provided in subdivision (b), any fees not transmitted or made
5 available to the department within seven days following the due date as specified
6 by the department are delinquent, and delinquent fees are subject to interest and
7 penalties prescribed in Section 3360. Interest and penalties shall be computed
8 beginning one day following the due date as specified by the department.

9 **Comment.** Subdivision (a) of Section 3255 continues former Fish and Game Code Section
10 1055.6(a) without substantive change.

11 Subdivision (b) continues former Fish and Game Code Section 1055.6(b) without substantive
12 change.

13 Subdivision (c) continues former Fish and Game Code Section 1055.6(d) without substantive
14 change.

15 **§ 3260. Advertisement of Automated License Data System website**

16 3260. (a) A nonprofit conservation organization seeking promotion, exposure,
17 and awareness of the organization on the Automated License Data System Online
18 License Service Internet Web site, as feasible, through the display of the
19 organization's logo, or other graphics agreed upon by the organization and the
20 department, to give a prospective license buyer the opportunity to link
21 electronically to the organization's Internet home page, shall submit, by
22 September 30 of each year, a letter to the department providing evidence that the
23 organization meets the criteria set forth in subdivision (c). If the department
24 determines that the nonprofit conservation organization is eligible, it shall include
25 the organization's logo or other graphics in a space with a link to the
26 organization's Internet home page on the Automated License Data System Online
27 License Service Internet Web site for a time period agreed upon by both parties.

28 (b) The department may impose a charge on a nonprofit conservation
29 organization for inclusion on the Automated License Data System Online License
30 Service Internet Web site pursuant to subdivision (a) that shall not exceed the
31 costs associated with the direct administration of this section.

32 (c) As used in this section, "nonprofit conservation organization" means an
33 entity that the department determines meets all of the following:

34 (1) It is a nonprofit organization described in Section 501(c)(3) of the Internal
35 Revenue Code (26 U.S.C. Sec. 501(c)(3)), that is exempt from taxation under
36 Section 501(a) of that code (26 U.S.C. Sec. 501(a)).

37 (2) It is registered with the Attorney General.

38 (3) Its goals and objectives are related to the conservation of sport fish or game
39 species.

40 (4) In at least one of the previous three calendar years, it has entered into, or
41 been obligated under, a contract or other agreement, including, but not limited to,
42 a license, easement, memorandum of understanding, or lease, with the department
43 to perform habitat or other wildlife conservation work, to provide hunting or

1 fishing opportunities for the public, to raise funds on behalf of the department,
2 including, but not limited to, the sale of hunting fundraising tags or related items,
3 or to otherwise provide assistance to the department that is consistent with the
4 department's mission.

5 (d) The department shall deposit revenues of the charge imposed pursuant to
6 subdivision (b) in the Fish and Game Preservation Fund, to be available, upon
7 appropriation by the Legislature, exclusively to pay all initial and ongoing costs
8 associated with the direct administration of this section, including, but not limited
9 to, a portion of the costs of making changes to the Automated License Data
10 System necessary to implement this section.

11 (e) The department shall implement the links from the Automated License Data
12 System Online License Service Internet Web site by January 1, 2015, if it
13 determines that date is feasible.

14 **Comment.** Section 3260 continues former Fish and Game Code Section 1065 without
15 substantive change.

16 CHAPTER 3. FINANCIAL PROVISIONS

17 § 3350. Handling charge

18 3350. (a) Authorized license agents shall add a handling charge to the fees
19 prescribed in this code or in regulations adopted pursuant to this code for any
20 license, permit, reservation, tag, and other entitlement issued by the license agent
21 in an amount that is 5 percent of the face value of the item rounded to the nearest
22 five cents (\$0.05).

23 (b) The handling charge added pursuant to subdivision (a) shall be incorporated
24 into the total amount collected for issuing the license, permit, reservation, tag, and
25 other entitlement, but the handling charge shall not be included when determining
26 license fees in accordance with Section 3755. A license agent may issue any
27 license, permit, reservation, tag, or other entitlement for any amount up to 10
28 percent less than the fee prescribed in this code or in regulations adopted pursuant
29 to this code. The license agent shall remit to the department the full amount of the
30 fees as prescribed in this code or in regulations adopted pursuant to this code for
31 all licenses, permits, reservations, tags, and other entitlements issued.

32 (c) The handling charge required by subdivision (a) is the license agent's only
33 compensation for services. The license agent shall not be entitled to any other
34 additional fee or charge for issuing any license, permit, reservation, tag, or other
35 entitlement authorized pursuant to this section.

36 **Comment.** Section 3350 continues former Fish and Game Code Section 1055.1(d)-(f) without
37 substantive change.

38 § 3360. Failure of license agent to account

39 3360. (a) It is unlawful for a license agent to fail or refuse to account for
40 licenses, permits, reservations, tags, and other entitlements or any fees received

1 from their issuance as required by Section 3255 or upon demand by an authorized
2 representative of the department.

3 (b) In addition to subdivision (a), any license agent who fails to remit fees to the
4 department on or before the date required by Section 3255 shall pay interest and
5 penalties prescribed for sales and use taxes and, except as otherwise provided in
6 this code, the department shall collect amounts owing under the procedures
7 prescribed for sales and use taxes provided in Chapters 5 (commencing with
8 Section 6451) and 6 (commencing with Section 6701) of Part 1 of Division 2 of
9 the Revenue and Taxation Code, insofar as they may be applicable, and for those
10 purposes, “board” means the department.

11 **Comment.** Section 3360 restates former Fish and Game Code Section 1059(b) without
12 substantive change. See also Section 4450 (enforcement).

13 **§ 3365. Separate accounting required**

14 3365. All license, tag, permit, reservation, and other entitlement money shall be
15 accounted for separately from other funds of a license agent, and shall at all times
16 belong to the state.

17 **Comment.** Section 3365 continues former Section 1057 without substantive change.

18 **§ 3370. Bond**

19 3370. A license agent who fails to transmit the fees or accounting reports
20 required by Section 3255 not later than 60 days following the due date as specified
21 by the department may be required to execute, in favor of the department, a bond,
22 payable to the department, in a sum determined by the department in order to
23 continue as a license agent. The bond shall secure the accurate accounting and
24 payment to the department of the funds collected and the performance of the
25 duties imposed upon the license agent by this article.

26 **Comment.** Section 3370 continues former Fish and Game Code Section 1056 without
27 substantive change.

28 **§ 3375. Preferred claim**

29 3375. In case of an assignment for the benefit of creditors, receivership, or
30 bankruptcy, the state shall have a preferred claim against the license agent’s
31 assignee, receiver, or trustee for all moneys owing the state for the issuing of
32 licenses, permits, reservations, tags, and other entitlements as provided in this
33 code and shall not be estopped from asserting that claim by reason of the
34 commingling of funds or otherwise.

35 **Comment.** Section 3375 continues former Fish and Game Code Section 1058 without
36 substantive change.

PART 6. GENERAL FINANCIAL PROVISIONS

TITLE 1. STATE

CHAPTER 1. LEGISLATIVE FINDINGS, DECLARATIONS, AND INTENT

§ 3450. Legislative findings and declarations of 1978 (as amended in 2006)

3450. The Legislature finds and declares that the department has in the past not been adequately funded to meet its mandates. The principal causes have been the fixed nature of the department's revenues in contrast with the rising costs resulting from inflation, the increased burden on the department to carry out its public trust responsibilities, and additional responsibilities placed on the department by the Legislature. This lack of funding has prevented proper planning and personnel allocation. The lack of funding has required the department to restrict wildlife officer enforcement and to defer essential management of lands acquired for wildlife conservation. The lack of funding for fish and wildlife conservation activities other than sport and commercial fishing and hunting activities has resulted in inadequate wildlife and habitat conservation and wildlife protection programs.

Comment. Section 3450 continues former Fish and Game Code Section 710 without substantive change.

§ 3455. Legislative findings and declarations of 1990

3455. (a) The Legislature finds and declares that the department continues to be inadequately funded to meet its mandates. While revenues have been declining, the department's responsibilities have increased in order to protect public trust resources in the face of increasing population and resource management demands. The department's revenues have been limited due to a failure to maximize user fees and inadequate non-fee-related funding. The limited department revenues have resulted in the inability of the department to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the department for the people of the state.

(b) The Legislature further finds and declares that the department has been largely supported by fees paid by those who utilize the resources held in trust by the department. It is the intent of the Legislature that, to the extent feasible, the department should continue to be funded by user fees. All fees collected by the department, including, but not limited to, recreational hunting and fishing licenses, landing fees, commercial licenses, permits and entitlements, and other fees for use of the resources regulated or managed by the department, are user fees. To the extent that these fees are appropriated through the Budget Act for the purposes for which they are collected to provide services to the people of the State of

1 California, these user fees are not subject to Article XIII B of the California
2 Constitution.

3 (c) The Legislature further finds and declares that user fees are not sufficient to
4 fund all of the department's mandates. To fulfill its mandates, the department must
5 secure a significant increase in reliable funding, in addition to user fees.

6 **Comment.** Section 3455 continues former Fish and Game Code Section 710.5 without
7 substantive change.

8 **§ 3460. Legislative findings and declarations of 1992**

9 3460. (a) The Legislature finds and declares all of the following:

10 (1) The department continues to face serious funding instability due to revenue
11 declines from traditional user fees and taxes and the addition of new and expanded
12 program responsibilities.

13 (2) Historically, the recreational and commercial fishing industry has funded
14 much of the department's marine fisheries activities.

15 (3) As the state's population grows and development changes historic land uses,
16 fish and wildlife continue to be depleted, necessitating a significant portion of the
17 department's activities to be directed toward protecting fish and wildlife for the
18 benefit of the people of the state.

19 (b) It is the intent of the Legislature to extend the current user-based funding
20 system by allocating a portion of the marine resource protection costs to those who
21 use and benefit from recreational and commercial use of the marine resources.

22 (c) It is the Legislature's intent that, notwithstanding Section 3465, the
23 department shall cooperate with the Legislature, recreational users, conservation
24 organizations, the commercial fishing industry, and other interested parties to
25 identify and propose new alternative sources of revenue to fund the department's
26 necessary marine conservation, restoration, and resources management, and
27 protection responsibilities.

28 (d) It is further the intent of the Legislature to identify new funding sources and
29 to secure those sources to adequately fund the department's activities directed at
30 protecting and managing wildlife for the people of the state.

31 **Comment.** Section 3460 continues former Fish and Game Code Section 710.7 without
32 substantive change.

33 **§ 3465. Statement of legislative intent regarding funding**

34 3465. (a) It is the intent of the Legislature to ensure adequate funding from
35 appropriate sources for the department. To this end, the Legislature finds and
36 declares that:

37 (1) The costs of nongame fish and wildlife programs shall be provided annually
38 in the Budget Act by appropriating money from the General Fund, through
39 nongame user fees, and sources other than the Fish and Game Preservation Fund
40 to the department for these purposes.

(2) The costs of commercial fishing programs shall be provided out of revenues from commercial fishing fees, license fees, and other revenues, from reimbursements and federal funds received for commercial fishing programs, and other funds appropriated by the Legislature for this purpose.

(3) The costs of hunting and sportfishing programs shall be provided out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and sportfishing programs, and other funds appropriated by the Legislature for this purpose. These revenues, reimbursements, and federal funds shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

(4) The costs of managing lands managed by the department and the costs of wildlife management programs shall be supplemented out of revenues in the Native Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 3755. However, a substantial increase in the aggregate of hunting and sportfishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 3755 shall not be used to accommodate a substantial increase in the aggregate of hunting and sportfishing programs.

(6) The costs of a conservation and mitigation banking program, including, but not limited to, costs incurred by the department during its adoption of guidelines for, and the review, approval, establishment, monitoring, and oversight of, banks, shall be reimbursed from revenues of conservation and mitigation bank application fees imposed pursuant to Sections 65500 through 65670, inclusive.

(b) The director and the Secretary of the Natural Resources Agency, with the department's annual budget submittal to the Legislature, shall submit a report on the fund condition, including the expenditures and revenue, for all accounts and subaccounts within the Fish and Game Preservation Fund. The department shall also update its cost allocation plan to reflect the costs of program activities.

(c) For purposes of this section, "substantial increase" means an increase in excess of 5 percent of the Fish and Game Preservation Fund portion of the department's current year support budget, excluding cost-of-living increases provided for salaries, staff benefits, and operating expenses.

Comment. Section 3465 continues former Fish and Game Code Section 711 without substantive change.

Notes. (1) Existing Section 711(b) (which would be continued by proposed Section 3465(b)) is not a statement of legislative intent. It is a substantive provision. Moreover, it appears to duplicate the substance of existing Section 13001.5, with less detail. **Does existing Section 711(b) serve any purpose, or can it be deleted?**

(2) Existing Section 711(c) (which would be continued by proposed Section 3465(c)) provides a definition for the purposes of "this article." But existing Section 711 is the only section in the

1 referenced article that uses the defined term. **The provision's scope of application has been**
2 **narrowed accordingly.**

3 **§ 3470. Statement of legislative intent regarding nongame program funding**

4 3470. (a) It is the intent of the Legislature that the Department of Finance shall
5 include in the Governor's Budget sufficient moneys from the General Fund and
6 sources other than the Fish and Game Preservation Fund to pay the costs of the
7 department's nongame programs, including those necessary for the protection and
8 enhancement of California's nongame fish and wildlife and their habitat, the free
9 hunting and fishing license programs, and special repairs and capital outlay.

10 (b) It is the intent of the Legislature that the Department of Finance shall not
11 include in the Governor's Budget any appropriation from the Fish and Game
12 Preservation Fund for any program or project that is not expressly found to be an
13 activity relating to the protection or propagation of fish and wildlife, except to the
14 extent that moneys have been deposited in that fund from collections under a law
15 which is not related to the protection or propagation of fish and wildlife.

16 (c) Any study relating to funding of programs administered or conducted by the
17 department shall include express findings of whether the program is related to the
18 protection or propagation of fish and wildlife and shall describe the relationship.

19 **Comment.** Section 3470 continues former Fish and Game Code Section 712 without
20 substantive change.

21 **CHAPTER 2. ACCOUNTING**

22 **§ 3500. Fish and Game Preservation Fund**

23 3500. (a) The Fish and Game Preservation Fund in the State Treasury is
24 continued in existence.

25 (b) Wherever the term "Fish Commission Fund" or "Game Preservation Fund"
26 appears in any law, it means "Fish and Game Preservation Fund."

27 **Comment.** Subdivision (a) of Section 3500 continues former Fish and Game Code Section
28 13000 without substantive change.

29 Subdivision (b) continues former Fish and Game Code Section 12 without substantive change.

30 **§ 3505. Fund condition statement**

31 3505. (a) The department shall prepare annually, for inclusion in the Governor's
32 Budget, a fund condition statement for the Fish and Game Preservation Fund that
33 displays both of the following:

34 (1) Information relating to the total amounts of revenues and expenditures with
35 regard to the moneys in the fund that are deposited in an account or subaccount in
36 the fund.

37 (2) Information relating to revenues and expenditures with regard to all moneys
38 in the fund that are not deposited in an account or subaccount in the fund.

39 (b) For the purposes of subdivision (a), the department shall prepare the fund
40 condition statement in a manner that is similar to the fund condition statement

1 relating to the Fish and Game Preservation Fund included in the 2003-04
2 Governor's Budget.

3 (c) The department shall prepare, for posting on its Internet Web site on or
4 before January 10 of each year, a fund condition statement for each account or
5 subaccount in the fund.

6 **Comment.** Section 3505 continues former Fish and Game Code Section 13001.5 without
7 substantive change.

8 **§ 3510. Accounting method**

9 3510. The department shall account for revenues and expenditures of the money
10 in the Fish and Game Preservation Fund in a manner consistent with the laws and
11 applicable policies governing state departments generally for each activity or
12 program in which the department is engaged.

13 **Comment.** Section 3510 continues former Fish and Game Code Section 13200 without
14 substantive change.

15 **§ 3515. Program descriptions**

16 3515. In establishing the appropriate programs or activities for the purposes of
17 Section 3510, the department shall consider the following programs or activities:

- 18 (1) Freshwater fisheries activities.
- 19 (2) Marine fisheries activities.
- 20 (3) Wildlife management activities.
- 21 (4) Planning and environmental review.
- 22 (5) Law enforcement.
- 23 (6) Nongame and endangered species.
- 24 (7) General administration.

25 **Comment.** Section 3515 continues former Fish and Game Code Section 13201 without
26 substantive change.

27 **§ 3520. Payroll and other costs**

28 3520. (a) Payroll and other costs that are directly identifiable with specific
29 programs or activities shall be charged directly to accounts maintained for the
30 appropriate programs or activities.

31 (b) Payroll and other costs that are not identifiable with specific programs or
32 activities shall be allocated on an equitable basis to program or activity cost
33 accounts.

34 **Comment.** Section 3520 continues former Fish and Game Code Section 13202 without
35 substantive change.

36 **§ 3525. Basic principle of cost accounting system**

37 3525. The basic principle of the cost accounting system required by Section
38 3510 shall be that the total cost of operation of the department shall be accounted
39 for by accounting for the cost of each activity or program in which it is engaged.

1 **Comment.** Section 3525 continues former Fish and Game Code Section 13203 without
2 substantive change.

3 CHAPTER 3. REVENUE

4 Article 1. Deposit of Revenue

5 **§ 3600. Default deposit rule**

6 3600. Unless otherwise provided, all money collected under the provisions of
7 this code and of any other law relating to the protection and preservation of birds,
8 mammals, fish, reptiles, or amphibians shall be paid into the State Treasury to the
9 credit of the Fish and Game Preservation Fund.

10 **Comment.** Section 3600 continues former Fish and Game Code Section 13001(a) without
11 substantive change.

12 **§ 3605. Deposit of license revenue**

13 3605. The department shall pay into the State Treasury at least once a month the
14 money received by it from the sale of licenses issued under the provisions of this
15 code.

16 **Comment.** Section 3605 continues former Fish and Game Code Section 13002 without
17 substantive change.

18 **§ 3610. Deposit and apportionment of fines and forfeitures**

19 3610. (a) Unless otherwise provided by law, a fine or forfeiture imposed or
20 collected in any court of this state for a violation of a provision of this code, a
21 regulation adopted pursuant to this code, or any other law providing for the
22 protection or preservation of birds, mammals, fish, reptiles, or amphibians, shall
23 be deposited as soon as practicable after the receipt thereof with the county
24 treasurer of the county in which the court is situated.

25 (b) Amounts deposited pursuant to subdivision (a) shall be paid at least once a
26 month as follows:

27 (1) One-half to the Treasurer, by warrant of the county auditor drawn upon the
28 requisition of the clerk or judge of the court, for deposit in the Fish and Game
29 Preservation Fund in the State Treasury on order of the Controller. At the time of
30 transmittal, the county auditor shall forward to the Controller, on a form or forms
31 that the Controller may prescribe, a record of the imposition, collection, and
32 payment of the fines or forfeitures. The department may employ legal counsel and
33 may expend these funds to pay the costs of legal actions brought in the name of
34 the people relating to the enforcement of this code by a district attorney, city
35 attorney, or the department, as appropriate.

36 (2) One-half to the county in which the offense was committed.

37 **Comment.** Section 3610 continues former Fish and Game Code Section 13003 without
38 substantive change.

Article 2. Gifts, Grants, Donations, and Related Matters

§ 3650. Deposit of gifts and bequests

3650. All moneys collected or received from gifts or bequests, or from municipal or county appropriations or donations for purposes relating to conservation programs, projects, and activities by the department shall be deposited in the State Treasury to the credit of the Fish and Game Preservation Fund. All moneys deposited pursuant to this section shall be used for purposes relating to conservation programs, projects, and activities by the department.

Comment. Section 3650 continues former Fish and Game Code Section 1225 without substantive change.

§ 3655. Funding agreements

3655. The department may enter into one or more agreements to accept funds from any person, nonprofit organization, or other public or private entity for purposes relating to conservation programs, projects, and activities by the department. Any funds received pursuant to this section shall be deposited in the Fish and Game Preservation Fund. The funds received shall supplement existing resources for purposes relating to conservation programs, projects, and activities by the department.

Comment. Section 3655 continues former Fish and Game Code Section 1226(a) without substantive change.

§ 3660. Grants and donations for financing of K9 program

3660. Notwithstanding Section 11005 of the Government Code, the department may seek and accept grants and donations from private and public organizations and agencies for the purpose of administering the Canine (K9) Program. The acceptance of one-time donations valued over fifteen thousand dollars (\$15,000) shall require approval of the Department of Finance.

Comment. Section 3660 continues former Fish and Game Code Section 859 without substantive change.

§ 3665. Commemorative license

3665. (a) The department may issue collectible, commemorative licenses to any person for purposes of promoting and supporting licensed hunting, fishing, and resource conservation, subject to all of the following:

(1) A commemorative license may be designed and produced as the department may determine and shall be clearly marked and identified as a commemorative license, rendering it invalid for the take of any mammal, bird, fish, reptile, or amphibian.

(2) A commemorative license shall not confer any rights, privileges, or other entitlements to any person purchasing or in possession of such a license.

1 (3) Provisions of this code that govern hunting and sport fishing licenses do not
2 apply to the purchase of a commemorative license. A commemorative license shall
3 not qualify as evidence required in subdivision (a) of Section 10200.

4 (b) All funds derived from the sale of commemorative licenses shall be
5 deposited in the Fish and Game Preservation Fund.

6 **Comment.** Section 3665 continues former Fish and Game Code Section 1050.8 without
7 substantive change.

8 **§ 3670. Wildlife officer stamp**

9 3670. (a) The department may offer for sale a wildlife officer stamp to be
10 designed and produced as the department may determine. The wildlife officer
11 stamp may be purchased on a voluntary basis from the department or an
12 authorized licensed agent for a donation of not less than five dollars (\$5). The
13 department may also design an electronic version of the wildlife officer stamp to
14 be offered through the Automated License Data System. There shall be no
15 indication on any license or permit of the purchase of a wildlife officer stamp.

16 (b) All revenues from sales under this section shall be deposited in the Fish and
17 Game Warden Stamp Account that is hereby created in the Fish and Game
18 Preservation Fund to permit separate accountability for the receipt and expenditure
19 of these funds. Funds deposited in the Fish and Game Warden Stamp Account
20 shall be used, upon appropriation, to support the department's wildlife officers.

21 **Comment.** Section 3670 continues former Fish and Game Code Section 860 without
22 substantive change.

23 **Article 3. Fees**

24 **§ 3750. Department authority to set or change fees**

25 3750. (a) The department may, by regulation, establish fees and adjust
26 statutorily imposed fees for the filings, permits, determinations, or other
27 department actions described in Sections 9200, 66200 to 66245, inclusive, and
28 69780.

29 (b) The department may change the amount of a fee in accordance with Section
30 3755.

31 (c) Fees established by the department shall be in an amount sufficient to
32 recover all reasonable administrative and implementation costs of the department
33 relating to the program with regard to which the fee is paid. The department may
34 establish a fee structure that provides for the phasing in of new fees leading up to
35 full cost recovery for the department, provided that full cost recovery is achieved
36 within five years of the establishment of the fee.

37 **Comment.** Section 3750 restates former Fish and Game Code Section 1050(e) without
38 substantive change.

1 **§ 3755. Inflation based changes in fees**

2 3755. (a) The changes in the Implicit Price Deflator for State and Local
3 Government Purchases of Goods and Services, as published by the United States
4 Department of Commerce, shall be used as the index to determine an annual rate
5 of increase or decrease in the fees for licenses, stamps, permits, tags, or other
6 entitlements issued by the department.

7 (b)(1) The department shall determine the change in the Implicit Price Deflator
8 for State and Local Government Purchases of Goods and Services, as published by
9 the United States Department of Commerce, for the quarter ending March 31 of
10 the current year compared to the quarter ending March 31 of the previous year.
11 The relative amount of the change shall be multiplied by the current fee for each
12 license, stamp, permit, tag, or other entitlement issued by the department.

13 (2) The product shall be rounded to the nearest twenty-five cents (\$0.25), and
14 the resulting amount shall be added to the fee for the current year. The resulting
15 amount shall be the fee for the license year beginning on or after January 1 of the
16 next succeeding calendar year for the license, stamp, permit, tag, or other
17 entitlement that is adjusted under this section.

18 (c) Notwithstanding any other provision of law, the department may recalculate
19 the current fees charged for each license, stamp, permit, tag, or other entitlement
20 issued by the department, to determine that all appropriate indexing has been
21 included in the current fees. This section shall apply to all licenses, stamps,
22 permits, tags, or other entitlements, that have not been increased each year since
23 the base year of the 1985-86 fiscal year.

24 (d) The commission, with respect to any license, stamp, permit, tag, or other
25 entitlement issued by the commission shall comply with subdivisions (a) to (c),
26 inclusive.

27 (e) The calculations provided for in this section shall be reported to the
28 Legislature with the Governor's Budget Bill.

29 (f) The Legislature finds that all revenues generated by fees for licenses, stamps,
30 permits, tags, and other entitlements, computed under this section and used for the
31 purposes for which they were imposed, are not subject to Article XIII B of the
32 California Constitution.

33 (g) The department and the commission, at least every five years, shall analyze
34 all fees for licenses, stamps, permits, tags, and other entitlements issued by it to
35 ensure the appropriate fee amount is charged. Where appropriate, the department
36 shall recommend to the Legislature or the commission that fees established by the
37 commission or the Legislature be adjusted to ensure that those fees are
38 appropriate.

39 **Comment.** Section 3755 continues former Fish and Game Code Section 713 without
40 substantive change.

CHAPTER 4. EXPENDITURES

§ 3800. Expenditures generally

3800. Except as provided in Section 67530, the money in the Fish and Game Preservation Fund, commencing with the 2005-06 fiscal year, is available for expenditure, upon appropriation by the Legislature, for all of the following purposes:

(a) To the department for payment of refunds of sums determined by it to have been erroneously deposited in the fund, including, but not limited to, money received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures, or services.

(b) To the department for expenditure in accordance with law for the payment of all necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, amphibians, and fish.

(c) To the commission for expenditure in accordance with law for the payment of the compensation and expenses of the commissioners and employees of the commission.

Comment. Section 3800 continues former Fish and Game Code Section 13220 without substantive change.

§ 3805. Secret witness program

3805. Notwithstanding Sections 3600 and 3810, the money collected from the penalties on fines, penalties, or forfeitures levied pursuant to Section 4425 shall be used only to pay the department's costs of support for the department's secret witness program. The purpose of the secret witness program is to facilitate the enforcement of this code and regulations adopted pursuant to this code. Contributions to the secret witness program may also be made pursuant to subdivision (k) of Section 3915.

Comment. Section 3805 continues former Fish and Game Code Section 13006 without substantive change.

§ 3810. Loans to General Fund

3810. Notwithstanding any other provision of law, the Controller may use the Fish and Game Preservation Fund for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

Comment. Section 3810 continues former Fish and Game Code Section 13001(b) without substantive change.

TITLE 2. COUNTIES

§ 3900. County fish and wildlife propagation fund

3900. (a) The amounts paid to and retained in the county treasury pursuant to Sections 3610 and 5802 shall be deposited in a county fish and wildlife

1 propagation fund and expended for the protection, conservation, propagation, and
2 preservation of fish and wildlife, under the direction of the board of supervisors,
3 pursuant to this title.

4 (b) All proposed expenditures from a county fish and wildlife propagation fund
5 shall be reviewed first at a regular meeting of the county board of supervisors or
6 its designated county fish and game commission to ensure compliance with
7 Section 3915.

8 **Comment.** Section 3900 continues former Fish and Game Code Section 13100 without
9 substantive change.

10 **§ 3905. Agreement between counties**

11 3905. (a) The board of supervisors of any county may enter into a written
12 agreement with the board of supervisors of one or more counties for the
13 expenditure of any funds deposited in its fish and wildlife propagation fund
14 pursuant to Section 3900 for any purpose authorized by Section 3915 in either, or
15 any, of the counties for the joint benefit of both, or all, of the counties as the
16 judgment of the boards of supervisors may direct. The purchase of real property
17 necessary for that purpose is lawful and title to that property shall be taken in the
18 joint names of each county that contributes funds for that purpose. The property
19 may be deeded to the state upon the express condition that it shall be employed for
20 the purposes of this title within the counties.

21 (b) The board of supervisors of one or more counties may enter into a written
22 agreement with the department for the expenditure of any funds deposited in its
23 fish and wildlife propagation fund pursuant to Section 3900 for any purpose
24 authorized by Section 3915.

25 **Comment.** Section 3905 continues former Fish and Game Code Section 13101 without
26 substantive change.

27 **§ 3910. Expenditures subject to Gov't Code § 29000 et seq**

28 3910. Expenditures from the fish and wildlife propagation fund of any county
29 shall be subject to the provisions of Division 3 (commencing with Section 29000)
30 of Title 3 of the Government Code.

31 **Comment.** Section 3910 continues former Fish and Game Code Section 13102 without
32 substantive change.

33 **§ 3915. Authorized expenditures**

34 3915. Expenditures from the fish and wildlife propagation fund of any county
35 may be made only for the following purposes:

36 (a) Public education relating to the scientific principles of fish and wildlife
37 conservation, consisting of supervised formal instruction carried out pursuant to a
38 planned curriculum and aids to education such as literature, audio and video
39 recordings, training models, and nature study facilities.

40 (b) Temporary emergency treatment and care of injured or orphaned wildlife.

1 (c) Temporary treatment and care of wildlife confiscated by the department as
2 evidence.

3 (d) Breeding, raising, purchasing, or releasing fish or wildlife which are to be
4 released upon approval of the department pursuant to Sections 25410 and 25415
5 onto land or into waters of local, state, or federal agencies or onto land or into
6 waters open to the public.

7 (e) Improvement of fish and wildlife habitat, including, but not limited to,
8 construction of fish screens, weirs, and ladders; drainage or other watershed
9 improvements; gravel and rock removal or placement; construction of irrigation
10 and water distribution systems; earthwork and grading; fencing; planting trees and
11 other vegetation management; and removal of barriers to the migration of fish and
12 wildlife.

13 (f) Construction, maintenance, and operation of public hatchery facilities.

14 (g) Purchase and maintain materials, supplies, or equipment for either the
15 department's ownership and use or the department's use in the normal
16 performance of the department's responsibilities.

17 (h) Predator control actions for the benefit of fish or wildlife following
18 certification in writing by the department that the proposed actions will
19 significantly benefit a particular wildlife species.

20 (i) Scientific fish and wildlife research conducted by institutions of higher
21 learning, qualified researchers, or governmental agencies, if approved by the
22 department.

23 (j) Reasonable administrative costs, excluding the costs of audits required by
24 Section 3920, for secretarial service, travel, and postage by the county fish and
25 wildlife commission when authorized by the county board of supervisors. For
26 purposes of this subdivision, "reasonable cost" means an amount which does not
27 exceed 15 percent of the average amount received by the fund during the previous
28 three-year period, or ten thousand dollars (\$10,000) annually, whichever is greater,
29 excluding any funds carried over from a previous fiscal year.

30 (k) Contributions to a secret witness program for the purpose of facilitating
31 enforcement of this code and regulations adopted pursuant to this code.

32 (l) Costs incurred by the district attorney or city attorney in investigating and
33 prosecuting civil and criminal actions for violations of this code, as approved by
34 the department.

35 (m) Other expenditures, approved by the department, for the purpose of
36 protecting, conserving, propagating, and preserving fish and wildlife.

37 **Comment.** Section 3915 continues former Fish and Game Code Section 13103 without
38 substantive change.

39 **§ 3920. Audit**

40 3920. The department may audit, or require the county to audit, expenditures by
41 the county from its fish and wildlife propagation fund in order to determine
42 compliance with this title. If, after reviewing the audit, the department determines

1 that expenditures are not in compliance with this title, the department may require
2 that all expenditures from the fund be temporarily suspended, or it may seek
3 reimbursement of funds that the department determines, based on the audit, were
4 expended improperly, or both.

5 **Comment.** Section 3920 continues former Fish and Game Code Section 13104 without
6 substantive change.

7 DIVISION 3. LAW ENFORCEMENT

8 PART 1. PERSONNEL

9 TITLE 1. DEPARTMENT

10 **§ 4100. Deputized law enforcement officer as peace officer**

11 4100. (a) Every employee of the department designated by the director as a
12 deputized law enforcement officer is a peace officer as provided by Section 830.2
13 of the Penal Code. The authority of that peace officer extends to any place in the
14 state as to a public offense committed or which offense there is probable cause to
15 believe has been committed within the state.

16 (b) Every peace officer described in this section, before the date that he or she is
17 first deputized by the department, shall have satisfactorily completed the basic
18 course as set forth in the regulations of the Commission on Peace Officer
19 Standards and Training.

20 (c) Every peace officer described in this section shall be required to complete
21 regular training courses as required by the Commission on Peace Officer
22 Standards and Training.

23 **Comment.** Section 4100 continues former Fish and Game Code Section 856 without
24 substantive change.

25 **§ 4105. Minimum age of wildlife officer**

26 4105. Notwithstanding Section 18932 of the Government Code, the minimum
27 age limit for appointment to the position of wildlife officer of the department shall
28 be 18 years. An examination for the position of wildlife officer shall require a
29 demonstration of the physical ability to effectively carry out the duties and
30 responsibilities of the position in a manner that would not inordinately endanger
31 the health or safety of a wildlife officer or any other person.

32 **Comment.** Section 4105 continues former Fish and Game Code Section 854 without
33 substantive change.

34 **§ 4110. Deputy as peace officer**

35 4110. A deputy appointed to enforce the provisions of this code is a peace
36 officer. The deputy has all the powers and authority conferred by law upon peace

officers listed in Section 830.6 of the Penal Code to make arrests for violations of this code, and may serve all processes and notices throughout the state.

Comment. Section 4110 continues former Fish and Game Code Section 851 without substantive change.

§ 4115. Employee deputized to check sport fishing licenses

4115. (a) The director may deputize any employee of the department to check persons for licenses required under Section 12900 and to enforce any violation of that section.

(b) Before a person is deputized pursuant to this section for the first time, the person shall have satisfactorily completed a training course meeting the minimum standards of, and comparable to, the training for “level III reserve” as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) A person who is deputized for the limited purpose stated in subdivision (a) shall not enforce any other provision of this code. Being deputized under this section does not make a person a peace officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

Comment. Section 4115 restates former Fish and Game Code Section 853 without substantive change.

Note. Proposed Section 4110(c) restates the last sentence of existing Fish and Game Code Section 853 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“Any person, who is deputized for this limited purpose pursuant to this section, may not enforce any other provision of this code, and is not a peace officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.”

The restated provision would also make clear that a person who is already a peace officer does not lose that status as a result of being deputized under this section (rather than stating categorically that a deputized person “is not a peace officer,” proposed Section 4115(c) would instead make clear that being deputized “does not make a person a peace officer”).

The Commission requests public comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

TITLE 2. COUNTY

§ 4200. Appointment of county wildlife officer

4200. The board of supervisors of each county may, in its discretion, appoint a suitable person to serve for a period of two years from the date of appointment as wildlife officer of the county.

Comment. Section 4200 continues former Fish and Game Code Section 875 without substantive change.

§ 4205. Removal of county wildlife officer

4205. The board of supervisors may by a majority vote of its members remove the county wildlife officer at any time.

1 **Comment.** Section 4205 continues former Fish and Game Code Section 877 without
2 substantive change.

3 **§ 4210. Salary**

4 4210. The board of supervisors shall fix the salary to be paid and the expenses to
5 be allowed the county wildlife officer, which salary and expenses shall be paid
6 from the county treasury.

7 **Comment.** Section 4210 continues former Fish and Game Code Section 876 without
8 substantive change.

9 **§ 4215. Authority**

10 4215. The county wildlife officer shall enforce the state laws relating to the
11 protection of fish and wildlife. The wildlife officer has the powers and authority
12 conferred by law upon peace officers listed in Section 830.6 of the Penal Code.

13 **Comment.** Section 4215 continues former Fish and Game Code Section 878 without
14 substantive change.

15 **§ 4220. Quarterly activity report**

16 4220. The county wildlife officer shall report quarterly to the board of
17 supervisors, giving a detailed statement of all arrests made, convictions had, and
18 fines collected, and a general statement in regard to the management of the office
19 of county wildlife officer. A copy of the detailed statement shall, at the same time,
20 be filed with the department.

21 **Comment.** Section 4220 continues former Fish and Game Code Section 879 without
22 substantive change.

23 **§ 4225. Appointment of deputy**

24 4225. The board of supervisors of each county may, in its discretion, appoint a
25 deputy wildlife officer, to serve at the pleasure of the board.

26 **Comment.** Section 4225 continues former Fish and Game Code Section 880 without
27 substantive change.

28 **§ 4230. Deputy powers, duties, salary, and expenses**

29 4230. The deputy shall have the powers, perform the duties, receive the salary,
30 and be entitled to expenses, as the board of supervisors provides.

31 **Comment.** Section 4230 continues former Fish and Game Code Section 881 without
32 substantive change.

33 **§ 4235. Source of payment of deputy salary and expenses**

34 4235. The salary and expenses of a deputy county wildlife officer shall be paid
35 from the county treasury.

36 **Comment.** Section 4235 continues former Fish and Game Code Section 882 without
37 substantive change.

PART 2. GENERAL PROCEDURES

§ 4300. Rewards

4300. (a) The director may pay a reward from any funds available for that purpose to any person who furnished information that led to an arrest, a criminal conviction, a civil penalty, an administrative penalty, or for forfeiture of property, for any violation of this code or any regulation adopted pursuant to this code. The amount of reward, if any, shall be designated by the director with the advice of the CalTIP Award Board.

(b) This section does not apply to any action brought to recover damages under Section 4470.

Comment. Section 4300 continues former Fish and Game Code Section 2586 without substantive change.

§ 4305. Employee expenditure to procure evidence

4305. (a) Regularly employed law enforcement officers of the department may, when authorized by the director, expend sums authorized for the purchase of fish, birds, or mammals as evidence, or for expenditures related to the procurement of those types of evidence, or for expenditures made to investigate other violations of this code, without divulging the identity of the employee.

(b) The sums so expended shall be repaid to the law enforcement officer making the expenditure upon claims approved by the director. The claims, when approved, shall be paid out of the funds appropriated or made available by law for the support of the department.

Comment. Section 4305 continues former Fish and Game Code Section 855 without substantive change.

§ 4310. Environmental crimes task force

4310. (a) The Legislature finds and declares that:

(1) Poaching violations and other violations of the Fish and Wildlife Code have been increasing, and these violations have a detrimental impact on fish and wildlife and their habitats, which are held in trust by the state for the benefit of the people of the state.

(2) In order to deter illegal poaching and other violations that adversely impact fish and wildlife, it is important that the department coordinate with other law enforcement entities and the courts to facilitate effective enforcement and prosecution of these offenses.

(b) The department, to the extent feasible and subject to available resources, shall establish and coordinate an environmental crimes task force. The task force should involve the participation of the department's Office of General Counsel working with each of the department's law enforcement districts. The task force may include coordination with representatives from the California District Attorneys' Association, the Judicial Council, the Attorney General's office, and

1 the University of California. Objectives of the task force may include, but are not
2 limited to, providing training, education, and outreach to prosecutors and the
3 courts on Fish and Wildlife Code violations and providing other assistance as
4 appropriate in the prosecution of environmental crimes.

5 **Comment.** Section 4310 continues former Fish and Game Code Section 12028 without
6 substantive change.

7 **§ 4315. Electronic management of citations**

8 4315. (a) The department, on or before January 1, 2016, shall prepare and
9 submit to the relevant policy and fiscal committees of the Legislature a feasibility
10 study report on an electronic system to manage citations issued by fish and
11 wildlife wardens, exchange information on citations with the courts, and transfer
12 data on court dispositions to the Automated License Data System.

13 (b)(1) Pursuant to Section 10231.5 of the Government Code, the requirement for
14 submitting a report pursuant to subdivision (a) shall become inoperative on
15 January 1, 2017.

16 (2) A report to be submitted pursuant to subdivision (a) shall be submitted in
17 compliance with Section 9795 of the Government Code.

18 **Comment.** Section 4315 continues former Fish and Game Code Section 702.1 without
19 substantive change.

20 **§ 4320. Dashboard cameras**

21 4320. (a) The department may install patrol vehicle mounted video and audio
22 systems, commonly known as dashboard cameras, in patrol vehicles used by peace
23 officers described in Section 4105. A peace officer described in Section 4105 may
24 use the patrol vehicle mounted video and audio system to record any
25 communications or other actions involving the officer while the officer is in
26 uniform and acting within the scope of his or her authority.

27 (b) The department shall adopt a policy to establish standards regarding the
28 activation of patrol vehicle mounted video and audio systems and the preservation
29 and retention of recordings from patrol vehicle mounted video and audio systems,
30 subject to the following requirements:

31 (1) Once a patrol vehicle mounted video and audio system has been activated
32 pursuant to standards established by the department pursuant to subdivision (b),
33 the patrol vehicle mounted video and audio system shall record the duration of an
34 encounter.

35 (2) The department shall retain a recording from a patrol vehicle mounted video
36 and audio system for a minimum of 90 days and a maximum of one year, except if
37 the recording is necessary for a pending, or reasonably foreseeable civil or
38 criminal action, or for training or administrative purposes.

39 (3) The department shall provide access to a recording from a patrol vehicle
40 mounted video and audio system in accordance with all other provisions of law.

1 **Comment.** Section 4320 continues former Fish and Game Code Section 856.5 without
2 substantive change.

3 **§ 4325. Emblems**

4 4325. The department shall designate official wildlife officer emblems and their
5 placement. The department shall prohibit personnel of the department who are not
6 peace officers from wearing any patch, badge, bar, or other indicia of peace officer
7 status. The selection and configuration of official wildlife officer emblems shall be
8 established by the department in cooperation with California wildlife officers to
9 ensure that the public is readily able to distinguish wildlife officers from personnel
10 who are not peace officers.

11 **Comment.** Section 4325 continues former Fish and Game Code Section 858(b) without
12 substantive change.

13 **§ 4330. “Conviction” for purposes of suspension, revocation, or forfeiture of license or**
14 **permit**

15 4330. For the purpose of invoking any provision of this code, or any rule,
16 regulation, or order made or adopted under this code, relating to the suspension,
17 revocation, or forfeiture of any license or permit, a plea of nolo contendere or “no
18 contest” to, or forfeiture of bail from, a charge of a violation of any provision of
19 this code, or any rule, regulation, or order made or adopted under this code, is a
20 conviction of a violation thereof.

21 **Comment.** Section 4330 continues former Fish and Game Code Section 12158.5 without
22 substantive change.

23 **§ 4335. Collection of administrative penalty**

24 4335. After the expiration of the time period to appeal an administrative penalty
25 imposed pursuant to a provision of this code, the department may apply to the
26 clerk of the appropriate court for a judgment to collect the administrative penalty.
27 The application, including a certified copy of the order imposing the
28 administrative penalty, a hearing officer’s decision, if any, or a settlement
29 agreement, if any, shall constitute a sufficient showing to warrant issuance of the
30 judgment. The court clerk shall enter the judgment immediately in conformity
31 with the application. The judgment so entered has the same force and effect as,
32 and is subject to all the provisions of law relating to, a judgment in a civil action,
33 and may be enforced in the same manner as any other judgment of the court in
34 which it is entered.

35 **Comment.** Section 4335 continues former Section 12014 without substantive change.

PART 3. PENALTIES GENERALLY

§ 4400. Misdemeanor as default criminal penalty

4400. (a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted pursuant to this code, is a misdemeanor.

(b) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars (\$1,000), imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

Comment. Subdivision (a) of Section 4400 continues former Fish and Game Code Section 12000(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 12002(a) without substantive change.

§ 4405. Violation of regulations generally

4405. It is unlawful to violate any provision of Division 1 (commencing with Section 1.04) of Title 14 of the California Code of Regulations. The violation may be charged as a violation of this section or of the specific provision of Title 14, and shall be punishable as provided in Section 4400.

Comment. Section 4405 continues former Fish and Game Code Section 2020 without substantive change.

§ 4415. Suspension or revocation of license for failure to appear or pay fine

4415. (a) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(b) This section does not apply to any violation of Section 3050, 3360, 25200, 39230, 54025, 54325, 66500, or 71010.

Comment. Section 4415 continues former Fish and Game Code Section 12002(d) without substantive change.

Note. By its terms, existing Section 12002(d) does not apply to a violation of Section 5653.9. The purpose of that exception is not clear, as Section 5653.9 (continued in proposed Section 71010) relates to department rulemaking. It does not establish a requirement or prohibition that can be violated. **The Commission invites comment to how the reference to Section 5653.9 should be understood.**

1 **§ 4420. Failure to appear is misdemeanor**

2 4420. Any person who is charged with a violation of this code or a regulation
3 adopted pursuant to this code, who willfully violates his or her written promise to
4 appear in court, or before a person authorized to receive a deposit of bail, is guilty
5 of a misdemeanor, regardless of the disposition of the charge upon which he or she
6 was originally arrested.

7 **Comment.** Section 4420 continues former Fish and Game Code Section 12020 without
8 substantive change, except that the provision is revised to make clear that it only applies to a
9 person charged with violating a provision of this code or a regulation enacted pursuant to this
10 code.

11 **§ 4425. Additional penalty for secret witness program**

12 4425. (a) In addition to any assessment, fine, penalty, or forfeiture imposed
13 pursuant to any other provision of law, an additional penalty of fifteen dollars
14 (\$15) shall be added to any fine, penalty, or forfeiture imposed under this code for
15 a violation of this code or a regulation adopted pursuant thereto. However, no
16 more than one additional penalty may be imposed in a single proceeding. The
17 revenue from this penalty shall be transferred to, and deposited in, the Fish and
18 Game Preservation Fund and used exclusively for the purposes of Section 3805.

19 (b) Subdivision (a) does not apply to a violation punishable pursuant to
20 subdivision (b) of Section 4700, subdivision (b) of Section 4862, or any regulation
21 relating to the wearing or display of a fishing license.

22 **Comment.** Section 4425 continues former Fish and Game Code Section 12021 without
23 substantive change.

24 **PART 4. PENALTIES FOR SPECIFIC MATTERS**

25 **TITLE 1. GENERAL ADMINISTRATIVE**
26 **REQUIREMENTS**

27 **§ 4450. Failure of license agent to account**

28 4450. A violation of subdivision (a) of Section 3360 is misdemeanor, to be
29 punished by a fine of not more than two thousand dollars (\$2,000), imprisonment
30 in a county jail for not more than one year, or both that fine and imprisonment.

31 **Comment.** Section 4450 combines and continues part of former Fish and Game Code Section
32 1059 and former Fish and Game Code Section 12002(b)(1), without substantive change.

33 **§ 4452. Entry permit for department managed lands**

34 4452. Failure to obtain an entry permit as required pursuant to Section 2020 is
35 an infraction, punishable by a fine of not less than fifty dollars (\$50) nor more than
36 two hundred fifty dollars (\$250). A person in possession of a valid hunting license,
37 sport fishing license, or trapping license shall be exempt from a requirement to
38 obtain an entry permit.

1 **Comment.** Section 4452 restates former Fish and Game Code Section 1745(h) without
2 substantive change.

3 **TITLE 2. TAKING AND POSSESSING IN**
4 **GENERAL**

5 **CHAPTER 1. CRIMINAL PENALTIES**

6 **§ 4460. Violation for personal gain**

7 4460. (a) Any person who illegally takes, possesses, imports, exports, sells,
8 purchases, barter, trades, or exchanges a bird, fish, mammal, reptile, amphibian,
9 or part of any of those animals, for profit or personal gain is guilty of a
10 misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000)
11 nor more than forty thousand dollars (\$40,000), or imprisonment in a county jail
12 for not more than one year, or by both that fine and imprisonment.

13 (b) If a person is convicted of a second or subsequent violation of subdivision
14 (a), that person shall be punished by a fine of not less than ten thousand dollars
15 (\$10,000), nor more than fifty thousand dollars (\$50,000), or imprisonment in a
16 county jail for not more than one year, or by both that fine and imprisonment.

17 (c) If a second or subsequent violation of subdivision (a) also involves a
18 violation of Section 18040, 18045, 18050, or 18065 that is punishable by
19 subdivision (b) of Section 4962, the offense shall be punishable by a fine of not
20 more than fifty thousand dollars (\$50,000), or by imprisonment pursuant to
21 subdivision (b) of Section 4962, or by both that fine and imprisonment.

22 (d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense
23 punishable under this section shall be commenced within three years after
24 commission of the offense.

25 (e) This section does not apply to fish taken pursuant to a commercial fishing
26 license issued pursuant to Section 14550, or fish sold pursuant to a commercial
27 fish business license issued in accordance with Title 9 (commencing with Section
28 20150) of Part 6 of Division 6.

29 (f) This section does not supersede Section 5802 or 5462.

30 (g)(1) Moneys equivalent to 50 percent of the revenue deposited in the Fish and
31 Game Preservation Fund from fines and forfeitures collected pursuant to this
32 section shall be allocated for the support of the Special Operations Unit of the
33 department, and used for law enforcement purposes.

34 (2) Moneys equivalent to 50 percent of the revenue from any fine collected
35 pursuant to this section shall be paid to the county in which the offense was
36 committed, pursuant to Section 3610. The board of supervisors shall first use
37 revenues pursuant to this subdivision to reimburse the costs incurred by the district
38 attorney or city attorney in investigating and prosecuting the violation. Any excess
39 revenues may be expended in accordance with Section 3915.

1 **Comment.** Section 4460 continues former Fish and Game Code Section 12012 without
2 substantive change.

3 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
4 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
5 affect the meaning of any other provision of this code that includes or omits a reference to a
6 “part” of an animal.

7 See also Sections 4552, 4570 (enforcement).

8 **§ 4462. Knowing and intentional acts**

9 4462. (a) Unless a minimum punishment is otherwise provided, the punishment
10 for the knowing and intentional taking of a mammal, bird, or fish in excess of the
11 quantity permitted by other provisions of this code or regulations adopted pursuant
12 to this code, not in compliance with size or sex limitations in other provisions of
13 this code or regulations adopted pursuant to this code, or from which only external
14 body parts, including, but not limited to, antlers, horns, hides, feathers, or fins, are
15 removed for use in violation of this code or regulations adopted pursuant to this
16 code, shall be not less than two hundred fifty dollars (\$250) for a first violation,
17 and not less than five hundred dollars (\$500) and imprisonment in a county jail for
18 not less than 30 days for a second or subsequent violation. The court shall apply
19 not less than the minimum punishment as specified in this subdivision except in
20 those cases where the court determines that, as to the imprisonment sentence only,
21 the interests of justice would best be served by granting probation or suspending
22 the imposition or execution of the imprisonment sentence.

23 (b) If the court grants probation to any person punished under subdivision (a), in
24 addition to any other terms or conditions imposed by the court, the court may
25 impose as a condition of that probation that the person perform not more than 100
26 hours of community service in the county in which the violation occurred. To the
27 extent practicable, the service shall involve work relating to natural resources. The
28 service shall be performed during a time that does not interfere with the person’s
29 school attendance or employment. If the court requires a person to perform
30 community service under this subdivision, that person shall also be required to
31 attend a hunter safety course as described in Section 10405. The person, and not
32 the court, shall be responsible for paying all fees and costs related to the course.

33 (c) Unless a greater punishment is otherwise provided, the punishment for a
34 violation of this code subject to subdivision (a) is a fine of not more than two
35 thousand dollars (\$2,000), imprisonment in a county jail for not more than one
36 year, or both the fine and imprisonment.

37 **Comment.** Subdivisions (a) and (b) of Section 4462 continue former Fish and Game Code
38 Section 12003.1 without substantive change.

39 Subdivision (c) continues former Fish and Game Code Section 12002(b)(7) without substantive
40 change.

41 **§ 4464. Torture of animal**

42 4464. (a) Any person who violates Section 8110 shall be subject to a fine of not
43 less than five thousand dollars (\$5,000), nor more than forty thousand dollars


1 (\$40,000), or imprisonment in a county jail for not more than one year, or by both
2 that fine and imprisonment.

3 (b) Moneys equivalent to 50 percent of the revenue from any fine collected
4 pursuant to this section shall be paid to the county in which the offense was
5 committed, pursuant to Section 3610. The board of supervisors shall first use
6 revenues pursuant to this subdivision to reimburse the costs incurred by the district
7 attorney or city attorney in investigating and prosecuting the violation. Any excess
8 revenues may be expended in accordance with Section 3915.

9 **Comment.** Subdivision (a) of Section 4464 continues the second clause of the first sentence of
10 former Fish and Game Code Section 12013(c).

11 Subdivision (b) continues the former Fish and Game Code Section 12103(g) without
12 substantive change.

13 See also Section 4552 (enforcement).

14  **Note.** Under existing law, the provision prohibiting torture of animals is embedded in a
15 section that also punishes exceeding a possession limit by a factor of three. See existing Section
16 12013. Section 12013 has a number of provisions that apply, by their terms, to the entire section.
17 In analyzing those provisions, the Commission concluded that some of them were not relevant to
18 the prohibition on torture. See Section 12013(d)-(f). Those provisions were continued in proposed
19 Section 4708(c)-(e), but were not continued in this section.

20 **The Commission invites comment on whether that revision would cause any problematic**
21 **change in the law.**

22 CHAPTER 2. CIVIL AND ADMINISTRATIVE REMEDIES

23 Article 1. Civil Action

24 § 4470. Damages

25 4470. (a) It is the policy of this state to conserve its natural resources and to
26 prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or
27 amphibians.

28 (b) The state may recover damages in a civil action against any person or local
29 agency that unlawfully or negligently takes or destroys any bird, mammal, fish,
30 reptile, or amphibian protected by the laws of this state.

31 (c) The measure of damages is the amount that will compensate for all the
32 detriment proximately caused by the taking or destruction.

33 (d) An action to recover damages under this section shall be brought in the name
34 of the people of the state, in a court in the county in which the cause of action
35 arose. The State Water Resources Control Board shall be notified of, and may join
36 in, any action brought under this section when the activities alleged to have caused
37 the destruction of any bird, mammal, fish, reptile, or amphibian may involve either
38 the unlawful discharge of pollutants into the waters of the state or other violation
39 of Division 7 (commencing with Section 13000) of the Water Code.

40 (e) This section does not apply to any of the following:

41 (1) Persons or local agencies engaged in agricultural pest control.

- (2) The destruction of fish in irrigation canals or works, or irrigation drainages.
- (3) The lawful destruction of a bird or mammal killed while damaging crops.
- (f) No damages may be recovered against a local agency pursuant to this section if a civil or administrative penalty is assessed against the local agency for the same detriment pursuant to Division 7 (commencing with Section 13000) of the Water Code.
- (g) Any recovery or settlement of money damages pursuant to this section, including, but not limited to, civil penalties, arising out of any civil action filed and maintained by the Attorney General in the enforcement of this section shall be deposited by the department in the subaccounts of the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund as specified in subdivision (a) of Section 67505.
- (h) For purposes of this section, “local agency” includes any city, county, city and county, district, public authority, or other political subdivision.
- Comment.** Subdivisions (a) through (f) and (h) of Section 4470 continue former Fish and Game Code Section 2014(a)-(e) and (g) without substantive change.
- Subdivision (g) combines and continues former Fish and Game Code Section 2014(f) and 12017(a)(1) without substantive change.

Notes. (1) Existing Section 2014(a) authorizes a civil action for unlawful or negligent taking or destruction of a specified animal. However, subdivision (b), stating the measure of damages in such an action, refers only to the detriment proximately caused by the *destruction* of the animal. Proposed Section 4470 would conform subdivision (b) to subdivision (a), to address scenarios in which an animal was wrongfully taken but not destroyed.

The Commission invites comment on whether this revision is appropriate.

(2) Existing Section 2014(d) reads as follows (with emphasis added):

This section does not apply to persons or local agencies engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of birds or mammals killed while damaging crops *as provided by law*.

The Commission has spent time researching the question of whether the phrase “as provided by law” that appears at the end of this subdivision was meant to apply to all three exceptions listed in the subdivision, or just the last listed exception. The Commission has preliminarily concluded, based on that research, that the phrase was intended to apply only to the last listed exception. Proposed Section 4470(e) would clarify that application.

The Commission invites comment on whether this revision of Section 2014(d) is appropriate.

(3) Existing Section 2014(e) (which would be continued by proposed Section 4470(f)) refers to “civil penalties” assessed against a local agency “pursuant to Division 7 (commencing with Section 13000) of the Water Code.” The term “civil penalty” can be understood to refer to both a civil penalty (as distinguished from a criminal penalty) assessed by a *court*, as well as administrative penalties assessed by an *administrative agency*. As sections in the referenced division of the Water Code provide for assessment of “civil penalties” imposed by both a court and by an administrative agency, the reference to “civil penalties” in proposed Section 4470(f) has been revised to refer to “civil or administrative penalty.”

The Commission invites comment on whether this revision is appropriate.

Article 2. Administrative Penalties

Note. This article would continue existing Chapter 6.5 (commencing with Section 2580) of Division 3 of the Fish and Game Code. Throughout the chapter, references to “civil liability” have been revised to refer to an “administrative penalty.” These changes are intended to make clear that the provisions refer to administrative enforcement, rather than a civil action in court.

The Commission invites comment on whether that substitution would cause any problems.

§ 4480. Definitions

4480. The definitions in this section govern the construction of this chapter.

(a) “Qualified hearing officer” means an attorney admitted to the State Bar of California who is knowledgeable in fish and wildlife law.

(b) “Transport” means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

Comment. Section 4480 continues former Fish and Game Code Section 2580 without substantive change.

§ 4482. Administrative penalty for acts done for profit or personal gain

4482. (a) The department may impose an administrative penalty upon any person pursuant to this title for any of the following acts done for profit or personal gain:

(1) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase, or unlawfully assist, conspire, or aid in the importing, exporting, transporting, sale, possession, receiving, acquisition, or purchasing of, any bird, mammal, amphibian, reptile, or fish which are taken or possessed in violation of this code or the regulations adopted pursuant to this code.

(2) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase, or unlawfully assist, conspire, or aid in the importing, exporting, transporting, sale, possession, receiving, acquisition, or purchasing of any plants, insects, or other species listed pursuant to the California Endangered Species Act (Part 1 (commencing with Section 62000) of Division 17), which are taken or possessed in violation of this code or the regulations adopted pursuant to this code.

(3) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish which has been taken, possessed, transported, or sold in violation of this code or the regulations adopted pursuant to this code.

(4) Unlawfully possess any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish which has been taken, possessed, transported, or sold in violation of this code or any regulations adopted pursuant to this code within the maritime and territorial jurisdiction of the state or within the portions of the special maritime jurisdiction

1 of the United States upon which the State of California exercises concurrent
2 jurisdiction, either by statute, deputization, or by contract with the United States.

3 (5) Having exported, imported, transported, sold, purchased, or received any
4 bird, mammal, amphibian, reptile, or fish, or any endangered or threatened
5 species, or any fully protected bird, mammal, or fish, unlawfully make or submit
6 any false record, account, label, or identification thereof.

7 (6) Attempt to commit any unlawful act, or unlawfully attempt to commit any
8 act, described in paragraphs (1) to (5), inclusive.

9 (b) The department may impose an administrative penalty upon any person
10 pursuant to this article for unlawfully exporting, importing, possessing, receiving,
11 or transporting in interstate commerce any container or package containing any
12 bird, mammal, amphibian, reptile, or fish, or any endangered or threatened
13 species, or any fully protected bird, mammal, or fish unless the container or
14 package has previously been plainly marked, labeled, or tagged in accordance with
15 this code and the regulations adopted pursuant to this code.

16 (c) The department may impose an administrative penalty upon any person
17 pursuant to this article for any unlawful failure or refusal to maintain any records
18 or paperwork as required by this code.

19 **Comment.** Section 4482 continues former Fish and Game Code Section 2582 without
20 substantive change.

21 See also Section 4504 (enforcement).

22 **§ 4484. Application of article**

23 4484. (a) If the loss is lawful under this code and regulations adopted pursuant
24 to this code, this article does not apply to the loss of any bird, mammal,
25 amphibian, reptile, or fish as a result of any of the following acts:

26 (1) Implementing lawful forestry practices.

27 (2) Implementing lawful agricultural practices.

28 (3) Any development or maintenance activity carried out pursuant to the terms
29 of a permit issued by the federal government, the state, or any city, county, or
30 district, or any agency thereof.

31 (b) This article does not apply to any action brought to recover damages under
32 Section 4470.

33 (c) No administrative penalty shall be imposed under this article until the
34 guidelines for the imposition of the penalties are adopted by the commission
35 pursuant to Section 4504.

36 **Comment.** Subdivision (a) of Section 4484 continues former Fish and Game Code Section
37 2581 without substantive change.

38 Subdivision (b) combines and continues former Fish and Game Code Section 2586(b) and the
39 second sentence of former Fish and Game Code Section 500(d) without substantive change.

40 Subdivision (c) continues former Fish and Game Code Section 2583(b) without substantive
41 change.

1 **§ 4486. Consultation regarding penalty sought**

2 4486. Upon an actionable violation, the department shall consult, as to the
3 appropriate civil or criminal remedy, with the district attorney in the jurisdiction
4 where the violation was alleged to have occurred. Before proceeding with a civil
5 action, the department shall seek the concurrence of the Attorney General.

6 **Comment.** Section 4486 continues former Fish and Game Code Section 2584(a) without
7 substantive change.

8 **§ 4488. Administrative penalty based on constructive knowledge**

9 4488. Except as provided in subdivision (c) of Section 4484, any person who
10 violates this code or any regulation adopted to carry out this code, and, with the
11 exercise of due care, should have known that a bird, mammal, amphibian, reptile,
12 or fish, or an endangered or threatened species, or a fully protected bird, mammal,
13 or fish, was taken, possessed, transported, imported, received, purchased,
14 acquired, or sold in violation of, or in a manner unlawful under, this code, may be
15 assessed an administrative penalty.

16 **Comment.** Section 4488 continues the first sentence of former Fish and Game Code Section
17 2583(a) without substantive change.

18 **§ 4490. Penalty amounts**

19 4490. The administrative penalty imposed under this article by the department
20 shall not be more than ten thousand dollars (\$10,000) for each bird, mammal,
21 amphibian, reptile, or fish, or for each endangered or threatened species, or each
22 fully protected bird, mammal, or fish unlawfully taken, possessed, transported,
23 imported, received, purchased, acquired, or sold. This administrative penalty may
24 be in addition to any other penalty, civil or criminal, provided in this code or
25 otherwise by law.

26 **Comment.** Section 4490 continues the second and third sentences of former Fish and Game
27 Code Section 2583(a) without substantive change.

28 **§ 4492. Procedure**

29 4492. (a) The director, after investigation of the facts and circumstances, may
30 issue a complaint to any person on whom an administrative penalty may be
31 imposed pursuant to Section 4482 or 4488. The complaint shall allege the acts or
32 failures to act that constitute a basis for an administrative penalty and the amount
33 of the proposed administrative penalty. The complaint shall be served by personal
34 service or certified mail and shall inform the person so served that a hearing shall
35 be conducted within 60 days after the person has been served, unless the person
36 waives the right to a hearing. If the person waives the right to a hearing, the
37 department shall issue an order setting the penalty in the amount proposed in the
38 complaint. If the person has waived the right to a hearing or if the department and
39 the person have entered into a settlement agreement, the order shall be final.

1 (b) If the director issues a complaint pursuant to subdivision (a), the director
2 shall appoint a qualified referee or hearing board, composed of one or any
3 combination of the following persons:

4 (1) A qualified hearing officer, as defined in subdivision (a) of Section 4480.

5 (2) A retired judge of the Superior Court who is knowledgeable in fish and
6 wildlife law.

7 (3) A qualified neutral referee, appointed upon petition to the Superior Court in
8 which the violation was alleged to have occurred.

9 (c) Any hearing required under this section shall be conducted by the appointed
10 referee or hearing board according to the procedures specified in Sections 11507
11 to 11517, inclusive, of the Government Code, except as otherwise provided in this
12 section. In making a determination, the appointed referee or hearing board may
13 consider the records of the department in the matter, the complaint, and any new
14 facts brought to his or her attention by that person. The appointed referee or
15 hearing board shall be the sole trier of fact as to the existence of a basis for
16 liability under Section 4482 or 4488. The appointed referee or hearing board shall
17 make the determination of the facts of the case and shall prepare and submit the
18 proposed decision, including a recommended penalty, to the director for his or her
19 review and assistance in the penalty assessment process.

20 (d) The director may assess the recommended administrative penalty, reduce the
21 amount of the recommended penalty, or not impose any administrative penalty,
22 based upon the nature, circumstances, extent, and gravity of the prohibited acts
23 alleged, and the degree of culpability of the violator, or the director may enter into
24 a settlement agreement with the person in the best interests of the state or confirm
25 the amount of administrative penalties contained in the complaint. If the director
26 reduces the amount of the administrative penalty, does not impose the
27 administrative penalty, or enters into a settlement agreement, the director shall
28 seek the recommendation of the appointed referee or hearing board and enter into
29 the records of the case the reasons for that action, including the recommendation
30 of the appointed referee or hearing board. The decision of the director assessing
31 the administrative penalty is final. The proposed decision is a public record and
32 shall be served upon the person. The director may approve the proposed decision
33 in its entirety, or the director may reduce the proposed penalty and adopt the
34 balance of the proposed decision.

35 (e) Upon the final assessment of the administrative penalty, the department shall
36 issue an order setting the amount of the administrative penalty to be imposed. An
37 order setting the amount of an administrative penalty under this section becomes
38 effective and final upon the issuance of the order, and payment shall be made
39 within 30 days of issuance. Copies of the order shall be served by personal service
40 or by certified mail upon the person served with the complaint and upon other
41 persons who appeared before the director and requested a copy. Copies of the
42 order shall be provided to any person within 10 days of receipt of a written request
43 from that person.

(g) Within 30 days after service of a copy of an order setting the amount of the administrative penalty, any person so served may file with the superior court a petition for a writ of mandate for review of the order. In all proceedings pursuant to this subdivision, the court shall exercise its independent judgment on the evidence in the whole record. The filing of a petition for a writ of mandate shall not stay any other civil or criminal action.

(h) The records of the case, after all appeals are final, are public records, as defined in subdivision (d) of Section 6252 of the Government Code.

Comment. Section 4492 restates former Fish and Game Code Section 2584(b) through (h) without substantive change.

Note. Proposed Section 4492 is intended to restate existing Section 2584(b) through (h) to clarify the meaning of those provisions, without changing their substantive effect. The existing provision reads as follows:

2584. (b) The director shall appoint a qualified referee or hearing board, composed of one or any combination of the following persons:

(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

(2) A retired judge of the Superior Court who is knowledgeable in fish and wildlife law.

(3) A qualified neutral referee, appointed upon petition to the Superior Court in which the violation was alleged to have occurred.

(c) The director, after investigation of the facts and circumstances, may issue a complaint to any person on whom a civil penalty may be imposed pursuant to Section 2582 or 2583. The complaint shall allege the acts or failures to act that constitute a basis for a civil penalty and the amount of the proposed civil penalty. The complaint shall be served by personal service or certified mail and shall inform the person so served that a hearing shall be conducted within 60 days after the person has been served, unless the person waives the right to a hearing. If the person waives the right to a hearing, the department shall issue an order setting liability in the amount proposed in the complaint. If the person has waived the right to a hearing or if the department and the person have entered into a settlement agreement, the order shall be final.

(d) Any hearing required under this section shall be conducted by a referee or hearing board according to the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise provided in this section. In making a determination, the hearing officer may consider the records of the department in the matter, the complaint, and any new facts brought to his or her attention by that person. The hearing officer shall be the sole trier of fact as to the existence of a basis for liability under Section 2582 or 2583. The hearing officer shall make the determination of the facts of the case and shall prepare and submit the proposed decision, including recommended penalty assessment, to the director for his or her review and assistance in the penalty assessment process.

(e) The director may assess the civil penalty, and may reduce the amount, or not impose any assessment, of civil penalties based upon the nature, circumstances, extent, and gravity of the prohibited acts alleged, and the degree of culpability of the violator; or the director may enter into a settlement agreement with the person in the best interests of the state or confirm the amount of civil penalties contained in the complaint. If the director reduces the amount of the civil penalty, does not impose the civil penalty, or enters into a settlement agreement, the director shall seek the recommendation of the hearing officer and enter into the records of the case the reasons for that action, including the hearing officer's recommendation. The decision of the director assessing the civil penalty is final. The proposed decision is a public record and shall be served upon the person. The director may approve the proposed decision in its entirety, or the director may reduce the proposed penalty and adopt the balance of the proposed decision.

(f) Upon the final assessment of the civil penalty, the department shall issue an order setting the amount of the civil penalty to be imposed. An order setting civil liability under this section

1 becomes effective and final upon the issuance thereof, and payment shall be made within 30 days
2 of issuance. Copies of the order shall be served by personal service or by certified mail upon the
3 person served with the complaint and upon other persons who appeared before the director and
4 requested a copy. Copies of the order shall be provided to any person within 10 days of receipt of
5 a written request from that person.

6 (g) Within 30 days after service of a copy of an order setting the amount of the civil penalty, any
7 person so served may file with the superior court a petition for a writ of mandate for review of the
8 order. In all proceedings pursuant to this subdivision, the court shall exercise its independent
9 judgment on the evidence in the whole record. The filing of a petition for a writ of mandate shall
10 not stay any other civil or criminal action.

11 (h) The records of the case, after all appeals are final, are public records, as defined in subdivision
12 (d) of Section 6252 of the Government Code.

13 **The Commission invites comment on whether the proposed restatement would cause any**
14 **substantive change in the meaning of the provision.**

15 **§ 4494. Penalty does not preclude forfeiture**

16 4494. The administrative penalties imposed under this article are in addition to
17 any forfeiture of equipment pursuant to Section 4570, or forfeiture of birds,
18 mammals, amphibians, reptiles, or fish pursuant to Section 4510.

19 **Comment.** Section 4494 continues former Fish and Game Code Section 2585 without
20 substantive change.

21 **§ 4496. Counsel**

22 4496. Notwithstanding Section 12511 of the Government Code, the department
23 may retain or appoint legal counsel to prepare and prosecute a civil action under
24 this article to recover an administrative penalty.

25 **Comment.** Section 4496 continues former Fish and Game Code Section 2587(a) without
26 substantive change.

27 **§ 4498. Limitation period**

28 4498. An action to recover an administrative penalty imposed under this article
29 shall be commenced within three years after discovery of the commission of the
30 offense.

31 **Comment.** Section 4498 continues former Fish and Game Code Section 2587(b) without
32 substantive change.

33 **§ 4500. Deposit of penalties and revenue**

34 4500. All administrative penalties and revenues from forfeitures collected
35 pursuant to this article shall be deposited in the Fish and Game Preservation Fund.

36 **Comment.** Section 4500 continues former Fish and Game Code Section 2588 without
37 substantive change.

38 **§ 4502. Implementing regulations**

39 4502. The commission and the department may adopt regulations as are
40 necessary to carry out their responsibilities under this article.

1 **Comment.** Section 4502 continues former Fish and Game Code Section 2589 without
2 substantive change.

3 **§ 4504. Guidelines for administrative penalties**

4 4504. (a) The commission shall, by regulation, adopt guidelines to assist the
5 director and the department in ascertaining the amount of administrative penalties
6 to be imposed pursuant to Section 4482 or 4488. The guidelines may include
7 monetary amounts or ranges of monetary amounts that the commission finds are
8 adequate to deter illegal actions and partially compensate the people of California
9 for losses to the fish and wildlife resources from illegal transactions described in
10 Section 4482 or 4488 for profit or personal gain.

11 (b) If the violation involves birds, mammals, amphibians, reptiles, or fish with a
12 value in the aggregate of less than four hundred dollars (\$400) and involves only
13 the transportation, taking, or receipt of fish or wildlife taken or possessed in
14 violation of this code, the guidelines shall provide that the administrative penalty
15 shall not exceed the maximum criminal fine provided by law for the violation in
16 this code or ten thousand dollars (\$10,000), whichever is less. For purposes of this
17 section, “value” means the retail market value if a market value exists, the
18 potential monetary gain to the accused or, for commercial species, the established
19 retail market value.

20 (c) The guidelines shall include consideration of the nature, circumstances,
21 extent, and gravity of the prohibited acts committed, and the degree of culpability
22 of the violator, including lesser penalties for acts that have little significant effect
23 upon the resources and greater penalties for acts that may cause serious injury to
24 the resources.

25 (d) Nothing in this article shall be used to establish a monetary value for fish or
26 wildlife resources in connection with any development, project, or land or water
27 use plan or activity as permitted by any federal, state, or local governmental
28 activity.

29 **Comment.** Section 4504 continues former Fish and Game Code Section 500(a) through (c),
30 and the first sentence of subdivision (d), without substantive change.

31 Article 3. Seizure of Take

32 **§ 4510. Seizure of take**

33 4510. (a) Any bird, mammal, fish, reptile, aquaculture animal or product, plant,
34 amphibian, or any part thereof, that has been taken, possessed, sold, imported, or
35 transported contrary to any of the laws of this state shall be seized by the
36 department.

37 (b) In accordance with the commission’s regulations, notice of seizure shall be
38 given to the person who had possession of the bird, mammal, fish, reptile,
39 aquaculture animal or product, plant, amphibian, or any part thereof, at the time of
40 the seizure if that person is known.

1 **Comment.** Section 4510 continues former Fish and Game Code Section 12159 without
2 substantive change.

3 See also Sections 4494, 4510 (enforcement).

4 **§ 4512. Sale or donation of seized take**

5 4512. Any seizure of any bird, mammal, fish, reptile, amphibian made under
6 circumstances in which it cannot be determined who took, possessed, sold,
7 imported, or transported the bird, mammal, fish, reptile, or amphibian contrary to
8 law may be sold or donated to a state, county, city, city and county, or any
9 charitable institution.

10 **Comment.** Section 4512 continues former Fish and Game Code Section 12162 without
11 substantive change.

12 **§ 4514. Reuse of seized take**

13 4514. All birds, mammals, fish, reptiles, aquaculture animals and products,
14 plants, or amphibians or any part thereof, seized in accordance with Section 4510,
15 the sale of which is not prohibited and that have a current market value of one
16 hundred dollars (\$100) or more, shall be packed, preserved, sold for bait, used for
17 fish food in state-owned fish hatcheries, or otherwise put to economical use
18 immediately upon seizure, at the prevailing market price for legal birds, mammals,
19 fish, reptiles, aquaculture animals and products, plants, amphibians, or part thereof
20 in effect on the date of seizure. Any proceeds thereof shall be placed in the Fish
21 and Game Preservation Fund. If the person from whom the birds, mammals, fish,
22 reptiles, aquaculture animals and products, plants, or amphibians were seized is
23 not convicted in a court of competent jurisdiction for the offense out of which the
24 seizure arose, then and in that event the proceeds shall be returned to that person.

25 **Comment.** Section 4514 continues former Fish and Game Code Section 12160 without
26 substantive change.

27 **§ 4516. Donation or destruction of seized take**

28 4516. The judge before whom any person is tried for taking, possessing, selling,
29 importing, or transporting birds, mammals, fish, reptiles, aquaculture animals and
30 products, plants, or amphibians, or parts thereof, contrary to the laws of this state
31 shall upon the conviction of the accused make an order forfeiting and disposing of
32 the birds, mammals, fish, reptiles, aquaculture animals and products, plants, or
33 amphibians, or parts thereof, in accordance with the provisions of Section 4514.
34 However, if the birds, mammals, fish, reptiles, aquaculture animals and products,
35 plants, or amphibians, or parts thereof, may not be sold lawfully or have a current
36 market value of less than one hundred dollars (\$100), the judge may at his or her
37 discretion order that the birds, mammals, fish, reptiles, aquaculture animals or
38 products, plants, amphibians, or parts thereof, be donated to a state, county, city,
39 or any charitable institution, or be destroyed.

40 **Comment.** Section 4516 continues former Fish and Game Code Section 12161 without
41 substantive change.

1 **§ 4518. Purchase of seized take**

2 4518. Any person who purchases a bird, mammal, fish, reptile, or amphibian
3 from the department pursuant to Sections 4512 or 4514 shall, upon delivery, pay
4 to the department, for deposit in the Fish and Game Preservation Fund, the
5 prevailing market price for a legal bird, mammal, fish, reptile, or amphibian in
6 effect on the date of seizure.

7 **Comment.** Section 4518 continues former Fish and Game Code Section 12163 without
8 substantive change.

9 **TITLE 3. HUNTING, TRAPPING AND FISHING**
10 **GENERALLY**

11 **CHAPTER 1. LICENSE SUSPENSION OR REVOCATION**

12 **§ 4550. Suspension or revocation of license**

13 4550. (a) In addition to any fine or other punishment imposed, a sport fishing or
14 hunting license may, in the discretion of the court, be suspended or revoked upon
15 the licensee's conviction of a violation of any provision of this code or regulation
16 adopted pursuant to this code, relating to hunting or fishing, for purposes other
17 than profit.

18 (b) Any person who obtains another hunting or fishing license during the period
19 his or her license has been suspended or revoked is guilty of a misdemeanor.

20 **Comment.** Section 4550 continues former Fish and Game Code Section 12158 without
21 substantive change.

22 **§ 4552. Suspension or revocation for specified offenses**

23 4552. (a) Upon a conviction of a violation of this code or any regulation adopted
24 pursuant thereto that is punishable pursuant to Section 4460, 4464, 4708, 5330,
25 5450, 5460, or 8110, the department may suspend or permanently revoke a
26 person's hunting or sport fishing license or permit privileges.

27 (b)(1) Any person whose privileges are suspended or revoked pursuant to this
28 section may appeal the suspension or revocation to the commission. The
29 commission shall initiate the appeal process within 12 months of the violator's
30 appeal request. The commission shall consider at least the nature, circumstances,
31 extent, and gravity of the person's violations, the person's culpability for the
32 violations, and the injury to natural resources by the violations, and may restore a
33 person's hunting or sport fishing license or permit privileges.

34 (2) The department may adopt regulations to implement this subdivision.

35 (c) Pursuant to subdivision (c) of Section 4570, a judge may order the seizure or
36 forfeiture of any device or apparatus, including a vessel, vehicle, or hunting or
37 fishing gear, that is used in committing an offense punishable under Section 4460,
38 4464, 4708, 5330, 5450, 5460, or 8110.

1 **Comment.** Section 4552 continues former Fish and Game Code Section 12154 without
2 substantive change.

3 **§ 4554. Effect of termination of probation and dismissal of charges**

4 4554. A termination of probation and dismissal of charges pursuant to Section
5 1203.4 of the Penal Code or a dismissal of charges pursuant to Section 1203.4a of
6 the Penal Code does not affect either a past revocation or suspension of any
7 license or permit to take fish or wildlife, or the authority of the commission or a
8 court to revoke or suspend a license or permit to take fish or wildlife.

9 **Comment.** Section 4554 continues former Fish and Game Code Section 12166 without
10 substantive change.

11 **§ 4556. Procedures governing revocation or suspension**

12 4556. (a) The commission shall adopt regulations and procedures governing the
13 revocation or suspension of hunting or sport fishing privileges. The regulations
14 shall provide for notice and opportunity for a hearing.

15 (b) Any person, whose license was revoked pursuant to Section 4552, 4706, or
16 4806, may appeal to the commission for reissuance of the license and termination
17 of the prohibition against the taking of fish, reptiles, amphibians, or birds or
18 mammals.

19 (c) After a public hearing at which the person has appeared in person, the
20 commission may terminate the prohibition and authorize the issuance of a license
21 if it finds that there are sufficient mitigating circumstances to warrant that action.

22 (d) It is unlawful for a person whose hunting or sport fishing privileges have
23 been revoked or suspended to obtain or attempt to obtain, or to possess a hunting
24 or sport fishing license, permit, or tag during that suspension or revocation period.

25 (e) Any person who violates subdivision (d) is guilty of an infraction punishable
26 by a fine of not less than one hundred dollars (\$100) or more than one thousand
27 dollars (\$1,000), or of a misdemeanor.

28 **Comment.** Section 4556 continues former Fish and Game Code Section 12155.5 without
29 substantive change.

30 **CHAPTER 2. FORFEITURE**

31 **§ 4570. Forfeiture of device or apparatus**

32 4570. (a) Except as provided in subdivision (b), the judge before whom any
33 person is tried for a violation of any provision of this code, or regulation adopted
34 pursuant to this code, may, upon the conviction of the person tried, order the
35 forfeiture of any device or apparatus that is designed to be, or is capable of being,
36 used to take birds, mammals, fish, reptiles, or amphibians and that was used in
37 committing the offense charged.

38 (b) The judge shall, if the offense is punishable under Part 1 (commencing with
39 Section 62000) of Division 17, or under Section 5320, 5400, 5900, 5950, or
40 38200, of this code, or under subdivision (c) of Section 597 of the Penal Code,

1 order the forfeiture of any device or apparatus that is used in committing the
2 offense, including, but not limited to, any vehicle that is used or intended for use
3 in delivering, importing, or exporting any unlawfully taken, imported, or
4 purchased species.

5 (c)(1) The judge may, for conviction of a violation of any of the following
6 offenses, order forfeiture of any device or apparatus that is used in committing the
7 offense, including, but not limited to, any vehicle used or intended for use in
8 committing the offense:

9 (A) Section 8000 relating to deer, elk, antelope, feral pigs, European wild boars,
10 black bears, and brown or cinnamon bears.

11 (B) Any offense that involves the sale, purchase, or possession of abalone for
12 commercial purposes.

13 (C) Any offense that involves the sale, purchase, or possession of sturgeon or
14 lobster, pursuant to Section 43150 or 49500.

15 (D) Any offense that involves a violation of Section 4460.

16 (E) A violation of subdivision (b) of Section 4708.

17 (2) In considering an order of forfeiture under this subdivision, the court shall
18 take into consideration the nature, circumstances, extent, and gravity of the
19 prohibited act committed, the degree of culpability of the violator, the property
20 proposed for forfeiture, and other criminal, civil, or administrative penalties
21 imposed on the violator under other provisions of law for that offense. The court
22 shall impose lesser forfeiture penalties under this subdivision for those acts that
23 have little significant effect upon natural resources or the property of another and
24 greater forfeiture penalties for those acts that may cause serious injury to natural
25 resources or the property of another, as determined by the court. In determining
26 whether or not to order forfeiture of a vehicle, the court shall, in addition to any
27 other relevant factor, consider whether the defendant is the owner of the vehicle
28 and whether the owner of the vehicle had knowledge of the violation.

29 (3) It is the intent of the Legislature that forfeiture not be ordered pursuant to
30 this subdivision for minor or inadvertent violations, as determined by the court.

31 (d) A judge shall not order the forfeiture of a vehicle under this section if there is
32 a community property interest in the vehicle that is owned by a person other than
33 the defendant and the vehicle is the only vehicle available to the defendant's
34 immediate family that may be operated on the highway with a class A, class B, or
35 class C driver's license.

36 (e) Any device or apparatus ordered forfeited shall be sold, used, or destroyed
37 by the department.

38 (f)(1) The proceeds from all sales under this section, after payment of any valid
39 liens on the forfeited property, shall be paid into the Fish and Game Preservation
40 Fund.

41 (2) A lien in which the lienholder is a conspirator is not a valid lien for purposes
42 of this subdivision.

(g) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus also apply to the judge, referee, or juvenile hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(h) For purposes of this section, a plea of nolo contendere or no contest, or forfeiture of bail, constitutes a conviction.

(i) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 4986.

Comment. Section 4570 continues former Fish and Game Code Section 12157 without substantive change.

See also Sections 4494, 5802 (enforcement).

§ 4572. Forfeiture of vehicle

4572. The judge before whom any person is tried and convicted of violating Sections 8120 and 9580 and, at the same proceeding, is also tried and convicted of violating Section 8015 or 8125 may, in the court's discretion, order the forfeiture of any motor vehicle or snowmobile used in committing one or more of the offenses charged. Any vehicle so forfeited shall be sold or destroyed by the department. The proceeds from the sale of a forfeited vehicle shall be paid into the Fish and Game Preservation Fund, except that any valid lien on the forfeited property shall first be paid from proceeds of the sale unless the lienholder is a conspirator. For purposes of this section, forfeiture of bail or a plea of nolo contendere shall constitute a conviction.

Comment. Section 4572 continues former Fish and Game Code Section 12157.5 without substantive change.

CHAPTER 3. HUNTING AND FISHING GUIDES

§ 4590. Commission revocation of guide license

4590. The commission may revoke a guide license or the privilege to guide upon a showing of any of the following:

(a) The licensee has been convicted of a violation of this code or any regulation adopted pursuant to this code.

(b) The licensee has knowingly permitted a client or other member of the party being guided to violate this code or any regulation adopted pursuant to this code, and that the licensee had the authority and means to prevent the violation.

(c) The licensee has failed to fulfill his or her responsibilities to a client.

Comment. Section 4590 continues former Fish and Game Code Section 2546 without substantive change.

1 **§ 4592. Court revocation of guide license**

2 4592. (a) When any person licensed as a guide under Section 8805 is found
3 guilty by a court of competent jurisdiction of violating or permitting the violation
4 of any provision of this code or regulation adopted pursuant to this code, the court,
5 in addition to any fine or other punishment imposed, may revoke the person's
6 guide license.

7 (b) Any person who obtains another guide license within two years after a guide
8 license issued to that person has been revoked or forfeited is guilty of a
9 misdemeanor.

10 **Comment.** Section 4592 continues former Fish and Game Code Section 12165 without
11 substantive change.

12 **§ 4594. Court revocation of privilege to hunt, fish, or guide**

13 4594. (a) The judge before whom any guide, as defined in Section 8800, is
14 arraigned for a violation of this code, or regulation adopted pursuant to this code,
15 may, upon the conviction of the person, order the revocation of the person's
16 privilege to hunt, fish, or guide for a period not to exceed three years from the date
17 of the conviction.

18 (b) For purposes of this section, a plea of nolo contendere or no contest or a
19 forfeiture of bail is a conviction.

20 (c) It shall be unlawful for any person to obtain, or attempt to obtain a guide
21 license, sportfishing license, or hunting license during a period of revocation
22 imposed under this section.

23 (d) Neither the disposition of the criminal action other than by conviction nor
24 the discretionary refusal of the judge to order revocation upon conviction impairs
25 the right of the department to commence proceedings to order revocation of the
26 guide license pursuant to Section 4590.

27 **Comment.** Section 4594 continues former Fish and Game Code Section 12156.5 without
28 substantive change.

29 **CHAPTER 4. MISCELLANEOUS OFFENSES**

30 **§ 4600. Interference with lawful activities**

31 4600. (a) Notwithstanding Section 4400, a person who violates Section 8130 is
32 guilty of an infraction punishable by a fine of not less than one hundred dollars
33 (\$100) and not to exceed one thousand dollars (\$1,000), or of a misdemeanor.

34 (b) Any person convicted for a violation of Section 8130 that occurred within
35 two years of a prior violation of Section 8130 that resulted in a conviction is guilty
36 of a misdemeanor, punishable by imprisonment in a county jail for a period of not
37 more than one year, by a fine of not less than one hundred dollars (\$100) and not
38 to exceed one thousand dollars (\$1,000), or by both imprisonment and fine.

39 **Comment.** Subdivision (a) of Section 4600 combines former Fish and Game Code Sections
40 2009(b) and 12000(b)(1) without substantive change.

1 Subdivision (b) continues former Fish and Game Code Section 2009(c) without substantive
2 change.

3 **§ 4602. Scientific permit revocation**

4 4602. If the holder of a permit issued under Section 9200 fails to submit
5 information or reports required in the permit, the department shall revoke an
6 existing permit, and may decline to issue a permit to that person or entity in
7 subsequent years.

8 **Comment.** Section 4602 continues former Fish and Game Code Section 1002(m) without
9 substantive change.

10 **TITLE 4. HUNTING**

11 **CHAPTER 1. UNLAWFUL TAKE**

12 **§ 4700. Taking without license**

13 4700. (a) Notwithstanding subdivision (b) of Section 4400, the punishment for
14 taking a mammal or bird for which a hunting license issued pursuant to Section
15 10210 is required or a tag, seal, or stamp is required, including a deer tag issued
16 pursuant to Section 56585, without having in one's possession the required valid
17 license, or without having in one's possession any required tag, seal, or stamp or
18 when the taking of that mammal or bird is prohibited by allowable season, limit,
19 time, or area, is punishable by a fine of not less than two hundred fifty dollars
20 (\$250) or more than two thousand dollars (\$2,000), or imprisonment in a county
21 jail for not more than one year, or by both that fine and imprisonment, or by any
22 greater punishment prescribed by this code.

23 (b) If a person is charged with an offense described in subdivision (a) and
24 produces in court a license, tag, seal, or stamp issued to the person and valid at the
25 time of the person's arrest and if the taking was otherwise lawful with respect to
26 season, limit, time, and area, the court may reduce the charge to an infraction
27 punishable by a fine of not less than fifty dollars (\$50) and not more than two
28 hundred fifty dollars (\$250).

29 **Comment.** Section 4700 continues former Fish and Game Code Section 12002.1 without
30 substantive change.

31 **§ 4702. Violation of specific regulations**

32 4702. Notwithstanding Section 4400, a person who violates any of the following
33 regulations in Title 14 of the California Code of Regulations is guilty of an
34 infraction punishable by a fine of not less than one hundred dollars (\$100) and not
35 to exceed one thousand dollars (\$1,000), or of a misdemeanor:

36 (a) Section 251.7.

37 (b) Sections 307, 308, and 311 to 313, inclusive.

38 (c) Sections 505, 507 to 510, inclusive, and 550 to 552, inclusive.

1 **Comment.** Section 4702 continues former Fish and Game Code Section 12000(b)(8)-(10)
2 without substantive change.

3 **Note.** Proposed Section 4864 would continue Section 12000(b)(8)-(10), which was amended
4 by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **§ 4704. Ancillary consequences for specified violations**

7 4704. (a) In addition to any other penalty or fine imposed pursuant to this code,
8 if a person has been convicted of one or more offenses that was a violation of a
9 section listed in subdivision (b) separate from the offense before the court, the
10 court may order as a condition of probation upon conviction of the offense before
11 the court that is also a violation of a section listed in subdivision (b), that the
12 person attend the hunter education course designated in Section 10405 and
13 perform community service, preferably relating to natural resources if that type of
14 community service is available, as follows:

15 (1) If the person has one separate conviction, not more than 200 hours of
16 community service.

17 (2) If the person has two or more separate convictions, not more than 300 hours
18 of community service.

19 (b) This section applies to violations relating to a taking in Sections 9500,
20 30505, 33205, and 34200, and a sale or purchase of parts of a bear in violation of
21 Section 33455.

22 **Comment.** Section 4704 continues former Fish and Game Code Section 12001.5 without
23 substantive change, except that an erroneous reference to former Fish and Game Code Section
24 3700 was replaced with a reference to Section 30505 (which continued former Fish and Game
25 Code Section 3700.1).

26 **Note.** Existing Section 12001.5 refers to a repealed provision, former Section 3700, which
27 required a “duck stamp” when taking duck. Physical “stamps” are no longer required when taking
28 duck. Instead, a person must have an electronically issued “duck hunting validation.” See Section
29 3700.1 (proposed Section 30505). The Commission believes that the reference to the repealed
30 provision should be replaced with a reference to Section 3700.1 (proposed Section 30505).
31 Proposed Section 4704(b) would make that change.

32 **The Commission invites comment on whether that addition would cause any problems.**

33 **§ 4706. Punishment for third and subsequent convictions**

34 4706. (a) Upon the third conviction of a person of a violation of any provision of
35 this code or regulation adopted pursuant to this code relating to the taking or
36 possession of a bird or mammal in a five-year period, and upon a conviction
37 subsequent to the three convictions during a five-year period, that person shall be
38 prohibited from taking a bird or mammal in the state for three years from the date
39 of the last conviction. The commission shall revoke a hunting license of a person
40 prohibited from taking a bird or mammal in this state for the period of prohibition.

41 (b) It shall be unlawful for a person to obtain, or attempt to obtain, a hunting
42 license during a period of prohibition.

1 **Comment.** Section 4706 continues former Fish and Game Code Section 12155 without
2 substantive change.

3 **§ 4708. Triple possession limit**

4 4708. (a) Any person who illegally takes or possesses in the field more than
5 three times the daily bag limit, or who illegally possesses more than three times
6 the legal possession limit, of fish, reptiles, birds, amphibians, or mammals, is
7 guilty of a misdemeanor, and shall be subject to a fine of not less than five
8 thousand dollars (\$5,000), nor more than forty thousand dollars (\$40,000), or
9 imprisonment in a county jail for not more than one year, or by both that fine and
10 imprisonment.

11 (b) If a person is convicted of a second or subsequent violation of subdivision
12 (a), that person shall be punished by a fine of not less than ten thousand dollars
13 (\$10,000), nor more than fifty thousand dollars (\$50,000), or imprisonment in a
14 county jail for not more than one year, or by both that fine and imprisonment.

15 (c) Nothing in this section prohibits a person from giving, receiving, or
16 possessing the legal possession limit of lawfully taken fish, reptiles, birds,
17 amphibians, or mammals.

18 (d) Nothing in this section prohibits a person from giving, receiving, or
19 possessing, at the personal abode of the donor or donee, lawfully taken migratory
20 game birds that are not required to be tagged pursuant to the federal Migratory
21 Bird Treaty Act (16 U.S.C. Sec. 703 et seq.) or regulations adopted pursuant to
22 that act.

23 (e) This section does not supersede Section 5462 5802, or 5804.

24 (f) Moneys equivalent to 50 percent of the revenue from any fine collected
25 pursuant to this section shall be paid to the county in which the offense was
26 committed, pursuant to Section 3610. The board of supervisors shall first use
27 revenues pursuant to this subdivision to reimburse the costs incurred by the district
28 attorney or city attorney in investigating and prosecuting the violation. Any excess
29 revenues may be expended in accordance with Section 3915.

30 **Comment.** Section 4708 continues former Fish and Game Code Section 12013(a), (b), and (d)-
31 (g) without substantive change.

32 See also Sections 4552, 4570 (enforcement).

33 **§ 4710. Taking during trespassing**

34 4710. The court before whom any person has been convicted of trespassing
35 under Section 602 of the Penal Code shall, in addition to any other fine or
36 forfeiture imposed, confiscate any bird or mammal taken while trespassing, and
37 shall dispose of the bird or mammal to a charitable institution or cause it to be
38 destroyed if unfit for human consumption.

39 **Comment.** Section 4710 continues former Fish and Game Code Section 12164 without
40 substantive change.

1 **§ 4712. Use of sodium cyanide**

2 4712. Notwithstanding any other provision of this code, a violation of Section
3 8140, or any rule or regulation adopted pursuant to that section, is punishable by a
4 fine of not less than three hundred dollars (\$300) or more than two thousand
5 dollars (\$2,000), or by imprisonment in a county jail for not more than one year, or
6 by both that fine and imprisonment. The Legislature may increase, but may not
7 decrease, these penalties.

8 **Comment.** Section 4712 continues former Fish and Game Code Section 12005.5 without
9 substantive change.

10 **Note.** Section 12005.5 was added by Proposition 4 (1998). The Commission believes that the
11 nonsubstantive continuation of those provisions in the proposed law would not be an
12 impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and
13 associated text.

14 **§ 4714. Lead ammunition**

15 4714. A person who violates any provision of Chapter 4 (commencing with
16 Section 10000) of Title 1 of Part 2 of Division 6 is guilty of an infraction
17 punishable by a fine of five hundred dollars (\$500). A second or subsequent
18 offense shall be punishable by a fine of not less than one thousand dollars (\$1,000)
19 or more than five thousand dollars (\$5,000).

20 **Comment.** Section 4714 continues former Fish and Game Code Section 3004.5(g) without
21 substantive change.

22 CHAPTER 2. HUNTING-RELATED INJURIES

23 **§ 4750. Failure to aid injured person**

24 4750. Every person who while taking any bird or mammal kills or injures
25 another person by the use of any firearm, bow and arrow, spear, slingshot, or other
26 weapon or device used in that taking and who knowingly either abandons that
27 person or fails to render to that injured person all necessary aid possible under the
28 circumstances is guilty of a felony.

29 **Comment.** Section 4750 continues former Fish and Game Code Section 3009 without
30 substantive change.

31 **§ 4752. Reporting injury**

32 4752. Any person who, while hunting, kills or wounds or witnesses the killing or
33 wounding of any human being, or domestic animal belonging to another, shall,
34 within 48 hours after the incident, forward a complete written report to the
35 Department of Fish and Wildlife, 1416 Ninth Street, Sacramento, California
36 95814, providing the full name and address of the person who forwarded the
37 report and all facts relating to the incident.

38 **Comment.** Section 4752 continues former Fish and Game Code Section 12151.5 without
39 substantive change.

1 **§ 4754. Killing or wounding of human being while hunting**

2 4754. (a) Whenever any person, while taking a bird or mammal, kills or wounds
3 any human being and that fact is ascertained by the department, the department
4 shall notify the district attorney of the county in which the act occurred. The
5 district attorney may thereupon bring an action in the superior court of the county
6 in which the act occurred for the purpose of determining the cause of the killing or
7 the wounding. These proceedings shall be conducted in the same manner as an
8 action to try a misdemeanor and the defendant may request that all findings of fact
9 shall be made by a jury. The court shall inform the defendant of the nature of the
10 proceedings and of the defendant's right to have a jury.

11 (b) If it is found that the defendant did the killing or wounding, but that it was
12 not intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it
13 is found that the defendant did the killing or wounding intentionally, by an act of
14 gross negligence, or while under the influence of alcohol, the court shall issue an
15 order permanently prohibiting the defendant from taking any bird or mammal.

16 (c) If it is found that the defendant was negligent, but not grossly negligent, the
17 court shall issue an order prohibiting the defendant from taking any bird or
18 mammal for a period specified at the discretion of the court but not less than five
19 years.

20 (d) Any person who takes any bird or mammal in violation of an order issued
21 pursuant to this section is guilty of a felony.

22 **Comment.** Subdivisions (a) through (c) of Section 4754 continue former Fish and Game Code
23 Section 12150 without substantive change.

24 Subdivision (d) continues former Fish and Game Code Section 12001 without substantive
25 change.

26 See also Section 4756 (enforcement).

27 **§ 4756. Petition for new trial**

28 4756. Any person whose license has been revoked pursuant to Section 4754
29 may, upon petition, obtain a new trial in the court that originally revoked the
30 license. That trial shall be with a jury if requested as provided in Section 4754, and
31 shall be to determine if the revocation was based on an intentional or grossly
32 negligent act or an act committed while under the influence of alcohol, in which
33 case the petition shall be denied. If however, it was based on a negligent act not
34 amounting to gross negligence the court may review and redetermine the length of
35 time for which no license should be issued to the person. The court may authorize
36 the issuance of a license to the person after such time as the court shall determine
37 to be proper in light of the circumstances.

38 **Comment.** Section 4756 continues former Fish and Game Code Section 12150.5 without
39 substantive change.

40 **§ 4758. Killing or wounding domestic animal while hunting**

41 4758. (a) Whenever any person, while taking a bird or mammal, kills or wounds
42 any domestic animal belonging to another and that fact is ascertained by the

1 department, the department shall notify the district attorney of the county in which
2 the act occurred. The district attorney may thereupon bring an action in the
3 superior court of the county in which the act occurred for the purpose of
4 determining the cause of the killing or wounding. These proceedings shall be
5 conducted in the same manner as an action to try a misdemeanor and the defendant
6 may request that all findings of fact shall be made by a jury. The court shall
7 inform the defendant of the nature of the proceedings and of the defendant's right
8 to have a jury.

9 (b) If it is found that the defendant did the killing or wounding but that it was
10 not intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it
11 is found that the defendant did the killing or wounding intentionally or
12 negligently, the court shall issue an order prohibiting the defendant from taking
13 any bird or mammal for a period of five years.

14 **Comment.** Section 4758 continues former Fish and Game Code Section 12151 without
15 substantive change.

16 **§ 4760. Report of court order prohibiting take of bird or mammal**

17 4760. (a) Whenever a person has been prohibited from taking any bird or
18 mammal pursuant to Section 4754 or 4758, the court in which the proceeding for
19 such action was had shall report the facts to the department at its Sacramento
20 headquarters office. The report shall show the date and place of the occurrence,
21 the name and address of the person who did the killing or wounding, the name and
22 address of the person who was killed or wounded or the name and address of the
23 owner of the animal, as the case may be, and such other information as the
24 department may require.

25 (b) The department shall maintain a record of all orders issued under Section
26 4754 or 4758. The record shall show the name and address of the person involved,
27 the date of such action, and the date of expiration of such order. The department
28 shall periodically transmit copies of such records to each person authorized to
29 issue a hunting license and to each district attorney in the state.

30 **Comment.** Section 4760 continues former Fish and Game Code Section 12152 without
31 substantive change.

32 **§ 4762. Proof of financial responsibility**

33 4762. (a) Any person who has been prohibited from taking any bird or mammal
34 pursuant to Section 4754 or 4758 shall not apply for a hunting license or take any
35 bird or mammal unless the person has filed with the department proof of ability to
36 respond in damages in an amount of at least ten thousand dollars (\$10,000) for
37 personal injury or death of any person, subject to a maximum of twenty thousand
38 dollars (\$20,000) for the injury or death of two or more persons in any one
39 accident and at least five thousand dollars (\$5,000) for property damage resulting
40 from any one accident.

41 (b) Proof of ability to respond in damages may be given by any of the following:

1 (1) The written certificate of any insurance carrier duly authorized to do
2 business within the state that it has issued to or for the benefit of the person named
3 a public liability insurance policy which is, at the date of the certificate, in full
4 force and effect. The certificate shall certify that the policy cited shall not be
5 canceled except upon 10 days' prior written notice to the department.

6 (2) A bond in the amount of twenty-five thousand dollars (\$25,000) approved by
7 a judge of a court of record. The bond shall be conditioned for the payment of the
8 amounts specified in this section and shall provide for the entry of judgment on
9 motion of the state in favor of any holder of any final judgment on account of
10 damages to property or injury to any person caused while the licensee is taking
11 any bird or mammal.

12 **Comment.** Section 4762 continues former Fish and Game Code Section 12150.6 without
13 substantive change.

14 **§ 4764. Cancellation of guarantee of financial responsibility**

15 4764. The department shall, upon request, cancel any bond or shall direct the
16 return to the person entitled thereto of any money or securities deposited pursuant
17 to this code as proof of ability to respond in damages:

18 (a) On the filing of an affidavit with the department that the person will not
19 thereafter engage in the taking of any bird or mammal.

20 (b) In the event of the permanent incapacity of such person to engage in the
21 taking of any bird or mammal.

22 (c) Upon the death of the person on whose behalf such proof was filed.

23 **Comment.** Section 4764 continues former Fish and Game Code Section 12150.7 without
24 substantive change.

25 **§ 4766. Additional financial responsibility based on claim or judgment**

26 4766. Whenever any claim is made or judgment is rendered against a person
27 required to file proof of ability to respond in damages, that person shall not apply
28 for a hunting license or take any bird or mammal until additional proof of ability
29 to respond in damages has been filed with the department in an amount sufficient
30 to provide proof of ability to respond in damages in the amount specified in
31 Section 4762 over and above all claims made against previously filed proof of
32 ability to respond in damages.

33 **Comment.** Section 4766 continues former Fish and Game Code Section 12150.8 without
34 substantive change.

35 **CHAPTER 3. HUNTING CLUB**

36 **§ 4770. Commercial hunting club**

37 4770. Any license issued pursuant to Section 10605 may be revoked by the
38 commission at one of the commission's regularly scheduled meetings, or by a
39 court of competent jurisdiction, upon the licensee's conviction of a violation of

1 this code, and no new license may be issued to the licensee during the same
2 license year.

3 **Comment.** Section 4770 continues former Fish and Game Code Section 3246 without
4 substantive change.

5 TITLE 5. TRAPPING

6 § 4800. Unmarked trap


7 4800. The punishment for a violation of Section 11020 is a fine of not more than
8 two thousand dollars (\$2,000), imprisonment in a county jail for not more than one
9 year, or both the fine and imprisonment.

10 **Comment.** 4800 restates former Fish and Game Code Section 12002(b)(2) without substantive
11 change.

12 § 4802. Body-gripping trap

13 4802. A violation of Section 11110, or any rule or regulation adopted pursuant
14 to this section, is punishable by a fine of not less than three hundred dollars (\$300)
15 or more than two thousand dollars (\$2,000), or by imprisonment in a county jail
16 for not more than one year, or by both that fine and imprisonment. The Legislature
17 may increase, but may not decrease, these penalties.

18 **Comment.** Section 4802 continues the part of former Fish and Game Code Section 12005.5
19 applicable to former Fish and Game Code Section 3003.1 without substantive change.

20  **Note.** Section 12002.5 was added by Proposition 4 (1998). The Commission believes that the
21 nonsubstantive continuation of those provisions in the proposed law would not be an
22 impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and
23 associated text.

24 § 4804. Fur dealer license

25 4804. Any license issued under Chapter 2 (commencing with Section 11300) of
26 Title 2 of Part 3 of Division 6 may be revoked by the commission at one of the
27 commission's regularly scheduled meetings, upon the licensee's conviction of a
28 violation of that chapter.

29 **Comment.** Section 4804 continues former Fish and Game Code Section 4043 without
30 substantive change.

31 § 4806. Violation by trapping licensee

32 4806. (a) No person who is licensed or required to be licensed pursuant to
33 Section 11200 and who is convicted of a violation of any provision of Section
34 11000, 11005, 11010, 11015, 11105, 11020, 11150, 11155, 11205, 32150, 32300,
35 or 35210 shall take any fur-bearing or nongame mammal in the state for three
36 years from the date of the next regularly scheduled meeting of the commission
37 held at least 30 days after the date of that conviction.

(b) The commission shall revoke the trapping license of the person who is prohibited from taking fur-bearing and nongame mammals in the state, if the person has one, for the period of prohibition.

(c) No person shall obtain, or attempt to obtain, a trapping license during a period of prohibition.

Comment. Section 4806 continues former Fish and Game Code Section 12156 without substantive change.

TITLE 6. FISHING

CHAPTER 1. VIOLATION OF SPECIFIED REGULATIONS

§ 4850. Violation of specific regulations

4850. Notwithstanding Section 4400, a person who violates any of the following regulations in Title 14 of the California Code of Regulations is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) and not to exceed one thousand dollars (\$1,000), or of a misdemeanor:

(a) Sections 1.14, 1.17, 1.62, 1.63, and 1.74.

(b) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive.

(c) Sections 27.56 to 30.10, inclusive.

(d) Sections 40 to 43, inclusive.

Comment. Section 4850 continues former Fish and Game Code Section 12000(b)(4)-(7) without substantive change.

CHAPTER 2. FISHING LICENSES

Article 1. Sport Fishing License

§ 4860. Fishing without required validation

4860. (a) Notwithstanding any other provision of law, a violation of Section 12905, 12910 or 12955 is an infraction, punishable by a fine of not less than fifty dollars (\$50), nor more than two hundred fifty dollars (\$250), for a first offense.

(b) If a person is convicted of a violation of Section 12905, 12910, or 12955 within five years of a separate offense resulting in a conviction of a violation of Section 12905, 12910, or 12955, that person shall be punished by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500).

(c) If a person is convicted of a violation of Section 12905, 12910 or 12955 and produces in court the required validation that was valid at the time of the violation, and if the sport fishing was otherwise lawful, the court may reduce the fine imposed for the violation to twenty-five dollars (\$25).

Comment. Section 4860 continues the part of former Fish and Game Code Section 12002.2.1 applicable to violations of former Fish and Game Code Sections 6596.1(a), 7149.45(a), and 7180.1(b) without substantive change. The reference to production in court of a Bay Delta sport

fishing enhancement stamp or validation is discontinued as obsolete. See 2009 Cal. Stat. ch. 381, § 2 (repealing former Fish and Game Code Section 7360, authorizing issuance of those stamps and validations). The reference to production in court of a sport fishing ocean enhancement stamp, a second rod sport fishing stamp, and a Colorado River special use stamp are also discontinued as obsolete. See 2015 Cal. Stat. ch. 683, § 19, 23, and 25 (repealing former Fish and Game Code sections authorizing issuance of those stamps).

The part of former Fish and Game Code Section 12002.2.1 applicable to a violation of Section 1.18 of Title 14 of the California Code of Regulations is discontinued as obsolete, as that section was repealed on January 13, 2010.

Note. As indicated in the Comment above, proposed Section 4860 would not include a number of cross-references that appear to be obsolete. **The Commission invites comment on whether any of those deletions would be problematic.**

§ 4862. Valid license in possession

4862. (a) Notwithstanding any other provision of law, a violation of Section 12900 or a regulation requiring a license to be displayed is an infraction, punishable by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), for a first offense. If a person is convicted of a violation of Section 12900 or a regulation requiring a license to be displayed within five years of a separate offense resulting in a conviction of a violation of Section 12900 or a regulation requiring a license to be displayed, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(b) If a person is convicted of a violation of Section 12900 or a regulation requiring a license to be displayed and produces in court a sport fishing license issued pursuant to Section 12900 that was valid at the time of the violation, and if the sport fishing was otherwise lawful, the court may reduce the fine imposed for the violation to twenty-five dollars (\$25).

(c) If a person is charged with a violation of Section 12900 or a regulation requiring a license to be displayed and produces in court a lifetime sport fishing license issued in his or her name that was valid at the time of the violation, and if the sport fishing was otherwise lawful, the court may dismiss the charge.

(d) A person shall not be charged or convicted for both a violation of Section 12900 and a regulation requiring a license to be displayed for the same act.

Comment. Section 4862 continues former Fish and Game Code Section 12002.2 without substantive change.

Note. Existing Section 12002.2(c) (which would be continued by proposed Section 4862(c)) permits dismissal of a charged violation of existing Section 7145 (requiring possession of sport fishing license), if the person charged appears in court and produces a valid lifetime sport fishing license issued in his or her name. Proposed Section 4862 would make clear that the lifetime sport fishing license must have been valid at the time of the violation.

The Commission invites comment on whether this revision is problematic.

§ 4864. Fishing in specified waters without ocean enhancement validation

4864. Notwithstanding subdivision (a) of Section 4400, a person who violates Section 12910 is guilty of an infraction punishable by a fine of not less than one hundred dollars (\$100) and not to exceed one thousand dollars (\$1,000), or of a misdemeanor.

Comment. Section 4864 continues former Fish and Game Code Section 12000(b)(2) without substantive change.

Notes. (1) Proposed Section 4864 would continue Section 12000(b)(2), which was amended by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

(2) The penalty specified in Section 12000(b)(2), for a violation of Section 6596.1(a), appears to be in conflict with the penalty specified in Section 12002.2.1(a)(1) (proposed Section 4860). **The Commission invites comment on how that conflict should be resolved.**

Article 2. Commercial Fishing License

§ 4870. Suspension or revocation

4870. The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel commercial fishing privileges for a period of time to be determined by the commission, for any of the following reasons:

(a) The person was not lawfully entitled to be issued the license, permit, or other entitlement.

(b) A violation of this code, the terms of the permit or other entitlement, or the regulations adopted pursuant thereto, by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(c) A violation of any federal law relating to the fishery for which the license, permit, or other entitlement was issued by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

Comment. Section 4870 continues former Fish and Game Code Section 7857(b) without substantive change.

§ 4872. License revocation or suspension proceeding at commission meeting

4872. A proceeding to revoke or suspend a commercial fishing license shall be conducted at a regularly scheduled commission meeting.

Comment. Section 4872 continues former Fish and Game Code Section 7855 without substantive change.

1 **§ 4874. License forfeiture**

2 4874. A commercial fishing license is forfeited for the violation of Section 2300,
3 2815, 2820, 2920, 2930, 3050, 8300, or 10205, or of any of the provisions of this
4 code relating to the use of nets.

5 **Comment.** Section 4874 continues former Fish and Game Code Section 12153 without
6 substantive change.

7 **Note.** Existing Section 12153, which was last amended by 2015 Cal. Stat. ch. 683, cross-
8 refers to a range of existing code sections identified as “Sections 1050.1 to 1060, inclusive.”
9 However, Section 1060 was repealed by that same bill, and the substance of Section 1060 does
10 not appear to have been continued elsewhere in the code. The code section that numerically
11 preceded Section 1060 in the existing code at the time Section 12153 was last amended was
12 Section 1059. Proposed Section 4874 therefore cross-refers to the sections of the proposed law
13 that continue provisions that are numerically between existing Sections 1050.1 and 1059,
14 inclusive, that describe conduct engaged in by the holder of a commercial fishing license.

15 **The Commission seeks comment on whether this continuation of existing Section 12153 is**
16 **appropriate.**

17 **§ 4876. Approaching federal vessel**

18 4876. (a) The commission may suspend or revoke the commercial fishing
19 license of any licensee who operates a vessel in waters within the territorial
20 jurisdiction of the State and approaches:

21 (1) Within 500 yards of any vessel owned or operated by the United States
22 Government or any department or agency thereof, except when necessary to
23 comply with the laws or rules of navigation governing the safe movement of
24 vessels; or

25 (2) So close to any vessel owned or operated by the United States or any
26 department or agency thereof and engaged in transporting naval or military
27 equipment or personnel as to interfere with such transportation or to enable the
28 observation thereof, except when necessary to comply with the laws or rules of
29 navigation governing the safe movement of vessels.

30 (b) No license shall be suspended or revoked pursuant to this section until the
31 filing of a complaint with the commission by any of the following:

32 (1) The commanding officer of a vessel owned or operated by the United States
33 or any department or agency thereof.

34 (2) Any other officer of any such vessel who is authorized by his commanding
35 officer to file such complaint.

36 (3) Any commanding officer of any military or naval activity affected by the
37 licensee’s operation of a vessel, or any other officer of such activity authorized by
38 such commanding officer to file a complaint.

39 **Comment.** Subdivision (a) of Section 4876 continues former Fish and Game Code Section
40 7853 without substantive change.

41 Subdivision (b) continues former Fish and Game Code Section 7854 without substantive
42 change.

Article 3. Live Freshwater Fish Bait License

§ 4880. Revocation

4880. A live freshwater bait fish license may be revoked for a violation of the terms of the license.

Comment. Section 4880 continues a part of the second paragraph of former Fish and Game Code Section 8460 without substantive change.

CHAPTER 3. COMMERCIAL VESSELS

Article 1. Commercial Fishing Vessel Registration

§ 4900. Suspension or revocation of registration for specified violations

4900. (a) In addition to any other applicable penalty, a commercial boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the registrant, or the registrant's agent, servant, employee, or any other person acting under the registrant's direction or control, for a violation of any of the following provisions or regulations adopted pursuant thereto:

(1) Title 6 (commencing with Section 19150) of Part 6 of Division 6.

(2) Chapter 2 (commencing with Section 38550) of Title 2 of Part 4 of Division 10.

(3) Title 2 (commencing with Section 38950) of Part 6 of Division 10.

(4) Section 39305.

(5) Section 39555.

(6) Section 39655.

(7) Section 39760.

(8) Title 2 (commencing with Section 39850) of Part 12 of Division 10.

(9) Title 2 (commencing with Section 40300) of Part 13 of Division 10.

(10) Title 2 (commencing with Section 40750) of Part 15 of Division 10.

(11) Section 40905.

(12) Chapter 3 (commencing with Section 41450) of Title 2 of Part 17 of Division 10.

(13) Section 42110.

(14) Section 42205.

(15) Chapter 1 (commencing with Section 42250) of Title 2 of Part 18 of Division 10.

(16) Section 42350.

(17) Chapter 3 (commencing with Section 42800) of Title 2 of Part 20 of Division 10.

(18) Section 42905.

(19) Section 43355.

(20) Section 43555.

- 1 (21) Section 43655.
- 2 (22) Section 44205.
- 3 (23) Title 2 (commencing with Section 44400) of Part 25 of Division 10.
- 4 (24) Title 2 (commencing with Section 44750) of Part 26 of Division 10.
- 5 (25) Section 45800.
- 6 (26) Section 45805.
- 7 (27) Title 2 (commencing with Section 46800) of Part 6 of Division 11.
- 8 (28) Section 49010.
- 9 (29) Title 2 (commencing with Section 49450) of Part 9 of Division 11.
- 10 (30) Section 51010.
- 11 (31) Section 51015.
- 12 (32) Article 3 (commencing with Section 51100) of Chapter 2 of Title 2 of Part
- 13 15 of Division 11.
- 14 (33) Chapter 2 (commencing with Section 51400) of Title 2 of Part 16 of
- 15 Division 11.
- 16 (b) The commercial boat registration shall not be revoked unless both the first
- 17 and second convictions are related to the boat for which the commercial boat
- 18 registration is to be revoked, and are for violations which occurred when the
- 19 person convicted was the registrant or the registrant's agent, servant, employee, or
- 20 acting under the registrant's direction or control.
- 21 **Comment.** Section 4900 restates former Fish and Game Code Section 12002.6 without
- 22 substantive change.

23 **Note.** Proposed Section 4900(a) is intended to restate existing Fish and Game Code Section
24 12002.6(a) to clarify the meaning of that provision, without changing its substantive effect. The
25 existing provision reads as follows, with the restated language italicized:

26 Notwithstanding *Sections 12000, 12001, and 12002*, a commercial boat registration may be
27 revoked or suspended by the commission.... for a violation of any of the following provisions or
28 regulations adopted pursuant thereto:

- 29 (1) *Section 5521 or 5521.5.*
- 30 (2) *Article 2 (commencing with Section 8150), Article 3 (commencing with Section 8180),*
31 *Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6*
32 *(commencing with Section 8275), Article 9 (commencing with Section 8370), Article 13*
33 *(commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of*
34 *Part 3 of Division 6.*
- 35 (3) *Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8620),*
36 *Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8685), Article 6*
37 *(commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8*
38 *(commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of*
39 *Part 3 of Division 6.*
- 40 (4) *Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.*

41 **The Commission invites comment on whether the restatement of the italicized language**
42 **above, in proposed Section 4900, would cause any substantive change in the meaning of the**
43 **provision.**

Article 2. Commercial Salmon Vessel Permit

§ 4910. Revocation of permit based on fraud

4910. The commission, after notice and opportunity for hearing and consultation with the review board, shall revoke a commercial salmon vessel permit issued pursuant to this chapter if the vessel permit was obtained by fraudulent means.

Comment. Section 4910 continues former Fish and Game Code Section 8246.4 without substantive change.

§ 4912. Appeal of revocation or denial or permit transfer

4912. A person whose commercial salmon fishing vessel permit is revoked by the commission may appeal the revocation to the commission by submitting the appeal in writing to the commission within 60 days of the decision.

Comment. Section 4912 continues former Fish and Game Code Section 8246.6, as it pertained to revocation, without substantive change.

§ 4914. Reversal of revocation order or denial of permit renewal or transfer

4914. (a) The commission shall reverse an order of revocation because of fraud, only if evidence is provided to the commission disputing the charges of fraud. If the commission finds there was no fraud after consideration of all of the evidence, the commission may order the revocation annulled, and, if the permit expiration date has passed during the pendency of the hearing on the appeal, the commission may order the department to renew the permit upon payment of the fees.

(b) Each appeal shall be heard and considered separately on its own merits.

Comment. Section 4914 continues former Fish and Game Code Section 8246.7, as it pertained to revocation, without substantive change.

§ 4916. Suspension or revocation of commercial salmon fishing privilege

4916. (a) At any time after notice of an order suspending or revoking of a person's commercial salmon fishing privilege is issued by the commission, and before the order of suspension or revocation is final, the commission may, with the agreement of the person subject to the action, compromise or dismiss the action to suspend or revoke the commercial salmon fishing privilege in the best interests of the state, or the commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.

(b) The commission, after notice and opportunity for hearing and consultation with the review board, may suspend or revoke the commercial fishing privilege, authorized under a license issued for the purposes of Section 14500, for any violation of a term or condition of an agreement to compromise or dismiss a

1 separate suspension or revocation action which was made pursuant to subdivision
2 (a).

3 (c) If the commission orders a suspension or revocation of a person's
4 commercial salmon fishing privilege, any permit issued pursuant to this chapter
5 shall be renewed when the next renewal is due, or the permit shall expire as
6 provided in Section 41755.

7 (d) Civil damages imposed under subdivision (a) shall be due and payable on or
8 before a date which is 30 days after the compromise is entered into.

9 (e) Subdivision (a) does not apply if an action is brought under Section 4470 to
10 recover civil damages from the person subject to action under this section.


11 **Comment.** Subdivision (a) of Section 4916 continues former Fish and Game Code Section
12 8246(a) without substantive change.

13 Subdivision (b) continues former Fish and Game Code Section 8246(b) without substantive
14 change.

15 Subdivision (c) continues former Fish and Game Code Section 8246(c) without substantive
16 change.

17 Subdivision (d) continues former Fish and Game Code Section 8246.2(b) without substantive
18 change.

19 Subdivision (e) continues former Fish and Game Code Section 8246(d) without substantive
20 change.

21  **Notes.** (1) Existing Fish and Game Code Section 8246(b) (which would be continued by
22 proposed Section 4916(b)) refers to a license issued for the purposes of ... "Section 7852.3."
23 However, Section 7852.3, relating to the issuance of a commercial fishing license to a minor, was
24 repealed in 2003. See 2003 Cal. Stat. ch. 741. As it appears that cross-reference is now obsolete
25 (because any licenses issued pursuant to that repealed section could no longer be in effect),
26 proposed Section 4916(b) would not continue the cross-reference to former Section 7852.3.

27 **The Commission invites comment on whether the discontinuation of that cross-reference**
28 **would cause any problem.**

29 (2) Existing Fish and Game Code Section 8246.2(b) (which would be continued by proposed
30 Section 4916(d)) contains a reference to "[c]ivil damages imposed under subdivision (b) of
31 Section 8246." Similarly, existing Fish and Game Code Section 8246(d) (which would be
32 continued by proposed Section 4916(e)) provides that "subdivision (b) [of existing Section 8246]
33 does not apply if an action is brought to recover civil damages" under existing Section 2014. In
34 both cases, the reference to "subdivision (b)" appears to be a drafting error, as it is subdivision (a)
35 of Section 8246, rather than subdivision (b), that relates to civil damages.

36 Proposed Section 4916(d) and (e) would revise those references to refer to the provision
37 continuing Section 8246(a).

38 **The Commission invites comment on those revisions.**

39 **§ 4918. Determination of civil damages following suspension or revocation**

40 4918. The commission, in consultation with the department and the review
41 board, shall adopt regulations for the determination of civil damages provided for
42 in subdivision (a) of Section 4916, which give due consideration to the
43 appropriateness of the civil damages with respect to all of the following factors:

44 (a) The gravity of the violation.

45 (b) The good faith of the convicted licensee.

46 (c) The history of previous violations.

(d) The damage to the fishery.

(e) The cost of restoration of the fishery.

Comment. Section 4918 continues former Fish and Game Code Section 8246.2(a) without substantive change.

Note. Existing Fish and Game Code Section 8246.2(a) (which would be continued by proposed Section 4918) contains a reference to “civil damages provided for in subdivision (b) of Section 8246.” However, the reference to “subdivision (b)” appears to be a drafting error, as it is subdivision (a) of Section 8246, rather than subdivision (b), that relates to civil damages.

Proposed Section 4918 would revise that reference to refer to the provision continuing Section 8246(a).

The Commission invites comment on that revision.

Article 3. Passenger Fishing Boat

§ 4930. Forfeiture, suspension, or revocation of license

4930. A license issued under Title 12 (commencing with Section 21900) of Part 6 of Division 6 is subject to forfeiture, suspension, or revocation for a violation of Section 13600 or 13605, or for any offense for which a commercial fishing license may be forfeited, suspended, or revoked.

Comment. Section 4930 continues former Fish and Game Code Section 7924 without substantive change.

§ 4932. License suspension for unlawful sale or purchase of fish

4932. (a) In addition to any other applicable penalty, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the master or his agent, servant, employee, or person acting under his direction or control, for a violation of Section 13600 or 13605, or a regulation adopted pursuant to either of those sections, if the fish in question were taken from a vessel licensed pursuant to Section 21905.

(b) However, a master’s license shall not be revoked for the conviction of a violation occurring when the person convicted was not acting as the master’s agent, servant, employee, or acting under his direction or control.

(c) The master of a vessel is the person on board the vessel who is in charge of the vessel.

Comment. Section 4932 continues Fish and Game Code Section 12002.7 without substantive change. Principles of collateral estoppel may have application to a license revocation or suspension proceeding under this section. *Cf.* *People v. Sims*, 32 Cal. 3d 468, 651 P.2d 321, 186 Cal. Rptr. 77 (1982) (welfare fraud), *Gikas v. Zolin*, 6 Cal. 4th 841, 863 P.2d 745, 25 Cal. Rptr. 2d 500 (1993) (driving under the influence).

§ 4934. Commercial boat registration suspension for unlawful sale or purchase of fish

4934. (a) In addition to any other applicable penalty, the commercial boat registration of a commercial passenger fishing boat may be revoked or suspended by the commission, when requested by the department, for a period not to exceed

one year, upon conviction of the registrant, or the registrant's agent, servant, employee, or any other person acting under the registrant's direction or control, for a violation of Section 13600 or 13605, or a regulation adopted pursuant to that section, if the violation in question involves that boat.

(b) In addition to any other applicable penalty, the commercial boat registration of a commercial passenger fishing boat may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of any person other than a person specified in subdivision (a), for a violation of Section 13600 or 13605, if the fish or amphibians involved in the violation were taken from that boat, and the person committing the violation had committed a prior violation of Section 13600 or 13605 involving that boat within the previous three years.

(c) A commercial boat registration shall not be revoked under this section for a violation committed without the knowledge of the master, or an agent or employee of the registrant.

Comment. Section 4934 restates former Fish and Game Code Section 12002.4 without substantive change. Principles of collateral estoppel may have application to a license revocation or suspension proceeding under this section. *Cf. People v. Sims*, 32 Cal. 3d 468, 651 P.2d 321, 186 Cal. Rptr. 77 (1982) (welfare fraud), *Gikas v. Zolin*, 6 Cal. 4th 841, 863 P.2d 745, 25 Cal. Rptr. 2d 500 (1993) (driving under the influence).

Note. Proposed Section 4934 is intended to restate existing Fish and Game Code Section 12002.4 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

12002.4. (a) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the registrant, or the registrant's agent, servant, employee, or any other person acting under the registrant's direction or control, for a violation of Section 7121 or the regulations adopted pursuant thereto, if the violation in question involved a vessel licensed pursuant to Section 7920.

(b) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration of a vessel licensed pursuant to Section 7920 may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of any other person for a violation of Section 7121, if the fish or amphibia involved in the violation were taken from the vessel and that person committed a prior violation of Section 7121 within three years on the vessel.

(c) The commercial boat registration shall not be revoked under this section for a violation which is unrelated to the vessel for which the commercial boat registration is to be revoked. Any violation committed without the knowledge of the master, or an agent or employee of the registrant, is unrelated to the vessel.

The Commission invites comment on whether proposed Section 4934 accurately continues the intended meaning of existing Section 12002.4.

CHAPTER 4. NETS AND TRAPS

Article 1. Geographical Restrictions

§ 4950. Waters upstream from Carquinez Bridge

4950. (a) The punishment for a first violation of Section 15540 is a fine of not more than two thousand dollars (\$2,000), imprisonment in a county jail for not more than one year, or both the fine and imprisonment.

(b) A second or subsequent violation of Section 15540 is punishable by a fine of not less than two thousand dollars (\$2,000) nor more than four thousand dollars (\$4,000), or imprisonment in a county jail for one year, or both that fine and imprisonment.

Comment. Subdivision (a) of Section 4950 continues former Fish and Game Code Section 12002(b)(5) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 12003 without substantive change.

Article 2. Gill and Trammel Nets

§ 4960. Provisions not exclusive

4960. The provisions of this article are not intended to be exclusive. Other provisions that govern gill and trammel nets include, but are not limited to, Title 4 (commencing with Section 16800) of Part 6 of Division 6.

Comment. Section 4960 is new.

Note. While the general approach taken in this tentative recommendation is to collect all provisions that govern the enforcement of specific provisions within this part, some provisions have not been treated in that way. Specifically, the Commission decided against making any significant changes to the gill and trammel net provisions that were enacted to implement constitutional provisions that were established by initiative. Enforcement provisions of that type were left in their original context.

Proposed Section 4960 was added to make clear that the provisions collected in this article are not the only provisions that govern gill and trammel nets.

§ 4962. Violation of Section 18040, 18045, 18050, or 18065

4962. (a) The punishment for a first conviction of a violation of Section 18040, 18045, 18050, or 18065 is a fine of not more than five thousand dollars (\$5,000), or imprisonment in a county jail for a period not to exceed six months, or the revocation of any license issued pursuant to Chapter 2 (commencing with Section 20300) of Title 9, or any combination of these penalties.

(b) The punishment for a second or subsequent conviction of a violation of Section 18040, 18045, 18050, or 18065, which offense occurred within five years of another offense which resulted in a conviction of Section 18040, 18045, 18050, or 18065 is a fine of not more than ten thousand dollars (\$10,000), or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or

1 imprisonment in a county jail for a period not to exceed one year, or the revocation
2 of any license issued pursuant to Chapter 2 (commencing with Section 20300) of
3 Title 9, or any combination of these penalties.

4 **Comment.** Section 4962 continues former Fish and Game Code Section 12004 without
5 substantive change.

6 **§ 4964. Sharks and swordfish**

7 4964. If any person is convicted of falsely swearing a declaration under
8 subdivision (d) of Section 18365, in addition to any other penalty prescribed by
9 law, the following penalties shall be imposed:

10 (1) The fish landed shall be forfeited, or, if sold, the proceeds from the sale shall
11 be forfeited, pursuant to Sections 4510, 4512, 4514, and 4516.

12 (2) All shark or swordfish gill nets possessed by the permittee shall be seized
13 and forfeited pursuant to Section 4570 or subdivision (a) of Section 15400.

14 **Comment.** Section 4964 continues former Fish and Game Code Section 8576(e) without
15 substantive change.

16 **Article 3. Seizure of Nets and Traps**

17 **Note.** Existing Section 9008 provides that an illegally used trap is a nuisance that “shall be
18 seized pursuant to Article 3 (commencing with Section 8630) of Chapter 3,” which governs the
19 seizure of a net. The clear inference is that the procedure for seizure of a net also applies to the
20 seizure of a trap. That inference has been made express in this article, by revising its provisions to
21 refer to both nets and traps (they presently only refer to nets).

22 **The Commission invites comment on the appropriateness of that approach.**

23 **§ 4975. Tagging**

24 4975. (a) In lieu of a physical seizure of a net or trap pursuant to Section 15400
25 or 19400, a person authorized to make an arrest for a violation of any provision of
26 this code may attach to a net or trap used for taking fish in violation of this code a
27 tag of metal or other material, which shall be furnished by the department for that
28 purpose. The tag shall be impressed or printed with language stating that the net or
29 trap to which it is attached has been seized by the department as a public nuisance.
30 The act of attaching the tag shall be a seizure within the meaning of this section.

31 (b) Removal of a tag attached to any net or trap pursuant to this section by any
32 person other than a person authorized by the department, or the use of a tagged net
33 or trap by any person for fishing purposes, unless authorized by the department or
34 by the superior court, is a misdemeanor.

35 **Comment.** Section 4975 continues the former Fish and Game Code Section 8631 without
36 substantive change.

37 **§ 4980. Removal of seized net from vessel**

38 4980. Within three days after the department has been notified in writing that a
39 vessel carrying a seized net or trap has arrived in port, the department may remove

1 the net or trap from the vessel, unless the owner has filed a bond in accordance
2 with Section 4982. The notice shall be sufficient when delivered to the office of
3 the department nearest to the port at which the vessel has arrived.

4 **Comment.** Section 4980 continues former Fish and Game Code Section 8632 without
5 substantive change. The section has been made expressly applicable to traps, pursuant to former
6 Fish and Game Code Section 9008.

7 **Note.** It is not clear who would notify the department that a vessel carrying a seized net has
8 arrived in port. There does not seem to be any requirement that anyone provide such notice. **The**
9 **Commission invites comment on this.**

10 **§ 4982. Bond**

11 4982. (a) When a net or trap is seized pursuant to this article, the owner or any
12 other person otherwise entitled to possession of the net or trap may apply to the
13 superior court of the county or city and county in which the seizure was made, or
14 the county or city and county of which the claimant is a resident, for leave to file a
15 bond and regain possession of the net or trap, during the pendency of any
16 proceeding for forfeiture of the net or trap.

17 (b) The bond shall be in an amount determined by the judge to be the actual
18 value of the net or trap at the time of its release, and shall be conditioned on the
19 transfer of the net or trap to the custody of the department, if the net or trap is later
20 ordered forfeited.

21 (c) The bond shall be filed within three days after the seizure of the net or trap.
22 Upon filing the bond, the person on whose behalf it is given shall be put in
23 possession of the net or trap, and may use the net until it is ordered forfeited by a
24 judgment of the court.

25 **Comment.** Section 4982 continues former Fish and Game Code Section 8633 without
26 substantive change. The section has been made expressly applicable to traps, pursuant to former
27 Fish and Game Code Section 9008.

28 **§ 4984. Exceptions to release of net or trap on bond**

29 4984. Notwithstanding Section 4982, a net or trap seized pursuant to Section
30 15400 as illegal because of its size, manner of construction, materials used in its
31 construction, or configuration of its parts is presumed to be contraband, and shall
32 not be returned pending forfeiture, unless it can be and is modified to eliminate the
33 condition of illegality. This subdivision does not apply to a net or trap seized
34 pursuant to Section 15400 for illegal use.

35 (b) Notwithstanding subdivision (a), any net or trap seized pursuant to Section
36 15400 that is needed for evidence may be held for evidence.

37 **Comment.** Section 4984 continues the part of former Fish and Game Code Section 8635
38 applicable to nets without substantive change. The section has been made expressly applicable to
39 traps, pursuant to former Fish and Game Code Section 9008.

(b) 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 Chapter 3 (commencing with Section 22600) of Title 15 of Part 6 of Division 6.

Comment. Section 5050 continues former Fish and Game Code Section 8589.5 without substantive change.

CHAPTER 6. FISH-RELATED COMMERCE

§ 5100. Suspension of license

5100. The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel a commercial fish business license, permit, or other entitlement, for a period of time to be determined by the commission, for any of the following reasons:

(a) The person was not lawfully entitled to be issued the license, permit, or other entitlement.

(b) Any violation of this code, the regulations adopted pursuant to this code, or the terms of the permit or other entitlement by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(c) Any violation of any federal law relating to the fishery for which the license, permit, or other entitlement was issued by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

Comment. Section 5100 continues former Fish and Game Code Section 8032.5(c) without substantive change.

§ 5102. Suspension based on specified convictions

5102. In addition to any other penalty prescribed in this code, a license issued pursuant to Chapter 2 (commencing with Section 20300) of Title 9 of Part 6 of Division 6 to a person who is convicted of a violation of Section 13600, 13605, 13915, 39105, 39555, or 43150 shall be suspended for not less than seven days nor more than 30 days. Each day a fish of the species designated in any of those sections is unlawfully possessed and each unlawful transaction involving the purchase or sale of a fish of those species by a wholesale fish dealer is a separate violation.

Comment. Section 5102 continues former Fish and Game Code Section 12002.9 without substantive change.

§ 5104. Reporting take of shark or swordfish

5104. Any license issued pursuant to Chapter 2 (commencing with Section 20300) of Title 9 of Part 6 of Division 6 may be revoked or suspended by the commission, when requested by the department, upon a conviction for a violation of Section 21000 for failure to report, or for inaccurately reporting, shark or

1 swordfish landings by fishermen operating under permits issued pursuant to
2 Section 18300, or subdivision (a) of Section 43655.

3 **Comment.** Section 5104 continues former Fish and Game Code Section 8581 without
4 substantive change.

5 **§ 5106. Marine aquaria pet trade**

6 5106. Notwithstanding subdivision (a) of Section 4400, a violation of a
7 provision of this chapter or any regulation adopted pursuant to Chapter 3
8 (commencing with Section 20700) of Title 9 of Part 6 of Division 6 is punishable
9 by a fine of not less than two thousand dollars (\$2,000), nor more than five
10 thousand dollars (\$5,000).

11 **Comment.** Section 5106 continues former Fish and Game Code Section 8598.6 without
12 substantive change.

13 **§ 5108. Sale or disposition of fish or amphibians in specified circumstances**

14 5108. (a) Notwithstanding any other provision of law, a violation of Section
15 13600 or 13605 by a person required to be licensed pursuant to Section 12900 is
16 punishable by a fine of not less than two thousand dollars (\$2,000) or more than
17 seven thousand five hundred dollars (\$7,500), except as provided in subdivisions
18 (b) or (c).

19 (b) If the violation in question involved the illegal sale or purchase of abalone
20 taken by a person required to be licensed pursuant to Section 12900, the violation
21 is punishable by a fine of not less than fifteen thousand dollars (\$15,000) or more
22 than forty thousand dollars (\$40,000).

23 (c) A violation of Section 13600 or 13605 by a person who for a commercial
24 purpose knowingly purchases or receives a fish or amphibian taken by a person
25 required to be licensed pursuant to Section 12900 is punishable by a fine of not
26 less than seven thousand five hundred dollars (\$7,500) or more than fifteen
27 thousand dollars (\$15,000).

28 **Comment.** Section 5108 continues former Fish and Game Code Section 12002.3 without
29 substantive change.

30 **Notes.** (1) Proposed Section 5108 would make the punishment prescribed by existing Section
31 12002.3(c) for the specified violation of existing Section 7121 expressly applicable to an
32 amphibian as well as fish, consistent with the prohibition in Section 7121.

33 **The Commission invites comment on whether this revision of the existing section is**
34 **problematic.**

35 (2) Existing Section 12002.3(b) (which would be continued by proposed Section 5108(b)),
36 provides a special penalty that applies if “the violation in question” involves abalone. It is not
37 entirely clear whether that provision in Section 12002.3(b) is intended to refer to a violation
38 described by existing Section 12002.3(a) (which would be continued by proposed Section
39 5108(a)), a violation described by existing Section 12002.3(c) (which would be continued by
40 proposed Section 5108(c)), or both.

41 **The Commission invites public comment on whether that apparent ambiguity is a**
42 **problem in practice, and if so, how it should be resolved.**

CHAPTER 7. LANDING FEES

§ 5150. Landing fees

5150. The commission, upon recommendation of the department, may suspend or revoke the commercial fishing privileges of any commercial fisherman, or the license of any person required to be licensed under Title 9 (commencing with Section 20150), who is convicted of a violation of Title 10 (commencing with Section 20900) of Part 6 of Division 6.

Comment. Section 5150 continues the part of former Fish and Game Code Section 8025(a) applicable to violations of Article 7.5 (commencing with Fish and Game Code Section 8010) of Chapter 1 of Part 3 of Division 6 of the former Fish and Game Code without substantive change.

CHAPTER 8. COMMERCIAL FISHING REPORTS

§ 5170. Suspension or revocation of commercial fishing license or privileges

5170. The commission, upon recommendation of the department, may suspend or revoke the commercial fishing privileges of any commercial fisherman, or the license of any person required to be licensed under Title 9 (commencing with Section 20150) of Part 6 of Division 6, who is convicted of a violation of Title 14 (commencing with Section 22200) of Part 6 of Division 6.

Comment. Section 5170 continues the part of former Fish and Game Code Section 8025(a) applicable to violations of Article 6 (commencing with Fish and Game Code Section 8010) of Chapter 1 of Part 3 of Division 6 of the former Fish and Game Code without substantive change.

§ 5172. Required record of fishing activities

5172. In addition to the penalty specified in subdivision (a) of Section 4400, failure to keep and submit records pursuant to Section 22200 may result in the revocation or suspension of a license or permit by the department or the commission when recommended by the department, for a period not to exceed one year.

Comment. Section 5172 continues former Fish and Game Code Section 8026(b) without substantive change.

TITLE 7. WILDLIFE PROPAGATION,
DOMESTICATION, POSSESSION, AND SALE

CHAPTER 1. IMPORTATION, TRANSPORTATION, AND POSSESSION
GENERALLY

§ 5200. Penalty

5200. (a) In addition to any other penalty provided by law, any person who violates Part 6 (commencing with Section 25600) of Division 7 or any regulation

implementing that part, is subject to a civil penalty of not less than five hundred dollars (\$500) nor more than ten thousand dollars (\$10,000) for each violation.


(b) Except as otherwise provided, any violation of Part 6 (commencing with Section 25600) of Division 7 or any regulation implementing that part is a misdemeanor punishable by imprisonment in a county jail for not more than six months, or by a fine of not more than one thousand dollars (\$1,000).

Comment. Section 5200 continues former Fish and Game Code Section 2125(a) without substantive change.

§ 5204. Civil action

5204. The Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of this title occurs, may bring a civil action to recover the civil penalty in Section 5200 and the costs of seizing and holding an animal listed in or designated pursuant to Sections 26700 through 26730, inclusive, except to the extent that those costs have already been collected as provided by Section 5208. The civil action shall be brought in the county in which the violation occurs, and any penalty imposed shall be transferred to the Controller for deposit in the Fish and Game Preservation Fund in accordance with Section 3600.

Comment. Section 5204 continues former Fish and Game Code Section 2125(b) without substantive change.

 **Note.** Existing Fish and Game Code Section 2125(a) provides for a civil penalty to be imposed against any person who violates the *chapter* in which Section 2125 appears, or any regulation implementing that chapter. However, Section 2125(b) authorizes designated officials from the county in which a violation of the *article* in which Section 2125 appears, to bring a civil action to recover that penalty.

The Commission invites comment on whether this distinction was intended, and if it was not, which reference was intended.

§ 5206. Additional costs and fees

5206. In an action brought under this chapter, in addition to the penalty specified in Section 5200, the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness fees may also be recovered, and those amounts shall be credited to the same operating funds as those from which the expenditures for those purposes were derived.

Comment. Section 5206 continues former Fish and Game Code Section 2125(c) without substantive change.

§ 5208. Confiscated animal

5208. (a) If an animal is confiscated because the animal was kept in contravention of Part 6 (commencing with Section 26500) of Division 7 or any regulation implementing that part, the person claiming the animal shall pay to the department or the new custodian of the animal an amount sufficient to cover all reasonable expenses expected to be incurred in caring for and providing for the

1 animal for at least 30 days, including, but not limited to, the estimated cost of
2 food, medical care, and housing.

3 (b) If the person claiming the animal fails to comply with the terms of his or her
4 permit and fails to regain possession of the animal by the expiration of the first 30-
5 day period, the department may euthanize the animal or place the animal with an
6 appropriate wild animal facility at the end of the 30 days, unless the person
7 claiming the animal pays all reasonable costs of caring for the animal for a second
8 30-day period before the expiration of the first 30-day period. If the permittee is
9 still not in compliance with the terms of the permit at the end of the second 30-day
10 period, the department may euthanize the animal or place the animal in an
11 appropriate wild animal facility.

12 (c) The amount of the payments described in this section shall be determined by
13 the department, and shall be based on the current reasonable costs to feed, provide
14 medical care for, and house the animal. If the person claiming the animal complies
15 with the terms of his or her permit and regains possession of the animal, any
16 unused portion of the payments required pursuant to this section shall be returned
17 to the person claiming the animal no later than 90 days after the date on which the
18 person regains possession of the animal.

19 **Comment.** Section 5208 continues former Fish and Game Code Section 2125(d) without
20 substantive change.

21 **§ 5210. Permit revocation**

22 5210. The commission shall revoke a permit issued pursuant to Section 27200 if
23 it finds that a permittee has failed to meet the requirements for importing,
24 transporting, possessing, or confining any wild animal as established pursuant to
25 Section 26600.

26 **Comment.** Section 5210 continues former Fish and Game Code Section 2150(b) without
27 substantive change.

28 **CHAPTER 2. AQUATIC ORGANISMS**

29 **§ 5250. Planting of fish**

30 5250. Notwithstanding subdivision (b) of Section 4400, the punishment for each
31 violation of Section 25415 is a fine of not more than five thousand dollars
32 (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or
33 both the fine and imprisonment.

34 **Comment.** Section 5250 continues the part of former Fish and Game Code Section 12007
35 applicable to former Fish and Game Code Section 6400 without substantive change.

36 **§ 5252. Placement of aquatic organisms**

37 5252. Notwithstanding subdivision (b) of Section 4400, the punishment for each
38 violation of subdivision (b) of Section 23800 is a fine of not more than five

1 thousand dollars (\$5,000) or imprisonment in the county jail for a period not to
2 exceed one year, or both the fine and imprisonment.

3 **Comment.** Section 5252 continues the part of former Fish and Game Code Section 12007
4 applicable to former Fish and Game Code Section 15202 without substantive change.

5 **§ 5254. Importation of diseased aquatic organism**

6 5254. Notwithstanding subdivision (b) of Section 4400, the punishment for each
7 violation of a regulation issued pursuant to Section 24540 is a fine of not more
8 than five thousand dollars (\$5,000) or imprisonment in the county jail for a period
9 not to exceed one year, or both the fine and imprisonment.

10 **Comment.** Section 5254 continues the part of former Fish and Game Code Section 12007
11 applicable to former Fish and Game Code Section 15510 without substantive change.

12 **§ 5256. Permit to move quarantined aquatic plant or animal**

13 5256. Notwithstanding subdivision (b) of Section 4400, the punishment for each
14 violation of Section 24545 is a fine of not more than five thousand dollars
15 (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or
16 both the fine and imprisonment.

17 **Comment.** Section 5256 continues the part of former Fish and Game Code Section 12007
18 applicable to former Fish and Game Code Section 15509 without substantive change.

19 **§ 5258. Importation of aquatic plant or animal**

20 5258. Notwithstanding subdivision (b) of Section 4400, the punishment for each
21 violation of Section 24705 is a fine of not more than five thousand dollars
22 (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or
23 both the fine and imprisonment.

24 **Comment.** Section 5258 continues the part of former Fish and Game Code Section 12007
25 applicable to former Fish and Game Code Section 15600(a) without substantive change.

26 **§ 5260. Placement of aquatic nuisance species**

27 5260. (a) Notwithstanding subdivision (b) of Section 4400 or 5250, any person
28 who violates Section 25415 through the use of an aquatic nuisance species is
29 guilty of a misdemeanor, punishable by all of the following:

30 (1) Imprisonment in the county jail for not less than six months or more than one
31 year, a fine of not more than fifty thousand dollars (\$50,000) for each violation, or
32 both that imprisonment and fine.

33 (2) Revocation of all of the defendant's licenses and permits issued pursuant to
34 this code.

35 (b) This section shall not apply to the placement of any live fish, any fresh or
36 salt water animal, or any aquatic plant from the discharge or exchange of ballast
37 water from any vessel as defined by Section 21 of the Harbors and Navigation
38 Code.

39 (c) This section does not apply to the placement of an aquatic plant by a person
40 who was unaware that he or she was in possession of the plant. This exception

includes circumstances in which a plant becomes unknowingly and temporarily attached or affixed to a boat, boat trailer, or boat motor.

Comment. Section 5260 continues former Fish and Game Code Section 12023 (a), (d)-(e) without substantive change.

Notes. (1) Existing Fish and Game Code Section 12023 (which would be continued by proposed Section 5260) provides special punishment for violating existing Fish and Game Code Section 6400 (which would be continued by proposed Section 25415), “through the use of an aquatic nuisance species, as defined in Section 6431.” Existing Fish and Game Code Sections 12024 (which would be continued by proposed Section 25505) and 12026 (which would be continued by proposed Section 25510) also both refer to a person violating Section 6400 “through the use of an aquatic nuisance species.”

However, former Fish and Game Code Section 6431 was repealed in 2003 (see 2003 Cal. Stat. ch. 610) and there is now no definition of the term “aquatic nuisance species” in either the existing code, or in any current regulation adopted pursuant to the existing code.

The Commission invites comment on whether the current absence of a definition of the term “aquatic nuisance species” in the existing code is problematic, and should be addressed in the proposed law.

(2) Existing Fish and Game Code Section 12023 provides for a special punishment for a violation of existing Fish and Game Code Section 6400, “[n]otwithstanding Section 12002.” Another existing code section, Section 12007, also specifies a punishment for any violation of existing Section 6400, “[n]otwithstanding Section 12002.”

Because existing Section 12023 provides for a greater punishment than existing Section 12007, and for a specially defined violation of existing Section 6400, the Commission believes the Legislature intended Section 12023 to supersede Section 12007, whenever Section 12023 applies. Therefore, proposed Section 5260 (which would continue existing Section 12023) would begin with the caveat “Notwithstanding subdivision (b) of Section 4400 [which would continue existing Section 12002] or 5250 [which would continue the part of existing Section 12007 applicable to a violation of existing Section 6400],....”

The Commission invites comment on this revision of existing Fish and Game Code Section 12023.

§ 5262. Potentially diseased plants or animals

5262. Notwithstanding subdivision (b) of Section 4400, the punishment for each violation of Section 28100 is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

Comment. Section 5262 continues the part of former Fish and Game Code Section 12007 applicable to former Fish and Game Code Section 2270 without substantive change.

§ 5264. Permit required for importation of live aquatic organism

5264. Notwithstanding subdivision (b) of Section 4400, the punishment for each violation of Section 28110 is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

Comment. Section 5264 continue the part of former Fish and Game Code Section 12007 applicable to former Fish and Game Code Section 2271 without substantive change.

1 **§ 5266. Caulerpa algae**

5266. In addition to any other penalty provided by law, any person who violates
Section 28250 is subject to a civil penalty of not less than five hundred dollars
(\$500) and not more than ten thousand dollars (\$10,000) for each violation.

5 **Comment.** Section 5266 continues former Fish and Game Code Section 2300(c) without
6 substantive change.

7 CHAPTER 3. MAMMALS

8 **§ 5280. Elk**

9 5280. The department shall seize any elk imported in violation of Section 26865.

10 **Comment.** Section 5280 continues former Fish and Game Code Section 2118.4 without
11 substantive change.

12 § 5282. Elephants

5282. (a) Any person who violates Section 26870 is subject to the civil penalty set forth in Section 5204 or for each violation, and the restricted species permit for the elephant is subject to immediate suspension or revocation by the department. A person whose restricted species permit is suspended or revoked pursuant to this section may appeal the suspension or revocation to the commission by filing a written request for an appeal with the commission within 30 days of the suspension or revocation. A person who violates Section 26870 is not subject to the criminal penalties set forth in this code.

(b) The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section shall not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

25 **Comment.** Section 5282 continues former Fish and Game Code Section 2128(b)-(c) without
26 substantive change.

27 CHAPTER 4. DOMESTICATION

28 **§ 5290. Domestication of game animals**

5290. Any license issued under Title 1 (commencing with Section 26000) of
Part 4 of Division 7 may be revoked by the commission upon conviction of the
licensee of a violation of any provision of this code, and no similar license may be
issued to the licensee during the same license year.

33 **Comment.** Section 5290 continues former Fish and Game Code Section 3218 without
34 substantive change.

CHAPTER 5. IVORY

§ 5300. Criminal penalty

5300. For a violation of any provision of Title 2 (commencing with Section 28650) of Part 10 of Division 7 or any rule, regulation, or order adopted pursuant to that title, the following criminal penalties shall be imposed:

(a) For a first conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars (\$250) or less, the offense shall be a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000), or more than ten thousand dollars (\$10,000), imprisonment in a county jail for not more than 30 days, or by both the fine and imprisonment.

(b) For a first conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars (\$250), the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000), or more than forty thousand dollars (\$40,000), imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

(c) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars (\$250) or less, the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000), or more than forty thousand dollars (\$40,000), imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

(d) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars (\$250), the offense shall be a misdemeanor punishable by a fine of not less than ten thousand dollars (\$10,000), or more than fifty thousand dollars (\$50,000) or the amount equal to two times the total value of the ivory or rhinoceros horn involved in the violation, whichever is greater, imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

Comment. Section 5300 continues former Fish and Game Code Section 2022(e) without substantive change.

§ 5302. Payment of reward

5302. (a) For any conviction or other entry of judgment imposed by a court for a violation of Title 2 (commencing with Section 28650) of Part 10 of Division 7 resulting in a fine, the court may pay one-half of the fine, but not to exceed five hundred dollars (\$500), to any person giving information that led to the conviction or other entry of judgment.

(b) This reward shall not apply if the informant is a regular salaried law enforcement officer, or officer or agent of the department.

Comment. Section 5302 continues former Fish and Game Code Section 2022(g) without substantive change.

1 **§ 5304. Forfeiture**

2 5304. Upon conviction or other entry of judgment for a violation of Title 2
3 (commencing with Section 28650) of Part 10 of Division 7, any seized ivory or
4 rhinoceros horn shall be forfeited and, upon forfeiture, either maintained by the
5 department for educational or training purposes, donated by the department to a
6 bona fide educational or scientific institution, or destroyed.

7 **Comment.** Section 5304 continues former Fish and Game Code Section 2022(h) without
8 substantive change.

9 **§ 5306. Enforcement under Penal Code Section 653o**

10 5306. Title 2 (commencing with Section 28650) of Part 10 of Division 7 does
11 not preclude enforcement under Section 653o of the Penal Code.

12 **Comment.** Section 5306 continues former Fish and Game Code Section 2022(j) without
13 substantive change.

14 **§ 5308. Administrative penalty**

15 5308. (a) In addition to, and separate from, any criminal penalty provided for
16 under Section 5300, an administrative penalty of up to ten thousand dollars
17 (\$10,000) may be imposed for a violation of Title 2 (commencing with Section
18 28650) of Part 10 of Division 7, or any rule, regulation, or order adopted pursuant
19 to that part.

20 (b) Penalties authorized pursuant to this section may be imposed by the
21 department consistent with all of the following:

22 (1) The chief of enforcement issues a complaint to any person or entity on which
23 an administrative penalty may be imposed pursuant to this section. The complaint
24 shall allege the act or failure to act that constitutes a violation, relevant facts, the
25 provision of law authorizing the administrative penalty to be imposed, and the
26 proposed penalty amount.

27 (2) The complaint and order is served by personal notice or certified mail and
28 informs the party served that the party may request a hearing no later than 20 days
29 from the date of service. If a hearing is requested, it shall be scheduled before the
30 director or his or her designee, which designee shall not be the chief of
31 enforcement issuing the complaint and order. A request for hearing shall contain a
32 brief statement of the material facts the party claims support his or her contention
33 that an administrative penalty should not be imposed or that an administrative
34 penalty of a lesser amount is warranted. A party served with a complaint pursuant
35 to this subdivision waives the right to a hearing if no hearing is requested within
36 20 days of service of the complaint, in which case the order imposing the
37 administrative penalty shall become final.

38 (3) The director, or his or her designee, shall control the nature and order of the
39 hearing proceedings. Hearings shall be informal in nature, and need not be
40 conducted according to the technical rules relating to evidence. The director, or his
41 or her designee, shall issue a final order within 45 days of the close of the hearing.

1 A final copy of the order shall be served by certified mail upon the party served
2 with the complaint.

3 (4) A party may obtain review of the final order by filing a petition for a writ of
4 mandate with the superior court within 30 days of the date of service of the final
5 order. The administrative penalty shall be due and payable to the department
6 within 60 days after the time to seek judicial review has expired or, where the
7 party has not requested a hearing of the order, within 20 days after the order
8 imposing an administrative penalty becomes final.

9 (c) Administrative penalties collected pursuant to this section shall be deposited
10 in the Fish and Game Preservation Fund and used for law enforcement purposes
11 upon appropriation by the Legislature.

12 **Comment.** Section 5308 continues former Fish and Game Code Section 2022(f) and (i)
13 without substantive change.

14 TITLE 8. BIRDS

15 CHAPTER 1. BIRDS GENERALLY

16 § 5310. Bird nest or eggs

17 5310. Except as provided in subdivision (d) of Section 4754, the punishment for
18 a violation of Section 28905 is a fine of not more than five thousand dollars
19 (\$5,000), imprisonment in a county jail for not more than six months, or by both
20 that fine and imprisonment.

21 **Comment.** Section 5310 continues the part of former Fish and Game Code Section 12002(c)
22 applicable to former Fish and Game Code Section 350 without substantive change.

23 **Note.** Existing Section 12002(c) provides as follows:

24 Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503,
25 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in
26 the county jail for not more than six months, or by both that fine and imprisonment.

27 However, Section 12010 addresses only the punishment for a violation of existing Section
28 3503.5 (governing the taking or possession of birds of prey). **The reference to existing Section**
29 **12010 has not been continued in proposed Section 5310.**

30 CHAPTER 2. PROTECTED BIRDS

31 § 5320. Fully protected bird

32 5320. Except as otherwise provided in Section 597 of the Penal Code, the
33 punishment for a violation of Section 30200 is a fine of not more than five
34 thousand dollars (\$5,000) or imprisonment in the county jail for not more than one
35 year, or both the fine and imprisonment.

36 **Comment.** Section 5320 continues former Fish and Game Code Section 12008(b) without
37 substantive change. continue the first two sentences of former Fish and Game Code Section
38 3511(a)(1) without substantive change.

39 See also Section 4570 (enforcement).

CHAPTER 3. GAME BIRDS

§ 5330. Trophy wild turkey

5330. (a) Notwithstanding Section 4400 or 4462, the punishment for any person who knowingly violated and has been convicted of any of the following provisions where the violation involved a wild turkey, is a fine of not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment:

(1) Section 8015, if the person took an animal outside the established season.

(2) Section 8125.

(4) Section 257.5 of Title 14 of the California Code of Regulations.

(b) The commission shall adopt regulations to implement this section, including establishing a trophy designation and monetary value based on the size or related characteristics of wild turkeys.

(c) All revenue from fines imposed pursuant to this section for wild turkey violations shall be deposited in the Upland Game Bird Account established in Section 29515 and shall be used for the upland game bird conservation purposes described in that section.

(d) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 3610. The county board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 3915.

Comment. Section 5330 continues the part of former Fish and Game Code Section 12013.3 applicable to wild turkeys without substantive change.

See also Section 4552 (enforcement).

§ 5332. Pigeon

5332. (a) Except as provided in subdivision (b), any person who purposely takes any racing pigeon that at the time of taking is registered with a recognized organization is guilty of a misdemeanor.

(b) This section does not apply to either of the following:

(1) The taking of a registered racing pigeon by its owner.

(2) The incidental take of a registered racing pigeon while shooting or taking a wild band-tailed or domestic pigeon (*Columba livia*).

Comment. Section 5332 restates former Fish and Game Code Section 3680 without substantive change.

Note. Proposed Section 5332 is intended to restate existing Section 3680 to improve its clarity, without changing its substantive effect. The existing section reads as follows:

3680. Any person, other than the owner thereof, who at any time, by any means or in any manner, purposely takes any racing pigeon currently registered with a recognized organization, is guilty of a misdemeanor. However, the incidental take of registered racing pigeons with the

shooting or taking of wild band-tailed pigeons or domestic pigeons (*Columba livia*), is not a violation of this section.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

CHAPTER 4. NONGAME BIRDS

§ 5340. Taking nongame bird

5340. Except as provided in subdivision (d) of Section 4754, the punishment for a violation of Section 29850 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

Comment. Section 5340 continues the part of former Fish and Game Code Section 12002(c) applicable to former Fish and Game Code Section 3800 without substantive change.

Note. Existing Section 12002(c) provides as follows:

Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

However, Section 12010 addresses only the punishment for a violation of existing Section 3503.5 (governing the taking or possession of birds of prey). **The reference to existing Section 12010 has not been continued in proposed Section 5340.**

§ 5342. Taking or possession of migratory nongame bird

5342. Except as provided in subdivision (d) of Section 4754, the punishment for a violation of Section 29855 is a fine of not more than five thousand dollars (\$5,000), imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

Comment. Section 5342 continues the part of former Fish and Game Code Section 12002(c) applicable to former Fish and Game Code Section 3513 without substantive change.

Note. Existing Section 12002(c) provides as follows:

Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

However, Section 12010 addresses only the punishment for a violation of existing Section 3503.5 (governing the taking or possession of birds of prey). **The reference to existing Section 12010 has not been continued in proposed Section 5342.**

§ 5344. Possession of parts of nongame bird

5344. (a) The feathers, carcass, skin, or part of any nongame bird possessed in violation of any provision of this code shall be seized by the department and delivered to a California Native American tribal government or a scientific or educational institution, used by the department, or destroyed.

(b) Notwithstanding Chapter 3 (commencing with Section 30000) of Title 3 of Part 3 of Division 8, an officer deputized pursuant to this code may interrupt an

ongoing salvaging of a dead nongame bird carcass, feathers, skin, or part if, in the officer's judgment, the activity causes a public disruption or safety hazard, or is detrimental to the ability of the department to prevent a possible violation of Section 30000. In that event, the officer may seize the carcass, feathers, skin, or part being salvaged, or may return the carcass, feathers, skin, or part to the general location from where it had been salvaged.

Comment. Subdivision (a) of Section 5344 continues the second sentence of former Fish and Game Code Section 3801.6(a) without substantive change.

Subdivision (b) restates former Fish and Game Code Section 3801.6(c) without substantive change.

Note. Proposed Section 5344(b) is intended to restate existing Section 3801.6(c) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

Notwithstanding subdivisions (a) and (b), any officer deputized pursuant to this code may interrupt any ongoing salvaging of dead nongame carcasses, feathers, skins, or parts if, in the officer's judgment, the activity causes a public disruption, safety hazard, or is detrimental to the ability of the department to prevent a possible violation of this section. The officer may seize any of the salvaged feathers, carcasses, skins, or parts and has the option of returning them to the general location from where they were salvaged.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

CHAPTER 5. BIRDS-OF-PREY

§ 5350. Birds-of-prey

5350. Except as provided in subdivision (d) of Section 4754, the maximum punishment for each violation of Section 30110 is as follows:

(a) If the violation relates to a bird-of-prey designated as endangered, threatened, or fully protected, a fine of five thousand dollars (\$5,000), imprisonment in a county jail for a period of not to exceed one year, or both that fine and imprisonment.

(b) If the violation relates to a bird-of-prey that was taken from the wild and is subsequently reported to the department as having been bred in captivity, a fine of five thousand dollars (\$5,000), imprisonment in a county jail for a period of not to exceed one year, or both that fine and imprisonment.

(c) For all other violations of Section 30110, a fine of not more than five thousand dollars (\$5,000), imprisonment in a county jail for a period not to exceed six months, or both that fine and imprisonment.

Comment. Section 5350 combines and restates former Fish and Game Code Section 12010 and the part of former Fish and Game Code Section 12002(c) applicable to former Fish and Game Code Section 3503.5, without substantive change.

Note. Proposed Section 5350 is intended to combine and restate existing Section 12010 and the part of existing Section 12002(c) applicable to existing Section 3503.5, to clarify the meaning of those provisions without changing their substantive effect. The existing provisions read as follows:

12002. (c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars (\$5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

12010. (a) Notwithstanding Section 12002, the maximum punishment for each violation of Section 3503.5 relating to a bird-of-prey designated as endangered, threatened, or fully protected is a fine of five thousand dollars (\$5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

(b) Notwithstanding Section 12002, the maximum punishment for a violation of Section 3503.5 relating to any bird-of-prey that was taken from the wild and that is subsequently reported to the department as having been bred in captivity is a fine of five thousand dollars (\$5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

TITLE 9. MAMMALS

CHAPTER 1. PROTECTED MAMMALS

§ 5400. Fully protected mammal

5400. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of Section 32700 is a fine of not more than twenty-five thousand dollars (\$25,000) for each unlawful taking, imprisonment in the county jail for not more than one year, or both that fine and imprisonment.

Comment. Section 5400 combines and continues former Fish and Game Code Section 12008(c) and the part of former Fish and Game Code Section 12003.2 applicable to former Fish and Game Code Section 4700, without substantive change.

See also Section 4570 (enforcement).

Note. Proposed Section 5400 is intended to combine and continue the part of existing Fish and Game Code Section 12003.2 applicable to existing Section 4700, and existing Fish and Game Code Section 12008(c), while preserving the substantive effect of both provisions. The two existing provisions read as follows:

12003.2. Notwithstanding Section 12002 or 12008, the punishment for any violation of Section 4500 or 4700 is a fine of not more than twenty-five thousand dollars (\$25,000) for each unlawful taking, imprisonment in a county jail for the period prescribed in Section 12002 or 12008, or both the fine and imprisonment.

12008. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of any of the following provisions is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

...

(c) Chapter 8 (commencing with Section 4700) of Part 3 of Division 4.


The Commission invites comment on whether proposed Section 5400(c) continues both provisions without substantive change.

1 **§ 5402. Mountain lion**

2 5402. (a) A violation of Section 35350 is a misdemeanor punishable by
3 imprisonment in a county jail for not more than one year, or a fine of not more
4 than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

5 (b) An individual is not guilty of a violation of this section if it is demonstrated
6 that, in taking or injuring a mountain lion, the individual was acting in self-defense
7 or in defense of others.

8 **Comment.** Section 5402 continues former Fish and Game Code Section 4800(c) without
9 substantive change.

10  **Note.** Existing Fish and Game Code Sections 4800 was added in 1990 pursuant to an
11 initiative statute, Proposition 117. The Commission believes that the nonsubstantive continuation
12 of that provision in the proposed law would not be an impermissible amendment. See discussion
13 of initiative statutes *supra* at notes 20-22 and associated text.

14 CHAPTER 2. GAME MAMMALS

15 Article 1. Game Mammals Generally

16 **§ 5450. Trophy mammals**

17 5450. (a) Notwithstanding Section 4400 or 4462, the punishment for any person
18 who knowingly violated and has been convicted of any of the following provisions
19 where the violation involved a trophy deer, elk, antelope, or bighorn sheep shall be
20 a fine of not less than five thousand dollars (\$5,000) nor more than forty thousand
21 dollars (\$40,000), or imprisonment in the county jail for not more than one year,
22 or both that fine and imprisonment:

23 (1) Section 8015, if the person took an animal outside the established season.

24 (2) Section 8125.

25 (3) Section 29370.

26 (4) Section 257.5 of Title 14 of the California Code of Regulations.

27 (5) Section 34200.

28 (6) Section 8300, if the person failed to procure the required license or tag prior
29 to taking a deer, elk, antelope, or bighorn sheep.

30 (b) The commission shall adopt regulations to implement this section, including
31 establishing a trophy designation and monetary value based on the size or related
32 characteristics of deer, elk, antelope, and bighorn sheep.

33 (c) All revenue from fines imposed pursuant to this section for deer, elk,
34 antelope, and bighorn sheep violations shall be deposited in the Big Game
35 Management Account established in Section 31900 and shall be used for the big
36 game management purposes described in that section.

37 (d) Moneys equivalent to 50 percent of the revenue from any fine collected
38 pursuant to this section shall be paid to the county in which the offense was
39 committed, pursuant to Section 3610. The county board of supervisors shall first

1 use revenues pursuant to this subdivision to reimburse the costs incurred by the
2 district attorney or city attorney in investigating and prosecuting the violation. Any
3 excess revenues may be expended in accordance with Section 3915.

4 **Comment.** Section 5450 continues the part of former Fish and Game Code Section 12013.3
5 applicable to specified mammals without substantive change.

6 See also Section 4552 (enforcement).

7 Article 2. Bears

8 § 5460. Use of signal-emitting device to traffic in bear parts

9 5460. (a) In addition to any other penalties provided in this code, any person
10 convicted of violating this code or any regulation adopted pursuant to this code
11 while using a signal-emitting device in conjunction with the take of bear for the
12 purpose of selling or trafficking in bear parts shall be subject to a fine of ten
13 thousand dollars (\$10,000) per bear part. For purposes of this section, a “signal-
14 emitting device” means any device capable of generating radio, cellular, satellite,
15 or other signal transmission for purposes of providing communication or location
16 information.

17 (b) All revenue from fines imposed pursuant to this section shall be deposited in
18 the Big Game Management Account established in Section 31900 and shall be
19 used for the big game management purposes described in that section.

20 (c) Moneys equivalent to 50 percent of the revenue from any fine collected
21 pursuant to this section shall be paid to the county in which the offense was
22 committed, pursuant to Section 3610. The county board of supervisors shall first
23 use revenues pursuant to this subdivision to reimburse the costs incurred by the
24 district attorney or city attorney in investigating and prosecuting the violation. Any
25 excess revenues may be expended in accordance with Section 3915.

26 **Comment.** Section 5460 continues former Fish and Game Code Section 12013.5 without
27 substantive change.

28 See also Section 4552 (enforcement).

29 § 5462. Commercial use of bear parts

30 5462. (a) Notwithstanding Section 4400, 4462, or 4800, and except as otherwise
31 provided in subdivision (c), the punishment for each violation of Section 33455
32 shall include both of the following:

33 (1) A fine of two hundred fifty dollars (\$250) for each bear part. As used in this
34 paragraph, “bear part” means an individual part or group of like parts of any bear
35 that the defendant knowingly and unlawfully sells, purchases, or possesses for
36 sale. For the purposes of this paragraph, claws, paws, or teeth from a single bear
37 that are knowingly purchased, sold, or possessed for sale with the intent that they
38 be delivered to a single end user shall be considered a single part.

1 (2) An additional fine of not more than five thousand dollars (\$5,000),
2 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or in
3 a county jail for not more than one year, or both that fine and imprisonment.

4 (b) If a conviction for violation of Section 33455 is based on the possession of
5 two bear gallbladders, and probation is granted or the execution or imposition of
6 sentence is suspended, it shall be a condition of that probation or suspended
7 sentence that a minimum term of 30 days be served in a county jail.

8 (c) A conviction for violation of Section 33455 based on possession of three or
9 more bear gallbladders is subject to all of the following:

10 (1) The punishment for the offense shall include both of the following:

11 (A) The fine specified in paragraph (1) of subdivision (a).

12 (B) An additional fine of not more than ten thousand dollars (\$10,000),
13 imprisonment in a county jail for not more than one year, or both that fine and
14 imprisonment.

15 (2) If probation is granted or the execution or imposition of sentence is
16 suspended, it shall be a condition of that probation or suspended sentence that a
17 minimum term of three months be served in a county jail.

18 (d) Consecutive sentences shall be imposed for separate violations of Section
19 33455.

20 **Comment.** Section 5462 continues former Fish and Game Code Section 12005 without
21 substantive change.

22 **§ 5466. Forfeiture of bear tags**

23 5466. (a) Any person who is convicted of a violation of any provision of this
24 code, or of any rule, regulation, or order made or adopted pursuant to this code,
25 relating to bears, shall forfeit any bear tags issued to that person, and new bear
26 tags shall not be issued to that person during the then current license year for
27 hunting licenses.

28 (b) A person described in subdivision (a) shall not apply for bear tags for the
29 following license year.

30 **Comment.** Section 5466 continues former Fish and Game Code Section 4754 without
31 substantive change.

32 **Article 3. Deer**

33 **§ 5480. Forfeiture of deer tags**

34 5480. (a) Any person who is convicted of a violation of any provision of this
35 code, or of any rule, regulation, or order made or adopted pursuant to this code,
36 relating to deer, shall forfeit any deer tags issued to that person, and no new deer
37 tags shall be issued to that person during the then current license year for hunting
38 licenses.

39 (b) No person described in subdivision (a) may apply for deer tags for the
40 following license year.

§ 5490. Bighorn sheep

Comment. Section 5490 continues former Fish and Game Code Section 12008.5 without substantive change.

CHAPTER 4. MARINE MAMMALS

Comment. Section 5520 continues the part of former Fish and Game Code Section 12003.2 applicable to former Fish and Game Code Section 4500 without substantive change.

Comment. Section 5522 continues former Fish and Game Code Section 4502.5(b) without substantive change.

Comment. Section 5540 continues former Fish and Game Code Section 12002(b)(3) without substantive change.

1 **§ 5542. Burro sanctuary**

2 5542. Any violation of Section 34065 is a misdemeanor.

3 **Comment.** Section 5542 continues the second sentence of subdivision (a) of former Fish and
4 Game Code Section 10931 without substantive change.

5 **TITLE 10. FISH**

6 **CHAPTER 1. PROTECTED FISH**

7 **§ 5600. Fully protected fish**

8 5600. Except as otherwise provided in Section 597 of the Penal Code, the
9 punishment for a violation of Section 38200 is a fine of not more than five
10 thousand dollars (\$5,000) or imprisonment in the county jail for not more than one
11 year, or both the fine and imprisonment.

12 **Comment.** Section 5600 continues former Fish and Game Code Section 12008(e) without
13 substantive change.

14 **CHAPTER 2. TYPES OF FISH**

15 **Article 1. Anchovies**

16 **§ 5650. Anchovies**

17 5650. (a) In addition to any other applicable penalty, the commercial fishing
18 license of the master of a vessel may be revoked or suspended by the commission,
19 when requested by the department, for a period not to exceed one year, upon the
20 second conviction in three years of the master or the master's agent, servant,
21 employee, or any other person acting under the master's direction or control, for a
22 violation of any provision of Title 2 (commencing with Section 38500) of Part 4 of
23 Division 10.

24 (b) A master's license shall not be revoked unless both the first and second
25 convictions are for a violation by the master or a violation occurring when the
26 person convicted was acting as the master's agent, servant, employee, or acting
27 under the master's direction or control.

28 (c) The master of a vessel is the person on board the vessel who is in charge of
29 the vessel.

30 **Comment.** Section 5650 continues the part of former Fish and Game Code Section
31 12002.8(d)-(f) applicable to the provisions of this chapter, without substantive change.

32 **Article 2. Bass**

33 **§ 5660. White bass**

34 5660. Notwithstanding subdivision (b) of Section 4400, the punishment for each
35 violation of Section 38870 is a fine of not more than five thousand dollars

1 (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or
2 both the fine and imprisonment.

3 **Comment.** Section 5660 continues the part of former Fish and Game Code Section 12007
4 applicable to former Fish and Game Code Section 6400.5 without substantive change.

5 Article 3. Carp

6 § 5670. Grass carp

7 5670. A violation of subdivision (e) of Section 39225 shall be punished by a fine
8 of not more than five thousand dollars (\$5,000), by imprisonment in a county jail
9 for not more than one year, or by both that fine and imprisonment.

10 **Comment.** Section 5670 continues part of subdivision (e) of former Fish and Game Code
11 Section 6455 without substantive change.

12 Article 4. Halibut

13 § 5680. Halibut

14 5680. (a) In addition to any other applicable penalty, the commercial fishing
15 license of the master of a vessel may be revoked or suspended by the commission,
16 when requested by the department, for a period not to exceed one year, upon the
17 second conviction in three years of the master or the master's agent, servant,
18 employee, or any other person acting under the master's direction or control, for a
19 violation of any provision of Chapter 2 (commencing with Section 39900) of Title
20 2 of Part 12 of Division 10.

21 (b) A master's license shall not be revoked unless both the first and second
22 convictions are for a violation by the master or a violation occurring when the
23 person convicted was acting as the master's agent, servant, employee, or acting
24 under the master's direction or control.

25 (c) The master of a vessel is the person on board the vessel who is in charge of
26 the vessel.

27 **Comment.** Section 5680 continues the part of former Fish and Game Code Section
28 12002.8(d)-(f) applicable to the provisions of this chapter, without substantive change.

29 **Note.** Existing Fish and Game Code Section 12002.8(d) (which would be continued by
30 proposed Section 5680(a)) applies to a violation of any of several articles of Chapter 2 of Part 3
31 of Division 6 of the existing code, including what is identified as "Article 13 (commencing with
32 Section 8495).

33 Three years after the last amendment of Section 12002.8, a new Section 8494 was inserted at
34 the beginning of that Article 13, rendering Section 12002.8(d)'s description of the article
35 technically inaccurate.

36 The Commission's analysis suggests that the inaccuracy represents only a drafting omission,
37 rather an affirmative intention to exclude Section 8494 from the application of Section
38 12002.8(d). Proposed Section 26700 is therefore drafted to apply to the proposed continuation of
39 Section 8494 (which is divided into multiple proposed sections in the chapter containing Section
40 5680).

§ 5690. Herring

(b) A master's license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master's agent, servant, employee, or acting under the master's direction or control.

Comment. Section 5690 continues the part of former Fish and Game Code Section 12002.8(d)-(f) applicable to the provisions of this chapter, without substantive change.

5692. The commission shall revoke the herring permit of a permittee convicted of any of the following violations:

(c) Failing to correctly file with the department the offer or the acceptance for a permit transferred pursuant to Section 40380.

§ 5700. Marlin

Comment. Section 5700 continues the first sentence of former Fish and Game Code Section 8582(b) without substantive change.

Article 7. Salmon

§ 5710. Salmon

5710. (a) In addition to any other applicable penalty, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the master or the master's agent, servant, employee, or any other person acting under the master's direction or control, for a violation of any provision of Chapter 3 (commencing with Section 41450) of Title 2 of Part 17 of Division 10.

(b) A master's license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master's agent, servant, employee, or acting under the master's direction or control.

(c) The master of a vessel is the person on board the vessel who is in charge of the vessel.

Comment. Section 5710 restates the part of former Fish and Game Code Section 12002.8(d)-(f) applicable to the provisions of this chapter, without substantive change.

Note. Proposed Section 5710(a) is intended to restate the part of existing Fish and Game Code Section 12002.8(d) applicable to this chapter, to clarify the meaning of that existing provision without changing its substantive effect. The existing provision begins as follows, with the restated language italicized:

Notwithstanding *Sections 12000, 12001, and 12002*, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department....

The Commission invites comment on whether the restatement of the italicized language in proposed Section 5710(a) would cause any substantive change in the meaning of the provision.

Article 8. Sardine

§ 5720. Sardine

5720. (a) In addition to any other applicable penalty, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the master or the master's agent, servant, employee, or any other person acting under the master's direction or control, for a violation of any provision of Chapter 1 (commencing with Section 42250) of Title 2 of Part 18 of Division 10.

(b) A master's license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master's agent, servant, employee, or acting under the master's direction or control.

(c) The master of a vessel is the person on board the vessel who is in charge of the vessel.

Comment. Section 5720 restates the part of former Fish and Game Code Section 12002.8(d)-(f) applicable to the provisions of this article, without substantive change.

Note. Proposed Section 5720(a) is intended to restate the part of existing Fish and Game Code Section 12002.8(d) applicable to its article, to clarify the meaning of that existing provision without changing its substantive effect. The existing provision begins as follows, with the restated language italicized:

Notwithstanding *Sections 12000, 12001, and 12002*, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department....

The Commission invites comment on whether the restatement of the italicized language in proposed Section 5720(a) would cause any substantive change in the meaning of the provision.

Article 9. Sturgeon

§ 5730. Sturgeon

5730. (a) Notwithstanding Section 4400 or 4462, the punishment for a violation of Section 43150 is a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000), imprisonment in a county jail not to exceed one year, or both that fine and imprisonment.

(b) The court shall also permanently revoke any commercial fishing license or commercial fishing permit, and may permanently revoke any sport fishing license issued to the violator by the department.

(c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense subject to this section may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 4570.

(d) Fifty percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the department, and used for law enforcement purposes.

Comment. Subdivision (a) of Section 5730 continues former Fish and Game Code Section 12006(a)(1) without substantive change.

Subdivisions (b)-(d) continue the part of former Fish and Game Code Section 12006(b) applicable to former Fish and Game Code Section 7370 without substantive change.

§ 5732. Sturgeon egg processing

5732. (a) Any person convicted of a violation of a provision of Chapter 4 (commencing with Section 43250) of Title 1 of Part 21 of Division 10, or a violation of any other provision of this code or any regulation adopted pursuant to this code relating to sturgeon, shall be prohibited from engaging in the business of canning, curing, preserving, packing, or otherwise processing, or dealing at

1 wholesale or retail in the eggs of sturgeon in this state, for one year from the date
2 of the conviction.

3 (b) Any person convicted of a second or subsequent violation of a provision of
4 Chapter 4 (commencing with Section 43250) of Title 1 of Part 21 of Division 10,
5 or a violation of any other provision of this code or any regulation adopted
6 pursuant to this code relating to sturgeon, within five years of another offense
7 resulting in a conviction of a violation of any of those provisions, is prohibited
8 from engaging in any activity for which a sturgeon egg processing license is
9 required, for five years from the date of the last conviction.

10 (c) The commission shall revoke any license issued pursuant to Chapter 4
11 (commencing with Section 43250) of Title 1 of Part 21 of Division 10 to a person
12 who is prohibited from engaging in that business under this section. No sturgeon
13 egg processing license revoked pursuant to this section shall be issued, reissued, or
14 reinstated during the period of prohibition prescribed in this section.

15 (d) It is unlawful for any person to obtain, or attempt to obtain, a sturgeon egg
16 processing license pursuant to Chapter 4 (commencing with Section 43250) of
17 Title 1 of Part 21 of Division 10 during the period of prohibition prescribed in this
18 section.

19 **Comment.** Section 5732 continues former Fish and Game Code Section 10005 without
20 substantive change.

21 TITLE 11. INVERTEBRATES

22 CHAPTER 1. ABALONE

23 § 5800. Take of abalone from ocean waters

24 5800. Notwithstanding subdivision (a) of Section 4400, a person who violates
25 Section 45700 is guilty of an infraction punishable by a fine of not less than one
26 hundred dollars (\$100) and not to exceed one thousand dollars (\$1,000), or of a
27 misdemeanor.

28 **Comment.** Section 5800 continues former Fish and Game Code Section 12000(b)(3) without
29 substantive change.

30 § 5802. Prohibited take of abalone

31 5802. (a) Notwithstanding Section 4400, and except as provided in Section
32 5804, the punishment for a violation of any provision of Section 45800 or 45805,
33 or any regulation adopted pursuant to either Section 45800 or 45805, or of Section
34 13600 or 13605 involving abalone, is a fine of not less than fifteen thousand
35 dollars (\$15,000) or more than forty thousand dollars (\$40,000) and imprisonment
36 in a county jail for a period not to exceed one year. The court shall permanently
37 revoke any commercial fishing license, commercial fishing permit, or sport fishing
38 license issued by the department. Any vessel, diving or other fishing gear or
39 apparatus, or vehicle used in the commission of an offense punishable under this

section, may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 4570. Notwithstanding any other provision of law, the commercial license of any person arrested for a violation punishable under this section may not be sold, transferred, loaned, or leased, or used as security for any financial transaction until disposition of the charges is final.

(b) Notwithstanding any other provision of law, the money collected from any fine or forfeiture imposed or collected for the taking of abalone for any purpose other than for profit in violation of this article or any other provision of law shall be deposited as follows:

(1) One-half in the Abalone Restoration and Preservation Account.

(2) One-half in the county treasury of the county in which the violation occurred.

Comment. Section 5802 continues former Fish and Game Code Section 12009 without substantive change.

Note. Existing Fish and Game Code Section 12009 (which would be continued by proposed Section 5802, immediately above) and existing Fish and Game Code Section 12006.6 (which would be continued by proposed Section 5804) both specify punishment for a violation of either existing Section 5521 or 5521.5. However, the punishment specified under Section 12006.6 is to be imposed only if the violation occurs in a specially described location, and the person committing the violation has engaged in specified excess take.

Section 12006.6 provides that punishment under that section shall be imposed “in addition to Section 12009,” suggesting Section 12006.6 is intended to *enhance* (i.e. add to) the punishment provided for under Section 12009. This construction of the two sections is also largely consistent with the punishments specified by the two sections, as the “base” punishment section (Section 12009) requires two aspects of punishment that are not part of the specified punishment under Section 12006.6 (jail time, and immediate revocation of any sport fishing license held by the offender).

However, the Commission still has several questions about the intended interrelationship between the two sections:

(a) Both sections provide for imposition of an identical fine – not less than fifteen thousand dollars (\$15,000) or more than forty thousand dollars (\$40,000). If it is correct that Section 12006.6 is intended to provide for enhanced punishment beyond that required by Section 12009, does that mean a person sentenced pursuant to Section 12006.6 can receive *double* that specified fine?

(b) The punishments called for by the two sections do not make clear which construction of the two sections is intended. For example, both sections provide for exactly the same fine – not less than fifteen thousand dollars (\$15,000) or more than forty thousand dollars (\$40,000). Does this mean that a person sentenced pursuant to Section 12006.6 can receive that same fine *twice*? That result would seem odd, given that Section 12006.6 provides for *no* additional jail time beyond the jail time required by Section 12009.

(c) Section 12009(b) provides (with emphasis added) that “[n]otwithstanding *any other provision of law*,” the money collected from *any* fine or forfeiture imposed or collected for the taking of abalone for any purpose other than for profit *in violation of this article or any other provision of law* shall be deposited as follows:

(1) One-half in the Abalone Restoration and Preservation Account.

(2) One-half in the county treasury of the county in which the violation occurred.

However, Section 12006.6(d), a “provision of law” described by Section 12009(b), provides that “[n]ot less than 50 percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of

the Special Operations Unit of the Wildlife Protection Division of the department and used for law enforcement purposes.” It is unclear how these apportionment provisions are intended to be reconciled.

The Commission invites comment on all of these issues.

§ 5804. Prohibited take of abalone in excess amounts

5804. Notwithstanding Section 4400, 4462, or 5808, and in addition to Section 5802, and notwithstanding the type of fishing license or permit held, if any person is convicted of a violation of Section 45800 or 45805, and the offense occurs in an area closed to the taking of abalone for commercial purposes, and the person takes or possesses more than 12 abalone at one time or takes abalone in excess of the annual bag limit, that person shall be punished by all of the following:

(a) A fine of not less than fifteen thousand dollars (\$15,000) or more than forty thousand dollars (\$40,000).

(b) The court shall order the department to permanently revoke, and the department shall permanently revoke, the commercial fishing license and any commercial fishing permits of that person. The person punished under this subdivision shall not, thereafter, be eligible for any license or permit to take or possess fish for sport or commercial purposes, including, but not limited to, a commercial fishing license or a sport fishing or sport ocean fishing license. Notwithstanding any other provision of law, the commercial license or permit of a person arrested for a violation punishable under this section may not be sold, transferred, loaned, leased, or used as security for any financial transaction until disposition of the charges is final.

(c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense punishable under this section shall be seized, and shall be ordered forfeited in the same manner prescribed for nets or traps used in violation of this code, as described in Article 3 (commencing with Section 4975) of Chapter 4, of Title 6, of Part 4 of Division 3 or in the manner prescribed in Section 4570.

(d) Not less than 50 percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the Wildlife Protection Division of the department and used for law enforcement purposes.

Comment. Section 5804 continues former Fish and Game Code Section 12006.6 without substantive change.

Note. Existing Section 12006.6 provides a penalty for a specified offense. It states in part that it is “in addition to Section 12009,” which states a more severe penalty for what seems to be a less severe offense. Is the penalty in Section 12009 intended to be an additional enhancement of a sentence imposed under Section 12009? If not, how should the two provisions be understood?

The Commission invites comment on these points.

1 **§ 5806. Suspension of license or permit based on pending criminal charge**

2 5806. (a) When a complaint has been filed in a court of competent jurisdiction
3 charging a person with a violation that may result in suspension or revocation of
4 any license or permit to take abalone for a commercial purpose, and no disposition
5 of the complaint has occurred within 90 days after it has been filed in the court,
6 the department may suspend the license or permit of that person.

7 (b) Whenever the department proposes to suspend a license or permit under this
8 section, notice and an opportunity to be heard shall be given to the licensee or
9 permittee, before taking the action. The notice shall contain a statement setting
10 forth the proposed action and the grounds for the action, and notify the licensee or
11 permittee of his or her right to a hearing as provided in this section. Within 10
12 days after the receipt of the notice from the department, the licensee or permittee
13 may request a hearing. The hearing shall be held by the commission at the next
14 regularly scheduled hearing of the commission held more than 30 days after the
15 notice of intent to suspend the license or permit was sent. The licensee or
16 permittee shall be given 10 days' notice of the time and place of the hearing.

17 (c) A decision shall be made within a reasonable time on whether the license or
18 permit shall be suspended until the disposition of the complaint by the court. In
19 determining whether to order the suspension, the commission shall consider
20 whether or not the violation could have a detrimental effect on the resources and
21 whether or not a suspension is in the best public interest, and shall find whether
22 there is sufficient evidence that a violation has occurred. A failure to make a
23 finding that there is sufficient evidence that a violation has occurred, or a finding
24 there is insufficient evidence, shall terminate the proceedings under this section.

25 (d) If the person is acquitted of the charges in the complaint, or the charges are
26 dismissed, any suspension under this section is thereby terminated.

27 (e) No complaint shall be filed in a court charging a commercial abalone
28 violation unless evidence supporting the charge has been reviewed by the
29 appropriate county or city prosecuting agency, and a criminal complaint has been
30 issued by that agency.

31 **Comment.** Section 5806 continues former Fish and Game Code Section 12002.10 without
32 substantive change.

33 **§ 5808. Revocation of license or permit upon conviction**

34 5808. (a) The court shall order the department to permanently revoke, and the
35 department shall permanently revoke, the commercial fishing license and any
36 commercial fishing permit of any person convicted of either of the following:

37 (1) Taking or possessing abalone out of season.

38 (2) Taking or possessing abalone taken illegally from any area north of Point
39 Sur.

40 (b) The court shall order the department to permanently revoke, and the
41 department shall permanently revoke, the commercial fishing license and any

1 commercial fishing permit of any person convicted of either of the following
2 offenses, if the person possessed more than 12 abalone at the time of the offense:

3 (1) Removing abalone from the shell, or possessing abalone illegally removed
4 from the shell.

5 (2) Taking or possessing abalone that are less than the minimum size.

6 (c) Any person whose license or permit is revoked pursuant to subdivision (a) or
7 (b) shall not thereafter be eligible for any license or permit to take or possess fish
8 for a sport or commercial purpose.

9 **Comment.** Section 5808 continues former Fish and Game Code Section 12002.8(a)-(c)
10 without substantive change.

11 CHAPTER 2. CRAB

12 Article 1. Crab Generally

13 § 5820. Crab

14 5820. (a) In addition to any other applicable penalty, the commercial fishing
15 license of the master of a vessel may be revoked or suspended by the commission,
16 when requested by the department, for a period not to exceed one year, upon the
17 second conviction in three years of the master or the master's agent, servant,
18 employee, or any other person acting under the master's direction or control, for a
19 violation of any provision of Part 6 (commencing with Section 46500) of Division
20 11.

21 (b) A master's license shall not be revoked unless both the first and second
22 convictions are for a violation by the master or a violation occurring when the
23 person convicted was acting as the master's agent, servant, employee, or acting
24 under the master's direction or control.

25 (c) The master of a vessel is the person on board the vessel who is in charge of
26 the vessel.

27 **Comment.** Section 5820 restates the part of former Fish and Game Code Section 12002.8(d)-
28 (f) applicable to the provisions of this part, without substantive change.

Note. Proposed Section 5820(a) is intended to restate the part of existing Fish and Game Code Section 12002.8(d) applicable to this part, to clarify the meaning of that existing provision without changing its substantive effect. The existing provision begins as follows, with the restated language italicized:

Notwithstanding *Sections 12000, 12001, and 12002*, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department....

The Commission invites comment on whether the restatement of the italicized language in proposed Section 5820(a) would cause any substantive change in the meaning of the provision.

Article 2. Dungeness Crab

§ 5830. Taking or landing Dungeness crab without permit

5830. (a) The commission may revoke the commercial fishing license issued pursuant to Section 14550 of any person owning a fishing vessel engaging in the taking or landing of Dungeness crab by traps for which that person has not obtained a Dungeness crab vessel permit, and the commission may revoke the registration, issued pursuant to Section 14755, for that vessel.

(b) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Section 5830 continues former Fish and Game Code Section 8280.4 without substantive change.

Note. Proposed Section 5832 would continue Section 8280.4, which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 5832. Additional penalty for fishing without permit

5832. (a) In addition to criminal penalties authorized by law, a person who fishes without a Dungeness crab vessel permit, or who uses a Dungeness crab vessel permit to fish illegally on another vessel other than the permitted one, shall be subject to a fine not more than twenty thousand dollars (\$20,000) and, at the discretion of the department, revocation of the person's fishing license for a period not to exceed five years and revocation of the commercial boat registration license for a period not to exceed five years.

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

Comment. Subdivision (a) of Section 5832 restates former Fish and Game Code Section 8280.1(d) without substantive change.

Subdivision (b) continues Fish and Game Code Section 8280.1(e), as it applied to Section 8280.1(d), without substantive change.

Note. Proposed Section 5832 would continue Section 8280.1(d) and (e), which were amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 5834. Ocean waters

5834. (a) Notwithstanding subdivision (a) of Section 4400, a violation of Section 47155 does not constitute a misdemeanor. Pursuant to Section 4870, the commission shall revoke the Dungeness crab vessel permit that was issued for use on the vessel that was used in violation of Section 47155.

(b) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Subdivision (a) of Section 5834 continues former Fish and Game Code Section 8279.1(c) without substantive change.

Subdivision (b) continues Fish and Game Code Section 8279.1(d), as it applied to Section 8279.1(c), without substantive change.

Note. Proposed Section 5834 would continue Section 8279.1(c) and (d), which were amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 5836. Trap limit program

5836. (a) In addition to criminal penalties authorized by law, a violation of the requirements of the program adopted pursuant to Section 47610 shall be subject to the following civil penalties:

(1) Conviction of a first offense shall result in a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000) per illegal trap or fraudulent tag.

(2) Conviction of a second offense shall result in a fine of not less than five hundred dollars (\$500) and not more than two thousand five hundred dollars (\$2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one year.

(3) Conviction of a third offense shall result in a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) per illegal trap or fraudulent tag, and the permit may be permanently revoked.

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

(c) The portion of monetary judgments for noncompliance that are paid to the department shall be deposited in the Dungeness Crab Account created pursuant to subdivision (a) of Section 47660.

Comment. Section 5836 continues former Fish and Game Code Section 8276.5(b) without substantive change.

CHAPTER 3. LOBSTER

§ 5850. Lobster permit requirement

5850. (a) Notwithstanding Section 4400 or 4462, the punishment for a violation of Section 49500 is a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000), imprisonment in a county jail not to exceed six months, or both that fine and imprisonment.

(b) The court shall also permanently revoke any commercial fishing license or commercial fishing permit, and may permanently revoke any sport fishing license issued to the violator by the department.

(c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense subject to this section may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 4570.

(d) Fifty percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the department, and used for law enforcement purposes.

Comment. Subdivisions (a) of Section 5850 continues former Fish and Game Code Section 12006(a)(2) without substantive change.

Subdivisions (b) through (d) continue the part of former Fish and Game Code Section 12006(b) applicable to former Fish and Game Code Section 8254 without substantive change.

§ 5852. Suspension of permit pending criminal proceeding

5852. (a) When a complaint has been filed in a court of competent jurisdiction charging a holder of a commercial lobster permit with a violation of Section 49600 or 49605, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the commercial lobster permit of the person.

(b) The permitholder whose permit was suspended under this section may, within 10 days after the receipt of the suspension notice from the department, request a hearing, and, within 20 days after the request has been made, a hearing shall be held by the commission. A decision shall be made within a reasonable time on whether the suspension of the permit shall be terminated or continued until the disposition of the complaint by the court.

(c) In determining whether to terminate or continue the suspension of the permit, the commission shall consider whether or not the violation could have a detrimental effect on the resources, and whether or not a continued suspension of the permit is in the best public interest.

(d) The commission shall also make a finding whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred, or a finding that there is insufficient evidence of the violation, shall terminate the suspension of the permit under this section.

(e) If a permit holder whose permit is suspended pursuant to this section is subsequently acquitted of the charges against him or her in court, or those charges are dismissed, the suspension of the permit is automatically terminated.

Comment. Section 5852 continues the first six sentences of former Fish and Game Code Section 8254.7 without substantive change.

CHAPTER 4. MUSSELS

§ 5860. Dreissenid mussel control

5860. (a) In addition to any other penalty provided by law, any person who violates Chapter 1 (commencing with Section 49950) of Title 2 of Part 11 of Division 11, violates any verbal or written order or regulation adopted pursuant to that chapter, or who resists, delays, obstructs, or interferes with the implementation of that chapter, is subject to a penalty, in an amount not to exceed one thousand dollars (\$1,000), which shall be imposed administratively by the department.

(b) A penalty shall not be imposed pursuant to subdivision (a) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

Comment. Subdivisions (a) and (b) of Section 5860 continue former Fish and Game Code Section 2301(f) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 2301(i), as it applied to Section 2301(f), without substantive change.

§ 5862. Liability of reservoir owner or manager

5862. (a) A violation of Chapter 2 (commencing with Section 50100) of Title 2 of Part 11 of Division 11 is not governed by subdivision (a) of Section 4400.

(b) In lieu of any other penalty provided by law, a person who violates Chapter 2 (commencing with Section 50100) of Title 2 of Part 11 of Division 11 is subject to a civil penalty in an amount not to exceed one thousand dollars (\$1,000) per violation, which shall be imposed administratively by the department.

Comment. Section 5862 continues the first two sentences of former Fish and Game Code Section 2302(f) without substantive change.

CHAPTER 5. SEA CUCUMBER

§ 5870. Commission regulation

5870. The commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation

1 adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any
2 revocation of a permit pursuant to this subdivision shall be in addition to any
3 action the department may take pursuant to subdivision (a) of Section 4400.


4 **Comment.** Section 5870 continues former Fish and Game Code Section 8405.3(c) without
5 substantive change.

6 CHAPTER 6. SQUID

7 § 5880. Revocation of privileges for materially false statements

8 5880. The commission shall revoke the commercial fishing license, the
9 commercial boat registration of any vessel, and, if applicable, any licenses issued
10 pursuant to Section 20205, 20400, or 20450, that are held by any person
11 submitting material false statements, as determined by the commission, for the
12 purpose of obtaining a commercial market squid vessel permit or a commercial
13 squid light boat owner's permit.

14 **Comment.** Section 5880 continues the second sentence of former Fish and Game Code Section
15 8429 without substantive change.

16  **Note.** Existing Section 8429 refers to a “commercial light boat owner’s permit.” Section 8428
17 refers to a “commercial *squid* light boat owner’s permit.” Presumably these are the same kind of
18 boat. Proposed Section 5880 was drafted based on that assumption (i.e., the word “squid” was
19 added). **The Commission invites comment on whether that would cause a problem.**

20 TITLE 12. AMPHIBIANS

21 § 5900. Fully protected amphibians

22 5900. Except as otherwise provided in Section 597 of the Penal Code, the
23 punishment for a violation of Section 52200 is a fine of not more than five
24 thousand dollars (\$5,000) or imprisonment in the county jail for not more than one
25 year, or both the fine and imprisonment.

26 **Comment.** Section 5900 continues the part of former Fish and Game Code Section 12008(d)
27 applicable to amphibians without substantive change.

28 See also Section 4570 (enforcement).

29 TITLE 13. REPTILES

30 § 5950. Fully protected reptiles

31 5950. Except as otherwise provided in Section 597 of the Penal Code, the
32 punishment for a violation of Section 53000 is a fine of not more than five
33 thousand dollars (\$5,000) or imprisonment in the county jail for not more than one
34 year, or both the fine and imprisonment.

35 **Comment.** Section 5950 continues the part of former Fish and Game Code Section 12008(d)
36 applicable to reptiles without substantive change.

37 See also Section 4570 (enforcement).

TITLE 14. PLANTS

CHAPTER 1. KELP

§ 6000. License revocation or nonrenewal

6000. (a) The commission may revoke a license and prohibit its reissuance for a period of not more than one year, in either of the following circumstances:

(1) The licensee harvested kelp from a bed that was closed, after the department served notice of the closure on the licensee and before the bed was reopened.

(2) The licensee violated any law or regulation of the commission relating to kelp.

(b) A proceeding pursuant to this section shall be conducted at one of the commission's regularly scheduled meetings.

Comment. Section 6000 restates former Fish and Game Code Section 6656 without substantive change.

Notes. (1) Proposed Section 6000 would restate existing Section 6656 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

6656. The commission may revoke and prohibit reissuance for a period of not more than one year, the license of:

(a) Any person who harvests any kelp from a bed which is closed, between the time of service of notice upon him or her of the closing of the bed and the decision of the commission upon a hearing as to the necessity for the closing.

(b) Any person who violates any law or regulation of the commission relating to kelp. The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

The Commission invites comment on whether that restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 6656(a) provides a sanction for a person who harvests kelp from a bed that is closed, after notice of the closure and before "the decision of the commission upon a hearing as to the necessity for the closing." The latter language refers to one way in which a bed closure can end — if the commission decides, after an evidentiary hearing, that the closure is not necessary. See existing Section 6655. However, that is not the only way that a closure can end. If there is no hearing, or the commission affirms the closure, it will end automatically at the time specified in the closure order (which is not to exceed a period of one year). See existing Section 6654. Proposed Section 6000(a)(1) is phrased to be compatible with both possible endings.

The Commission invites comment on whether that revision would cause any problems.

TITLE 15. HABITAT CONSERVATION AND
ENHANCEMENT

§ 6050. Wildlife area pass

6050. (a) Notwithstanding Section 4400, a violation of Section 56030 is an infraction, not a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500). If a person convicted of a violation of Section 56030 is granted probation, the court shall

1 impose as a condition of probation that the person pay at least the minimum fine
2 prescribed in this subdivision.

3 (b) If a person is convicted of a violation of Section 56030 and produces in court
4 a valid wildlife area pass, the court may reduce the fine imposed for the violation
5 of Section 56030 to fifty dollars (\$50).

6 **Comment.** Section 6050 continues former Fish and Game Code Section 12002.5 without
7 substantive change.

8 **Note.** Existing Section 12002.5 begins with the disclaimer, “Notwithstanding Section
9 12002....” The only provision of Section 12002 that appears to be relevant to the purpose of that
10 reference is Section 12002(a). Proposed Section 6050 would refer to the section that continues
11 Section 12002(a). **The Commission invites Comment on whether that revision would be**
12 **problematic.**

13 **§ 6052. Wildlife habitat enhancement and management area**

14 6052. After notice and a hearing, the commission may revoke a license issued
15 pursuant to Section 56525 for any violation of any provision of this code or any
16 regulations adopted pursuant thereto or for any violation of the terms of the
17 license.

18 **Comment.** Section 6052 continues former Fish and Game Code Section 3404(b) without
19 substantive change.

20 **§ 6054. Shared Habitat Alliance for Recreational Enhancement Program**

21 6054. The department may revoke, for up to three years, a public access
22 privilege granted pursuant to Title 7 (commencing with Section 56200) of Part 2
23 of Division 15, of any person who violates any provision of this code or regulation
24 adopted pursuant to this code while on any property that is subject to an agreement
25 under the SHARE program established under Title 7 (commencing with Section
26 56200) of Part 2 of Division 15.

27 **Comment.** Section 6054 continues former Fish and Game Code Section 1574(a) without
28 substantive change.

29 **TITLE 16. PROTECTED AND MANAGED AREAS**

30 **§ 6100. Violation of specific regulations**

31 6100. Notwithstanding Section 4400, a person who violates any of the following
32 regulations in Title 14 of the California Code of Regulations is guilty of an
33 infraction punishable by a fine of not less than one hundred dollars (\$100) and not
34 to exceed one thousand dollars (\$1,000), or of a misdemeanor:

35 (a) Section 630.

36 (b) Section 632, except if any of the following apply:

37 (1) The person who violates the regulation holds a commercial fishing license
38 issued pursuant to Section 14500.

(2) The person who violates the regulation is operating a boat or vessel licensed pursuant to Title 12 (commencing with Section 12900) of Part 6 of Division 6 at the time of the violation.

(3) The violation of the regulation occurred within two years of a prior violation of the regulation that resulted in a conviction.

(c) Except as provided in Section 6104, a person described in paragraph (1) or (2) of subdivision (b) who violates Section 632 of Title 14 of the California Code of Regulations is guilty of a misdemeanor punishable pursuant to Sections 4400 and 4415.

Comment. Section 6100 continues former Fish and Game Code Section 12000(b)(11)-(12) without substantive change.

Note. Proposed Section 6100(b)(2) and (c) would continue Section 12000(b)(12)(A), which was amended by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 6102. Prohibited conduct in refuges

6102. The punishment for a violation of Section 58550, 58700, 59500, 59600, 60200, or 60300 is a fine of not more than two thousand dollars (\$2,000), imprisonment in a county jail for not more than one year, or both the fine and imprisonment.

Comment. Section 6102 continues former Fish and Game Code Section 12002(b)(6) without substantive change.

§ 6104. Unlawful take in marine protected area

6104. (a) Notwithstanding Section 4400 or any other provision of this code, a person who holds a commercial fishing license issued pursuant to Section 14500, or is operating a commercial passenger fishing boat licensed pursuant to Title 12 (commencing with Section 21900) of Part 6 of Division 6, and, for commercial purposes, either unlawfully takes a fish, within any meaning provided in Section 535, within a marine protected area, as defined in Section 60410, or engages in, or knowingly facilitates another person's, fishing activity within the marine protected area, is guilty of a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000) nor more than forty thousand dollars (\$40,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) If a person is convicted of a second or subsequent violation that is punishable pursuant to subdivision (a) and the violation occurred within 10 years of a prior violation that is punishable pursuant to subdivision (a) that resulted in a conviction, the department may suspend that person's license described in subdivision (a), as applicable, or other privilege issued pursuant to this code, and that person shall be punished by a fine of not less than ten thousand dollars (\$10,000) nor more than fifty thousand dollars (\$50,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(c) A person whose license or other privilege is suspended pursuant to this section may appeal the suspension to the commission. The commission shall initiate the appeal process within 12 months of the violator's appeal request. The commission shall consider at least the nature, circumstances, extent, and gravity of the person's violations, the person's culpability for the violations, and the injury to natural resources by the violations, and may restore a person's license or other privileges.

(d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense punishable under this section shall be commenced within three years after commission of the offense.

Comment. Section 6104 continues former Fish and Game Code Section 12012.5 without substantive change.

Note. Proposed Section 6104 would continue Section 12012.5, which was added by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

TITLE 17. ACTIVITIES THAT AFFECT WILDLIFE

CHAPTER 1. ENDANGERED SPECIES AND OTHER PROTECTED WILDLIFE

§ 6200. Forfeiture of proceeds from take of endangered, threatened, or protected animals

6200. The judge before whom any person is tried for a violation of a provision of this code that prohibits the taking of any endangered species, threatened species, or fully protected bird, mammal, reptile, amphibian, or fish may, in the court's discretion and upon the conviction of that person, order the forfeiture of any proceeds resulting from the taking of the endangered species, threatened species, or fully protected bird, mammal, reptile, amphibian, or fish.

Comment. Section 6200 continues former Fish and Game Code Section 12159.5 without substantive change.

§ 6202. Violation of California Endangered Species Act


6202. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of any provision of Part 1 (commencing with Section 62000) of Division 17 is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

Comment. Section 6202 continues former Fish and Game Code Section 12008(a) without substantive change.

1 **§ 6204. Violation of specified provisions**

2 6204. (a) Notwithstanding Section 4400 or 6202, the punishment for any
3 violation of Section 62600 or 62605 is a fine of not less than twenty-five thousand
4 dollars (\$25,000) or more than fifty thousand dollars (\$50,000) for each violation
5 or imprisonment in the county jail for not more than one year, or by both that fine
6 and imprisonment.

7 **Comment.** Section 6204 continues former Fish and Game Code Section 12008.1(a) without
8 substantive change.

9  **Note.** Existing Section 12008.1 begins with the disclaimer, “Notwithstanding Section
10 12002....” The only provision of Section 12002 that appears to be relevant to the purpose of that
11 reference is Section 12002(a). Proposed Section 6204 would refer to the section that continues
12 Section 12002(a). **The Commission invites Comment on whether that revision would be**
13 **problematic.**

14 **§ 6206. Deposit of fines and forfeitures**

15 6206. Notwithstanding any other law, the moneys collected from any fine or
16 forfeiture imposed or collected for violating Part 1 (commencing with Section
17 62000) of Division 17 shall be deposited as follows:

18 (a) One-half in the Endangered Species Permitting Account established pursuant
19 to Section 63635.

20 (b) One-half in the county treasury of the county in which the violation
21 occurred. The board of supervisors shall first use revenues pursuant to this section
22 to reimburse the costs incurred by the district attorney or city attorney in
23 investigating and prosecuting the violation. Any excess revenues may be expended
24 in accordance with Section 67525.


25 **Comment.** Section 6206 continues former Fish and Game Code Section 12008.1(b) without
26 substantive change.

27 CHAPTER 2. PLANNING AND MITIGATION

28 **§ 6250. Nonpayment of CEQA fee**

29 6250. Notwithstanding Section 4400, failure to pay the fee under Section 66215
30 is not a misdemeanor.

31 **Comment.** Section 6250 continues the first sentence of former Fish and Game Code Section
32 711.4(f) without substantive change.

33  **Note.** Existing Section 711.4(f) begins with the disclaimer, “Notwithstanding Section
34 12000....” The only provision of Section 12000 that appears to be relevant to the purpose of that
35 reference is Section 12000(a). Proposed Section 6250 would refer to the section that continues
36 Section 12000(a). **The Commission invites Comment on whether that revision would be**
37 **problematic.**

CHAPTER 3. WATER POLLUTION

Article 1. Criminal Enforcement

§ 6300. Base penalty

6300. The punishment for a violation of subdivisions (a) or (b) of Section 66500 is a fine of not more than two thousand dollars (\$2,000), imprisonment in a county jail for not more than one year, or both the fine and imprisonment

Comment. Section 6300 continues former Fish and Game Code Section 12002(b)(4) without substantive change.

§ 6302. Additional penalty

6302. (a) In addition to the penalty provided in Section 6300, any person convicted of a violation of Section 66500 is subject to an additional fine of all of the following:

(1) Not more than ten dollars (\$10) for each gallon or pound of material discharged. The amount of the fine shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(2) An amount equal to the reasonable costs incurred by the state or local agency for cleanup and abatement and to fully mitigate all actual damages to fish, plant, bird, or animal life and habitat.

(3) Where the state or local agency is required to undertake cleanup or remedial action because the responsible person refuses or is unable to fully clean up the discharge, an amount equal to the reasonable costs incurred by the state or local agency, in addition to the amount of funds, if any, expended by the responsible person, in cleaning up the illegally discharged material or abating its effects, or both cleaning up and abating those effects.

(b) Notwithstanding the jurisdiction of the department over illegal discharges and pollution as provided in Article 1 (commencing with Section 66500) of Chapter 1, the fines specified in this section do not apply to discharges in compliance with a national pollution discharge elimination system permit or a state or regional board waste discharge permit.

Comment. Section 6302 continues former Fish and Game Code Section 12011 without substantive change.

Article 2. Civil Enforcement

§ 6320. Civil penalty for water pollution

6320. (a) A person who violates Article 1 (commencing with Section 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

1 (b) The civil penalty imposed for each separate violation pursuant to this article
2 is separate, and in addition to, any other civil penalty imposed for a separate
3 violation pursuant to this article or any other provision of law, except as provided
4 in Section 6324.

5 (c) In determining the amount of a civil penalty imposed pursuant to this article,
6 the court shall take into consideration all relevant circumstances, including, but
7 not limited to, the nature, circumstance, extent, and gravity of the violation. In
8 making this determination, the court shall consider the degree of toxicity and
9 volume of the discharge, the extent of harm caused by the violation, whether the
10 effects of the violation may be reversed or mitigated, and with respect to the
11 defendant, the ability to pay, the effect of any civil penalty on the ability to
12 continue in business, any voluntary cleanup efforts undertaken, any prior history
13 of violations, the gravity of the behavior, the economic benefit, if any, resulting
14 from the violation, and any other matters the court determines justice may require.

15 **Comment.** Section 6320 continues former Fish and Game Code Section 5650.1(a)-(c) without
16 substantive change.

17 **§ 6322. Additional penalty based on volume of discharge**

18 6322. Except as provided in Section 6324, in addition to any other penalty
19 provided by law, a person who violates Article 1 (commencing with Section
20 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 is subject to a civil penalty
21 of not more than ten dollars (\$10) for each gallon or pound of material discharged.
22 The total amount of the civil penalty shall be reduced for every gallon or pound of
23 the illegally discharged material that is recovered and properly disposed of by the
24 responsible party.

25 **Comment.** Section 6322 continues former Fish and Game Code Section 5650.1(i) without
26 substantive change.

27 **§ 6324. Limitation on application of civil penalty**

28 6324. A person shall not be subject to a civil penalty imposed under this article
29 and to a civil penalty imposed pursuant to Article 9 (commencing with Section
30 8670.57) of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the
31 same act or failure to act.

32 **Comment.** Section 6324 continues former Fish and Game Code Section 5650.1(j) without
33 substantive change.

34 **§ 6326. Apportionment of penalty**

35 6326. All civil penalties collected pursuant to this article shall not be considered
36 fines or forfeitures as defined in Section 3610 and shall be apportioned in the
37 following manner:

38 (a) Fifty percent shall be distributed to the county treasurer of the county in
39 which the action is prosecuted. Amounts paid to the county treasurer shall be

1 deposited in the county fish and wildlife propagation fund established pursuant to
2 Section 3900.

3 (b) Fifty percent shall be distributed to the department for deposit in the Fish and
4 Game Preservation Fund. These funds may be expended to cover the costs of legal
5 actions or for any other law enforcement purpose consistent with Section 9 of
6 Article XVI of the California Constitution.

7 **Comment.** Section 6326 continues former Fish and Game Code Section 5650.1(h) without
8 substantive change.

9 **§ 6328. Civil action**


10 6328. (a) Every civil action brought under this article shall be brought by the
11 Attorney General upon complaint by the department, or by the district attorney or
12 city attorney in the name of the people of the State of California, and any actions
13 relating to the same violation may be joined or consolidated.

14 (b) In a civil action brought pursuant to this article in which a temporary
15 restraining order, preliminary injunction, or permanent injunction is sought, it is
16 not necessary to allege or prove at any stage of the proceeding that irreparable
17 damage will occur if the temporary restraining order, preliminary injunction, or
18 permanent injunction is not issued, or that the remedy at law is inadequate.

19 (c) After the party seeking the injunction has met its burden of proof, the court
20 shall determine whether to issue a temporary restraining order, preliminary
21 injunction, or permanent injunction without requiring the defendant to prove that it
22 will suffer grave or irreparable harm. The court shall make the determination
23 whether to issue a temporary restraining order, preliminary injunction, or
24 permanent injunction by taking into consideration, among other things, the nature,
25 circumstance, extent, and gravity of the violation, the quantity and characteristics
26 of the substance or material involved, the extent of environmental harm caused by
27 the violation, measures taken by the defendant to remedy the violation, the relative
28 likelihood that the material or substance involved may pass into waters of the
29 state, and the harm likely to be caused to the defendant.

30 (d) The court, to the maximum extent possible, shall tailor a temporary
31 restraining order, preliminary injunction, or permanent injunction narrowly to
32 address the violation in a manner that will otherwise allow the defendant to
33 continue business operations in a lawful manner.

34 **Comment.** Section 6328 continues former Fish and Game Code Section 5650.1(d)-(g) without
35 substantive change.

36  **Note.** Existing Section 5650.1 authorizes the imposition of a civil penalty, in a civil action,
37 for a violation of existing Section 5650 (proposed Section 66500). Existing Section 5650.1(e)
38 provides special rules for injunctive relief in a civil action brought pursuant to “this chapter.”
39 Given that Section 5650.1 appears to address only a violation of Section 5650, the reference to
40 “this chapter” appears to be erroneously overbroad. In proposed Section 6328, the reference has
41 been narrowed to “this article.” **The Commission invites comment on whether that revision**
42 **would cause any problems.**

CHAPTER 4. WATER OBSTRUCTION AND DIVERSION

Article 1. Streambed Alteration

§ 6350. Streambed alteration

6350. Notwithstanding Section 4400, the punishment for a second or subsequent violation of Section 69750 or Article 3 (commencing with Section 69850) of Chapter 2 of Title 3 of Part 4 of Division 17, on the same project or streambed alteration agreement, is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

Comment. Section 6350 continues the part of former Fish and Game Code Section 12007 that applies to Sections 1602 and 1605, without substantive change.

Notes. (1) Existing Section 12007 begins with the disclaimer, “Notwithstanding Section 12002....” The only provision of Section 12002 that appears to be relevant to the purpose of that reference is Section 12002(a). Proposed Section 6350 would refer to the section that continues Section 12002(a). **The Commission invites Comment on whether that revision would be problematic.**

(2) Existing Section 12007 refers to a “violation of Section 1602.” Proposed Section 70165 would narrow that cross-reference to the part of Section 1602 that appears to be relevant to the purpose of the reference (i.e., proposed Section 69795). **The Commission invites comment on whether that revision would cause any problems.**

§ 6352. Civil penalty

6352. (a) An entity that violates Title 3 (commencing with Section 69700) of Part 4 of Division 17 is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed pursuant to subdivision (a) is separate from, and in addition to, any other civil penalty imposed pursuant to this section or any other provision of the law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider the degree of toxicity and volume of the discharge, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and, with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines that justice may require.

Comment. Section 6352 continues former Fish and Game Code Section 1615(a)-(c) without substantive change.

1 **§ 6354. Civil action**

2 6354. (a) Every civil action brought under Section 6352 shall be brought by the
3 Attorney General upon complaint by the department, or by the district attorney or
4 city attorney in the name of the people of the State of California, and any actions
5 relating to the same violation may be joined or consolidated.

6 (b) In any civil action brought pursuant to this title in which a temporary
7 restraining order, preliminary injunction, or permanent injunction is sought, it is
8 not necessary to allege or prove at any stage of the proceeding any of the
9 following:

10 (1) That irreparable damage will occur if the temporary restraining order,
11 preliminary injunction, or permanent injunction is not issued.

12 (2) That the remedy at law is inadequate.

13 (c) The court shall issue a temporary restraining order, preliminary injunction, or
14 permanent injunction in a civil action brought pursuant to this title without the
15 allegations and without the proof specified in subdivision (b).

16 **Comment.** Section 6354 continues former Fish and Game Code Section 1615(d)-(e) without
17 substantive change.

18 **§ 6356. Apportionment of civil penalties**

19 6356. All civil penalties collected pursuant to Section 6352 shall not be
20 considered fines or forfeitures as defined in Section 3610, and shall be apportioned
21 in the following manner:

22 (a) Fifty percent shall be distributed to the county treasurer of the county in
23 which the action is prosecuted. Amounts paid to the county treasurer shall be
24 deposited in the county fish and wildlife propagation fund established pursuant to
25 Section 3900.

26 (b) Fifty percent shall be distributed to the department for deposit in the Fish and
27 Game Preservation Fund. These funds may be expended to cover the costs of any
28 legal actions or for any other law enforcement purpose consistent with Section 9
29 of Article XVI of the California Constitution.

30 **Comment.** Section 6356 continues former Fish and Game Code Section 1615(f) without
31 substantive change.

32 Article 2. Obstruction in Districts 2505, 2510, 2515, 2525, 2530,
33 2535, 2540, 2545, 2550, 2555, 2560, 2565, 2595, 2600, 2605, 2660,
34 and 2665

35 **§ 6380. Civil penalty**

36 6380. (a) In addition to any penalties imposed by any other law, a person found
37 to have violated Section 68105 shall be liable for a civil penalty of not more than
38 eight thousand dollars (\$8,000) for each violation.

1 (b) Each day that a violation of Section 68105 occurs or continues without a
2 good faith effort by the person to cure the violation after receiving notice from the
3 department shall constitute a separate violation.

4 **Comment.** Section 6380 continues former Fish and Game Code Section 12025.1(a) without
5 substantive change.

6 **§ 6382. Civil penalties are not fines or forfeitures**

7 6382. All civil penalties imposed or collected by a court for a separate violation
8 pursuant to this article shall not be considered to be fines or forfeitures, as
9 described in Section 3610.

10 **Comment.** Section 6382 continues the first parts of former Fish and Game Code Section
11 12025.1(b) & (c) without substantive change.

12 **§ 6384. Apportionment of civil penalty for violation connected to cultivation of controlled**
13 **substance**

14 6384. All civil penalties imposed or collected by a court for a separate violation
15 pursuant to this article, in connection with the production or cultivation of a
16 controlled substance, shall be apportioned in the manner described in Section
17 6558.

18 **Comment.** Section 6384 continues the second part of former Fish and Game Code Section
19 12025.1(b) without substantive change.

20 **§ 6386. Apportionment of civil penalty for violation unconnected to cultivation of controlled**
21 **substance**

22 6386. All civil penalties imposed or collected by a court for a separate violation
23 pursuant to this article, not in connection with the production or cultivation of a
24 controlled substance, shall be apportioned in the following manner:

25 (a) Thirty percent shall be distributed to the county in which the violation was
26 committed pursuant to Section 13003. The county board of supervisors shall first
27 use any revenues from those penalties to reimburse the costs incurred by the
28 district attorney or city attorney in investigating and prosecuting the violation.

29 (b) (1) Thirty percent shall be distributed to the investigating agency to be used
30 to reimburse the cost of any investigation directly related to the violations
31 described in this article.

32 (2) If the department receives reimbursement pursuant to this subdivision for
33 activities funded pursuant to subdivision (f) of Section 4629.6 of the Public
34 Resources Code, the reimbursement funds shall be deposited into the Timber
35 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
36 Resources Code, if there is an unpaid balance for a loan authorized by subdivision
37 (f) of Section 4629.6 of the Public Resources Code.

38 (c) Forty percent shall be deposited into the Fish and Game Preservation Fund.

39 **Comment.** Section 6386 continues the second part of former Fish and Game Code Section
40 12025.1(c) without substantive change.

1 **§ 6388. Administrative penalty**

2 6388. (a) Civil penalties authorized pursuant to Section 6380 may be imposed
3 administratively by the department according to the procedures described in
4 paragraphs (1) through (4), inclusive, of subdivision (a) of Section 6560.

5 (b) The department shall adopt emergency regulations to implement this section
6 in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing
7 with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
8 The adoption of these regulations shall be deemed to be an emergency and
9 necessary for the immediate preservation of the public peace, health and safety, or
10 general welfare.

11 **Comment.** Section 6388 continues former Fish and Game Code Section 12025.1(d) without
12 substantive change.

13 **§ 6390. Administrative penalties are not fines or forfeitures**

14 6390. All administrative penalties imposed or collected by the department for a
15 separate violation pursuant to this article shall not be considered to be fines or
16 forfeitures, as described in Section 3610.

17 **Comment.** Section 6390 continues the first parts of former Fish and Game Code Section
18 12025.1(e) & (f) without substantive change.

19 **§ 6392. Apportionment of administrative penalty for violation connected to cultivation of**
20 **controlled substance**

21 6392. All administrative penalties imposed or collected by the department for a
22 separate violation pursuant to this article, in connection with the production or
23 cultivation of a controlled substance, shall be deposited according the provisions
24 of subdivisions (b) and (c) of Section 6560.

25 **Comment.** Section 6392 continues the second part of former Fish and Game Code Section
26 12025.1(e) without substantive change.

27 **§ 6394. Apportionment of administrative penalty for violation unconnected to cultivation of**
28 **controlled substance**

29 6394. (a) All administrative penalties imposed or collected by the department for
30 a separate violation pursuant to this article, not in connection with the production
31 or cultivation of a controlled substance, shall be deposited into the Timber
32 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
33 Resources Code, to repay any unpaid balance of a loan authorized by subdivision
34 (f) of Section 4629.6 of the Public Resources Code.

35 (b) Any remaining funds from administrative penalties collected pursuant to this
36 section shall be apportioned in the following manner:

37 (1) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

38 (2) Fifty percent shall be deposited into the Timber Regulation and Forest
39 Restoration Fund for grants authorized pursuant to subdivision (h) of Section
40 4629.6 of the Public Resources Code.

Comment. Section 6394 continues the second part of former Fish and Game Code Section 12025.1(f) without substantive change.

§ 6396. Definition of “controlled substance”

6396. For purposes of this article, “controlled substance” has the same meaning as defined in Section 11007 of the Health and Safety Code.

Comment. Section 6396 continues former Fish and Game Code Section 12025.1(g) without substantive change.

Article 3. Obstruction in District 2520

§ 6410. Obstruction of Klamath River

6410. (a) Every person, firm, corporation, or company that violates Section 69250 is guilty of a misdemeanor.

(b) The penalty for a violation of Section 69250 is a fine of not less than one thousand dollars (\$1,000), imprisonment in county jail for not less than 100 days, or both that fine and imprisonment.

Comment. Section 6410 continues part of the fourth paragraph of former Fish and Game Code Section 11036 without substantive change.

CHAPTER 5. MINING

§ 6500. Vacuum or suction dredging

6500. If a person uses vacuum or suction dredge equipment other than as authorized by a permit issued by the department consistent with regulations adopted pursuant to Section 71010, that person is guilty of a misdemeanor.

Comment. Section 6500 continues the third sentence of former Fish and Game Code Section 5653(c) without substantive change.

Note. Existing Section 5653(c) refers to “regulations implementing this section.” Proposed Section 6500 would revise the reference to refer to “regulations adopted pursuant to Section 71010.” This would parallel the scope of the regulations incorporated in existing Section 5653(a) (proposed Section 71050), the provision that establishes the underlying prohibition at issue in Section 5653(c). **The Commission believes that this would be a rational harmonization of the two provisions, but invites comment on whether it would cause any problems.**

CHAPTER 6. CULTIVATION OR PRODUCTION OF CONTROLLED
SUBSTANCE

§ 6550. “Controlled substance” defined

6550. For purposes of this chapter, “controlled substance” has the same meaning as defined in Section 11007 of the Health and Safety Code.

Comment. Section 6550 continues former Fish and Game Code Section 12025(h) without substantive change.

1 **§ 6552. Cultivation or production of controlled substance on public land**

2 6552. In addition to any penalties imposed by any other law, a person found to
3 have violated the code sections described in subdivisions (a) to (k), inclusive, in
4 connection with the production or cultivation of a controlled substance on land
5 under the management of the Department of Parks and Recreation, the Department
6 of Fish and Wildlife, the Department of Forestry and Fire Protection, the State
7 Lands Commission, a regional park district, the United States Forest Service, or
8 the United States Bureau of Land Management, or within the respective ownership
9 of a timberland production zone, as defined in Chapter 6.7 (commencing with
10 Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code, of more
11 than 50,000 acres, or while trespassing on other public or private land in
12 connection with the production or cultivation of a controlled substance, shall be
13 liable for a civil penalty as follows:

14 (a) A person who violates Section 69750 in connection with the production or
15 cultivation of a controlled substance is subject to a civil penalty of not more than
16 ten thousand dollars (\$10,000) for each violation.

17 (b) A person who violates Section 66500 in connection with the production or
18 cultivation of a controlled substance is subject to a civil penalty of not more than
19 forty thousand dollars (\$40,000) for each violation.

20 (c) A person who violates Section 66525 in connection with the production or
21 cultivation of a controlled substance is subject to a civil penalty of not more than
22 forty thousand dollars (\$40,000) for each violation.

23 (d) A person who violates subdivision (a) of Section 374.3 of the Penal Code in
24 connection with the production or cultivation of a controlled substance is subject
25 to a civil penalty of not more than forty thousand dollars (\$40,000) for each
26 violation.

27 (e) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of
28 the Penal Code in connection with the production or cultivation of a controlled
29 substance is subject to a civil penalty of not more than forty thousand dollars
30 (\$40,000) for each violation.

31 (f) A person who violates subdivision (b) of Section 374.8 of the Penal Code in
32 connection with the production or cultivation of a controlled substance is subject
33 to a civil penalty of not more than forty thousand dollars (\$40,000) for each
34 violation.

35 (g) A person who violates Section 384a of the Penal Code in connection with the
36 production or cultivation of a controlled substance is subject to a civil penalty of
37 not more than ten thousand dollars (\$10,000) for each violation.

38 (h) A person who violates subdivision (a) of Section 4571 of the Public
39 Resources Code in connection with the production or cultivation of a controlled
40 substance is subject to a civil penalty of not more than ten thousand dollars
41 (\$10,000) for each violation.

42 (i) A person who violates Section 4581 of the Public Resources Code in
43 connection with the production or cultivation of a controlled substance is subject

1 to a civil penalty of not more than ten thousand dollars (\$10,000) for each
2 violation.

3 (j) A person who violates Section 8000 in connection with the production or
4 cultivation of a controlled substance is subject to a civil penalty of not more than
5 ten thousand dollars (\$10,000) for each violation.

6 (k) A person who violates Section 8010 in connection with the production or
7 cultivation of a controlled substance is subject to a civil penalty of not more than
8 ten thousand dollars (\$10,000) for each violation.

9 **Comment.** Section 6552 continues former Fish and Game Code Section 12025(a) without
10 substantive change.

11 **§ 6554. Cultivation or production of controlled substance on other land**

12 6554. (a) In addition to any penalties imposed by any other law, a person found
13 to have violated the code sections described in this section in connection with the
14 production or cultivation of a controlled substance on land that the person owns,
15 leases, or otherwise uses or occupies with the consent of the landowner shall be
16 liable for a civil penalty as follows:

17 (1) A person who violates Section 69750 in connection with the production or
18 cultivation of a controlled substance is subject to a civil penalty of not more than
19 eight thousand dollars (\$8,000) for each violation.

20 (2) A person who violates Section 66500 in connection with the production or
21 cultivation of a controlled substance is subject to a civil penalty of not more than
22 twenty thousand dollars (\$20,000) for each violation.

23 (3) A person who violates Section 66525 in connection with the production or
24 cultivation of a controlled substance is subject to a civil penalty of not more than
25 twenty thousand dollars (\$20,000) for each violation.

26 (4) A person who violates subdivision (a) of Section 374.3 of the Penal Code in
27 connection with the production or cultivation of a controlled substance is subject
28 to a civil penalty of not more than twenty thousand dollars (\$20,000) for each
29 violation.

30 (5) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of
31 the Penal Code in connection with the production or cultivation of a controlled
32 substance is subject to a civil penalty of not more than twenty thousand dollars
33 (\$20,000) for each violation.

34 (6) A person who violates subdivision (b) of Section 374.8 of the Penal Code in
35 connection with the production or cultivation of a controlled substance is subject
36 to a civil penalty of not more than twenty thousand dollars (\$20,000) for each
37 violation.

38 (7) A person who violates Section 384a of the Penal Code in connection with the
39 production or cultivation of a controlled substance is subject to a civil penalty of
40 not more than ten thousand dollars (\$10,000) for each violation.

41 (8) A person who violates subdivision (a) of Section 4571 of the Public
42 Resources Code in connection with the production or cultivation of a controlled

1 substance is subject to a civil penalty of not more than eight thousand dollars
2 (\$8,000) for each violation.

3 (9) A person who violates Section 4581 of the Public Resources Code in
4 connection with the production or cultivation of a controlled substance is subject
5 to a civil penalty of not more than eight thousand dollars (\$8,000) for each
6 violation.

7 (10) A person who violates Section 8000 in connection with the production or
8 cultivation of a controlled substance is subject to a civil penalty of not more than
9 eight thousand dollars (\$8,000) for each violation.

10 (11) A person who violates Section 8010 in connection with the production or
11 cultivation of a controlled substance is subject to a civil penalty of not more than
12 eight thousand dollars (\$8,000) for each violation.

13 (b) Each day that a violation of a code section described in this section occurs or
14 continues to occur shall constitute a separate violation.

15 **Comment.** Section 6554 continues former Fish and Game Code Section 12025(b) without
16 substantive change.

17 **§ 6556. Consideration of civil penalty in conjunction with other penalties**

18 6556. (a) A civil penalty imposed for each separate violation pursuant to this
19 chapter is in addition to any other civil penalty imposed for another violation of
20 this chapter, or any violation of any other law.

21 (b) A civil penalty imposed or collected by a court for a separate violation
22 pursuant to this chapter shall not be considered to be a fine or forfeiture, as
23 described in Section 3610.

24 (c) A civil penalty imposed pursuant to this chapter for the violation of an
25 offense described in subdivision (d), (e), or (f) of Section 6552 or paragraphs (4),
26 (5), or (6) of subdivision (a) of Section 6554, for which the person was convicted,
27 shall be offset by the amount of any restitution ordered by a criminal court.

28 **Comment.** Subdivision (a) of Section 6556 continues former Fish and Game Code Section
29 12025(c) without substantive change.

30 Subdivision (b) continues the first part of former Fish and Game Code Section 12025(d)
31 without substantive change.

32 Subdivision (c) continues former Fish and Game Code Section 12025(g) without substantive
33 change.

34 **§ 6558. Apportionment of penalty**

35 6558. A civil penalty imposed or collected by a court for a separate violation
36 pursuant to this chapter shall be apportioned in the following manner:

37 (a) Thirty percent shall be distributed to the county in which the violation was
38 committed, pursuant to Section 3610. The county board of supervisors shall first
39 use any revenues from those penalties to reimburse the costs incurred by the
40 district attorney or city attorney in investigating and prosecuting the violation.

1 (b) (1) Thirty percent shall be distributed to the investigating agency to be used
2 to reimburse the cost of any investigation directly related to the violations
3 described in this chapter.

4 (2) If the department receives reimbursement pursuant to this subdivision for
5 activities funded pursuant to subdivision (f) of Section 4629.6 of the Public
6 Resources Code, the reimbursement funds shall be deposited into the Timber
7 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
8 Resources Code, if there is an unpaid balance for a loan authorized by subdivision
9 (f) of Section 4629.6 of the Public Resources Code.

10 (c) Forty percent shall be deposited into the Timber Regulation and Forest
11 Restoration Fund, created by Section 4629.3 of the Public Resources Code, and
12 used for grants authorized pursuant to Section 4629.6 of the Public Resources
13 Code that improve forest health by remediating former marijuana growing
14 operations.

15 **Comment.** Section 6558 continues former Fish and Game Code Section 12025(d) without
16 substantive change.

17 **§ 6560. Imposition of administrative penalty by Department of Fish and Wildlife**

18 6560. (a) A civil penalty authorized pursuant to this chapter may be imposed
19 administratively by the department, if all of the following occur:

20 (1) The chief deputy director or law enforcement division assistant chief in
21 charge of marijuana-related enforcement issues a complaint to any person or entity
22 on which a civil penalty may be imposed pursuant to this chapter. The complaint
23 shall allege the act or failure to act that constitutes a violation, any facts related to
24 natural resources impacts, the provision of law authorizing an administrative
25 penalty to be imposed, and the proposed penalty amount.

26 (2) The complaint and order is served by personal notice or certified mail and
27 informs the party served that the party may request a hearing not later than 20 days
28 from the date of service. If a hearing is requested, it shall be scheduled before the
29 director or his or her designee, which designee shall not be the chief deputy or
30 assistant chief issuing the complaint and order. A request for a hearing shall
31 contain a brief statement of the material facts the party claims support his or her
32 contention that no administrative penalty should be imposed or that an
33 administrative penalty of a lesser amount is warranted. A party served with a
34 complaint pursuant to this subdivision waives his or her right to a hearing if a
35 hearing is not requested within 20 days of service of the complaint, in which case
36 the order imposing the administrative penalty shall become final.

37 (3) The director, or his or her designee, shall control the nature and order of
38 hearing proceedings. Hearings shall be informal in nature, and need not be
39 conducted according to the technical rules relating to evidence. The director or his
40 or her designee shall issue a final order within 45 days of the close of the hearing.
41 A copy of the final order shall be served by certified mail upon the party served
42 with the complaint.

(4) A party may obtain review of the final order by filing a petition for a writ of mandate with the superior court within 30 days of the date of service of the final order. The administrative penalty shall be due and payable to the department within 60 days after the time to seek judicial review has expired, or, where the party did not request a hearing of the order, within 20 days after the order imposing an administrative penalty becomes final.

(5) The department may adopt regulations to implement this subdivision.

(d) All administrative penalties imposed or collected by the department for a separate violation pursuant to this chapter shall not be considered to be fines or forfeitures, as described in Section 3610.

(e) All administrative penalties imposed or collected by the department for a separate violation pursuant to this chapter shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, to repay any unpaid balance of a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code. Any remaining funds from administrative penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be deposited into the Timber Regulation and Forest Restoration Fund for grants authorized pursuant to subdivision (h) of Section 4629.6 of the Public Resources Code, with priority given to grants that improve forest health by remediating former marijuana growing operations.

(2) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

Comment. Section 6560 continues former Fish and Game Code Section 12025(e) and (f) without substantive change.

DIVISION 4. INTER-JURISDICTIONAL AGREEMENTS

PART 1. UNITED STATES

TITLE 1. ACCEPTANCE OF FEDERAL ACTS

§ 7200. Assent to Public Law 415, 75th Congress

7200. The State of California hereby assents to the provisions of the act of Congress entitled “An act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes,” approved September 2, 1937 (Public Law 415, 75th Congress). The department, with the approval of the commission, shall perform any acts needed to conduct or establish cooperative wildlife-restoration projects, as defined in that act of Congress, in compliance with that act and rules and regulations adopted under that act, and funds accruing to the State of California from license fees paid by hunters shall not be diverted for a purpose other than the administration of the department and the protection, propagation, preservation, and investigation of fish and wildlife.

1 **Comment.** Section 7200 continues former Fish and Game Code Section 400 without
2 substantive change.

3 **§ 7205. Assent to Public Law 681, 81st Congress**

4 7205. The State of California hereby assents to the provisions of the act of
5 Congress entitled “An act to provide that the United States shall aid the states in
6 fish restoration and management projects, and for other purposes,” approved
7 August 9, 1950 (Public Law 681, 81st Congress). The department, with the
8 approval of the commission, may perform any acts needed to conduct or establish
9 cooperative fish restoration projects, as defined in that act of Congress, in
10 compliance with that act and rules and regulations adopted under that act, and
11 funds accruing to the State of California from license fees paid by fishermen shall
12 not be diverted for a purpose other than the administration of the department and
13 the protection, propagation, preservation, and investigation of fish and wildlife.

14 **Comment.** Section 7205 continues former Fish and Game Code Section 401 without
15 substantive change.

16 **TITLE 2. MANAGEMENT OF FISH AND**
17 **WILDLIFE ON MILITARY LANDS**

18 **§ 7210. Statement of policy**

19 7210. It is the policy of the state to actively encourage the biologically sound
20 management of fish and other wildlife resources on lands administered by the
21 United States Department of Defense. The department may develop a program to
22 implement this title in cooperation with the military services.

23 **Comment.** Section 7210 continues former Fish and Game Code Section 3450 without
24 substantive change.

25 **§ 7215. Coordination and cooperation with military services**

26 7215. The department may coordinate and cooperate with all branches of the
27 United States military service, Department of Defense, for the purpose of
28 developing fish and wildlife management plans and programs on military
29 installations. The plans and programs shall be designed to provide biologically
30 optimum levels of fish and wildlife resource management and use compatible with
31 the primary military use of those lands. Military lands involved in programs
32 developed pursuant to this title shall not be available to the general public without
33 the consent of the military service administering the lands.

34 **Comment.** Section 7215 continues former Fish and Game Code Section 3451 without
35 substantive change.

1 **§ 7220. Regulations and agreements authorized**

2 7220. The commission may adopt regulations and authorize the department to
3 enter into agreements with the United States Department of Defense for the
4 administration of this title.

5 **Comment.** Section 7220 continues former Fish and Game Code Section 3452 without
6 substantive change.

7 **§ 7225. Management plans and programs**

8 7225. (a) Upon approval of specific management plans and programs, which
9 reflect the recommendations of the department, the commission may authorize
10 actions and adopt regulations governing those actions pursuant to this title.

11 (b) The provisions of Sections 34520, 34525, and 34530 do not apply to
12 regulations adopted pursuant to this title.

13 (c) The activities conducted pursuant to this program shall be reviewed annually
14 by the department and the commission.

15 **Comment.** Section 7225 continues former Fish and Game Code Section 3453 without
16 substantive change.

17 **TITLE 3. FEDERAL BIRD RESERVATIONS**

18 **§ 7230. Acceptance of Migratory Bird Conservation Act**

19 7230. The people of the state, through their legislative authority, accept the
20 provisions and benefits of the act of Congress known as the “Migratory Bird
21 Conservation Act,” approved February 18, 1929. Upon approval by the
22 commission, they consent to the acquisition by the United States, by purchase,
23 lease, gift, or devise, of areas of land, water, or land and water, within the state,
24 that the United States or its properly constituted officers or agents may deem
25 necessary for migratory bird reservations in carrying out the provisions of the act
26 of Congress; saving and reserving, however, to the state full and complete
27 jurisdiction and authority over any areas that is not incompatible with the
28 administration, maintenance, protection, and control thereof by the United States
29 under the terms of the act of Congress, and saving and reserving to all persons
30 within those areas all rights, privileges, and immunities under the laws of the
31 State, insofar as they are compatible with the administration, maintenance,
32 protection, and control of those areas by the United States under the terms of the
33 act of Congress.

34 **Comment.** Section 7230 continues former Fish and Game Code Section 10680 without
35 substantive change.

36 **§ 7235. Consent of concerned county**

37 7235. Prior to approval by the commission under Section 7230, the legislative
38 body of the county concerned shall have given its written consent to the
39 commission for the proposed acquisition.

1 **Comment.** Section 7235 continues former Fish and Game Code Section 10681 without
2 substantive change.

3 **§ 7240. Insufficient payments from United States to county**

4 7240. (a) If in any year, on lands hereafter acquired, the in lieu payments from
5 the United States to the county do not equal the taxes assessed on a given project,
6 the department shall pay from income derived from hunting privileges on the
7 project an amount equal to the balance of the taxes on the entire project.

8 (b) For the purposes of this section, the taxes on a given project are the assessed
9 taxes on the project at the time of acquisition, plus any subsequent increases that
10 may accrue from general county increases in the tax rates, but not subject to re-
11 evaluation of the project properties after the time of acquisition.

12 **Comment.** Section 7240 continues former Fish and Game Code Section 10682 without
13 substantive change.

14 **§ 7245. Federal compliance with state law**

15 7245. The consent of the state to the acquisition by the United States of land,
16 water, or land and water for migratory bird reservations in accordance with this
17 title, is subject to the condition that the United States conform to the laws of the
18 state relating to the acquisition, control, use, and distribution of water with respect
19 to the land acquired.

20 **Comment.** Section 7245 continues former Fish and Game Code Section 10683 without
21 substantive change.

22 **§ 7250. Conditions on continuing consent**

23 7250. The consent contained in Section 7230 continues only so long as the
24 property continues to belong to the United States and is held by it in accordance
25 and in compliance with each and all of the conditions and reservations as
26 prescribed in this title, and is used for the purposes for which it was acquired.

27 **Comment.** Section 7250 continues former Fish and Game Code Section 10684 without
28 substantive change.

29 **§ 7255. Additional consent**

30 7255. With the approval of the commission, the people of the state, through their
31 legislative authority, also consent to the declaration, withdrawal, or determination
32 of any part of any national forest or power site, and do further consent to the
33 condemnation of any lands lying and being below an elevation known and
34 described as minus 230-foot elevation below sea level, as a migratory bird
35 reservation under the provisions of the act of Congress cited in Section 7230.

36 **Comment.** Section 7255 continues former Fish and Game Code Section 10685 without
37 substantive change.

1 PART 2. STATES AND OTHER JURISDICTIONS

2 TITLE 1. RECIPROCAL AGREEMENTS WITH
3 ADJOINING STATES

4 **§ 7300. Reciprocal sport fishing license agreements**

5 7300. The commission, subject to the approval of the Attorney General, may
6 enter into reciprocal agreements with corresponding state or county official
7 agencies of adjoining states pertaining to the establishment of a basis whereby
8 valid sport fishing licenses issued by the parties to the reciprocal agreements may
9 be used by their licensees within the jurisdiction of either, in accordance with the
10 terms of the agreements.

11 **Comment.** Section 7300 continues former Fish and Game Code Section 390 without
12 substantive change.

13 **§ 7305. Reciprocal operational agreement with law enforcement**

14 7305. (a) The director, or a designated representative, may enter into reciprocal
15 operational agreements with authorized representatives of any Oregon, Nevada, or
16 Arizona state law enforcement agency, including, but not limited to, the Oregon
17 State Police, the Nevada Department of Wildlife, and the Arizona Game and Fish
18 Department, to promote expeditious and effective law enforcement service to the
19 public, and assistance between the members of the department and those agencies,
20 in areas adjacent to the borders of this state and each of the adjoining states
21 pursuant to Section 7310.

22 (b) The reciprocal operational agreement shall be in writing and may cover the
23 reciprocal exchange of law enforcement services, resources, facilities, and any
24 other necessary and proper matters between the department and the respective
25 agency.

26 (c) Any agreement shall specify all of the following:

27 (1) The involved departments, divisions, or units of the agencies.

28 (2) The duration and purpose of the agreement.

29 (3) Responsibility for damages.

30 (4) The method of financing any joint or cooperative undertaking.

31 (5) The methods to be employed to terminate an agreement.

32 (d) The director may establish operational procedures in implementation of any
33 reciprocal operational agreement that are necessary to achieve the purposes of the
34 agreement.

35 **Comment.** Section 7305 continues former Fish and Game Code Section 392 without
36 substantive change.

1 **§ 7310. Status of law enforcement officers of adjoining states**

2 7310. (a) A regularly employed law enforcement officer of an Oregon, Nevada,
3 or Arizona state law enforcement agency, including, but not limited to, the Oregon
4 State Police, the Nevada Department of Wildlife, or the Arizona Game and Fish
5 Department, is a peace officer in this state, if all of the following conditions are
6 met:

7 (1) The officer is providing, or attempting to provide, law enforcement services
8 within this state, within a distance of up to 50 statute miles of the contiguous
9 border of this state and the state employing the officer, or within waters offshore
10 of this state in the Exclusive Economic Zone.

11 (2) The officer is providing, or attempting to provide, law enforcement services
12 pursuant to either of the following:

13 (A) In response to a request for services initiated by a member of the
14 department.

15 (B) In response to a reasonable belief that emergency law enforcement services
16 are necessary for the preservation of life, and a request for services by a member
17 of the department is impractical to obtain under the circumstances. In those
18 situations, the officer shall obtain authorization as soon as practical.

19 (3) The officer is providing, or attempting to provide, law enforcement services
20 for the purpose of assisting a member of the department in response to
21 misdemeanor or felony criminal activity, pursuant to the authority of a peace
22 officer as provided in subdivision (e) of Section 830.2 of the Penal Code, or, in the
23 event of an emergency incident or other similar public safety problem, whether or
24 not a member of the department is present at the scene of the event.

25 (4) An agreement pursuant to Section 7305 is in effect between the department
26 and the agency of the adjoining state employing the officer, the officer acts in
27 accordance with that agreement, and the agreement specifies that the officer and
28 employing agency of the adjoining state shall be subject to the same civil
29 immunities and liabilities as a peace officer and his or her employing agency in
30 this state.

31 (5) The officer receives no separate compensation from this state for providing
32 law enforcement services within this state.

33 (6) The adjoining state employing the officer confers similar rights and authority
34 upon a member of the department who renders assistance within that state.

35 (b) Notwithstanding any other provision of law, a person who is acting as a
36 peace officer in this state in the manner described in this section shall be deemed
37 to have met the requirements of Section 1031 of the Government Code and the
38 selection and training standards of the Commission on Peace Officer Standards
39 and Training, if the officer has completed the basic training required for peace
40 officers in his or her state.

41 (c) A peace officer of an adjoining state shall not provide services within a
42 California jurisdiction during a period in which officers of the department are
43 involved in a labor dispute that results in a formal work slowdown or stoppage.

1 **Comment.** Section 7310 continues former Fish and Game Code Section 393 without
2 substantive change.

3 TITLE 2. INFORMATION RELEASE

4 **§7315. Release of information to other jurisdictions**

5 7315. The department may exchange or release to any appropriate federal, state,
6 or local agency or agencies in other states, for purposes of law enforcement, any
7 information collected or maintained by the department under any provision of this
8 code or any regulation adopted pursuant to this code.

9 **Comment.** Section 7315 continues former Fish and Game Code Section 391 without
10 substantive change.

11 TITLE 3. CALIFORNIA-ARIZONA COMPACT

12 **§ 7320. California-Arizona Compact authorized**

13 7320. (a) The commission may negotiate the terms of a compact between the
14 States of Arizona and California with any appropriate officials of the State of
15 Arizona in relation to reciprocal privileges and licenses for hunting and fishing by
16 residents of one of the states within the territorial jurisdiction of the other. The
17 negotiations shall include, but shall not be limited to, provisions relating to sport
18 fishing and the hunting of migratory waterfowl in, on, or along the Colorado
19 River.

20 (b) It is the primary purpose of this section to provide a method whereby the
21 hunting and fishing opportunities afforded by the Colorado River may be mutually
22 enjoyed by the residents of the States of Arizona and California despite the
23 difficulties and inconveniences that result from the fact that the boundary line
24 between the States of Arizona and California is the middle of the channel of the
25 Colorado River.

26 **Comment.** Section 7320 continues former Fish and Game Code Section 375 without
27 substantive change.

28 TITLE 4. WILDLIFE VIOLATOR COMPACT

29 CHAPTER 1. GENERAL PROVISIONS

30 **§ 7325. Enactment of Wildlife Violator Compact**

31 7325. The Wildlife Violator Compact is hereby enacted into law and entered
32 into with all other participating states.

33 **Comment.** Section 7325 continues former Fish and Game Code Section 716 without
34 substantive change.

1 **§ 7330. Statement of policy**

2 7330. It is the policy of this state in entering into the compact to do all of the
3 following:

4 (a) Promote compliance with the statutes, ordinances, and administrative rules
5 and regulations relating to the management of wildlife resources in this state.

6 (b) Recognize the suspension of wildlife license privileges of any person whose
7 license privileges have been suspended by a participating state and treat that
8 suspension as if it had occurred in the licensee's home state if the violation that
9 resulted in the suspension could have been the basis for suspension in the home
10 state.

11 (c) Allow a violator, except as provided in subdivision (b) of Section 7450, to
12 accept a wildlife citation and, without delay or detention, proceed on his or her
13 way whether or not the violator is a resident of the state in which the citation was
14 issued, if the violator's home state is a party to this compact.

15 (d) Report to the appropriate participating states, as provided in the compact
16 manual, any conviction recorded against any person whose home state was not the
17 issuing state.

18 (e) Allow the home state to recognize and treat convictions recorded against its
19 residents, if those convictions occurred in a participating state, as though they had
20 occurred in the home state.

21 (f) Extend cooperation to its fullest extent among the participating states for
22 enforcing compliance with the terms of a wildlife citation issued in one
23 participating state to a resident of another participating state.

24 (g) Maximize effective use of law enforcement personnel and information.

25 (h) Assist court systems in the efficient disposition of wildlife violations.

26 **Comment.** Section 7330 continues former Fish and Game Code Section 716.1 without
27 substantive change.

28 **§ 7335. Purposes of title**

29 7335. The purposes of this title include both of the following:

30 (a) To provide a means by which participating states may join in a reciprocal
31 program to effectuate the policies enumerated in Section 7330 in a uniform and
32 orderly manner.

33 (b) To provide for the fair and impartial treatment of wildlife violators operating
34 within participating states in recognition of the violator's right to due process and
35 the sovereign status of the participating states.

36 **Comment.** Section 7335 continues former Fish and Game Code Section 716.2 without
37 substantive change.

38 **CHAPTER 2. DEFINITIONS**

39 **§ 7340. Application of chapter**

40 7340. The definitions in this chapter govern the construction of this title.

1 **Comment.** Section 7340 restates the introductory clause of former Fish and Game Code
2 Section 716.3 without substantive change.

3 **§ 7345. “Board”**

4 7345. “Board” means the board of compact administrators established pursuant
5 to Section 7470.

6 **Comment.** Section 7345 continues former Fish and Game Code Section 716.3(a) without
7 substantive change.

8 **§ 7350. “Citation”**

9 7350. “Citation” means any summons, complaint, ticket, penalty assessment, or
10 other official document issued to a person by a wildlife officer or other peace
11 officer for a wildlife violation pertaining to sport fishing, hunting, or trapping,
12 which contains an order requiring the person to respond.

13 **Comment.** Section 7350 continues former Fish and Game Code Section 716.3(b) without
14 substantive change.

15 **§ 7355. “Collateral”**

16 7355. “Collateral” means any cash or other security deposited to secure an
17 appearance for trial in connection with the issuance by a wildlife officer or other
18 peace officer of a citation for a wildlife violation.

19 **Comment.** Section 7355 continues former Fish and Game Code Section 716.3(c) without
20 substantive change.

21 **§ 7360. “Compact manual”**

22 7360. “Compact manual” is a manual used and adopted by the participating
23 states that prescribes the procedures to be followed in administering the wildlife
24 violation compact in participating states.

25 **Comment.** Section 7360 continues former Fish and Game Code Section 716.3(d) without
26 substantive change.

27 **§ 7365. “Compliance”**

28 7365. “Compliance,” with respect to a citation, means the act of answering a
29 citation through an appearance in a court or tribunal, or through the payment of
30 fines, penalties, costs, and surcharges, if any.

31 **Comment.** Section 7365 continues former Fish and Game Code Section 716.3(e) without
32 substantive change.

33 **§ 7370. “Conviction”**

34 7370. “Conviction” means a conviction, including, but not limited to, any court
35 conviction for an offense related to sport fishing, hunting, or trapping, that is
36 prohibited by statute, ordinance, or administrative rule or regulation, that involves
37 the forfeiture of any bail, bond, or other security deposited to secure appearance
38 by a person charged with having committed an offense, the payment of a penalty

1 assessment, a plea of nolo contendere, and the imposition of a deferred or
2 suspended sentence by the court.

3 **Comment.** Section 7370 continues former Fish and Game Code Section 716.3(f) without
4 substantive change.

5 **§ 7375. “Court”**

6 7375. “Court” means a court of law, including a magistrate’s court and a justice
7 of the peace court.

8 **Comment.** Section 7375 continues former Fish and Game Code Section 716.3(g) without
9 substantive change.

10 The reference to a “justice of the peace court” in Section 7375 is retained, notwithstanding the
11 elimination of such courts in California, based on the existence of such courts in other states that
12 are members of the Interstate Violator Compact.

13 **§ 7380. “Home state”**

14 7380. “Home state” means the state of primary residence of a person.

15 **Comment.** Section 7380 continues former Fish and Game Code Section 716.3(h) without
16 substantive change.

17 **§ 7385. “Issuing state”**

18 7385. “Issuing state” means the participating state that issues a wildlife citation
19 to the violator.

20 **Comment.** Section 7385 continues former Fish and Game Code Section 716.3(i) without
21 substantive change.

22 **§ 7390. “License”**

23 7390. “License” means any license, permit, entitlement to use, or other public
24 document that conveys to the person to whom it is issued the privilege of sport
25 fishing, hunting, or trapping, that is regulated by statute, ordinance, or
26 administrative rule or regulation of a participating state.

27 **Comment.** Section 7390 continues former Fish and Game Code Section 716.3(j) without
28 substantive change.

29 **§ 7400. “Licensing authority”**

30 7400. “Licensing authority,” with reference to this state, means the department,
31 which is the state agency authorized by law to issue or approve licenses or permits
32 to sport fish, hunt, or trap.

33 **Comment.** Section 7400 continues former Fish and Game Code Section 716.3(k) without
34 substantive change.

35 **§ 7405. “Participating state”**

36 7405. “Participating state” means any state that enacts legislation to become a
37 member of the wildlife compact.

38 **Comment.** Section 7405 continues former Fish and Game Code Section 716.3(l) without
39 substantive change.

1 **§ 7410. “Personal recognizance”**

2 7410. “Personal recognizance” means an agreement by a person made at the
3 time of issuance of the wildlife citation that the person will comply with the terms
4 of the citation.

5 **Comment.** Section 7410 continues former Fish and Game Code Section 716.3(m) without
6 substantive change.

7 **§ 7415. “State”**

8 7415. “State” means any state, territory, or possession of the United States, the
9 District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada,
10 and other countries.

11 **Comment.** Section 7415 continues former Fish and Game Code Section 716.3(n) without
12 substantive change.

13 **§ 7420. “Suspension”**

14 7420. “Suspension” means any revocation, denial, or withdrawal of any or all
15 license privileges, including the privilege to apply for, purchase, or exercise the
16 benefits conferred by any license for sport fishing, hunting, or trapping.

17 **Comment.** Section 7420 continues former Fish and Game Code Section 716.3(o) without
18 substantive change.

19 **§ 7425. “Terms of the citation”**

20 7425. “Terms of the citation” means those conditions and options expressly
21 stated upon a citation.

22 **Comment.** Section 7425 continues former Fish and Game Code Section 716.3(p) without
23 substantive change.

24 **§ 7430. “Wildlife”**

25 7430. “Wildlife” means all species of animals including, but not limited to,
26 mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are
27 defined as “wildlife” and are protected or otherwise regulated by statute,
28 ordinance, or administrative rule or regulation in a participating state. The species
29 included in the definition of “wildlife” vary from state to state and the
30 determination of whether a species is “wildlife” for the purposes of this compact
31 shall be based on the law of the participating state.

32 **Comment.** Section 7430 continues former Fish and Game Code Section 716.3(q) without
33 substantive change.

34 **§ 7435. “Wildlife law”**

35 7435. “Wildlife law” means any statute, regulation, ordinance, or administrative
36 rule or regulation developed and enacted for the management of wildlife resources
37 and the uses thereof.

38 **Comment.** Section 7435 continues former Fish and Game Code Section 716.3(r) without
39 substantive change.

1 **§ 7440. “Wildlife officer”**

2 7440. “Wildlife officer” means any individual authorized in this state to issue a
3 citation for a wildlife violation.

4 **Comment.** Section 7440 continues former Fish and Game Code Section 716.3(s) without
5 substantive change.

6 **§ 7445. “Wildlife violation”**

7 7445. “Wildlife violation” means the violation of a statute, ordinance, or
8 administrative rule or regulation developed and enacted for the management of
9 wildlife resources and the uses thereof pertaining to sport fishing, hunting, and
10 trapping and for which a prosecution is initiated.

11 **Comment.** Section 7445 continues former Fish and Game Code Section 716.3(t) without
12 substantive change.

13 **CHAPTER 3. ISSUING STATE VIOLATION PROCEDURES**

14 **§ 7450. Issuance of citation**

15 7450. (a) Notwithstanding any other provision of law, when issuing a citation
16 for a wildlife violation for purposes of this title, a wildlife officer of the issuing
17 state may issue a citation to any person whose primary residence is in a
18 participating state in the same manner as though the person were a resident of the
19 issuing state, and shall not require that person to post collateral to secure
20 appearance, except as provided in subdivision (b), if the officer receives the
21 personal recognizance of the person that he or she will comply with the terms of
22 the citation.

23 (b) Personal recognizance is acceptable unless prohibited by ordinance of a city
24 or county, the policy of the issuing agency, a procedure or regulation, or by the
25 compact manual, and only if the violator provides adequate proof of identification
26 to the wildlife officer.

27 (c) Upon conviction or failure of a person to comply with the terms of a wildlife
28 citation, the appropriate wildlife officer shall report the conviction or failure to
29 comply to the licensing authority of the participating state in which the wildlife
30 citation was issued. The report shall be made in accordance with procedures
31 specified by the issuing state, and shall contain information as prescribed in the
32 compact manual.

33 (d) Upon receipt of the report of conviction or noncompliance pursuant to
34 subdivision (c), the licensing authority of the issuing state shall transmit to the
35 licensing authority of the home state of the violator the information in the form
36 and content prescribed in the compact manual.

37 **Comment.** Section 7450 continues former Fish and Game Code Section 716.4 without
38 substantive change.

1 CHAPTER 4. HOME STATE PROCEDURES

2 § 7455. Action by home state

3 7455. (a) Upon receipt of a report from the licensing authority of the issuing
4 state reporting the failure of a violator to comply with the terms of a citation, the
5 licensing authority shall notify the violator and shall initiate a suspension action.
6 The licensing authority shall suspend the violator's license privileges, in
7 accordance with the requirements of due process, until satisfactory evidence of
8 compliance with the terms of the wildlife citation has been furnished to the
9 licensing authority.

10 (b) Upon receipt of a report of conviction from the licensing authority of the
11 issuing state, the licensing authority of the home state may enter that conviction in
12 its records and may treat the conviction as though it occurred in the home state for
13 the purposes of the suspension of license privileges, if the violation that resulted in
14 the conviction would constitute a wildlife violation in the home state.

15 (c) The licensing authority of the home state shall maintain a record of actions
16 taken and shall make reports to issuing states as provided in the compact manual.

17 **Comment.** Section 7455 continues former Fish and Game Code Section 716.5 without
18 substantive change.

19 CHAPTER 5. RECIPROCAL RECOGNITION OF SUSPENSION

20 § 7460. Recognition of suspension in other state

21 7460. (a) As a participating member of the wildlife violator compact, the
22 licensing authority of this state may recognize the suspension of license privileges
23 of any person by any participating state if both of the following occur:

24 (1) The violation that resulted in the conviction would constitute a wildlife
25 violation in this state.

26 (2) The conviction that resulted in the suspension could have been the basis for
27 suspension under the statutes, ordinances, or administrative rules or regulations of
28 this state.

29 (b) The licensing authority shall communicate suspension information to other
30 participating states in the form and content prescribed by the compact manual.

31 **Comment.** Section 7460 continues former Fish and Game Code Section 716.6 without
32 substantive change.

33 CHAPTER 6. APPLICABILITY OF OTHER LAWS

34 § 7465. Right of participating state to apply its own laws

35 7465. Except as expressly required by this title, this title shall not be construed
36 to affect the right of any participating state to apply any of its statutes, ordinances,
37 or administrative rules or regulations relating to license privileges to any person or
38 circumstance, or to invalidate or prevent any agreement or other cooperative

1 arrangement between a participating state and a nonparticipating state, concerning
2 wildlife law enforcement.

3 **Comment.** Section 7465 continues former Fish and Game Code Section 716.7 without
4 substantive change.

5 CHAPTER 7. COMPACT ADMINISTRATOR PROCEDURES

6 § 7470. Establishment, duties, and powers

7 7470. (a)(1) A board of compact administrators is hereby established to serve as
8 a governing body for the resolution of all matters relating to the operation of this
9 compact. The board shall be composed of one member from each of the
10 participating states to be known as the compact administrator.

11 (2) A compact administrator of any participating state may provide for the
12 discharge of his or her duties and the performance of his or her functions as a
13 board member by an alternate, designated by that member. An alternate is not
14 entitled to serve unless written notification of his or her identity is provided to the
15 board.

16 (3) The compact administrator for this state shall be appointed by the director
17 and shall serve, and be subject to removal, in accordance with the laws of this
18 state.

19 (b) Each member of the board is entitled to one vote. No action of the board
20 shall be binding unless taken at a meeting at which a majority of the membership
21 of the board vote in favor thereof. Action by the board may only be taken at a
22 meeting at which a majority of the membership of the board is present.

23 (c) The board shall elect annually from its membership a chairperson and vice
24 chairperson.

25 (d) The board shall adopt bylaws, not inconsistent with this compact, and may
26 amend and rescind the bylaws.

27 (e) The board may accept for any of its purposes and functions under this
28 compact any donation and grant of money, equipment, supplies, materials, and
29 services, conditional or otherwise, from any state, the United States, or any
30 governmental agency, and may receive, utilize, and dispose thereof.

31 (f) The board may contract with, or accept services or personnel from, any
32 governmental or intergovernmental agency, individual, firm, or corporation,
33 including any private nonprofit organization or institution.

34 (g) The board shall formulate all necessary procedures and develop uniform
35 forms and documents for administering this compact. All procedures and forms
36 adopted pursuant to board action shall be contained in a compact manual.

37 **Comment.** Section 7470 continues former Fish and Game Code Section 716.8 without
38 substantive change.

CHAPTER 8. ENTRY INTO COMPACT AND WITHDRAWAL

§ 7475. Application of compact

7475. (a) This title shall become effective when it is adopted in substantially similar form by this state and one or more other states, subject to the following conditions:

(1) The entry into the compact shall be made by resolution executed and ratified by authorized officials of the applying state and submitted to the chairperson of the board of contract administrators.

(2) The resolution shall substantially be in the form and content as provided in the compact manual, and shall include all of the following:

(A) A citation of the authority authorizing the state to become a party to this compact.

(B) An agreement to comply with the terms and provisions of this compact.

(C) An agreement that the state entering into the compact agrees to participate with all participating states in the compact.

(b) The effective date of entry into the compact shall be specified by the applying state but shall not be less than 60 days after notice has been given by either the chairperson or secretary of the board to each participating state that the resolution from the applying state has been received.

(c) A participating state may withdraw from participation in this compact by giving written notice to the compact administrator of each participating state. The withdrawal shall not become effective until 90 days from the date on which the written notice of withdrawal is sent to each participating state. The withdrawal of any state shall not affect the validity of this compact as to the remaining participating states.

Comment. Section 7475 continues former Fish and Game Code Section 716.9 without substantive change.

CHAPTER 9. AMENDMENTS TO THE COMPACT

§ 7480. Amendment

7480. (a) This compact may be amended periodically. Amendments shall be presented in resolution form to the chairperson of the board, and shall be initiated by one or more participating states.

(b) The adoption of an amendment requires endorsement by all participating states and becomes effective 30 days after the date of the last endorsement.

(c) The failure of any participating state to respond to the appropriate authority within 60 days after receipt of a proposed amendment constitutes endorsement thereof.

Comment. Section 7480 continues former Fish and Game Code Section 717 without substantive change.

1 CHAPTER 10. CONSTRUCTION AND SEVERABILITY

2 § 7485. Liberal construction

3 7485. This compact shall be liberally construed to effectuate its purposes.

4 **Comment.** Section 7485 continues former Fish and Game Code Section 717.1 without
5 substantive change.

6 § 7490. Severability

7 7490. The provisions of this title are severable. If any provision of this title or its
8 application is held invalid or contrary to the constitution of any participating state
9 or of the United States, that invalidity shall not affect other provisions or
10 applications that can be given effect without the invalid provision or application.

11 **Comment.** Section 7490 continues former Fish and Game Code Section 717.2 without
12 substantive change.

13 TITLE 5. PACIFIC MARINE FISHERIES
14 COMPACT

15 CHAPTER 1. THE COMPACT

16 § 7500. Authority to execute compact

17 7500. The Governor is hereby authorized and directed to execute a compact on
18 behalf of this state with any or all of the states of Alaska, Idaho, Oregon, and
19 Washington for the purpose of cooperating with those states in the formation of a
20 Pacific States Marine Fisheries Commission.

21 **Comment.** Section 7500 continues former Fish and Game Code Section 14000 without
22 substantive change.

23 § 7505. Form and content of compact

24 7505. The form and contents of the Pacific Marine Fisheries Compact shall be
25 substantially as provided in this section and the effect of its provisions shall be
26 interpreted and administered in conformity with the provisions of this title:

27 PACIFIC MARINE FISHERIES COMPACT

28 The contracting states do hereby agree as follows:

29 Article I

30 The purposes of this compact are and shall be to promote the better utilization of
31 fisheries, marine, shell and anadromous, which are of mutual concern, and to
32 develop a joint program of protection and prevention of physical waste of those
33 fisheries in all of those areas of the Pacific Ocean over which the compacting
34 states jointly or separately now have or may hereafter acquire jurisdiction.

1 Nothing herein contained shall be construed so as to authorize the compacting
2 states or any of them to limit the production of fish or fish products for the purpose
3 of establishing or fixing the prices thereof or creating and perpetuating a
4 monopoly.

5 Article II

6 This agreement shall become operative immediately as to those states executing
7 it in the form that is in accordance with the laws of the executing state and when
8 the Congress has given its consent.

9 Article III

10 Each state joining herein shall appoint, as determined by state statutes, one or
11 more representatives to a commission hereby constituted and designated as the
12 Pacific States Marine Fisheries Commission, of whom one shall be the
13 administrative or other officer of the agency of that state charged with the
14 conservation of the fisheries resources to which this compact pertains. This
15 commission shall be invested with the powers and duties set forth herein.

The term of each commissioner of the Pacific States Marine Fisheries Commission shall be four years. A commissioner shall hold office until a successor shall be appointed and qualified but the successor's term shall expire four years from legal date of expiration of the term of the predecessor. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled for the unexpired term, or a commissioner may be removed from office, as provided by the statutes of the state concerned. Each commissioner may delegate in writing from time to time, to a deputy, the power to be present and participate, including voting as a representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

26 Voting powers under this compact shall be limited to one vote for each state
27 regardless of the number of representatives.

28 Article IV

29 The duty of the said commission shall be to make inquiry and ascertain from
30 time to time any methods, practices, circumstances and conditions as may be
31 disclosed for bringing about the conservation and the prevention of the depletion
32 and physical waste of the fisheries, marine, shell, and anadromous in all of those
33 areas of the Pacific Ocean over which the states signatory to this compact jointly
34 or separately now have or may hereafter acquire jurisdiction. The commission
35 shall have power to recommend the coordination of the exercise of the police
36 powers of the several states within their respective jurisdictions and said
37 conservation zones to promote the preservation of those fisheries and their
38 protection against overfishing, waste, depletion or any abuse whatsoever and to

1 assure a continuing yield from the fisheries resources of the signatory parties
2 hereto.

3 To that end the commission shall draft and, after consultation with the advisory
4 committee hereinafter authorized, recommend to the governors and legislative
5 branches of the various signatory states hereto legislation dealing with the
6 conservation of the marine, shell, and anadromous fisheries in all of those areas of
7 the Pacific Ocean over which the states signatory to this compact jointly or
8 separately now have or may hereafter acquire jurisdiction. The commission shall,
9 more than one month prior to any regular meeting of the legislative branch in any
10 state signatory hereto, present to the governor of that state its recommendations
11 relating to enactments by the legislative branch of that state in furthering the
12 intents and purposes of this compact.

13 The commission shall consult with and advise the pertinent administrative
14 agencies in the signatory states with regard to problems connected with the
15 fisheries and recommend the adoption of any regulations that it deems advisable
16 and which lie within the jurisdiction of the agencies.

17 The commission shall have power to recommend to the states signatory hereto
18 the stocking of the waters of the states with marine, shell or anadromous fish and
19 fish eggs or joint stocking by some or all of the states and when two or more of the
20 said states shall jointly stock waters the commission shall act as the coordinating
21 agency for the stocking.

22 Article V

23 The commission shall elect from its number a chairperson and a vice
24 chairperson and shall appoint and at its pleasure remove or discharge any officers
25 and employees as may be required to carry the provisions of this compact into
26 effect and shall fix and determine their duties, qualifications and compensation.
27 Said commission shall adopt rules and regulations for the conduct of its business.
28 It may establish and maintain one or more offices for the transaction of its
29 business and may meet at any time or place within the territorial limits of the
30 signatory states but must meet at least once a year.

31 Article VI

32 No action shall be taken by the commission except by the affirmative vote of a
33 majority of the whole number of compacting states represented at any meeting. No
34 recommendation shall be made by the commission in regard to any species of fish
35 except by the vote of a majority of the compacting states which have an interest in
36 the species.

1 Article VII

2 The fisheries research agencies of the signatory states shall act in collaboration
3 as the official research agency of the Pacific States Marine Fisheries Commission.

4 An advisory committee to be representative of the commercial fishers,
5 commercial fishing industry and any other interests of each state as the
6 commission deems advisable shall be established by the commission as soon as
7 practicable for the purpose of advising the commission upon any
8 recommendations as it may desire to make.

9 Article VIII

10 Nothing in this compact shall be construed to limit the powers of any state or to
11 repeal or prevent the enactment of any legislation or the enforcement of any
12 requirement by any state imposing additional conditions and restrictions to
13 conserve its fisheries.

14 Article IX

15 Continued absence of representation or of any representative on the commission
16 from any state party hereto, shall be brought to the attention of the governor
17 thereof.

18 Article X

19 The states agree to make available annual funds for the support of the
20 commission on the following basis:

21 Eighty percent of the annual budget shall be shared equally by those member
22 states having as a boundary the Pacific Ocean. Not less than 5 percent of the
23 annual budget shall be contributed by any other member state. The balance of the
24 annual budget shall be shared by those member states having as a boundary the
25 Pacific Ocean, in proportion to the primary market value of the products of their
26 commercial fisheries on the basis of the latest five-year catch records.

27 The annual contribution of each member state shall be figured to the nearest one
28 hundred dollars (\$100).

29 Article XI

30 This compact shall continue in force and remain binding upon each state until
31 renounced by it. Renunciation of this compact must be preceded by sending six
32 months' notice in writing of intention to withdraw from the compact to the other
33 parties hereto.

Article XII

Hawaii or any other state having rivers or streams tributary to the Pacific Ocean may become a contracting state by enactment of the Pacific Marine Fisheries Compact. Upon admission of any new state to the compact, the purposes of the compact and the duties of the commission shall extend to the development of joint programs for the conservation, protection and prevention of physical waste of fisheries in which the contracting states are mutually concerned and to all waters of the newly admitted state necessary to develop the programs.

This compact shall become effective upon its enactment by the states signatory to this compact and upon ratification by Congress by virtue of the authority vested in it under Article 1, Section 10, of the Constitution of the United States.

Comment. Section 7505 continues former Fish and Game Code Section 14001 without substantive change.

§ 7510. Operation of compact

7510. Participation by this State in this compact shall continue until the Legislature otherwise provides by law. Notice of intention to withdraw from the compact shall be executed and transmitted by the Governor after the Legislature provides by law for discontinuance of participation therein by this State.

Comment. Section 7510 continues former Fish and Game Code Section 14002 without substantive change.

CHAPTER 2. THE COMMISSION

§ 7550. Members

7550. In furtherance of the provisions contained in the compact there shall be three members of the Pacific States Marine Fisheries Commission from the State of California, appointed by the Governor by and with the advice and consent of the Senate. One commissioner shall be the administrative or other officer of the department or agency of this state charged with the conservation of its marine fisheries resources. Another commissioner shall be a Member of the Legislature of this state who is a member of a committee on interstate cooperation of the Legislature. Another member shall be a citizen of this state who shall have wide knowledge of and interest in the marine fisheries problem.

Comment. Section 7550 continues former Fish and Game Code Section 14100 without substantive change.

§ 7555. Term

7555. The term of each commissioner shall be four years. A commissioner shall hold office until a successor shall be appointed and qualified but the successor's term shall expire four years from the legal date of expiration of the term of the predecessor. Any commissioner may be removed from office by the Governor upon charges and after a hearing. The term of any commissioner who ceases to


1 hold the qualifications required shall terminate when a successor may be duly
2 appointed. Vacancies occurring in the office of a commissioner from any reason or
3 cause shall be filled for the unexpired term in the same manner as for a full term
4 appointment.

5 **Comment.** Section 7555 continues former Fish and Game Code Section 14101 without
6 substantive change.

7 **§ 7560. Compensation**

8 7560. Each commissioner who is not also a state officer shall receive one
9 hundred dollars (\$100) for each day of performing official duties pursuant to the
10 direction of the commission, and each commissioner shall receive actual and
11 necessary travel expenses incurred in performing official duties on behalf of the
12 commission.

13 **Comment.** Section 7560 continues former Fish and Game Code Section 14102 without
14 substantive change.

15  **Note.** Section 14102 provides for a per diem of \$10. That provision appears to be obsolete.
16 See Gov't Code § 11564.5 (default per diem is \$100, notwithstanding any other provision of law).
17 Proposed Section 7560 provides for the \$100 per diem provided under the Government Code.

18 **The Commission invites comment on whether this revision would be consistent with**
19 **existing practice.**

20 **§ 7565. Performance**

21 7565. All officers of the state are authorized and directed to do all things falling
22 within their respective provinces and jurisdiction necessary or incidental to the
23 carrying out of the compact in every particular. The policy of this state is to
24 perform and carry out the compact and to accomplish the purposes thereof. All
25 officers, bureaus, departments, and persons of and in the state government or
26 administration of the state are hereby authorized and directed at convenient times
27 and upon request of the commission to furnish the commission with information
28 and data possessed by them and to aid the commission by any means lying within
29 their legal rights.

30 **Comment.** Section 7565 continues former Fish and Game Code Section 14103 without
31 substantive change.

32 **§ 7570. Annual report**

33 7570. The commission shall keep accurate accounts of its activities and shall
34 report to the Governor and the Legislature on or before the thirty-first day of
35 December in each year, setting forth in detail the transactions conducted by it
36 during that calendar year and shall make recommendations for any legislative
37 action deemed by it advisable, including amendments to the statutes that may be
38 necessary to carry out the intent and purposes of the compact between the
39 signatory states.


40 **Comment.** Section 7570 continues former Fish and Game Code Section 14104 without
41 substantive change.

1 **§ 7575. Execution of compact**

2 7575. When the Governor on behalf of the state executes the compact, the
3 Governor shall sign under a recital that the compact is executed pursuant to the
4 provisions thereof, subject to the limitations and qualifications contained in the
5 sections of this title in aid and furtherance thereof.

6 **Comment.** Section 7575 continues former Fish and Game Code Section 14105 without
7 substantive change.

8 **DIVISION 5. NATIVE AMERICANS**

9  **Note.** The provisions collected in this division have been drafted to continue existing law
10 without any substantive change. When the Commission first examined these provisions, the
11 Department of Fish and Wildlife requested that the Commission's review of these provisions be
12 deferred until after the Department had completed its formal process of consulting with affected
13 tribes. See Memorandum 2016-48. The Commission agreed to do so. See Minutes of September
14 22, 2016, Commission Meeting.

15 At the same meeting, the Commission decided that it would not recommend any controversial
16 changes to the Fish and Game Code in this study. It seems likely that any significant change to
17 existing law regarding the authority of the state to regulate tribal fishing would implicate policies
18 that may be in dispute. Such policies are best addressed through direct consultation and
19 substantive reform, rather than as part of a mostly technical statutory clean-up project.

20 **The Commission invites public comment on whether there are any purely technical**
21 **changes that should be made to the provisions collected in this division.**

22 **PART 1. GENERAL PROVISIONS**

23 **§ 7600. Application of code**

24 7600. (a) Notwithstanding any other provision of law, the provisions of this code
25 are not applicable to California Indians whose names are inscribed upon the tribal
26 rolls, while on the reservation of that tribe and under those circumstances in this
27 state where the code was not applicable to them immediately before the effective
28 date of Public Law 280, Chapter 505, First Session, 1953, 83d Congress of the
29 United States.

30 (b) No Indian described in subdivision (a) shall be prosecuted for the violation
31 of any provision of this code occurring in the places and under the circumstances
32 described in subdivision (a). Nothing in this section, however, prohibits or restricts
33 the prosecution of an Indian for the violation of a provision of this code
34 prohibiting the sale of a bird, mammal, fish, amphibian, or reptile.

35 **Comment.** Section 7600 continues former Fish and Game Code Section 12300 without
36 substantive change.

37 **§ 7605. Tribal committee**

38 7605. The commission shall form a tribal committee from its membership
39 consisting of at least one commissioner. The committee shall report to the
40 commission from time to time on its activities and shall make recommendations

1 on all tribal matters considered by the commission. The committee or its designee
2 shall, to the extent practicable, attend meetings of the department staff, including
3 meetings of the department staff with interested parties, in which significant tribal
4 management documents are being developed.

5 **Comment.** Section 7605 continues former Fish and Game Code Section 106.5 without
6 substantive change.

7 PART 2. SPECIFIC PROVISIONS

8 CHAPTER 1. YUROK TRIBE

9 § 7650. Fishing

10 7650. Notwithstanding any other provision of this code, California Indians who
11 are bona fide registered members of the Yurok Indian Tribe may take fish, for
12 subsistence purposes only, from the Klamath River between the mouth of that
13 river and the junction of Tectah Creek with it, exclusive of tributaries, without
14 regard to seasons, under the following conditions:

15 (a) Upon application therefor, the department shall issue to any Yurok Indian
16 who is listed on the register of the Yurok Tribal Organization, as furnished to the
17 department, a renewable, nontransferable permit to take fish pursuant to this
18 section for a period of one calendar year. Any Indian of the Yurok tribe while
19 taking fish pursuant to this section shall have upon his person such valid permit,
20 and shall display it upon the request of any duly authorized officer.

21 (b) Hand dip nets, and hook and line only may be used for taking fish pursuant
22 to this section.

23 (c) Pursuant to this section not more than three trout or salmon or combination
24 thereof, or more than one sturgeon, may be taken in any one day. There is no bag
25 limit on any other fish.

26 (d) No Yurok Indian while fishing pursuant to this section may be accompanied
27 by any person who does not possess a valid permit as prescribed by this section. It
28 is unlawful for any person who does not hold such permit to accompany any
29 Yurok Indian who is taking fish pursuant to this section.

30 (e) The sale of any fish taken under the provisions of this section shall constitute
31 cause for permanent revocation by the commission of the permit held by the
32 person making the sale.

33 **Comment.** Section 7650 continues former Fish and Game Code Section 7155 without
34 substantive change.

1 CHAPTER 2. STATE-TRIBAL AGREEMENTS ON INDIAN FISHING BY
2 COVELLO INDIAN COMMUNITY

3 Article 1. Legislative Findings

4 **§ 7720. Legislative findings**

5 7720. The Legislature finds:

6 (a) Jurisdiction over the protection and development of natural resources,
7 especially the fish resource, is of great importance to both the State of California
8 and California Indian tribes.

9 (b) To California Indian tribes, control over their minerals, lands, water,
10 wildlife, and other resources is crucial to their economic self-sufficiency and the
11 preservation of their heritage. On the other hand, the State of California is
12 concerned about protecting and developing its resources; protecting, restoring, and
13 developing its commercial and recreational salmon fisheries; ensuring public
14 access to its waterways; and protecting the environment within its borders.

15 (c) More than any other issue confronting the State of California and California
16 Indian tribes, the regulation of natural resources, especially fish, transcends
17 political boundaries.

18 (d) In many cases, the State of California and California Indian tribes have
19 differed in their respective views of the nature and extent of state versus tribal
20 jurisdiction in areas where Indians have historically fished. Despite these frequent
21 and often bitter disputes, both the state and the tribes seek, as their mutual goal,
22 the protection and preservation of the fish resource. This division is an attempt to
23 provide a legal mechanism, other than protracted and expensive litigation over
24 unresolved legal issues, for achieving that mutual goal.

25 (e) This chapter creates a pilot project that will involve and encourage the efforts
26 of the State of California and the Covelo Indian Community of the Round Valley
27 Indian Reservation to reach a mutual agreement regarding the legal framework for
28 the exercise of Indian subsistence fishing in the boundary streams of the historic
29 1873 Round Valley Indian Reservation. It is hoped that this pilot project, if
30 successful, will provide the incentive for enactment of broader legislation that
31 would authorize similar negotiated agreements with other California Indian tribes.

32 **Comment.** Section 7720 continues former Fish and Game Code Section 16000 without
33 substantive change.

34 Article 2. Definitions

35 **§ 7725. Application of definitions**

36 7725. The definition in this article shall govern the construction of this chapter.

37 **Comment.** Section 7725 continues former Fish and Game Code Section 16001 without
38 substantive change.

1 **§ 7730. “Covelo Indian Community”**

2 7730. “Covelo Indian Community” means the confederated tribes of the Round
3 Valley Indian Reservation located in Mendocino County, California, recognized as
4 an Indian tribe by the Secretary of the Interior.

5 **Comment.** Section 7730 continues former Fish and Game Code Section 16002 without
6 substantive change.

7 **§ 7735. “Historic 1873 Round Valley Indian Reservation”**

8 7735. “Historic 1873 Round Valley Indian Reservation” means the reservation
9 described and set aside by Congress for the Covelo Indian Community in the Act
10 of March 3, 1873 (17 Stat. 633).

11 **Comment.** Section 7735 continues former Fish and Game Code Section 16005 without
12 substantive change.

13 **§ 7740. “Take”**

14 7740. “Take” means pursue, catch, capture, or kill, or attempt to pursue, catch,
15 capture, or kill.

16 **Comment.** Section 7740 continues former Fish and Game Code Section 16003 without
17 substantive change.

18 **§ 7745. “Traditional Indian fishing practice”**

19 7745. “Traditional Indian fishing practice” means a mode, method, or way of
20 taking fish that is recognized in the customs and traditions of the Covelo Indian
21 Community.

22 **Comment.** Section 7745 continues former Fish and Game Code Section 16004 without
23 substantive change.

24 Article 3. Negotiation and Approval of Agreement

25 **§ 7750. Subject of negotiations**

26 7750. Subject to the approval of the commission, the department may enter into
27 a mutual agreement or compact with the Covelo Indian Community respecting
28 jurisdiction and authority to regulate traditional Indian subsistence fishing
29 practices in the boundary streams of the historic 1873 Round Valley Indian
30 Reservation.

31 **Comment.** Section 7750 continues former Fish and Game Code Section 16006 without
32 substantive change.

33 **§ 7755. Submission of agreement to commission**

34 7755. Any agreement or compact entered into pursuant to Section 7750 shall be
35 submitted by the department to the commission for review and approval.

36 **Comment.** Section 7755 continues former Fish and Game Code Section 16007 without
37 substantive change.

1 **§ 7760. Commission review and approval**

2 7760. Any agreement or compact entered into pursuant to Section 7750 shall not
3 be effective until they are approved by the commission. The commission may
4 consider and approve an agreement or compact at any of its regular or special
5 meetings.

6 **Comment.** Section 7760 continues former Fish and Game Code Section 16008 without
7 substantive change.

8 **§ 7765. Meetings**

9 7765. The commission shall give notice of the time and place of any meeting at
10 which the approval of an agreement or compact entered into under this chapter
11 will be considered by publishing prior notice in any publication issued by the
12 Resources Agency or the department after determining the time and place of the
13 meeting. The commission shall make copies of the proposed agreement or
14 compact available to the public on request and the notice shall contain a statement
15 to that effect. All meetings required by this section shall be open to the public.

16 **Comment.** Section 7765 continues former Fish and Game Code Section 16009 without
17 substantive change.

18 Article 4. Enforceability of an Agreement or Compact

19 **§ 7775. Enforcement governed by agreement**

20 7775. Any agreement or compact entered into pursuant to this division shall be
21 enforceable by the parties only to the extent and in the forum or forums provided
22 for under the terms of the agreement or compact.

23 **Comment.** Section 7775 continues former Fish and Game Code Section 16010 without
24 substantive change.

25 **§ 7780. Regulations**

26 7780. The department may promulgate regulations consistent with the
27 provisions of any agreement or compact entered into pursuant to Section 7750.
28 The application and enforcement of those regulations shall be in accordance with
29 the express provisions of the agreement or compact.

30 **Comment.** Section 7780 continues former Fish and Game Code Section 16011 without
31 substantive change.

32 CHAPTER 3. STATE-TRIBAL AGREEMENTS ON INDIAN FISHING ON
33 THE KLAMATH RIVER

34 Article 1. Legislative Findings

35 **§ 7850. Legislative findings**

36 7850. The Legislature finds:

1 (a) Jurisdiction over the protection and development of natural resources,
2 especially the fish resource, is of great importance to both the State of California
3 and California Indian tribes.

4 (b) To California Indian tribes, control over their minerals, lands, water,
5 wildlife, and other resources within Indian country is crucial to their economic
6 self-sufficiency and the preservation of their heritage. On the other hand, the State
7 of California is concerned about protecting and developing its resources;
8 protecting, restoring, and developing its commercial and recreational salmon
9 fisheries; ensuring public access to its waterways; and protecting the environment
10 within its borders.

11 (c) More than any other issue confronting the State of California and California
12 Indian tribes, the regulation of natural resources, especially fish, transcends
13 political boundaries.

14 (d) In many cases, the State of California and California Indian tribes have
15 differed in their respective views of the nature and extent of state versus tribal
16 jurisdiction in areas where Indians have historically fished. Despite these frequent
17 and often bitter disputes, both the state and the tribes seek, as their mutual goal,
18 the protection and preservation of the fish resource. This chapter is an attempt to
19 provide a legal mechanism, other than protracted and expensive litigation over
20 unresolved legal issues, for achieving that mutual goal on the Klamath River.

21 (e) The department has exercised jurisdiction over the Klamath River from the
22 mouth of the river through the Yurok Reservation and the Hoopa Valley
23 Reservation, but the Bureau of Indian Affairs and the Indian tribes thereon have
24 also asserted jurisdiction over that river. The river itself lies within a disputed area
25 and proper management of the resource presents, therefore, unique and difficult
26 problems in the exercise of fishing practices by all user groups.

27 (f) Although commercial fishing may not be a traditional practice of the tribes
28 existing along the Klamath River within the boundaries of the land of the Yurok
29 Reservation and the Hoopa Valley Reservation, nevertheless, the department has
30 historically supported the concept of tribal fishing, including a tribal commercial
31 fishing industry where the industry is consistent with the need to preserve the
32 species, sound management, and where that usage would not adversely effect
33 other user groups, including sportfishing and the ocean commercial fishery.

34 (g) A commercial fishery existed on the Klamath River in the late 19th century
35 and early 20th century, in which the Indian tribes existing along the river
36 participated, but commercial fishing was abolished in 1933 with the passage of the
37 predecessor to Section 15150, and, further, that salmon resources have declined
38 historically due to past water developmental policies and timber harvesting
39 practices. With a reduced number of fish available, special laws are needed to
40 protect those resources and allocate them fairly among the various user groups.

41 (h) This division is not only enacted to provide the legal mechanism described
42 above, but is also intended to encourage cooperative agreements to allow
43 protection of the resource among all of the user groups. In so doing, the

1 Legislature recognizes the unique status of the Klamath River and the fishing
2 therein.

3 **Comment.** Section 7850 continues former Fish and Game Code Section 16500 without
4 substantive change.

5 Article 2. Definitions

6 § 7855. Application of definitions

7 7855. The definition in this article shall govern the construction of this chapter.

8 **Comment.** Section 7855 continues former Fish and Game Code Section 16510 without
9 substantive change.

10 § 7860. “Ceremonial or religious purposes”

11 7860. “Ceremonial or religious purposes” means fish taken by qualified Indian
12 tribal members of the Klamath River Indian Tribes for recognized religious or
13 ceremonial activities, which activities are consistent with the customs and
14 traditions of the particular tribe in the Klamath River Indian Tribes.

15 **Comment.** Section 7860 continues former Fish and Game Code Section 16517 without
16 substantive change.

17 § 7865. “Commercial fishing”

18 7865. “Commercial fishing” means the taking of fish by qualified Indian tribal
19 members of the Klamath River Indian Tribes, for sale or to be offered for sale
20 within California.

21 **Comment.** Section 7865 continues former Fish and Game Code Section 16518 without
22 substantive change.

23 § 7870. “Disputed area”

24 7870. “Disputed area” means that part of the Klamath River or Trinity River
25 where jurisdiction to regulate Indian fishing is asserted by both the State of
26 California and by one or more of the Indian tribes in the Klamath River Indian
27 Tribes or by the United States government acting as trustee therefor.

28 **Comment.** Section 7870 continues former Fish and Game Code Section 16515 without
29 substantive change.

30 § 7875. “Hoopa Valley Reservations”

31 7875. “Hoopa Valley Reservations” means those lands lying within the Hoopa
32 Square.

33 **Comment.** Section 7875 continues the second sentence of former Fish and Game Code Section
34 16514 without substantive change.

35 § 7880. “Klamath Fishery Management Council”

36 7880. “Klamath Fishery Management Council” means that council created
37 pursuant to Section 460ss–2 of Title 16 of the United States Code that is composed

1 of one representative each from the department, the Pacific Fishery Management
2 Council, National Marine Fisheries Service, Department of the Interior, Oregon
3 Department of Fish and Wildlife, the Hoopa Valley Business Council, non-Hoopa
4 Indians, the California commercial salmon fishing industry, the Oregon
5 commercial salmon fishing industry, the Klamath River in-river sportfishing
6 community, and the California offshore recreational fishing industry.

7 **Comment.** Section 7880 continues former Fish and Game Code Section 16520 without
8 substantive change.

9 **§ 7885. “Klamath River Indian Tribes”**

10 7885. “Klamath River Indian Tribes” means those tribes existing within the
11 boundaries of the Yurok Reservation and the Hoopa Valley Reservation, located in
12 Humboldt and Del Norte Counties in California, which tribes are recognized as
13 Indian tribes by the Secretary of the Interior.

14 **Comment.** Section 7885 continues former Fish and Game Code Section 16511 without
15 substantive change.

16 **§ 7890. “Subsistence purposes”**

17 7890. “Subsistence purposes” means fish or game taken by qualified Indian
18 tribal members of the Klamath River Indian Tribes for personal consumption by
19 the tribal members or their immediate families.

20 **Comment.** Section 7890 continues former Fish and Game Code Section 16516 without
21 substantive change.

22 **§ 7900. “Take”**

23 7900. “Take” means pursue, catch, capture, or kill, or attempt to pursue, catch,
24 capture, or kill.

25 **Comment.** Section 7900 continues former Fish and Game Code Section 16512 without
26 substantive change.

27 **§ 7905. “Traditional Indian fishing practice”**

28 7905. “Traditional Indian fishing practice” means a mode, method, or way of
29 taking fish that is recognized in the customs and traditions of the Klamath River
30 Indian Tribes.

31 **Comment.** Section 7905 continues former Fish and Game Code Section 16513 without
32 substantive change.

33 **§ 7910. “Yurok Reservation”**

34 7910. “Yurok Reservation” means the land extending one mile in width on each
35 side of the Klamath River from the mouth of the Klamath River to the confluence
36 of the Trinity and Klamath Rivers.

37 **Comment.** Section 7910 continues the first sentence of former Fish and Game Code Section
38 16514 without substantive change.

Article 3. Negotiation and Approval of Agreement

§ 7925. Subject of negotiations

7925. The director may enter into a mutual agreement or compact with the Hoopa Valley Business Council regarding the taking of fish from the Trinity River within the exterior boundaries of the Hoopa Valley Reservation or with the Yurok Tribe, or the Bureau of Indian Affairs acting as trustee for the Yurok Indians, regarding the taking of fish from the Klamath River within the exterior boundaries of the Yurok Reservation.

Comment. Section 7925 continues former Fish and Game Code Section 16530 without substantive change.

§ 7930. Timing

7930. Negotiations shall take place following the completion each year of the salmon allocation agreement recommended by the Klamath Fishery Management Council, and subsequently adopted by the Pacific Fishery Management Council and the United States Department of Commerce. Any agreement or compact under this division shall reflect those allocations.

Comment. Section 7930 continues former Fish and Game Code Section 16531 without substantive change.

§ 7935. Commercial sale of salmon

7935. Notwithstanding Sections 15150, 18040, 18045, and 18050, the compact or agreement may include provisions for commercial sales of salmon allocated to qualified Indian members of the Klamath River Indian Tribes and that the salmon may be taken by traditional Indian methods, including, but not limited to, use of gill nets, if the agreement or compact includes provisions for all of the following:

(a) Separating the salmon taken for commercial purposes from the salmon taken for subsistence use, which may include tagging or marking of the salmon to be sold.

(b) Limiting the number of the salmon to be sold.

(c) A portion of the sales to benefit the members or programs of the Klamath River Indian Tribes in accordance with the wishes of the tribes or the Bureau of Indian Affairs acting on behalf of the tribes as trustee.

Comment. Section 7935 continues former Fish and Game Code Section 16532 without substantive change.

Article 4. Enforceability of an Agreement or Compact

§ 7950. Enforcement governed by agreement

7950. Any agreement or compact entered into pursuant to this division shall be enforceable by the parties only to the extent and in the form or forms provided for under the terms of the agreement or compact.

1 **Comment.** Section 7950 continues former Fish and Game Code Section 16540 without
2 substantive change.

3 **§ 7955. Regulations**

4 7955. The department may adopt regulations consistent with the provisions of
5 any agreement or compact entered into pursuant to Section 7925 or 7930. The
6 application and enforcement of those regulations shall be in accordance with the
7 express provisions of the agreement or compact.

8 **Comment.** Section 7955 continues former Fish and Game Code Section 16541 without
9 substantive change.

10 DIVISION 6. HUNTING, TRAPPING, AND FISHING

11 PART 1. GENERAL PROVISIONS

12 TITLE 1. GENERAL PROHIBITIONS AND OBLIGATIONS

13 CHAPTER 1. GENERAL PROHIBITIONS

14 **§ 8000. Unauthorized take**

15 8000. (a) It is unlawful to take a bird, mammal, fish, reptile, or amphibian,
16 except as provided in this code or in a regulation adopted pursuant to this code.

17 (b) Possession of a bird, mammal, fish, reptile, or amphibian, or part of any of
18 those animals, in or on the fields, forests, or waters of this state, or while returning
19 therefrom with fishing or hunting equipment, is prima facie evidence the possessor
20 took the bird, mammal, fish, reptile, amphibian, or part of that animal.

21 **Comment.** Section 8000 continues former Fish and Game Code Section 2000 without
22 substantive change. The reference to a “part” of an animal in this section is superfluous. See
23 Section 95 (reference to animal generally includes part of animal). It is retained solely for clarity,
24 and is not intended to affect the meaning of any other provision of this code that includes or omits
25 a reference to a “part” of an animal.

26 See also Sections 4570, 6552, 6554 (enforcement).

27 **§ 8005. Accidental take**

28 8005. (a) Notwithstanding Sections 1025, 8000, or any other provision of law,
29 and notwithstanding any requirement for a permit or license or other entitlement to
30 take a species, the accidental taking of a bird, mammal, reptile, or amphibian by
31 collision with a motor vehicle while the vehicle is being operated on a road or
32 highway is not a violation of this code or a regulation adopted pursuant to this
33 code.

34 (b) For purposes of this section, “highway” means highway as defined by
35 Section 360 of the Vehicle Code and “road” means road as defined by Section 527
36 of the Vehicle Code.

(c) Nothing in this section authorizes a person to possess any bird, mammal, reptile, or amphibian accidentally taken by collision with a motor vehicle as provided in this subdivision. However, accidental takes on the road or highway may be removed by the state or local agency having jurisdiction over the road or highway.

(d) This section does not apply to Part 1 (commencing with Section 62000) of Division 17.

Comment. Section 8005 continues former Fish and Game Code Section 2000.5 without substantive change.

§ 8010. Unlawful possession

8010. It is unlawful to possess a bird, mammal, fish, reptile, amphibian, or part of any of those animals, taken in violation of this code or a regulation adopted pursuant to this code.

Comment. Section 8010 continues former Fish and Game Code Section 2002 without substantive change. The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference to animal generally includes part of animal). It is retained solely for clarity, and is not intended to affect the meaning of any other provision of this code that includes or omits a reference to a “part” of an animal.

See also Sections 6552, 6554 (enforcement).

§ 8015. Season and possession limits

8015. (a) It is unlawful to take a mammal, bird, fish, reptile, or amphibian outside of an established season or to exceed a bag limit or possession limit established in this code or by a regulation adopted by the commission. Violation of an established season, bag limit, or possession limit may be charged as a violation of this section or of the specific code section or regulation that establishes the season or limit.

(b) Unless otherwise provided, it is unlawful to possess a fish, reptile, or amphibian, except during the open season where the fish, reptile, or amphibian was taken or during the 10-day period immediately following that open season. Any possession limit applicable during the open season applies during that 10-day period.

(c) Except as provided in Section 10805, it is unlawful to possess a game bird or mammal except during the open season where taken.

Comment. Section 8015 continues former Fish and Game Code Section 2001 without substantive change.

See also Section 4572, 5330, 5450 (enforcement).

Notes. (1) Subdivision (b) of proposed Section 8015 is intended to restate subdivision (b) of existing Section 2001 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

Unless otherwise provided, it is unlawful to possess fish, reptiles, or amphibians except during the open season where taken and for 10 days thereafter; and not more than the possession limit thereof may be possessed during the period after the close of the open season.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

(2) Subdivision (c) refers to “game” birds and mammals. The Commission has two questions regarding this reference.

(a) In subdivision (c), is the word “game” meant to modify only “birds,” or both “birds” and “mammals”?

(b) What is the rationale for limiting the application of subdivision (c) to “game” birds (and mammals)? Is there a reason that rationale does not apply to subdivisions (a) and (b)?

The Commission invites comment on both of these issues.

CHAPTER 2. SPECIAL PROHIBITIONS

§ 8110. Torture

8110. (a) Any person who maliciously and intentionally maims, mutilates, or physically tortures any fish, reptile, bird, amphibian, or mammal governed by this code is guilty of a crime.

(b) Nothing in this section affects any legal activity pursuant to this code, including, but not limited to, hunting, fishing, trapping, hunting dog training, hunting dog field trials, predation control, and efforts to dispatch a wounded mammal, bird, or fish taken legally.

Comment. Subdivision (a) of Section 8110 continues the first clause of the first sentence of former Fish and Game Code Section 12013(c) without substantive change.

Subdivision (b) continues the second sentence of former Fish and Game Code Section 12013(c) without substantive change.

See also Section 4664 (enforcement).

§ 8115. Prize

8115. (a) Except as specified in subdivisions (b), (c), and (d), it is unlawful to offer a prize or other inducement as a reward for the taking of a game bird, or the taking of any mammal, fish, reptile, or amphibian, in an individual contest, tournament, or derby.

(b) The department may issue a permit to a person authorizing that person to offer a prize or other inducement as a reward for the taking of a game fish, as defined by the commission by regulation, if it finds that there would be no detriment to the resource. The permit is subject to regulations adopted by the commission. The application for the permit shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit. However, the department may waive the permit fee if the contest, tournament, or derby is for persons who are under 16 years of age or have a physical or mental disability, and if the primary purpose of the contest, tournament, or derby is to introduce those anglers to or educate them about fishing. All permits for which the fee is waived pursuant to this subdivision shall comply with all other requirements set forth in this section.

(c) This section does not apply to a person conducting what is generally known as a frog-jumping contest, or, in waters of the Pacific Ocean, what is generally known as a fish contest.

(d) This section does not apply to a person conducting an individual contest, tournament, or derby for the taking of a game bird or game mammal, if the total value of all prizes or other inducements is less than five hundred dollars (\$500) for the individual contest, tournament, or derby.

Comment. Section 8115 restates former Fish and Game Code Section 2003 to make clear that (1) the general prohibition in subdivision (a) applies to game birds, as well as all mammals, fish, reptiles and amphibians, and (2) the exception in subdivision (d) applies only to game birds and game mammals.

In subdivision (b), the word “disability” is not used in any defined sense.

Note. Proposed Section 8115(a) and (d) are intended to restate existing Fish and Game Code Section 2003(a) and (d) without changing their substantive effect, to make clear which references to types of animals are limited to “game” animals.

Existing Section 2003 reads as follows:

2003. (a) Except as specified in subdivisions (b), (c), and (d), it is unlawful to offer a prize or other inducement as a reward for the taking of a game bird, mammal, fish, reptile, or amphibian in an individual contest, tournament, or derby.

(b) The department may issue a permit to a person authorizing that person to offer a prize or other inducement as a reward for the taking of a game fish, as defined by the commission by regulation, if it finds that there would be no detriment to the resource. The permit is subject to regulations adopted by the commission. The application for the permit shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit. However, the department may waive the permit fee if the contest, tournament, or derby is for persons who are under 16 years of age or have a physical or mental disability, and the primary purpose of the contest, tournament, or derby is to introduce those anglers to or educate them about fishing. All permits for which the fee is waived pursuant to this subdivision shall comply with all other requirements set forth in this section.

(c) This section does not apply to a person conducting what is generally known as a frog-jumping contest, or, in waters of the Pacific Ocean, what is generally known as a fish contest.

(d) This section does not apply to a person conducting an individual contest, tournament, or derby for the taking of a game bird or mammal, if the total value of all prizes or other inducements is less than five hundred dollars (\$500) for the individual contest, tournament, or derby.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of any provision of existing Section 2003.

§ 8120. Property damage

8120. It is unlawful for any person, while taking any bird, mammal, fish, reptile, or amphibian, to cause damage, or assist in causing damage, to real or personal property, or to leave a gate or bar open, or to break down, destroy, or damage a fence, or to tear down or scatter a pile of rails, posts, stone, or wood, or, through carelessness or negligence, to injure any livestock.

Comment. Section 8120 continues former Fish and Game Code Section 2004 without substantive change.

See also Section 4572 (enforcement).

1 **§ 8125. Lights**

2 8125. (a) Except as otherwise provided by this section, it is unlawful to use an
3 artificial light to assist in the taking of a game bird, game mammal, or game fish.

4 (b) It is unlawful for one or more persons to throw or cast the rays of a spotlight,
5 headlight, or other artificial light on a highway or in a field, woodland, or forest
6 where game mammals, fur-bearing mammals, or nongame mammals are
7 commonly found, or upon a game mammal, fur-bearing mammal, or nongame
8 mammal, while having in his or her possession or under his or her control a
9 firearm or weapon with which that mammal could be killed, even though the
10 mammal is not killed, injured, shot at, or otherwise pursued.

11 (c) It is unlawful to use or possess any night vision equipment to assist in the
12 taking of any bird, mammal, amphibian, reptile, or fish. For purposes of this
13 subdivision, “night vision equipment” includes but is not limited to the following:

14 (1) Any infrared or similar light, used in connection with an electronic viewing
15 device.

16 (2) Any optical device, including but not limited to binoculars or a scope, that
17 uses electrical or battery powered light amplifying circuits.

18 (d) This section does not apply to any of the following:

19 (1) Sport fishing in ocean waters, or other waters where night fishing is
20 permitted, if an artificial light is not used on or as part of the fishing tackle.

21 (2) Commercial fishing.

22 (3) The taking of a mammal that is expressly authorized by this code because the
23 mammal is damaging crops, livestock, or other property.

24 (4) The use of a hand-held flashlight that is no larger and emits no more light
25 than a two-cell, three-volt flashlight, and is not affixed to a weapon.

26 (5) The use of a lamp or lantern that does not cast a directional beam of light.

27 (6) Headlights of a motor vehicle that are operated in a usual manner and
28 without attempt or intent to locate a game mammal, fur-bearing mammal, or
29 nongame mammal.

30 (7) An owner of land devoted to the agricultural industry, or his or her
31 employee, while on that land.

32 (8) An owner of land devoted to the agricultural industry, or the owner’s
33 employee, while on land controlled by the owner in connection with the
34 agricultural industry.

35 (9) Other uses as the commission may authorize by regulation.

36 (e) A person shall not be arrested for violation of this section except by a peace
37 officer.

38 **Comment.** Section 8125 continues former Fish and Game Code Section 2005 without
39 substantive change.

40 **Notes.** (1) The exception to this section in existing Section 2005(d)(3) – continued in
41 proposed Section 8125(d)(7) and (8) – is convoluted. It appears to exempt owners of agricultural
42 land and their employees, but not tenants of such land. Is this distinction intended as a matter of

1 policy? If not, would it be sufficient for the exception to apply to “a person who owns or controls
2 land devoted to the agricultural industry, or that person’s employee, while on that land”?

3 **The Commission invites comment on this issue.**

4 (2) Existing Fish and Game Code Section 2005(d)(3) (which would be continued by proposed
5 Section 8125(d)(3)) provides that the section does not apply to the “taking of mammals governed
6 by Article 2 (commencing with Section 4180) of Chapter 3 of Part 3 of Division 4.” In the
7 proposed law, the many provisions contained in that cross-referenced article, which governs the
8 taking of depredator mammals, are continued in many different locations.

9 **The Commission invites comment on whether the continuation of that cross-reference in**
10 **proposed Section 8125(d)(3) by instead describing the subject matter of the cross-reference**
11 **would cause any problems.**

12 **§ 8130. Interference with lawful activities**

13 8130. (a) A person shall not willfully interfere with the participation of any
14 individual in the lawful activity of shooting, hunting, fishing, falconry, hunting
15 dog field trials, hunting dog training, or trapping at the location where that activity
16 is taking place.

17 (b) For purposes of this section, “interfere with” means any action that
18 physically impedes, hinders, or obstructs the lawful pursuit of any activity listed in
19 subdivision (a), including, but not limited to, any of the following:

20 (1) An action intended to frighten away animals from the location where the
21 lawful activity is taking place.

22 (2) Placing or maintaining a sign, gate, lock, or barricade that prohibits or denies
23 access to land without authorization from the landowner or lessee or an authorized
24 designee of the landowner or lessee.

25 (3) Placing food on land not belonging to the person placing the food for
26 purposes of eliminating the lawful ability to hunt due to the presence of bait, as
27 defined in this code or in a regulation adopted pursuant to this code.

28 (c) In order to be liable for a violation of this section, the person is required to
29 have had the specific intent to interfere with the participation of an individual who
30 was engaged in lawful shooting, hunting, fishing, falconry, hunting dog field trials,
31 hunting dog training, or trapping.

32 (d) This section does not apply to the actions of any peace officer or personnel
33 of the department in the performance of official duties. This section does not
34 obstruct the rights and normal activities of landowners or tenants, including, but
35 not limited to, farming, ranching, and limiting unlawful trespass.

36 **Comment.** Section 8130 continues former Fish and Game Code Section 2009(a), (d)-(f)
37 without substantive change.

38 See also Section 4600 (enforcement).

39 **§ 8135. Signs**

40 8135. It is unlawful to do any of the following:

41 (a) Post any sign indicating an area is a state or federal refuge unless established
42 by state or federal law.

(b) Post any sign prohibiting trespass or hunting on any land unless authorized by the owner or the person in lawful possession of that land.

(c) Maliciously tear down, mutilate, or destroy any sign, signboard or other notice forbidding hunting or trespass on land.

Comment. Section 8135 continues former Fish and Game Code Section 2018 without substantive change.

§ 8140. Use of sodium cyanide

8140. Notwithstanding Section 31605, subdivision (b) of Section 32150, Section 32155, 32305, 35215, 35610, 35710, or 36010 of this code, or Section 14063 of the Food and Agricultural Code, no person, including an employee of the federal, state, county, or municipal government, may poison or attempt to poison any animal by using sodium fluoroacetate, also known as Compound 1080, or sodium cyanide.

Comment. Section 8140 continues former Fish and Game Code Section 3003.2 without substantive change.

See also Section 4712 (enforcement).

Note. Section 3003.2 was added by Proposition 4 (1998). The Commission believes that the nonsubstantive continuation of those provisions in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

§ 8145. Explosives

8145. It is unlawful to use explosives in waters of the state inhabited by fish, except in one of the following circumstances:

(a) Pursuant to a permit first obtained by the user from the department, consistent with terms and conditions set by the commission. The department's decision to grant or deny a permit may be appealed to the commission by any person.

(b) In an emergency, to remove an accidental obstruction to the flow of water.

Comment. Section 8145 restates former Fish and Game Code Section 5500 without substantive change.

Note. Proposed Section 8145 is intended to restate existing Fish and Game Code Section 5500 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

5500. It is unlawful to use explosives in the waters of this state inhabited by fish, except under a permit first obtained by the user from the department consistent with terms and conditions set by the commission, or except in case of emergency, to remove an accidental obstruction to the flow of water. Any person may appeal the department's decision to grant or deny a permit to the commission.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

CHAPTER 3. OBLIGATIONS

§ 8300. Possession of license

8300. Every person while engaged in taking a bird, mammal, fish, amphibian, or reptile shall have on his or her person, in his or her immediate possession, or where otherwise specifically required by law to be kept, any license, tag, stamp, or permit that is required in order to take the bird, mammal, fish, amphibian, or reptile. In the case of a person diving from a boat, the license or permit may be kept on the boat, or in the case of a person diving from shore, the license or permit may be kept within 500 yards of the shore.

Comment. Section 8300 continues former Fish and Game Code Section 1054.2 without substantive change.

See also Sections 4874, 5450 (enforcement).

§ 8305. Display of license, take, and equipment

8305. All licenses, tags, and the birds, mammals, fish, reptiles, or amphibians taken or otherwise dealt with under this code, and any device or apparatus designed to be and capable of being used to take any bird, mammal, fish, reptile, or amphibian, shall be exhibited upon demand to any person authorized by the department to enforce this code or any law relating to the protection and conservation of birds, mammals, fish, reptiles, or amphibians.

Comment. Section 8305 continues former Fish and Game Code Section 2012 without substantive change.

TITLE 2. SPECIAL SEASONS AND LIMITS

§ 8700. Fire seasons

8700. Whenever, because of extreme fire hazard, an area is closed to entry by the public by an order or proclamation issued or concurred in by the Governor, the commission may establish a season for hunting or fishing within the area. The season shall begin on or after the end of the closure, and correspond in length of time as nearly as possible to the amount of time the area was closed to hunting or fishing.

Comment. Section 8700 continues former Fish and Game Code Section 306 without substantive change.

§ 8705. Reduced limits based on scarcity

8705. (a) Whenever after due investigation the commission finds that game fish, resident game birds, migratory game birds, game mammals, fur-bearing mammals, game amphibians, or game reptiles have decreased in numbers in any area, district, or part of an area or district to the extent that a scarcity exists, the commission may reduce the daily bag limit and the possession limit on those fish, birds, mammals, amphibians, or reptiles that are in danger of depletion, for a period of

time that the commission may specify, or until new legislation addressing the scarcity becomes operative.

(b) A regulation adopted pursuant to this section shall be filed with the Secretary of State, and that filing shall be deemed a legal notice thereof.

(c) The regulation shall be published twice in at least one newspaper of general circulation in every county affected by the order. The publications shall be separated by a period of not less than one week and not more than two weeks. The regulation shall be posted in any public places in each county that the director may direct.

Comment. Section 8705 restates former Fish and Game Code Section 307 to make clear that it applies to “game” animals of the specified types.

Notes. (1) Proposed Section 8705 would continue existing Fish and Game Code Section 307 with minor revisions. The revisions would make clear that the section applies to “game” animals of the specified types (rather than all animals of those types). See also proposed Sections 445, 455, and 465 (“game amphibian,” “game fish,” and “game reptile” defined).

The Commission invites comment on the merits of those revisions.

(2) A provision of existing Section 307, continued in proposed Section 8705(b), requires that a regulation be filed with the Secretary of State. That requirement appears to be redundant. Existing Section 300 generally requires that “any regulation issued under any subsequent provisions of this code shall be filed with the Secretary of State, as required by Chapter 4 (commencing with Section 11370), Part 1, Division 3, Title 2, of the Government Code.”

The Commission invites comment on whether the filing requirement in Section 8705(b) can be deleted.

(3) Proposed Section 8705 also provides that the filing of the regulation with the Secretary of State “shall be deemed a legal notice thereof.” The Commission is not certain of the meaning of that provision. Moreover, the Commission is concerned that this statement could create a problematic negative inference that other regulations filed with the Secretary of State do not create “legal notice” of the regulation. See also Gov’t Code §§ 11343.6 (filing regulation with Secretary of State creates rebuttable presumption of regulation’s proper promulgation; courts shall take judicial notice of filed regulation), 11344.6 (publication of regulation in California Regulatory Notice Register creates rebuttable presumption of regulation’s proper promulgation; courts shall take judicial notice of filed regulation).

The Commission invites comment on whether the “legal notice” clause of Section 8705(b) should be deleted.

§ 8710. Prohibited take in protected areas

8710. (a) The commission at any time may close to the taking of any species or subspecies of bird or mammal any area newly stocked by the department with resident or migratory game birds or game or fur-bearing mammals, or any area where, in the judgment of the commission, added protection for birds or mammals is needed to properly conserve the birds or mammals, for such time as the commission may designate, or until such time as new legislation thereon enacted by the Legislature may become effective.

(b) The commission may at any time close any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish to protect and properly conserve the fish, except for the taking of fish otherwise permitted by this code under a commercial fishing license, for such time as the

commission may designate, or until such time as new legislation thereon enacted by the Legislature may become effective.

Comment. Subdivision (a) of Section 8710 continues former Fish and Game Code Section 314 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 315 without substantive change.

§ 8715. Opening identified waters to take

8715. The commission may, at any time when facts are presented to the commission that were not presented to the commission at the time of a meeting held pursuant to Section 1105, open any stream, lake, or other inland waters, or portions thereof to the taking of any species or subspecies of fish for the proper utilization of the fish, for such time as the commission may designate, or until such time as new legislation thereon enacted by the Legislature may become effective.

Comment. Section 8715 continues former Fish and Game Code Section 315.3 without substantive change.

Note. Existing Fish and Game Code Section 315.3 (which would be continued by proposed Section 8715) references a Fish and Game Commission meeting held in December, pursuant to “Section 209.” However, former Fish and Game Code Section 209, which provided for such December meetings, was repealed in 2006, and replaced by Fish and Game Code 206, which did not limit either the dates or subject matter of Commission meetings. See 2006 Cal. Stat. ch. 667. In 2016, Section 206 was in turn repealed and replaced by Section 255. See 2016 Cal. Stat. ch. 546. Existing Section 255 would in turn be continued in the proposed law by proposed Section 1105.

The Commission invites comment on the substitution of proposed Section 1105 as a cross-reference in this provision, in place of the existing reference to “Section 209.”

§ 8720. Restricted take in Fish and Wildlife District 2655

8720. (a) Notwithstanding any other provisions of this code, in District 2655 the taking of birds, mammals, fish, amphibians, or reptiles shall be subject to regulations adopted, from time to time, by the commission, except that it is unlawful to take birds or mammals within one-eighth mile of any gallinaceous guzzler, if the area surrounding it is posted in the manner prescribed by the commission. In the Colorado River, in District 2655, the commission may adopt regulations in agreement with the proper authorities of the State of Arizona.

Comment. Section 8720 continues former Fish and Game Code Section 308 without substantive change.

Notes. (1) Is the prohibition in existing Section 308 against the take of birds or mammals within one-eighth mile of any gallinaceous guzzler, if the area surrounding the guzzler is posted in the manner prescribed by the commission (which would be continued by proposed Section 8720(b)) intended to apply only in existing District 22?

The Commission invites comment on this question.

(2) Should that prohibition against take around a gallinaceous guzzler also be made applicable to the take of animals others than birds and mammals?

The Commission invites comment on this question.

1 **TITLE 3. HUNTING AND FISHING GUIDES**

2 **CHAPTER 1. GUIDES GENERALLY**

3 **§ 8800. “Guide” defined**

4 8800. As used in this chapter, “guide” means any person who is engaged in the
5 business of packing or guiding, or who, for a fee, assists another person in taking
6 or attempting to take any bird, mammal, fish, amphibian, or reptile. “Guide” also
7 includes any person who, for profit, transports other persons, their equipment, or
8 both to or from a hunting or fishing area.

9 **Comment.** Section 8800 continues former Fish and Game Code Section 2535 without
10 substantive change.

11 **§ 8805. Guide license required**

12 8805. (a) It is unlawful for any person to engage in the business of guiding or
13 packing, or to act as a guide for any consideration or compensation, without first
14 having secured a guide license from the department.

15 (b) An employee of a licensee who acts as a guide only in connection with, and
16 within the scope of, his or her employment is exempt from the requirement of
17 subdivision (a) if all of the following conditions are met:

18 (1) The employment is subject to and the person is reported to the carrier of the
19 employer’s workers’ compensation insurance.

20 (2) The person is subject to and reported to the state and federal taxing
21 authorities for withholding of income tax.

22 (3) The person is reported to the department, on forms provided by the
23 department, as an employee of the guide prior to any contact with any person
24 being guided, and a registration fee has been paid. The base fee for an employee
25 guide registration for the 2004 license year shall be thirty-three dollars (\$33),
26 which shall be adjusted annually thereafter pursuant to Section 3755.

27 (c) A person who is licensed in another state to provide guide services for the
28 purposes of fishing is exempt from the requirements of subdivision (a) if all of the
29 following conditions are met:

30 (1) The state in which the person is licensed grants a similar exemption to
31 licensed guides who are residents of this state.

32 (2) Evidence of a valid guide license is provided to the department upon request.

33 (3) The person is engaged in the business of guiding only in conjunction with
34 and during the term of a multistate fishing tournament approved by the appropriate
35 agency in each of the affected states.

36 (4) The tournament sponsor provides to the department any information or
37 documents necessary to administer and enforce this paragraph, as determined by
38 the department, including, but not limited to, the identities of all guides
39 participating in the tournament, verification of another state’s license exemption,

1 and information sufficient to determine the validity of another state's guide
2 licenses.

3 (5) The tournament sponsor pays the department an amount, determined by the
4 department, to be sufficient to cover the department's cost to administer and
5 enforce this subdivision.

6 (6) The net proceeds of the tournament are used for resource management
7 projects or habitat improvement projects, or both.

8 (d) The commission shall adjust the amount of the fees specified in paragraph
9 (3) of subdivision (b), as necessary, to fully recover, but not exceed, all reasonable
10 administrative and implementation costs of the department and the commission
11 relating to those licenses.

12 **Comment.** Section 8805 continues former Fish and Game Code Section 2536 without
13 substantive change.

14 See also Section 4592 (revocation for violation of code or regulations).

15 **§ 8810. Exception**

16 8810. A person operating under a commercial passenger fishing boat license
17 issued pursuant to Section 21905 is not required to obtain a guide license.

18 **Comment.** Section 8810 continues former Fish and Game Code Section 2537 without
19 substantive change.

20 **§ 8815. Grazing permit required**

21 8815. If the licensee operates with pack or riding animals in any area in which a
22 grazing permit is required, the license is not valid unless the licensee has a valid
23 grazing permit for the area. A licensee shall not guide clients on any land under
24 the jurisdiction of the United States Department of the Interior or Department of
25 Agriculture where a permit is required without first obtaining the permit from that
26 federal agency.

27 **Comment.** Section 8815 continues former Fish and Game Code Section 2539 without
28 substantive change.

29 **§ 8820. Regulations**

30 8820. The commission shall adopt regulations governing the conduct and
31 qualifications of guides to ensure the safety and welfare of persons engaging the
32 services of a guide, and may adopt regulations governing the procedures for
33 applications for guide licenses. The qualifications shall include, but not be limited
34 to, knowledge of basic first aid and rescue operations.

35 **Comment.** Section 8820 continues former Fish and Game Code Section 2542 without
36 substantive change.

37 **§ 8825. Records**

38 8825. The commission may require licensed guides to maintain and submit
39 records of their operations. The records may be examined at any time by
40 representatives of the department. It is unlawful for any licensed guide to fail to

1 maintain or submit any required record or to refuse to allow the examination of a
2 record on request of a department representative.

3 **Comment.** Section 8825 continues former Fish and Game Code Section 2543 without
4 substantive change.

5 CHAPTER 2. LICENSE APPLICATION

6 § 8900. Information required

7 8900. An application for a guide license shall be on a form furnished by the
8 department on request. The application shall show all of the following:

9 (a) The name, date of birth, physical description, age, address, and telephone
10 number, if any, of the applicant.

11 (b) The area or areas of the state in which the applicant proposes to operate.

12 (c) The type of guiding or packing in which the applicant proposes to engage.

13 (d) The experience that qualifies the applicant for the type of guiding or packing
14 he or she proposes to conduct.

15 (e) The type and amount of the equipment, vehicles, animals, and other property
16 the applicant proposes to use in his or her operations.

17 (f) Any other information that the department or the commission may require.

18 **Comment.** Section 8900 continues former Fish and Game Code Section 2538 without
19 substantive change.

20 § 8905. License fee

21 8905. (a) The base fee for a guide license issued to a resident is one hundred
22 fifty dollars (\$150).

23 (b) The base fee for a guide license issued to a nonresident is three hundred fifty
24 dollars (\$350).

25 (c) The base fees specified in this section are applicable to the 2004 license year,
26 and shall be adjusted annually thereafter pursuant to Section 3755.

27 (d) The commission shall adjust the amount of the fees specified in this section,
28 as necessary, to fully recover, but not exceed, all reasonable administrative and
29 implementation costs of the department and the commission relating to those
30 licenses.

31 **Comment.** Section 8905 continues former Fish and Game Code Section 2540(a), (b), (d), and
32 (e) without substantive change.

33 § 8910. License duration


34 8910. A guide license is valid for the license year beginning on February 1 and
35 ending on January 31 of the succeeding year or, if issued after the beginning of the
36 license year, for the remainder of that license year.

37 **Comment.** Section 8910 continues former Fish and Game Code Section 2540(c) without
38 substantive change.

1 **§ 8915. Surety bond**

2 8915. Each applicant for a guide license shall submit proof of having obtained a
3 surety bond in the amount of not less than one thousand dollars (\$1,000),
4 conditioned on faithful performance of the guide and the guide's agents or
5 employees in fulfilling their responsibilities to their clients. No guide license shall
6 be issued to any applicant who does not submit proof of having a bond that is valid
7 for the term of the license.

8 **Comment.** Section 8915 continues former Fish and Game Code Section 2541 without
9 substantive change.

10  **Note.** The language used in existing Section 2541 to describe the purpose of the surety bond
11 referenced in the section is non-standard. Proposed Section 8915 would conform the language to
12 that used in more recently enacted provisions. See e.g., Fin. Code § 12104(g), Health and Safety
13 Code § 1376(b), Rev. & Tax. Code § 30165.1(b)(4)(B).

14 **The Commission invites comment on whether this revision is appropriate.**

15 **§ 8920. Grounds for refusal of license**

16 8920. The department may refuse to issue a guide license to an applicant upon a
17 showing of any of the following:

18 (a) The applicant has failed to fulfill his responsibilities to a client.

19 (b) The applicant has violated this code or any regulation adopted pursuant to
20 this code, or has knowingly permitted a client or another member of a party being
21 guided to violate this code or any regulation adopted pursuant to this code, and the
22 applicant had the authority and means to prevent the violation.

23 **Comment.** Section 8920 continues former Fish and Game Code Section 2544 without
24 substantive change.

25 **§ 8925. Appeal of refusal**

26 8925. An applicant denied a guide license by the department may request a
27 hearing before the commission and the commission shall determine whether or not
28 the license shall be issued.

29 **Comment.** Section 8925 continues former Fish and Game Code Section 2545 without
30 substantive change.

31 **TITLE 4. SPECIAL LICENSES**

32 **CHAPTER 1. LIFETIME LICENSES**

33 **§ 9105. Deposit of fees from lifetime licenses**

34 9105. Notwithstanding Section 3600, the department shall deposit funds from
35 the sale of lifetime hunting licenses and lifetime hunting privileges issued pursuant
36 to Section 10225, and lifetime sport fishing licenses and lifetime privileges issued
37 pursuant to Section 13105 as follows:

1 (a) For each lifetime fishing license issued pursuant to Section 13105, the
2 collected fee shall be deposited as follows:

3 (1) Of those funds, 66.67 percent shall be deposited into the Fish and Game
4 Preservation Fund.

5 (2) Of those funds, 33.33 percent shall be deposited into the Hatchery and Inland
6 Fisheries Fund.

7 (b) For each lifetime hunting license issued pursuant to Section 10225, 100
8 percent of the collected fee shall be deposited into the Fish and Game Preservation
9 Fund pursuant to Section 3600.

10 (c) For each lifetime sport fishing privilege package issued pursuant to
11 subdivision (e) of Section 13105, the collected fee shall be deposited as follows:

12 (1) Of those funds, 48.37 percent shall be deposited into the Fish and Game
13 Preservation Fund.

14 (2) Of those funds, 14.75 percent shall be deposited into the Hatchery and Inland
15 Fisheries Fund.

16 (3) Of those funds, 21.31 percent shall be deposited into the Steelhead Trout
17 account in the Fish and Game Preservation Fund.

18 (4) Of those funds, 15.57 percent shall be deposited into the California Ocean
19 Resources Enhancement and Hatchery Program account in the Fish and Game
20 Preservation Fund.

21 (d) The collected fee for each big game privilege package purchased pursuant to
22 subdivision (c) of Section 10225 shall be deposited as follows:

23 (1) Of those funds, 91.92 percent shall be deposited into the Big Game
24 Management Account in the Fish and Game Preservation Fund.

25 (2) Of those funds, 8.08 percent shall be deposited into the Fish and Game
26 Preservation Fund.

27 (e) The collected fee for each lifetime bird hunting privilege package issued
28 pursuant to subdivision (d) of Section 10225 shall be deposited as follows:

29 (1) Of those funds, 68.47 percent shall be deposited into the State Duck Stamp
30 Account in the Fish and Game Preservation Fund.

31 (2) Of those funds, 31.53 percent shall be deposited into the Upland Game Bird
32 Account in the Fish and Game Preservation Fund.

33 **Comment.** Section 9105 continues former Fish and Game Code Section 13005 without
34 substantive change.

35 CHAPTER 2. SURVIVAL SCHOOL

36 § 9150. Survival School

37 9150. (a) The commission may issue a permit authorizing a member of the
38 armed forces of the United States or a student or faculty member of an elementary
39 or secondary school in the public school system actually assigned to, and
40 participating in, an organized survival training course, to take fish, amphibians,
41 reptiles, birds, or mammals, except rare or endangered species, notwithstanding

1 any other law or regulation, pursuant to the terms and conditions of that permit. A
2 permit involving training by the armed forces of the United States shall be issued
3 to the commanding officer of the unit having jurisdiction over the conduct of the
4 survival training course. A permit involving training by an elementary or
5 secondary school in the public school system shall be issued to the governing
6 board or superintendent of the district having jurisdiction over that school and the
7 conduct of the survival training course. A permit shall be applicable only to the
8 area established for that survival training as designated by the commission in the
9 permit and for the species and numbers designated in the permit.

10 (b) The commission may revise a condition of a permit if it finds revision is
11 necessary to properly protect the fish, amphibians, reptiles, birds, or mammals in
12 the area.

13 (c) The term of a permit issued pursuant to subdivision (a) shall be for not more
14 than a calendar year.

15 (d) A report shall be submitted on the expiration of the permit period specified
16 pursuant to subdivision (c), or as otherwise required by the commission, of all fish,
17 amphibians, reptiles, birds, or mammals taken during the period covered by the
18 report in each permit area. A new permit shall not be issued until the report has
19 been submitted, and an existing permit may be canceled if a report is not
20 submitted when required by the commission.

21 (e) A person engaged in survival training taking a fish, amphibian, reptile, bird,
22 or mammal pursuant to a permit issued under this section shall not use a firearm,
23 bow and arrow, steel trap, explosive, chemical, poison, drug, net, or fish tackle,
24 except that hooks, handlines, and improvised poles and lines may be used to take
25 fish.

26 **Comment.** Section 9150 continues former Fish and Game Code Section 312 without
27 substantive change.

28 CHAPTER 3. SCIENTIFIC RESEARCH

29 § 9200. Permit for scientific, educational, or propagation take or possession

30 9200. (a) The department may issue permits, subject to restrictions and
31 regulations that the department determines are desirable, to take or possess, in any
32 part of the state, for scientific, educational, or propagation purposes, mammals,
33 birds and the nests and eggs thereof, fish, amphibians, reptiles, or any other form
34 of plant or animal life.

35 (b) The department may issue a permit that is valid for 36 months from the date
36 of issuance on the payment of a nonrefundable application fee of one hundred
37 dollars (\$100) and a permit fee of three hundred dollars (\$300), as adjusted under
38 Section 3755.

39 (c) Notwithstanding subdivision (b), the department may issue a permit without
40 fee that is valid for 12 months from the date of issuance to authorize only the

1 banding of birds and the exhibition of live or dead wildlife specimens by public
2 zoological gardens, scientific, or educational institutions.

3 (d)(1) The department may issue a special student permit that is valid for 12
4 months from the date of issuance on the payment of a nonrefundable application
5 fee of twenty-five dollars (\$25) and a permit fee of fifty dollars (\$50), as adjusted
6 under Section 3755, to any student in a school of collegiate level or a commercial
7 fishing class who is required by an instructor to collect specimens used in
8 laboratory work in the school under supervision and in connection with a course in
9 wildlife research or in the conduct of wildlife investigations and studies on behalf
10 of the public.

11 (2) All fish taken under permit for a commercial fishing class student shall be
12 taken in accordance with state law, except that subdivisions (a), (b), (c), and
13 paragraph (1) of subdivision (d) of Section 14500, and Sections 14615, 14750,
14 14755, 14765, 14775, 14780, 14785, and 14790 do not apply. All fish taken under
15 a permit for a commercial fishing class student may be sold only to a person
16 licensed to receive fish from commercial fishermen as provided in Section 20205,
17 20450, or 20460, or donated to a charitable institution. All funds received from the
18 sale of the fish shall be used solely for the support of commercial fishing classes.

19 (e) It is not necessary for the holder of the permit to have a sport fishing or
20 hunting license to collect any fish, amphibian, reptile, aquatic animal or plant,
21 bird, or mammal for scientific, educational, or propagation purposes in this state.

22 (f) Nothing in this section authorizes any act that violates Section 597 of the
23 Penal Code.

24 (g) A permit under this section does not authorize the taking of fish or mammals
25 from the ocean waters of the state that are within the boundaries of any city if the
26 city has filed with the department an objection to the taking.

27 (h) The adjustment of the nonrefundable application fee and permit fees
28 pursuant to Section 3755 that are specified in subdivisions (b) and (d) shall be
29 applicable to permits issued on or after January 1, 2013.

30 (i) The department, by regulation, may adjust the amount of the fees specified in
31 subdivisions (b) and (d) as necessary to fully recover, but not exceed, all
32 reasonable administrative and implementation costs of the department relating to
33 those permits.

34 (j) No permit under this section is required for species listed as threatened or
35 endangered pursuant to the California Endangered Species Act, when an entity
36 holds a valid permit or memorandum of understanding for the subject species and
37 the proposed activities, issued pursuant to Section 62650 or 62700.

38 (k) No permit under this section is required for fully protected species listed in
39 Section 340, 345, 350, 355, or 360, if the entity holds a valid memorandum of
40 understanding issued by the department for the subject species and proposed
41 activities, in accordance with the respective section.

42 (l) A permit or amendment issued pursuant to this section is not transferable
43 between individuals or entities.

1 **Comment.** Section 9200 continues former Fish and Game Code Section 1002(a)-(l) without
2 substantive change.

3 See also Section 4602 (enforcement).

4 **§ 9205. Issuance of permit to public, private, or nonprofit entity**

5 9205. (a) The department may issue a permit pursuant to Section 9200 to an
6 appropriate public, private, or nonprofit entity, or a person, as determined by the
7 department, in the name of a principal scientific investigator or the permitted
8 entity or person.

9 (b) The department may approve individual temporary employees or volunteers
10 to work under the permit, after receiving notification from the permittee. The
11 permittee shall have adequate supervision over any temporary employees or
12 volunteers approved to work under the permit.

13 (c) A permittee that allows a temporary employee or volunteer to work under a
14 permit without approval from the department in accordance with this section is
15 subject to Section 4400.

16 (d) The department shall charge a fee pursuant to subdivision (b) of Section
17 9200 for the issuance of a permit authorized by this section. If the department
18 determines that the costs to issue a permit authorized by this section are greater
19 than the costs to issue a permit pursuant to Section 9200, the department may
20 charge a permit fee in an amount that is greater than the amount imposed by
21 subdivision (b) of Section 9200 to recover those additional costs.

22 (e) The department may amend a permit issued under this section, including, but
23 not limited to, the addition or removal of individual temporary employees or
24 volunteers working under the permit, on the payment of a nonrefundable
25 application fee of one hundred dollars (\$100), as adjusted under Section 3755 or
26 regulations adopted by the department.

27 **Comment.** Section 9205 continues former Fish and Game Code Section 1002.5 without
28 substantive change.

29 **§ 9210. Transport of take pursuant to scientific or propagation permit**

30 9210. Mammals, birds and their nests and eggs, fish and their eggs, reptiles,
31 amphibians, mollusks, crustaceans, or any other form of plant or animal life taken
32 under the provisions of a scientific or propagation permit issued pursuant to
33 Section 9200 may be shipped or transported anywhere within or without the state
34 if prior written approval is obtained from the department and the shipment is
35 accompanied by the name, address, and permit number of the person holding the
36 scientific or propagation permit.

37 **Comment.** Section 9210 continues former Fish and Game Code Section 1003 without
38 substantive change.

PART 2. HUNTING

TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL LICENSURE REQUIREMENT

§ 9500. Take without license or entitlement

9500. Except as provided in this code or regulations adopted pursuant to this code, every person who takes any bird or mammal shall procure a license or entitlement therefor.

Comment. Section 9500 restates former Fish and Game Code Section 3007 without substantive change.


See also Sections 4704, 5464 (enforcement).

CHAPTER 2. PROHIBITED METHODS

§ 9550. Shooting from vehicle

9550. It is unlawful to shoot at any game bird or mammal, including a marine mammal as defined in Section 32500, from a powerboat, sailboat, motor vehicle, or airplane.

Comment. Section 9550 continues former Fish and Game Code Section 3002 without substantive change.

 **Note.** The Commission invites comment on whether proposed Section 9550 should apply to all birds and mammals, only game birds and game mammals, or some other combination of categories.

§ 9555. Prohibited shotguns

9555. (a) It is unlawful to use or possess a shotgun larger than 10-gauge, or to use or possess a shotgun capable of holding more than six cartridges at one time, to take a mammal or bird.

(b) A shotgun that has been modified with the insertion of a plug is deemed, for the purpose of this section, to have a cartridge capacity equal to the number of cartridges that can be loaded into the weapon as modified.

(c) After a public hearing, the commission may adopt regulations relative to the ammunition capacity of shotguns for taking mammals or birds that are more restrictive than the limits provided in subdivision (a), or that it determines may be needed to conform to federal law.

Comment. Section 9555 continues former Fish and Game Code Section 2010 without substantive change.

§ 9560. Trap gun

9560. (a) It is unlawful to set, cause to be set, or placed any trap gun.

(b) A “trap gun” is a firearm loaded with other than blank cartridges and connected to a string or other contrivance with which contact will cause the firearm to be discharged.

Comment. Section 9560 continues former Fish and Game Code Section 2007 without substantive change.

Note. In the first sentence of existing Section 2007, which would be continued by subdivision (a) of proposed Section 9560, the intended meaning of the word “placed” is unclear.

(1) Is the term intended to have a different meaning than the word “set”? If so, what is the distinction? If not, can the word “placed” be deleted from the provision?

(2) Does the provision make it unlawful to place a trap gun, or to cause a trap gun to be placed?

The Commission invites comment on these questions.

§ 9565. Other prohibited methods of taking

9565. (a) It is unlawful to take birds or mammals with any net, pound, cage, trap, set line or wire, or poisonous substance, or to possess birds or mammals so taken, whether taken within or without this state, except as provided in this code or, when relating to ongoing mining operations, in accordance with a mitigation plan approved by the department pursuant to Title 2 (commencing with Section 71500) of Part 5 of Division 17.

(b) Proof of possession of any bird or mammal that does not show evidence of having been taken by means other than a net, pound, cage, trap, set line or wire, or poisonous substance, is prima facie evidence that the birds or mammals were taken in violation of this section.

(c) This section does not apply to any of the following:

(1) The lawful taking of a fur-bearing mammal, nongame bird, or nongame mammal.

(1) The lawful taking of a mammal found to be injuring crops or property.

(2) The taking of a bird or mammal under a depredation permit.

(3) The taking of a bird or mammal by an employee of the department acting in an official capacity.

(4) The taking of a bird or mammal in accordance with the conditions of a scientific or propagation permit by the holder of that permit.

Comment. Subdivision (a) of Section 9565 restates former Fish and Game Code Section 3005(a) without substantive change.

Subdivision (b) restates former Fish and Game Code Section 3005(c) without substantive change.

Subdivision (c) restates former Fish and Game Code Section 3005(d) without substantive change.

Notes. (1) The law governing mining mitigation plans has been relocated. A cross-reference to that law has been added to proposed Section 9565(a).

(2) Proposed Section 9565(c) restates existing Section 3005(d) for clarity. The existing subdivision read as follows:

3005. (d) This section does not apply to the lawful taking of fur-bearing mammals, nongame birds, nongame mammals, or mammals found to be injuring crops or property, to the taking of birds or mammals under depredation permits, to taking by employees of the department acting in

an official capacity, or to taking in accordance with the conditions of a scientific or propagation permit by the holder of that permit.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provisions.

(3) Existing Section 3005(d), which would be continued by proposed Section 9565(c), exempts from application of the section various specified *takings* of mammals and birds, but does not exempt *possession* of mammals or birds taken in any of those specified circumstances. That possession, which would seem to necessarily follow from the taking, would therefore appear to remain expressly prohibited by subdivision (a) of both sections.

The Commission invites comment on whether this distinction was intended to be drawn by the existing provision.

§ 9570. Herding with vehicle

9570. It is unlawful to pursue, drive, or herd any bird or mammal with any motorized water, land, or air vehicle, including, but not limited to, a motor vehicle, airplane, powerboat, or snowmobile, except in any of the following circumstances:

(a) On private property, by the landowner or tenant, to haze birds or mammals for the purpose of preventing damage by that wildlife to private property.

(b) Pursuant to a permit from the department issued under regulations adopted by the commission.

(c) In the pursuit of agriculture.

Comment. Section 9570 continues former Fish and Game Code Section 3003.5 without substantive change.

§ 9575. Remote use of computer or other device

9575. (a) It is unlawful for a person to shoot, shoot at, or kill a bird or mammal with a gun or other device accessed via an Internet connection in this state.

(b) It is unlawful for a person, firm, corporation, partnership, limited liability company, association, or other business entity to do either of the following:

(1) Own or operate a shooting range, site, or gallery located in the state for the purpose of online shooting or spearing of a bird or mammal.

(2) Create, maintain, or utilize an Internet Web site, or other service or business in this state, for the purpose of online shooting or spearing of a bird or mammal.

(c) It is unlawful to possess or confine a bird or mammal in furtherance of an activity prohibited by this section.

(d) It is unlawful for a person in this state to import into, or export from, this state a bird or mammal that is killed by a device accessed via an Internet connection.

(e) A bird or mammal that is possessed in violation of this section shall be subject to seizure by the department.

(f) For the purposes of this section, “online shooting or spearing” means the use of a computer or other device, equipment, software, or technology to remotely control the aiming and discharge of a weapon, including, but not limited to, a firearm, bow and arrow, spear, slingshot, harpoon, or other projectile device.

Comment. Section 9575 continues former Fish and Game Code Section 3003 without substantive change.

§ 9580. Unlawful entry onto land


9580. It is unlawful to enter land for the purpose of discharging a firearm or taking or destroying a mammal or bird, including waterfowl, on that land, without having first obtained written permission from the owner, the owner's agent, or the person in lawful possession of that land, if either of the following is true:

(a) The land belongs to or is occupied by another person and is either under cultivation or enclosed by a fence.

(b) There are signs of any size and wording forbidding trespass or hunting or both displayed along all exterior boundaries and at all roads and trails entering the land, including land temporarily inundated by water flowing outside the established banks of a river, stream, slough, or other waterway, at intervals not less than three to the mile, which fairly advise a person about to enter the land that the use of the land is so restricted.

Comment. Section 9580 continues former Fish and Game Code Section 2016 without substantive change.

See also Section 4572 (enforcement).

 **Note.** Existing Section 2016 by its terms prohibits entering specified lands only for the purpose of "discharging any firearm or taking or destroying any mammal or bird."

The Commission invites comment on whether proposed Section 9580 should be revised to include entering the specified lands for the purpose of taking or destroying any reptile or amphibian.

§ 9585. Bird or mammal calls

9585. It is unlawful to use any recorded or electrically amplified bird or mammal call or sound, or recorded or electrically amplified imitation of a bird or mammal call or sound, to assist in taking any bird or mammal, except nongame birds and nongame mammals as permitted by regulations of the commission.

Comment. Section 9585 continues former Fish and Game Code Section 3012 without substantive change.

§ 9590. Hunting at night

9590. (a) It is unlawful to take any bird or mammal, except a nongame mammal, between one-half hour after sunset and one-half hour before sunrise of the following day at the place of taking, except as otherwise provided in this code or under regulations adopted by the commission.

(b) The commission may adopt regulations prohibiting the taking of any nongame mammal between one-half hour after sunset and one-half hour before sunrise of the following day at the place of taking.

Comment. Section 9590 continues former Fish and Game Code Section 3000 without substantive change.

1 CHAPTER 3. OTHER PROHIBITIONS AND REQUIREMENTS

2 **§ 9700. Occupied buildings**

3 9700. It is unlawful for a person, other than the owner, person in possession of
4 the premises, or a person having the express permission of the owner or person in
5 possession of the premises, while within 150 yards of an occupied dwelling house,
6 residence, or other building, or within 150 yards of a barn or other outbuilding
7 used in connection with an occupied dwelling house, residence, or other building,
8 to either hunt or discharge a firearm or other deadly weapon while hunting. The
9 150-yard area is a “safety zone.”

10 **Comment.** Section 9700 continues former Fish and Game Code Section 3004(a) without
11 substantive change.

12 **§ 9705. Public roads**

13 9705. It is unlawful for a person to intentionally discharge a firearm or release
14 an arrow or crossbow bolt over or across a public road or other established way
15 open to the public in an unsafe and reckless manner.

16 **Comment.** Section 9705 continues former Fish and Game Code Section 3004(b) without
17 substantive change.

18 **§ 9710. Intoxication**

19 9710. It is unlawful to take a bird or mammal with a firearm, BB device as
20 defined in Section 16250 of the Penal Code, crossbow, or bow and arrow, while
21 intoxicated.

22 **Comment.** Section 9710 continues former Fish and Game Code Section 3001 without
23 substantive change.

24 **§ 9715. Possession of loaded long gun in vehicle**

25 9715. (a) It is unlawful to possess a loaded rifle or shotgun in any vehicle or
26 conveyance or its attachments that is standing on or along or is being driven on or
27 along any public highway or other way open to the public.

28 (b) A rifle or shotgun shall be deemed to be loaded for the purposes of this
29 section when there is an unexpended cartridge or shell in the firing chamber but
30 not when the only cartridges or shells are in the magazine.

31 (c) The provisions of this section shall not apply to peace officers or members of
32 the Armed Forces of this state or the United States, while on duty or going to or
33 returning from duty.

34 **Comment.** Section 9715 continues former Fish and Game Code Section 2006 without
35 substantive change.

1 **§ 9720. Hunting dogs**

2 9720. (a) It is unlawful for the owner of a dog engaged in hunting in an area
3 where the owner is authorized to hunt to fail to exercise physical control of the
4 dog, as required by this code or regulations adopted pursuant to this code.

5 (b) Dogs used for hunting that have been vaccinated for rabies in their county of
6 residence in conformity with state law regulating vaccinations in rabies areas are
7 not subject to rabies vaccination requirements of local ordinances outside their
8 county of residence.

9 **Comment.** Section 9720 continues former Fish and Game Code Section 3008 without
10 substantive change.

11 **§ 9725. Removal of hunting dog collar**

12 9725. (a) It is unlawful for a person to remove from a hunting dog any collar,
13 including an electronic or radio transmitting device, without possessing written
14 permission from the dog's owner allowing the removal of the collar.

15 (b) As used in this section, "hunting dog" means a dog in the field actively
16 engaged in the taking of mammals or birds, or a dog actively being trained for the
17 taking of mammals or birds, that is located in an area where mammals or birds can
18 be taken, at that time and place, in accordance with existing law.

19 (c) This section does not apply to a law enforcement officer or an animal control
20 officer in the performance of his or her duty, or to a person who is assisting an
21 injured dog.

22 **Comment.** Section 9725 continues former Fish and Game Code Section 2011.5 without
23 substantive change.

24 **§ 9730. Bounty**

25 9730. It is unlawful for any person, including state, federal, county, and city
26 officials or their agents, to authorize, offer or pay a bounty for any bird or
27 mammal. This section does not apply to any person with respect to the taking of
28 any bird or mammal on the private property of such person.

29 **Comment.** Section 9730 continues former Fish and Game Code Section 2019 without
30 substantive change.

31 **§ 9735. Bird or mammal in possession of another**

32 9735. (a) It is unlawful for any person to take, mutilate, or destroy any bird or
33 mammal lawfully in the possession of another.

34 (b) For the purpose of this section, a bird or mammal shall be deemed in
35 possession when it is actually reduced to physical possession or when it is
36 wounded or otherwise maimed and the person who wounded or otherwise maimed
37 it is in hot pursuit.

38 **Comment.** Section 9735 continues former Fish and Game Code Section 2011 without
39 substantive change.

1 **§ 9740. Capture or possession of live wild mammal or bird**

2 9740. (a) It is unlawful to capture any game mammal, game bird, nongame bird,
3 nongame mammal, or furbearer, or to possess or confine any live game mammal,
4 game bird, nongame bird, nongame mammal, or furbearer taken from the wild,
5 except as provided by this code or by regulations adopted pursuant to this code.
6 Any bird or mammal possessed or confined in violation of this section shall be
7 seized by the department.

8 (b) The commission may promulgate regulations permitting the temporary
9 confinement of game mammals, game birds, nongame birds, nongame mammals,
10 or furbearers for the purpose of treating the animals, if injured or diseased.

11 **Comment.** Section 9740 continues former Fish and Game Code Section 3005.5 without
12 substantive change.

13 **CHAPTER 4. NONLEAD AMMUNITION**

14 **§ 10000. Nonlead ammunition required in California condor range**

15 10000. (a) Nonlead centerfire rifle and pistol ammunition, as determined by the
16 commission, shall be required when taking big game, as defined in the
17 department's mammal hunting regulations (14 Cal. Code Regs. § 350), with rifle
18 or pistol, and when taking coyote, within the California condor range.

19 (b) For purposes of this section, "California condor range" means:

20 (1) The department's deer hunting zone A South, but excluding Santa Cruz,
21 Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of
22 Highway 101 within Santa Clara County, and areas between Highway 5 and
23 Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern
24 Counties.

25 (2) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

26 (c) The requirements of this section shall remain in effect in the California
27 condor range unless and until the more restrictive nonlead prohibitions required
28 pursuant to Section 10005 are implemented.

29 **Comment.** Section 10000 continues former Fish and Game Code Section 3004.5(a) without
30 substantive change.

31 See also Section 4714 (enforcement).

32 **§ 10005. Taking of wildlife in general**

33 10005. (a) Except as provided in subdivision (c), and as soon as is practicable as
34 implemented by the commission pursuant to subdivision (b), but by no later than
35 July 1, 2019, nonlead ammunition, as determined by the commission, shall be
36 required when taking all wildlife, including game mammals, game birds, nongame
37 birds, and nongame mammals, with any firearm.

38 (b) The commission shall promulgate regulations by July 1, 2015, that phase in
39 the requirements of this chapter. The requirements of this chapter shall be fully
40 implemented statewide by no later than July 1, 2019. If any of the requirements of

1 this chapter can be implemented practicably, in whole or in part, in advance of
2 July 1, 2019, the commission shall implement those requirements. The
3 commission shall not reduce or eliminate any existing regulatory restrictions on
4 the use of lead ammunition in California condor range unless or until the
5 additional requirements for use of nonlead ammunition as required by this chapter
6 are implemented.

7 (c)(1) The prohibition in subdivision (a) shall be temporarily suspended for a
8 specific hunting season and caliber upon a finding by the director that nonlead
9 ammunition of a specific caliber is not commercially available from any
10 manufacturer because of federal prohibitions relating to armor-piercing
11 ammunition pursuant to Chapter 44 (commencing with Section 921) of Title 18 of
12 the United States Code.

13 (2) Notwithstanding a suspension pursuant to paragraph (1), nonlead
14 ammunition shall be used when taking big game mammals, nongame birds, or
15 nongame mammals in the California condor range, as defined in Section 10000.

16 **Comment.** Subdivision (a) of Section 10005 continues former Fish and Game Code Section
17 3004.5(b) without substantive change.

18 Subdivision (b) continues former Fish and Game Code Section 3004.5(i) without substantive
19 change.

20 Subdivision (c) continues former Fish and Game Code Section 3004.5(j) without substantive
21 change.

22 See also Section 4714 (enforcement).

23 **§ 10010. Certification**

24 10010. (a) The commission shall maintain, by regulation, a public process to
25 certify ammunition as nonlead ammunition, and shall define, by regulation,
26 nonlead ammunition as including only ammunition in which there is no lead
27 content, excluding the presence of trace amounts of lead. The commission shall
28 establish and annually update a list of certified ammunition.

29 (b) The list of certified ammunition shall include, but not be limited to, any
30 federally approved nontoxic shotgun ammunition.

31 **Comment.** Section 10010 continues former Fish and Game Code Section 3004.5(c) without
32 substantive change.

33 **§ 10015. Providing reduced cost nonlead ammunition**

34 10015. (a) To the extent that funding is available, the commission shall establish
35 a process that will provide hunters with nonlead ammunition at no or reduced
36 charge. The process shall provide that the offer for nonlead ammunition at no or
37 reduced charge may be redeemed through a coupon sent to a permit holder with the
38 appropriate permit tag. If available funding is not sufficient to provide nonlead
39 ammunition at no charge, the commission shall set the value of the reduced charge
40 coupon at the maximum value possible through available funding, up to the
41 average cost within this state for nonlead ammunition, as determined by the
42 commission.

(b) The nonlead ammunition coupon program described in paragraph (1) shall be implemented only to the extent that sufficient funding, as determined by the Department of Finance, is obtained from local, federal, public, or other nonstate sources in order to implement the program.

(c) If the nonlead ammunition coupon program is implemented, the commission shall issue a report on the usage and redemption rates of ammunition coupons. The report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued by June of the following year.

Comment. Section 10015 continues former Fish and Game Code Section 3004.5(d) without substantive change.

Note. Were the reports required in proposed Section 10015(c) prepared? If so, can that provision be omitted as obsolete?

§ 10020. Report on California condors

10020. The commission shall issue a report on the levels of lead found in California condors. This report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued by June of the following year.

Comment. Section 10020 continues former Fish and Game Code Section 3004.5(e) without substantive change.

Note. Were the reports required in proposed Section 10020 prepared? If so, can that provision be omitted as obsolete?

§ 10025. Government officials exempted

10025. This chapter does not apply to government officials or their agents when carrying out a statutory duty required by law.

Comment. Section 10025 continues former Fish and Game Code Section 3004.5(h) without substantive change.

§ 10030. Notice

10030. The department shall notify those hunters who may be affected by this chapter.

Comment. Section 10030 continues former Fish and Game Code Section 3004.5(f) without substantive change.

TITLE 2. HUNTING LICENSES

CHAPTER 1. GENERAL PROVISIONS

§ 10200. Eligibility

10200. (a) No hunting license may be issued to any person unless that person presents to the person authorized to issue that license any of the following:

(1) Evidence that the person has held a hunting license issued by this state in a prior year.

1 (2) Evidence that the person holds a current hunting license, or a hunting license
2 issued in either of the two previous hunting years by another state or province.

3 (3) A certificate of completion of a course in hunter education, principles of
4 conservation, and sportsmanship, as provided in Title 3. A hunter education
5 instruction validation stamp shall be permanently affixed to certificates of
6 completion that have been issued before January 1, 2008.

7 (4) A certificate of successful completion of a hunter education course in
8 another state or province.

9 (5) Evidence of completion of a course in hunter education, principles of
10 conservation, and sportsmanship, which the commission may, by regulation,
11 require.

12 (b) The evidence required in subdivision (a) shall be forwarded to the
13 department.

14 (c) Subdivision (a) does not apply to any person purchasing a hunting license
15 under paragraph (5) of subdivision (a) of Section 10210. However, that license
16 shall not qualify as evidence required in subdivision (a) of this section.

17 **Comment.** Section 10200 continues former Fish and Game Code Section 3050 without
18 substantive change.

19 **§ 10205. Hunter education**

20 10205. Applicants for hunting licenses shall first satisfactorily complete a hunter
21 education equivalency examination and obtain a certificate of equivalency as
22 provided by regulations adopted by the commission, or show proof of completion
23 of a hunter education training course, or show a previous year's hunting license.

24 **Comment.** Section 10205 continues former Fish and Game Code Section 1053.5 without
25 substantive change.

26 See also Section 4874 (enforcement).

27 **§ 10210 (repealed July 1, 2020). Fees**

28 10210. (a) A hunting license, granting the privilege to take birds and mammals,
29 shall be issued to any of the following:

30 (1) A resident of this state, 18 years of age or older, upon the payment of a base
31 fee of thirty-one dollars and twenty-five cents (\$31.25).

32 (2) A resident or nonresident, who is under 18 years of age on July 1 of the
33 licensing year, upon the payment of a base fee of eight dollars and twenty-five
34 cents (\$8.25), regardless of whether that person applies before or after July 1 of
35 that year. A license issued pursuant to this paragraph shall be known as a junior
36 hunting license and a person who holds one of these licenses shall be known as a
37 junior hunter.

38 (3) A nonresident, 18 years of age or older, upon the payment of a base fee of
39 one hundred eight dollars and fifty cents (\$108.50).

40 (4) A nonresident, 18 years of age or older, valid only for two consecutive days
41 upon payment of the fee set forth in paragraph (1). A license issued pursuant to

1 this paragraph is valid only for taking resident and migratory game birds, resident
2 small game mammals, fur-bearing mammals, and nongame mammals, as defined
3 in this code or in regulations adopted by the commission.

4 (5) A nonresident, valid for one day and only for the taking of domesticated
5 game birds and pheasants while on the premises of a licensed game bird club, or
6 for the taking of domesticated migratory game birds in areas licensed for shooting
7 those birds, upon the payment of a base fee of fifteen dollars (\$15).

8 (b) The base fees specified in this section are applicable to the 2004 license year,
9 and shall be adjusted annually thereafter pursuant to Section 713.

10 (c) The commission shall adjust the amount of the fees specified in subdivision
11 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
12 and implementation costs of the department and the commission relating to those
13 licenses.

14 (d) A person who is 16 or 17 years of age, is in possession of a valid junior
15 hunting license, and is issued an entry permit pursuant to Section 551 of Title 14
16 of the California Code of Regulations may hunt in the area described in the entry
17 permit unaccompanied by a person over 18 years of age but shall not be
18 accompanied by a person under 16 years of age.

19 (e) This section shall remain in effect only until July 1, 2020, and as of that date
20 is repealed, unless a later enacted statute, that is enacted before January 1, 2021,
21 deletes or extends that date.

22 **Comment.** Section 10210 continues former Fish and Game Code Section 3031, as amended by
23 2018 Cal. Stat. ch. 295, § 5, without substantive change.

24 See also Section 4700 (enforcement).

25 **Note.** This version of proposed Section 10210 would continue Section 3031, as amended by
26 2014 Cal. Stat. ch. 456, § 1. That provision was amended by 2018 Cal. Stat. ch. 295, § 5.
27 Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

28 **§ 10210 (operative on July 1, 2020). Fees**

29 10210. (a) A hunting license, granting the privilege to take birds and mammals,
30 shall be issued to any of the following:

31 (1) A resident of this state, 16 years of age or older, upon the payment of a base
32 fee of thirty-one dollars and twenty-five cents (\$31.25).

33 (2) A resident or nonresident, who is under 16 years of age on July 1 of the
34 licensing year, upon the payment of a base fee of eight dollars and twenty-five
35 cents (\$8.25), regardless of whether that person applies before or after July 1 of
36 that year. A license issued pursuant to this paragraph shall be known as a junior
37 hunting license and a person who holds one of these licenses shall be known as a
38 junior hunter.

39 (3) A nonresident, 16 years of age or older, upon the payment of a base fee of
40 one hundred eight dollars and fifty cents (\$108.50).

41 (4) A nonresident, 16 years of age or older, valid only for two consecutive days
42 upon payment of the fee set forth in paragraph (1). A license issued pursuant to

1 this paragraph is valid only for taking resident and migratory game birds, resident
2 small game mammals, fur-bearing mammals, and nongame mammals, as defined
3 in this code or in regulations adopted by the commission.

4 (5) A nonresident, valid for one day and only for the taking of domesticated
5 game birds and pheasants while on the premises of a licensed game bird club, or
6 for the taking of domesticated migratory game birds in areas licensed for shooting
7 those birds, upon the payment of a base fee of fifteen dollars (\$15).

8 (b) The base fees specified in this section are applicable to the 2004 license year,
9 and shall be adjusted annually thereafter pursuant to Section 3755.

10 (c) The commission shall adjust the amount of the fees specified in subdivision
11 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
12 and implementation costs of the department and the commission relating to those
13 licenses.

14 (d) A person who is 16 or 17 years of age, is in possession of a valid resident or
15 nonresident hunting license, and is issued an entry permit pursuant to Section 551
16 of Title 14 of the California Code of Regulations may hunt in the area described in
17 the entry permit unaccompanied by a person over 18 years of age but shall not be
18 accompanied by a person under 16 years of age.

19 (e) This section shall become operative on July 1, 2020.

20 **Comment.** Section 10210 continues former Fish and Game Code Section 3031, as added by
21 2018 Cal. Stat. ch. 295, § 6, without substantive change.

22 See also Section 4700 (enforcement).

23 **Note.** This version of proposed Section 10210 would continue Section 3031, as amended by
24 2014 Cal. Stat. ch. 456, § 2, which was amended by 2018 Cal. Stat. ch. 295, § 6. Although that
25 bill will not take effect until 2019, it is included here in anticipation of its effect.

26 **§ 10215. Job Corps enrollees**

27 10215. For the purpose of obtaining a hunting license, enrollees in the Job
28 Corps, created by the Economic Opportunity Act of 1964 (Public Law 88-452),
29 shall be deemed to be residents of California.

30 **Comment.** Section 10215 continues former Fish and Game Code Section 3031.5 without
31 substantive change.

32 **§ 10220. Term of license**

33 10220. A hunting license authorizes the person to whom it is issued to take birds
34 and mammals, in accordance with law, for a term of one year from July 1 to June
35 30, or, if issued after the beginning of the term, for the remainder of the term.

36 **Comment.** Section 10220 continues the first part of former Fish and Game Code Section 3037
37 without substantive change.

38 **§ 10225. Lifetime license**

39 10225. (a) In addition to Section 10210, and notwithstanding Section 10220, the
40 department shall issue lifetime hunting licenses under this section. A lifetime
41 hunting license authorizes the taking of birds and mammals anywhere in this state

1 in accordance with the law for purposes other than profit for the life of the person
2 to whom issued, unless revoked for a violation of this code or regulations adopted
3 pursuant to this code. A lifetime hunting license is not transferable. A lifetime
4 hunting license is valid for one year from July 1 through June 30 and may be
5 renewed annually, regardless of any lapse of the license, at no additional cost to
6 the licensee. A lifetime hunting license does not include any special tags, stamps,
7 or fees.

8 (b) A lifetime hunting license may be issued to residents of this state, as follows:

9 (1) To a person 62 years of age or over, upon payment of a base fee of three
10 hundred sixty-five dollars (\$365).

11 (2) To a person 40 years of age or over, and less than 62 years of age, upon
12 payment of a base fee of five hundred forty dollars (\$540).

13 (3) To a person 10 years of age or over, and less than 40 years of age, upon
14 payment of a base fee of six hundred dollars (\$600).

15 (4) To a person less than 10 years of age, upon payment of a base fee of three
16 hundred sixty-five dollars (\$365).

17 (c) Upon payment of a base fee of four hundred forty-five dollars (\$445), a
18 person holding a lifetime hunting license shall be issued annually one deer tag
19 application pursuant to Section 34225 and five wild pig tags pursuant to Section
20 4654. Lifetime privileges issued pursuant to this subdivision are not transferable.

21 (d) Upon payment of a base fee of two hundred ten dollars (\$210), a person
22 holding a lifetime hunting license shall be entitled annually to the privileges
23 afforded to a person holding a state duck stamp or validation issued pursuant to
24 Section 30515 and an upland game bird stamp or validation issued pursuant to
25 Section 29505. Lifetime privileges issued pursuant to this subdivision are not
26 transferable.

27 (e) Nothing in this section requires a person less than 16 years of age to obtain a
28 license to take birds or mammals except as required by law.

29 (f) Nothing in this section exempts an applicant for a license from meeting other
30 qualifications or requirements otherwise established by law for the privilege of
31 sport hunting.

32 (g) The base fees specified in this section are applicable commencing January 1,
33 2004, and shall be adjusted annually thereafter pursuant to Section 3755.

34 (h) The commission shall adjust the amount of the fees specified in subdivisions
35 (b), (c), and (d), as necessary, to fully recover, but not exceed, all reasonable
36 administrative and implementation costs of the department and the commission
37 relating to those licenses.

38 **Comment.** Section 10225 continues former Fish and Game Code Section 3031.2 without
39 substantive change.

40 § 10230. “Free Hunting Day”

41 10230. (a) Notwithstanding Section 10210, the director may designate two days
42 per year as “Free Hunting Days.” One free hunting day may be established during

1 the fall hunting season, and the other free hunting day may be established during
2 the winter hunting season. The department shall publish the exact dates of the free
3 hunting days in annual publications of the department regarding current hunting
4 regulations.

5 (b) During a free hunting day, a California resident may hunt if accompanied by
6 a hunter who holds a valid hunting license issued by the State of California, has
7 held a valid hunting license for at least the last three consecutive years, is at least
8 21 years of age, and accompanies only one unlicensed hunter in the field at a time.
9 An unlicensed hunter shall participate in the free hunting days for only one license
10 year and shall complete a hunter education course approved by the department and
11 register with the department, or an agent of the department, prior to participating
12 in a free hunting day. While engaged in hunting activities, the unlicensed hunter
13 shall remain in close visual and verbal contact with the licensed hunter at all times
14 so that the licensed hunter is able to provide adequate direction and immediately
15 assume control of a firearm from the unlicensed hunter at any time.

16 (c) An unlicensed hunter who participates in a free hunting day shall have in his
17 or her possession all of the following:

18 (1) A certificate of completion of a course in hunter education as required in
19 paragraph (3) of subdivision (a) of Section 10200.

20 (2) Any required tags or report cards.

21 (3) Any required federal entitlements.

22 (4) Any required entry permits.

23 (d) Unlicensed hunters participating in free hunting days shall not take any
24 species that requires a draw or lottery to obtain a tag.

25 (e) An unlicensed hunter hunting pursuant to this section is subject to all of the
26 limitations, restrictions, conditions, statutes, rules, and regulations applicable to
27 the holder of a valid hunting license, except the requirement to possess a valid
28 hunting license.

29 (f) The department may adopt additional minimum requirements and restrictions
30 for a licensed hunter or unlicensed hunter participating in a free hunting day
31 pursuant to this section.

32 (g) This section shall not be implemented until the department's Automated
33 License Data System is fully operational for at least one year.

34 **Comment.** Section 10230 continues former Fish and Game Code Section 3040 without
35 substantive change.

36 **Note.** The Commission invites comment on whether subdivision (g) of this section is
37 obsolete.

38 CHAPTER 2. MILITARY PERSONNEL

39 § 10300. Disabled veteran or recovering service member

40 10300. (a) Pursuant to this section, the department shall issue to any disabled
41 veteran or recovering service member who has not been convicted of any violation

1 of this code a reduced fee hunting license that authorizes the licensee to take a bird
2 or mammal as authorized by this code and regulations adopted pursuant to this
3 code.

4 (b) The base license fee for a reduced fee hunting license shall be four dollars
5 (\$4) for the hunting license year beginning on July 1, 1995, and, for the following
6 years, this license fee may be annually reviewed and adjusted in accordance with
7 Section 3755.

8 (c) For the purposes of this section, the following terms have the following
9 meanings:

10 (1) “Disabled veteran” means a person having a 50 percent or greater service-
11 connected disability and an honorable discharge from military service.

12 (2) “Recovering service member” means a member of the military who meets
13 the definition of “recovering service member” in Section 1602(7) of the federal
14 National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

15 (d) A person applying for a reduced fee hunting license shall submit to the
16 department adequate documentation for the department to determine whether the
17 person is, in fact, eligible for a reduced fee hunting license. The department shall
18 not issue a reduced fee hunting license to a person unless it is satisfied that the
19 person has provided adequate documentation of eligibility for that license.

20 (e) A disabled veteran must submit the following documentation:

21 (1) Proof of an honorable discharge from military service.

22 (2) Proof of the disability described in paragraph (1) of subdivision (c), either by
23 certification from the United States Department of Veterans Affairs or by
24 presentation of a license issued pursuant to this section in the preceding license
25 year.

26 (f) A recovering service member must submit a letter to the department stating
27 that the person is a recovering service member as defined in subdivision (d), from
28 either that person’s commanding officer or a military medical doctor. The letter
29 may be submitted either in hard copy form or online.

30 **Comment.** Section 10300 continues former Fish and Game Code Section 3033 without
31 substantive change.

32 **§ 10305. Occupant of military medical facility**

33 10305. (a) Any member of the armed forces of the United States who is in a
34 military medical facility and who is at least 70 percent disabled shall, on
35 application, be issued a hunting permit by the department, in lieu of a hunting
36 license and appropriate tags, authorizing the taking of birds and mammals. If the
37 permit covers a period during which birds or mammals may only be taken or
38 shipped with appropriate tags, the department may issue those tags with the permit
39 or shall endorse the permit to authorize that taking and shipping without the tags.

40 (b) A permit issued pursuant to this section shall be valid only during the period
41 of time the permittee is in a military medical facility and is at least 70 percent
42 disabled.

1 (c) Certification by the commanding officer of the military medical facility shall
2 be sufficient proof of this period of time and extent of disability.

3 **Comment.** Section 10305 continues former Fish and Game Code Section 3038 without
4 substantive change.

5 **§ 10310. Special hunt by military personnel**

6 10310. Any organization conducting a special hunt by service members or
7 veterans residing in or assigned to a United States veterans or armed services
8 medical facility may apply to the commission for, and the commission may issue,
9 under terms and conditions it may impose, a permit to take birds and mammals
10 notwithstanding the provisions of Sections 9550 and 9715.

11 **Comment.** Section 10310 continues former Fish and Game Code Section 317 without
12 substantive change.

13 **CHAPTER 3. COLORADO RIVER HUNTING LICENSES**

14 **§ 10350. Qualification for license**

15 10350. A special Colorado River hunting license may be issued to any person
16 holding a hunting license issued by the State of Arizona.

17 **Comment.** Section 10350 continues former Fish and Game Code Section 3061 without
18 substantive change.

19 **§ 10355. Additional qualification**

20 10355. The department, in conformity with regulations adopted by the
21 commission, may issue a special Colorado River hunting license when the
22 commission finds and determines that under the laws of the State of Arizona
23 substantially similar licenses are authorized to be issued to licensees of the State of
24 California upon substantially the same terms and conditions as are provided in this
25 article for the issuance of licenses to licensees of the State of Arizona.

26 **Comment.** Section 10355 continues former Fish and Game Code Section 3060 without
27 substantive change.

28 **§ 10360. Allowed take**

29 10360. A special Colorado River hunting license shall entitle the holder of the
30 license to take only migratory waterfowl and only in, on, or along the Colorado
31 River in accordance with the applicable state and federal laws and regulations or
32 orders made pursuant to those laws and regulations.

33 **Comment.** Section 10360 continues former Fish and Game Code Section 3062 without
34 substantive change.

35 **§ 10365. Fee and term**

36 10365. (a) The fee for a special Colorado River hunting license shall be two
37 dollars (\$2).

1 (b) The license shall be valid until the end of the calendar year in which it is
2 issued.

3 **Comment.** Section 10365 continues former Fish and Game Code Section 3063 without
4 substantive change.

5 TITLE 3. HUNTER SAFETY


6 § 10400. Legislative declaration

7 10400. (a) It is the intent of the Legislature in enacting this title to ensure the
8 health and safety of its citizens engaged in activities requiring the use of hunting
9 implements.

10 (b) The Legislature finds and declares that individuals who engage in hunting
11 should possess an adequate understanding of hunter safety practices, principles of
12 conservation, and sportsmanship.

13 (c) It is also the intent of the Legislature that persons engaged in hunting be
14 mindful of their responsibilities to others, toward wildlife, and toward their natural
15 environment. The department shall take all steps necessary to carry out the
16 provisions of this title.

17 **Comment.** Section 10400 continues former Fish and Game Code Section 3049 without
18 substantive change.

19  **Note.** The Commission invites comment on whether any equivalent gender-neutral term
20 can be substituted for the term “sportsmanship” as used in subdivision (b) of proposed
21 Section 10400.

22 § 10405. Hunter instruction

23 10405. (a) The department shall provide for a course of instruction in hunter
24 education, principles of conservation, and sportsmanship, and for this purpose may
25 cooperate with any reputable association or organization having as one of its
26 objectives the promotion of hunter safety, principles of conservation, and
27 sportsmanship.

28 (b) The department may designate as a hunter education instructor any person
29 found by it to be competent to give instruction in the courses required in this title.

30 (c) A hunter education instructor shall issue a certificate of completion as
31 provided by the department to a person that completes a course of instruction in
32 hunter safety, principles of conservation, and sportsmanship.

33 (d) The department shall prescribe a minimum level of skill and knowledge to
34 be required of all hunter education instructors, and may limit the number of
35 students per instructor in all required classes.

36 (e) The department may revoke the certificate of an instructor when, in the
37 opinion of the department, it is in the best interest of the state to do so.

38 (f) In order to recruit and retain hunter education instructors, the department
39 shall offer special hunting opportunities to qualified hunter education instructors
40 by providing a limited number of existing tags and other hunting opportunities.

The department may provide these tags and hunting opportunities through any of the following methods:

(1) The private lands management program described in Title 8 (commencing with Section 56500) of Part 2 of Division 15.

(2) The Shared Habitat Alliance for Recreational Enhancement (SHARE) program described in Title 7 (commencing with Section 56200) of Part 2 of Division 15.

(3) Entering into cooperative agreements with federal, state, and local agencies that hold title to, or administer, lands or waters.

(4) Entering into cooperative agreements with landowners or tenants seeking depredation permits for game mammals as described in Section 31115, 34605, or 37365.

(5) Authorizing a maximum of 15 tags from the annual tag quota, as determined by the department.

(g) The department shall determine eligibility criteria for hunter education instructors seeking the hunting opportunities offered pursuant to subdivision (f). The department shall offer hunting opportunities to eligible hunter education instructors only by random drawing.

(h) The department may adopt regulations to implement this section.

Comment. Section 10405 continues former Fish and Game Code Section 3051 without substantive change.

Note. The Commission invites comment on whether any equivalent gender-neutral term can be substituted for the term “sportsmanship” as used in subdivisions (a) and (b) of proposed Section 10405.

§ 10410. Fee and expenses

10410. A person receiving instruction from a hunter education instructor shall not be charged a fee for the service provided by the instructor, but may be charged a fee to cover the costs incurred by the instructor in teaching the class. A record of these costs shall be kept for inspection by the department. Costs may include, but are not limited to, range fees, ammunition, and transportation of students.

Comment. Section 10410 continues former Fish and Game Code Section 3052 without substantive change.

§ 10415. Loss or destruction of certificate

10415. In the case of loss or destruction of a certificate of completion, a duplicate certificate may be issued by the instructor who issued the original certificate, or, by an instructor of the sponsoring organization having adequate records to establish successful completion of the course, or by the department if verified by adequate records to establish successful completion of the course. An administrative fee of three dollars (\$3) shall be charged for the issuance of a duplicate certificate, for the hunting license year commencing on July 1, 1990, and, for the following years as adjusted pursuant to Section 3755.

1 **Comment.** Section 10415 continues former Fish and Game Code Section 3053 without
2 substantive change.

3 **§ 10420. Material for instructors**

4 10420. The department shall furnish information on hunter safety, principles of
5 conservation, and sportsmanship that shall be distributed free of charge to persons
6 designated as hunter education instructors for instructional purposes.

7 **Comment.** Section 10420 continues former Fish and Game Code Section 3054 without
8 substantive change.

9 **TITLE 4. EXTENDED HUNTING**

10 **§ 10500. Authority of commission**

11 10500. (a) Whenever after due investigation the commission finds that game
12 mammals, other than deer, fur-bearing mammals, or resident game birds have
13 increased in numbers in any area, district, or portion thereof other than a refuge or
14 preserve established by statute, to the extent that a surplus exists, or to the extent
15 that the mammals or birds are damaging public or private property, or are
16 overgrazing their range, the commission may by regulation do any of the
17 following:

18 (1) Provide for a special hunting season for the mammals or birds, additional to,
19 or concurrent with any other open season specified by law.

20 (2) Provide for increased bag limits.

21 (3) Remove sex restrictions specified by law.

22 (4) Establish a license fee for special hunting and designate the number of
23 special licenses to be issued, the area in which the special hunting will be
24 permitted, the number and sex of animals or birds that may be killed by each
25 holder of a special license, and the conditions and regulations to govern the special
26 hunting.

27 (b) Cooperative hunting areas, as described in Section 10700, may be
28 established in connection with any area opened to hunting under the provisions of
29 this title.

30 **Comment.** Paragraphs (1)-(3) of subdivision (a) of Section 10500 continue former Fish and
31 Game Code Section 325 without substantive change.

32 Paragraph (4) of subdivision (a) continues former Fish and Game Code Section 329 without
33 substantive change.

34 Subdivision (b) continues former Fish and Game Code Section 330 without substantive
35 change.

36 **Note.** Existing Section 330, which would be continued by subdivision (b) of proposed Section
37 10500, contains a reference to “cooperative hunting areas, as described in Sections 1570 to
38 1572.” The versions of Sections 1570, 1571, and 1572 that described cooperative hunting areas
39 were repealed in 2003, with the provisions of the repealed sections continued, largely without
40 substantive change, in existing Section 1575. Existing Section 1575 would be continued in the
41 proposed law by proposed Section 10700.

The Commission invites comment on whether the inclusion of a reference to proposed Section 10700 in subdivision (b) of proposed Section 10500 is appropriate.

§ 10505. Required hearing

10505. (a) Before adopting a regulation pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 10500, the commission at an open meeting shall publicly announce the contents of the proposed regulation, and fix a time and place for a hearing on the proposed regulation in each county that would be affected by the regulation. The time for each hearing shall be at least 21 days after the announcement, and the place shall be the county seat of the affected county.

(b) Employees of the department that are necessary or are requested by any interested group of persons, shall be present at a hearing.

Comment. Subdivision (a) of Section 10505 continues former Fish and Game Code Section 326 without substantive change.

Subdivision (b) continues the first sentence of former Fish and Game Code Section 328 without substantive change.

§ 10510. Notice of hearing

10510. (a) Notice of a hearing held pursuant to Section 10505 shall be published at least once, and at least 10 days prior to the hearing, in a newspaper of general circulation in each of the counties in which a hearing is to be held, or if no newspaper of general circulation is published in that county or counties then in a newspaper of general circulation in an adjoining county. The hearing shall be conducted by either the commission, a member of the commission designated by it, or the director if requested so to do by the commission.

(b) At least 10 days prior to the hearing, the commission shall notify each member of the board of supervisors of an affected county, at the member's home address, of the details of the proposed regulation, and the time and date of the hearing.

Comment. Section 10510 continues former Fish and Game Code Section 327 without substantive change.

§ 10515. Commission decision

10515. After a hearing held pursuant to Section 10505 the commission may abandon the proposed regulation, or may make a final regulation, with any modifications it deems appropriate, or without modification.

Comment. Section 10515 continues the second sentence of former Fish and Game Code Section 328 without substantive change.

TITLE 5. COMMERCIAL HUNTING CLUB

§ 10600. Definitions

10600. For purposes of this title, the following terms have the following meanings:

1 (a) “Commercial hunting club” means property with respect to which a fee is
2 imposed or collected for either of the following:

3 (1) Taking or attempting to take birds or mammals on the property.

4 (2) Any type of entry or use permit that includes permission to take birds or
5 mammals on the property.

6 (b) “Property” means a number of contiguous legal parcels owned by one or
7 more owners and held out for a common purpose.

8 **Comment.** Section 10600 continues former Fish and Game Code Section 3240.5(a) without
9 substantive change.

10 **§ 10605. License required**

11 10605. A person, including but not limited to an owner, renter, or lessee, who is
12 in possession or control of a commercial hunting club, shall procure a commercial
13 hunting club license before a bird or mammal may be taken on the property.

14 **Comment.** Section 10605 restates a part of former Fish and Game Code Section 3240.5(b)
15 without substantive change.

16 See also Section 4770 (enforcement).

17 **§ 10610. Exceptions**

18 10610. (a) This title does not apply under any of the following circumstances:

19 (1) The fees described in subdivision (a) of Section 10600 that are received by
20 the owner, renter or lessee of the property are less than one hundred dollars (\$100)
21 per entrant and total less than one thousand dollars (\$1,000) between July 1 and
22 the following June 30. Pursuant to Section 3755, the department may adjust the
23 threshold amounts established in this paragraph.

24 (2) The property is used in conjunction with the Shared Habitat Alliance for
25 Recreational Enhancement (SHARE) program under Title 7 (commencing with
26 Section 56200) of Part 2 of Division 15.

27 (3) A domesticated game bird hunting club licensed under Section 29365
28 operates on the property.

29 (4) A domesticated migratory game bird shooting area licensed under Title 2
30 (commencing with Section 26200) of Part 4 operates on the property.

31 (5) The property is used by a hunting club or program licensed under regulations
32 adopted pursuant to this code.

33 (6) The property is used in conjunction with the private wildlife habitat
34 enhancement and management program under Title 8 (commencing with Section
35 56500) of Part 2 of Division 15.

36 (7) The property is used for an officially sanctioned field trial event pursuant to
37 regulations adopted pursuant to this code.

38 (8) The property is subject to a recorded state, federal, or nonprofit wildlife
39 conservation or agricultural easement or is enrolled in a habitat protection or
40 enhancement program under this code, including, but not limited to, Title 9
41 (commencing with Section 56700) of Part 2 of Division 15.

(b) This title does not apply to an owner of property that is rented or leased to a commercial hunting club, if the owner is not involved in the operation of the club and the club is licensed in accordance with this title.

Comment. Section 10610 continues former Fish and Game Code Section 3240.5(c)-(d) without substantive change.

§ 10615. Application for license

10615. (a) An application for a commercial hunting club license shall be submitted on a form furnished by the department. The application, which shall set forth all of the exemptions and conditions established in Sections 10600, 10605, and 10610, shall require the applicant to include all of the following information:

(1) The name of the club and the ownership.

(2) The business telephone number and mailing address of the club.

(3) The number of properties used by the club and the physical location of each property.

(4) The total acreage of the club property.

(5) A list of all species of game hunted on the club property.

(6) Information as to whether the club owner owns any of the properties used by the club.

(7) The name and address of each property owner, if the property owner is substantially involved in the operation of the club, but does not own the club.

(8) The signature and title of the applicant.

(9) Any other information the department may require.

(b) The department shall allow a commercial hunting club that leases or rents more than one property for hunting purposes to submit a single application listing each of the properties for which the club is seeking a license, if all of the information required for each property is submitted in a format approved by the department.

Comment. Section 10615 continues former Fish and Game Code Section 3241 without substantive change.

§ 10620. Fee

10620. (a) The department may issue a commercial hunting club license to any person upon submission of a completed application and payment of the required fee, according to the number of properties used by the club, as follows:

(1) The fee for one property shall be two hundred dollars (\$200).

(2) The fee for two to five properties shall be five hundred dollars (\$500).

(3) The fee for six to 10 properties shall be one thousand dollars (\$1,000).

(4) The fee for 11 or more properties shall be two thousand dollars (\$2,000).

(b) The fees specified in this section are applicable to the 2010 license year, and shall be adjusted annually thereafter pursuant to Section 3755.

Comment. Section 10620 continues former Fish and Game Code Section 3242 without substantive change.

1 **§ 10625. Transfer of license**

2 10625. The commission may transfer a commercial hunting club license to other
3 land owned or controlled by the licensee, in the same county as the originally
4 licensed land, without an additional fee, if the commission finds the new land
5 suitable for the purposes of the license and the transfer does not conflict with the
6 public interest.

7 **Comment.** Section 10625 continues former Fish and Game Code Section 3243.5 without
8 substantive change.

9 **§ 10630. Term and authority**

10 10630. A commercial hunting club license is valid for a term of one year from
11 July 1, or, if issued after the beginning of the term, for the remainder of the term.
12 A license authorizes the person to whom it is issued to maintain a hunting club in
13 accordance with the provisions of this code and regulations adopted by the
14 commission.

15 **Comment.** Section 10630 continues former Fish and Game Code Section 3245 without
16 substantive change.

17 **TITLE 6. COOPERATIVE HUNTING AREAS**

18 **§ 10700. Cooperative hunting areas**

19 10700. To provide added protection for landowners from the depredation of
20 trespassers and to provide additional hunting opportunities to public hunters and
21 private landowners, the department may contract with landowners for the
22 establishment of cooperative hunting areas according to terms as the respective
23 parties may agree upon, subject to the following conditions:

24 (a) Cooperative deer and elk hunting areas shall be at least 5,000 acres in size,
25 including the open, restricted, and portions thereof, and may consist of the
26 adjoining lands of one or more owners.

27 (b) The boundaries of each area shall be posted by the department with a sign
28 stating legal hunting may be allowed in the area if written permission is obtained
29 from the owner or the owner's duly authorized agent.

30 (c) The department shall enforce the trespass provisions of the Penal Code and
31 the provisions of this code within these areas.

32 (d) The commission may establish regulations and set fees for the management
33 and control of hunting in these areas.

34 **Comment.** Section 10700 continues former Fish and Game Code Section 1575 without
35 substantive change.

36 **Note.** The Commission invites comment on the meaning of the phrase "including the
37 open, restricted, and portions thereof" in subdivision (a) of this section.

TITLE 7. POSSESSION OF BIRDS AND
MAMMALS AFTER SEASON

§ 10800. “Donor intermediary” defined

10800. For the purposes of this title, “donor intermediary” means a recipient who receives a game bird, game mammal, or fur-bearing mammal from a donor to give to a charitable organization or charitable entity.

Comment. Section 10800 restates former Fish and Game Code Section 3080(a) to make clear that it applies to game mammals and fur-bearing mammals, rather than all mammals.

Note. Proposed Section 10800 would continue existing Fish and Game Code Section 3080(a) with minor revisions. The revisions would make clear that the section applies to game and fur-bearing mammals, rather than all mammals.

The Commission invites comment on the merits of those revisions.

§ 10805. Possession out of season

10805. A person may possess a game bird, game mammal, or fur-bearing mammal during a period other than the open season for that bird or mammal, up to the possession limit allowed for that bird or mammal during the open season, in any of the following circumstances:

(a) The person possesses a hunting license and a validated tag or tags for the species possessed, or a copy of the license and tag or tags. The license and tag or tags shall have been issued to that person for the current or immediate past license year.

(b) The person is a donor intermediary who received the game bird, game mammal, or fur-bearing mammal from a donor described in paragraph (a), and has a written confirmation of the donation that is signed and dated by the donor, and a photocopy of the donor’s hunting license and the applicable validated tag or tags from the current or immediate past license year.

(c) The person is a donor intermediary who received the game bird, game mammal, or fur-bearing mammal from a donor described in paragraph (a), and has a written confirmation of the donation signed and dated by the donor, which includes the donor’s name, address, hunting license number, and applicable tag numbers for the species possessed. The license and tag or tags shall be for the current or immediate past license year.

Comment. Section 10805 restates former Fish and Game Code Section 3080(b) to make clear that it applies to game mammals and fur-bearing mammals, rather than all mammals.

Note. Proposed Section 10805 would continue existing Fish and Game Code Section 3080(b) with minor revisions. The revisions would make clear that the section applies to game and fur-bearing mammals, rather than all mammals.

The Commission invites comment on the merits of those revisions.

1 **§ 10810. Required documentation**

2 10810. (a) The documentation required by Section 10805 shall be made
3 available to the department as described in Section 8305.

4 (b) There is no required format for the documentation. Any written
5 documentation containing the required information shall be deemed to comply
6 with Section 10805.

7 (c) A charitable organization or charitable entity receiving and distributing a
8 game bird, game mammal, or fur-bearing mammal for a charitable or humane
9 purpose shall maintain the documentation described in subdivisions (b) or (c) of
10 Section 10805 for one year from the date of disposal.

11 **Comment.** Section 10810 continues former Fish and Game Code Section 3080(c) to make
12 clear that it applies to game mammals and fur-bearing mammals, rather than all mammals.

13 **Note.** Proposed Section 10810 would continue existing Fish and Game Code Section 3080(c)
14 with minor revisions. The revisions would make clear that the section applies to game and fur-
15 bearing mammals, rather than all mammals.

16 **The Commission invites comment on the merits of those revisions.**

17 **§ 10815. Exception**

18 10815. This title does not authorize the possession of a game bird contrary to
19 regulations adopted pursuant to the federal Migratory Bird Treaty Act (16 U.S.C.
20 Sec. 703 et seq.).

21 **Comment.** Section 10815 continues former Fish and Game Code Section 3080(d) without
22 substantive change.

23 **§ 10820. Implementing legislation or regulations**

24 10820. On or before January 1, 2015, and subject to the requirements of Section
25 10815, the commission shall recommend legislation or adopt regulations to clarify
26 when a possession limit is not violated by processing into food lawfully taken
27 game birds, game mammals, or fur-bearing mammals.

28 **Comment.** Section 10820 continues former Fish and Game Code Section 3080(e) to make
29 clear that it applies to game mammals and fur-bearing mammals, rather than all mammals.

30 **Note.** Proposed Section 10820 would continue existing Fish and Game Code Section 3080(e)
31 with minor revisions. The revisions would make clear that the section applies to game and fur-
32 bearing mammals, rather than all mammals.

33 **The Commission invites comment on the merits of those revisions.**

34 **§ 10825. Cold storage**

35 10825. Cold storage plants and frozen food locker plants shall make and keep a
36 complete detailed record of all game birds, game mammals, or fur-bearing
37 mammals stored in the plants. A record of each game bird, game mammal, or fur-
38 bearing mammal shall be made at the time it is received at the plant for storage.
39 The record shall be open for inspection at all times by wardens of the department.

40 **Comment.** Section 10825 restates former Fish and Game Code Section 3086 to make clear that
41 it applies to game mammals and fur-bearing mammals, rather than all mammals.

Note. Proposed Section 10825 would continue existing Fish and Game Code Section 3086 with minor revisions. The revisions would make clear that the section applies to game and fur-bearing mammals, rather than all mammals.

The Commission invites comment on the merits of those revisions.

§ 10830. Taxidermy

10830. (a) Every person who prepares, stuffs, or mounts the skin of any fish, reptile, amphibian, bird, or mammal for another person for a fee shall make and keep an accurate and detailed record, as prescribed by regulations of the commission, regarding all fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof that are acquired, possessed, or stored for taxidermy purposes.

(b) The record required by this section shall be made at the time the fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof, are received, and shall include the name and address of each person from and to whom fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof are received or delivered and the number and species of all fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof received or delivered.

(c) The record shall be open for inspection at all times pursuant to regulations adopted by the commission.

(d) Where a taxidermist has prepared, stuffed, or mounted the skin of any fish, reptile, amphibian, bird, or mammal for another person and that person does not pay the cost thereof, or take delivery thereof, the taxidermist may sell the skin only if the commission adopts regulations permitting the sale, as provided in this subdivision.

(1) The commission may adopt regulations permitting a sale pursuant to Chapter 6 (commencing with Section 3046) of Title 14 of Part 4 of Division 3 of the Civil Code, and may adopt any other regulations governing the sale, including, but not limited to, regulations that require a taxidermist to record, and provide to the department, the name and address of any person failing to pay for work performed on a skin, that list species of fish, reptiles, amphibians, birds, or mammals whose prepared skins shall not be sold, and that limit the sales price of prepared skins to the actual cost of preparation.

(2) The commission may adopt regulations permitting a sale of a prepared skin pursuant to this subdivision only if the commission also adopts regulations that require the posting of a notice or otherwise giving notice at the place of business of the taxidermist informing patrons of this subdivision and regulations adopted pursuant to this subdivision.

(e) Upon the second conviction of any person of a violation of this section or any regulation adopted pursuant to this section, in any five-year period, and upon any conviction subsequent to the two convictions during a five-year period, it shall be unlawful for that person to conduct any of the activities described in subdivision (a) for three years from the date of the last conviction.

1 **Comment.** Subdivisions (a) through (d) of Section 10830 continue former Fish and Game
2 Code Section 3087 without substantive change.

3 Subdivision (e) continues former Fish and Game Code Section 12002.11 without substantive
4 change.

5 PART 3. TRAPPING

6 TITLE 1. GENERAL PROHIBITIONS AND 7 REQUIREMENTS

8 CHAPTER 1. GENERAL PROHIBITIONS

9 **§ 11000. Inspection and removal of animals**

10 11000. (a) It is unlawful to fail to visit and remove all animals from traps at least
11 once daily.

12 (b) If trapping is done pursuant to Section 32155, 32305, 35215, 35610, 35710,
13 or 36010, the inspection and removal shall be done by the person who sets the trap
14 or the owner of the land where the trap is set or an agent of either.

15 **Comment.** Section 11000 restates former Fish and Game Code Section 4004(d) without
16 substantive change.

17 See also Section 4806 (enforcement).

18 **§ 11005. Signs warning of conibear traps**

19 11005. (a) When any conibear trap is set on publicly owned land or land
20 expressly open to public use, it is unlawful to fail to post signs at each entrance
21 and exit to the property indicating the presence of conibear traps, and at least four
22 additional signs within a radius of 50 feet of each trap, one in each cardinal
23 direction, with lettering that is a minimum of three inches high stating: “Danger!
24 Traps Set For Wildlife. Keep Out.”

25 (b) Signs required to be posted by this section shall be maintained and checked
26 daily.

27 **Comment.** Section 11005 restates former Fish and Game Code Section 4004(f) without
28 substantive change.

29 See also Section 4806 (enforcement).

30 **Note.** Proposed Section 11005 is intended to restate existing Fish and Game Code Section
31 4004(f) to clarify the meaning of that provision, without changing its substantive effect. The
32 existing provision reads as follows:

33 4004. It is unlawful to do any of the following:

34

35 (f) When any conibear trap is set on publicly owned land or land expressly open to public use,
36 fail to post signs at every entrance and exit to the property indicating the presence of conibear
37 traps and at least four additional signs posted within a radius of 50 feet of the trap, one in each
38 cardinal direction, with lettering that is a minimum of three inches high stating: “Danger! Traps
39 Set For Wildlife. Keep Out.” Signs shall be maintained and checked daily.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 11010. Killing of trapped animal

11010. (a) It is unlawful to kill any trapped mammal by any of the following methods:

(1) Intentional drowning.

(2) Injection with any chemical not sold for the purpose of euthanizing animals.

(3) Thoracic compression, commonly known as chest crushing.


(b) The prohibition in subdivision (a) does not apply to either of the following:

(1) A lawfully set conibear trap that is set partially or wholly submerged in water to trap beaver or muskrat.

(2) A lawfully set colony trap that is set in water to trap muskrat.

Comment. Section 11010 restates former Fish and Game Code Section 4004(g) without substantive change.

See also Section 4806 (enforcement).

 **Notes.** (1) Proposed Section 11010 is intended to restate existing Fish and Game Code Section 4004(g) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

4004. It is unlawful to do any of the following:

....

(g) Kill any trapped mammal in accordance with this section by intentional drowning, injection with any chemical not sold for the purpose of euthanizing animals, or thoracic compression, commonly known as chest crushing. This subdivision shall not be construed to prohibit the use of lawfully set conibear traps set partially or wholly submerged in water for beaver or muskrat or the use of lawfully set colony traps set in water for muskrat.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Section 4004(g) prohibits killing any trapped mammal “in accordance with this section.” In proposed Section 11010, that limiting language has been deleted. The Commission sees no policy reason why the prohibition on killing trapped mammals by certain methods should only apply to mammals that were trapped lawfully.

The Commission invites comment on whether the deletion of that language creates a problem.

(3) Although animals that are trapped are normally mammals, is it intended that this provision not apply to any other type of animal that is trapped, whether intentionally or inadvertently? The Notes that none of the other prohibitions in existing Section 4004 (which would be continued by the other proposed provisions in this chapter) are limited in their scope to mammals.

The Commission invites comment on whether the word “mammal” in proposed Section 11010(a) should be revised to read “animal.”

§ 11015. Removing or disturbing trap

11015. (a) It is unlawful to remove or disturb the trap of any person with a valid trapping license while the trap is being used by the licensee on public land, or on land where the licensee has permission to trap.

(b) Subdivision (a) does not prohibit the removal or disturbance of a trap by an employee of the department engaged in the performance of official duties.

Comment. Section 11015 continues former Fish and Game Code Section 4009 without substantive change.

See also Section 4806 (enforcement).

§ 11020. Unmarked trap

11020. (a) It is unlawful to set or maintain a trap that does not bear a mark as follows:

(1) If set or maintained by a federal, state, county, or city agency, a mark containing the name of that agency.

(2) If set pursuant to Section 32155, 32305, 35215, 35610, 35710, or 36010, an identifying mark as specified by the department.

(3) In all other cases, a number or other identifying mark registered to the department.

(b) No registration fee shall be charged pursuant to this section.

Comment. Section 11020 restates former Fish and Game Code Section 4004(c) without substantive change.

See also Sections 4800, 4806 (enforcement).

Note. Proposed Section 11020 is intended to restate existing Fish and Game Code Section 4004(c) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

4004. It is unlawful to do any of the following:

....

(c) Set or maintain traps that do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency, except that traps set pursuant to Section 4152 or 4180 shall bear an identifying mark in a manner specified by the department. No registration fee shall be charged pursuant to this subdivision.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

CHAPTER 2. BODY-GRIPPING TRAPS

Note. Existing Fish and Game Code Section 3003.1 is an initiative statute, added to the Fish and Game Code in 1998 by Proposition 4, Section 1. The Commission believes that the nonsubstantive continuation of that provision in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

§ 11100. Definitions

11100. For the purposes of this article, the following terms have the following meanings:


(a) A body-gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps, conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver

traps, and common rat and mouse traps shall not be considered body-gripping traps.

(b) Fur-bearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997.

Comment. Subdivision (a) of Section 11100 continues the second and third sentences of former Fish and Game Code Section 3003.1(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 3003.1(d) without substantive change.

 **Note.** Section 3003.1 was added by Proposition 4 (1998). The Commission believes that the nonsubstantive continuation of those provisions in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

§ 11105. Use of body-gripping trap for recreation or commerce in fur

11105. It is unlawful to use a body-gripping trap for recreation or commerce in fur.

Comment. Section 11105 continues former Fish and Game Code Section 4004(b) without substantive change.

See also Section 4806 (enforcement).

§ 11110. Use of body-gripping trap generally

11110. Notwithstanding Section 1700, 4400, 4450, 4462, 4600, 4702, 5540, 5800, 9200, 11000, 11005, 11105, 11010, 11020, 11155, 11220, 11225, 11235, 11300, 11310, 11340, Section 31110, subdivision (a) of Section 32150, Section 32155, 32305, 33520, 33710, 35000, 35215, 35610, 35710, 36010, 36015, 37150, subdivision (f) of Section 37355, or Section 37360:

(a) It is unlawful for any person to trap for the purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal with any body-gripping trap.

(b) It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined in Section 475, of a fur-bearing mammal or nongame mammal that was trapped in this state with a body-gripping trap.

(c) It is unlawful for any person, including an employee of the federal, state, county, or municipal government, to use or authorize the use of any steel-jawed leghold trap, padded or otherwise, to capture any game mammal, fur-bearing mammal, nongame mammal, protected mammal, or any dog or cat. The prohibition in this subdivision does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leghold trap is the only method available to protect human health or safety.

Comment. Section 11110 continues the first sentence of former Fish and Game Code Section 3003.1(a), subdivision (b), and subdivision (c), without substantive change.

See also Section 4802 (enforcement).

Note. Section 3003.1 was added by Proposition 4 (1998). The Commission believes that the nonsubstantive continuation of those provisions in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

CHAPTER 3. OTHER TRAPS

§ 11150. Steel-jawed, saw-toothed, or spiked jaw trap

11150. It is unlawful to use a steel-jawed leghold trap, or a trap with saw-toothed or spiked jaws.

Comment. Section 11150 continues former Fish and Game Code Section 4004(a) without substantive change.

See also Section 4806 (enforcement).

Note. Existing Fish and Game Code Section 4004 is located in a chapter entitled “Fur-Bearing Mammals.” However, the prohibitions in the section do not on their face appear to be limited in their application to only those mammals, and existing Section 4 provides that “Division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.”

The Commission invites comment as to whether relocation of the prohibitions in Section 4004 as proposed would substantively change the meaning of any provision in Section 4004.

§ 11155. Conibear traps

11155. (a) It is unlawful to use a conibear trap that is larger than 6 inches by 6 inches, unless the trap is partially or wholly submerged in water.

(b) Notwithstanding subdivision (a), a lawfully set conibear trap that is 10 inches by 10 inches or less may be set pursuant to subdivision (g) of Section 465.5 of Title 14 of the California Code of Regulations, unless prohibited by the department as a permit condition.

Comment. Section 11155 restates former Fish and Game Code Section 4004(e) without substantive change.

See also Section 4806 (enforcement).

Note. Proposed Section 11155 is intended to restate existing Fish and Game Code Section 4004(e) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

4004. It is unlawful to do any of the following:

....

(e) Use a conibear trap that is larger than 6 inches by 6 inches, unless partially or wholly submerged in water. Unless prohibited by the department as a permit condition, a lawfully set conibear trap that is 10 inches by 10 inches or less may be set pursuant to subdivision (g) of Section 465.5 of Title 14 of the California Code of Regulations.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

TITLE 2. LICENSES

CHAPTER 1. TRAPPING LICENSE

§ 11200. Required license

11200. (a) Except as otherwise provided in this section, any person who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, is required to obtain a trapping license.

(b) The license requirement imposed by this section does not apply to any of the following:

(1) Fur dealers.

(2) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities.

(3) Officers or employees of the Department of Food and Agriculture, when acting pursuant to the Food and Agricultural Code pertaining to pests, or when acting pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(4) Structural pest control operators licensed pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, when trapping rats, mice, voles, moles, or gophers.

(5) Persons and businesses licensed or certified by the Department of Pesticide Regulation pursuant to Chapter 4 (commencing with Section 11701) and Chapter 8 (commencing with Section 12201) of Division 6 of, and Chapter 3.6, (commencing with Section 14151) of Division 7 of, the Food and Agricultural Code, when trapping rats, mice, voles, moles, or gophers.

(6) Persons trapping mammals in accordance with Section 32305, 32155, 35215, 35610, 35710, or 36010, except when providing trapping services for profit.

Comment. Subdivision (a) and paragraph (b)(1) of Section 11200 restate the first sentence of former Fish and Game Code Section 4005(a) without substantive change.

Paragraphs (b)(2)-(5) continue former Fish and Game Code Section 4005(e) without substantive change.

Paragraph (b)(6) continues former Fish and Game Code Section 4005(c) without substantive change.

See also Section 4806 (enforcement).

Notes. (1) Proposed Sections 11200(a) and 11200(b)(1) are intended to restate the first sentence of existing Fish and Game Code Section 4005(a) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

Except as otherwise provided in this section, every person, other than a fur dealer, who traps fur-bearing mammals or nongame mammals, designated by the commission or who sells raw furs of those mammals, shall procure a trapping license.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) **The Commission invites comment on the meaning of “designated by the commission” in Section 4005(a).**

(3) The definition of “raw fur” in Section 4005(a) is continued by proposed Section 475.

1 **§ 11205. Sale of raw fur**

2 11205. No raw furs taken by persons providing trapping services for profit may
3 be sold.

4 **Comment.** Section 11205 continues former Fish and Game Code Section 4005(d) without
5 substantive change.

6 See also Section 4806 (enforcement).

7 **Note.** Although existing Section 4005(d) could be read as applying broadly to *all* persons
8 providing trapping services for profit, the provision is oddly placed (in the middle of Section
9 4005) if that is its intended effect. Instead, it may be that the provision is intended to apply only
10 to persons providing trapping services for profit *that are described in existing Section 4005(c)*,
11 the paragraph immediately preceding Section 4005(d).

12 **The Commission invites comment on this issue.**

13 **§ 11210. Standards for license**

14 11210. The department shall develop standards that are necessary to ensure the
15 competence and proficiency of applicants for a trapping license. No person shall
16 be issued a trapping license until passing a test of knowledge and skill in trapping.

17 **Comment.** Section 11210 continues former Fish and Game Code Section 4005(b) without
18 substantive change.

19 **§ 11215. Fee for license**

20 11215. (a) The fee for a trapping license is as follows:

21 (1) For a resident of this state 16 years of age or older, a base fee of forty-five
22 dollars (\$45), adjusted under Section 3755.

23 (2) For a resident of this state under the age of 16 years, a base fee of fifteen
24 dollars (\$15), adjusted under Section 3755.

25 (3) For a nonresident of this state, a base fee of two hundred twenty-five dollars
26 (\$225), adjusted under Section 3755.

27 (b) The commission shall adjust the amount of the fees specified in subdivision
28 (a) as necessary to fully recover, but not exceed, all reasonable administrative and
29 implementation costs of the department and the commission relating to those
30 licenses.

31 **Comment.** Subdivision (a) of Section 11215 continues former Fish and Game Code Section
32 4006(a) without substantive change.

33 Subdivision (b) continues former Fish and Game Code Section 4006(c) without substantive
34 change.

35 **§ 11220. Authorization and term**

36 11220. A trapping license authorizes the licensee to do both of the following:

37 (a) Take fur-bearing mammals and nongame mammals during the open season
38 for those mammals, for a term of one year beginning on July 1, or if the license is
39 issued after the beginning of a term, for the remainder of that term.

40 (b) Sell the raw fur of any animal taken pursuant to subdivision (a).

41 **Comment.** Section 11220 restates former Fish and Game Code Section 4007 without
42 substantive change.

1 **Notes.** (1) Proposed Section 11220 is intended to restate existing Fish and Game Code
2 Section 4007 to improve its clarity, without changing its substantive effect. The existing
3 provision reads as follows:

4 4007. A trapping license authorizes the person to whom it is issued to take, during the open
5 season, fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if
6 issued after the beginning of such term, for the remainder thereof and to sell the raw fur of any
7 such animal.

8 **The Commission invites comment on whether the restatement would cause any**
9 **substantive change in the meaning of the provision.**

10 (2) Section 4007 provides that a trapping license authorizes both specified take of specified
11 animals during a specified term, and the sale of raw fur from the animals taken. However, the
12 phrasing of the provision makes it unclear whether the sale of raw fur may also only occur during
13 the specified term.

14 **The Commission invites comment on whether, under Section 4007, a trapper may sell**
15 **raw fur from an animal taken pursuant to a trapping license at any time, or only during the**
16 **period in which the trapping license is valid.**

17 **§ 11225. Statement of prior year's take**

18 11225. No trapping license shall be issued to any applicant within one year
19 following the expiration of any trapping license previously issued to the applicant,
20 unless the applicant has submitted to the department a sworn statement showing
21 the number of each kind of fur-bearing mammal and nongame mammal taken
22 under the previous license, and the names and addresses of any persons to whom
23 the mammals were shipped or sold.

24 **Comment.** Section 11225 continues former Fish and Game Code Section 4008 without
25 substantive change.

26 **§ 11230. Issuance to nonresident**

27 11230. (a) A trapping license may be issued to a nonresident only if the state in
28 which the nonresident resides provides for issuance of a nonresident trapping
29 license to California residents.

30 (b) A nonresident issued a license under subdivision (a) may take only those
31 species, and may take or possess only that quantity of a species, that a resident of
32 California may take or possess under a nonresident trapping license or permit in
33 the state of residence of that nonresident.

34 **Comment.** Section 11230 continues former Fish and Game Code Section 4006(b) without
35 substantive change.

36 **§ 11235. Commission regulations**

37 11235. The commission may adopt regulations that it determines to be necessary
38 to regulate the taking and sale of fur-bearing mammals or nongame mammals
39 taken under a trapping license.

40 **Comment.** Section 11235 continues former Fish and Game Code Section 4009.5 without
41 substantive change.

CHAPTER 2. FUR DEALER LICENSE

§ 11300. Required license

11300. (a) A person engaging in, carrying on, or conducting wholly or in part the business of buying, selling, trading or dealing in raw furs of fur-bearing mammals or nongame mammals is a fur dealer and shall procure a fur dealer license.

(b) No fur dealer license shall be required of a licensed trapper selling raw furs that were lawfully taken, or a domesticated game breeder selling raw furs of animals that the breeder has raised.

Comment. Section 11300 continues former Fish and Game Code Section 4030 without substantive change.

See also Section 4804 (enforcement).

§ 11305. Fee for license

11305. A revocable fur dealer license shall be issued to any person upon payment of a base fee of seventy dollars (\$70), as adjusted under Section 3755.

Comment. Section 11305 restates former Fish and Game Code Section 4031 without substantive change.

§ 11310. Authorization and term

11310. A fur dealer license authorizes the person to whom it is issued to buy, sell, barter, exchange, or possess raw furs or parts thereof of fur-bearing mammals and nongame mammals for a term of one year beginning on July 1, or if the license is issued after the beginning of the term, for the remainder of the term.

Comment. Section 11310 continues former Fish and Game Code Section 4034 without substantive change.

§ 11315. Fur agent license

11315. (a) Any person who is employed by a licensed fur dealer to engage in the business of buying, selling, trading, or dealing in raw furs only on behalf of the fur dealer, and not on the person's own behalf, is a fur agent.

(b) Except as otherwise provided in this code, it is unlawful to act as a fur agent without a fur agent license.

(c) A revocable fur agent license shall be issued to any person who is employed by a licensed fur dealer upon payment of a base fee of thirty-five dollars (\$35), as adjusted under Section 3755.

Comment. Subdivisions (a) and (b) of Section 11315 continues former Fish and Game Code Section 4032 without substantive change.

Subdivision (c) continues former Fish and Game Code Section 4033 without substantive change.

See also Section 4804 (enforcement).

1 **§ 11320. Display of license**

2 11320. A fur dealer license or fur agent license shall be shown upon request to
3 any person authorized to enforce the provisions of this code.

4 **Comment.** Section 11320 continues former Fish and Game Code Section 4035 without
5 substantive change.

6 **§ 11325. Record of transfers**

7 11325. (a) A fur dealer licensed pursuant to this chapter shall maintain a true
8 and legible record of any transfer of raw furs that includes:

9 (1) The license number, name, and address of any seller.

10 (2) The signature, name, and license number, if applicable, of any buyer.

11 (3) The number and species of raw furs transferred, by county of take.

12 (4) The price paid or terms of exchange.

13 (5) The date of transfer.

14 (6) Any other information that the department requires.

15 (b) The record of sale, exchange, barter, or gift shall be available for inspection
16 at any time by the department.

17 **Comment.** Subdivision (a) of Section 11325 continues former Fish and Game Code Section
18 4037 without substantive change.

19 Subdivision (b) continues former Fish and Game Code Section 4038 without substantive
20 change.

21 **§ 11330. Annual report**

22 11330. Each licensed fur dealer shall submit an annual report to the department
23 on the sale, exchange, barter, or gift of raw furs, on forms furnished by the
24 department. No license shall be renewed until the report is received.

25 **Comment.** Section 11330 continues former Fish and Game Code Section 4040 without
26 substantive change.

27 **§ 11335. Confidentiality of documents**

28 11335. The receipts, records, and reports required by this chapter, and the
29 information contained in those documents, shall be confidential, and the records
30 shall not be public records. Any publication of information in the documents shall
31 preserve the confidentiality of the persons involved.

32 **Comment.** Section 11335 continues former Fish and Game Code Section 4041 without
33 substantive change.

34 **§ 11340. Regulation**

35 11340. The commission may regulate the buying, selling, trading, or dealing in
36 raw fur or part of raw fur of any fur-bearing mammal or nongame mammal under
37 a fur dealer license.

38 **Comment.** Section 11340 continues former Fish and Game Code Section 4042 without
39 substantive change.

40 See also Section 4804 (enforcement).

1 **§ 11350. Purchase of raw fur from unlicensed person**

2 11350. It shall be unlawful for any fur dealer to purchase the raw fur of any fur-
3 bearing mammal or nongame mammal from any person who does not hold a valid
4 trapping license, fur dealer license, or fur agent license.

5 **Comment.** Section 11350 continues former Fish and Game Code Section 4036 without
6 substantive change.

7 See also Section 4804 (enforcement).

8 **PART 4. FISHING GENERALLY**

9 **TITLE 1. GENERAL PROVISIONS**

10 **§ 11500. Restriction on take based on human health risk**

11 11500. (a) (1) If the Director of Environmental Health Hazard Assessment, in
12 consultation with the State Public Health Officer, determines, based on thorough
13 and adequate scientific evidence, that any species or subspecies of fish is likely to
14 pose a human health risk from high levels of toxic substances, the Director of Fish
15 and Wildlife may order the closure of any waters or otherwise restrict the taking in
16 state waters of that species.

17 (2) After the Director of Fish and Wildlife orders the closure of any waters or
18 restricts the taking of any species of fish pursuant to paragraph (1), he or she shall
19 notify the commission and request that the commission schedule a public
20 discussion of the closure or restriction at its next scheduled full commission
21 meeting.

22 (b) (1) When the Director of Environmental Health Hazard Assessment, in
23 consultation with the State Public Health Officer, determines that a health risk no
24 longer exists, the Director of Environmental Health Hazard Assessment shall
25 notify the Director of Fish and Wildlife and shall request that any waters closed
26 pursuant to subdivision (a) be reopened for fishing and any restrictions imposed
27 pursuant to subdivision (a) be lifted.

28 (2) Upon receiving the notification and request pursuant to paragraph (1), the
29 Director of Fish and Wildlife shall open any waters closed pursuant to subdivision
30 (a) and lift any restrictions imposed pursuant to subdivision (a) in a manner that
31 promotes a fair and orderly fishery.

32 (c) It is unlawful to take any fish from any closed waters or to otherwise violate
33 any restriction on take imposed pursuant to this section.

34 (d) If there is a delay in the opening of any waters for Dungeness crab season
35 pursuant to this section, the Director of Fish and Wildlife may further delay
36 opening those waters in order to provide 72-hours notice before a gear setting
37 period. If, with 72-hours notice, the gear setting period would begin on a federal
38 holiday, a state holiday, the day before Thanksgiving Day, December 24, or
39 December 31, the director may delay opening those waters for the additional time

1 that is necessary to begin the gear setting period on the next day that is not one of
2 those days.

3 (e) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
4 Title 2 of the Government Code does not apply to actions taken pursuant to this
5 section.

6 **Comment.** Section 11500 continues former Fish and Game Code Section 5523 without
7 substantive change.

8 **Note.** Proposed Section 11500 would continue Section 5523, which was amended by 2018
9 Cal. Stat. ch. 663 as an urgency measure.

10 **§ 11505. Take from propagation or conservation facilities**

11 11505. It is unlawful to take a fish in a pond, reservoir, or other water-retaining
12 structure that belongs to or is controlled by the department and used for
13 propagating, raising, holding, protecting, or conserving fish.

14 **Comment.** Section 11505 continues former Fish and Game Code Section 1124 without
15 substantive change.

16 **§ 11510. Fish spear or gaff**

17 11510. (a) It is unlawful for a person to possess a fish spear or gaff within 300
18 feet of a lake or stream in this state, at a time when spearing is prohibited in that
19 lake or stream.

20 (b) This section does not apply to either of the following acts:

21 (1) Possession of a gaff carried as an accessory while angling.

22 (2) Possession of a fish spear or gaff in one's own home.

23 **Comment.** Section 11510 restates former Fish and Game Code Section 5507 without
24 substantive change.

25 **Note.** Proposed Section 11510 is intended to restate existing Fish and Game Code Section
26 5507 to clarify the meaning of that provision, without changing its substantive effect. The
27 existing provision reads as follows:

28 5507. It is unlawful for any person to possess, except in his home, any fish spear or gaff within
29 300 feet of any lake or stream in this State, at any time when spearing is prohibited in such lake
30 or stream. This section does not apply to the possession of a gaff carried as an accessory while
31 angling.

32 **The Commission invites comment on whether the restatement would cause any**
33 **substantive change in the meaning of the provision.**

34 **§ 11515. Possession when size or weight cannot be determined**

35 11515. (a) It is unlawful to possess on a boat, or to bring ashore, a fish for which
36 a size or weight limit is prescribed, in such a condition that its size or weight
37 cannot be determined.

38 (b) The commission may adopt regulations allowing fish other than whole fish
39 to be brought ashore, which establish sizes or weights for cleaned or otherwise cut
40 fish equivalent to sizes or weights for whole fish.

1 **Comment.** Section 11515 continues former Fish and Game Code Section 5508 without
2 substantive change.

3 **§ 11520. Possession when species cannot be determined**

4 11520. (a) It is unlawful to possess on a boat, or to bring ashore, a fish in such a
5 condition that its species cannot be determined, except as otherwise provided in
6 this code or regulations adopted pursuant to this code.

7 (b) Subject to Section 11515, the commission may adopt regulations allowing
8 fish taken by a person fishing from a vessel licensed pursuant to Section 21905 to
9 be brought ashore in such a condition that its species cannot be determined.

10 **Comment.** Section 11520 continues former Fish and Game Code Section 5509 without
11 substantive change.

12 **§ 11525. Removal of eggs**

13 11525. (a) It is unlawful to take any fish for the sole purpose of removing its
14 eggs, except for the purpose of developing a brood stock for aquaculture purposes
15 under Part 1 (commencing with Section 23300) of Division 7 pursuant to
16 regulations adopted by the Fish and Game Commission.

17 (b) The commission shall determine ownership and regulate distribution of
18 progeny taken from wild brood stock, other than those obtained pursuant to
19 Section 23900.

20 **Comment.** Section 11525 continues former Fish and Game Code Section 5503 without
21 substantive change.

22 **§ 11535. Use of artificial bait**

23 11535. A river, stream, lake, or other body of water restricted by the
24 commission to the use of only artificial flies or artificial lures for fishing shall be
25 posted by the department at logical places of entry so as to inform persons fishing
26 in those waters as to the nature of the restrictions.

27 **Comment.** Section 11535 continues former Fish and Game Code Section 5516 without
28 substantive change.

29 **§ 11540. Predatory fish**

30 11540. The department may take any fish that, in its opinion, is unduly preying
31 upon any bird, mammal, or fish. The commission may prescribe the terms of a
32 permit to take any fish that, in the opinion of the department, is harmful to other
33 species of fish and should be reduced in numbers.

34 **Comment.** Section 11540 continues former Fish and Game Code Section 5501 without
35 substantive change.

1 TITLE 2. FISHERIES GENERALLY

2 CHAPTER 1. TROUT AND STEELHEAD CONSERVATION AND MANAGEMENT
3 PLANNING ACT OF 1979

4 § 11700. Name of act

5 11700. This act shall be known as the Trout and Steelhead Conservation and
6 Management Planning Act of 1979.

7 **Comment.** Section 11700 continues former Fish and Game Code Section 1725 without
8 substantive change.

9 § 11705. Declaration of policy

10 11705. The Legislature hereby finds and declares that it is the policy of the state
11 to do all of the following:

12 (a) Establish and maintain wild trout stocks that, to the extent possible, should
13 be native fish, in suitable waters of the state that are readily accessible to the
14 general public as well as in those waters in remote areas.

15 (b) Establish angling regulations designed to maintain the wild trout fishery in
16 those waters by natural reproduction.

17 (c) Discourage artificial planting of hatchery-raised hybrid and nonnative fish
18 species in wild trout waters or in other areas that would adversely affect native
19 aquatic and nonaquatic species.

20 **Comment.** Section 11705 continues former Fish and Game Code Section 1726 without
21 substantive change.

22 § 11710. Declaration of need

23 11710. The Legislature further finds and declares all of the following:

24 (a) Hatchery production and stocking of California's waters started over 140
25 years ago and is an enduring part of California's history and attempts to steward
26 its natural resources.

27 (b) Sustainable and adaptive management provides and improves recreational
28 angling opportunities while protecting and maintaining native and wild trout
29 fisheries, other species, and their mutual habitat.

30 (c) Management of the genetic diversity of California's native trout species is
31 imperative.

32 (d) Habitat restoration and the protection of cold water ecosystems are both of
33 utmost importance to maintaining healthy wild trout populations, ensuring and
34 promoting angler opportunities, and the sustainability of the inland trout fishery.

35 (e) The department shall seek to provide and enhance diverse recreational
36 angling opportunities in California.

37 **Comment.** Section 11710 continues former Fish and Game Code Section 1726.1 without
38 substantive change.

1 **§ 11715. Determinations by department**

2 11715. (a) For the purposes of this chapter, “trout” includes steelhead trout.

3 (b) The department, in administering its existing wild trout program, shall
4 maintain an inventory of all California trout streams and lakes to determine the
5 most suitable angling regulations for each stream or lake. The department shall
6 determine for each stream or lake whether it should be managed as a wild trout
7 fishery, or whether its management should involve the temporary planting of
8 native trout species to supplement wild trout populations that is consistent with
9 this chapter. In maintaining the inventory, the department shall give priority to
10 those streams and lakes that have the highest biological potential for producing
11 sizeable wild trout, which are inhabited by rare species, or where the quality of the
12 fishery is threatened or endangered and take into consideration public use. The
13 biological and physical inventories prepared and maintained for each stream,
14 stream system, or lake shall include an assessment of the resource status, threats to
15 the continued well-being of the fishery resource, the potential for fishery resource
16 development, and recommendations, including necessary changes in the allowed
17 take of trout, for the development of each stream or lake to its full capacity as a
18 fishery, consistent with this chapter.

19 (c) This section does not provide any public entity or private party with any new
20 or additional authority to affect the management of, or access to, any private land
21 without the written consent of the owner. Privately owned lakes and ponds not
22 open to the use of the general public shall be subject to this section only with the
23 written consent of the owner. This chapter shall not be construed as authorizing or
24 requiring special treatment of adjacent land areas or requiring land use restrictions.
25 It is the intent of the Legislature that this chapter should not diminish the existing
26 authority of the department.

27 (d) The department shall make the inventory maintained pursuant to subdivision
28 (b) publicly available on the department’s Internet Web site and the department
29 shall continuously revise that inventory with the goal of reviewing every
30 watershed once per decade.

31 **Comment.** Section 11715 continues former Fish and Game Code Section 1726.4 without
32 substantive change.

33 **§ 11720. Declaration regarding funding**

34 11720. The Legislature further finds and declares that activities and programs
35 mandated by this chapter are a continuation and perpetuation of the department’s
36 existing wild trout program and other programs, and as such they shall be funded
37 from existing budgetary resources.

38 **Comment.** Section 11720 continues former Fish and Game Code Section 1726.5 without
39 substantive change.

1 **§ 11725. Declaration of intended development**

2 11725. (a) In order to provide for a diversity of available angling experiences
3 throughout the state, it is the intent of the Legislature that the commission
4 maintain the existing wild trout program, and as part of the program, develop
5 additional wild trout waters in the more than 20,000 miles of trout streams and
6 approximately 5,000 lakes containing trout in California.

7 (b) The department shall prepare a list of no less than 25 miles of stream or
8 stream segments and at least one lake that it deems suitable for designation as wild
9 trout waters. The department shall submit this list to the commission for its
10 consideration at the regular October commission meeting.

11 (c) The commission may remove any stream or lake that it has designated as a
12 wild trout fishery from the program at any time. If any of those waters are
13 removed from the program, an equivalent amount of stream mileage or an
14 equivalent size lake shall be added to the wild trout program.

15 (d) The department shall prepare and complete management plans for all wild
16 trout waters not more than three years following their initial designation by the
17 commission and update the management plan every five years following
18 completion of the initial management plan.

19 **Comment.** Section 11725 continues former Fish and Game Code Section 1727 without
20 substantive change.

21 **§ 11730. Update of trout management plan**

22 11730. (a) Every five years the department shall update the Strategic Plan for
23 Trout Management published in November 2003 as necessary to guide the state's
24 trout management.

25 (b) The Strategic Plan for Trout Management shall be intended to ensure all of
26 the following:

27 (1) Thriving and self-sustaining, wild and native trout populations throughout
28 their historic ranges.

29 (2) Providing and improving angling opportunities for wild and native trout and
30 other trout.

31 (3) Providing for the conservation of wild and native trout.

32 (4) Environmental sustainability and overall ecosystem and watershed health.

33 (c) The Strategic Plan for Trout Management shall be guided by all of the
34 following considerations:

35 (1) Adaptively managing trout populations, including, but not limited to,
36 stocking practices, to establish thriving and self-sustaining native and wild trout
37 fisheries in wild trout waters and, where possible, in other waters.

38 (2) Increasing angler satisfaction.

39 (3) Ensuring appropriate age distribution of wild trout when appropriate.

40 (4) Establishing ecologically and environmentally sustainable hatchery and
41 stocking practices for native trout, including, but not limited to, the following:

42 (A) Hatchery and stocking practices consistent with this chapter.

1 (B) Stocking plans shall include consideration of angler satisfaction and public
2 use of, and access to, the waters for angling. This may include, but is not limited
3 to, harvest and catch rates, including, but not limited to, trophy catch rates, the
4 potential for high angler satisfaction, and where appropriate, put and grow
5 stocking.

6 (C) Native trout shall be preferentially stocked when stocking is employed.

7 (D) Designing stocking plans to maintain and optimize the genetic diversity of
8 trout populations and to be consistent with the direction provided by the strategic
9 trout management team.

10 (E) Stocking plans for species listed in Section 420 shall not exceed the
11 documented biological carrying capacity of the water or ecosystem.

12 (5) Integrating stakeholder involvement into the planning process.

13 (6) Monitoring and evaluating management processes through angler surveys,
14 public meetings coordinated with county fish and game commissions, or by other
15 means.

16 (d) The department shall prepare and complete trout management plans
17 consistent with the Strategic Plan for Trout Management for all wild trout waters
18 not more than three years following their initial designation by the commission.
19 The department shall update the management plan every five years or as necessary
20 following completion of the initial management plan. The department shall
21 prepare trout management plans for other waters consistent with the Strategic Plan
22 for Trout Management as appropriate.

23 (e) Before implementation, the Strategic Plan for Trout Management produced
24 by the department shall be reviewed by the strategic trout management team, the
25 hatchery operations committee, and an ad hoc peer review committee convened by
26 the department to ensure compliance with sound management practices, improved
27 genetic diversity, and use of the best available scientific information.

28 (f) The Strategic Plan for Trout Management and plans completed pursuant to
29 subdivision (d) shall be publicly available on the department's Internet Web site.

30 **Comment.** Section 11730 continues former Fish and Game Code Section 1728 without
31 substantive change.

32 **§ 11735. Priority for stocking native hatchery-produced species**

33 11735. (a) The department shall give priority to stocking native hatchery-
34 produced species in California's waters, where stocking is determined to be
35 appropriate by the department. Stocking of hatchery-produced fish is not
36 appropriate in all of California's waters, including, but not limited to, stocking in
37 California's waters that would adversely affect species listed under the federal
38 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California
39 Endangered Species Act (Part 1 (commencing with Section 62000) of Division
40 17).

1 (b) Hatchery-produced trout shall be stocked to support sustainable angling
2 recreation and promote angler access to trout fishing, including, but not limited to,
3 urban fisheries.

4 (c) The department may provide outreach and educational materials to all
5 anglers to promote awareness of environmental sustainability, ecosystem health,
6 fish genetics, angling opportunities, and fish population management.

7 (d) Educational programs utilizing the hatcheries shall be encouraged.

8 (e) The department shall ensure that all trout stocked in waters of the state for
9 recreational purposes are unable to reproduce through triploidy or other means,
10 with the exception of fish planted into brood stock lakes, surplus brood stock
11 planted according to fishery management decisions, fish planted to supplement
12 waters that the department has determined to be genetically isolated from native
13 fish populations, and native trout species produced for recovery and restoration
14 within their native range.

15 (f) The department may develop, conduct, and respond to regular angler
16 preference and satisfaction surveys. This is not a substitute for a preferred
17 scientific data collection and monitoring program that would facilitate adaptive
18 management of California's inland trout fisheries.

19 (g) The department shall review angling regulations periodically and adjust
20 those regulations to ensure consistency with the strategic plan described in Section
21 11730.

22 **Comment.** Section 11735 continues former Fish and Game Code Section 1729 without
23 substantive change.

24 **§ 11740. Intradepartmental strategic trout management team**

25 11740. (a) By January 1, 2014, the department shall form an intradepartmental
26 strategic trout management team to provide direction and oversee trout
27 management statewide. Working under the framework of the Strategic Plan for
28 Trout Management, the strategic trout management team shall direct and
29 implement focused management and monitoring efforts for trout at the watershed
30 level, in cooperation with local stakeholders.

31 (b) The strategic trout management team shall be responsible for developing
32 basin management plans that are conservation based and are consistent throughout
33 California for inland watersheds.

34 (c) The basin plans in subdivision (b) shall be reviewed by an ad hoc peer
35 review committee, which may be convened under the guidance of the
36 department's Science Institute to ensure compliance with sound management
37 practices and utilization of the best available scientific information.

38 **Comment.** Section 11740 continues former Fish and Game Code Section 1730 without
39 substantive change.

1 CHAPTER 2. SALMON, STEELHEAD TROUT, AND ANADROMOUS
2 FISHERIES PROGRAM ACT

3 § 11800. Title

4 11800. This chapter shall be known and may be cited as the Salmon, Steelhead
5 Trout, and Anadromous Fisheries Program Act.

6 **Comment.** Section 11800 continues former Fish and Game Code Section 6900 without
7 substantive change.

8 § 11805. Definitions

9 11805. Unless the context clearly requires a different meaning, the following
10 definitions govern the construction of this chapter:

11 (a) “Production” means the survival of fish to adulthood as measured by the
12 abundance of the recreational and commercial catch together with the return of
13 fish to the state’s spawning streams.

14 (b) “Program” means the program for protecting and increasing the naturally
15 spawning salmon and steelhead trout of the state provided for in Section 11825.

16 **Comment.** The introductory clause of Section 11805 continues former Fish and Game Code
17 Sections 6910.

18 Subdivision (a) continues former Fish and Game Code Section 6911 without substantive
19 change.

20 Subdivision (b) continues former Fish and Game Code Section 6912 without substantive
21 change.

22 § 11810. Legislative findings

23 11810. The Legislature, for purposes of this chapter, finds as follows:

24 (a) According to the department, the natural production of salmon and steelhead
25 trout in California has declined to approximately 1,000,000 adult chinook or king
26 salmon, 100,000 coho or silver salmon, and 150,000 steelhead trout.

27 (b) The naturally spawning salmon and steelhead trout resources of the state
28 have declined dramatically within the past four decades, primarily as a result of
29 lost stream habitat on many streams in the state.

30 (c) Much of the loss of salmon and steelhead trout and anadromous fish in the
31 state has occurred in the central valley.

32 (d) Protection of, and an increase in, the naturally spawning salmon and
33 steelhead trout resources of the state would provide a valuable public resource to
34 the residents, a large statewide economic benefit, and would, in addition, provide
35 employment opportunities not otherwise available to the citizens of this state,
36 particularly in rural areas of present underemployment.

37 (e) Proper salmon and steelhead trout resource management requires
38 maintaining adequate levels of natural, as compared to hatchery, spawning and
39 rearing.

40 (f) Reliance upon hatchery production of salmon and steelhead trout in
41 California is at or near the maximum percentage that it should occupy in the mix

1 of natural and artificial hatchery production in the state. Hatchery production may
2 be an appropriate means of protecting and increasing salmon and steelhead in
3 specific situations; however, when both are feasible alternatives, preference shall
4 be given to natural production.

5 (g) The protection of, and increase in, the naturally spawning salmon and
6 steelhead trout of the state must be accomplished primarily through the
7 improvement of stream habitat.

8 (h) Funds provided by the Legislature since 1978 to further the protection and
9 increase of the fisheries of the state have been administered by the department in a
10 successful program of contracts with local government and nonprofit agencies and
11 private groups in ways that have attracted substantial citizen effort.

12 (i) The department's contract program has demonstrated that California has a
13 large and enthusiastic corps of citizens that are eager to further the restoration of
14 the stream and fishery resources of this state and that are willing to provide
15 significant amounts of time and labor to that purpose.

16 (j) There is need for a comprehensive salmon, steelhead trout, and anadromous
17 fisheries plan, program, and state government organization to guide the state's
18 efforts to protect and increase the naturally spawning salmon, steelhead trout, and
19 anadromous fishery resources of the state.

20 **Comment.** Section 11810 continues former Fish and Game Code Section 6901 without
21 substantive change.

22 **§ 11815. Legislative policy declarations**

23 11815. The Legislature, for purposes of this chapter, declares as follows:

24 (a) It is the policy of the state to significantly increase the natural production of
25 salmon and steelhead trout by the end of this century. The department shall
26 develop a plan and a program that strives to double the current natural production
27 of salmon and steelhead trout resources.

28 (b) It is the policy of the state to recognize and encourage the participation of the
29 public in privately and publicly funded mitigation, restoration, and enhancement
30 programs in order to protect and increase naturally spawning salmon and steelhead
31 trout resources.

32 (c) It is the policy of the state that existing natural salmon and steelhead trout
33 habitat shall not be diminished further without offsetting the impacts of the lost
34 habitat.

35 **Comment.** Section 11815 continues former Fish and Game Code Section 6902 without
36 substantive change.

37 **§ 11820. Nonprofit salmon release and return operations**

38 11820. (a) It is the policy of the state and the department to encourage nonprofit
39 salmon release and return operations subject to this code operated by, or on behalf
40 of, licensed commercial salmon fishermen for the purpose of enhancing

1 California's salmon populations and increasing the salmon harvest by commercial
2 and recreational fishermen.

3 (b) The department shall, to the extent that funds and personnel are available,
4 cooperate with fishing organizations in the siting and establishment of those
5 operations to ensure the protection of natural spawning stocks of native salmon.
6 The organizations conducting the operations may receive salmon eggs and
7 juvenile salmon for the purposes of the operation, and, where appropriate, shall
8 have priority to receive salmon eggs and juvenile salmon for those purposes after
9 the needs of habitat mitigation efforts, and state hatcheries are met.

10 **Comment.** Section 11820 continues former Fish and Game Code Section 6903 without
11 substantive change.

12 **§ 11825. Creation of program**

13 11825. (a) The department shall, with the advice of the Advisory Committee on
14 Salmon and Steelhead Trout and the Commercial Salmon Trollers Advisory
15 Committee, prepare and maintain a detailed and comprehensive program for the
16 protection and increase of salmon, steelhead trout, and anadromous fisheries.

17 (b) The program shall identify the measures the department will carry out to
18 achieve the policies set forth in Section 11815.

19 **Comment.** Subdivision (a) of Section 11825 continues former Fish and Game Code Section
20 6920(a) without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 6921 without substantive
22 change.

23 **§ 11830. Consultation with other agencies**

24 11830. The department shall consult with every public agency whose policies or
25 decisions may affect the goals of this program to determine if there are feasible
26 means for those public agencies to help the department achieve the goals of this
27 program.

28 **Comment.** Section 11830 continues former Fish and Game Code Section 6920(b) without
29 substantive change.

30 **§ 11835. Report of determined elements of program**

31 11835. The department shall determine the initial elements of the program and
32 transmit a report describing those elements to the Legislature and the Advisory
33 Committee on Salmon and Steelhead Trout by March 31, 1989.

34 **Comment.** Section 11835 continues former Fish and Game Code Section 6924 without
35 substantive change.

36 **Note.** Existing Fish and Game Code Section 6924 (which would be continued by proposed
37 Section 11835) requires the Department to take specified actions within six months of the
38 effective date of the chapter in which Section 6924 appears (Chapter 8 (commencing with Section
39 6900) of Part 1 of Division 6 of the existing code).

40 The effective date of that chapter (added by 1988 Cal. Stat. ch. 1545) was January 1, 1989,
41 suggesting the strong likelihood that the Department has long ago complied with the one-time
42 requirements of Section 6924.

1 **The Commission invites comment on whether existing Section 6924 can be discontinued**
2 **from the proposed law as obsolete.**

3 **§ 11840. Ineligibility**

4 11840. Measures that are the responsibility of other agencies or persons, such as
5 the repair or replacement of dysfunctional fish screens, are not eligible for funding
6 under the program.

7 **Comment.** Section 11840 continues former Fish and Game Code Section 6923 without
8 substantive change.

9 **§ 11845. Program elements**

10 11845. The program shall include, but is not limited to, all of the following
11 elements:

12 (a) Identification of streams where the natural production of salmon and
13 steelhead trout can be increased primarily through the improvement of stream and
14 streambank conditions without effect on land ownership, land use practices, or
15 changes in streamflow operations.

16 (b) Identification of streams where the natural production of salmon and
17 steelhead trout can be increased only through the improvement of land use
18 practices or changes in streamflow operations.

19 (c) Identification of streams where the protection of, and increase in, salmon and
20 steelhead trout resources require, as a result of significant prior loss of stream
21 habitat, the construction of artificial propagation facilities.

22 (d) A program element for evaluating the effectiveness of the program.

23 (e) Recommendations for an organizational structure, staffing, budgeting, long-
24 term sources of funding, changes in state statutes and regulations and federal and
25 local government policy and such other administrative and legislative actions as
26 the department finds to be necessary to accomplish the purposes of this chapter.

27 (f) Identification of measures to protect and increase the production of other
28 anadromous fisheries consistent with policies set forth in Section 11815.

29 (g) Identification of alternatives to, or mitigation of, manmade factors that cause
30 the loss of juvenile and adult fish in California's stream system.

31 **Comment.** Section 11845 continues former Fish and Game Code Section 6922 without
32 substantive change.

33 **§ 11850. Study of effect of reduced flow**

34 11850. (a) Subject to the availability of funds for the purposes of this section,
35 the department shall contract with the University of California to conduct a study
36 of the effects that reduced waterflows at the mouths and upstream estuaries of
37 rivers selected under subdivision (b) would have on existing salmon and steelhead
38 populations, and on existing or prospective salmon and steelhead population
39 restoration or reintroduction programs.

1 (b) The department shall select the rivers to be included in the study, and shall
2 limit its selection to rivers that satisfy both of the following conditions:

3 (1) The river is within the combined river systems described in paragraph (7) of
4 subdivision (a) of Section 1215.5 of the Water Code.

5 (2) The river is the subject of an application filed with the State Water
6 Resources Control Board to appropriate water in an amount equal to more than
7 three cubic feet per second or more than 500 acre feet per annum of storage,
8 involving the delivery of water by means other than a pipeline, natural
9 watercourse, well, or aqueduct, to any place of use that is outside of the protected
10 area described in paragraph (7) of subdivision (a) of Section 1215.5 of the Water
11 Code.

12 (c) The findings of the study conducted under this section shall be a factor in
13 any decision of the State Water Resources Control Board to approve or deny an
14 application to appropriate water from any river selected under this section. If the
15 application involves the delivery of water, by means other than a pipeline, natural
16 watercourse, well, or aqueduct, to any place of use outside of the protected area
17 described in paragraph (7) of subdivision (a) of Section 1215.5 of the Water Code,
18 the board may not approve that application until after the study has been
19 completed.

20 (d) Any study conducted pursuant to this section shall conclude within five years
21 of the start of that study.

22 (e) This section applies to the University of California only if the Regents of the
23 University of California, by resolution, make it applicable to the university.

24 **Comment.** Section 11850 continues former Fish and Game Code Section 6930 without
25 substantive change.

26 CHAPTER 3. KEENE-NIELSEN FISHERIES RESTORATION ACT OF 1985

27 § 11900. Title

28 11900. This chapter shall be known and may be cited as the Keene-Nielsen
29 Fisheries Restoration Act of 1985.

30 **Comment.** Section 11900 continues former Fish and Game Code Section 2760 without
31 substantive change.

32 § 11905. Legislative findings and declarations

33 11905. The Legislature finds and declares as follows:

34 (a) Many of California's significant fish and wildlife resources in inland and
35 coastal waters have declined as the result of many development projects which
36 have provided valuable economic growth.

37 (b) Fish and wildlife have been adversely affected by water developments that
38 have significantly altered water flows in many of California's rivers and streams,
39 thereby affecting fish and wildlife, their habitat, adjacent riparian habitat,
40 spawning areas, and migration routes.

1 (c) Fish and wildlife are important public resources with significant economical,
2 environmental, recreational, aesthetic, and educational values.

3 (d) California intends to make reasonable efforts to prevent further declines in
4 fish and wildlife, to restore fish and wildlife to historic levels where possible, and
5 to enhance fish and wildlife resources where possible.

6 (e) Protection of, and an increase in, the naturally spawning salmon and
7 steelhead trout resources of the state would provide a valuable public resource to
8 the residents, a large statewide economic benefit, and would, in addition, provide
9 employment opportunities not otherwise available to the citizens of this state,
10 particularly in rural areas of underemployment.

11 (f) The protection of, and increase in, the naturally spawning salmon and
12 steelhead trout resources of the state should be accomplished primarily through the
13 improvement of stream habitat.

14 (g) The Salmon, Steelhead Trout, and Anadromous Fisheries Program Act
15 (Chapter 2 (commencing with Sec. 11800)), declares that it is the policy of the
16 state to increase the state's salmon and steelhead trout resources, and directs the
17 department to develop a plan and program that strives to double the salmon and
18 steelhead trout resources.

19 **Comment.** Section 11905 continues former Fish and Game Code Section 2761 without
20 substantive change.

21 **§ 11910. Fisheries Restoration Account**

22 11910. (a) The Fisheries Restoration Account is hereby created in the Fish and
23 Game Preservation Fund. The moneys in the Fisheries Restoration Account are
24 hereby appropriated to the department for expenditure in fiscal years 1991–92 to
25 1993–94, inclusive, pursuant to subdivision (b).

26 (b) The moneys in the Fisheries Restoration Account may be expended for the
27 construction, operation, and administration of projects designated in the plan
28 developed by the department in accordance with the Salmon, Steelhead Trout, and
29 Anadromous Fisheries Program Act (Chapter 2 (commencing with Sec. 11800)),
30 and projects designed to restore and maintain fishery resources and their habitat
31 that have been damaged by past water diversions and projects and other
32 development activities. Expenditures shall not be authorized for a project to be
33 funded under this subdivision before a date that is 30 days after the department has
34 furnished a copy of the proposal for the project to be funded, together with
35 supporting descriptions, to the Joint Committee on Fisheries and Aquaculture and
36 to the Joint Legislative Budget Committee. These projects shall have as their
37 primary objective the restoration of fishery resources identified in the Salmon,
38 Steelhead Trout, and Anadromous Fisheries Program Act. Projects may include,
39 but shall not be limited to, watershed assessments, fisheries restoration planning,
40 acquisition of lands, restoration of habitat, restoration or creation of spawning
41 areas, construction of fish screens or fish ladders, stream rehabilitation, and
42 installation of pollution control facilities. Projects for restoration or creation of

1 spawning areas shall utilize natural spawning rather than hatcheries to the extent
2 possible.

3 Under no circumstances shall any water project be absolved under this
4 subdivision of any mitigation requirements that are placed upon it under existing
5 law.

6 No land shall be acquired pursuant to this chapter by eminent domain
7 proceedings.

8 (c) Priority for funding shall be given to projects that employ fishermen, fish
9 processing workers, and others who are unemployed or underemployed due to the
10 elimination of a commercial fishing season as a result of restrictions imposed by
11 federal regulations. This priority shall remain in effect only as long as those
12 restrictions are in force.

13 (d) Expenditures shall not be authorized for multiyear projects funded under
14 subdivision (b) before a date that is 30 days after the department has submitted an
15 annual progress report on the project and a copy of the work schedule for
16 subsequent year funding of the project to the Joint Committee on Fisheries and
17 Aquaculture and to the Joint Legislative Budget Committee.

18 (e) The department shall conduct a preproject and postproject evaluation on each
19 project recommended in the plan and program developed by the department in
20 accordance with the Salmon, Steelhead Trout, and Anadromous Fisheries Program
21 Act for which money has been appropriated from the Fisheries Restoration
22 Account.

23 (f) The department may expend not more than 5 percent of the funds annually
24 appropriated from the Fisheries Restoration Account for the administration of
25 projects.

26 (g) The department may contract for services for the purpose of conducting a
27 preproject and postproject evaluation or for the administration of projects.

28 (h) The department shall, during the last fiscal year of funding, conduct a review
29 of all previous and ongoing projects to determine if the elements of the plan and
30 program developed by the department pursuant to the Salmon, Steelhead Trout,
31 and Anadromous Fisheries Program Act are being met, including the goal of
32 doubling the 1988 population of salmon and steelhead trout, as declared in Section
33 11815.

34 **Comment.** Section 11910 continues former Fish and Game Code Section 2762 without
35 substantive change.

36 **§ 11915. Partial funding of projects**

37 11915. The department may advance partial finding, of up to 50 percent of the
38 amount contracted for, to contractors for projects under subdivision (b) of Section
39 11910 if the director finds the organization meets all of the following
40 requirements:

41 (1) It has a previously demonstrated record of successfully completing one or
42 more fishery restoration projects funded under contract with the department.

1 (2) It utilizes generally accepted accounting procedures.

2 (3) It demonstrates that the project can be accomplished more efficiently and
3 economically with partial funding advanced at the initiation of the project.

4 **Comment.** Section 11915 continues former Fish and Game Code Section 2762.2 without
5 substantive change.

6 **§ 11920. Administrative costs of Advisory Committee on Salmon and Steelhead Trout**

7 11920. In addition to subdivision (b) of Section 11910, the moneys in the
8 Fisheries Restoration Account may be expended, upon appropriation by the
9 Legislature, by the department to fund the administrative costs of the Advisory
10 Committee on Salmon and Steelhead Trout.

11 **Comment.** Section 11920 continues former Fish and Game Code Section 2762.5 without
12 substantive change.

13 **§ 11925. Allocation from Cigarette and Tobacco Products Surtax Fund**

14 11925. The department shall, after consultation with the Advisory Committee on
15 Salmon and Steelhead Trout, allocate that amount of moneys appropriated to the
16 department from the Public Resources Account in the Cigarette and Tobacco
17 Products Surtax Fund that the department determines to be necessary to pay the
18 costs for the advisory committee.

19 **Comment.** Section 11925 continues former Fish and Game Code Section 2762.6 without
20 substantive change.

21 **§ 11930. Consultation with other agencies and committees in determining projects**

22 11930. The director shall consult with the Resources Agency, the Department of
23 Water Resources, the State Water Resources Control Board, the State Coastal
24 Conservancy, the San Francisco Bay Conservation and Development Commission,
25 and the California Coastal Commission in determining projects proposed for
26 funding pursuant to Section 11910.

27 **Comment.** Section 11930 continues former Fish and Game Code Section 2763 without
28 substantive change.

29 **§ 11935. Consultation with other agencies and committees in developing projects**

30 11935. The director shall consult with other responsible state agencies and
31 appropriate fishery advisory committees, including, but not limited to, the
32 Advisory Committee on Salmon and Steelhead Trout and the Striped Bass Stamp
33 Advisory Committee, in developing projects to be funded pursuant to Section
34 11910.

35 **Comment.** Section 11935 continues former Fish and Game Code Section 2764 without
36 substantive change.

37 **§ 11940. Recommendation of California Water Commission to Congress**

38 11940. The California Water Commission, in any recommendation it may make
39 to the Congress of the United States on funding for water projects, shall include

1 recommendations for studies, programs, and facilities necessary to correct fish and
2 wildlife problems caused, fully or partially, by federal water facilities and
3 operation, including, but not limited to, all of the following:

4 (a) The Red Bluff Dam.

5 (b) The Trinity and Lewiston Dams.

6 (c) The facilities necessary to protect wildlife areas in the Suisun Marsh and the
7 Sacramento-San Joaquin Delta from adverse water quality effects caused by the
8 federal Central Valley Project.

9 (d) The Kesterson Reservoir and the San Luis Drain.

10 **Comment.** Section 11940 continues former Fish and Game Code Section 2765 without
11 substantive change.

12 CHAPTER 4. HATCHERY AND INLAND FISHERIES FUND

13 § 12000. Creation of fund

14 12000. Notwithstanding Section 3600, 33 1/3 percent of all sport fishing license
15 fees collected pursuant to 12850, 13100, 13105, 13150, or 13250 shall be
16 deposited into the Hatchery and Inland Fisheries Fund, which is hereby established
17 in the State Treasury.

18 **Comment.** Section 12000 continues the first sentence of former Fish and Game Code Section
19 13007(a) without substantive change.

20 § 12005. Authorized purposes

21 12005. (a) Moneys in the Hatchery and Inland Fisheries Fund may be expended,
22 consistent with the Strategic Plan for Trout Management and Chapter 1
23 (commencing with Section 11700) and, upon appropriation by the Legislature, to
24 support programs of the department related to management, maintenance, and
25 capital improvement of California's fish hatcheries, the Heritage and Wild Trout
26 program, and enforcement activities related thereto, and to support other activities
27 eligible to be funded from revenue generated by sport fishing license fees.

28 (b) The department shall use sport fishing license fees collected and subject to
29 appropriation pursuant to subdivision (a) for the following purposes:

30 (1) For the department's attainment of a state hatchery production goal of 2.75
31 pounds of released trout per sport fishing license sold in the calendar year ending
32 two and one-half years earlier, based on the sales of the following types of sport
33 fishing licenses: resident; lifetime; nonresident year; nonresident, 10-day; 2-day;
34 1-day; and reduced fee. The predominant number of released fish shall be of
35 catchable size or larger. The department shall attain this goal in compliance with
36 Fish and Game Commission trout policies concerning catchable-sized trout
37 stocking, the Strategic Plan for Trout Management, and Chapter 1 (commencing
38 with Section 11700).

39 (2) To the Heritage and Wild Trout Program, at least two million dollars
40 (\$2,000,000), for the following purposes:

1 (A) At least seven new permanent positions for the Heritage and Wild Trout
2 Program.

3 (B) Permanent positions and seasonal aides in each region of the state as
4 necessary to contribute to the objectives of this section, the objectives of the
5 Strategic Plan for Trout Management pursuant to Section 11730, and other
6 activities necessary to the program.

7 (C) The development of trout management plans pursuant to Chapter 1
8 (commencing with Section 11700).

9 (D) The department may expend up to 25 percent of the funds made available to
10 the Heritage and Wild Trout Program for watershed restoration projects, resource
11 assessment, or scientific inquiry. The department may enter into contracts with
12 qualified entities including local governments, special districts, tribes, and
13 nonprofit organizations for the purposes of this subparagraph.

14 (3) For the development of the department's Strategic Plan for Trout
15 Management pursuant to Section 11730.

16 (4) The department shall ensure that the numbers of native California trout, as
17 defined in Section 420, produced are sufficient to equal or exceed 25 percent of
18 the numbers of trout produced by the state fish hatcheries to comply with
19 paragraph (1). The native trout produced in accordance with this paragraph shall
20 support department efforts to protect and restore cold water ecosystems, maintain
21 biological diversity, and provide diverse angling opportunities. Coastal rainbow
22 trout/steelhead produced for anadromous mitigation purposes shall be excluded
23 from contributing to the native trout production goals required by this paragraph.
24 Coastal rainbow trout/steelhead propagated for purposes other than anadromous
25 mitigation and released into their source watersheds may be counted toward the 25
26 percent native trout production goal. Native trout produced shall be naturally
27 indigenous stocks from their original source watersheds. The department may
28 release native trout produced into watersheds other than their original source
29 watershed only if the released trout will cause no harm to other native trout or
30 other biota in their original watersheds.

31 (5) The department may hire additional staff for state fish hatcheries, in order to
32 comply with this subdivision.

33 (c) The department may allocate any funds under this section, not necessary to
34 maintain the minimums specified in paragraphs (1) and (4) of subdivision (b), and
35 after the expenditure in paragraph (2) of subdivision (b), to the Fish and Game
36 Preservation Fund.

37 (d) The department may utilize federal funds to meet the funding formula
38 specified in subdivision (a) if those funds are otherwise legally available for this
39 purpose.

40 (e) A portion of the moneys subject to appropriation pursuant to subdivision (a)
41 may be used for the purpose of obtaining scientifically valid genetic
42 determinations of California native trout stocks, consistent with the department's
43 Strategic Plan for Trout Management.

(f) On an annual basis, the department shall invest in hatchery facility improvements and rehabilitation to ensure progress towards achievement of the hatchery fish production targets established pursuant to this section.

(g) Commencing January 1, 2015, the department may obtain hatchery-produced fish from any California-based hatchery if all of the following criteria are satisfied:

(1) The goal specified in subdivision (b) is unmet.

(2) The department, following an inspection, determines that the California hatchery is in compliance with operations, management, and monitoring standards that are as stringent as those in effect at state hatcheries, in order to minimize the risk of the spread of disease or invasive species into inland state waters and fisheries.

(3) The cost per fish or per pound of fish provided by the California hatchery shall not exceed the cost to the department of state hatchery fish calculated equivalently and including transportation costs.

Comment. Section 12005 continues the second sentence of former Fish and Game Code Section 13007(a), and subdivisions (b) through (g), without substantive change.

CHAPTER 5. EXPERIMENTAL FISHING PERMIT

§ 12050. Definitions

12050. For purposes of this chapter, the following terms have the following meanings:


(a) “Compensation fishing” means fishing conducted for the purpose of recovering costs associated with resource surveys and scientific studies that support the management of a fishery, or fishing that serves as an incentive for participation in those studies. Compensation fishing may include fishing before, during, or following those surveys or studies.

(b) “Conservation engineering” means the study of fish behavior and the development and testing of new gear technology and fishing techniques that promote efficient and sustainable harvest of target species or reduce collateral effects, such as bycatch and adverse effects on habitat, or both.

(c) “EFP” means an experimental fishing permit.

(d) “Exploratory fishing” means fishing to collect data or conduct other research, typically to provide information that could inform the potential opening of a new fishery or an area currently closed to fishing.

Comment. Section 12050 continues former Fish and Game Code Section 1022(h), without substantive change.

 **Note.** Proposed Section 12050 would continue Section 1022(h), which was added by 2018 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

1 **§ 12055. Issuance and conditions of experimental fishing permit**

2 12055. The commission may authorize, for research, educational, limited
3 testing, data collection, compensation fishing, conservation engineering, or
4 exploratory fishing, or any combination of these purposes, an EFP to be issued by
5 the department that authorizes commercial or recreational marine fishing activity
6 otherwise prohibited by this code or any regulation adopted pursuant to this code,
7 subject, at a minimum, to all of the following conditions:

8 (a) Activities conducted under the EFP shall be consistent with policies set forth
9 in Section 12100 and any applicable fishery management plan.

10 (b) An EFP is subject to those conditions the commission deems necessary to
11 ensure the protection of marine resources, and shall be revoked if the continued
12 use would have an adverse impact on any resource or allocation of a resource, or
13 other adverse impact to established fisheries or other marine living resources.


14 (c)(1) Except as provided in paragraph (2), activities conducted under the EFP
15 shall not involve engaging in bottom trawling in ocean waters of the state.

16 (2) Activities conducted under the EFP may involve engaging in bottom
17 trawling if the EFP is issued to a person who holds a permit issued pursuant to
18 Section 39950 or 51100 and the activities conducted under the EFP are limited to
19 locations where bottom trawling is authorized under the applicable permit.

20 (d) An EFP exempts a permittee only from the provisions of this code and
21 regulations adopted pursuant to this code specified in the EFP. All other applicable
22 laws and regulations shall remain in effect.

23 (e) Permits shall be issued pursuant to the process established in Section 12060.


24 **Comment.** Section 12055 continues former Fish and Game Code Section 1022(a), without
25 substantive change.

26  **Note.** Proposed Section 12055 would continue Section 1022(a), which was added by 2018
27 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **§ 12060. Procedure**

30 12060. The commission shall establish by regulation an expeditious process for
31 department review, public notice and comment, commission approval, and prompt
32 department issuance of EFPs, that is consistent with Section 12165.

33 **Comment.** Section 12060 continues former Fish and Game Code Section 1022(b), without
34 substantive change.

35  **Note.** Proposed Section 12060 would continue Section 1022(b), which was added by 2018
36 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
37 anticipation of its effect.

38 **§ 12065. Period of validity**

39 12065. Unless otherwise specified by the commission, an EFP issued pursuant
40 to this section is valid for a period of one year. However, the department shall not
41 issue an EFP for the same purposes for more than four consecutive years.

1 **Comment.** Section 12065 continues former Fish and Game Code Section 1022(d), without
2 substantive change.

3 **Note.** Proposed Section 12065 would continue Section 1022(d), which was added by 2018
4 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **§ 12070. Fee**

7 12070. The commission may charge a permit fee as necessary to fully recover,
8 but not exceed, all reasonable implementation and administrative costs of the
9 department and the commission relating to the EFP.

10 **Comment.** Section 12070 continues former Fish and Game Code Section 1022(g) without
11 substantive change.

12 **Note.** Proposed Section 12070 would continue Section 1022(g), which were added by 2018
13 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
14 anticipation of its effect.

15 **§ 12075. Reporting**

16 12075. (a) Upon completion of the activities authorized in an EFP, or
17 periodically under terms specified by the commission, a person fishing under an
18 EFP shall submit to the commission and the department a final report summarizing
19 the EFP research and findings, and any scientific reports or other publications
20 created as a result of the activity.

21 (b) The department shall post, and annually update, information regarding
22 approved EFP activities, including information on the fishery and region affected,
23 the experimental intent, and other relevant information on its Internet Web site.

24 (c) On or before January 1, 2025, and every five years thereafter, the department
25 shall complete and provide to the appropriate legislative committees a report
26 summarizing the approved EFPs and benefits of the EFP program to the
27 sustainability of California fisheries, efficiency of fishing effort, and reduction of
28 bycatch in California fisheries.

29 **Comment.** Subdivision (a) of Section 12075 continues former Fish and Game Code Section
30 1022(c) without substantive change.

31 Subdivisions (b) and (c) continue former Fish and Game Code Section 1022(e)-(f) without
32 substantive change.

33 **Note.** Proposed Section 12075 would continue Section 1022(c), (e)-(f), which were added by
34 2018 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

1 TITLE 3. CONSERVATION AND MANAGEMENT
2 OF MARINE LIVING RESOURCES

3 CHAPTER 1. GENERAL POLICIES

4 § 12100. Findings and declarations

5 12100. (a) The Legislature finds and declares that the Pacific Ocean and its rich
6 marine living resources are of great environmental, economic, aesthetic,
7 recreational, educational, scientific, nutritional, social, and historic importance to
8 the people of California.

9 (b) It is the policy of the state to ensure the conservation, sustainable use, and,
10 where feasible, restoration of California's marine living resources for the benefit
11 of all the citizens of the state. The objective of this policy shall be to accomplish
12 all of the following:

13 (1) Conserve the health and diversity of marine ecosystems and marine living
14 resources.

15 (2) Allow and encourage only those activities and uses of marine living
16 resources that are sustainable.

17 (3) Recognize the importance of the aesthetic, educational, scientific, and
18 recreational uses that do not involve the taking of California's marine living
19 resources.

20 (4) Recognize the importance to the economy and the culture of California of
21 sustainable sport and commercial fisheries and the development of commercial
22 aquaculture consistent with the marine living resource conservation policies of this
23 title.

24 (5) Support and promote scientific research on marine ecosystems and their
25 components to develop better information on which to base marine living resource
26 management decisions.

27 (6) Manage marine living resources on the basis of the best available scientific
28 information and other relevant information that the commission or department
29 possesses or receives.

30 (7) Involve all interested parties, including, but not limited to, individuals from
31 the sport and commercial fishing industries, aquaculture industries, coastal and
32 ocean tourism and recreation industries, marine conservation organizations, local
33 governments, marine scientists, and the public in marine living resource
34 management decisions.

35 (8) Promote the dissemination of accurate information concerning the condition
36 of, or management of, marine resources and fisheries by seeking out the best
37 available information and making it available to the public through the marine
38 resources management process.

39 (9) Coordinate and cooperate with adjacent states, as well as with Mexico and
40 Canada, and encourage regional approaches to management of activities and uses

1 that affect marine living resources. Particular attention shall be paid to coordinated
2 approaches to the management of shared fisheries.

3 **Comment.** Section 12100 continues former Fish and Game Code Section 7050 without
4 substantive change.

5 **§ 12105. Scope of regulations**

6 12105. (a) A regulation adopted pursuant to this title shall apply only to ocean
7 waters and bays. Notwithstanding any other provision of this title, nothing
8 contained in this title grants the department or any other agency of the state any
9 regulatory authority not in existence on January 1, 1999, in any river upstream of
10 the mouth of such river, in the Sacramento-San Joaquin Delta or in any other
11 estuary.

12 (b) The policies in this title shall apply only to fishery management plans and
13 regulations adopted by the commission on or after January 1, 1999. No power is
14 delegated to the commission or the department by this title to regulate fisheries
15 other than the nearshore fishery, the white sea bass fishery, emerging fisheries,
16 and fisheries for which the commission or department had regulatory authority
17 prior to January 1, 1999.

18 **Comment.** Section 12105 continues former Fish and Game Code Section 7051 without
19 substantive change.

20 **CHAPTER 2. MARINE FISHERIES GENERALLY**

21 **§ 12150. Declaration of policy**

22 12150. The Legislature finds and declares that it is the policy of the state that:

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

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

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

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

1 **Comment.** Section 12150 continues former Fish and Game Code Section 7055 without
2 substantive change.

3 **§ 12155. Management**

4 12155. In order to achieve the primary fishery management goal of
5 sustainability, every sport and commercial marine fishery under the jurisdiction of
6 the state shall be managed under a system whose objectives include all of the
7 following:

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

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

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

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

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

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

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

27 (h) The management decisionmaking process is open and seeks the advice and
28 assistance of interested parties so as to consider relevant information, including
29 local knowledge.

30 (i) The fishery management system observes the long-term interests of people
31 dependent on fishing for food, livelihood, or recreation.

32 (j) The adverse impacts of fishery management on small-scale fisheries, coastal
33 communities, and local economies are minimized.

34 (k) Collaborative and cooperative approaches to management, involving fishery
35 participants, marine scientists, and other interested parties are strongly
36 encouraged, and appropriate mechanisms are in place to resolve disputes such as
37 access, allocation, and gear conflicts.

38 (l) The management system is proactive and responds quickly to changing
39 environmental conditions and market or other socioeconomic factors and to the
40 concerns of fishery participants.

1 (m) The management system is periodically reviewed for effectiveness in
2 achieving sustainability goals and for fairness and reasonableness in its interaction
3 with people affected by management.

4 **Comment.** Section 12155 continues former Fish and Game Code Section 7056 without
5 substantive change.

6 **§ 12160. Commission regulation**

7 12160. Any fishery management regulation adopted by the commission shall, to
8 the extent practicable, conform to the policies of Sections 12150 and 12155.

9 **Comment.** Section 12160 continues former Fish and Game Code Section 7058 without
10 substantive change.

11 **§ 12165. Collaborative process**

12 12165. (a) The Legislature finds and declares all of the following:

13 (1) Successful marine life and fishery management is a collaborative process
14 that requires a high degree of ongoing communication and participation of all
15 those involved in the management process, particularly the commission, the
16 department, and those who represent the people and resources that will be most
17 affected by fishery management decisions, especially fishery participants and
18 other interested parties.

19 (2) In order to maximize the marine science expertise applied to the complex
20 issues of marine life and fishery management, the commission and the department
21 are encouraged to continue to, and to find creative new ways to, contract with or
22 otherwise effectively involve Sea Grant staff, marine scientists, economists,
23 collaborative factfinding process and dispute resolution specialists, and others with
24 the necessary expertise at colleges, universities, private institutions, and other
25 agencies.

26 (3) The benefits of the collaborative process required by this section apply to
27 most marine life and fishery management activities including, but not limited to,
28 the development and implementation of research plans, marine managed area
29 plans, fishery management plans, and plan amendments, and the preparation of
30 fishery status reports such as those required by Section 12250.

31 (4) Because California is a large state with a long coast, and because travel is
32 time consuming and costly, the involvement of interested parties shall be
33 facilitated, to the extent practicable, by conducting meetings and discussions in the
34 areas of the coast and in ports where those most affected are concentrated.

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

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

40 (2) Develop a process for the involvement of interested parties and for
41 factfinding and dispute resolution processes appropriate to each element in the

1 marine life and fishery management process. Models to consider include, but are
2 not limited to, the take reduction teams authorized under the Marine Mammal
3 Protection Act (16 U.S.C. Sec. 1361 et seq.) and the processes that led to
4 improved management in the California herring, sea urchin, prawn, angel shark,
5 and white seabass fisheries.

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

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

13 **Comment.** Section 12165 continues former Fish and Game Code Section 7059 without
14 substantive change.

15 CHAPTER 3. FISHERIES SCIENCE

16 § 12200. Legislative findings and declarations

17 12200. (a) The Legislature finds and declares that for the purposes of sustainable
18 fishery management and this title, essential fishery information is necessary for
19 federally and state-managed marine fisheries important to the people of this state
20 to provide sustainable economic and recreational benefits to the people of
21 California. The Legislature further finds and declares that acquiring essential
22 fishery information can best be accomplished through the ongoing cooperation and
23 collaboration of participants in fisheries.

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

26 (c) The department, to the maximum extent practicable and consistent with
27 Section 12165, shall encourage the participation of fishermen in fisheries research
28 within a framework that ensures the objective collection and analysis of data, the
29 collaboration of fishermen in research design, and the cooperation of fishermen in
30 carrying out research.

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

34 **Comment.** Section 12200 continues former Fish and Game Code Section 7060 without
35 substantive change.

36 § 12205. External peer review program

37 12205. (a) The department shall establish a program for external peer review of
38 the scientific basis of marine living resources management documents. The
39 department, in its discretion and unless otherwise required by this title, may
40 submit to peer review, documents that include, but are not limited to, fishery

1 management plans and plan amendments, marine resource and fishery research
2 plans.

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

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

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

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

36 **Comment.** Section 12205 continues former Fish and Game Code Section 7062 without
37 substantive change.

38 CHAPTER 4. COMMISSION AND DEPARTMENT

39 § 12250. Report to Commission

40 12250. (a) The director shall report annually in writing to the commission on the
41 status of sport and commercial marine fisheries managed by the state. The date of

1 the report shall be chosen by the commission with the advice of the department.
2 Each annual report shall cover at least one-fourth of the marine fisheries managed
3 by the state so that every fishery will be reported on at least once every four years.
4 The department shall, consistent with Section 12165, involve expertise from
5 outside the department in compiling information for the report, which may
6 include, but need not be limited to, Sea Grant staff, other marine scientists, fishery
7 participants, and other interested parties.

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

13 (c) Notwithstanding subdivision (a), the first annual report shall be presented to
14 the commission on or before September 1, 2001, and shall cover all the marine
15 fisheries managed by the state. To the extent that the requirements of this section
16 and Section 12325 are duplicative, the first annual report may be combined with
17 the plan required pursuant to Section 12325.

18 **Comment.** Section 12250 continues former Fish and Game Code Section 7065 without
19 substantive change.

20 **§ 12255. Additional report content**

21 12255. (a) The Legislature finds and declares that a number of human-caused
22 and natural factors can affect the health of marine fishery resources and result in
23 marine fisheries that do not meet the policies and other requirements of this title.

24 (b) To the extent feasible, the director's report to the commission pursuant to
25 Section 12250 shall identify any marine fishery that does not meet the
26 sustainability policies of this title. In the case of a fishery identified as being
27 depressed, the report shall indicate the causes of the depressed condition of the
28 fishery, describe steps being taken to rebuild the fishery, and, to the extent
29 practicable, recommend additional steps to rebuild the fishery.

30 (c) The director's report to the commission pursuant to Section 12250,
31 consistent with subdivision (m) of Section 12155, shall evaluate the management
32 system and may recommend modifications of that system to the commission.

33 **Comment.** Section 12255 continues former Fish and Game Code Section 7066 without
34 substantive change.

35 **CHAPTER 5. FISHERY MANAGEMENT PLANS – GENERAL POLICIES**

36 **§ 12300. Finding and declaration**

37 12300. The Legislature finds and declares that the critical need to conserve,
38 utilize, and manage the state's marine fish resources and to meet the policies and
39 other requirements stated in this title require that the state's fisheries be managed
40 by means of fishery management plans.

1 **Comment.** Section 12300 continues former Fish and Game Code Section 7070 without
2 substantive change.

3 **§ 12305. White seabass fishery management plans**

4 12305. (a) Any white seabass fishery management plan adopted by the
5 commission on or before January 1, 1999, shall remain in effect until amended
6 pursuant to this title.

7 (b) Notwithstanding paragraph (2) of subdivision (b) of Section 12325, any
8 white seabass fishery management plan adopted by the commission and in
9 existence on January 1, 1999, shall be amended to comply with this title on or
10 before January 1, 2002.

11 **Comment.** Section 12305 continues former Fish and Game Code Section 7071(a) without
12 substantive change.

13 **§ 12310. Effect of commission regulations**

14 12310. (a) In the case of any fishery for which the commission has management
15 authority, including white seabass, regulations that the commission adopts to
16 implement a fishery management plan or plan amendment for that fishery may
17 make inoperative, in regard to that fishery, any fishery management statute that
18 applies to that fishery, including, but not limited to, statutes that govern allowable
19 catch, restricted access programs, permit fees, and time, area, and methods of
20 taking.

21 (b) On and after January 1, 2000, the commission may adopt regulations as it
22 determines necessary, based on the advice and recommendations of the
23 department, and in a process consistent with Section 12165, to regulate all
24 emerging fisheries, consistent with Chapter 8 (commencing with Section 12600),
25 all fisheries for nearshore fish stocks, and all fisheries for white seabass.
26 Regulations adopted by the commission may include, but need not be limited to,
27 establishing time and area closures, requiring submittal of landing and permit
28 information, regulating fishing gear, permit fees, and establishing restricted access
29 fisheries.

30 **Comment.** Section 12310 continues former Fish and Game Code Section 7071(b) and (c)
31 without substantive change.

32 **§ 12315. Basis and use of plans**

33 12315. (a) Fishery management plans shall form the primary basis for managing
34 California's sport and commercial marine fisheries.

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

39 (c) To the extent that conservation and management measures in a fishery
40 management plan either increase or restrict the overall harvest or catch in a

1 fishery, fishery management plans shall allocate those increases or restrictions
2 fairly among recreational and commercial sectors participating in the fishery.

3 **Comment.** Section 12315 continues former Fish and Game Code Section 7072(a)-(c) without
4 substantive change.

5 **§ 12320. Nearshore fishery**

6 12320. Consistent with Chapter 3 (commencing with Section 22600) of Title 15
7 of Part 6, the commission shall adopt a fishery management plan for the nearshore
8 fishery on or before January 1, 2002, if funds are appropriated for that purpose in
9 the annual Budget Act or pursuant to any other law.

10 **Comment.** Section 12320 continues former Fish and Game Code Section 7072(d) without
11 substantive change.

12 **§ 12325. Submission, content, and consideration of master plan**

13 12325. (a) On or before September 1, 2001, the department shall submit to the
14 commission for its approval a master plan that specifies the process and the
15 resources needed to prepare, adopt, and implement fishery management plans for
16 sport and commercial marine fisheries managed by the state. Consistent with
17 Section 12165, the master plan shall be prepared with the advice, assistance, and
18 involvement of participants in the various fisheries and their representatives,
19 marine conservationists, marine scientists, and other interested persons.

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

21 (1) A list identifying the fisheries managed by the state, with individual fisheries
22 assigned to fishery management plans as determined by the department according
23 to conservation and management needs and consistent with subdivision (f) of
24 Section 12155.

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

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

35 (4) A process consistent with Section 12165 that ensures the opportunity for
36 meaningful involvement in the development of fishery management plans and
37 research plans by fishery participants and their representatives, marine scientists,
38 and other interested parties.

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

40 (c) The commission shall adopt or reject the master plan or master plan
41 amendment, in whole or in part, after a public hearing. If the commission rejects a

1 part of the master plan or master plan amendment, the commission shall return that
2 part to the department for revision and resubmission pursuant to the revision and
3 resubmission procedures for fishery management plans as described in subdivision
4 (a) of Section 12400.

5 **Comment.** Section 12325 continues former Fish and Game Code Section 7073 without
6 substantive change.

7 **§ 12330. Interim protocols**

8 12330. (a) The department shall prepare interim fishery research protocols for at
9 least the three highest priority fisheries identified pursuant to paragraph (2) of
10 subdivision (b) of Section 12325. An interim fishery protocol shall be used by the
11 department until a fishery management plan is implemented for that fishery.

12 (b) Consistent with Section 12165, each protocol shall be prepared with the
13 advice, assistance, and involvement of participants in the various fisheries and
14 their representatives, marine conservationists, marine scientists, and other
15 interested persons.

16 (c) Interim protocols shall be submitted to peer review as described in Section
17 12205 unless the department, pursuant to subdivision (d), determines that peer
18 review of the interim protocol is not justified. For the purpose of peer review,
19 interim protocols may be combined in the following circumstances:

20 (1) For related fisheries.

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

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

26 **Comment.** Section 12330 continues former Fish and Game Code Section 7074 without
27 substantive change.

28 CHAPTER 6. FISHERY MANAGEMENT PLAN PREPARATION,
29 APPROVAL, AND REGULATIONS

30 **§ 12400. Preparation of plans and amendments**

31 12400. (a) The department shall prepare fishery management plans and plan
32 amendments, including any proposed regulations necessary to implement plans or
33 plan amendments, to be submitted to the commission for adoption or rejection.
34 Prior to submitting a plan or plan amendment, including any proposed regulations
35 necessary for implementation, to the commission, the department shall submit the
36 plan to peer review pursuant to Section 12205, unless the department determines
37 that peer review of the plan or plan amendment may be exempted pursuant to
38 subdivision (c). If the department makes that determination, it shall submit its
39 reasons for that determination to the commission with the plan. If the commission
40 rejects a plan or plan amendment, including proposed regulations necessary for

1 implementation, the commission shall return the plan or plan amendment to the
2 department for revision and resubmission together with a written statement of
3 reasons for the rejection. The department shall revise and resubmit the plan or plan
4 amendment to the commission within 90 days of the rejection. The revised plan or
5 plan amendment shall be subject to the review and adoption requirements of this
6 chapter.

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

9 (c) The commission, with the advice of the department and consistent with
10 Section 12165, shall adopt criteria to be applied in determining whether a plan or
11 plan amendment may be exempted from peer review.

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

18 **Comment.** Section 12400 continues former Fish and Game Code Section 7075 without
19 substantive change.

20 **§ 12405. Use of peer review panel**

21 12405. (a) To the extent practicable, and consistent with Section 12165, the
22 department shall seek advice and assistance in developing a fishery management
23 plan from participants in the affected fishery, marine scientists, and other
24 interested parties. The department shall also seek the advice and assistance of
25 other persons or entities that it deems appropriate, which may include, but is not
26 limited to, Sea Grant, the National Marine Fisheries Service, the Pacific States
27 Marine Fisheries Commission, the Pacific Fishery Management Council, and any
28 advisory committee of the department.

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

33 **Comment.** Section 12405 continues former Fish and Game Code Section 7076 without
34 substantive change.

35 **§ 12410. Availability for public review**

36 12410. A fishery management plan or plan amendment, or proposed regulations
37 necessary for implementation of a plan or plan amendment, developed by the
38 department shall be available to the public for review at least 30 days prior to a
39 hearing on the management plan or plan amendment by the commission. Persons
40 requesting to be notified of the availability of the plan shall be notified in
41 sufficient time to allow them to review and submit comments at or prior to a

1 hearing. Proposed plans and plan amendments and hearing schedules and agendas
2 shall be posted on the department's Internet website.

3 **Comment.** Section 12410 continues former Fish and Game Code Section 7077 without
4 substantive change.

5 **§ 12415. Public hearings**

6 12415. (a) The commission shall hold at least two public hearings on a fishery
7 management plan or plan amendment prior to the commission's adoption or
8 rejection of the plan.

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

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

18 **Comment.** Section 12415 continues former Fish and Game Code Section 7078(a)-(c) without
19 substantive change.

20 **§ 12420. Copy to Legislature**

21 12420. Notwithstanding Section 7550.5 of the Government Code, prior to the
22 adoption of a fishery management plan or plan amendment that would make
23 inoperative a statute, the commission shall provide a copy of the plan or plan
24 amendment to the Legislature for review by the Joint Committee on Fisheries and
25 Aquaculture or, if there is no such committee, to the appropriate policy committee
26 in each house of the Legislature.

27 **Comment.** Section 12420 continues former Fish and Game Code Section 7078(d) without
28 substantive change.

29 **§ 12425. Adoption of implementing regulations**

30 12425. (a) The commission shall adopt any regulations necessary to implement
31 a fishery plan or plan amendment no more than 60 days following adoption of the
32 plan or plan amendment. All implementing regulations adopted under this
33 subdivision shall be adopted as a regulation pursuant to the rulemaking provisions
34 of the Administrative Procedure Act, Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The
36 commission's adoption of regulations to implement a fishery management plan or
37 plan amendment shall not trigger an additional review process under the California
38 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
39 Public Resources Code).

(b) 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.

Comment. Section 12425 continues former Fish and Game Code Section 7078(e) and (f) without substantive change.

CHAPTER 7. CONTENTS OF FISHERY MANAGEMENT PLANS

§ 12500. Summary of plan

12500. Consistent with subdivision (b) of Section 12315, 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.

Comment. Section 12500 continues former Fish and Game Code Section 7080 without substantive change.

§ 12505. Procedure for review and amendment

12505. Each fishery management plan prepared by the department shall include a procedure for review and amendment of the plan, as necessary.

Comment. Section 12505 continues former Fish and Game Code Section 7087(a) without substantive change.

§ 12510. Fishery research protocol

12510. Consistent with subdivision (b) of Section 12315, 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.

Comment. Section 12510 continues former Fish and Game Code Section 7081 without substantive change.

§ 12515. Conservation and management measures

12515. 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 title. 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.

Comment. Section 12515 continues former Fish and Game Code Section 7082 without substantive change.

§ 12520. Incorporation of existing conservation and management measures

12520. (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 12315, 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.

Comment. Section 12520 continues former Fish and Game Code Section 7083 without substantive change.

§ 12525. Minimizing adverse effects on habitat

12525. (a) Consistent with subdivision (b) of Section 12315, 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 Title 1 (commencing with Section 54000) of Part 4 of Division 14.

Comment. Section 12525 continues former Fish and Game Code Section 7084 without substantive change.

1 **§ 12530. Bycatch information**

2 12530. Consistent with subdivision (b) of Section 12315, each fishery
3 management plan or plan amendment prepared by the department, in fisheries in
4 which bycatch occurs, shall include all of the following:

5 (a) Information on the amount and type of bycatch.

6 (b) Analysis of the amount and type of bycatch based on the following criteria:

7 (1) Legality of the bycatch under any relevant law.

8 (2) Degree of threat to the sustainability of the bycatch species.

9 (3) Impacts on fisheries that target the bycatch species.

10 (4) Ecosystem impacts.

11 (c) In the case of unacceptable amounts or types of bycatch, conservation and
12 management measures that, in the following priority, do the following:

13 (1) Minimize bycatch.

14 (2) Minimize mortality of discards that cannot be avoided.

15 **Comment.** Section 12530 continues former Fish and Game Code Section 7085 without
16 substantive change.

17 **§ 12535. Overfishing information**

18 12535. (a) Consistent with subdivision (b) of Section 12315, each fishery
19 management plan or plan amendment prepared by the department shall specify
20 criteria for identifying when the fishery is overfished.

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

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

27 (1) Specify a time period for preventing or ending or otherwise appropriately
28 addressing overfishing and rebuilding the fishery that shall be as short as possible,
29 and shall not exceed 10 years except in cases where the biology of the population
30 of fish or other environmental conditions dictate otherwise.

31 (2) Allocate both overfishing restrictions and recovery benefits fairly and
32 equitably among sectors of the fishery.

33 **Comment.** Section 12535 continues former Fish and Game Code Section 7086 without
34 substantive change.

35 **§ 12540. Other required information**

36 12540. Each fishery management plan or plan amendment prepared by the
37 department shall include the following:

38 (a) A specification of the types of regulations that the department may adopt
39 without a plan amendment.

40 (b) A list of any statutes and regulations that shall become inoperative, as to the
41 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.

Comment. Subdivision (a) of Section 12540 continues former Fish and Game Code Section 7087(b) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 7088 without substantive change.

CHAPTER 8. EMERGING FISHERIES

§ 12600. Legislative declaration and duty of commission

12600. 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 title.

Comment. Section 12600 continues former Fish and Game Code Section 7090(a) without substantive change.


§ 12605. "Emerging fishery"

12605. For the purposes of this chapter, "emerging fishery," in regard to a marine fishery, means a fishery that meets both of the following requirements:

(a) 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.

(b) A fishery that is not an established fishery.

Comment. Section 12605 continues former Fish and Game Code Section 7090(b)(1), and the first sentence of former Fish and Game Code Section 7090(b)(2), without substantive change.

 **Note.** Proposed Section 12605 would continue part of Section 7090(b), which was amended by 2018 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 12610. "Established fishery"

12610. "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.

Comment. Section 12610 continues the second sentence and subparagraphs (A)-(E) of former Fish and Game Code Section 7090(b)(2).

Note. Existing Fish and Game Code Section 7090(b)(2) (which would be continued by proposed Section 12610), provides that an “established fishery” means, “prior to January 1, 1999,” any of a list of described fisheries.

The Commission invites comment on whether this definition is now obsolete and should be discontinued, or alternatively continued without the date limitation.

§ 12615. Department monitoring requirement

12615. 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.

Comment. Section 12615 continues former Fish and Game Code Section 7090(c) without substantive change.

§ 12620. Commission authority

12620. The commission, upon the recommendation of the department, may do either, or both, of the following:

(a) 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.

(b) Direct the department to prepare a fishery management plan for the fishery and regulations necessary to implement the plan.

Comment. Section 12620 continues former Fish and Game Code Section 7090(d) without substantive change.

§ 12625. Compliance with requirements for fishery management plan generally

12625. (a) A fishery management plan for an emerging fishery shall comply with the requirements for preparing and adopting fishery management plans contained in this title.

(b) 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.

(c) 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.

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

4 **Comment.** Section 12625 continues former Fish and Game Code Section 7090(e) without
5 substantive change.

6 **§ 12630. Fee**

7 12630. (a) The commission is authorized to impose a fee on an emerging
8 fishery in order to pay the costs of implementing this chapter.

9 (b) The fees may include, but need not be limited to, ocean fishing stamps and
10 permit fees.

11 (c) The fees may not be levied in excess of the necessary costs to implement and
12 administer this chapter.

13 (d) The commission may reduce fees annually if it determines that sufficient
14 revenues exist to cover costs incurred by the department in administering this
15 chapter.

16 (e) The commission and the department, with the advice of fishery participants
17 and other interested parties, shall consider alternative ways to fund the evaluation
18 of emerging fisheries.

19 **Comment.** Section 12630 continues former Fish and Game Code Section 7090(f) without
20 substantive change.

21 **§ 12635. Incorporation into fishery management plan**


22 12635. An emerging fishery is subject to this chapter unless the department
23 incorporates the fishery into a fishery management plan developed under Sections
24 12300 to 12540, inclusive.

25 **Comment.** Section 12635 continues former Fish and Game Code Section 7090(g) without
26 substantive change.

27 **§ 12640. Conflict of chapter with other sections**

28 12640. In the event that this chapter is found to conflict with Section 19900 or
29 19910, or Chapter 5 (commencing with Section 12050) of Title 2, this section
30 shall prevail.

31 **Comment.** Section 12640 continues former Fish and Game Code Section 7090(h) without
32 substantive change.

33  **Note.** Proposed Section 12640 would continue Section 7090(h), which was amended by 2018
34 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

1

2

3

4

6

7

8

10

12

13

4

15

17

19

20

22

24

25

26

27

99

1 in the case of a person diving from the shore, the license may be kept within 500
2 yards of the shore.

3 **Comment.** Section 12900 continues former Fish and Game Code Section 7145(a) without
4 substantive change. The referenced exception for persons under the age of 16 years is continued
5 by Section 13000.

6 See also Section 4862 (enforcement).

7 **§ 12905. Fishing with two rods**

8 12905. It is unlawful for any person to fish with two rods without first obtaining
9 a second-rod sport fishing validation, in addition to a valid California sport fishing
10 license validation, and having that validation affixed to his or her valid sport
11 fishing license. Any person who has a valid second-rod sport fishing validation
12 affixed to his or her valid sport fishing license may fish with two rods in inland
13 waters in any sport fishery in which the regulations of the commission provide for
14 the taking of fish by angling, except those waters in which only artificial lures or
15 barbless hooks may be used and the waters of the Smith River in Del Norte
16 County.

17 **Comment.** Section 12905 continue former Fish and Game Code Section 7149.45(a) without
18 substantive change.

19 See also Section 4860 (enforcement).

20 **§ 12910. Ocean sport fishing in specified waters**

21 12910. (a) In addition to a valid California sport fishing license and any other
22 applicable license stamp or validation issued pursuant to this code, a person sport
23 fishing in ocean waters south of a line extending due west from Point Arguello
24 shall have a valid sport fishing ocean enhancement validation permanently affixed
25 to his or her fishing license.

26 (b) A sport fishing license issued pursuant to paragraph (4) or (5) of subdivision
27 (a) of Section 13100 is exempt from this section

28 **Comment.** Section 12910 continues the first and third sentences of former Fish and Game
29 Code Section 6596.1(a) without substantive change.

30 See also Section 4864 (enforcement).

31 **Note.** Under existing law, the provisions of Section 6596.1(a) are governed by existing
32 Section 6403, which makes the provisions of Section 6596.1(a) inapplicable to aquaculture
33 business activities. The continuation of the first and third sentences of Section 6596.1(a) in this
34 location would make Section 6403 (proposed Section 25400) inapplicable to those provisions.
35 Technically, this would make those provisions applicable to aquaculture business activities.
36 However, the provisions appear to have no application to such activities. For that reason, the
37 change described in this Note would seem to have no practical effect.

38 **The Commission invites comment on whether this change would be a problem.**

Article 2. Colorado River

§ 12950. “Colorado River”

12950. As used in this article, “Colorado River” refers to the waters of the Colorado River, and adjacent waters other than canals, drains, or ditches used to transport water used for irrigation or domestic purposes.

Comment. Section 12950 is drawn from former Fish and Game Code Section 7180.1(a).

§ 12955. Fishing on Colorado River


(a) Any person taking fish or amphibia for purposes other than profit from or on a boat or other floating device on the waters of the Colorado River and on adjacent waters, except canals, drains, or ditches used to transport water used for irrigation or domestic purposes, shall have in his or her possession a valid sportfishing license issued by either the State of Arizona or State of California.

(b) In addition to either of the licenses, a person taking fish or amphibia as indicated shall have in his or her possession a Colorado River special use validation. If he or she is a person having in his or her possession a valid California sportfishing license, he or she shall have an Arizona special use validation to fish legally the waters described above. If he or she is a person having in his or her possession a valid Arizona sportfishing license, he or she shall have a California special use validation to fish legally the waters described above.

(c) A special use validation, when accompanied by the proper license, permits fishing in any portion of those waters, and permit fishermen to enter the waters from any point.

Comment. Section 12955 continues former Fish and Game Code Section 7180.1(a), (b), and the first sentence of subdivision (c), without substantive change.

See also Section 4860 (enforcement).

 **Note.** The Commission has been informed by the Department of Fish and Wildlife that the “Colorado River Special Use Validation” no longer exists. See Memorandum 2018-22, Exhibit comment 106. **The Commission invites comment on how existing Section 7180.1(b) (which would be continued by proposed Section 12955(b)) should be revised to reflect that fact. Should it be deleted entirely? Modified to remove the first sentence only?**

§ 12960. Colorado River shoreline fishing

12960. (a) A person fishing from the shore in the waters of the Colorado River located in Arizona or California shall have in his or her possession a valid sportfishing license issued by the state that has jurisdiction over that shore. That shoreline fishing does not require a Colorado River special use validation as long as the fisherman remains on the shore and does not embark on the water.

(b) Any person, however, having in his or her possession a valid Arizona sportfishing license and a California special use validation may fish from the shore in the waters of the Colorado River, or adjacent waters, except canals, drains, and ditches used to transport water used for irrigation or domestic purposes, located in California without a sport fishing license issued by the State of California.

1 **Comment.** Section 12960 continues subdivision (a) of former Fish and Game Code Section
2 7181.1 without substantive change.

3 **Note.** The Commission has been informed by the Department of Fish and Wildlife that the
4 “Colorado River Special Use Validation” no longer exists. See Memorandum 2018-22, Exhibit
5 comment 106. **The Commission invites comment on how existing Section 7181.1(a) (which**
6 **would be continued by proposed Section 12960) should be revised to reflect that fact.**
7 **Should it be deleted entirely? Modified to remove the second sentence only?**

8 **§ 12965. Effectiveness of article**

9 12965. This article shall become ineffective if Chapter 5 (commencing with
10 Section 13350) becomes ineffective pursuant to subdivision (a) of Section 13350.

11 **Comment.** Section 12965 continues the effect of former Fish and Game Code Section 7185 as
12 that provision applied to former Fish and Game Code Sections 7180.1 and 7181.1. See Section
13 13350(a).

14 CHAPTER 3. EXCEPTIONS

15 **§ 13000. Persons under the age of 16 years**

16 13000. Section 12900 does not apply to a person under the age of 16 years.

17 **Comment.** Section 13000 continues a part of former Fish and Game Code Section 7145(a)
18 without substantive change.

19 **§ 13005. Public pier, ocean waters, aquaculture facility**

20 13005. (a) A sport fishing license is not required to take fish by any legal means,
21 for any purpose other than profit, from a public pier, as defined by the
22 commission, in the ocean waters of the state, or while angling at an aquaculture
23 facility site that is registered pursuant to Section 235 of Title 14 of the California
24 Code of Regulations.

25 (b) For purposes of this section, “ocean waters” include, but are not limited to,
26 the open waters adjacent to the ocean and any island; the waters of any open or
27 enclosed bay contiguous to the ocean; the San Francisco and San Pablo Bays, with
28 any tidal bay belonging thereto; and any slough or estuary, if found between the
29 Golden Gate Bridge and the Benicia-Martinez Bridge.

30 **Comment.** Section 13005 continues former Fish and Game Code Section 7153 without
31 substantive change.

32 **§ 13010. Fishing on private property**

33 13010. (a) Section 12900 does not apply to sport fishing by an owner of
34 privately owned real property, or an invitee of an owner who does not provide the
35 owner compensation, from a lake or pond that is wholly enclosed by that owner’s
36 real property, that is located offstream, and that does not at any time derive water
37 from, or supply water to, any permanent or intermittent artificial or natural lake,
38 pond, stream, wash, canal, river, creek, waterway, aqueduct, or similar water

1 conveyance system of the state. Access and control of the real property shall be
2 under the direct authority of the owner, and not of another person or entity.

3 (b) This section does not, and shall not be construed to, authorize the
4 introduction, migration, stocking, or transfer of aquatic species, prohibited species,
5 or any other nonnative or exotic species, into waters of the state or waterways.

6 (c) This section does not supersede or otherwise affect any provision of law that
7 governs aquaculture, including, but not limited to, the operation of a trout farm, or
8 any activity that is an adjunct to or a feature of, or that is operated in conjunction
9 with, any other enterprise operated for a fee, including, but not limited to, a private
10 park or private recreation area.

11 **Comment.** Section 13010 continues former Fish and Game Code Section 7145(b) without
12 substantive change.

13 **§ 13020. Free sport fishing days**

14 13020. Notwithstanding Section 12900, the director may designate not more
15 than two days, which may or may not be consecutive, in each year as free
16 sportfishing days during which residents and nonresidents may, without having a
17 sportfishing license and without the payment of any fee, exercise the privileges of
18 a holder of a sportfishing license, subject to all of the limitations, restrictions,
19 conditions, laws, rules, and regulations applicable to the holder of a sportfishing
20 license.

21 **Comment.** Section 13020 continues former Fish and Game Code Section 7149.7 without
22 substantive change.

23 **CHAPTER 4. FEES**

24 **Article 1. Sport Fishing License**

25 **§ 13100. Sport fishing license**

26 13100. (a) The fee for a sport fishing license is as follows:

27 (1) For a resident, for a calendar year, or, if issued after the beginning of that
28 year, for the remainder of that year, a base fee of thirty-one dollars and twenty-five
29 cents (\$31.25).

30 (2) For a nonresident, for a calendar year, or, if issued after the beginning of that
31 year, for the remainder of that year, a base fee of eighty-four dollars (\$84).

32 (3) For a nonresident, for 10 consecutive days beginning on the date specified on
33 the license, the fee set forth in paragraph (1).

34 (4) For a resident or nonresident, for two consecutive designated calendar days,
35 one-half of the fee set forth in paragraph (1). Notwithstanding Section 2930, more
36 than one two-day license issued for different two-day periods may be issued to or
37 possessed by a person at one time.

38 (5) For a resident or nonresident, for one designated day, a base fee of ten
39 dollars (\$10).

(b) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 3755.

(c) The commission shall adjust the amount of the fees specified in subdivision (b), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

Comment. Subdivision (a) of Section 13100 continues former Fish and Game Code Section 7149.05(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 7149.05(d) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 7149.05(e) without substantive change.

Note. Existing Section 7149.05(a)(4) cross-refers to existing Section 1053 of the existing code, a section that was repealed by 2015 Cal. Stat. ch. 683. Section 1053 generally prohibited obtaining more than one paper license – a form of license that is now obsolete – of the same class, for the same license year, except under specified conditions. As a substantially similar prohibition applicable to electronic licenses appears in existing Section 1053.1, proposed Section 13100(a)(4) would cross-refer to the section of the proposed law that continues existing Section 1053.1.

The Commission seeks comment on whether that revision is appropriate.

§ 13105. Lifetime sport fishing license

13105. (a) In addition to Section 12850, the department shall issue a lifetime sport fishing license pursuant to this section.

(b) A lifetime sport fishing license authorizes sport fishing anywhere in this state in accordance with the law for the life of the person to whom issued, unless revoked for a violation of this code or regulations adopted pursuant to this code. A lifetime sport fishing license is valid for a one-year period from January 1 through December 31 and may be renewed annually, regardless of any lapse of the license, at no additional cost to the licensee. A lifetime sport fishing license is not transferable.

(c) A lifetime sport fishing license does not include any special tags, stamps, or fees, and may be issued only to a resident.

(d) The fee for a lifetime sport fishing license is as follows:

(1) For a person 62 years of age or over, a base fee of three hundred sixty-five dollars (\$365).

(2) For a person 40 years of age or over and less than 62 years of age, a base fee of five hundred forty dollars (\$540).

(3) For a person 10 years of age or over and less than 40 years of age, a base fee of six hundred dollars (\$600).

(4) For a person less than 10 years of age, a base fee of three hundred sixty-five dollars (\$365).

(e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a person holding a lifetime sport fishing license shall be entitled annually to the privileges afforded to a person holding a second-rod validation issued pursuant to Section 12905, a sport fishing ocean enhancement validation issued pursuant to

1 Section 12910, one steelhead trout report restoration card issued pursuant to
2 Section 44000, and one salmon report card issued pursuant to regulations adopted
3 by the commission. Lifetime privileges issued pursuant to this subdivision are not
4 transferable.

5 (f) The base fees specified in this section are applicable commencing January 1,
6 2004, and shall be adjusted annually thereafter pursuant to Section 3755.

7 (g) Nothing in this section requires a person less than 16 years of age to obtain a
8 license to engage in sport fishing.

9 (h) Nothing in this section exempts a license applicant from meeting other
10 qualifications or requirements otherwise established by law for the privilege of
11 sport fishing.

12 **Comment.** Section 13105 continues former Fish and Game Code Section 7149.2 without
13 substantive change. References in subdivision (e) of former Fish and Game Code Section 7149.2
14 to a second-rod “stamp” and a sport fishing ocean enhancement “stamp” are discontinued as
15 obsolete. See 2015 Cal. Stat. ch. 683, §§ 19, 23 (repeal of former Fish and Game Code sections
16 providing for issuance of such stamps).

17 **§ 13110. Job Corps enrollee**

18 13110. For the purpose of obtaining a sport fishing license, enrollees in the Job
19 Corps, created by the Economic Opportunity Act of 1964 (Public Law 88-452),
20 shall be deemed to be residents of California.

21 **Comment.** Section 13110 continues former Fish and Game Code Section 7149.5 without
22 substantive change.

23 **Article 2. Reduced Fee Licenses**

24 **§ 13150. Reduced fee license**

25 13150. (a) Upon application to the department’s headquarters office in
26 Sacramento, the following persons shall be issued a reduced fee sport fishing
27 license:

28 (1) A disabled veteran having a 50 percent or greater service-connected
29 disability, upon presentation of proof of an honorable discharge from military
30 service and proof of the disability. Proof of the disability shall be by certification
31 from the United States Veterans Administration or by presentation of a license
32 issued pursuant to this paragraph in the preceding license year.

33 (2) A member of the military who is a “recovering service member” pursuant to
34 Section 1602(7) of the federal National Defense Authorization Act for Fiscal Year
35 2008 (Public Law 110-181). Proof of eligibility for a reduced fee sport fishing
36 license pursuant to this paragraph shall be by submission of a letter, online or in
37 hardcopy, to the department from that person’s commanding officer or from a
38 military medical doctor, stating that the person is a recovering service member.

39 (3) A resident over 65 years of age whose total monthly income from all
40 sources, including any old age assistance payments, does not exceed the amount in
41 effect on September 1 of each year contained in subdivision (c) of Section 12200

1 of the Welfare and Institutions Code, for single persons, or subdivision (d) of
2 Section 12200 of the Welfare and Institutions Code combined income for married
3 persons, as adjusted pursuant to that section. The amount in effect on September 1
4 of each year shall be the amount used to determine eligibility for a reduced fee
5 license during the following calendar year. Proof of eligibility for a reduced fee
6 sport fishing license pursuant to this paragraph shall be by a letter or other
7 document, as specified by the department, from a public agency.

8 (b) A person who has been convicted of any violation of this code is ineligible
9 for a license pursuant to this section.

10 (c) A person applying for a reduced fee sport fishing license shall submit
11 adequate documentation for the department to determine whether the applicant is
12 eligible for a reduced fee sport fishing license. The department shall not issue a
13 reduced fee sport fishing license to any person unless the department is satisfied
14 that the applicant has provided adequate documentation of eligibility for that
15 license.

16 (d) The fee for a license issued pursuant to this section shall be a base fee of
17 four dollars (\$4) applicable commencing January 1, 1996, and annually adjusted
18 thereafter pursuant to Section 3755.

19 (e) A license issued pursuant to this section is valid for a calendar year, or if
20 issued after the beginning of that year, for the remainder of that year.

21 **Comment.** Section 13150 continues former Fish and Game Code Section 7150 without
22 substantive change.

23 Article 3. Free Licenses

24 § 13200. Free license for individuals

25 13200. (a) Upon application to the department, the following persons shall be
26 issued a sport fishing license, free of any charge or fee:

27 (1) A blind person, upon presentation of proof of blindness. For purposes of this
28 paragraph, “blind person” means a person who in each eye has central visual
29 acuity of 20/200 or less with the aid of the best possible correcting lens, or central
30 visual acuity better than 20/200 if the widest diameter of the remaining visual field
31 is no greater than 20 degrees. Proof of blindness shall be by certification from a
32 qualified licensed optometrist or ophthalmologist, or by presentation of a license
33 issued pursuant to this paragraph in a previous license year.

34 (2) A person with a developmental disability, upon presentation of certification
35 of that disability from a qualified licensed physician, or from the director of a state
36 regional center for the developmentally disabled.

37 (3) A resident who is permanently unable to move from place to place without
38 the aid of a wheelchair, walker, forearm crutches, or a comparable mobility-related
39 device. Proof of the disability shall be by certification from a licensed physician or
40 surgeon, or by presentation of a license issued pursuant to this paragraph in a
41 license year after 1996.

(4) A resident Native American who, in the discretion of the department, is financially unable to pay the fee required for the license.

(b) A person who has been convicted of any violation of this code is ineligible for a license pursuant to this section.

(c) Sport fishing licenses issued pursuant to paragraphs (1), (2), and (3) of subdivision (a) are valid for five calendar years, or if issued after the beginning of the first year, for the remainder of the five calendar years.

(d) Sport fishing licenses issued pursuant to paragraph (4) of subdivision (a) are valid for a calendar year or, if issued after the beginning of that year, for the remainder of that year.

Comment. Section 13200 continues former Fish and Game Code Section 7151(a)-(c) without substantive change.

§ 13205. Free group sport fishing license for persons with disabilities

13205. (a) Upon application to the department, the department may issue a group sport fishing license, free of any charge or fee, to a group of persons with mental or physical disabilities who are under the care of any of the following entities:

(1) A certified federal, state, county, city, or private licensed care center that is a community care facility as defined in subdivision (a) of Section 1502 of the Health and Safety Code.

(2) An organization exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code.

(3) A school or school district.

(b) The organization listed in subdivision (a) shall provide evidence that it is a legitimate private licensed care center, tax-exempt organization, school, or school district.

(c) The license shall be issued to the person in charge of the group and shall be in that person's possession when the group is fishing.

(d) The license shall identify the location and the date or dates for which fishing is authorized, and the maximum number of people that may be included in the group that will be fishing. The license holder shall notify the local department office before sport fishing and indicate where, when, and how long the group will be sport fishing.

(e) Employees of the entity listed in subdivision (a) are exempt from Section 12900 while assisting the group that that is sport fishing pursuant to the license.

Comment. Section 13205 restates former Fish and Game Code Section 7151(d) without substantive change.

Note. Proposed Section 13205 is intended to restate existing Section 7151(d) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

7151.....

(d) Upon application to the department, the department may issue, free of any charge or fee, a sport fishing license to groups of mentally or physically handicapped persons under the care of a certified federal, state, county, city, or private licensed care center that is a community care facility as defined in subdivision (a) of Section 1502 of the Health and Safety Code, to organizations exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code, or to schools or school districts. Any organization that applies for a group fishing license shall provide evidence that it is a legitimate private licensed care center, tax-exempt organization, school, or school district. The license shall be issued to the person in charge of the group and shall be in his or her possession when the group is fishing. Employees of private licensed care centers, tax-exempt organizations, schools, or school districts are exempt from Section 7145 only while assisting physically or mentally disabled persons fishing under the authority of a valid license issued pursuant to this section. The license shall include the location where the activity will take place, the date or dates of the activity, and the maximum number of people in the group. The licenseholder shall notify the local department office before fishing and indicate where, when, and how long the group will fish.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of existing Section 7151(d).

§ 13210. Free group sport fishing license for military personnel with injuries or disabilities


13210. (a) Upon application to the department, the department may issue, free of any charge or fee, a group sport fishing license to a nonprofit organization for day-fishing trips that provide recreational rehabilitation therapy for active duty members of the United States military who are currently receiving inpatient care in a military or Veterans Administration hospital and veterans with service-connected disabilities. To be eligible, the nonprofit organization shall be registered to do business in this state, or exempt from taxation under Section 501(c) of the federal Internal Revenue Code.

(b) The license shall be valid for the calendar year of issue or, if issued after the beginning of that year, for the remainder of that year.

(c) The license shall be issued to the person in charge of the group, and shall be in that person's possession when the group is fishing.

(d) The organization shall notify the local department office before sport fishing, and indicate where, when, and for how long the group will be sport fishing.

Comment. Section 13210 continues former Fish and Game Code Section 7151(e) without substantive change.

 **Note.** The Commission is unsure why this provision refers to "day-fishing trips." That language sounds like a limitation. Is it intended as one?

The Commission invites input on this point.

§ 13215. Funding for free licenses

13215. (a) On January 15 of each year, the department shall determine the number of free sport fishing licenses in effect during the preceding year.

(b) There shall be appropriated from the General Fund a sum equal to two dollars (\$2) per free sport fishing license issued pursuant to Section 13200 or 13205 during the preceding license year. That sum may be appropriated annually in the Budget Act for transfer to the Fish and Game Preservation Fund, and

appropriated in the Budget Act from the Fish and Game Preservation Fund to the department, for the purposes of provisions of this code that govern sport fishing.

Comment. Section 13215 continues former Fish and Game Code Section 7151(f) and (g) without substantive change.

Note. The last clause of existing Fish and Game Code Section 7151(g) (which would be continued by proposed Section 13215) reads “for the purposes of this part,” referring to Part 2 (commencing with Section 7100) of Division 6 of the existing code. As in the proposed law the provisions of that part appear in several different locations, proposed Section 13215 would revise that clause to read “for the purposes of provisions of this code that govern sport fishing.”

The Commission invites comment on whether that revision would cause any substantive change in the meaning of the provision.

Article 4. Validations

§ 13250. Second rod validation

13250. The fee for a second-rod sport fishing validation issued pursuant to Section 12905 is a base fee of seven dollars and fifty cents (\$7.50), applicable commencing January 1, 1995, and annually adjusted thereafter pursuant to Section 3755.

Comment. Section 13250 continues former Fish and Game Code Section 7149.45(b) without substantive change.

§ 13255. Sport fishing ocean enhancement validation

13255. (a) The fee for a sport fishing ocean enhancement validation issued pursuant to Section 12910 is a base fee of three dollars and fifty cents (\$3.50), applicable commencing January 1, 2004, and annually adjusted thereafter pursuant to Section 3755.

(b) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

Comment. Subdivision (a) of Section 13255 continues the second sentence of former Fish and Game Code Section 6596.1(a) (as applied to sport fishing ocean enhancement validation), and former Fish and Game Code Section 6596.1(f), without substantive change.

Subdivision (b) continues former Fish and Game Code Section 6596.1(g) (as applied to sport fishing ocean enhancement validation) without substantive change.

Note. Under existing law, the provisions of Section 6596.1 are governed by existing Section 6403, which makes the provisions of Section 6596.1 inapplicable to aquaculture business activities. The continuation of the second sentence of Section 6596.1(a), Section 6596.1(f), and Section 6596.1(g) in this location would make Section 6403 (proposed Section 25400) inapplicable to those provisions. Technically, this would make those provisions applicable to aquaculture business activities. However, the provisions appear to have no application to such activities. For that reason, the change described in this Note would seem to have no practical effect.

The Commission invites comment on whether this change would be a problem.

CHAPTER 5. RECIPROCAL LICENSING

§ 13350. Operation of chapter

13350. (a) This chapter shall remain effective so long as the commission finds and determines that under the laws of the State of Arizona, substantially similar Arizona licenses are authorized to be issued to licensees of this state, upon substantially the same terms and conditions as are provided for in this chapter, relating to the issuance of California licenses to licensees of the State of Arizona.

(b) If Arizona issues a resident sport fishing license for a term less than one year for the purpose of changing to a calendar year license from a fiscal year license, that license shall be deemed to be a license upon substantially the same terms and conditions as are provided for the issuance of California licenses to licensees of the State of Arizona, for the purposes of subdivision (a).

Comment. Subdivision (a) of Section 13350 continues former Fish and Game Code Section 7185 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 7186.1(b) without substantive change.

§ 13355. Responsibilities of state commissions relating to licenses and special use stamps and validations

13355. (a) The Arizona Game and Fish Commission shall handle California sport fishing licenses and California special use validations and issue them through Arizona license dealers. Prior to August 31 of each year, that commission shall make an audit report and send a remittance for those sales to the department.

(b) The department shall handle Arizona special use validations and issue them through California license dealers. Prior to August 31 of each year, the department shall make an audit report and send a remittance for those sales to the Arizona Game and Fish Commission.

Comment. Section 13355 continues former Fish and Game Code Section 7183.1(a) and (b) without substantive change.

§ 13360. Terms of special use validations

13360. (a) An Arizona special use validation is valid from January 1 to December 31, inclusive, of each year, to coincide with the period for which a California sport fishing license is issued.

(b) A California special use validation is valid for one year, to coincide with the period for which an Arizona fishing license is issued.

Comment. Section 13360 continues former Fish and Game Code Section 7184.1(a) and (b) without substantive change.

1 **§ 13365. Conditional provisions relating to California licenses and special use validations**

2 13365. When the director determines from the Secretary of State that copies of
3 the law of the State of Arizona have been received by the Secretary of State that
4 provides for an Arizona resident sport fishing license valid for a period of less than
5 one year, a California special use validation valid for the same period as the
6 Arizona resident sport fishing license may be issued for a fee of one dollar (\$1).

7 **Comment.** Section 13365 continues former Fish and Game Code Section 7186.1(a) without
8 substantive change.

9 CHAPTER 6. ISSUANCE

10 **§ 13400. Compensation for license agent**

11 13400. California sport fishing license validations shall be issued by authorized
12 license agents in the same manner as sport fishing licenses, and no compensation
13 shall be paid to the authorized license agent for issuing a validation, except as
14 provided in Section 3350.

15 **Comment.** Section 13400 combines and continues former Fish and Game Code Section
16 7149.05(b) without substantive change.

17 **§ 13405. Colorado River special use validations**

18 13405. (a) Arizona Colorado River special use validations shall be issued by
19 California authorized license agents under the supervision of the department in the
20 same manner as sport fishing licenses are issued, and California sport fishing
21 licenses and California Colorado River special use validations shall be issued by
22 Arizona license dealers under the supervision of the Arizona Game and Fish
23 Commission.

(b) This section shall remain effective so long as the commission finds and determines that under the laws of the State of Arizona, substantially similar Arizona licenses are authorized to be issued to licensees of this state, upon substantially the same terms and conditions as are provided for in this chapter, relating to the issuance of California licenses to licensees of the State of Arizona.

29 **Comment.** Subdivision (a) of Section 13405 continues former Fish and Game Code Section
30 7182.1(a) without substantive change.

31 Subdivision (b) continues the effect of former Fish and Game Code Section 7185 as that
32 provision applied to former Fish and Game Code Section 7182.1. See Section 13350(a).

33 **Note.** The Commission has been informed by the Department of Fish and Wildlife that the
34 “Colorado River Special Use Validation” no longer exists. See Memorandum 2018-22, Exhibit
35 comment 106. **The Commission invites comment on how existing Section 7182.1(b) (which**
36 **would be continued by proposed Section 113405) should be revised to reflect that fact.**
37 **Should it be deleted entirely?**

TITLE 3. TAKE LIMITS

§ 13500. Bag limits

13500. It is unlawful for a person to possess more than one daily bag limit of any fish, amphibian, or reptile taken by sport fishing under a license issued pursuant to Title 2 (commencing with Section 12850), unless authorized by regulations adopted by the commission.

Comment. Section 13500 continues former Fish and Game Code Section 7120 without substantive change, except to add references to amphibians and reptiles.

Note. Proposed Section 13500 would revise existing Section 7120 to make the provision expressly applicable to amphibians and reptiles.

The Commission invites comment on the appropriateness of this revision.

TITLE 4. COMMERCE

§ 13600. Unauthorized purchase or sale

13600. Except as otherwise provided by this code or by regulation, it is unlawful to buy or sell a fish or amphibian that was taken in, brought into, or brought ashore from, any waters of the state.

Comment. Section 13600 continues the first paragraph of former Fish and Game Code Section 7121 without substantive change.

See also Sections 4930, 4932, 4934, 5102, 5108, 5802 (enforcement).

Note. The Commission invites comment on whether existing Section 7121 should be revised to apply to reptiles.

§ 13605. Disposition of fish or amphibians caught on sport fishing vessel

13605. (a) In any place of business where fish are bought, sold, or processed, it is unlawful to buy, sell, or possess a fish or amphibian that was taken by sport fishing on a boat, barge, or vessel.

(b) Subdivision (a) does not apply to possession for the purposes of canning or smoking pursuant to regulations adopted by the commission.

Comment. Section 13605 restates the second paragraph of former Fish and Game Code Section 7121 without substantive change.

See also Sections 4930, 4932, 4934, 5102, 5108, 5802 (enforcement).

Note. Proposed Section 13605 is intended to restate the second paragraph of existing Fish and Game Code Section 7121 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

7121.....

It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any fish or amphibia taken on any boat, barge, or vessel which carries sport fishermen, except those fish may be possessed in such a place only for the purposes of canning or smoking under regulations adopted by the commission.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

1 TITLE 5. PROCESSING AND WASTE

2 § 13700. Canning or smoking

3 13700. (a) Subject to Sections 13600 and 13605, fish lawfully taken under a
4 sport fishing license may be canned or smoked by a fish cannery or processor as a
5 service for a licensed sport fisherman.

6 (b) Any cannery or packing plant in which fish taken by lawful sport fishing are
7 canned shall emboss or imprint on the top of each can the words “not to be sold”
8 in letters of such size as to be clearly legible, and the embossment or imprint shall
9 remain affixed to the can.

10 (c) Any cannery or packing plant in which fish taken by lawful sport fishing are
11 smoked shall permanently imprint on each package the words “not to be sold” in
12 letters of such size as to be clearly legible, and the imprint shall remain visible on
13 the package.

14 (d) Fish that are canned or smoked under this section shall not be sold,
15 purchased, or offered for sale.

16 **Comment.** Section 13700 continues former Fish and Game Code Section 7230 without
17 substantive change.

18 § 13705. Fish offal

19 13705. (a) Notwithstanding Sections 13600 and 13605, any offal from a fish
20 taken under a sport fishing license which is delivered by the license holder to a
21 fish canner or fish processor may be processed, used, or sold by that fish canner or
22 fish processor.

23 (b) Nothing in this section authorizes a holder of a sport fishing license to sell,
24 or a fish canner or fish processor to purchase from a holder of a sport fishing
25 license, any fish taken under a sport fishing license.

26 **Comment.** Section 13705 continues former Fish and Game Code Section 7232 without
27 substantive change. A reference to a “portion” of a fish is deleted as superfluous. See Section 95
28 (reference to animal generally includes part of animal).

29 § 13710. Deterioration and waste

30 13710. The commission may adopt regulations to prevent deterioration and
31 waste of fish taken by sport fishing, and to regulate the disposal of the offal of that
32 fish.

33 **Comment.** Section 13710 continues former Fish and Game Code Section 5510 without
34 substantive change.

35 TITLE 6. SPORT FISHING REGULATIONS

36 § 13800. Conforming to federal regulations

37 13800. (a) The commission may establish by regulation an automatic process to
38 conform its sport fishing regulations to federal regulations.

1 (b) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
2 Title 2 of the Government Code does not apply to conforming actions
3 implemented pursuant to the automatic process specified in subdivision (a).

4 (c) The department shall provide public notice of a conforming action
5 implemented pursuant to this section.

6 **Comment.** Section 13800 continues former Fish and Game Code Section 7110 without
7 substantive change.

8 **§ 13805. Conforming of sport fishing regulations to federal regulations**

9 13805. (a) The department shall identify property it owns or manages that
10 includes areas for sport fishing accessible to persons with disabilities.

11 (b) Commencing with the booklet of sport fishing regulations published by the
12 commission in 1986, the availability of sport fishing areas, identified by the
13 department as accessible to persons with disabilities under subdivision (a), shall be
14 noted in the booklet of regulations, together with telephone numbers and
15 instructions for obtaining a list of those areas from regional department offices.

16 (c) Commencing with the booklet of sport fishing regulations published in 1987,
17 the booklet shall also contain any human health advisories relating to fish that are
18 formally issued by the State Department of Public Health, or summaries of those
19 human health advisories. The summaries shall be prepared in consultation with the
20 State Department of Public Health.

21 **Comment.** Section 13805 continues former Fish and Game Code Section 7115 without
22 substantive change.

23 **TITLE 7. SPECIAL PROGRAMS**

24 **CHAPTER 1. BAY-DELTA SPORT FISHING ENHANCEMENT STAMP**

25 **§ 13900. Deposit and use of funds**

26 13900. (a) Fees received by the department from the sale of the Bay-Delta Sport
27 Fishing Enhancement Stamp or validation shall be deposited in a separate account
28 in the Fish and Game Preservation Fund. The Bay-Delta Sport Fishing
29 Enhancement Stamp or validation shall not be required, and no fee shall be
30 collected, as of January 1, 2010.

31 (b) The department shall expend the funds in that account for the long-term,
32 sustainable benefit of the primary Bay-Delta sport fisheries, including, but not
33 limited to, striped bass, sturgeon, black bass, halibut, salmon, surf perch, steelhead
34 trout, and American shad. Funds shall be expended to benefit sport fish
35 populations, sport fishing opportunities, and anglers within the tidal waters of the
36 San Francisco Bay Delta and the main stem of the Sacramento and San Joaquin
37 Rivers, including major tributaries, below the most downstream dam, and
38 consistent with the requirements of the federal Endangered Species Act of 1973
39 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Part 1

1 (commencing with Section 62000) of Division 17), the ecosystem restoration
2 component of the CALFED Programmatic Record of Decision dated August 28,
3 2000, and applicable commission policies.

4 (c) It is the intent of the Legislature that these funds be used to augment, not
5 replace, funding that would otherwise be allocated to Bay-Delta sport fisheries
6 from the sale of fishing licenses, the California Bay-Delta Authority, or other
7 federal, state, or local funding sources.

8 **Comment.** Section 13900 continues former Fish and Game Code Section 7361 without
9 substantive change.

10 **§ 13905. Advisory committee**

11 13905. (a) The director shall appoint a Bay-Delta Sport Fishing Enhancement
12 Stamp Fund Advisory Committee, consisting of nine members. The committee
13 members shall be selected from names of persons submitted by anglers and
14 associations representing Bay-Delta anglers of this state and shall serve at the
15 discretion of the director for terms of not more than four years. The director shall
16 appoint persons to the committee who possess experience in subjects with specific
17 value to the committee and shall attempt to balance the perspective of different
18 anglers.

19 (b) The advisory committee shall recommend to the department projects and
20 budgets for the expenditure of the funds from the account established in Section
21 13900. The department shall give full consideration to the committee's
22 recommendations.

23 (c) The department shall submit to the advisory committee and the Chief Clerk
24 of the Assembly and the Secretary of the Senate for distribution to the appropriate
25 fiscal and policy committees of the Legislature, at least annually, on or before
26 January 10 of each year, an accounting of funds derived from the Bay-Delta Sport
27 Fishing Enhancement Stamps and validations, including the funds generated and
28 expended and administrative expenditures, and the status of programs funded
29 pursuant to this article. In addition, the department shall report, at least annually,
30 to the committee on the status of projects undertaken with funds from that stamp
31 or validation, including reporting the department's reasoning in cases where
32 committee recommendations are not followed.

33 (d) The department shall post on its Internet Web site projects undertaken with
34 funds from the account established in Section 13900. At a minimum, the Internet
35 Web site shall list the project title, applicant, a brief description of the project, the
36 amount approved, and the project's status.

37 **Comment.** Section 13905 continues former Fish and Game Code Section 7363 without
38 substantive change.

1 **§ 13910. Grant program**

2 13910. (a) The department, in consultation with the advisory committee created
3 pursuant to Section 13905, shall develop a grant program to support activities
4 consistent with Section 13900.

5 (b) The department, in consultation with the advisory committee, shall develop
6 priority areas for funding under the grant program. The department shall give the
7 advisory committee an opportunity to review any draft public solicitation notice
8 before that notice is finalized and released to the public.

9 (c) The advisory committee shall assist the department in providing outreach to
10 encourage wide participation in the grant program.

11 (d) The department shall provide the advisory committee a copy of all grant
12 applications. The advisory committee shall have a minimum of 30 days to review
13 projects and provide recommendations to the department.

14 **Comment.** Section 13910 continues former Fish and Game Code Section 7362 without
15 substantive change.

16 **§ 13915. Additional responsibilities of department**

17 13915. (a) The department shall do all of the following:

18 (1) In consultation with the advisory committee, develop a spending plan that
19 focuses on identifying and funding viable projects and monitoring revenues to
20 assist the department in effectively expending available stamp revenues in a
21 manner consistent with the purposes described in Section 13900. The spending
22 plan shall be completed by January 31, 2010. Upon completion, a copy of the
23 spending plan shall be provided to the Legislature.

24 (2) Track and report the costs of projects funded pursuant to this article by doing
25 both of the following:

26 (A) Improve the tracking of individual project expenditures by assigning a
27 separate account to each project within the department's accounting system.

28 (B) Require a project manager to approve all expenditures directly related to the
29 manager's projects, periodically reconcile records for each project with accounting
30 records, and report expenditures to staff responsible for preparing advisory
31 committee reports.

32 (3) Reimburse the department's general fund appropriation for any lease
33 payment charged to the department's general fund appropriation on or before
34 January 1, 2010, that was eligible to be paid from the account established in
35 Section 13900.

36 (4) Ensure that employees of the department appropriately charge their time to
37 projects funded pursuant to this article by providing guidelines to employees
38 concerning when to charge activities to the account established in Section 13900.

39 (b) The department shall not charge payroll costs to the account established in
40 Section 13900 for employee activities that are not related to the implementation of
41 this article. The department shall determine whether any other expenditure has

1 been inappropriately charged to the account established in Section 13900 and shall
2 make all necessary accounting adjustments.

3 **Comment.** Section 13915 continues former Fish and Game Code Section 7364 without
4 substantive change.

5 See also Section 5102 (enforcement).

6 CHAPTER 2. JUNIOR FISHING RESERVE

7 § 13950. Districts 2510 and 2515

8 13950. (a) In that part of District 2510 comprising the waters of the Sawmill
9 Pond, and in that part of District 2515 comprising the waters of Francis Creek,
10 Rees Creek, and Williams Creek, it is unlawful for any person over the age of 14
11 to take any fish. Not more than five fish may be taken and possessed from those
12 waters during one day.

13 (b) It is the purpose of this section to create a junior fishing reserve for young
14 people so that they may practice the art of angling safely without interference
15 with, or being interfered with by, licensed sport fishermen and others during
16 lawful fishing seasons.

17 **Comment.** Section 13950 continues former Fish and Game Code Section 10925 without
18 substantive change.

19 PART 6. COMMERCIAL FISHING AND RELATED ACTIVITY


20 TITLE 1. GENERAL PROVISIONS

21 CHAPTER 1. DEFINITIONS

22 § 14200. “Stamp”

23 14200 For the purposes of this part, except where otherwise specified, “stamp”
24 includes an electronic validation of privileges issued to the licensee.

25 **Comment.** Section 14200 continues former Fish and Game Code Section 7700(d) without
26 substantive change, except that it is applicable to Sections 14610, 14760, 14770, and 16850.13.

27  **Note.** Proposed Section 14200 would apply to certain provisions that currently use the term
28 “stamp” without any governing definition (existing Fish and Game Code §§ 7852.1, 7852.2,
29 7857, 12003.5).

30 **The Commission invites comment on whether that application would cause any problems.**

31 § 14205. “Vessel owner”

32 14205. (a) For the purposes of this part, “vessel owner,” or a reference to an
33 owner of a vessel, means a person designated as the registered owner of a vessel,
34 on a certificate of documentation issued by the United States Coast Guard or on a
35 copy of the vessel registration issued by the vessel registration agency of the state
36 where the owner is a resident.

(b) For purposes of this section, the vessel registration agency in California is the Department of Motor Vehicles.

Comment. Section 14205 restates former Fish and Game Code Section 7601 without substantive change.

Note. The definition of “vessel owner” has been continued in two places, so that it will continue to have its existing scope of application. See also Section 37805.

CHAPTER 2. APPLICATION

§ 14250. Application of part

14250. (a) The provisions of this part apply to the taking and possession of fish for any commercial purpose.

(b) This part does not apply to activities governed by Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 14250 continues former Fish and Game Code Section 7600 without substantive change.

§ 14255. Application of other provisions

14255. Commercial fishing and related activity are also governed by Part 4 (commencing with Section 11500).

Comment. Section 14255 is new.

§ 14260. General authority for commercial take

14260. All fish, the taking of which is not otherwise restricted for commercial purposes, by state or federal law or any regulations adopted pursuant to those laws, may be taken at any time for commercial purposes.

Comment. Section 14260 continues former Fish and Game Code Section 8140 without substantive change.

CHAPTER 3. PROHIBITIONS

§ 14300. Prohibition against use of gear to take fish except as authorized

14300. It is unlawful to use or operate, or assist in using or operating, any net, trap, line, spear, or appliance, in taking fish, other than in connection with angling or as authorized by this code.

Comment. Section 14300 continues former Fish and Game Code Section 8603 without substantive change.

Note. As written, existing Section 8603 contains a blanket prohibition against the use of any type of net to take a fish, except in connection with angling, or “as provided in Chapter 3 or Chapter 4 of Part 3 of Division 6” of the existing code. The latter exception appears to be too narrow. There are other provisions of the code not located in either of those two chapters that authorize the use of nets to take fish in non-angling situations. See, e.g., existing Sections 8183(e) (bait net may be used to take anchovies), 8561(b) (drift gill net of specified size may be used to

1 take shark and swordfish). In proposed Section 14300, the exception was revised to include any
2 use of nets that is “authorized by this code.”

3 **The Commission invites comment on whether that proposed revision would cause any**
4 **problems.**

5 **§ 14305. Interference with use of fishing gear**

6 14305. (a) It is unlawful to willfully disturb or damage a net, trap, or other
7 apparatus that is being lawfully used to take fish in waters of this state.

8 (b) This section does not apply to a department employee engaged in the
9 performance of official duties.

10 **Comment.** Section 14305 continues former Fish and Game Code Section 8604 without
11 substantive change.

12 **§ 14310. Deterioration or waste**

13 14310. It is unlawful to cause or permit deterioration or waste of a fish taken in
14 the waters of this state, or brought into this state, or to take, receive, or agree to
15 receive more fish than can be used without deterioration, waste, or spoilage.

16 **Comment.** Section 14310 continues former Fish and Game Code Section 7704(a) without
17 substantive change.

18 **CHAPTER 4. REGULATION**

19 **§ 14350. Prohibition against use of gear to take fish except as authorized**

20 14350. The commission may make and enforce such regulations as may be
21 necessary or convenient for carrying out any power, authority, or jurisdiction
22 conferred under the following provisions:

23 (a) Section 14310.

24 (b) Section 21605.

25 (c) Section 21610.

26 (d) Section 21615.

27 (e) Section 21750.

28 (f) Section 21800.

29 (g) Section 21810.

30 (h) Section 21850.

31 (i) Section 21855.

32 (j) Section 22800.

33 (k) Section 22805.

34 (l) Section 22810.

35 (m) Section 22815.

36 (n) Section 23150.

37 (o) Section 42750.

38 **Comment.** Section 14350 continues former Fish and Game Code Section 7708 without
39 substantive change.

TITLE 2. COMMERCIAL FISHING

CHAPTER 1. LICENSE AND RELATED ENTITLEMENTS

Article 1. Requirements

§ 14500. Activity requiring license

14500. (a) Except for persons expressly exempted under this code, no person shall engage in any of the following activities without a commercial fishing license:

(1) Using, operating, or assisting in using or operating, any boat, aircraft, net, trap, line, or other device, to take a fish or amphibian, for a commercial purpose.

(2) Bringing, or contributing to bringing, a fish or amphibian ashore, for the purpose of selling the fish or amphibian in a fresh state.

(3) Materially contributing to the activities on board the commercial fishing vessel.

(b) Any person on board a commercial fishing vessel who is not required under subdivision (a) to hold a commercial fishing license shall register his or her presence on board the vessel in a log that is maintained by the owner or operator of the vessel pursuant to the requirements of the department.

(c) As used in subdivisions (a) and (b), the term “person” means a natural person 16 years of age or greater.

(d) This section does not apply to any of the following persons:

(1) The holder of a live freshwater bait fish license issued pursuant to Section 22100 when taking, transporting, or selling live freshwater fish for bait.

(2) A person employed by a fish receiver to unload fish or fish products, or load or unload food and supplies, on or from a commercial fishing boat at a dock.

Comment. Subdivision (a) of Section 14500 continues former Fish and Game Code Section 7850(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 7850(b) without substantive change.

Subdivision (c) continues the first sentence of former Fish and Game Code Section 7850(c) without substantive change.

Paragraph (1) of subdivision (d) continues former Fish and Game Code Section 7850(d) without substantive change.

Paragraph (2) of subdivision (d) continues former Fish and Game Code Section 7850.5 without substantive change.

Note. Existing Fish and Game Code Section 7850(c) (which would be continued by proposed Section 14500(c)) provides that the “persons” to whom the section applies do not include “persons who are less than 16 years of age, a partnership, corporation, or association.” This language, if interpreted literally, would indicate that the section may apply to other business entities, such as a limited liability company or trust. See existing Fish and Game Code Section 67 (“person” means “any natural person or any partnership, corporation, limited liability company, trust, or other type of association.”)

This application appears inadvertent, as several other sections of the code relating to commercial fishing licenses make clear that the licensee must be a natural person. See, e.g., existing Sections 7851 (application for license must indicate applicant's sex, height, weight, and eye and hair color), 7852.27 (when engaging in licensed activity, licensee must also have in his or her possession a valid driver's license, identification card, or passport).

Proposed Section 14500 would revise existing Section 7850(c) to indicate that the term "person" as used in the section includes only natural persons.

The Commission invites comment on the appropriateness of that revision.

§ 14505. Possession and display of identification

14505. (a) At all times when engaged in any activity for which a commercial fishing license is required, the licensee shall have in his or her possession, or immediately available to the licensee, a valid driver's license or identification card issued to him or her by the Department of Motor Vehicles, or by the entity issuing driver's licenses from the licensee's state of domicile.

(b) A current passport may be used in lieu of a valid driver's license or identification card by a holder of a valid nonresident commercial fishing license issued pursuant to this chapter.

(c) The licensee's driver's license, identification card or, if applicable, passport shall be exhibited upon demand to any person authorized by the department to enforce this code, or regulations adopted pursuant to this code.

Comment. Section 14505 continues the part of former Fish and Game Code Section 7852.27 applicable to commercial fishing licenses without substantive change.

Article 2. Issuance

§ 14550. Additional application requirements for license

14550. (a) An applicant for a commercial fishing license must be at least 16 years of age on the date the license is issued.

(b) An application for a commercial fishing license shall state the applicant's sex, age, height, weight, the color of eyes and hair, and whether or not the applicant is a citizen of the United States.

(c) Nothing in this section affects any other provision of law relating to the employment of minors.

Comment. Subdivision (a) of Section 14550 continues a part of former Fish and Game Code Section 7852(a) and (b) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 7851 without substantive change.

Subdivision (c) continues former Fish and Game Code Section 7852(e) without substantive change.

§ 14555. Denial of application based on prior dishonored check

14555. Notwithstanding any other provision of law, the department may deny the issuance or renewal of any license, permit, or other authorization to take or possess fish for commercial purposes, that are issued pursuant to this part, or the

1 renewal thereof, if the applicant for that authorization or renewal has, within the
2 preceding year, issued to the department a check that was dishonored by the bank
3 upon which the check was drawn and the person has failed to reimburse the
4 department for the amount due plus a fee of thirty dollars (\$30) and any
5 dishonored check charges incurred by the department.

6 **Comment.** Section 14555 continues the part of former Fish and Game Code Section 7852.25
7 applicable to licenses and other entitlements related to commercial fishing without substantive
8 change.

9 **§ 14560. Conditions of license or other entitlement**

10 14560. Unless otherwise specified, the following conditions apply to each
11 commercial fishing license, permit, or other entitlement issued to take, possess
12 aboard a boat, or land fish for commercial purposes issued by the department,
13 except licenses issued pursuant to Title 9 (commencing with Section 20150):

14 (a) The person to whom a commercial fishing permit or other entitlement is
15 issued shall have a valid commercial fishing license issued pursuant to this chapter
16 that is not revoked or suspended.

17 (b) The person to whom the commercial fishing license, permit, or other
18 entitlement is issued shall be present when fish are being taken, possessed aboard
19 a boat, or landed for commercial purposes. This subdivision does not apply to
20 commercial fishing vessel permits or licenses.

21 (c) The commercial fishing license, permit, or other entitlement shall be in the
22 licensee's, permittee's, or entitled person's possession, or immediately available to
23 the licensee, permittee, or entitled person at all times when engaged in any activity
24 for which the commercial fishing license, permit, or entitlement is required.

25 (d) Not more than one individual commercial fishing license, permit, or other
26 entitlement of a single type shall be issued to an individual person.

27 (e) Any landing of fish used to qualify for, or renew, a commercial fishing
28 license, permit, or other entitlement shall be reported on landing receipts delivered
29 to the department pursuant to Section 21150.

30 (f) In addition to any other requirements in Title 10 (commencing with Section
31 20900), the name of the person issued the commercial fishing license, permit, or
32 other entitlement authorizing the taking of the fish shall be included on the landing
33 receipt for that landing.

34 (g) An application for a commercial fishing license, permit, or other entitlement
35 shall be made on a form containing the information the department may require.
36 The commercial fishing license, permit, or other entitlement shall be signed by the
37 holder prior to use.

38 (h) Any person who has had a commercial fishing license, permit, or other
39 entitlement suspended or revoked shall not engage in that fishery, and shall not
40 obtain any other commercial fishing license, permit, or other entitlement that
41 authorizes engaging in that fishery, while the suspension or revocation is in effect.

1 (i) A commercial fishing license, permit, or other entitlement is not transferable
2 unless otherwise expressly specified in this code.

3 (j) Every commercial fishing license, permit, stamp, or other entitlement issued
4 pursuant to this part, except commercial fish business licenses issued pursuant to
5 Title 9 (commencing with Section 20150), is valid from April 1 to March 31 of the
6 next following calendar year or, if issued after the beginning of that term, for the
7 remainder thereof.

8 (k) A person who holds a commercial fishing license, permit, registration, or
9 other entitlement, who moves or acquires a new address shall notify the
10 department of the old and new addresses within three months of acquiring the new
11 address.

12 **Comment.** Section 14560 continues the part of former Fish and Game Code Section 7857(a),
13 (c)-(k), and (m) applicable to commercial fishing without substantive change.

14 **§ 14565. Additional conditions for limited entry fishery permit**

15 14565. In addition to the conditions specified in Sections 14560, 4870, 14760,
16 14850, 14855, and 14865, the following conditions apply to a permit, other than a
17 permit issued pursuant to Section 40350, to take, possess aboard a boat, or land
18 fish for commercial purposes in a limited entry fishery, as defined in Section 395:

19 (a) The permit shall be renewed annually.

20 (b) Except as otherwise provided by law, an appeal of a denial of renewal
21 application, or for a waiver of a landing requirement, shall be reviewed and
22 decided by the department.

23 (c) The appeal shall be received by the department or, if mailed, postmarked, on
24 or before March 31 following the permit year in which the appellant last held a
25 valid permit for that fishery.

26 (d) The decision of the department may be appealed to the commission.

27 **Comment.** Section 14565 continues former Fish and Game Code Section 7858 without
28 substantive change.

29 **Article 3. Fees**

30 **§ 14600. Fee**

31 14600. (a) The fee for a commercial fishing license is as follows:

32 (1) For a resident, a base fee of ninety-five dollars (\$95).

33 (2) For a nonresident, a base fee of two hundred eighty-five dollars (\$285).

34 (b) The base fees specified in this section are applicable to the 2004 license year,
35 and shall be adjusted annually thereafter pursuant to Section 3755.

36 (c) The commission shall adjust the amount of the fees specified in subdivision
37 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
38 and implementation costs of the department and the commission relating to those
39 licenses.

1 **Comment.** Section 14600 continues former Fish and Game Code Section 7852(a)-(d) without
2 substantive change.

3 **Note.** Proposed Section 14600(a) is intended to restate existing Fish and Game Code Section
4 7852(a)-(b) to clarify the meaning of those provisions, without changing their substantive effect.
5 The existing provisions read as follows:

6 7852. (a) The department shall issue a commercial fishing license to any resident who is 16
7 years of age or older, upon payment of a base fee of ninety-five dollars (\$95) for each resident
8 vessel crewmember or resident vessel operator.

9 (b) The department shall issue a commercial fishing license to any nonresident who is 16 years
10 of age or older, upon payment of a base fee of two hundred eighty-five dollars (\$285) for a
11 nonresident vessel crewmember or nonresident vessel operator.

12 **The Commission invites comment on whether the restatement of existing Section 7852(a)-**
13 **(b) in proposed Section 14600(a) would substantively change the intended meaning of the**
14 **existing provisions.**

15 **§ 14605. Late fee for renewal after deadline**

16 14605. Notwithstanding any other provision of law, a commercial fishing
17 license, stamp, permit, or other entitlement for which there is a renewal deadline
18 shall not be renewed after that deadline, except as follows:

19 (a) In addition to the base fee for the entitlement, the department shall assess a
20 late fee for any renewal application that is received after the deadline, according to
21 the following schedule:

22 (1) One to 30 days after the deadline, a fee of one hundred twenty-five dollars
23 (\$125).

24 (2) Thirty-one to 60 days after the deadline, a fee of two hundred fifty dollars
25 (\$250).

26 (3) Sixty-one days or more after the deadline, a fee of five hundred dollars
27 (\$500).

28 (b) The department shall not waive the applicable late fee. The late fees
29 specified in subdivision (a) are applicable to the 2008 license year, and shall be
30 adjusted annually thereafter pursuant to Section 3755.

31 (c) The department shall deny any application for renewal received after March
32 31 of the permit year following the year in which the applicant last held a valid
33 permit for that fishery.

34 (d) An applicant who is denied renewal of a late application by the department
35 may submit a written appeal of the denial to the commission, within 60 days of the
36 date of the department's denial. The commission, upon consideration of the
37 appeal, may grant the renewal. If the commission grants the renewal, it shall assess
38 the applicable late fee pursuant to subdivision (a).

39 **Comment.** Section 14605 continues former Fish and Game Code Section 7852.2 without
40 substantive change.

1 **§ 14610. Refund of fee based on death**

2 14610. (a) The department may refund the fee paid for a commercial fishing
3 license or stamp, or a commercial fishing permit to the estate of the deceased
4 holder of the license, stamp, or permit, if proof is provided by the estate that the
5 death of the holder occurred prior to the opening of the season for which the
6 license, stamp, or permit, was valid.

7 (b) The department may deduct from the refund an amount equal to the cost of
8 issuing the refund, not to exceed twenty-five dollars (\$25).

9 **Comment.** Section 14610 continues the part of former Fish and Game Code Section 7852.1
10 applicable to commercial fishing licenses and other entitlements without substantive change.

11 **§ 14615. Payment of fee by another**

12 14615. Any person, partnership, corporation, limited liability company, or
13 association may pay the fee for a commercial fishing entitlement issued to any
14 person.

15 **Comment.** Section 14615 generalizes the second sentence of former Fish and Game Code
16 Section 7850(c).

17 **Note.** Existing Fish and Game Section 7850(c) provides that business entities can pay for a
18 commercial fishing license for any person. This makes sense, as it allows businesses to pay for
19 licenses for their employees. The Commission sees no policy reason why this provision should
20 not be extended to other commercial fishing entitlements, as employees might also be required to
21 obtain those entitlements. Proposed Section 14615 has therefore been generalized to apply to all
22 commercial fishing entitlements.

23 **The Commission invites comment on this minor substantive change.**

24 **§ 14620. Commercial fishing ocean enhancement validation**

25 14620. (a) The base fee for a commercial fishing ocean enhancement validation
26 is thirty-five dollars (\$35). That base fee is applicable to the 2004 license year, and
27 shall be adjusted annually thereafter pursuant to Section 3755.

28 (b) The commission shall adjust the amount of the fee specified in subdivision
29 (a), as necessary, to fully recover, but not exceed, all reasonable administrative
30 and implementation costs of the department and the commission relating to the
31 validation.

32 **Comment.** Subdivision (a) of Section 14620 continues former Fish and Game Code Section
33 6596.1(d) and (f) (as applied to commercial fishing ocean enhancement validation) without
34 substantive change.

35 Subdivision (b) continues former Fish and Game Code Section 6596.1(g) (as applied to
36 commercial fishing ocean enhancement validation) without substantive change.

37 **Note.** Under existing law, the provisions of Section 6596.1 are governed by existing Section
38 6403, which makes the provisions of Section 6596.1 inapplicable to aquaculture business
39 activities. The continuation of Section 6596.1(d), (f), and (g) in this location would make Section
40 6403 (proposed Section 25400) inapplicable to those provisions. Technically, this would make
41 those provisions applicable to aquaculture business activities. However, the provisions appear to
42 have no application to such activities. For that reason, the change described in this Note would
43 seem to have no practical effect.

44 **The Commission invites comment on whether this change would be a problem.**

Article 4. Transfer

§ 14650. Deferral while enforcement pending

14650. An application to transfer any permit or other entitlement to take fish for commercial purposes shall be deferred if the current holder of the permit or other entitlement is awaiting final resolution of any pending criminal, civil, or administrative action that could affect the status of the permit or other entitlement.

Comment. Section 14650 continues former Fish and Game Code Section 7857(n) without substantive change.

Note. Proposed Section 14650 would continue Section 7857(n), which was added by 2018 Cal. Stat. ch. 189. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

CHAPTER 2. COMMERCIAL FISHING VESSELS

Article 1. Boat Registrations and Other Vessel Permits

§ 14750. Application of article

14750. This article does not apply to a person required to be licensed as a guide pursuant to Section 8805.

Comment. Section 14750 continues former Fish and Game Code Section 7881(e) without substantive change.

§ 14755. Activity requiring registration

14755. Every person who owns or operates a vessel in public waters in connection with fishing operations for profit in this state, or to bring fish into this state, or who, for profit, permits persons to fish from the vessel, shall submit an application for commercial boat registration on forms provided by the department, and shall be issued a registration number.

Comment. Section 14755 continues former Fish and Game Code Section 7881(a) without substantive change.

§ 14760. Term

14760. A commercial boat registration or other entitlement issued pursuant to this part authorizing the use of a vessel, is valid from April 1 to March 31 of the next following calendar year or, if issued after the beginning of that term, for the remainder of that term.

Comment. Section 14760 continues the part of former Fish and Game Code Section 7857(k) applicable to commercial boat registrations and related entitlements without substantive change.

§ 14765. Fee for registration

14765. (a) The fee for a commercial boat registration is as follows:

1 (1) For a resident owner or operator of a vessel, a base fee of two hundred fifty
2 dollars (\$250).

3 (2) For a nonresident owner or operator of a vessel, a base fee of seven hundred
4 fifty dollars (\$750).

5 (b) The base fees specified in subdivision (a) are applicable to the 2004 license
6 year, and shall be adjusted annually thereafter pursuant to Section 3755.

7 (c) The commission shall adjust the amount of the fees specified in subdivision
8 (b), as necessary, to fully recover, but not exceed, all reasonable administrative
9 and implementation costs of the department and the commission relating to those
10 licenses.

11 **Comment.** Subdivision (a) of Section 14765 continues the first sentences of former Fish and
12 Game Code Section 7881(b) and (c) without substantive change.

13 Subdivision (b) continues former Fish and Game Code Section 7881(f) without substantive
14 change.

15 Subdivision (c) continues former Fish and Game Code Section 7881(g) without substantive
16 change.

17 **§ 14770. Refund of fee based on death**

18 14770. (a) The department may refund the fee paid for a commercial boat
19 registration to the estate of the deceased holder of the registration, if proof is
20 provided by the estate that the death of the holder occurred prior to the opening of
21 the season for which the registration was valid.

22 (b) The department may deduct from the refund an amount equal to the cost of
23 issuing the refund, not to exceed twenty-five dollars (\$25).

24 **Comment.** Section 14770 continues the part of former Fish and Game Code Section 7852.1
25 applicable to commercial boat registrations without substantive change.

26 **§ 14775. Posting of registration on vessel**

27 14775. A commercial boat registration shall be carried aboard the vessel at all
28 times, and shall be posted in a conspicuous place.

29 **Comment.** Section 14775 continues the second sentences of former Fish and Game Code
30 Section 7881(b) and (c) without substantive change.

31 **§ 14780. Issuance of registration number**

32 14780. A person issued a commercial boat registration shall also be issued a
33 registration number.

34 **Comment.** Section 14780 continues a part of former Fish and Game Code Section 7881(a)
35 without substantive change.

36 **§ 14785. Display of registration number**

37 14785. (a) A person who owns or operates a vessel used in connection with
38 fishing operations for profit who has been issued a commercial boat registration
39 pursuant to this article shall display, for the purpose of identification, registration
40 number on the vessel in a manner designated by the department shall display on

1 the vessel, for the purpose of identification, the vessel's registration number, in a
2 manner specified by the department.

3 (b) The method of displaying the registration number on the vessel shall be
4 determined by the department after consultation with the Department of Boating
5 and Waterways, taking into consideration the responsibilities and duties of the
6 Department of Boating and Waterways as prescribed in the Harbors and
7 Navigation Code.

8 (c) The registration number is not transferable, and shall be a permanent fixture
9 on the vessel for which it is issued.

10 **Comment.** Section 14785 continues former Fish and Game Code Section 7880 without
11 substantive change.

12 **§ 14790. Report of lost, destroyed, or sold vessel**

13 14790. If a registered vessel is lost, destroyed, or sold, the owner of the vessel
14 shall immediately report the loss, destruction, or sale to the department.

15 **Comment.** Section 14790 continues former Fish and Game Code Section 7881(d) without
16 substantive change.

17 **Article 2. Obligations and Prohibitions**

18 **§ 14850. Change of address**

19 14850. A person who moves or acquires a new address after being issued a
20 commercial boat registration or other entitlement authorizing the use of a vessel
21 shall notify the department of the old and new addresses within three months of
22 moving or acquiring the new address.

23 **Comment.** Section 14850 continues the part of former Fish and Game Code Section 7857(m)
24 applicable to commercial boat registrations and related entitlements without substantive change.

25 **§ 14855. Additional application requirement for permit or other entitlement**

26 14855. A person who applies for a commercial fishing vessel permit or other
27 entitlement authorizing the use of a vessel for commercial fishing other than a
28 commercial boat registration shall also hold a valid commercial boat registration
29 for that vessel issued pursuant to Section 14755 that has not been suspended or
30 revoked.

31 **Comment.** Section 14855 continues former Fish and Game Code Section 7857(l) without
32 substantive change.

33 **§ 14860. Required insurance**

34 14860. An owner of a vessel on which a person who is at least 16 but less than
35 18 years of age, and required to be licensed under Section 14550, is working, shall
36 obtain, and maintain in full force and effect at all times that a person is working on
37 or about the vessel, a policy of insurance that provides indemnification for
38 accident or injury to that person.

1 **Comment.** Section 14860 restates former Fish and Game Code Section 7852.4 without
2 substantive change.

3 **Note.** Proposed Section 14860 is intended to restate existing Fish and Game Code Section
4 7852.4 to clarify the meaning of that provision, without changing its substantive effect. The
5 existing provision reads as follows:

6 7852.4. The owner of a vessel upon which a person who is at least 16, but less than 18, years of
7 age, and who is licensed under Section 7852 is working shall obtain, and maintain in full force
8 and effect at all times that a person is working on or about the vessel, a policy of insurance that
9 provides indemnification to the person licensed under Section 7852 in case of accident or injury
10 while working on or about the vessel.

11 **The Commission invites comment on whether this restatement of existing Fish and Game**
12 **Code Section 7852.4 would substantively change the intended meaning of the existing**
13 **provision.**

14 **§ 14865. Prohibition against multiple entitlements of same type**

15 14865. Not more than one commercial vessel fishing license, permit, or other
16 entitlement of a single type shall be issued for a single vessel.

17 **Comment.** Section 14865 continues the part of former Fish and Game Code Section 7857(e)
18 applicable to commercial fishing vessels without substantive change.

19 **§ 14870. Preparation of fish on commercial fishing vessel for human consumption**

20 14870. Notwithstanding any other provision of this code governing commercial
21 fishing, except as provided in Section 14875, Section 14880, or when prohibited
22 by federal law, fish may be prepared for human consumption aboard a commercial
23 fishing vessel only under the following conditions:

24 (a) The fish was taken in compliance with all existing commercial fishing laws
25 and regulations and is of a species and size that can be lawfully taken under
26 sportfishing regulations in the area where taken.

27 (b) The fish was taken incidental to normal commercial fishing operations.

28 (c) The fish is kept separated from other fish, and stored with other foodstuff for
29 consumption by the crew and passengers aboard the vessel.

30 (d) The fish is not bought, sold, offered for sale, transferred to another person,
31 landed, brought ashore, or used for a purpose other than consumption by the crew
32 and passengers.

33 (e) The fish is maintained in a condition that its species can be determined, and
34 if a size or weight limitation applies, its size or weight can be determined, until the
35 fish is prepared for immediate consumption.

36 (f) If the fish is filleted, a patch of skin is retained on each fillet as prescribed by
37 the commission in its sportfishing regulations, until the fish is prepared for
38 immediate consumption.

39 (g) Fillets from fish possessed under sportfishing regulations shall be of the
40 minimum length prescribed by commission sportfishing regulations.

(h) The quantity of fish prepared shall not exceed the aggregate sportfishing bag limit for that fish applicable to the total number of crew members and passengers on board the vessel.

Comment. Subdivisions (a) through (g) of Section 14870 continue former Fish and Game Code Section 7856(a)-(d) without substantive change.

Subdivision (h) restates former Fish and Game Code Section 7856(e) without substantive change.

Note. Proposed Section 14870(h) is intended to restate existing Fish and Game Code Section 7856(e) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

A fish that may be possessed under sportfishing regulations shall not be possessed in excess of the sport bag limit for each crew member and passenger on board the vessel.

The Commission invites comment on whether this restatement of existing Fish and Game Code Section 7856(e) would substantively change the intended meaning of the existing provision.

§ 14875. Possession of specified fish on board commercial fishing vessel

14875. (a) Notwithstanding Section 14870, kelp bass, sand bass, spotted bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip.

(b) Lobster, salmon, or abalone shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip for preparation for human consumption pursuant to this section unless that lobster, salmon, or abalone is taken and possessed in compliance with all applicable laws pertaining to commercial fishing methods of take, licenses, permits, and size limits.

(c) Sturgeon or striped bass shall not be possessed aboard a commercial fishing vessel.

Comment. Section 14875 continues the first three sentences of former Fish and Game Code Section 7856(f) without substantive change.

§ 14880. Take or possession pursuant to sportfishing license

14880. No person shall take or possess any fish pursuant to a sportfishing license while on a commercial fishing vessel engaged in a commercial fishing activity, including going to or from an area where fish are taken for a commercial purpose.

Comment. Section 14880 continues the fourth sentence of former Fish and Game Code Section 7856(f) without substantive change.

Article 3. Fuel Conservation Assistance Program

§ 15000. Purpose of program

15000. The California Energy Extension Service of the Office of Planning and Research shall implement a revolving loan fund program to assist low-income

1 fishing fleet operators reduce their energy costs and conserve fuel by providing
2 low-interest loans to those operators.

3 **Comment.** Section 15000 continues former Fish and Game Code Section 9100 without
4 substantive change.

5 **§ 15005. Report to Legislature**

6 15005. Commencing January 1, 1994, and thereafter biennially, the California
7 Energy Extension Service of the Office of Planning and Research shall report to
8 the Legislature on the status of the loan program, including the number and the
9 amounts of loans made, the amount of loans repaid, and a comparison of the ethnic
10 background of the loan recipients with the ethnic background of the low-income
11 fishing fleet operators.

12 **Comment.** Section 15005 continues former Fish and Game Code Section 9101 without
13 substantive change.

14 **CHAPTER 3. AIRCRAFT**

15 **§ 15050. Required registration**

16 15050. A person who owns or operates an aircraft used in connection with
17 commercial fishing operations in this state shall obtain a commercial aircraft
18 registration for that aircraft from the department.

19 **Comment.** Section 15050 continues the first sentence of former Fish and Game Code Section
20 7892 without substantive change.

21 **§ 15055. Requirement that registration be carried onboard**


22 15055. A commercial aircraft registration issued pursuant to Section 15050 shall
23 be carried aboard the aircraft at all times when the aircraft is used in connection
24 with commercial fishing operations.

25 **Comment.** Section 15055 continues the second sentence of former Fish and Game Code
26 Section 7892 without substantive change.

27 **§ 15060. Fee for registration**

28 15060. The fee for a commercial aircraft registration shall be two hundred
29 dollars (\$200).

30 **Comment.** Section 15060 continues the third sentence of former Fish and Game Code Section
31 7892 without substantive change.

32  **Note.** Unlike many license fee provisions in the existing Fish and Game Code, the fee
33 provision in existing Section 7892 does not expressly provide for annual adjustment pursuant to
34 existing Section 713.

35 **Is this adjustment nevertheless understood to be applicable to this fee?**

CHAPTER 4. GEOGRAPHIC RESTRICTIONS

Article 1. Take

§ 15100. Take in Tomales Bay

15100. (a) It is unlawful to take fish for a commercial purpose in that portion of Tomales Bay in District 2590 between a line drawn from the most northern tip of Tomales Point northeast, 47° magnetic, to the opposite shore in the vicinity of Dillon Beach, and a line drawn west from the western tip of Tom's Point, 252° magnetic, to the opposite eastern shore of Tomales Point.

(b) This section does not apply to the taking of oysters by persons licensed under Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6, from their allotted areas.

Comment. Section 15100 restates former Fish and Game Code Section 8398 without substantive change.

Note. The statutory article referenced in the second paragraph of existing Fish and Game Code Section 8398 (which would be continued by proposed Section 15100(b)) was repealed in 1971, and was not clearly continued elsewhere in the code. See 1971 Cal. Stat. ch. 347. The cultivation of oysters is now more generally regulated under the aquaculture provisions of the existing code, and pursuant to oyster leases. See existing Fish and Game Code Sections 15406.5, 15406.7.

The Commission invites comment on how to properly continue this aspect of existing Section 8398.

§ 15105. Take only in baitfish traps

15105. (a) California killifish (*Fundulus parvipinnis*), mudsuckers (*Gillichthys mirabilis*), and yellowfin gobies (*Acanthogobius flavimanus*) may only be taken for a commercial purpose with baitfish traps in the tidewaters of Districts 2545, 2550, 2555, 2565, 2610, 2615, and 2650, in the tidewaters of District 2590 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.

(b) Shiner perch (*Cymatogaster aggregata*), staghorn sculpin (*Leptocottus armatus*), mudsuckers (*Gillichthys mirabilis*), and yellowfin gobies (*Acanthogobius flavimanus*) may only be taken for a commercial purpose with baitfish traps in Districts 2595, 2600, and 2605, and in the tidewaters of Districts 2525 and 2535.

(c) Any unauthorized species taken incidentally in a baitfish trap in a district listed in subdivision (a) or (b) shall be immediately released.

(d) Baitfish traps, as described in Section 19610, may be used subject to Title 6 (commencing with Section 19150) of Part 6 of Division 6.

Comment. Section 15105 continues former Fish and Game Code Section 8400 without substantive change.

Note. Proposed Section 15100(d) is intended to restate existing Fish and Game Code Section 8400(d) without changing its substantive effect. Section 8400(d) reads as follows:

Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing with Section 9000) of Chapter 4.

The Commission invites comment on whether restatement of Section 8400(d) would substantively change its intended meaning.

Article 2. Sale or Purchase

§ 15150. Sale or purchase of fish in District 2670 or Smith River

15150. (a) It is unlawful to sell or purchase any fresh, canned, or cured fish taken in District 2670, or in the waters of the Smith River.

(b) Nothing in this article applies to trout grown pursuant to Part 1 (commencing with Section 23300) of Division 7.

Comment. Subdivision (a) of Section 15150 continues former Fish and Game Code Section 8434 without substantive change.

Subdivision (b) continues the part of former Fish and Game Code Section 8433 applicable to former Fish and Game Code Section 8434 without substantive change.

Article 3. Out-of-State Delivery of Fish

§ 15200. Permit to deliver fish out of state

15200. (a) Section 1110 as added to the former Fish and Game code by the initiative measure adopted at the General Election of November 8, 1938, is set forth in subdivision (b).

(b) The law relating to the subject of control of fishing in state waters when delivery is to points beyond state waters was adopted as an initiative measure at the General Election of November 8, 1938. The reference to Section 845 in the last sentence is to Sections 4975, 4980, 4986, and subdivision (a) of Section 15400. The initiative measure reads as follows:

1110—No person shall use or operate or assist in using or operating in this State or the waters thereof, any boat or vessel used in connection with fishing operations, irrespective of its home port or port of registration, which delivers or by which there is delivered to any place other than within this State any fish, mollusks or crustaceans which are caught in, or taken aboard said boat or vessel from, the waters of the Pacific Ocean within this State, or on the high seas, or elsewhere, unless a permit authorizing the same shall have been issued by the Fish and Game Commission.

Where it appears to the commission that such permit will not tend to prevent, impede or obstruct the operation, enforcement, or administration of this code or any provision thereof, and will not tend to result in fish, mollusks or crustaceans in the waters of this State being taken or used otherwise than is authorized by this code, the commission may issue revocable permits under such rules and regulations and upon such terms and conditions as it may prescribe to deliver fish, mollusks or crustaceans by the use of such boat or vessel outside of this State,

provided that nothing herein shall authorize the transportation or carrying out of this State or any district thereof, of any fish, mollusks or crustaceans where the same is prohibited by law, and no permit shall be issued which may tend to deplete any species of fish, mollusk or crustacean, or result in waste thereof. Any person who uses or operates or assists in using or operating any boat or vessel in violation of the provisions of this section is guilty of a misdemeanor and such boat or vessel and the net, gear or other equipment of said boat or vessel is a public nuisance and shall be forfeited. It is the duty of every person authorized to make an arrest for the violation of any of the provisions of this code, to seize and keep such boat, vessel, net, gear or other equipment and to report such seizure to the commission. The commission shall thereupon commence, in the superior court of the county or city and county in which or nearest to which the seizure is made, proceedings for forfeiture of the seized property for its use in violation of this section, and such proceeding shall be had in the manner and according to the procedure provided by Section 845 of this code for the forfeiture of nets.

Comment. Subdivision (a) of Section 15200 continues former Fish and Game Code Sections 1110 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 7891 without substantive change.

Note. Former Fish and Game Code Section 1110 was added in 1938 by an initiative statute, Proposition 5. That provision was continued as Fish and Game Code Section 7891 when the code was recodified in 1957. See 1957 Cal. Stat. ch. 456. In that legislation, Section 1110 was amended to serve as a cross-reference to Section 7891. The Commission believes that the nonsubstantive continuation of those provisions in proposed Section 15200 would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

TITLE 3. NETS GENERALLY

CHAPTER 1. GENERAL PROVISIONS

§ 15300. Length of meshes

15300. The length of the meshes of a net shall be determined by taking at least four meshes and measuring them inside the knots or, in the case of knotless nets, inside the points at which the meshes are joined while they are simultaneously drawn closely together.

Comment. Section 15300 continues former Fish and Game Code Section 8602 without substantive change.

§ 15305. Use near pier, wharf, jetty, breakwater, or dock

15305. Notwithstanding Sections 15500, 15510, 15915, and 18210, the commission may, after a public hearing, when it determines that it is in the best interests of the state's marine resources and fisheries, adopt regulations, authorizing the use of nets not less than 75 feet from any private pier, wharf, jetty,

breakwater, or dock, and restricting the use of the nets within 750 feet of any public pier. However, nothing in this section authorizes the commission to adopt regulations which would extend beyond the maximum of 750 feet the area in which the use of nets is prohibited, as specified in Sections 15500, 15510, 15915, and 18210, or which would prohibit the use of any nets within 75 feet of any private pier, wharf, jetty, breakwater, or dock if that use of the net is permitted by law.

Comment. Section 15305 continues former Fish and Game Code Section 8608 without substantive change.

§ 15310. Recovery of isolated fish

15310. The department or any person authorized by it may use any net or other appliance in any district for the purpose of recovering fish from overflowed areas or landlocked sloughs or ponds where they have been left isolated by receding streams or floodwaters.

Comment. Section 15310 continues former Fish and Game Code Section 8605 without substantive change.

CHAPTER 2. PUBLIC NUISANCE

§ 15400. Seizure

15400. Any net or trap used for taking fish in violation of the provisions of this code is a public nuisance. It is the duty of every person authorized to make an arrest for such a violation to seize and keep the net and report the seizure to the department.

Comment. Section 15400 continues the first paragraph of former Fish and Game Code Section 8630 without substantive change.

See also Sections 4975-4988 (seizure).

Note. Existing Section 8630 initially refers to a “net or trap,” but then only refers to a trap. The rules for when a trap must be seized as a nuisance are provided in existing Sections 9007 and 9008. The reference to a trap in Section 8630 may have been erroneous. **The Commission invites comment on whether the reference to a trap should be deleted from proposed Section 15400(a).**

CHAPTER 3. SPECIAL RULES FOR IDENTIFIED WATERS

Comment. The provisions appearing in this chapter and in Chapter 3 (commencing with Section 17000) of Title 4 together continue the provisions of former Article 4 (commencing with Section 8660) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, which are governed by Section 4(b) of Article X B of the California Constitution.

§ 15500. Districts 2625 and 2630

15500. Nothing in this chapter or in Chapter 3 (commencing with Section 17000) of Title 4 authorizing the use of nets in District 2625 or 2630 shall authorize the use of any net within 750 feet of any pier, wharf, jetty, or

1 breakwater, except that dip nets may be used subject to the provisions of Chapter 9
2 (commencing with Section 16400) of Title 4.

3 **Comment.** Section 15500 continues former Fish and Game Code Section 8660.

4 Section 15500 is governed by Section 16865, a section that codifies and implements Section 4
5 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
6 impairment of constitutional requirements, former Section 8660 has been continued without
7 change, except to update cross-references to reflect renumbering required by the enactment of this
8 code.

9 When enacting the bill that added this section, the Legislature did not evaluate the relationship
10 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

11 **§ 15505. Districts 2630 and 2640**

12 15505. Vessels may carry nets across Districts 2630 and 2640 to open water
13 outside those districts. Vessels carrying nets may enter harbors in Districts 2630
14 and 2640 only in cases of distress or emergency.

15 **Comment.** Section 15505 continues former Fish and Game Code Section 8661.

16 Section 15505 is governed by Section 16865, a section that codifies and implements Section 4
17 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
18 impairment of constitutional requirements, former Section 8661 has been continued without
19 change, except to update cross-references to reflect renumbering required by the enactment of this
20 code.

21 When enacting the bill that added this section, the Legislature did not evaluate the relationship
22 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

23 **§ 15510. District 2685**

24 15510. In District 2685, a net may not be used within 750 feet of any pier or
25 dock, except for bait nets described in Section 235 used to capture live bait and
26 lobster traps authorized for use pursuant to Sections 49700, 49705, and 49710.

27 **Comment.** Section 15510 continues former Fish and Game Code Section 8665.

28 Section 15510 is governed by Section 16865, a section that codifies and implements Section 4
29 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
30 impairment of constitutional requirements, former Section 8665 has been continued without
31 change, except to update cross-references to reflect renumbering required by the enactment of this
32 code.

33 When enacting the bill that added this section, the Legislature did not evaluate the relationship
34 of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

35 **§ 15515. Area upstream from Antioch area**

36 15515. No gill net, trammel net, or fyke net may be possessed on a boat in the
37 waters of any district lying upstream from a line drawn between Antioch Point and
38 the westerly tip of Kimball Island and from a line drawn from Point Sacramento
39 across the stream and touching the most easterly point on Montezuma Island.

40 **Comment.** Section 15515 continues former Fish and Game Code Section 8663.

41 Section 15515 is governed by Section 16865, a section that codifies and implements Section 4
42 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible
43 impairment of constitutional requirements, former Section 8663 has been continued without
44 change.

When enacting the bill that added this section, the Legislature did not evaluate the relationship of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

§ 15520. Area in or near Klamath, Smith, Eel, Mad, Van Dusen, or Mattole Rivers

15520. Except in Districts 2570 and 2575, any net found in, or within 500 feet of the Klamath, Smith, Eel, Mad, Van Dusen, or Mattole Rivers, or their tributaries, is prima facie evidence that the owner or person in possession of the net is or has been using it unlawfully.

The provisions of this section do not apply to trawl or drag nets being transported.

Comment. Section 15520 continues former Fish and Game Code Section 8664.

Section 15520 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible impairment of constitutional requirements, former Section 8664 has been continued without change, except to update cross-references to reflect renumbering required by the enactment of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

§ 15525. Take of mullet or carp in Salton Sea and New and Alamo Rivers

15525. No fish other than mullet or carp, and no mullet less than 14 inches in length may be taken or possessed by a licensed commercial fisherman while fishing in the Salton Sea or the New and Alamo Rivers.

Comment. Section 15525 continues former Fish and Game Code Section 8667.

Section 15525 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible impairment of constitutional requirements, former Section 8667 has been continued without change.

When enacting the bill that added this section, the Legislature did not evaluate the relationship of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

Note. Existing Section 8667 (which would be continued by proposed Section 15525) appears in the existing code in an article entitled “Nets Generally in Particular Districts.” As a result, proposed Section 15525 has been located, along with the continuations of the other provisions in that existing article, in a Title entitled “Nets Generally.”

However, Section 8667 may apply to take by means other than the use of net, and the placement of proposed Section 15525 in a title referring only to nets could create confusion, or prevent some readers from being aware of the provision.

The Commission invites comment on whether the proposed location of proposed Section 15525 is problematic.

§ 15530. Salton Sea and New and Alamo Rivers

15530. No commercial fishing under Section 17025, 15525, or 15535, shall be carried on within the boundaries of any state or federal game refuge.

Comment. Section 15530 continues former Fish and Game Code Section 8668.

Section 15530 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible impairment of constitutional requirements, former Section 8668 has been continued without

change, except to update cross-references to reflect renumbering required by the enactment of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

Note. Existing Section 8668 (which would be continued by proposed Section 15530) appears in the existing code in an article entitled “Nets Generally in Particular Districts.” As a result, proposed Section 15530 has been located, along with the continuations of the other provisions in that existing article, in a Title entitled “Nets Generally.”

However, Section 8668 appears to have a significantly broader application than to the use of nets, and the placement of proposed Section 15530 in a title referring only to nets could create confusion, or prevent some readers from being aware of the provision.

The Commission invites comment on whether the proposed location of proposed Section 15530 is problematic.

§ 15535. Possession of certain gear near Salton Sea and New and Alamo Rivers

15535. It is unlawful to possess gill nets, seines, or other devices capable of being used to take mullet or carp for commercial purposes, within 500 yards of the Salton Sea and those portions of the New and Alamo Rivers designated as commercial fishing waters lying in District 2655, except during such open season as may be prescribed by the commission.

Comment. Section 15535 continues former Fish and Game Code Section 8669.

Section 15535 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible impairment of constitutional requirements, former Section 8669 has been continued without change, except to update cross-references to reflect renumbering required by the enactment of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship of this section to Section 16865 or Article X B of the California Constitution. See Section 16800.

Note. Existing Section 8669 (which would be continued by proposed Section 15535) appears in the existing code in an article entitled “Nets Generally in Particular Districts.” As a result, proposed Section 15535 has been located, along with the continuations of the other provisions in that existing article, in a Title entitled “Nets Generally.”

However, Section 8669 appears to have a broader application than to the use of nets, and the placement of proposed Section 15535 in a title referring only to nets could create confusion, or prevent some readers from being aware of the provision.

The Commission invites comment on whether the proposed location of proposed Section 15535 is problematic.

§ 15540. Waters upstream from Carquinez Bridge

15540. It is unlawful for any person to use, operate, or assist in using or operating any net to take salmon, steelhead, striped bass, sturgeon, or shad for commercial purposes in any of the tidal waters lying upstream from the Carquinez Bridge, or to possess on any boat in these waters any net the use of which is illegal in such waters.

Comment. Subdivision (a) of Section 15540 continues former Fish and Game Code Section 8670.

Subdivision (a) is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1. To avoid any possible

1 impairment of constitutional requirements, former Section 8670 has been continued in the
2 subdivision without change.

3 When enacting the bill that added this section, the Legislature did not evaluate the relationship
4 of any provision of this section to Section 16865, or to Article X B of the California Constitution.
5 See Section 16800.

6 See also Section 4950 (enforcement).

7 CHAPTER 4. SET NETS

8 Article 1. General Provisions

9 § 15600. “Set net”

10 15600. (a) “Set net” means either of the following:

11 (1) A net used to take fish that is anchored to the bottom on each end and is not
12 free to drift with the tide or current.

13 (2) A net placed so that it will catch or impound fish within a bight, bay, or
14 estuary, or against the shore upon the receding of the tide.

15 (b) Notwithstanding subdivision (a), the following nets are not set nets:

16 (1) A fyke net.

17 (2) A shrimp net.

18 (3) A crab net.

19 **Comment.** Section 15600 generalizes the part of former Fish and Game Code Section 8601
20 applicable to set nets.

21 See also Section 5000 (enforcement).

22 § 15605. Markings

23 15605. (a) A set net shall be marked at both ends with buoys displaying above
24 their waterlines, in numerals at least 2 inches high, the commercial fishing license
25 identification number of the owner of the net.

26 (b) Each piece or panel of a set net shall be marked along the corkline of the net,
27 in a manner determined by the department to adequately identify the net, with the
28 commercial fishing license identification number of the owner of the net. The
29 distance between the markings shall not exceed 45 fathoms.

30 **Comment.** Subdivision (a) of Section 15605 continues the part of former Fish and Game Code
31 Section 8601.5(a) applicable to set nets without substantive change.

32 Subdivision (b) continues the first two sentences of former Fish and Game Code Section
33 8601.5(b) without substantive change.

34 **Notes.** (1) Existing Fish and Game Code Sections 8601.5(a) (and (b) both reference “the
35 fisherman’s identification number.” Existing Fish and Game Code Section 9029(c) provides that,
36 for purposes of Section 8601.5, “fisherman’s identification number” means the number of the
37 person’s commercial fishing license issued pursuant to Section 7850.” Proposed Section 15605
38 would incorporate that clarification.

39 (2) Is the “fisherman” in the phrase “fisherman’s identification number” intended to be the
40 commercial fisherman who *owns* the net, or the commercial fisherman *fishing* with the net?
41 Because much of the remainder of Section 8601.5 appears to focus substantially on the
42 responsibility of the owner of the net, the Commission reads these provisions as intended to

1 identify the owner of the net, rather than the user, and proposed Section 15605(a) and (b) would
2 expressly reflect that interpretation.

3 **The Commission invites comment on the appropriateness of this revision.**

4 **§ 15610. Breaking strength of footrope**

5 15610. The footrope (leadline) of any set net shall have a breaking strength of at
6 least 50 pounds less than the combined breaking strength of the headrope and
7 corkline.

8 **Comment.** Section 15610 continues former Fish and Game Code Section 8601.6(a) without
9 substantive change.

10 **§ 15615. Lost net**

11 15615. (a) If a person is unable to recover a set net or portion of a set net, the
12 person shall contact one of the department offices located in the cities of Belmont,
13 Monterey, Los Alamitos, or San Diego, not later than 72 hours after returning to
14 port following the loss, and shall report all of the following information:

15 (1) The date and time when the net was lost.

16 (2) The location, including depth, where the net was lost.

17 (3) A description of the lost net, including the mesh size, length, height, and
18 target species, and whether anchors remain attached to the net.

19 (4) The name and commercial fishing license identification number of the owner
20 of the net.

21 (5) The name and commercial fishing license identification number of the
22 person fishing with the net, if different from the owner of the net.


23 (6) The name and commercial boat registration number of the vessel from which
24 the lost net was being fished.

25 (b) If the lost or abandoned net is recovered by the department or persons
26 designated by the department, the commission may require the owner of the lost or
27 abandoned net to pay for all recovery costs.

28 **Comment.** Subdivision (a) of Section 15615 continues former Fish and Game Code Section
29 8601.5(c) without substantive change.

30 Subdivision (b) continues the third sentence of former Fish and Game Code Section 8601.5(b)
31 without substantive change.

32 See also Section 5000 (enforcement).

33  **Note.** Existing Fish and Game Code Section 8601.5(c)(4) and (5) both reference a
34 “fisherman’s identification number.” Based on a reference in Section 8601.5(c)(6) to what is
35 described as a “California Fish and Game number” of an identified *vessel*, the Commission reads
36 the reference to an identification number in Sections 8601.5(c)(4) and (5) as referring to a
37 commercial fishing license identification number.

38 **The Commission invites comment on whether that interpretation is correct.**

CHAPTER 5. ROUND HAUL NETS

Article 1. General Provisions

§ 15650. “Round haul net”

15650. As used in this chapter, “round haul net” means a circle seine, and includes a purse seine, ring net, half ring net, and lampara net.

Comment. Section 15650 generalizes former Fish and Game Code Section 8750.

Article 2. Special District Rules

§ 15700. District 2505

15700. In District 2505, a round haul net shall not be possessed on a boat.

Comment. Section 15700 continues the part of former Fish and Game Code Section 8751 applicable to former Fish and Game District 1 without substantive change.

§ 15705. District 2525

15705. In District 2525, a round haul net shall not be possessed on a boat, except in the part of the district lying within Marin County.

Comment. Section 15705 continues the part of former Fish and Game Code Section 8751 applicable to former Fish and Game District 2 without substantive change.

§ 15710. District 2540

15710. In District 2540, a round haul net shall not be possessed on a boat, except within the boundaries of Moss Landing Harbor District.

Comment. Section 15710 continues the part of former Fish and Game Code Section 8751 applicable to former Fish and Game District 3 without substantive change.

§ 15715. District 2570

15715. In District 2570, purse nets and round haul nets may be used.

Comment. Section 15715 continues the part of former Fish and Game Code Section 8752 applicable to former Fish and Game District 6 without substantive change.

Note. It is the Commission’s understanding that a purse net is one type of round haul net.

If this is correct, can the separate reference to purse nets in proposed Section 15715 and similarly worded provisions that follow be deleted as superfluous?

§ 15720. District 2575

15720. In District 2575, purse nets and round haul nets may be used.

Comment. Section 15720 continues the part of former Fish and Game Code Section 8752 applicable to former Fish and Game District 7 without substantive change.

§ 15725. District 2580

15725. In District 2580, purse nets and round haul nets may be used.

1 **Comment.** Section 15725 continues the part of former Fish and Game Code Section 8752
2 applicable to former Fish and Game District 8 without substantive change.

3 **§ 15730. District 2585**

4 15730. In District 2585, purse nets and round haul nets may be used.

5 **Comment.** Section 15730 continues the part of former Fish and Game Code Section 8752
6 applicable to former Fish and Game District 9 without substantive change.

7 **§ 15735. District 2590**

8 15735. In District 2590, purse nets and round haul nets may be used.

9 **Comment.** Section 15735 continues the part of former Fish and Game Code Section 8752
10 applicable to former Fish and Game District 10 without substantive change.

11 **§ 15740. District 2595**

12 15740. In District 2595, purse nets and round haul nets may be used.

13 **Comment.** Section 15740 continues the part of former Fish and Game Code Section 8752
14 applicable to former Fish and Game District 11 without substantive change.

15 **§ 15745. District 2610**

16 15745. In District 2610, purse nets and round haul nets may be used.

17 **Comment.** Section 15745 continues the part of former Fish and Game Code Section 8754
18 applicable to former Fish and Game District 16 without substantive change.

19 **§ 15750. District 2615**

20 15750. In District 2615, purse nets and round haul nets may be used.

21 **Comment.** Section 15750 continues the part of former Fish and Game Code Section 8754
22 applicable to former Fish and Game District 17 without substantive change.

23 **§ 15755. District 2620**

24 15755. In District 2620, purse nets and round haul nets may be used.

25 **Comment.** Section 15755 continues the part of former Fish and Game Code Sections 8754
26 applicable to former Fish and Game District 18 without substantive change.

27 **§ 15760. District 2625**

28 15760. (a) In District 2625, purse nets and round haul nets may be used, except
29 as otherwise provided in this section.

30 (b) Purse seines or ring nets may not be used in that portion of the district lying
31 within three miles offshore from the line of the high-water mark along the coast of
32 Orange County from sunrise Saturday to sunset Sunday from May 1 to September
33 10, inclusive.

34 (c) Purse seine or ring nets may not be used from May 1 to September 10,
35 inclusive, in the following portions of the district:

36 (1) Within a two-mile radius of Dana Point.

37 (2) Within a two-mile radius of San Mateo Point.

(3) Within two miles offshore from the line of the high-water mark along that portion of the coast of Orange County lying between the northernmost bank of the mouth of the Santa Ana River and a point on that coast six miles south therefrom.

(d) Subdivisions (b) and (c) do not apply to the use of a round haul net to take fish for use or sale as live bait. It is unlawful to buy, sell, or possess any dead fish taken under the authority of this subdivision, in any place of business where fish are bought, sold, or processed.

Comment. Section 15760(a)-(c) continues the part of former Fish and Game Code Section 8754 applicable to former Fish and Game District 19 without substantive change.

Subdivision (d) continues the part of former Fish and Game Code Section 8757 applicable to former Fish and Game District 19 without substantive change.

Note. Proposed Section 15760(a)-(d) is intended to combine and restate the parts of existing Fish and Game Code Sections 8754 and 8757 that apply to existing Fish and Game District 19, to clarify the meaning of those provisions without changing their substantive effect. The existing provisions read as follows:

8754. In Districts 16, 17, 18, and 19, purse and round haul nets may be used, except that purse seines or ring nets may not be used in that portion of District 19 lying within three miles offshore from the line of the high-water mark along the coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to September 10, inclusive.

Purse seine or ring nets may not be used from May 1 to September 10, inclusive, in the following portions of District 19:

(a) Within a two-mile radius of Dana Point.

(b) Within a two-mile radius of San Mateo Point.

(c) Within two miles offshore from the line of the high-water mark along that portion of the coast of Orange County lying between the northernmost bank of the mouth of the Santa Ana River and a point on that coast six miles south therefrom.

8757. Notwithstanding Section 8661, and in addition to Sections 8754, 8755, and 8780, round haul nets may be used to take fish in those portions of Districts 19 and 20 that are closed to the use of round haul nets by Sections 8754 and 8755 and in Districts 19A and 19B, but only for use or sale of those fish for live bait and subject to the following restrictions:

(a) In Districts 19A and 19B, round haul nets may not be used within 750 feet of any public pier.

(b) It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any dead fish taken under the authority of this section.

The Commission invites comment on whether the combination and restatement of the parts of existing Fish and Game Code Sections 8754 and 8757 applicable to existing Fish and Game District 19 in proposed Section 15760 would substantively change the intended meaning of the existing provisions.

§ 15765. District 2630

15765. In District 2630, notwithstanding Section 15505, a round haul net may be used to take fish for use or sale as live bait, subject to the following restrictions:

(a) The net shall not be used within 750 feet of any public pier.

(b) It is unlawful to buy, sell, or possess any dead fish taken under the authority of this section, in any place of business where fish are bought, sold, or processed.

Comment. Section 15765 continues the part of former Fish and Game Code Section 8757 applicable to former Fish and Game District 19A without substantive change.

§ 15770. District 2635

15770. In District 2635, a round haul net may be used to take fish for use or sale as live bait, subject to the following restrictions:

(a) The net shall not be used within 750 feet of any public pier.

(b) It is unlawful to buy, sell, or possess any dead fish taken under the authority of this section, in any place of business where fish are bought, sold, or processed.

Comment. Section 15770 continues the part of former Fish and Game Code Section 8757 applicable to former Fish and Game District 19B without substantive change.

§ 15775. District 2640

15775. (a) In District 2640, purse nets and round haul nets may be used, except at the following times in the following locations:

(1) From sunrise Saturday to sunset Sunday, in the area from a line extending three nautical miles east magnetically from the extreme easterly end of Santa Catalina Island southwesterly and northerly, to a line extending three nautical miles southwest magnetically from the most southerly promontory of China Point.

(2) At any time during the period from June 1 to September 10, in the area from a line extending three nautical miles east magnetically from the extreme easterly end of Santa Catalina Island southerly, to a line extending three nautical miles southeasterly magnetically from the United States government light on the southeasterly end of Santa Catalina Island.

(b) Subdivision (a) shall not be construed as restricting the right to use the waters described in that subdivision for anchorage of vessels at any time.

(c) In addition to subdivision (a), and notwithstanding Section 15505, a round haul net may be used to take fish in the district for use or sale as live bait. It is unlawful to buy, sell, or possess any dead fish taken under the authority of this section, in any place of business where fish are bought, sold, or processed.

Comment. Subdivisions (a) and (b) of Section 15775 continue the part of former Fish and Game Code Section 8755 applicable to former Fish and Game District 20 without substantive change.

Subdivision (c) continues the part of former Fish and Game Code Section 8757 applicable to former Fish and Game District 20 without substantive change.

Note. There appears to be some text missing from existing Fish and Game Code Section 8755. The existing section reads as follows:

In Districts 20A and 21, purse and round haul nets may be used.

(a) Purse and round haul nets may be used, except: (1) from sunrise Saturday to sunset Sunday, in that portion of District 20 from a line extending three nautical miles east magnetically from the extreme easterly end of Santa Catalina Island southwesterly and northerly to a line extending three nautical miles southwest magnetically from the most southerly promontory of China Point and (2) at any time during the period commencing on June 1st and ending on September 10 in each year, in that portion of District 20 from a line extending three nautical miles east magnetically from the extreme easterly end of Santa Catalina Island southerly to a line extending

three nautical miles southeasterly magnetically from the United States government light on the southeasterly end of Santa Catalina Island.

(b) Subdivision (a) shall not be construed as restricting the right to use the waters therein specified for anchorage of vessels at any time.

Based on the construction of the section, the Commission surmises that the beginning of subdivision (a) of this section was meant to read “(a) Purse and round haul nets may be used *in District 20*, except:...” Proposed Section 15775 is based on this understanding.

The Commission invites comment on whether proposed Section 15775 properly states the intended application of existing Section 8755 to existing Fish and Game District 20.

§ 15780. District 2645

15780. In District 2645, purse nets and round haul nets may be used.

Comment. Section 15780 continues the part of former Fish and Game Code Sections 8755 applicable to former Fish and Game District 20A without substantive change.

§ 15785. District 2650

15785. In District 2650, purse nets and round haul nets may be used.

Comment. Section 15785 continues the part of former Fish and Game Code Sections 8755 applicable to former Fish and Game District 21 without substantive change.

CHAPTER 6. BAIT NETS

§ 15900. “Bait net”

15900. As used in this chapter, “bait net” means a lampara net or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine, or synthetic twine of equivalent size or strength. Notwithstanding Sections 15760 through 15775, inclusive, except for drum seines and other round haul nets authorized under a permit issued by the department pursuant to this chapter, the nets may not have rings along the lead line or any method of pursing the bottom of the net.

Comment. Section 15900 continues the first sentence of former Fish and Game Code Section 8780(a) without substantive change.

§ 15902. Authority of commission

15902. The commission may, upon the recommendation of the department, adopt regulations governing the use of bait nets.

Comment. Section 15902 continues former Fish and Game Code Section 8780.1 without substantive change.

§ 15910. Districts allowing use of bait nets

15910. (a) A bait net may be used to take fish for bait in Districts 2570, 2575, 2580, 2585, 2590, 2595, 2600, 2605, 2610, 2615, 2620, 2625, 2630, 2635, 2645, 2650, 2680, and 2685.

Comment. Section 15910 continues former Fish and Game Code Section 8780(b) without substantive change.

1 **§ 15915. District 2630**

2 15915. (a) In District 2630, a bait net may be used only to take anchovies,
3 queenfish, white croakers, sardines, mackerel, squid, and smelt, for live bait
4 purposes only. A bait net may not be used within 750 feet of Seal Beach Pier or
5 Belmont Pier.

6 (b) No other species of fish may be taken on any boat carrying a bait net in
7 District 2630, except that loads or lots of fish may contain not more than 18
8 percent, by weight of the fish, of other bait fish species taken incidentally to other
9 fishing operations and that are mixed with other fish in the load or lot.

10 **Comment.** Section 15915 continues former Fish and Game Code Section 8780(c) and (d)
11 without substantive change.

12 **Note.** There exists some ambiguity in existing Fish and Game Code Section 8780 relating to
13 the allowed use of bait nets in existing Fish and Game District 19A. Subdivision (b) of the
14 section, as applicable to District 19A, reads as follows:

15 (b) Bait nets may be used to take fish for bait in Districts... 19A.....

16 However, subdivision (c) of the same section reads:

17 (c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers,
18 sardines, mackerel, squid, and smelt for live bait purposes only. Bait nets may not be used within
19 750 feet of Seal Beach Pier or Belmont Pier.

20 Based on the construction of the section, the Commission reads subdivision (c) as a limitation
21 on subdivision (b), effectively rendering subdivision (b) superfluous as relates to District 19A.
22 Proposed Section 15915 is based on this understanding.

23 **The Commission invites comment on whether proposed Section 15915 properly states the**
24 **intended application of existing Section 8780 to existing Fish and Game District 19A.**

25 CHAPTER 7. BEACH NETS

26 Article 1. General Provisions

27 **§ 16000. “Beach net”**

28 16000. As used in this chapter, “beach net” means a net hauled from the water to
29 the beach or shore, and includes a beach seine and a haul seine.

30 **Comment.** Section 16000 continues former Fish and Game Code Section 8800 without
31 substantive change.

32 Article 2. Special District Rules

33 **§ 16010. Possession on boat prohibited**

34 16010. In Districts 2505, 2525, 2540, and 2605, a beach net shall not be
35 possessed on a boat.

36 **Comment.** Section 16010 continues former Fish and Game Code Sections 8801 and 8805
37 without substantive change.

1 **§ 16015. Permitted use**

2 16015. In Districts 2580, 2585, and 2595, a beach net may be used.

3 **Comment.** Section 16015 continues former Fish and Game Code Sections 8802 and 8804
4 without substantive change.

5 **§ 16020. Prohibition**

6 16020. In District 2620, a beach net shall not be used.

7 **Comment.** Section 16020 continues former Fish and Game Code Section 8806 without
8 substantive change.

9 **§ 16025. District 2590**

10 16025. (a) In District 2590, a beach net may be used if its meshes are at least 1
11 1/2 inches in length.

12 (b) In that portion of District 2590 lying south of Point Lobos, a beach net may
13 be used to take surf smelt only if it is over 20 feet in length and has meshes at least
14 seven-eighths of an inch in length.

15 **Comment.** Section 16025 continues former Fish and Game Code Section 8803 without
16 substantive change.

17 **§ 16030. District 2625**

18 16030. In District 2625, a beach net, the meshes of which are at least 1 1/2
19 inches in length, may be used to take smelt between September 1 and January 31.

20 **Comment.** Section 16030 continues former Fish and Game Code Section 8807 without
21 substantive change.

22 CHAPTER 8. TRAWL NETS


23 Article 1. General Provisions

24 **§ 16100. Legislative declaration**

25 16100. (a) The Legislature finds and declares that the use of nearshore trawl nets
26 was authorized through the experimental gear permit process and the alternative
27 gear development program as a potential alternative to the use of gill and trammel
28 nets in areas where the use of that gear type has been prohibited.

29 (b) The Legislature, in considering the needs of user groups, requires the use of
30 nearshore trawl nets to be phased out effective January 1, 1993.

31 **Comment.** Section 16100 continues former Fish and Game Code Section 8606.1 without
32 substantive change.

33  **Note.** The Commission invites comment on whether existing Fish and Game Code
34 Section 8606.1 is obsolete and can be discontinued.

1 **§ 16105. Conformity with federal regulations**

2 16105. (a) Except as otherwise provided in this article, the use of a trawl net
3 shall conform to federal groundfish regulations adopted pursuant to the Magnuson
4 Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

5 (b) A commercial bottom trawl vessel issued a state permit is subject to the
6 requirements and policies of the federal groundfish observer program (50 C.F.R.
7 660.360).

8 **Comment.** Subdivision (a) of Section 16105 continues the second sentence of former Fish and
9 Game Code Section 8830 without substantive change.

10 Subdivision (b) continues former Fish and Game Code Section 8841(d) without substantive
11 change.

12 **§ 16110. Commission and department authority**

13 16110. (a) The commission is hereby granted authority over all state-managed
14 bottom trawl fisheries not managed under a federal fishery management plan
15 pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16
16 U.S.C. Sec. 1801 et seq.), or a state fishery management plan pursuant to Title 3
17 (commencing with Section 12100) of Part 4, to ensure that resources are
18 sustainably managed, to protect the health of ecosystems, and to provide for an
19 orderly transition to sustainable gear types in situations where bottom trawling
20 may not be compatible with these goals.

21 (b) The commission is hereby granted authority to manage all of the following
22 fisheries in a manner that is consistent with this section and Title 3 (commencing
23 with Section 12100) of Part 4:

24 (1) California halibut.

25 (2) Sea cucumber.

26 (3) Ridge-back, spot, and golden prawn.

27 (4) Pink shrimp.

28 (c) The commission is also granted authority over other types of gear targeting
29 the same species as the bottom trawl fisheries referenced in subdivision (a) to
30 manage in a manner that is consistent with the requirements of Title 3
31 (commencing with Section 12100) of Part 4.

32 (d) The commission may only authorize additional fishing areas for bottom
33 trawls after it determines, based on the best available scientific information, that
34 bottom trawling in those areas is sustainable, does not harm bottom habitat, and
35 does not unreasonably conflict with other users.

36 (e) The commission shall facilitate the conversion of bottom trawlers to gear that
37 is more sustainable if the commission determines that conversion will not
38 contribute to overcapacity or overfishing. The commission may participate in, and
39 encourage programs that support, conversion to low-impact gear or capacity
40 reduction by trawl fleets. The department may not issue new permits to bottom
41 trawlers to replace those retired through a conversion program.

(f) As soon as practicable, but not later than May 1, 2005, the commission and the department shall submit to the Pacific Fishery Management Council and the National Marine Fisheries Service a request for federal management measures for the pink shrimp fishery that the commission and the department determine are needed to reduce bycatch or protect habitat, to account for uncertainty, or to otherwise ensure consistency with federal groundfish management.

(g) This section does not apply to the use of trawl nets pursuant to a scientific research permit.

Comment. Section 16110 continues former Fish and Game Code Section 8841(a)-(c), (e), and (j)-(k) without substantive change. In combination with Sections 16160(b), 16165(b), 16170(b), and 51010(c), Section 16110 also continues former Fish and Game Code Section 8841(i) without substantive change.

Note. The Commission invites comment on whether existing Section 8841(k) (which would be continued by proposed Section 16110(f)) is obsolete.

§ 16115. “Trawl net”

16115. For the purposes of this chapter, “trawl net” means a cone or funnel-shaped net that is towed or drawn through the water by a fishing vessel, and includes any gear appurtenant to the net.

Comment. Section 16115 continues the first sentence of former Fish and Game Code Section 8830 without substantive change.

Article 2. Prohibitions

§ 16150. Mesh size

16150. It is unlawful for a person to use a trawl net with meshes that are less than 4 1/2 inches in length, except as provided in this article or as provided by federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.).

Comment. Section 16150 continues former Fish and Game Code Section 8831 without substantive change.

§ 16155. Bag or cod-end

16155. It is unlawful to use or possess a trawl net that includes a bag or cod-end, or modification of a bag or cod-end, except a bag or cod-end of a single layer of webbing or as otherwise authorized by Section 40115 or by the commission.

Comment. Section 16155 continues former Fish and Game Code Section 8837 without substantive change.

§ 16160. Prohibited roller gear

16160. (a) It is unlawful to use roller gear more than eight inches in diameter.

(b) This section does not apply to the use of a trawl net pursuant to a scientific research permit.

Comment. Subdivision (a) of Section 16160 continues former Fish and Game Code Section 8841(f) without substantive change.

In combination with Sections 16110(g), 16165(b), 16170(b), and 51010(c), subdivision (b) of Section 16160 continues former Fish and Game Code Section 8841(i) without substantive change.

Note. Existing Fish and Game Code Section 8841(f) (which would be continued by proposed Section 16160(a)) is one provision in a much longer section that generally relates to bottom trawling. However, the provision itself provides no context for its prohibition, and on its face could be given broader application than intended.

The Commission invites comment on whether the provision should be revised to prohibit use of roller gear in connection with a trawl net.

§ 16165. Bottom trawling in ocean waters

16165. (a) Except as provided in Sections 40100, 40105, and 40110, or in Sections 40125, 51100, 51105, 51110, and 51115, it is unlawful to engage in bottom trawling in ocean waters of the state.

(b) This section does not apply to the use of a trawl net pursuant to a scientific research permit.

Comment. Subdivision (a) of Section 16165 continues former Fish and Game Code Section 8841(h) without substantive change.

In combination with Sections 16110(g), 16160(b), 16170(b), and 51010(c), subdivision (b) of Section 16165 continues former Fish and Game Code Section 8841(i) without substantive change.

§ 16170. Required permit for vessel

16170. (a) No vessel may utilize bottom trawling gear without a state or federal permit.

(b) This section does not apply to the use of trawl nets pursuant to a scientific research permit.

Comment. Subdivision (a) of Section 16170 continues former Fish and Game Code Section 8841(l) without substantive change.

In combination with Sections 16110(g), 16060(b), 16165(b), and 51010(c), subdivision (b) of Section 16170 continues former Fish and Game Code Section 8841(i) without substantive change.

§ 16175. Chafing gear

16175. (a) Chafing gear may be used or possessed, but shall not be connected directly to the terminal or closed end of the cod-end.

(b) Except for chafing gear prescribed under federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.), all chafing gear shall have a minimum mesh size of six inches, unless only the bottom one-half, or underside, of the cod-end is covered by chafing gear, which may be of any size mesh.

Comment. Section 16175 continues former Fish and Game Code Section 8840 without substantive change.

Article 3. Special District Rules

§ 16250. District 2550

16250. In District 2550, a trawl net or dragnet shall not be possessed, except under regulations that the commission shall adopt.

Comment. Section 16250 continues the part of former Fish and Game Code Section 8833 applicable to former Fish and Game District 4 without substantive change.

§ 16255. District 2570

16255. In District 2570, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore.

Comment. Section 16255 continues the part of former Fish and Game Code Section 8835 applicable to former Fish and Game District 6 without substantive change.

§ 16260. District 2575

16260. In District 2575, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore.

Comment. Section 16260 continues the part of former Fish and Game Code Section 8835 applicable to former Fish and Game District 7 without substantive change.

§ 16265. District 2590

16265. In District 2590, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore.

Comment. Section 16265 continues the part of former Fish and Game Code Section 8835 applicable to former Fish and Game District 10 without substantive change.

§ 16270. District 2615

16270. In District 2615, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore, including those parts of Monterey Bay, Estero Bay, and San Luis Obispo Bay that lie within that district.

Comment. Section 16270 continues the part of former Fish and Game Code Section 8836 applicable to former Fish and Game District 17 without substantive change.

§ 16275. District 2620

16275. In District 2620, a trawl net may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore, including those parts of Monterey Bay, Estero Bay, and San Luis Obispo Bay that lie within that district.

Comment. Section 16275 continues the part of former Fish and Game Code Section 8836 applicable to former Fish and Game District 18 without substantive change.

1 **§ 16280. District 2625**

2 16280. In District 2625, a trawl net or dragnet shall not be possessed, except
3 under regulations that the commission shall adopt.

4 **Comment.** Section 16280 continues the part of former Fish and Game Code Section 8833
5 applicable to former Fish and Game District 19 without substantive change.

6 **§ 16285. District 2630**

7 16285. In District 2630, a trawl net or dragnet shall not be possessed, except
8 under regulations that the commission shall adopt.

9 **Comment.** Section 16285 continues the part of former Fish and Game Code Section 8833
10 applicable to former Fish and Game District 19A without substantive change.

11 **§ 16290. District 2635**

12 16290. In District 2635, a trawl net or dragnet may be possessed under
13 regulations that the commission shall adopt.

14 **Comment.** Section 16290 continues the part of former Fish and Game Code Section 8833
15 applicable to former Fish and Game District 19B without substantive change.

16 **§ 16295. District 2640**

17 16295. In District 2640, a trawl net or dragnet shall not be possessed.

18 **Comment.** Section 16295 continues the part of former Fish and Game Code Section 8833
19 applicable to former Fish and Game District 20 without substantive change.

20 **§ 16300. District 2645**

21 16300. In District 2645, a trawl net or dragnet shall not be possessed.

22 **Comment.** Section 16300 continues the part of former Fish and Game Code Section 8833
23 applicable to former Fish and Game District 20A without substantive change.

24 **§ 16305. District 2650**

25 16305. In District 2650, a trawl net or dragnet shall not be possessed, except
26 under regulations that the commission shall adopt.

27 **Comment.** Section 16305 continues the part of former Fish and Game Code Section 8833
28 applicable to former Fish and Game District 21 without substantive change.

29 **§ 16310. District 2685**

30 16310. In District 2685, a trawl net may be used in waters not less than three
31 nautical miles from the nearest point of land on the mainland shore, including
32 those parts of Monterey Bay, Estero Bay, and San Luis Obispo Bay that lie within
33 that district.

34 **Comment.** Section 16310 continues the part of former Fish and Game Code Section 8836
35 applicable to former Fish and Game District 118.5 without substantive change.

Article 4. Special Rules for Identified Waters

§ 16350. Golden Gate Bridge area

16350. A trawl net may be used in marine and brackish waters inside of the Golden Gate Bridge to take shrimp, oriental gobies, longjaw mudsuckers, plainfin midshipmen, and staghorn sculpin, only in accordance with regulations that the commission may adopt.

Comment. Section 16350 continues the part of former Fish and Game Code Section 8832 applicable to trawl nets without substantive change.

§ 16355. Small cod-end mesh in specified area

16355. It is unlawful to use any trawl net with cod-end mesh less than 7 1/2 inches in length and with a cod-end less than 29 meshes long and a circumference of not less than 47 meshes in waters lying between one and three nautical miles from the mainland shore between a line running due west (270° true) from Point Arguello and a line running due south (180° true) from Point Mugu.

Comment. Section 16355 continues former Fish and Game Code Section 8843 without substantive change.

CHAPTER 9. DIP NETS

Article 1. General Provisions

§ 16400. Permitted except where specifically restricted

16400. Dip nets may be used subject to the restrictions in this chapter.

Comment. Section 16400 continues the introductory clause of former Fish and Game Code Section 8870 applicable to general use of dip nets without substantive change.

Article 2. Special District Rules

§ 16450. District 2505

16450. In District 2505, a dip net shall not be baited, and may not measure more than six feet in greatest breadth.

Comment. Section 16450 continues the part of former Fish and Game Code Section 8870(a) applicable to former Fish and Game District 1 without substantive change.

§ 16455. District 2515

16455. In District 2515, a dip net shall not be baited, and may not measure more than six feet in greatest breadth.

Comment. Section 16455 continues the part of former Fish and Game Code Section 8870(a) applicable to former Fish and Game District 1 1/2 without substantive change.

1 **§ 16460. District 2525**

2 16460. In District 2525, a dip net shall not be baited, and may not measure more
3 than six feet in greatest breadth.

4 **Comment.** Section 16460 continues the part of former Fish and Game Code Section 8870(a)
5 applicable to former Fish and Game District 2 without substantive change.

6 **§ 16465. District 2540**

7 16465. In District 2540, a dip net shall not be baited, and may not measure more
8 than six feet in greatest breadth.

9 **Comment.** Section 16465 continues the part of former Fish and Game Code Section 8870(a)
10 applicable to former Fish and Game District 3 without substantive change.

11 **§ 16470. District 2550**

12 16470. In District 2550, a dip net shall not be baited, and may not measure more
13 than six feet in greatest breadth.

14 **Comment.** Section 16470 continues the part of former Fish and Game Code Section 8870(a)
15 applicable to former Fish and Game District 4 without substantive change.

16 **§ 16475. District 2625**

17 16475. (a) In District 2625, a hand-held dip net 30 feet or less in greatest breadth
18 may be used, except as provided in subdivision (b).

19 (b) A dip net shall not be used in the district within 750 feet of any pier, wharf,
20 jetty, or breakwater, except to take smelt, or to take anchovies, squids, or sardines
21 for bait.

22 **Comment.** Section 16475 continues former Fish and Game Code Section 8870(b) without
23 substantive change.

24 **§ 16480. District 2640**

25 16480. In District 2640, a hand-held dip net 30 feet or less in greatest breadth
26 may be used.

27 **Comment.** Section 16480 continues former Fish and Game Code Section 8870(c) without
28 substantive change.

29 CHAPTER 10. BAITED HOOP NETS

30 Article 1. General Provisions [Reserved]

31 Article 2. Special District Rules

32 **§ 16550. District 2620**

33 16550. A baited hoop net of three foot or less in diameter may be used in that
34 part of District 2620 lying south of a line running east and west through Arguello,
35 to take rock crabs, red crabs, and yellow crabs only.

Comment. Section 16550 continues the part of former Fish and Game Code Section 8890 applicable to former Fish and Game District 18 without substantive change.

§ 16555. District 2625

16555. A baited hoop net of three foot or less in diameter may be used in District 2625 to take rock crabs, red crabs, and yellow crabs only.

Comment. Section 16555 continues the part of former Fish and Game Code Section 8890 applicable to former Fish and Game District 19 without substantive change.

CHAPTER 11. CHINESE SHRIMP NETS

Article 1. General Provisions [Reserved]


Article 2. Special Rules for Identified Waters

§ 16650. Golden Gate Bridge area

16650. A Chinese shrimp net may be used in marine and brackish waters inside of the Golden Gate Bridge to take shrimp, oriental gobies, longjaw mudsuckers, plainfin midshipmen, and staghorn sculpin, only in accordance with regulations that the commission may adopt.

Comment. Section 16650 continues the part of former Fish and Game Code Section 8832 applicable to Chinese shrimp nets without substantive change.

TITLE 4. GILL NETS AND TRAMMEL NETS

 **Note.** The use of gill nets and trammel nets in the state of California is governed by Article X B of the California Constitution, which was added to the Constitution by initiative on November 6, 1990.

CHAPTER 1. GENERAL PROVISIONS

§ 16800. Statement of intent

16800. In enacting the bill that added this title, the Legislature did not evaluate the relationship between this title, Chapter 3 (commencing with Section 15500) of Title 3, and Article X B of the California Constitution.

Comment. Section 16800 is new.

§ 16805. Legislative declarations

16805. The Legislature finds and declares that:

(a) The central California nearshore gill and trammel net fisheries for California halibut (*Paralichthys californicus*) and white croaker (*Genyonemus lineatus*) and the use of gill nets in these fisheries are expanding at a rapid rate.

(b) The incidental take of certain species of seabirds and marine mammals in set gill and trammel nets could be increasing to a level which may be adversely impacting the viability of the populations of nontarget species.

Comment. Section 16805 continues former Fish and Game Code Section 8609 without substantive change.

CHAPTER 2. MARINE RESOURCES PROTECTION ACT OF 1990

§ 16850.1. Statement of codification and implementation

16850.1. The Marine Resources Protection Act of 1990 (Art. X B, Cal. Const.) was adopted as an initiative constitutional amendment at the November 6, 1990, general election. This chapter codifies and implements that initiative constitutional amendment.

Comment. Section 16850.1 continues former Fish and Game Code Section 8610.1 without substantive change.

§ 16850.2. Meaning of references

16850.2. (a) “District” for the purposes of this chapter and of Article X B of the California Constitution means a fish and game district as defined in this code on January 1, 1990.

(b) Except as specifically provided in this chapter, all references to sections, articles, chapters, parts, and divisions of this code are to those statutes in effect on January 1, 1990.

(c) “Ocean waters” means the waters of the Pacific Ocean regulated by the state.

(d) “Zone” means the Marine Resources Protection Zone established pursuant to this chapter. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.

Comment. Section 16850.2 continues former Fish and Game Code Section 8610.2.

Former Section 8610.2 was enacted to codify and implement Section 2 of Article X B of the California Constitution. See former Section 8610.1 (continued without change in Section 16850.1). To avoid any possible impairment of constitutional requirements, former Section 8610.2 has been continued in this section without change.

When enacting the bill that added this section, the Legislature did not evaluate the relationship between this section and Article X B of the California Constitution. See Section 16800.

1 **§ 16850.3. Prohibited use of gill or trammel net to take rockfish**

2 16850.3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or
3 trammel nets may only be used in the zone pursuant to a nontransferable permit
4 issued by the department pursuant to Section 16850.5.

5 (b) On and after January 1, 1994, gill nets and trammel nets shall not be used in
6 the zone.

7 **Comment.** Section 16850.3 continues former Fish and Game Code Section 8610.3.

8 Former Section 8610.3 was enacted to codify and implement Section 3 of Article X B of the
9 California Constitution. See former Section 8610.1 (continued without change in Section
10 16850.1). To avoid any possible impairment of constitutional requirements, former Section
11 8610.3 has been continued in this section without change, except to update a cross-reference to
12 reflect renumbering required by the recodification of this code.

13 When enacting the bill that added this section, the Legislature did not evaluate the relationship
14 between this section and Article X B of the California Constitution. See Section 16800.

15 **§ 16850.4. Authorized use of gill nets and trammel nets**

16 16850.4. (a) Notwithstanding any other provision of law, gill nets and trammel
17 nets may not be used to take any species of rockfish.

18 (b) In ocean waters north of Point Arguello on and after November 7, 1990, the
19 use of gill nets and trammel nets shall be regulated by the provisions of Chapter 3
20 (commencing with Section 17000), Chapter 4 (commencing with Section 18000),
21 and Chapter 5 (commencing with Section 18200), of this title, and Chapter 3
22 (commencing with Section 15500) of Title 3, or any regulation or order issued
23 pursuant to those provisions, in effect on January 1, 1990, except that as to
24 Sections 18000, 18005, 18015, and 18020, and subdivisions (a) to (f), inclusive, of
25 Section 18010, or any regulation or order issued pursuant to these sections, the
26 provisions in effect on January 1, 1989, shall control where not in conflict with
27 other provisions of this chapter, and shall be applicable to all ocean waters.
28 Notwithstanding the provisions of this section, the Legislature shall not be
29 precluded from imposing more restrictions on the use or possession of gill nets or
30 trammel nets. The director shall not authorize the use of gill nets or trammel nets
31 in any area where the use is not permitted even if the director makes specified
32 findings.

33 **Comment.** Section 16850.4 continues former Fish and Game Code Section 8610.4.

34 Former Section 8610.4 was enacted to codify and implement Section 4 of Article X B of the
35 California Constitution. See former Section 8610.1 (continued without change in Section
36 16850.1). To avoid any possible impairment of constitutional requirements, former Section
37 8610.4 has been continued in this section without change, except to update cross-references to
38 reflect renumbering required by the recodification of this code.

39 When enacting the bill that added this section, the Legislature did not evaluate the relationship
40 between this section and Article X B of the California Constitution. See Section 16800.

41 **§ 16850.5. Permit process during transitional period**

42 16850.5. The department shall issue a permit to use a gill net or trammel net in
43 the zone for the period specified in subdivision (a) of Section 16850.3 to any
44 applicant who meets both of the following requirements:

- 1 (a) Has a commercial fishing license issued pursuant to Section 14500.
 2 (b) Has a permit issued pursuant to Section 18005 and is presently the owner or
 3 operator of a vessel equipped with a gill net or trammel net.

4 **Comment.** Section 16850.5 continues former Fish and Game Code Section 8610.5.
 5 Former Section 8610.5 was enacted to codify and implement Section 5 of Article X B of the
 6 California Constitution. See former Section 8610.1 (continued without change in Section
 7 16850.1). To avoid any possible impairment of constitutional requirements, former Section
 8 8610.5 has been continued in this section without change, except to update cross-references to
 9 reflect renumbering required by the recodification of this code.

10 When enacting the bill that added this section, the Legislature did not evaluate the relationship
 11 between this section and Article X B of the California Constitution. See Section 16800.

12 **§ 16850.6. Fees for permit during transitional period**

13 16850.6. The department shall charge the following fees for permits issued
 14 pursuant to Section 16850.5 pursuant to the following schedule:

15	Calendar Year	Fee
16	1991	\$250
17	1992	\$500
18	1993	\$1,000

19 **Comment.** Section 16850.6 continues former Fish and Game Code Section 8610.6.
 20 Former Section 8610.6 was enacted to codify and implement Section 6 of Article X B of the
 21 California Constitution. See former Section 8610.1 (continued without change in Section
 22 16850.1). To avoid any possible impairment of constitutional requirements, former Section
 23 8610.6 has been continued in this section without change, except to update a cross-reference to
 24 reflect renumbering required by the recodification of this code.

25 When enacting the bill that added this section, the Legislature did not evaluate the relationship
 26 between this section and Article X B of the California Constitution. See Section 16800.

27 **§ 16850.9. Use of funds in Marine Resources Protection Account**

28 16850.9. Any funds remaining in the Marine Resources Protection Account in
 29 the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the
 30 approval of the commission, be used to provide grants to colleges, universities,
 31 and other bona fide scientific research groups to fund marine resource related
 32 scientific research within the ecological reserves established by Section 16900. An
 33 amount, not to exceed 15 percent of the total funds remaining in that account on or
 34 after January 1, 1995, may be expended for the administration of this section.

35 **Comment.** Section 16850.9 continues former Fish and Game Code Section 8610.9.
 36 Former Section 8610.9 was enacted to codify and implement Section 9 of Article X B of the
 37 California Constitution. See former Section 8610.1 (continued without change in Section
 38 16850.1). To avoid any possible impairment of constitutional requirements, former Section
 39 8610.9 has been continued in this section without change, except to update a cross-reference to
 40 reflect renumbering required by the recodification of this code.

41 When enacting the bill that added this section, the Legislature did not evaluate the relationship
 42 between this section and Article X B of the California Constitution. See Section 16800.

1 **§ 16850.11. Unlawful take**

2 16850.11. It is unlawful for any person to take, possess, receive, transport,
3 purchase, sell, barter, or process any fish obtained in violation of this chapter.

4 **Comment.** Section 16850.11 continues former Fish and Game Code Section 8610.11.

5 Former Section 8610.11 was enacted to codify and implement Section 11 of Article X B of the
6 California Constitution. See former Section 8610.1 (continued without change in Section
7 16850.1). To avoid any possible impairment of constitutional requirements, former Section
8 8610.11 has been continued in this section without change.

9 When enacting the bill that added this section, the Legislature did not evaluate the relationship
10 between this section and Article X B of the California Constitution. See Section 16800.

11 **§ 16850.12. Department monitoring of take**

12 16850.12. To increase the state's scientific and biological information on the
13 ocean fisheries of this state, the department shall establish a program whereby it
14 can monitor and evaluate the daily landings of fish by commercial fishermen who
15 are permitted under this chapter to take these fish. The cost of implementing this
16 monitoring program shall be borne by the commercial fishing industry.

17 **Comment.** Section 16850.12 continues former Fish and Game Code Section 8610.12.

18 Former Section 8610.12 was enacted to codify and implement Section 12 of Article X B of the
19 California Constitution. See former Section 8610.1 (continued without change in Section
20 16850.1). To avoid any possible impairment of constitutional requirements, former Section
21 8610.12 has been continued in this section without change.

22 When enacting the bill that added this section, the Legislature did not evaluate the relationship
23 between this section and Article X B of the California Constitution. See Section 16800.

24 **§ 16850.13. Use of gill nets and trammel nets**

25 16850.13. The penalty for a violation of Section 16850.3 or 16850.4 is as
26 specified in subdivisions (b) and (c).

27 (b) The penalty for a first violation of Section 16850.3 or 16850.4 is a fine of not
28 less than one thousand dollars (\$1,000) and not more than five thousand dollars
29 (\$5,000) and a mandatory suspension of any license, permit, or stamp to take,
30 receive, transport, purchase, sell, barter, or process fish for commercial purposes
31 for six months. The penalty for a second or subsequent violation of Section
32 16850.3 or 16850.4 is a fine of not less than two thousand five hundred dollars
33 (\$2,500) and not more than ten thousand dollars (\$10,000) and a mandatory
34 suspension of any license, permit, or stamp to take, receive, transport, purchase,
35 sell, barter, or process fish for commercial purposes for one year.

36 (c) If a person convicted of a violation of Section 16850.3 or 16850.4, is granted
37 probation, the court shall impose as a term or condition of probation, in addition to
38 any other term or condition of probation, a requirement that the person pay at least
39 the minimum fine prescribed in this section.

40 **Comment.** Subdivision (a) of Section 16850.13 continues former Fish and Game Code Section
41 8610.13 without substantive change.

42 Subdivisions (b) and (c) continue former Fish and Game Code Section 12003.5 without
43 substantive change.

1 Former Section 8610.13 was enacted to codify and implement Section 13 of Article X B of the
2 California Constitution. See former Section 8610.1 (continued without change in Section
3 16850.1). Former Section 12003.5 substantially duplicated the provisions of former Section
4 8610.13. To avoid any possible impairment of constitutional requirements, former Section
5 8610.13 has been continued in this section without change, except to update cross-references to
6 reflect renumbering required by the recodification of this code.

7 When enacting the bill that added this section, the Legislature did not evaluate the relationship
8 between this section and Article X B of the California Constitution. See Section 16800.

9 **§ 16850.14. Ecological reserves**

10 16850.14. (a) Prior to January 1, 1994, the commission shall establish four new
11 ecological reserves in ocean waters along the mainland coast. Each ecological
12 reserve shall have a surface area of at least two square miles. The commission
13 shall restrict the use of these ecological reserves to scientific research relating to
14 the management and enhancement of marine resources, including, but not limited
15 to, scientific research as it relates to sportfishing and commercial fishing.

16 Recreational uses, including, but not limited to, hiking, walking, viewing,
17 swimming, diving, surfing, and transient boating are not in conflict with this
18 section.

19 (b) Prior to establishing the four ecological reserves, the commission shall
20 conduct a public hearing at each of the recommended sites or at the nearest
21 practicable location.

22 (c) On and after January 1, 2002, the four ecological reserves established
23 pursuant to subdivision (a) shall be called state marine reserves, unless otherwise
24 reclassified pursuant to Section 60500, and shall become part of the state system
25 of marine managed areas.

26 (d) Recreational uses, including, but not limited to, hiking, walking, viewing,
27 swimming, diving, surfing, and transient boating are not in conflict with this
28 section.

29 **Comment.** Section 16850.14 continues former Fish and Game Code Section 8610.14.

30 Former Section 8610.14 was enacted to codify and implement Section 14 of Article X B of the
31 California Constitution. See former Section 8610.1 (continued without change in Section
32 16850.1). To avoid any possible impairment of constitutional requirements, former Section
33 8610.14 has been continued in this section without change, except to update a cross-reference to
34 reflect renumbering required by the recodification of this code.

35 When enacting the bill that added this section, the Legislature did not evaluate the relationship
36 between this section and Article X B of the California Constitution. See Section 16800.

37 **§ 16850.15. Closures to protect wildlife**

38 16850.15. This chapter does not preempt or supersede any other closures to
39 protect any other wildlife, including sea otters, whales, and shorebirds.

40 **Comment.** Section 16850.15 continues former Fish and Game Code Section 8610.15.

41 Former Section 8610.15 was enacted to codify and implement Section 15 of Article X B of the
42 California Constitution. See former Section 8610.1 (continued without change in Section
43 16850.1). To avoid any possible impairment of constitutional requirements, former Section
44 8610.15 has been continued in this section without change, except to update a cross-reference to
45 reflect renumbering required by the recodification of this code.

1 When enacting the bill that added this section, the Legislature did not evaluate the relationship
2 between this section and Article X B of the California Constitution. See Section 16800.

3 **§ 16850.16. Severability of provisions of chapter**

4 16850.16. If any provision of this chapter or the application thereof to any
5 person or circumstances is held invalid, that invalidity shall not affect other
6 provisions or applications of this chapter which can be given effect without the
7 invalid provision or application, and to this end the provisions of this chapter are
8 severable.

9 **Comment.** Section 16850.16 continues former Fish and Game Code Section 8610.16.

10 Former Section 8610.16 was enacted to codify and implement Section 16 of Article X B of the
11 California Constitution. See former Section 8610.1 (continued without change in Section
12 16850.1). To avoid any possible impairment of constitutional requirements, former Section
13 8610.16 has been continued in this section without change, except to update a cross-reference to
14 reflect renumbering required by the recodification of this code.

15 When enacting the bill that added this section, the Legislature did not evaluate the relationship
16 between this section and Article X B of the California Constitution. See Section 16800.

17 **CHAPTER 3. USE OF GILL NETS IN PARTICULAR DISTRICTS**

18 **Comment.** The provisions appearing in this chapter and in Chapter 3 (commencing with
19 Section 15500) of Title 3 together continue the provisions of former Article 4 (commencing with
20 Section 8660) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, which are
21 governed by Section 4(b) of Article X B of the California Constitution.

22 **§ 17000. Additional rules for Districts 2590, 2615 and 2620**

23 17000. (a) Notwithstanding Sections 18085 and 18210, gill nets and trammel
24 nets shall not be used in those portions of District 2615 between a line extending
25 220° magnetic from the mouth of Waddell Creek in Santa Cruz County and a line
26 extending 252° magnetic from Yankee Point, Carmel Highlands, in Monterey
27 County in waters 30 fathoms or less in depth at mean lower low water.

28 (b) Notwithstanding Sections 18085 and 18210, gill nets and trammel nets shall
29 not be used in that portion of District 2620 north of a line extending due west from
30 Point Sal in Santa Barbara County in waters 30 fathoms or less in depth at mean
31 lower low water.

32 (c) Notwithstanding Sections 18085 and 18210, any person using gill nets or
33 trammel nets in those portions of Districts 2615 and 2620 from a line extending
34 220° magnetic from the mouth of Waddell Creek in Santa Cruz County to a line
35 extending due west from Point Sal in Santa Barbara County in waters between 30
36 fathoms and 40 fathoms in depth at mean lower low water shall comply with all of
37 the following requirements in order to ensure adequate monitoring of fishing effort
38 to protect marine mammals:

39 (1) Prior to the use, the person shall notify the department that gill nets or
40 trammel nets will be set in the area.

41 (2) The person shall give adequate notification, as determined by the
42 department, to the department at its office in Monterey or Morro Bay at least 24

1 hours prior to each fishing trip to ensure full compliance and cooperation with the
2 monitoring program. The department may require that an authorized monitor be on
3 board the vessel. The department shall determine whether on board, at sea, or
4 shoreside monitoring is appropriate. If the authorized monitor is not on board the
5 fishing vessel, the fishing vessel operator and the authorized monitor shall make
6 every effort to remain in radio contact if the radio equipment is made available to
7 the monitor.

8 (3) To ensure the effectiveness of the monitoring program, gill nets and trammel
9 nets may be set or pulled only between one-half hour after sunrise and one-half
10 hour before sunset.

11 (4) A permit may be revoked and canceled pursuant to Section 18005 for failure
12 to comply with the department's notification and monitoring requirements.

13 (d) If the director determines that the use of gill or trammel nets is having an
14 adverse impact on any population of any species of seabird, marine mammal, or
15 fish, the director shall issue an order prohibiting or restricting the use, method of
16 use, size, or materials used in the construction of either or both types of those nets
17 in all or any part of District 2590 or 2615, or in all or any part of District 2620
18 north of a line extending due west from Point Conception in Santa Barbara County
19 for a specified period. The order shall take effect no later than 48 hours after its
20 issuance. The director shall hold a properly noticed public hearing in a place
21 convenient to the affected area within one week of the effective date of the order
22 to describe the action taken and shall take testimony as to the effect of the order
23 and determine whether any modification of the order is necessary.

24 (e) For purposes of this section, "adverse impact" means either of the following:

25 (1) The danger of irreparable injury to, or mortality in, any population of any
26 species of seabird, marine mammal, or fish which is occurring at a rate that
27 threatens the viability of the population as a direct result of the use of gill nets or
28 trammel nets.

29 (2) The impairment of the recovery of a species listed as an endangered species
30 or threatened species pursuant to the federal Endangered Species Act (16 U.S.C.
31 Sec. 1531 et seq.) or the California Endangered Species Act (Part 1 (commencing
32 with Section 62000) of Division 17) or a species of seabird, marine mammal, or
33 fish designated as fully protected under this code, as a direct result of the use of
34 gill nets or trammel nets.

35 (f) This section does not apply to any gill net with meshes 3 1/2 inches or less in
36 length in any portion of District 2590 between Yankee Point in Monterey County
37 and Point Sal in Santa Barbara County.

38 (g) The Legislature finds and declares that this section, which continues former
39 Fish and Game Code Section 8664.5 as amended by Chapter 884 of the Statutes of
40 1990, and as amended by the act that amended former Fish and Game Code
41 Section 8664.5 during the 1992 portion of the 1991–92 Regular Session, is more
42 restrictive on the use and possession of gill nets and trammel nets than the version
43 of former Fish and Game Code Section 8664.5 in effect on January 1, 1990, and

1 therefore complies with former Section 8610.4, and Section 4 of Article X B of the
2 California Constitution.

3 **Comment.** Section 17000 continues former Fish and Game Code Section 8664.5.

4 Section 17000 is governed by Section 16865, a section that codifies and implements Section 4
5 of Article X B of the California Constitution. See Section 16850.1.

6 To avoid any possible impairment of constitutional requirements, former Section 8664.5 has
7 been continued in this section without change, except to update cross-references to reflect
8 renumbering required by the recodification of this code.

9 When enacting the bill that added this section, the Legislature did not evaluate the relationship
10 between this section and Article X B of the California Constitution. See Section 16800.

11 **§ 17005. “Impacted fisherman”**

12 17005. “Impacted fisherman” for purposes of Section 17000 and former Fish
13 and Game Code Section 8664.65, means any person who, from January 1, 1986, to
14 December 31, 1990, inclusive, landed a minimum of 1,000 pounds of fish, other
15 than shark or rockfish, in each of at least three calendar years during that period
16 with set gill and trammel nets and landed the fish at ports within areas subject to
17 gill and trammel net closures pursuant to Section 17000. Landings shall be
18 verified by the fisherman’s submittal of landing receipts as provided in Section
19 21000.

20 **Comment.** Section 17005 continues former Fish and Game Code Section 8664.67.

21 Section 17005 is governed by Section 16865, a section that codifies and implements Section 4
22 of Article X B of the California Constitution. See Section 16850.1.

23 To avoid any possible impairment of constitutional requirements, former Section 8664.67 has
24 been continued in this section without change, except to update cross-references to reflect
25 renumbering required by the recodification of this code.

26 When enacting the bill that added this section, the Legislature did not evaluate the relationship
27 between this section and Article X B of the California Constitution. See Section 16800.

28 **§ 17010. Order by department**

29 17010. The initial period of effectiveness of an order issued pursuant to
30 subdivision (c) of Section 17000 shall not exceed 120 days. After a further public
31 hearing, the director may, on the basis of a report prepared by the department on
32 the condition of the local population of any species of seabird, marine mammal, or
33 fish, extend the order for a further specified period or reissue the order for a
34 further specified period.

35 **Comment.** Section 17010 continues former Fish and Game Code Section 8664.7.

36 Section 17010 is governed by Section 16865, a section that codifies and implements Section 4
37 of Article X B of the California Constitution. See Section 16850.1.

38 To avoid any possible impairment of constitutional requirements, former Section 8664.7 has
39 been continued in this section without change, except to update a cross-reference to reflect
40 renumbering required by the recodification of this code.

41 When enacting the bill that added this section, the Legislature did not evaluate the relationship
42 between this section and Article X B of the California Constitution. See Section 16800.

1 **§ 17015. Additional rules for specified northern California ocean waters**

2 17015. (a) Notwithstanding Sections 18035, 18060, 18095, and 18210, and
3 except as provided in subdivisions (c) and (d), set or drift gill or trammel nets shall
4 not be used in ocean waters between a line extending 245° magnetic from the most
5 westerly point of the west point of the Point Reyes headlands in Marin County and
6 the westerly extension of the California-Oregon boundary.

7 (b)(1) Notwithstanding Sections 17000, 18060, 18095, and 18210, set or drift
8 gill or trammel nets shall not be used in waters which are 40 fathoms or less in
9 depth at mean lower low water between a line extending 245° magnetic from the
10 most westerly point of the west point of the Point Reyes headlands in Marin
11 County and a line extending 225° magnetic from Pillar Point at Half Moon Bay in
12 San Mateo County.

13 (2) Notwithstanding Sections 17000, 18060, 18095, and 18210, set or drift gill
14 or trammel nets shall not be used in ocean waters which are 60 fathoms or less in
15 depth at mean lower low water between a line extending 225° magnetic from
16 Pillar Point at Half Moon Bay in San Mateo County to a line extending 220°
17 magnetic from the mouth of Waddell Creek in Santa Cruz County.

18 (c) Subdivisions (a) and (b) do not apply to the use of drift gill nets operated
19 under a permit issued by the department in that part of Arcata Bay in Humboldt
20 County lying northeast of the Samoa Bridge during the period from April 1 to
21 September 30, inclusive. The department may issue not more than six permits
22 pursuant to this subdivision. Each permit shall specify the amount and type of gear
23 which may be used under the permit.

24 (d) Subdivisions (a) and (b) do not apply to the use of set gill nets used pursuant
25 to Chapter 2 (commencing with Section 40350) of Title 2 of Part 13 of Division
26 10 or regulations adopted pursuant to that chapter or to the use of drift gill nets
27 with a mesh size of 14 inches or more.

28 (e)(1) Notwithstanding subdivision (b) and Sections 18060, 18095, and 18210,
29 gill or trammel nets shall not be used within three nautical miles of the Farallon
30 Islands in San Francisco County, and within three nautical miles of Noonday Rock
31 buoy located approximately 3 1/2 miles 276° magnetic from North Farallon Island.

32 (2) If the director determines that the use of set or drift gill or trammel nets is
33 having an adverse impact on any population of any species of sea bird, marine
34 mammal, or fish, the director shall issue an order prohibiting the use of those nets
35 between three nautical miles and five nautical miles of the Farallon Islands and
36 Noonday Rock buoy or any portion of that area. The order shall take effect not
37 later than 48 hours after its issuance. The director shall hold a properly noticed
38 public hearing in a place convenient to the affected area within one week of the
39 effective date of the order to describe the action taken and shall take testimony as
40 to the effect of the order and determine whether any modification of the order is
41 necessary. Gill and trammel nets used to take fish in District 2590 shall be marked
42 at each end with a buoy displaying above its waterline in Arabic numerals at least
43 two inches high, the fisherman's identification number issued by the department

under Section 14550. Nets shall be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the department.

(f) The Legislature finds and declares that this section, which continues former Fish and Game Code Section 8664.8 as amended by Chapter 1633 of the Statutes of 1990, is more restrictive on the use and possession of gill nets and trammel nets than the version of former Fish and Game Code Section 8664.8 in effect on January 1, 1990, and therefore complies with former Section 8610.4, and Section 4 of Article X B of the California Constitution.

Comment. Section 17015 continues former Fish and Game Code Section 8664.8.

Section 17015 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8664.8 has been continued in this section without change, except to update cross-references to reflect renumbering required by the recodification of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship between this section and Article X B of the California Constitution. See Section 16800.

§ 17020. Ocean area south of Point Conception

17020. During the period from December 15 to May 15, inclusive, set gill nets and trammel nets with mesh eight inches or greater and less than 12 inches used in ocean waters 25 fathoms or less in depth between a line extending due west magnetic from Point Conception and the westerly extension of the boundary line between the Republic of Mexico and the United States shall be constructed with breakaway and anchoring features, as follows:

(a) The corkline and any other line which may extend across the top of the net shall have a combined breaking strength not to exceed 2,400 pounds.

(b) A breakaway device shall be used along the corkline (headrope) and along the leadline (footrope) at regular intervals of 45 fathoms or less.

(c) Each breakaway or disconnect device shall be constructed as described in either of the following:

(1) Of nylon twine, or an equivalent material, with a breaking strength of 200 pounds or less, using not more than eight complete circular (360) wraps of the twine to connect the ends of each corkline and leadline interval, which allows each breakaway or disconnect device a breaking strength of not more than 1,600 pounds.

(2) As the department may otherwise authorize.

(d) Anchors used to secure each end of the net to the ocean bottom shall weigh not less than 35 pounds each, and shall be attached to the net by a ground rope and bridle with combined length of not less than 15 fathoms from the anchor to the net.

Comment. Section 17020 continues former Fish and Game Code Section 8664.13.

Section 17020 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8664.13 has been continued in this section without change.

1 When enacting the bill that added this section, the Legislature did not evaluate the relationship
2 between this section and Article X B of the California Constitution. See Section 16800.

3 **§ 17025. Salton Sea and New and Alamo Rivers**

4 17025. The department may issue a revocable permit to take with set gill nets or
5 seines, mullet or carp in the waters of the Salton Sea and in those portions of the
6 New and Alamo Rivers upstream one mile from their mouths as marked by the
7 department, under commercial license, subject to such restrictions as the
8 commission deems advisable.

9 **Comment.** Section 17025 continues former Fish and Game Code Section 8666.

10 Section 17025 is governed by Section 16865, a section that codifies and implements Section 4
11 of Article X B of the California Constitution. See Section 16850.1.

12 To avoid any possible impairment of constitutional requirements, former Section 8666 has
13 been continued in this section without change.

14 When enacting the bill that added this section, the Legislature did not evaluate the relationship
15 between this section and Article X B of the California Constitution. See Section 16800.

16 **CHAPTER 4. GILL AND TRAMMEL NETS**

17 **Comment.** The provisions appearing in this chapter continue the provisions of former Article 5
18 (commencing with Section 8680) of Chapter 3 of Part 3 of Division 6 of the Fish and Game
19 Code, which are governed by Section 4(b) of Article X B of the California Constitution.

20 **§ 18000. Legislative declaration**

21 18000. (a) The Legislature finds and declares that it is in the best interest of the
22 people of the state, the commercial fishing industry, and California's marine
23 resources that fishermen who use gill nets or trammel nets be experienced in the
24 use of those nets.

25 (b) In accordance with Section 4 of Article X B of the California Constitution,
26 this section contains the provisions of former Fish and Game Code Section 8680
27 in effect on January 1, 1990.

28 **Comment.** Section 18000 continues former Fish and Game Code Section 8680.

29 Section 18000 is governed by Section 16865, a section that codifies and implements Section 4
30 of Article X B of the California Constitution. See Section 16850.1.

31 To avoid any possible impairment of constitutional requirements, former Section 8680 has
32 been continued in this section without change.

33 When enacting the bill that added this section, the Legislature did not evaluate the relationship
34 between this section and Article X B of the California Constitution. See Section 16800.

35 **§ 18005. Required permit**

36 18005. (a) Gill nets or trammel nets shall not be used for commercial purposes
37 except under a revocable, nontransferable permit issued by the department. Each
38 permittee shall keep an accurate record of his or her fishing operations in a
39 logbook furnished by the department. The commission may suspend, revoke, or
40 cancel a permit, license, and commercial fishing privileges pursuant to Section
41 4870. A permit may be revoked and canceled for a period not to exceed one year
42 from the date of revocation.

1 (b) In accordance with Section 4 of Article X B of the California Constitution,
2 this section contains the provisions of former Fish and Game Code Section 8681
3 in effect on January 1, 1989.

4 **Comment.** Section 18005 continues former Fish and Game Code Section 8681.

5 Section 18005 is governed by Section 16865, a section that codifies and implements Section 4
6 of Article X B of the California Constitution. See Section 16850.1.

7 To avoid any possible impairment of constitutional requirements, former Section 8681 has
8 been continued in this section without change, except to update a cross-reference to reflect
9 renumbering required by the recodification of this code.

10 When enacting the bill that added this section, the Legislature did not evaluate the relationship
11 between this section and Article X B of the California Constitution. See Section 16800.

12 **§ 18010. Grandfathered and transferred permits**

13 18010. (a) The department shall issue no new gill net or trammel net permits
14 under Section 18005. However, the department may renew an existing, valid
15 permit issued under Section 18005, under regulations adopted pursuant to Section
16 18020 and upon payment of the fee prescribed under Section 18025.

17 (b) Notwithstanding subdivision (a) or Section 18005, any person who has an
18 existing, valid permit issued pursuant to Section 18005, and presents to the
19 department satisfactory evidence that he or she has taken and landed fish for
20 commercial purposes in at least 15 of the preceding 20 years, may transfer that
21 permit to any person otherwise qualified under the regulations adopted pursuant to
22 Section 18020 upon payment of the fee prescribed under Section 18025.

23 (c) The fee collected by the department for the transfer of a gill and trammel net
24 permit issued pursuant to Section 18020 shall not exceed the cost of the permit fee
25 as prescribed under Section 18025.

26 (d) For purposes of subdivision (b), the death of the holder of the permit is a
27 disability which authorizes transfer of the permit by that person's estate to a
28 qualified fisherman pursuant to Section 18020. For purposes of a transfer under
29 this subdivision, the estate shall renew the permit, as specified in Section 18005, if
30 the permittee did not renew the permit before his or her death. The application for
31 transfer by that person's estate shall be received by the department, including the
32 name, address, and telephone number of the qualified fisherman to whom the
33 permit will be transferred, within one year of the date of death of the permitholder.
34 If no transfer is initiated within one year of the date of death of the permitholder,
35 the permit shall revert to the department for disposition pursuant to Section 18005.

36 (e) Any active participant who becomes disabled in such a manner that he or she
37 can no longer earn a livelihood from commercial fishing may transfer his or her
38 permit as provided under this section.

39 (f) The Legislature finds and declares that this section, which continues former
40 Section 8681.5 as amended by Chapter 94 of the Statutes of 1992, is more
41 restrictive on the use and possession of gill nets and trammel nets than the version
42 of former Section 8681.5 in effect on January 1, 1989, and therefore complies with
43 former Section 8610.4, and Section 4 of Article X B of the California Constitution.

1 **Comment.** Section 18010 continues former Fish and Game Code Section 8681.5.

2 Section 18010 is governed by Section 16865, a section that codifies and implements Section 4
3 of Article X B of the California Constitution. See Section 16850.1.

4 To avoid any possible impairment of constitutional requirements, former Section 8681.5 has
5 been continued in this section without change, except to update cross-references to reflect
6 renumbering required by the recodification of this code.

7 When enacting the bill that added this section, the Legislature did not evaluate the relationship
8 between this section and Article X B of the California Constitution. See Section 16800.

9 **§ 18015. Appeal of permit denial**

10 18015. (a) Notwithstanding Section 18010, any person who possessed a valid
11 permit issued pursuant to Section 18005 and who was denied renewal of that
12 permit may appeal to the commission where evidence can be presented that illness
13 or the loss of a vessel resulted in the person not meeting the qualifications for
14 renewal or reissuance of that permit.

15 (b) The appeal shall be filed with the commission within 60 days of a denial of
16 the renewal of a permit.

17 (c) If the commission determines that a permit is to be issued to a prior permittee
18 under this section, a permit shall be made available to that person upon payment of
19 required fees.

20 (d) In accordance with Section 4 of Article X B of the California Constitution,
21 this section contains the provisions of former Fish and Game Code Section 8681.7
22 in effect on January 1, 1989.

23 **Comment.** Section 18015 continues former Fish and Game Code Section 8681.7.

24 Section 18015 is governed by Section 16865, a section that codifies and implements Section 4
25 of Article X B of the California Constitution. See Section 16850.1.

26 To avoid any possible impairment of constitutional requirements, former Section 8681.7 has
27 been continued in this section without change, except to update cross-references to reflect
28 renumbering required by the recodification of this code.

29 When enacting the bill that added this section, the Legislature did not evaluate the relationship
30 between this section and Article X B of the California Constitution. See Section 16800.

31 **§ 18020. Regulations**

32 18020. (a) The commission shall establish regulations for the issuance of gill net
33 and trammel net permits as necessary to establish an orderly gill net and trammel
34 net fishery. In promulgating regulations, the commission shall consider
35 recommendations of the gill net and trammel net advisory committee created
36 pursuant to subdivision (b). The regulations shall include, but are not limited to, a
37 requirement that persons being granted a permit have had previous experience as a
38 crewmember of a vessel using gill nets or trammel nets or have successfully
39 passed a proficiency test administered by the department, under such regulations
40 as the commission shall prescribe.

41 (b) The director shall establish an advisory committee, consisting of fishermen
42 experienced in the use of gill nets and trammel nets, to advise the department in
43 developing regulations to be proposed to the commission governing the use of gill
44 nets and trammel nets.

(c) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions of former Fish and Game Code Section 8682 in effect on January 1, 1989.

Comment. Section 18020 continues former Fish and Game Code Section 8682.

Section 18020 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8682 has been continued in this section without change.

When enacting the bill that added this section, the Legislature did not evaluate the relationship between this section and Article X B of the California Constitution. See Section 16800.

§ 18025. Permit fee

18025. (a) The fee for a permit issued pursuant to Section 18005 is three hundred thirty dollars (\$330).

Comment. Section 18025 continues former Fish and Game Code Section 8683.

Section 18025 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8683 has been continued in this section without change, except to update a cross-reference to reflect renumbering required by the recodification of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship between this section and Article X B of the California Constitution. See Section 16800.

§ 18030. Incidental catch of swordfish or marlin

18030. No incidental catch of swordfish or marlin is authorized by this chapter. Any swordfish or marlin caught incidentally by a gill or trammel net permittee operating under a permit issued pursuant to Section 18005 shall be delivered to the department.

A permit issued pursuant to Section 18005 shall be revoked for conviction of a violation of this section.

Comment. Section 18030 continues former Fish and Game Code Section 8684.

Section 18030 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8684 has been continued in this section without change, except to update cross-references to reflect renumbering required by the recodification of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship between this section and Article X B of the California Constitution. See Section 16800.

§ 18035. Districts 2505, 2525, and 2540

18035. In Districts 2505, 2525, and 2540, gill nets and trammel nets may not be possessed on any boat.

Comment. Section 18035 continues former Fish and Game Code Section 8685.

Section 18035 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8685 has been continued in this section without change, except to update cross-references to reflect renumbering required by the recodification of this code.

1 When enacting the bill that added this section, the Legislature did not evaluate the relationship
2 between this section and Article X B of the California Constitution. See Section 16800.

3 **§ 18040. Take of salmon, steelhead, or striped bass**

4 18040. Notwithstanding any other provision of law, gill nets may not be used to
5 take salmon, steelhead, or striped bass.

6 **Comment.** Section 18040 continues former Fish and Game Code Section 8685.5.

7 Section 18040 is governed by Section 16865, a section that codifies and implements Section 4
8 of Article X B of the California Constitution. See Section 16850.1.

9 To avoid any possible impairment of constitutional requirements, former Section 8685.5 has
10 been continued in this section without change.

11 When enacting the bill that added this section, the Legislature did not evaluate the relationship
12 between this section and Article X B of the California Constitution. See Section 16800.

13 See also Sections 4460, 4492 (enforcement).

14 **§ 18045. Sale or possession for sale of salmon, steelhead, or striped bass**

15 18045. It is unlawful to sell or possess for sale any salmon, steelhead, or striped
16 bass which were taken in California waters by the use of a gill net.

17 **Comment.** Section 18045 continues former Fish and Game Code Section 8685.6.

18 Section 18045 is governed by Section 16865, a section that codifies and implements Section 4
19 of Article X B of the California Constitution. See Section 16850.1.

20 To avoid any possible impairment of constitutional requirements, former Section 8685.6 has
21 been continued in this section without change.

22 When enacting the bill that added this section, the Legislature did not evaluate the relationship
23 between this section and Article X B of the California Constitution. See Section 16800.

24 See also Sections 4460, 4492 (enforcement).

25 **§ 18050. Purchase of salmon, steelhead, or striped bass**

26 18050. It is unlawful for any person to knowingly purchase any salmon,
27 steelhead, or striped bass which were taken in California waters by the use of a gill
28 net.

29 For the purpose of this section, “person” includes a broker who purchases
30 salmon, steelhead, or striped bass which were unlawfully taken by gill net for the
31 purpose of reselling those fish.

32 **Comment.** Section 18050 continues former Fish and Game Code Section 8685.7.

33 Section 18050 is governed by Section 16865, a section that codifies and implements Section 4
34 of Article X B of the California Constitution. See Section 16850.1.

35 To avoid any possible impairment of constitutional requirements, former Section 8685.7 has
36 been continued in this section without change.

37 When enacting the bill that added this section, the Legislature did not evaluate the relationship
38 between this section and Article X B of the California Constitution. See Section 16800.

39 See also Sections 4460, 4492 (enforcement).

40 **§ 18055. Districts 2515, 2535, and 2675**

41 18055. In Districts 2515, 2535, and 2675, it is unlawful to possess any gill or
42 trammel net with meshes over 1 3/4 inches in length, except under regulations
43 which may be prescribed by the commission.

1 **Comment.** Section 18055 continues former Fish and Game Code Section 8686.

2 Section 18055 is governed by Section 16865, a section that codifies and implements Section 4
3 of Article X B of the California Constitution. See Section 16850.1.

4 To avoid any possible impairment of constitutional requirements, former Section 8686 has
5 been continued in this section without change, except to update cross-references to reflect
6 renumbering required by the recodification of this code.

7 When enacting the bill that added this section, the Legislature did not evaluate the relationship
8 between this section and Article X B of the California Constitution. See Section 16800.

9 **§ 18060. Districts 2570, 2575, 2580, 2585, and 2590**

10 18060. Except as otherwise provided in this code, drift gill nets may be used in
11 Districts 2570, 2575, 2580, 2585, and 2590.

12 **Comment.** Section 18060 continues former Fish and Game Code Section 8687.

13 Section 18060 is governed by Section 16865, a section that codifies and implements Section 4
14 of Article X B of the California Constitution. See Section 16850.1.

15 To avoid any possible impairment of constitutional requirements, former Section 8687 has
16 been continued in this section without change, except to update cross-references to reflect
17 renumbering required by the recodification of this code.

18 When enacting the bill that added this section, the Legislature did not evaluate the relationship
19 between this section and Article X B of the California Constitution. See Section 16800.

20 **§ 18065. Districts 2595, 2600, and 2605**

21 18065. In Districts 2595, 2600, and 2605, gill nets may be used to take only
22 herring, subject to Chapter 2 (commencing with Section 40350) of Title 2 of Part
23 13 of Division 10. No gill net may be possessed on any boat in Districts 2595,
24 2600, and 2605, except by persons possessing a valid permit aboard boats
25 specifically authorized to take herring during the open seasons established by the
26 commission.

27 **Comment.** Section 18065 continues former Fish and Game Code Section 8688.

28 Section 18065 is governed by Section 16865, a section that codifies and implements Section 4
29 of Article X B of the California Constitution. See Section 16850.1.

30 To avoid any possible impairment of constitutional requirements, former Section 8688 has
31 been continued in this section without change, except to update cross-references to reflect
32 renumbering required by the recodification of this code.

33 When enacting the bill that added this section, the Legislature did not evaluate the relationship
34 between this section and Article X B of the California Constitution. See Section 16800.

35 See also Sections 4460, 4492 (enforcement).

36 **§ 18070. Point Reyes ocean area**

37 18070. Set gill nets and trammel nets with mesh smaller than 4 1/8 inches shall
38 not be used or possessed on any boat taking rockfish or lingcod in ocean waters
39 between a line extending 245° magnetic from the most westerly point of the Point
40 Reyes headlands and a line extending 250° magnetic from the Pigeon Point
41 Lighthouse.

42 **Comment.** Section 18070 continues former Fish and Game Code Section 8691.

43 Section 18070 is governed by Section 16865, a section that codifies and implements Section 4
44 of Article X B of the California Constitution. See Section 16850.1.

1 To avoid any possible impairment of constitutional requirements, former Section 8691 has
2 been continued in this section without change.

3 When enacting the bill that added this section, the Legislature did not evaluate the relationship
4 between this section and Article X B of the California Constitution. See Section 16800.

5 **§ 18075. Monterey County ocean area**

6 18075. Notwithstanding Section 18085, it is unlawful to use gill nets to take
7 rockfish or lingcod in the following waters:

8 (a) Between a line running 240° magnetic from Santa Cruz Point and a line
9 running 240° magnetic from Point Sur lighthouse in Monterey County in waters
10 100 fathoms or less in depth.

11 (b) Between a line running 240° magnetic from Point Sur lighthouse and a line
12 running 240° magnetic from Pfeiffer Point in Monterey County in waters 75
13 fathoms or less in depth.

14 **Comment.** Section 18075 continues former Fish and Game Code Section 8692.

15 Section 18075 is governed by Section 16865, a section that codifies and implements Section 4
16 of Article X B of the California Constitution. See Section 16850.1.

17 To avoid any possible impairment of constitutional requirements, former Section 8692 has
18 been continued in this section without change, except to update a cross-reference to reflect
19 renumbering required by the recodification of this code.

20 When enacting the bill that added this section, the Legislature did not evaluate the relationship
21 between this section and Article X B of the California Constitution. See Section 16800.

22 **§ 18080. Permissible net length**

23 18080. (a) Not more than 1,250 fathoms (7,500 feet) of gill net or trammel net
24 shall be fished in combination each day from any vessel for lingcod in ocean
25 waters.

26 (b) The Legislature finds and declares that this section, which continues former
27 Fish and Game Code Section 8692.5 as amended at the 1991–92 Regular Session
28 of the Legislature, is more restrictive on the use and possession of gill nets and
29 trammel nets than the provisions in effect on January 1, 1990, and therefore
30 complies with former Section 8610.4, and Section 4 of Article X B of the
31 California Constitution.

32 **Comment.** Section 18080 continues former Fish and Game Code Section 8692.5.

33 Section 18080 is governed by Section 16865, a section that codifies and implements Section 4
34 of Article X B of the California Constitution. See Section 16850.1.

35 To avoid any possible impairment of constitutional requirements, former Section 8692.5 has
36 been continued in this section without change, except to update a cross-reference to reflect
37 renumbering required by the recodification of this code.

38 When enacting the bill that added this section, the Legislature did not evaluate the relationship
39 between this section and Article X B of the California Constitution. See Section 16800.

40 **§ 18085. Districts 2615, 2620, 2625, and 2645**

41 18085. (a) Except as otherwise provided in this code, drift gill nets and set gill
42 nets may be used in Districts 2615, 2620, 2625, and 2645, except for the taking of
43 salmon.

(b) Rockfish and lingcod may be taken with drift gill nets and set gill nets in Districts 2615, 2620, 2625, and 2645, subject to the following restrictions:

(1) Rockfish and lingcod shall not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms.

(2) Rockfish and lingcod shall not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from Point Santa Cruz, inside 40 fathoms, by means of drift gill nets or set gill nets which have mesh smaller than 5 1/2 inches.

(3) Drift gill nets and set gill nets shall not be used nor shall they be possessed on any boat taking rockfish and lingcod with mesh smaller than 4 1/8 inches when used in Districts 2615 and 2620 north of Point Buchon, or with mesh smaller than 4 1/8 inches when used in District 2620 south of Point Buchon or in District 2625. Drift gill nets and set gill nets used or possessed on any boat taking rockfish and lingcod in District 2615, 2620, or 2625, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

(4) In District 2620 south of Point Sal and in District 2625, drift gill nets and set gill nets shall not be used to take rockfish and lingcod with the mesh of the net in waters less than 70 fathoms in depth, except that those nets shall not be used in waters less than 100 fathoms in depth at the Sixty Mile Bank.

(5) Loads or lots of fish taken in the areas described in paragraphs 1 to 4, inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(6) Gill nets shall not be used to take rockfish in District 2645.

Comment. Section 18085 continues former Fish and Game Code Section 8693.

Section 18085 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8693 has been continued in this section without change, except to update cross-references to reflect renumbering required by the recodification of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship between this section and Article X B of the California Constitution. See Section 16800.

§ 18090. District 2630

18090. In District 2630, gill nets may not be used, nor may they be possessed on any boat.

Comment. Section 18090 continues former Fish and Game Code Section 8694.

Section 18090 is governed by Section 16865, a section that codifies and implements Section 4 of Article X B of the California Constitution. See Section 16850.1.

To avoid any possible impairment of constitutional requirements, former Section 8694 has been continued in this section without change, except to update a cross-reference to reflect renumbering required by the recodification of this code.

When enacting the bill that added this section, the Legislature did not evaluate the relationship between this section and Article X B of the California Constitution. See Section 16800.

1 **§ 18095. South of Point Reyes headlands**

2 18095. Except as otherwise provided, set gill nets may be used south of a line
3 extending 245° magnetic from the western point of the Point Reyes headlands in
4 Marin County except for the taking of salmon.

5 **Comment.** Section 18095 continues former Fish and Game Code Section 8696.

6 Section 18095 is governed by Section 16865, a section that codifies and implements Section 4
7 of Article X B of the California Constitution. See Section 16850.1.

8 To avoid any possible impairment of constitutional requirements, former Section 8696 has
9 been continued in this section without change.

10 When enacting the bill that added this section, the Legislature did not evaluate the relationship
11 between this section and Article X B of the California Constitution. See Section 16800.

12 **§ 18100. Conversion of gill net to trammel net**

13 18100. Any line used on a gill net which shall tend to cause the webbing of such
14 gill net to bag or hang slack shall cause such net to lose its identity as a gill net and
15 become a trammel net.

16 **Comment.** Section 18100 continues former Fish and Game Code Section 8700.

17 Section 18100 is governed by Section 16865, a section that codifies and implements Section 4
18 of Article X B of the California Constitution. See Section 16850.1.

19 To avoid any possible impairment of constitutional requirements, former Section 8700 has
20 been continued in this section without change.

21 When enacting the bill that added this section, the Legislature did not evaluate the relationship
22 between this section and Article X B of the California Constitution. See Section 16800.

23 **CHAPTER 5. TRAMMEL NETS**

24 **Comment.** The provisions appearing in this chapter continue the provisions of former Article 6
25 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6 of the Fish and Game
26 Code, which are governed by Section 4(b) of Article X B of the California Constitution.

27 **§ 18200. “Trammel net”**

28 18200. “Trammel net” includes entangling nets constructed of more than one
29 wall of webbing.

30 **Comment.** Section 18200 continues former Fish and Game Code Section 8720.

31 Section 18200 is governed by Section 16865, a section that codifies and implements Section 4
32 of Article X B of the California Constitution. See Section 16850.1.

33 To avoid any possible impairment of constitutional requirements, former Section 8720 has
34 been continued in this section without change.

35 When enacting the bill that added this section, the Legislature did not evaluate the relationship
36 between this section and Article X B of the California Constitution. See Section 16800.

37 **§ 18205. Districts 2505, 2525, and 2540**

38 18205. In Districts 2505, 2525, and 2540, trammel nets may not be possessed on
39 any boat.

40 **Comment.** Section 18205 continues former Fish and Game Code Section 8721.

41 Section 18205 is governed by Section 16865, a section that codifies and implements Section 4
42 of Article X B of the California Constitution. See Section 16850.1.

1 To avoid any possible impairment of constitutional requirements, former Section 8721 has
2 been continued in this section without change, except to update cross-references to reflect
3 renumbering required by the recodification of this code.

4 When enacting the bill that added this section, the Legislature did not evaluate the relationship
5 between this section and Article X B of the California Constitution. See Section 16800.

6 **§ 18210. Districts 2590, 2615, 2620, and 2625**

7 18210. (a) Except as otherwise provided, in Districts 2590, 2615, 2620, and
8 2625, drift and set trammel nets may be used if the meshes are at least 81/2 inches
9 in length, except that these nets may not be used in District 2620 within 750 feet
10 of any pier or jetty, nor may they be used for the taking of salmon.

11 (b) This section shall become operative on August 15, 1989.

12 **Comment.** Section 18210 continues former Fish and Game Code Section 8724.

13 Section 18210 is governed by Section 16865, a section that codifies and implements Section 4
14 of Article X B of the California Constitution. See Section 16850.1.

15 To avoid any possible impairment of constitutional requirements, former Section 8724 has
16 been continued in this section without change, except to update cross-references to reflect
17 renumbering required by the recodification of this code.

18 When enacting the bill that added this section, the Legislature did not evaluate the relationship
19 between this section and Article X B of the California Constitution. See Section 16800.

20 **§ 18215. District 2630**

21 18215. In District 2630, trammel nets may not be used, nor may they be
22 possessed on any boat.

23 **Comment.** Section 18215 continues former Fish and Game Code Section 8725.

24 Section 18215 is governed by Section 16865, a section that codifies and implements Section 4
25 of Article X B of the California Constitution. See Section 16850.1.

26 To avoid any possible impairment of constitutional requirements, former Section 8725 has
27 been continued in this section without change, except to update a cross-reference to reflect
28 renumbering required by the recodification of this code.

29 When enacting the bill that added this section, the Legislature did not evaluate the relationship
30 between this section and Article X B of the California Constitution. See Section 16800.

31 **CHAPTER 6. TAKE OF SHARK AND SWORDFISH**

32 **§ 18300. Required permit**

33 18300. (a) Notwithstanding subdivision (a) of Section 43655, shark and
34 swordfish shall not be taken for commercial purposes with drift gill nets except
35 under a valid drift gill net shark and swordfish permit issued to that person that has
36 not been suspended or revoked and is issued to at least one person aboard the boat.

37 (b) A drift gill net shark and swordfish permit shall not be required for the
38 taking of sharks with drift gill nets with a mesh size smaller than eight inches in
39 stretched mesh and twine size no. 18 or the equivalent of this twine size or
40 smaller.

41 (c) Notwithstanding Section 22505 or any other law, a permit issued pursuant to
42 this section shall be surrendered or revoked as of January 31 of the fourth year

following the department's notification to the Legislature pursuant to paragraph (2) of subdivision (b) of Section 18400.

Comment. Section 18300 continues former Fish and Game Code Section 8561 without substantive change.

See also Sections 5104 (enforcement), 5700 (marlin).

Note. Proposed Section 18300 would continue Section 8561, which was amended by 2018 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 18305. Transfer of permit (operative until March 31, 2019)

18305. (a) Notwithstanding Section 22505, a permit issued pursuant to Section 18300 may be transferred by the permittee only if one of the following conditions is met:

(1) The permittee has held the permit for three or more years.

(2) The permittee is permanently injured or suffers a serious illness that will result in a hardship, as determined in a written finding by the director, to the permittee or his or her family if the permit may not otherwise be transferred or upon dissolution of a marriage where the permit is held to be community property.

(3) The permittee has died and his or her surviving spouse, heirs, or estate seeks to transfer the permit within six months of the death of the permittee or, with the written approval of the director, within the length of time that it may reasonably take to effect the transfer.

(b) A permit may be transferred only to a person who holds a valid general gill net permit issued to that person pursuant to Section 18005 that has not been suspended or revoked.

(c) The transfer of a permit shall only become effective upon notice from the department. An application for transfer shall be submitted to the department with such reasonable proof as the department may require to establish the qualification of the person the permit is to be transferred to, the payment to the department of a transfer fee of one thousand five hundred dollars (\$1,500), and a written disclosure, filed under penalty of perjury, of the terms of the transfer.

(d) Any restrictions on participation that were required in a permit transferred pursuant to Section 22505 before January 1, 1990, are of no further force or effect.

(e) This section shall become inoperative on March 31, 2019, and, as of January 1, 2020, is repealed.

Comment. Section 18305 continues former Fish and Game Code Section 8561.5, as amended by 2018 Cal. Stat. ch. 844, § 4, without substantive change.


Note. Proposed Section 18305 would continue Section 8561.5, which was amended by 2018 Cal. Stat. ch. 844, § 4. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

1 **§ 18305. Transfer of permit (operative on March 31, 2019)**

2 18305. (a) Notwithstanding Section 22505 or any other law, a permit issued
3 pursuant to Section 18300 may not be transferred.

4 (b) This section shall become operative on March 31, 2019.

5 **Comment.** Section 18305 continues former Fish and Game Code Section 8561.5, as added by
6 2018 Cal. Stat. ch. 844, § 5, without substantive change.

7  **Note.** Proposed Section 18305 would continue Section 8561.5, which was added by 2018
8 Cal. Stat. ch. 844, § 5. Although that bill will not take effect until 2019, it is included here in
9 anticipation of its effect.

10 **§ 18310. Application**

11 18310. Applications delivered to a department office after April 30, or if mailed,
12 postmarked after April 30, shall not be accepted unless approved by the
13 commission pursuant to Section 18340.

14 **Comment.** Section 18310 continues former Fish and Game Code Section 8562 without
15 substantive change.

16 **§ 18315. Possession and use of permit**

17 18315. (a) Except as provided in subdivision (b), the permittee shall be aboard
18 the vessel and shall be in possession of a valid drift gill net shark and swordfish
19 permit when engaged in operations authorized by the permit.

20 (b) A permittee may have any person serve in his or her place on the permittee's
21 vessel and engage in fishing under his or her drift gill net shark and swordfish
22 permit for not more than 15 calendar days in any one year, except that a longer
23 period may be allowed in the event of serious illness. A permittee shall notify the
24 department's Long Beach office of a substitution of 15 days or less per calendar
25 year, by certified letter or telegram at least 24 hours prior to the commencement of
26 the trip. Written authorization for a substitution of greater than 15 days shall be
27 obtained from the director and shall be given only on the director's finding that the
28 permittee will not be available to engage in the activity due to serious illness,
29 supported by medical evidence. An application for a substitution of greater than 15
30 days shall be made to the Department of Fish and Game, Headquarters Office,
31 Sacramento, and shall contain such information as the director may require. Any
32 denial of the substitution may be appealed to the commission.

33 **Comment.** Section 18315 continues former Fish and Game Code Section 8563 without
34 substantive change.

35 **§ 18320. Specification of vessel**

36 18320. When the permittee applies for a drift gill net shark and swordfish
37 permit, the permittee shall specify the vessel he or she will use in operations
38 authorized by the permit. Transfer to another vessel shall be authorized by the
39 department upon receipt of a written request from the permittee, accompanied by a
40 transfer fee of one hundred thirty dollars (\$130), as follows:

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

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

7 **Comment.** Section 18320 continues former Fish and Game Code Section 8564 without
8 substantive change.

9 **§ 18325. Fee**

10 18325. The fee for a drift gill net shark and swordfish permit shall be three
11 hundred thirty dollars (\$330).

12 **Comment.** Section 18325 continues former Fish and Game Code Section 8567 without
13 substantive change.

14 **§ 18330. Eligibility for permit**

15 18330. Drift gill net shark and swordfish permits shall be issued to any prior
16 permittee who possesses a valid drift gill net shark and swordfish permit issued
17 pursuant to this section, but only if the permittee meets both of the following
18 requirements:

19 (a) Possesses a valid permit for the use of gill nets authorized pursuant to
20 Section 18005.

21 (b) Possessed a valid drift gill net shark and swordfish permit during the
22 preceding season and that permit was not subsequently revoked.

23 **Comment.** Section 18330 continues former Fish and Game Code Section 8568 without
24 substantive change.

25 **§ 18335. Minimum landing requirement**

26 18335. Any person holding a valid drift gill net shark and swordfish permit on
27 or after January 1, 2000, who did not make, on or after January 1, 2000, the
28 minimum landings required under subdivision (c) of Section 18330, is eligible for
29 that permit when that person meets all other qualifications for the permit.

30 **Comment.** Section 18335 continues former Fish and Game Code Section 8568.5 without
31 substantive change.

32 **§ 18340. Conditions for late application**

33 18340. The commission may establish conditions for the issuance of a permit if
34 the person's drift gill net shark and swordfish permit was revoked during a
35 preceding season or if the person possessed a valid permit during the preceding
36 season but did not apply for renewal of his or her permit on or before April 30.
37 The applicant for a permit under this section may appeal to the director for the
38 issuance of the permit under those conditions.

39 **Comment.** Section 18340 continues former Fish and Game Code Section 8569 without
40 substantive change.

1 **§ 18345. Allowed locations and conditions for use of net**

2 18345. Drift gill nets may be used to take shark and swordfish under the permit
3 provided in this chapter, subject to Section 16860 and all of the following
4 restrictions:

5 (a) From June 1 to November 15, inclusive, shark or swordfish gill nets shall not
6 be in the water from two hours after sunrise to two hours before sunset east of a
7 line described as follows:

8 From a point beginning at Las Pitas Point to San Pedro Point on Santa Cruz
9 Island, thence to Gull Island Light, thence to the northeast extremity of San
10 Nicolas Island, thence along the high water mark on the west side of San Nicolas
11 Island to the southeast extremity of San Nicolas Island, thence to the northwest
12 extremity of San Clemente Island, thence along the high water mark on the west
13 side of San Clemente Island to the southeast extremity of San Clemente Island,
14 thence along a line running 150° true from the southeast extremity of San
15 Clemente Island to the westerly extension of the boundary line between the
16 Republic of Mexico and San Diego County.

17 (b)(1) The total maximum length of a shark or swordfish gill net on the net reel
18 on a vessel, on the deck of the vessel, and in the water at any time shall not exceed
19 6,000 feet in float line length. The float line length shall be determined by
20 measuring the float line, as tied, of all the net panels, combined with any other
21 netted lines. The existence of holes, tears, or gaps in the net shall have no bearing
22 on the measurement of the float line. The float line of any net panels with holes,
23 tears, or gaps shall be included in the total float line measurement.

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

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

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

40 (c) Any end of a shark or swordfish gill net not attached to the permittee's vessel
41 shall be marked by a pole with a radar reflector. The reflector shall be at least six
42 feet above the surface of the ocean and not less than 10 inches in any dimension
43 except thickness. The permittee's permit number shall be permanently affixed to at

1 least one buoy or float that is attached to the radar reflector staff. The permit
2 number shall be at least one and one-half inches in height and all markings shall
3 be at least one-quarter inch in width.

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

6 **Comment.** Section 18345 continues former Fish and Game Code Section 8573 without
7 substantive change.

8 **§ 18350. Mesh size**

9 18350. (a) Drift gill nets with mesh size less than 14 inches in stretched mesh
10 shall not be used to take shark and swordfish by permittees operating under a drift
11 gill net shark and swordfish permit, and the permittee shall not have aboard the
12 vessel or in the water a drift gill net with mesh size less than 14 inches and more
13 than 8 inches in stretched mesh.

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

16 **Comment.** Section 18350 continues former Fish and Game Code Section 8574 without
17 substantive change.

18 **§ 18355. Seasonal prohibitions**

19 18355. Drift gill nets used to take shark and swordfish under the permit provided
20 in this chapter shall not be used under the following circumstances:

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

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

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

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

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

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

8 **Comment.** Section 18355 continues former Fish and Game Code Section 8575 without
9 substantive change.

10 **§ 18360. Prohibited areas**

11 18360. Drift gill nets used to take shark and swordfish under the permit provided
12 in this chapter shall not be used in the following areas:

13 (a) Within 12 nautical miles from the nearest point on the mainland shore north
14 of a line extending due west from Point Arguello.

15 (b) East of a line running from Point Reyes to Noonday Rock to the westernmost
16 point of Southeast Farallon Island to Pillar Point.

17 **Comment.** Section 18360 continues former Fish and Game Code Section 8575.5 without
18 substantive change.

19 **§ 18365. Additional prohibitions**

20 18365. (a) Drift gill nets shall not be used to take shark or swordfish from
21 February 1 to April 30, inclusive.

22 (b) Drift gill nets shall not be used to take shark or swordfish in ocean waters
23 within 75 nautical miles from the mainland coastline between the westerly
24 extension of the California-Oregon boundary line and the westerly extension of
25 the United States-Republic of Mexico boundary line from May 1 to August 14,
26 inclusive.

27 (c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit
28 issued under Section 18005 or 18300, except that drift gill nets with a mesh size
29 smaller than eight inches in stretched mesh and twine size number 18, or the
30 equivalent of this twine size, or smaller, used pursuant to a permit issued under
31 Section 18005, may be used to take species of sharks other than thresher shark,
32 shortfin mako shark, and white shark during the periods specified in subdivisions
33 (a) and (b). However, during the periods of time specified in subdivisions (a) and
34 (b), not more than two thresher sharks and two shortfin mako sharks may be
35 possessed and sold if taken incidentally in drift gill nets while fishing for
36 barracuda or white seabass and if at least 10 barracuda or five white seabass are
37 possessed and landed at the same time as the incidentally taken thresher or shortfin
38 mako shark. No thresher shark or shortfin mako shark taken pursuant to this
39 subdivision shall be transferred to another vessel before landing the fish. Any
40 vessel possessing thresher or shortfin mako sharks pursuant to this section shall
41 not have any gill or trammel net aboard that is constructed with a mesh size

1 greater than eight inches in stretched mesh and twine size greater than number 18,
2 or the equivalent of a twine size greater than number 18.

3 (d) Notwithstanding the closure from May 1 to August 14, inclusive, provided
4 by subdivision (b), a permittee may land swordfish or thresher shark taken in
5 ocean waters more than 75 nautical miles from the mainland coastline in that
6 period if, for each landing during that closed period, the permittee signs a written
7 declaration under penalty of perjury that the fish landed were taken more than 75
8 nautical miles from the mainland coastline. The declaration shall be completed and
9 signed before arrival at any port in this state. Within 72 hours of the time of
10 arrival, the permittee shall deliver the declaration to the department.

11 (e) From August 15 of the year of issue to January 31, inclusive, of the
12 following year, swordfish may be taken under a permit issued pursuant to this
13 chapter.

14 **Comment.** Section 18365 continues former Fish and Game Code Section 8576(a)-(d), (f)
15 without substantive change.

16 See also Section 4964 (enforcement).

17 **§ 18370. Take of thresher shark**

18 18370. Thresher shark taken with drift gill nets shall not have the pelvic fin
19 severed from the carcass until after the shark is brought ashore.

20 **Comment.** Section 18370 continues former Fish and Game Code Section 8576.5 without
21 substantive change.

22 **§ 18375. Closure of fishery by director**

23 18375. Notwithstanding subdivision (a) of Section 43655, the director may close
24 the drift gill net shark and swordfish fishery, the swordfish harpoon fishery, or any
25 area where either or both fisheries are conducted, if, after a public hearing, the
26 director determines the action is necessary to protect the swordfish or thresher
27 shark and bonito (mako) shark resources.

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

31 **Comment.** Section 18375 continues former Fish and Game Code Section 8577 without
32 substantive change.

33 **§ 18380. Surrender of permit**

34 18380. (a) A permittee shall be subject to the provisions of this chapter
35 whenever the permittee is using a drift gill net, unless the permittee has
36 surrendered his or her permit to the department.

37 (b) A permittee may surrender his or her permit by notifying the department of
38 his or her intentions by submitting a notarized form provided by the department
39 and by sending or delivering his or her permit to a department office as prescribed
40 on the form.

1 **Comment.** Section 18380 continues former Fish and Game Code Section 8579 without
2 substantive change.

3 **Note.** Proposed Section 18380 would continue Section 8579, which was amended by 2018
4 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **§ 18385. Sale of swordfish**

7 18385. It is unlawful for any permittee to sell swordfish taken by him or her to
8 other than the licensees described in Chapter 2 (commencing with Section 20300)
9 of Title 9.

10 **Comment.** Section 18385 continues former Fish and Game Code Section 8580 without
11 substantive change.

12 **§ 18395. Legislative intent regarding marlin**

13 18395. (a) The Legislature finds and declares that the intent of this this chapter
14 is not to permit or encourage the taking of marlin for commercial purposes.

15 (b) In the event a marlin is taken incidentally in a drift gill net, the permittee
16 shall notify the department immediately that the fish is on the boat. No marlin may
17 be removed from the boat except for delivery to the department.

18 **Comment.** Subdivision (a) of Section 18395 continues former Fish and Game Code Section
19 8582(a) without substantive change.

20 Subdivision (b) continues the second and third sentences of former Fish and Game Code
21 Section 8582(b) without substantive change.

22 **§ 18400. Transitional program**

23 18400 (a) By March 31, 2020, the department shall establish a program to
24 transition the holders of drift gill net permits issued pursuant to Section 18300 out
25 of the drift gill net fishery that includes the following conditions:

26 (1) A permittee who chooses to participate in the transition program shall
27 indicate his or her intention to the department to participate by submitting a
28 notarized form provided by the department on or before January 1, 2020.

29 (2) A permittee who has landed swordfish or thresher shark with a shark or
30 swordfish gill net or with a federal deep set buoy gear exempted fishing permit
31 between April 1, 2012, and March 31, 2018, inclusive, and who voluntarily
32 surrenders his or her drift gill net permit issued pursuant to Section 18300 and
33 shark or swordfish gill net or nets shall receive, to the extent that funds for the
34 transition program are available, the following amounts:

35 (A) Ten thousand dollars (\$10,000) to surrender the permit.

36 (B) One hundred thousand dollars (\$100,000) to surrender the net or nets.

37 (3) A permittee who has not landed swordfish or thresher shark on or after April
38 1, 2012, and who voluntarily surrenders his or her drift gill net permit issued
39 pursuant to Section 18300 and shark or swordfish gill net or nets shall receive, to
40 the extent that funds for the transition program are available, ten thousand dollars
41 (\$10,000).

(4) The department shall inform a permittee who submits a notarized form pursuant to paragraph (1) whether the permittee meets the requirements of paragraph (2) or (3) and the department shall submit this information to the fiscal agent.

(5) Any permittee who participates in the transition program by surrendering his or her permit pursuant to paragraph (2) or (3) shall be prohibited from obtaining a new California drift gill net shark and swordfish permit, shall agree not to fish under a federal drift gill net permit, shall agree not to transfer or renew a federal drift gill net permit, and shall surrender his or her shark or swordfish gill net or nets to an entity approved by the department for the purpose of destroying the nets.

(b) (1) The department shall enter into an agreement with a fiscal agent for the fiscal agent to receive state and nonstate funds made available for purposes of the transition program, to put those funds in an escrow account, and, upon the receipt of adequate funds, to pay the applicable amount described in subdivision (a) to a participating permittee. As part of the agreement, the department shall require the fiscal agent to notify the department within 10 days of the receipt of one million dollars (\$1,000,000) from nonstate sources for purposes of transitioning permittees out of the drift gill net fishery. If the department enters into an agreement with a fiscal agent that is a state entity pursuant to this subdivision, notwithstanding Section 13340 of the Government Code, any funds received from nonstate sources are continuously appropriated to that state entity for purposes of the transition program without regard to fiscal years.

(2) The department shall notify the Legislature pursuant to Section 9795 of the Government Code within 10 days of the date that the fiscal agent receives one million dollars (\$1,000,000) from nonstate sources for purposes of the transition program and secures one million dollars (\$1,000,000) through an agreement with the Ocean Protection Council pursuant to Section 35651 of the Public Resources Code.

(3) For purposes of this section, “fiscal agent” includes any of the following:


(A) The Department of Finance.

(B) The Pacific States Marine Fisheries Commission.

(C) The Controller.

(D) Any appropriate state or federal agency.

Comment. Section 18400 continues former Fish and Game Code Section 8583 without substantive change.

 **Note.** Proposed Section 18400 would continue Section 8583, which was added by 2018 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 18405. Disclaimer

18405. This chapter does not create or recognize a property right in fish expected to be caught using a permit issued pursuant to Section 18300.

Comment. Section 18405 continues former Fish and Game Code Section 8583.5 without substantive change.

Note. Proposed Section 18405 would continue Section 8583.5, which was added by 2018 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

CHAPTER 7. TAKE OF OTHER FISH

§ 18500. Yellowtail, barracuda, and white sea bass

18500. (a) It is unlawful to use any purse seine or round haul net to take yellowtail, barracuda, or white sea bass.

(b) It is unlawful to possess any yellowtail, barracuda, or white sea bass, except those taken south of the international boundary between the United States and Mexico, and imported into the state under regulations of the commission as provided in Section 38705, subdivision (a) or (b) of Section 38875, or Section 44650, on any boat carrying or using any purse seine or round haul net, including, but not limited to, a bait net as described in Section 15900.

(c) Gill nets with meshes of a minimum length of 3 1/2 inches may be used to take yellowtail and barracuda.

(d) Gill nets with meshes of a minimum length of six inches may be used to take white sea bass; however, during the period from June 16 to March 14, inclusive, not more than 20 percent by number of a load of fish may be white seabass 28 inches or more in total length, up to a maximum of 10 white seabass per load, if taken in gill nets or trammel nets with meshes from 3 1/2 to 6 inches in length.

(e) Notwithstanding the provisions of this section, the department may issue permits to hook and line commercial fishermen to possess a bona fide bait net on their vessels for the purpose of taking bait for their own use only.

Comment. Section 18500 continues former Fish and Game Code Section 8623(c) and (d) without substantive change.

§ 18505. California halibut generally


18505. (a) Except as otherwise provided in this code, set gill nets and trammel nets with mesh size of not less than 8 1/2 inches may be used to take California halibut.

(b) Except as provided in subdivision (c), not more than 1,500 fathoms (9,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters.

(c) Not more than 1,000 fathoms (6,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters between a line extending due west magnetic from Point Arguello in Santa Barbara County and a line extending 172° magnetic from Rincon Point in Santa Barbara County to San Pedro Point at the east end of Santa Cruz Island in Santa

Barbara County, then extending southwesterly 188° magnetic from San Pedro Point on Santa Cruz Island.

Comment. Section 18505 continues former Fish and Game Code Section 8625(a)-(c) without substantive change.

 **Note.** Existing Fish and Game Code Section 8625(d), identifying the operative date of the section as August 15, 1989, is deleted as obsolete.


§ 18510. Special rules for California halibut

18510. (a) Notwithstanding Section 18505, and where consistent with the determination made pursuant to subdivisions (b) and (c), the director may reduce the minimum mesh size permitted for gill and trammel nets used to take California halibut from 8 1/2 inches to not less than 8 inches in any or all areas south of a line extending 240° magnetic from the boundary line between the Counties of Los Angeles and Ventura.

(b) If, on or before October 1, 1990, the department determines that commercial landings of California halibut taken south of the line extending 240° magnetic from the boundary line between the Counties of Los Angeles and Ventura in the period between September 1, 1989, and August 31, 1990, decline by 10 percent or more compared with landings of California halibut taken in this area during the period between September 1, 1988, and August 31, 1989, the department shall assess the impact of the 8 1/2 inch minimum mesh size restriction on the California halibut fishery in the area described in subdivision (a). The assessment shall include, but is not limited to, an analysis of landing data, including landings of California halibut in Los Angeles, Orange, and San Diego Counties, the age and size composition of the catch, and the department's monitoring at sea of the gill and trammel net fishery.

(c) If the department determines that the 8 1/2 inch minimum mesh size, established pursuant to Section 18505 has directly resulted in a decline of 10 percent or more in landings of California halibut south of the line extending 240° magnetic from the boundary between the Counties of Los Angeles and Ventura, the director shall hold a public hearing in the area affected to make findings and take public testimony prior to taking any action pursuant to subdivision (a).

Comment. Section 18510 continues former Fish and Game Code Section 8626(a)-(c) without substantive change.

 **Note.** Existing Fish and Game Code Section 8626(d), identifying the operative date of the section as August 15, 1989, is deleted as obsolete.

TITLE 5. FISHING LINES

CHAPTER 1. GENERAL PROVISIONS

§ 18700. Legislative declaration

18700. The Legislature finds and declares that it is in the best interest of the people of the state and California's marine resources and fisheries that the use of commercial hook and line fishing gear be regulated in a manner that assures the orderly development of the fisheries, maintenance of viable resources, and sustainable and satisfying commercial and recreational harvests.

Comment. Section 18700 continues former Fish and Game Code Section 9025.1 without substantive change.

§ 18705. Permitted length

18705. Notwithstanding Section 14300 and Chapter 4 (commencing with Section 18950), it is unlawful to use a fishing line, including, but not limited to, a troll line or handline, that is more than 900 feet in length, except when used as a set line pursuant to subdivisions (a) and (b) of Section 18900 or when used as part of deep-set buoy gear authorized under federal law.

Comment. Section 18705 continues former Fish and Game Code Section 9028 without substantive change.

Note. Proposed Section 18705 would continue Section 9028, which was amended by 2018 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 18710. "Set line"

18710. As used in this title, "set line" means a line used to take fish that is anchored to the bottom on each end and is not free to drift with the tide or current.

Comment. Section 18710 combines and continues the parts of former Fish and Game Code Sections 8601 and 9029.5 that apply to set lines, without substantive change, except that the application of the provision is broadened to include Sections 18705 and 18900.

Note. Proposed Section 18710 would broaden the definition of "set line" slightly, so that it applies to proposed Section 18705 and 18900. **The Commission invites comment on whether that change would cause any problems.**

§ 18715. "Troll line"

18715. "Troll line" means a line with one or more hooks towed by a vessel underway and making way.

Comment. Section 18715 continues former Fish and Game Code Section 9025.5(b) without substantive change.

1 **§ 18720. “Vertical fishing line”**

2 18720. “Vertical fishing line” means a fishing line that is anchored to the ocean
3 bottom at one end and attached at the other end on the surface to a fishing vessel
4 or a buoy.

5 **Comment.** Section 18720 continues part of the second sentence of former Fish and Game
6 Code Section 9029 without substantive change.

7 CHAPTER 2. SPECIAL DISTRICT RULES

8 **§ 18800. District 2570**

9 18800. (a) In District 2570, notwithstanding Section 18705, a fishing line that is
10 anchored to the ocean bottom at one end and attached at the surface to a fishing
11 vessel or a buoy may be used, except under any of the following circumstances:

12 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

13 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
14 vessel or buoy.

15 (3) If any hooks are attached to the upper one-third of the line.

16 (b) A buoy attached to the surface end of a fishing line used pursuant to
17 subdivision (a) shall display above its waterline, in numerals at least two inches
18 high, the fisherman’s commercial fishing license identification number.

19 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
20 Section 18705, in waters of the district within one mile of the mainland shore, the
21 following additional restrictions apply:

22 (1) It is unlawful to use more than 150 hooks on a vessel to take a fish for
23 commercial purposes when using fishing lines authorized pursuant to this title.

24 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
25 fishing line shall be attached to another fishing line, while those lines are being
26 used for commercial fishing pursuant to this title, except that a single troll line
27 with not more than 30 hooks may be used to take California halibut.

28 (3) Each fishing line used pursuant to this title that is not attached to a fishing
29 vessel shall be buoyed, and the commercial fishing license identification number
30 issued to the permittee who is using the fishing line shall be marked on and visible
31 on the upper one-half of each buoy, in numbers at least two inches high.

32 **Comment.** Subdivisions (a) and (b) of Section 18800 continue the part of former Fish and
33 Game Code Section 9029 applicable to former Fish and Game District 6 without substantive
34 change.

35 Subdivision (c) continues the part of former Fish and Game Code Section 9027 applicable to
36 former Fish and Game District 6 without substantive change.

37 **Note.** Existing Fish and Game Code Section 9029(c) (which would be continued in part by
38 proposed Section 18800(c)) requires a fishing line used in specified Fish and Game districts to be
39 attached to a buoy displaying “the fisherman’s” identification number. Although the section
40 further provides that the term “fisherman’s identification number” refers to the number of “the
41 person’s” commercial fishing license issued pursuant to Section 7850, it remains unclear whether
42 this reference is intended to refer to the *owner of* the line, or the person *fishing* with the line.

This same issue is presented by several other sections of the existing Fish and Game Code, but it is possible that context in these sections dictates different conclusions. For example, this same reference to the display on a buoy of the “fisherman’s” identification number is part of the general regulation of set nets in existing Section 8601.5, where the context of that section seems to suggest the required marking should be that of the *owner* of the net. (See Note following proposed Section 15605.) On the other hand, existing Section 9027, another section that governs the use of fishing lines in a specially described geographic area, expressly requires the identification number displayed on the buoy attached to a fishing line “the commercial fishing license identification number issued... to the permittee who is *using* the fishing line.”

The Commission invites comment on whether existing Section 9029(c) is intended to require the display of the commercial fishing license identification number of the *owner* of the fishing line, or of the fisherman who is presently *fishing* with the line.

§ 18805. District 2575

18805. (a) In District 2575, notwithstanding Section 18705, a fishing line that is anchored to the ocean bottom at one end and attached at the surface to a fishing vessel or a buoy may be used, except under any of the following circumstances:

(1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

(2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface vessel or buoy.

(3) If any hooks are attached to the upper one-third of the line.

(b) A buoy attached to the surface end of a fishing line used pursuant to subdivision (a) shall display above its waterline, in numerals at least two inches high, the fisherman’s commercial fishing license identification number.

(c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or Section 18705, in waters of the district within one mile of the mainland shore excluding ocean waters between a line extending 203 degrees magnetic from Gitchell Creek and a line extending 252 degrees magnetic from False Cape in Humboldt County, the following additional restrictions apply:

(1) It is unlawful to use more than 150 hooks on a vessel to take a fish for commercial purposes when using fishing lines authorized pursuant to this title.

(2) Not more than 15 hooks shall be attached to any one fishing line, and no fishing line shall be attached to another fishing line, while those lines are being used for commercial fishing pursuant to this title, except that a single troll line with not more than 30 hooks may be used to take California halibut.

(3) Each fishing line used pursuant to this title that is not attached to a fishing vessel shall be buoyed, and the commercial fishing license identification number issued to the permittee who is using the fishing line shall be marked on and visible on the upper one-half of each buoy, in numbers at least two inches high.

(d) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or Section 19005, in waters of the district within one mile of the mainland shore, it is unlawful to use a set line, vertical fishing line, or troll line to take any fish other than salmon or California halibut for a commercial purpose, from sunset on Friday to sunset on the following Sunday, or from sunset of the day before a state recognized legal holiday until sunset on that holiday.

1 **Comment.** Subdivisions (a) and (b) of Section 18805 continue the part of former Fish and
2 Game Code Section 9029 applicable to former Fish and Game District 7 without substantive
3 change.

4 Subdivision (c) continues the part of former Fish and Game Code Section 9027 applicable to
5 former Fish and Game District 7 without substantive change.

6 Subdivision (d) continues the parts of the first and third sentences of former Fish and Game
7 Code Section 9029.5 applicable to former Fish and Game District 7 without substantive change.

8 **§ 18810. District 2590**

9 18810. (a) In District 2590, notwithstanding Section 18705, a fishing line that is
10 anchored to the ocean bottom at one end and attached at the surface to a fishing
11 vessel or a buoy may be used, except under any of the following circumstances:

12 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

13 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
14 vessel or buoy.

15 (3) If any hooks are attached to the upper one-third of the line.

16 (b) A buoy attached to the surface end of a fishing line used pursuant to
17 subdivision (a) shall display above its waterline, in numerals at least two inches
18 high, the fisherman's commercial fishing license identification number.

19 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
20 Section 18705, in waters of the district within one mile of the mainland shore
21 excluding ocean waters between a line extending 245 degrees magnetic from the
22 most westerly point of the west point of the Point Reyes headlands in Marin
23 County and a line extending due west magnetic from Point Bolinas in Marin
24 County, the following additional restrictions apply:

25 (1) It is unlawful to use more than 150 hooks on a vessel to take a fish for
26 commercial purposes when using fishing lines authorized pursuant to this title.

27 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
28 fishing line shall be attached to another fishing line, while those lines are being
29 used for commercial fishing pursuant to this title, except that a single troll line
30 with not more than 30 hooks may be used to take California halibut.

31 (3) Each fishing line used pursuant to this title that is not attached to a fishing
32 vessel shall be buoyed, and the commercial fishing license identification number
33 issued to the permittee who is using the fishing line shall be marked on and visible
34 on the upper one-half of each buoy, in numbers at least two inches high.

35 (d) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
36 Section 19010, in waters of the district within one mile of the mainland shore, it is
37 unlawful to use a set line, vertical fishing line, or troll line to take any fish other
38 than salmon or California halibut for a commercial purpose, from sunset on Friday
39 to sunset on the following Sunday, or from sunset of the day before a state
40 recognized legal holiday until sunset on that holiday.

41 **Comment.** Subdivisions (a) and (b) of Section 18810 continue the part of former Fish and
42 Game Code Section 9029 applicable to former Fish and Game District 10 without substantive
43 change.

Subdivision (c) continues the part of former Fish and Game Code Section 9027 applicable to former Fish and Game District 10 without substantive change.

Subdivision (d) continues the parts of the first and third sentences of former Fish and Game Code Section 9029.5 applicable to former Fish and Game District 10 without substantive change.

§ 18815. District 2615

18815. (a) In District 2615, notwithstanding Section 18705, a fishing line that is anchored to the ocean bottom at one end and attached at the surface to a fishing vessel or a buoy may be used, except under any of the following circumstances:

(1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

(2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface vessel or buoy.

(3) If any hooks are attached to the upper one-third of the line.

(b) A buoy attached to the surface end of a fishing line used pursuant to subdivision (a) shall display above its waterline, in numerals at least two inches high, the fisherman's commercial fishing license identification number.

(c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or Section 18705, in waters of the district within one mile of the mainland shore, the following additional restrictions apply:

(1) It is unlawful to use more than 150 hooks on a vessel to take fish for commercial purposes when using a fishing line authorized pursuant to this title.

(2) Not more than 15 hooks shall be attached to any one fishing line, and no fishing line shall be attached to another fishing line, while those lines are being used for commercial fishing pursuant to this title.

(3) Each fishing line used pursuant to this title that is not attached to a fishing vessel shall be buoyed, and the commercial fishing license identification number issued to the permittee who is using the fishing line shall be marked on, and visible on the upper one-half of each buoy, in numbers not less than two inches in height.

(d) Subdivision (c) does not apply to persons who are fishing south of a line extending due west from Point Conception for halibut, white sea bass, sharks, skates, or rays if at least 80% of the total number of fish possessed by persons aboard the vessel are halibut, white sea bass, sharks, skates, and rays.

Comment. Subdivisions (a) and (b) of Section 18815 continue the part of former Fish and Game Code Section 9029 applicable to former Fish and Game District 17 without substantive change.

Subdivisions (c) and (d) restate the part of former Fish and Game Code Section 9027.5 applicable to former Fish and Game District 17 without substantive change.

Note. Proposed Section 18815(d) is intended to restate the part of existing Fish and Game Code Section 9027.5(c) applicable to existing Fish and Game District 17 to clarify the meaning of that provision, without changing its substantive meaning. The existing provision reads as follows:

(c) Subdivision (a) does not apply to persons who are fishing south of a line extending due west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or rays. The exemption in this subdivision does not apply if all of the fish possessed by persons

1 aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass,
2 sharks, skates, and rays.

3 **The Commission invites comment on whether proposed Section 18815(d) correctly**
4 **restates the part of existing Section 9027.5(c) applicable to existing Fish and Game District**
5 **17.**

6 **§ 18820. District 2620**

7 18820. (a) In District 2620, notwithstanding Section 18705, a fishing line that is
8 anchored to the ocean bottom at one end and attached at the surface to a fishing
9 vessel or a buoy may be used, except under any of the following circumstances:

10 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

11 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
12 vessel or buoy.

13 (3) If any hooks are attached to the upper one-third of the line.

14 (b) A buoy attached to the surface end of a fishing line used pursuant to
15 subdivision (a) shall display above its waterline, in numerals at least two inches
16 high, the fisherman's commercial fishing license identification number.

17 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
18 Section 18705, in waters of the district within one mile of the mainland shore, the
19 following additional restrictions apply:

20 (1) It is unlawful to use more than 150 hooks on a vessel to take fish for
21 commercial purposes when using a fishing line authorized pursuant to this title.

22 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
23 fishing line shall be attached to another fishing line, while those lines are being
24 used for commercial fishing pursuant to this title.

25 (3) Each fishing line used pursuant to this title that is not attached to a fishing
26 vessel shall be buoyed, and the commercial fishing license identification number
27 issued to the permittee who is using the fishing line shall be marked on, and
28 visible on the upper one-half of each buoy, in numbers not less than two inches in
29 height.

30 (d) Subdivision (d) does not apply to persons who are fishing south of a line
31 extending due west from Point Conception for halibut, white sea bass, sharks,
32 skates, or rays if at least 80% of the total number of fish possessed by persons
33 aboard the vessel are halibut, white sea bass, sharks, skates, and rays.

34 **Comment.** Subdivisions (a) and (b) of Section 18820 continues the part of former Fish and
35 Game Code Section 9029 applicable to former Fish and Game District 18 without substantive
36 change.

37 Subdivisions (c) and (d) restate the part of former Fish and Game Code Section 9027.5
38 applicable to former Fish and Game District 18 without substantive change.

39 **Note.** Proposed Section 18820(d) is intended to restate the part of existing Fish and Game
40 Code Section 9027.5(c) applicable to existing Fish and Game District 18 to clarify the meaning of
41 that provision, without changing its substantive meaning. The existing provision reads as follows:

42 (c) Subdivision (a) does not apply to persons who are fishing south of a line extending due
43 west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or
44 rays. The exemption in this subdivision does not apply if all of the fish possessed by persons

1 aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass,
2 sharks, skates, and rays.

3 **The Commission invites comment on whether proposed Section 18820(d) correctly**
4 **restates the part of existing Section 9027.5(c) applicable to existing Fish and Game District**
5 **18.**

6 **§ 18825. District 2625**

7 18825. (a) In District 2625, notwithstanding Section 18705, a fishing line that is
8 anchored to the ocean bottom at one end and attached at the surface to a fishing
9 vessel or a buoy may be used, except under any of the following circumstances:

10 (1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

11 (2) If the fishing line exceeds 3,000 feet in length, from the anchor to the surface
12 vessel or buoy.

13 (3) If any hooks are attached to the upper one-third of the line.

14 (b) A buoy attached to the surface end of a fishing line used pursuant to
15 subdivision (a) shall display above its waterline, in numerals at least two inches
16 high, the fisherman's commercial fishing license identification number.

17 (c) Notwithstanding subdivision (a), subdivision (a) or (b) of Section 18900, or
18 Section 18705, in waters of the district within one mile of the mainland shore, the
19 following additional restrictions apply:

20 (1), It is unlawful to use more than 150 hooks on a vessel to take fish for
21 commercial purposes when using a fishing line authorized pursuant to this title.

22 (2) Not more than 15 hooks shall be attached to any one fishing line, and no
23 fishing line shall be attached to another fishing line, while those lines are being
24 used for commercial fishing pursuant to this title.

25 (3) Each fishing line used pursuant to this title that is not attached to a fishing
26 vessel shall be buoyed, and the commercial fishing license identification number
27 issued to the permittee who is using the fishing line shall be marked on, and
28 visible on the upper one-half of each buoy, in numbers not less than two inches in
29 height.

30 (d) Subdivision (c) does not apply to persons who are fishing south of a line
31 extending due west from Point Conception for halibut, white sea bass, sharks,
32 skates, or rays if at least 80% of the total number of fish possessed by persons
33 aboard the vessel are halibut, white sea bass, sharks, skates, and rays.

34 **Comment.** Subdivisions (a) and (b) of Section 18825 continue the part of former Fish and
35 Game Code Section 9029 applicable to former Fish and Game District 19 without substantive
36 change.

37 Subdivisions (c) and (d) restate the part of former Fish and Game Code Section 9027.5
38 applicable to former Fish and Game District 19 without substantive change.

39 **Note.** Proposed Section 18825(d) is intended to restate the part of existing Fish and Game
40 Code Section 9027.5(c) applicable to existing Fish and Game District 19 to clarify the meaning of
41 that provision, without changing its substantive meaning. The existing provision reads as follows:

42 (c) Subdivision (a) does not apply to persons who are fishing south of a line extending due
43 west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or
44 rays. The exemption in this subdivision does not apply if all of the fish possessed by persons

aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass, sharks, skates, and rays.

The Commission invites comment on whether proposed Section 18825(d) correctly restates the part of existing Section 9027.5(c) applicable to existing Fish and Game District 19.

CHAPTER 3. SET LINES

§ 18900. Set line

18900. (a) A set line may be used in Districts 2570, 2575, 2590, 2615, 2620, and 2625.

(b) It is unlawful to use a set line with hooks more than 100 feet above the anchor or ocean bottom.

(c) A set line shall be marked at both ends with buoys displaying above their waterlines, in numerals at least 2 inches high, the owner's commercial fishing license identification number.

Comment. Subdivisions (a) and (b) of Section 18900 continue former Fish and Game Code Section 9026 without substantive change.

Subdivision (c) continues the part of former Fish and Game Code Section 8601.5(a) applicable to set lines without substantive change.

Note. Existing Fish and Game Code Section 8601.5(a) requires both a set *net* and a set *line* to be attached to a buoy displaying "the fisherman's" identification number. It is unclear whether this reference is intended to refer to the commercial fisherman who *owns* the net or line, or the commercial fisherman *fishing* with the net or line.

The Commission has suggested that, as much of the remainder of Section 8601.5 appears to relate to the responsibilities of the owner of a set net, this display requirement in Section 8601.5, at least with regard to a set *net*, is meant to refer to the owner of the net. (See Note following proposed Section 15605.) If this interpretation is correct, it would suggest that the display requirement relating to a set *line* also refers to the owner of the line, and proposed Section 18900(c) therefore tentatively incorporates that interpretation.

On the other hand, existing Section 9027, which governs the use of fishing lines in a specially described geographic area, expressly requires the identification number displayed on the buoy attached to a fishing line "the commercial fishing license identification number issued... to the permittee who is *using* the fishing line."

The Commission invites comment on whether the display requirement in existing Section 8601.5 relating to the use of a set *line* is intended to require the display of the commercial fishing license identification number of the *owner* of the line, or of the fisherman who is presently *fishing* with the line.

CHAPTER 4. TROLL LINES

Article 1. General Provisions

§ 18950. Use of troll line

18950. A troll line or handline having not more than two hooks (plugs excepted) may be used in any district.

1 **Comment.** Section 18950 continues the first part of former Fish and Game Code Section
2 9025.5(a) without substantive change.

3 Article 2. Special District Rules

4 **§ 19000. District 2570**

5 19000. In District 2570, a troll line with more than two hooks may be used.

6 **Comment.** Section 19000 continues the second part of former Fish and Game Code Section
7 9025.5(a) applicable to former Fish and Game District 6 without substantive change.

8 **§ 19005. District 2575**

9 19005. In District 2575, a troll line with more than two hooks may be used.

10 **Comment.** Section 19005 continues the second part of former Fish and Game Code Section
11 9025.5(a) applicable to former Fish and Game District 7 without substantive change.

12 **§ 19010. District 2590**

13 19010. (a) In District 2590, a troll line with more than two hooks may be used.

14 (b) In that part of the district in Tomales Bay, south of a line extending 252
15 degrees magnetic from the western tip of Toms Point to the opposite shore, the use
16 of troll lines or handlines is subject to the following restrictions:

17 (1) A commercial fisherman shall not use more than four troll lines or handlines
18 at any time with not more than two hooks attached to each line.

19 (2) When more than one commercial fisherman is aboard a vessel, not more than
20 six lines with a maximum of two hooks per line may be fished aboard that vessel.

21 **Comment.** Subdivision (a) of Section 19010 continues the second part of former Fish and
22 Game Code Section 9025.5(a) applicable to former Fish and Game District 10 without
23 substantive change.

24 Subdivision (b) continues the part of former Fish and Game Code Section 9025.5(c) applicable
25 to former Fish and Game District 10 without substantive change.

26 **§ 19015. District 2595**

27 19015. (a) In District 2595, a troll line with more than two hooks may be used
28 west of the Golden Gate Bridge.

29 (b) In that part of the district east of the Golden Gate Bridge, the use of troll
30 lines or handlines is subject to the following restrictions:

31 (1) A commercial fisherman shall not use more than four troll lines or handlines
32 at any time with not more than two hooks attached to each line.

33 (2) When more than one commercial fisherman is aboard a vessel, not more than
34 six lines with a maximum of two hooks per line may be fished aboard that vessel.

35 **Comment.** Subdivision (a) of Section 19015 continues the second part of former Fish and
36 Game Code Section 9025.5(a) applicable to former Fish and Game District 11 without
37 substantive change.

38 Subdivision (b) continues the part of former Fish and Game Code Section 9025.5(c) applicable
39 to former Fish and Game District 11 without substantive change.

1 **§ 19020. District 2600**

2 19020. In District 2600, notwithstanding Section 18950, the use of troll lines or
3 handlines is subject to the following restrictions:

4 (a) A commercial fisherman shall not use more than four troll lines or handlines
5 at any time with not more than two hooks attached to each line.

6 (b) When more than one commercial fisherman is aboard a vessel, not more than
7 six lines with a maximum of two hooks per line may be fished aboard that vessel.

8 **Comment.** Section 19020 continues the part of former Fish and Game Code Section 9025.5(c)
9 applicable to former Fish and Game District 12 without substantive change.

10 **§ 19025. District 2605**

11 19025. (a) In District 2605, notwithstanding Section 18950, the use of troll lines
12 or handlines is subject to the following restrictions:

13 (a) A commercial fisherman shall not use more than four troll lines or handlines
14 at any time with not more than two hooks attached to each line.

15 (b) When more than one commercial fisherman is aboard a vessel, not more than
16 six lines with a maximum of two hooks per line may be fished aboard that vessel.

17 **Comment.** Section 19025 continues the part of former Fish and Game Code Section 9025.5(c)
18 applicable to former Fish and Game District 13 without substantive change.

19 **§ 19030. District 2610**

20 19030. In District 2610, a troll line with more than two hooks may be used.

21 **Comment.** Section 19030 continues the second part of former Fish and Game Code Section
22 9025.5(a) applicable to former Fish and Game District 16 without substantive change.

23 **§ 19035. District 2615**

24 19035. In District 2615, a troll line with more than two hooks may be used.

25 **Comment.** Section 19035 continues the second part of former Fish and Game Code Section
26 9025.5(a) applicable to former Fish and Game District 17 without substantive change.

27 **§ 19040. District 2620**

28 19040. In District 2620, a troll line with more than two hooks may be used.

29 **Comment.** Section 19040 continues the second part of former Fish and Game Code Section
30 9025.5(a) applicable to former Fish and Game District 18 without substantive change.

31 **§ 19045. District 2625**

32 19045. In District 2625, a troll line with more than two hooks may be used.

33 **Comment.** Section 19045 continues the second part of former Fish and Game Code Section
34 9025.5(a) applicable to former Fish and Game District 19 without substantive change.

35 **§ 19050. District 2630**

36 19050. In District 2630, a troll line with more than two hooks may be used.

37 **Comment.** Section 19050 continues the second part of former Fish and Game Code Section
38 9025.5(a) applicable to former Fish and Game District 19A without substantive change.

1 TITLE 6. TRAPS

2 CHAPTER 1. GENERAL PROVISIONS

3 § 19150. “Definitions”

4 19150. For the purposes of this title, the following terms have the following
5 meanings:

6 (a) “Deeper nearshore species” means those finfish identified as deeper
7 nearshore species in regulations adopted by the commission pursuant to Section
8 22620.

9 (b) “General trap permit” means a valid permit to take fish for a commercial
10 purpose issued pursuant to Section 19205 that has not been suspended or revoked.

11 (c) “Nearshore species” means those finfish identified as such in regulations
12 adopted by the commission pursuant to Section 22620.

13 (d) “Popup” means a mechanism capable of releasing a submerged buoy at a
14 predetermined time.

15 **Comment.** Section 19150 continues former Fish and Game Code Section 9000.5(b)-(c) and
16 (e)-(f) without substantive change.

17 § 19200. Allowed use of traps

18 19200. (a) Except as expressly authorized in this title, no person shall use a trap
19 to take any finfish, mollusk, or crustacean in the waters of the state for commercial
20 purposes.

21 (b) Traps may be used to take finfish in ocean waters only as authorized by this
22 title.

23 **Comment.** Section 19200 continues former Fish and Game Code Section 9000(a) and (b)
24 specifically without substantive change.

25 § 19205. Required permit

26 19205. (a) Finfish, mollusks, or crustaceans shall not be taken by a person for a
27 commercial purpose in ocean waters with a trap, except under a valid general trap
28 permit issued to that person that has not been suspended or revoked.

29 (b) Any person who operates or assists in operating any trap to take a finfish,
30 mollusk or crustacean, other than a lobster or Dungeness crab as defined in or who
31 possesses or transports a finfish, mollusk or crustacean on any boat, barge, or
32 vessel when any trap is aboard, shall have a general trap permit issued to that
33 person that has not been revoked or suspended, while engaged in the activity.

34 (c) The fee for the general trap permit shall be thirty-five dollars (\$35).

35 (d) This section does not apply to the taking of lobster under Section 49700 or to
36 the taking of Dungeness crab under Section 47450.

37 **Comment.** Section 19205 continues former Fish and Game Code Section 9001 without
38 substantive change.

1 **§ 19210. Destruction device**

2 19210. (a) A trap shall have at least one destruction device that meets
3 specifications approved by the department.

4 (b) In order to minimize the adverse effects on living marine resources, the
5 specifications for destruction devices shall provide for a device that destructs
6 rapidly enough to facilitate escape of a substantial proportion of all species
7 confined in a trap that cannot be raised.

8 **Comment.** Section 19210 continues former Fish and Game Code Section 9003 without
9 substantive change.

10 **§ 19215. Required maintenance**

11 19215. A trap shall be raised, cleaned, serviced, and emptied at intervals not to
12 exceed 96 hours, weather conditions at sea permitting.

13 **Comment.** Section 19215 continues the first part of former Fish and Game Code Section 9004
14 without substantive change.

15 **§ 19220. Abandonment**

16 19220. No trap shall be abandoned in waters of the state.

17 **Comment.** Section 19220 continues the second part of former Fish and Game Code Section
18 9004 without substantive change.

19 **§ 19225. Marking**

20 19225. A trap or string of traps shall be marked with a buoy. The department
21 shall implement regulations by January 1, 2020, requiring standardized gear
22 marking for those fisheries in which the department determines it is appropriate.
23 As part of the regulations, the department shall establish a fee for each fishery
24 requiring standardized gear marking pursuant to this section and shall set and
25 adjust each fee in an amount to fully recover, but not exceed, all reasonable
26 administrative and implementation costs of the department relating to the
27 standardized gear marking requirement.

28 **Comment.** Section 19225 continues former Fish and Game Code Section 9005 without
29 substantive change.

30 **Notes.** (1) Proposed Section 19225 would continue Section 9005, which was amended by
31 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
32 anticipation of its effect.

33 (2) The second sentence of proposed Section 19225 uses the term “gear,” which could perhaps
34 be read broadly as including other kinds of gear besides traps. **The Commission invites**
35 **comment on whether that broader meaning was intended and, if so, whether the sentence**
36 **would be better located in a more generally applicable location.**

37 **§ 19230. Required marking of trap**

38 19230. Every trap used to take finfish or crustaceans shall be marked with a
39 buoy. Each buoy shall be marked to identify the operator as follows:

1 (a) For a trap used to take lobster the commercial fishing license identification
2 number followed by the letter “P.”

3 (b) For a trap used to take Dungeness crab or hagfish, the commercial fishing
4 license identification number only.

5 (c) For a trap used to take finfish other than sablefish or hagfish, the commercial
6 fishing license identification number followed by the letter “Z.”

7 (d) For a trap used to take sablefish, the commercial fishing license
8 identification number followed by the letter “B.”

9 **Comment.** Section 19230 continues former Fish and Game Code Section 9006 without
10 substantive change.

11 CHAPTER 2. DISTURBANCE OF TRAPS

12 § 19300. Disturbance of trap

13 19300. (a) Except as provided in Sections 19305 and 19310, it is unlawful to
14 willfully or recklessly disturb, move, or damage a trap that belongs to another
15 person and that is marked with a buoy identification number pursuant to Section
16 19230.

17 (b) Subdivision (a) does not apply to employees of the department while
18 engaged in the performance of official duties.

19 **Comment.** Subdivision (a) of Section 19300 continues former Fish and Game Code Section
20 9002(a) without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 9002(c) without substantive
22 change.

23 § 19305. Permit to pull or raise trap

24 19305. (a) A person, who has been issued a general trap permit under Section
25 19205 and has it in his or her possession, may pull or raise a trap marked with a
26 buoy, if the buoy is marked with a buoy identification number pursuant to
27 subdivision (b) of Section 19230.

28 (b) A person pulling or raising a trap marked with a buoy identification number
29 other than his or her own buoy identification number shall have written permission
30 in his or her possession from the other person who holds the buoy identification
31 number that is marked on the buoy.

32 **Comment.** Section 19305 continues former Fish and Game Code Section 9002(b) without
33 substantive change.

34 § 19310. Publicly employed safety personnel

35 19310. (a) Section 19300 does not apply to publicly employed safety personnel,
36 including, but not limited to, lifeguards, marine safety officers, harbor patrol
37 officers, and peace officers, who, in the performance of their official duties,
38 remove a trap, buoy, or line located in or near breaking surf or adjacent to a public
39 beach if they believe that the trap poses a public safety hazard.

1 (b) A person who removes a trap or an attachment to a trap pursuant to this
2 section that is identified by a buoy identification number is required to do the
3 following:

4 (1) Immediately return any marine life captured in the trap to the ocean.

5 (2) Make an attempt to contact the person whose permit or license number is
6 marked on the buoy, by personal contact, telephone, recorded message left on a
7 telephone answering machine, regular United States Postal Service, or by other
8 means, advising where the property is located.

9 (c) Employees of the department may disclose the name, address, and buoy
10 identification numbers of currently permitted or licensed persons to
11 representatives of public safety agencies described in this section, to assist in the
12 return of traps and attachments to their proper owners or operators.

13 (d) A person who removes a trap or an attachment to a trap pursuant to this
14 section shall have no responsibility to secure the trap or attachment against loss or
15 damage.

16 (e) If the person whose permit or license number is marked on the buoy does not
17 retrieve the trap within seven days of notification pursuant to this section, or if that
18 person cannot be identified within seven days after the trap has been removed, the
19 trap may be discarded.

20 (f) This section does not create a duty on the part of any state or local agency to
21 remove or move a trap, line, or buoy that does not create any liability pursuant to
22 Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the
23 Government Code.

24 **Comment.** Section 19310 continues former Fish and Game Code Section 9002(d) without
25 substantive change.

26 **§ 19315. Retrieval of commercial crab traps**

27 19315. (a) Notwithstanding Sections 19300, 19305, and 19310, the department,
28 in consultation with the Dungeness crab task force, shall establish a retrieval
29 program to provide for the retrieval of lost or abandoned commercial Dungeness
30 crab traps by June 30, 2019.

31 (b) The retrieval program developed pursuant to subdivision (a) shall be
32 consistent with all of the following:

33 (1) The department shall establish a retrieval permit that grants a person who
34 obtains a retrieval permit the authority to retrieve Dungeness crab traps located in
35 ocean waters belonging to another person without written permission from that
36 person during the closed season of the Dungeness crab commercial fishery, as
37 described in Section 47300. The department may establish any qualifications it
38 deems necessary for a person to obtain a retrieval permit. The department shall
39 require a permit fee in an amount necessary to fully recover, but not exceed, all
40 reasonable administrative and implementation costs to the department of the
41 retrieval program.

1 (2) Notwithstanding Chapter 4 (commencing with Section 2080) of Title 6 of
2 Part 4 of Division 3 of the Civil Code or any other law, any Dungeness crab trap
3 retrieved under the authority of a retrieval permit shall become the property of the
4 retrieval permitholder.

5 (3) The department shall require a retrieval permitholder to notify the former
6 trap owner of the retrieval of a Dungeness crab trap and shall offer to sell the trap
7 to the former owner for a reasonable recovery fee, as determined by the retrieval
8 permitholder, based on the cost of trap retrieval and storage of the trap. The
9 department shall impose per-trap fees on any former trap owner who refuses to
10 pay the recovery fee to the retrieval permitholder. The department shall set the rate
11 of these per-trap fees at a level sufficient to recover any costs to the department
12 from handling noncompliance with the gear retrieval program and to reimburse the
13 retrieval permitholder for the reasonable cost of trap retrieval, storage, and
14 disposal of crab traps belonging to a former owner who refuses to pay the recovery
15 fees for those traps and, upon appropriation by the Legislature, shall use the
16 proceeds of the per-trap fees for these purposes. The department shall annually
17 adjust the per-trap fees pursuant to Section 3755.


18 (4) Notwithstanding Section 22205, the department may release contact
19 information to a retrieval permitholder for purposes of the retrieval program under
20 terms and conditions as the department deems necessary to preserve the
21 confidentiality of the information released. Any release of information pursuant to
22 this section shall not constitute a waiver of any applicable exemptions from
23 disclosure under the California Public Records Act (Chapter 3.5 (commencing
24 with Section 6250) of Division 7 of Title 1 of the Government Code).

25 (5) The department may deny an application for renewal or transfer of a
26 Dungeness crab vessel permit until the applicant pays any fees imposed pursuant
27 to paragraph (3).

28 (6) The department shall submit the proposed retrieval program developed
29 pursuant to this section to the Dungeness crab task force for review, and shall not
30 implement the retrieval program until the task force has had 60 days or more to
31 review the proposed retrieval program and recommend any proposed changes. The
32 director may implement the retrieval program earlier than 60 days after it is
33 submitted to the Dungeness crab task force for review, if recommended by the task
34 force.

35 (c) This section shall become inoperative on April 1, 2029, and, as of January 1,
36 2030, is repealed, unless a later enacted statute, that becomes operative on or
37 before January 1, 2030, deletes or extends the dates on which it becomes
38 inoperative and is repealed.

39 **Comment.** Section 19315 continues former Fish and Game Code Section 9002.5 without
40 substantive change.

41  **Note.** Proposed Section 19315 would continue Section 9002.5, which was amended by 2018
42 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
43 anticipation of its effect.

CHAPTER 3. NUISANCE

§ 19400. Abatement of nuisance

19400. A trap used without a buoy, or with a buoy that is not marked pursuant to Section 19230, is a public nuisance and shall be removed from the waters of this state by any person authorized to enforce this code.

(b) Any trap used in violation of this code, or any regulations adopted pursuant thereto, is a public nuisance and, except as provided in Section 9007, shall be seized.

Comment. Subdivision (a) of Section 19400 continues former Fish and Game Code Section 9007 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 9008 without substantive change.

See also Section 4975-4988 (seizure).

CHAPTER 4. TRAPPING OF FINFISH

§ 19500. Criteria for use of trap

19500. Finfish, other than sablefish and hagfish, may be taken under a general trap permit if all of the following criteria are also met:

(a) Every person aboard the vessel a valid general trap permit that has not been suspended or revoked.

(b) If nearshore species are present, at least one person aboard the vessel possesses a valid nearshore fishery permit and a nearshore fishery trap endorsement that has not been suspended or revoked.

(c) If deeper nearshore species are present, at least one person aboard the vessel possesses a valid deeper nearshore species fishery permit that has not been suspended or revoked.

(d) 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.

(e) Popups shall not be used on buoy lines attached to finfish traps, and shall not be possessed aboard a vessel when taking finfish under a general trap permit.

(f) Trap destruction devices used on finfish traps shall conform to the current regulatory requirements for those devices pursuant to Section 19210 and as adopted by the commission.

(g) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in District 2570, 2575, 2615, 2620, 2625, 2630, 12635, 2640, 2645, or 2650.

(h) No more than 50 finfish traps may be used in waters of the state along the mainland shore.

(i) The mesh of any finfish trap used pursuant to this section shall measure not less than two inches by two inches.

(j) The following fish shall not be used as bait in finfish traps:

(1) Lobster.

(2) Crabs of the genus cancer, except rock crab, yellow crab, and red crab, as identified in Section 48650, which may be used as bait under the authority of a rock crab trap permit issued pursuant to Section 48650.

(3) Any other finfish or invertebrate to which a minimum size limit applies that is used or possessed in a condition so that its size cannot be determined.

Comment. Section 19500 continues former Fish and Game Code Section 9001.7(a)-(j) without substantive change.

Note. Existing Fish and Game Code Section 9001.7(g) (which would be continued by proposed Section 19500(g)) prohibits the setting of finfish traps in described areas in specified existing Fish and Game Districts, including District “20B.” The Commission has found no section in the existing code identifying that district, and proposed Section 19500 would therefore discontinue the reference to it.

The Commission invites comment on whether proposed Section 19500(g) properly continues the intended meaning of existing Section 9001.7(g).

§ 19505. Take of species generally

19505. Except as otherwise prohibited, any species may be taken in a finfish trap.

Comment. Section 19505 continues former Fish and Game Code Section 8403(c) without substantive change.

Note. Proposed Section 19505 is intended to restate existing Fish and Game Code Section 8403(c) to clarify the meaning of that provision, without changing its substantive effect. The existing provision (shown in *italics*) reads as follows:

8403. (a) To the extent not in conflict with Section 8607, marine species of fin fish which are classified as groundfish may be taken under the regulations of the commission.

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

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

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 19510. Marine species

19510. (a) Except as otherwise provided in Section 19515, marine species of finfish, including, but not limited to, finfish that are classified as groundfish, may be taken with finfish traps, subject to other provisions of this code that govern finfish traps, under a general trap permit issued pursuant to Section 19205, and subject to regulations of the commission.

(b) The regulations may limit the number of finfish traps that any vessel may use, designate the areas in which the traps may be used, and prescribe other limitations on the use of finfish traps.

Comment. Subdivision (a) of Section 19510 combines and restates the first sentence of former Fish and Game Code Section 8403(b), and Section 9022(b) without substantive change.

Subdivision (b) continues the second sentence of former Fish and Game Code Section 8403(b) without substantive change.

Note. Proposed Section 19510(a) is intended to combine and restate the first sentence of existing Fish and Game Code Section 8403(b), and Section 9022(b), to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

8403.....

(b) Marine species of fin fish, including, but not limited to, fin fish which are classified as groundfish, may be taken with fin fish traps, subject to Article 1 (commencing with Section 9000) of Chapter 4, under regulations of the commission.

9022.....

(b) Except as otherwise provided in subdivision (a), all marine species of fin fish subject to Section 8403 may be taken with one or more fin fish traps as prescribed by the commission under a general trap permit issued pursuant to Section 9001.

The Commission invites comment on whether the combining and restatement of these two provisions would cause any substantive change in the meaning of either provision.

§ 19515. Special rules for Districts 2590, 2595 and 2600

19515. Notwithstanding Section 19200, traps used to take finfish may not be used in Districts 2590, 2595 and 2600, except for baitfish traps as provided in Sections 15105, 19605, and 19610.

Comment. Section 19515 continues former Fish and Game Code Section 9022(a) without substantive change.

CHAPTER 5. BAITFISH TRAPS

§ 19600. Baitfish traps

19600. A freshwater baitfish trap that is used as provided in Section 22125 is not subject to the provisions of this title.

Comment. Section 19600 continues former Fish and Game Code Section 9000(c) without substantive change.

§ 19605. Fish that may be taken

19605. Subject to Section 15105, California killifish (*Fundulus parvipinnis*), mudsuckers (*Gillichthys mirabilis*), yellowfin gobies (*Acanthogobius flavimanus*), shiner perch (*Cymatogaster aggregata*), and staghorn sculpin (*Leptocottus armatus*) may be taken with baitfish traps under a general trap permit issued pursuant to Section 19205.

Comment. Section 19605 continues former Fish and Game Code Section 9020(a) without substantive change.

1 **§ 19610. Trap size**

2 19610. A baitfish trap shall not exceed 12 inches in width, 12 inches in height,
3 and 36 inches in greatest length with entrance at small ends of funnels or fykes not
4 to exceed 2 inches in diameter.

5 **Comment.** Section 19610 continues former Fish and Game Code Section 9020(b) without
6 substantive change.

7 **TITLE 7. OTHER GEAR**

8 **CHAPTER 1. GENERAL PROVISIONS**

9 **§ 19800. Slurp guns**

10 19800. Slurp guns may be used to take fish for a commercial purpose in
11 Districts 2570, 2575, 2590, 2615, 2620, 2625, 2640, and 2645.

12 **Comment.** Section 19800 continues former Fish and Game Code Section 9052 without
13 substantive change.

14 **§ 19805. Miscellaneous tools**

15 19805. A spade, shovel, hoe, rake, or other appliance operated by hand may be
16 used to take mollusks, sand crabs, and shrimps in Districts 2505, 2515, 2525,
17 2535, 2540, 2545, 2550, 2555, 2565, 2570, 2575, 2580, 2585, 2590, 2595, 2600,
18 2605, 2610, 2615, 2620, 2625, 2630, 2640, 2645, and 2650, except as specified in
19 Section 46300, and except that freshwater clams shall not be taken by means of
20 such appliances on any levee or on the berm of any levee.

21 **Comment.** Section 19805 continues former Fish and Game Code Section 9050 without
22 substantive change.

23 **Note.** Existing Fish and Game Code Section 9050 (which would be continued by proposed
24 Section 19805) contains an exception from its general rule “as specified in Sections 7332 and
25 8303....” Existing Section 7332 would be continued in the proposed law by proposed Section
26 46300, but the “Section 8303” seemingly referenced in existing Section 9050, relating to means
27 permitted for taking abalone, was repealed by 1990 Cal. Stat. ch. 1288, and the Commission has
28 not located any provision in the existing code that continues the substance of that former
29 provision.

30 **The Commission invites comment on whether proposed Section 19805, continuing the**
31 **reference to existing Section 7332 but discontinuing the reference to “Section 8303,”**
32 **properly continues the intended meaning of existing Section 9050.**

33 **§ 19810. Spears, harpoons, bows, and arrows**

34 19810. Spears, harpoons, and bows and arrows may be used for taking all
35 varieties of skates, rays, and sharks, except soupfin sharks.

36 **Comment.** Section 19810 continues former Fish and Game Code Section 9051 without
37 substantive change.

CHAPTER 2. DEVELOPMENT OF ALTERNATIVE FISHING GEAR

§ 19900. Revocation or non-renewal of permit

19900. (a) Except as provided in subdivision (c), if an experimental permit that was issued pursuant to Chapter 5 (commencing with Section 12050) of Title 2 of Part 4 is not renewed, or is revoked or not renewed, pursuant to a judgment, decision of the commission, or legislative enactment, and the permittee has an outstanding loan with the State Coastal Conservancy under former Section 31125 of the Public Resources Code, as added by Chapter 910 of the Statutes of 1986, for the purchase of alternative fishing gear, the unpaid balance of the loan shall be excused from the date of revocation or nonrenewal of the permit, or from the date of any judgment, decision, or enactment that terminates the permit, if the permittee relinquishes the permit and returns the collateral fishing gear to the department, in which case the department shall take possession of the alternative fishing gear for the State Coastal Conservancy.

(b) Any alternative gear received by the department due to a revocation, nonrenewal, or termination of an experimental permit may be resold by the State Coastal Conservancy at fair market value to other experimental permit applicants or holders under this chapter. If the permittee chooses to keep the alternative gear and repay the loan, the rate of interest shall be reduced to 3 percent for the remaining balance of the loan.

(c) If the Legislature approves the permanent use or type of gear and the commercial fishing permit or the license for the permanent use or type of gear is revoked for a violation of the terms and conditions under which the fishery is conducted, the permittee shall be responsible for any remaining balance on any outstanding loan with the State Coastal Conservancy for the purchase of alternative fishing gear.

Comment. Section 19900 continues former Fish and Game Code Section 8614 without substantive change.

Note. Proposed Section 19900(a) would revise existing Section 8614 to replace a reference to Section 8606 (which was repealed by 2018 Cal. Stat. ch. 477) with a reference to “Chapter 5 (commencing with Section 12050) of Title 2 of Part 4.” That approach is based on similar changes made by 2018 Cal. Stat. ch. 477, §§ 5, 6, & 8. **The Commission invites comment on whether that revision is the proper way to conform to the repeal of Section 8606.**

§ 19910. Request to terminate permit

19910. (a) Within the first six months of operation pursuant to an experimental permit and after a reasonable and concerted effort to utilize a new type of commercial fishing gear, the permittee may request that the experimental permit be terminated, if it is economically infeasible to harvest the target species or if the alternative gear is impractical, inefficient, or ineffective within the fishery or regional area selected. The permittee shall submit copies of all landing receipts, a financial statement setting forth the expenses and any revenue generated by the

1 operation of the alternative fishing gear, and a brief summary from any observers,
2 monitors, and employees regarding the operation of the alternative fishing gear to
3 the department. The department shall review the permittee's submitted material.

4 (b) If the submitted material supports the claim that the new type of commercial
5 fishing gear utilized by the permittee was either inefficient, impractical, or
6 ineffective, or that it was not economically feasible for the permittee to harvest the
7 target species, the department shall terminate the experimental permit and submit
8 its findings to the State Coastal Conservancy. Upon receiving the department's
9 report, the State Coastal Conservancy may terminate the permittee's loan. If the
10 permittee returns the collateral fishing gear to the department, the State Coastal
11 Conservancy shall reimburse the permittee from the loan fund for the principal
12 amount of the loan repaid by the permittee. The department shall take possession
13 of the fishing gear for the State Coastal Conservancy, which may resell the gear as
14 set forth in Section 19900.

15 (c) If the information does not support the claim made by the permittee, the
16 department may still terminate the experimental permit. The State Coastal
17 Conservancy may terminate the remaining balance on the loan if the permittee
18 returns the collateral fishing gear to the department, but the State Coastal
19 Conservancy shall not reimburse the permittee for previous loan payments.

20 (d) After six months of operation pursuant to an experimental permit, any
21 request to terminate the permit for the reasons set forth in subdivision (a) shall
22 include, in addition to the information required by subdivision (a), an explanation
23 of the changed circumstances or reasons that cause the new type of gear to become
24 inefficient, impractical, or ineffective or economically infeasible to harvest the
25 target species after the initial six-month operating period. The department shall
26 review the request and make its recommendation to the State Coastal Conservancy
27 following the procedures set forth in subdivisions (b) and (c). If the department
28 terminates the experimental gear permit, the State Coastal Conservancy may
29 terminate the remaining balance on the loan if the permittee returns the collateral
30 fishing gear to the department, but it shall not reimburse the permittee for any loan
31 payments received. The department shall take possession of the alternative fishing
32 gear for the State Coastal Conservancy, which may resell the gear as set forth in
33 Section 19900.

34 **Comment.** Section 19910 continues former Fish and Game Code Section 8615 without
35 substantive change.

1 TITLE 8. COMMERCIAL TAKE OF FRESHWATER FISH

2 CHAPTER 1. GENERAL PROVISIONS [*RESERVED*]

3 CHAPTER 2. TAKE

4 § 20100. Allowed take

5 20100. (a) The following fresh-water fish may be taken for commercial purposes
6 pursuant to regulations adopted by the commission:

7 (a) Threadfin shad (*Dorosoma petenense*).

8 (b) Species of the following families:

9 (1) Carp or minnow (Cyprinidae).

10 (2) Cichlid (Cichlidae).

11 (3) Goby (Gobiidae).

12 (4) Killifish (Cyprinodontidae).

13 (5) Lamprey (Petromyzontidae).

14 (6) Livebearer (Poeciliidae).

15 (7) Mullet (Mudilidae).

16 (8) Sculpin (Cottidae).

17 (8) Silverside (Antherinidae).

18 (9) Smelt (Osmeridae).

19 (10) Stickleback (Casterosteidae).

20 (11) Sucker (Catostomidae).

21 (b) The commission may authorize the use of commercial fishing gear and
22 fishing methods to take any fish listed in this section, in those areas of the state
23 otherwise closed to that use pursuant to this code.

24 **Comment.** Subdivision (a) of Section 20100 continues former Fish and Game Code Section
25 8437 without substantive change.

26 Subdivision (b) continues former Fish and Game Code Section 8437.1 without substantive
27 change.

28 § 20105. Centrarchidae

29 20105. Except as provided in subdivision (b), fish of the family Centrarchidae
30 (Sacramento perch, crappie, black bass, and sunfish) shall not be taken or
31 possessed for a commercial purpose, sold, or purchased, other than fish that are
32 cultured pursuant to Part 1 (commencing with Section 23305) of Division 7.

33 (b) Notwithstanding subdivision (a), the commission shall adopt regulations
34 which authorize the importation and sale of dead fish of the family Centrarchidae
35 if the fish have been lawfully taken outside of California, they have been taken in
36 another state or foreign country that permits their sale, and they are brought into
37 California with a bill of lading or similar accountable documentation specifying
38 the origin of the fish.

1 **Comment.** Subdivision (a) of Section 20105 continues former Fish and Game Code Section
2 8436 without substantive change.

3 Subdivision (b) continues former Fish and Game Code Section 8436.5 without substantive
4 change.

5 TITLE 9. FISH-RELATED BUSINESSES

6 CHAPTER 1. GENERAL PROVISIONS

7 Article 1. Definitions

8 **§ 20150. Application**

9 20150. The definitions in this article govern the construction of this title.

10 **Comment.** Section 20150 continues the introductory clause of former Fish and Game Code
11 Section 8031(a) without substantive change.

12 **§ 20155. “Commercial fisherman”**

13 20155 “Commercial fisherman” means a person who has a valid, unrevoked
14 commercial fishing license issued pursuant to Section 14500.

15 **Comment.** Section 20155 continues former Fish and Game Code Section 8031(a)(4) without
16 substantive change.

17 **§ 20160. “Import”**

18 20160. “Import” means receiving or purchasing fish taken outside of this state
19 which are not landed in this state by a licensed commercial fisherman.

20 **Comment.** Section 20160 continues former Fish and Game Code Section 8031(a)(3) without
21 substantive change.

22 **§ 20165. “Process fish”**

23 20165. (a) “Process fish” means any activity for profit of preserving or
24 preparing fish for sale or delivery to other than the ultimate consumer, including,
25 but not limited to, cleaning, cutting, gutting, scaling, shucking, peeling, cooking,
26 curing, salting, canning, breeding, packaging, or packing fish. “Process fish” also
27 means the activity for profit of manufacturing fish scraps, fish meal, fish oil, or
28 fertilizer made from fish.

29 (b) “Process fish” does not include the cleaning, beheading, gutting, or chilling
30 of fish by a licensed commercial fisherman which is required to preserve the fish
31 while aboard a fishing vessel and which is to prevent deterioration, spoilage, or
32 waste of the fish before they are landed and delivered to a person licensed to
33 purchase or receive fish from a commercial fisherman.

34 **Comment.** Section 20165 continues former Fish and Game Code Section 8031(a)(1) without
35 substantive change.

1 **§ 20170. “Wholesale**

2 20170. “Wholesale” means the purchase of fish from persons licensed to
3 purchase or receive fish from a commercial fisherman, processors, importers, or
4 any other wholesaler for the purpose of resale to other than the ultimate consumer.

5 **Comment.** Section 20170 continues former Fish and Game Code Section 8031(a)(2) without
6 substantive change.

7 Article 2. Licensing Generally

8 **§ 20200. Activity requiring license**

9 20200. Any person who engages in any business for profit involving fish shall
10 be licensed pursuant to this article, except as follows:

11 (a) A commercial fisherman who sells fish only to persons who are licensed
12 under this article to purchase or receive fish from commercial fishermen and who
13 does not engage in any activity described in Section 20350, 20400, or 20550
14 unless licensed to engage in both activities.

15 (b) A person licensed pursuant to Section 22100 who only takes, transports, or
16 sells live freshwater fish for bait.

17 (c) A person who sells fish or aquaculture products only at retail to the ultimate
18 consumer if that person does not conduct any activities described in Section
19 20350, 20450, or 20550.

20 (d) Pursuant to Part 1 (commencing with Section 23300) of Division 7, a person
21 who deals only in products of aquaculture.

22 (e) A person who deals only with nonnative live products that are not utilized for
23 human consumption but that are utilized solely for pet industry or hobby purposes
24 and who does not engage in the activities described in Section 20600.

25 (f) A person who is employed by the fish receiver to unload fish or fish products
26 from a commercial fishing boat at a dock.

27 (g) A person who purchases, sells, takes, or receives live marine fish for use as
28 live bait, that are not brought ashore, and who does not engage in any activity
29 described in Section 20350, 20450, 20600, 20400, or 20550.

30 (h) A person who does not purchase or obtain fish, but who acts as an agent for
31 others while negotiating purchases, or sales of fish in return for a fee, commission,
32 or other compensation.

33 **Comment.** Section 20200 continues former Fish and Game Code Section 8030 without
34 substantive change.

35 **§ 20205. Types of licenses**

36 20205. (a) A multi-function commercial fish business license shall be issued that
37 authorizes any or all activities described in Section 20350, 20400, 20450, or
38 20550.

39 (b) Specialty licenses for part of, but not all, activities described in subdivision
40 (a) shall be issued in five classes, as follows:

(1) A fish importer's license, issued to any person who is engaged in the business of importing fish as provided in Section 20350.

(2) A fish processor's license, issued to any person engaged in the business of processing fish as provided in Section 20400.

(3) A fish receiver's license, issued to any person engaged in the business of receiving fish as provided in Section 20450.

(4) A fish wholesaler's license, issued to any person who is engaged in the business of wholesaling fish as provided in Section 20550.

(5) A marine aquaria receiver's license, issued to any person engaged in the business of receiving live marine species indigenous to California waters from a person required to be a licensed commercial fisherman for the purpose of wholesaling or retailing those species for pet industry or hobby purposes as provided in Section 20600.

Comment. Subdivision (a) of Section 20205 continues the first sentence of former Fish and Game Code Section 8032(a) without substantive change.

Subdivision (b) restates former Fish and Game Code Section 8032(b) without substantive change.

Note. Proposed Section 20205(a) would identify the "commercial fish business license" referenced in the first sentence of existing Fish and Game Code Section 8032(a) as a "multi-function commercial fish business license," using the nomenclature assigned to that license by the Department of Fish and Wildlife.

§ 20210. Conditions of license

20210. Unless otherwise specified, all of the following conditions apply to each commercial fish business license, permit, or other entitlement issued pursuant to this title:

(a) An application for a commercial fish business license, permit, or other entitlement shall be made on a form containing information as required by the department.

(b) A commercial fish business license shall be signed by the holder before use.

(c) A person who has had a commercial fish business license suspended or revoked shall not engage in that business activity, and shall not receive any other commercial fish business license, permit, or other entitlement that authorizes engaging in that business activity, while the suspension or revocation is in effect.

(d) A commercial fish business license, permit, or other entitlement is not transferable, unless otherwise expressly specified in this code.

(e) Any person who holds a commercial fish business license, permit, or other entitlement, who moves or acquires a new or additional plant, facility, or other place of business for profit involving fish, shall notify the department of the address within three months of commencing business activities at the address.

(f) Each plant, facility, or other place of business in which an activity occurs that is required to be licensed under this title shall have a copy of each required license on display and available for inspection at any time by the department.

(g) Any person required to be licensed pursuant to this title shall provide the department, at the time of application, with the business name, business address, and business telephone number for all locations doing business under the authority of the person's commercial fish business license, permit, or entitlement.

(h) Any person licensed pursuant to this title who is subject to landing fees as defined in Section 20950, and has failed to pay all landing fees and penalties pursuant to Section 21350, shall not be allowed to renew or obtain a commercial fish business license, permit, or entitlement, until payment is made in full to the department.

(i) Any person licensed pursuant to this title who is subject to landing fees as defined in Section 20950, and fails to submit landing receipts pursuant to Section 21150), may be subject to suspension or revocation of his or her commercial fish business license, permit, or entitlement.

Comment. Section 20210 continues former Fish and Game Code Section 8032.5(a), (b), and (d)-(i) without substantive change.

§ 20215. Term of license

20215. A license issued under this title is valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder of that term.

Comment. Section 20215 continues former Fish and Game Code Section 8038 without substantive change.

§ 20220. License on premises of business

20220. Each plant, facility, or other place of business in which an activity occurs that is required to be licensed pursuant to this title shall have a copy of the required license on the premises.

Comment. Section 20220 continues the second sentence of former Fish and Game Code Section 8037(a) without substantive change.

Note. Proposed Section 20220 would continue the second sentence of existing Fish and Game Code Section 8037(a).

Section 8037(a) in its entirety reads as follows (with the second sentence italicized):

A person who engages in business involving fish which business activity would require more than one class of license under this article shall obtain either a commercial fish business license issued under subdivision (a) of Section 8032 or each of the specialty licenses which are required for the classes of activities engaged in. *Each plant, facility, or other place of business in which an activity occurs that is required to be licensed shall have a copy of the required license.*

The Commission invites comment on whether proposed Section 20220 correctly continues the intended application of the second sentence of existing Section 8037(a).

§ 20225. Possession and display of identification

20225. (a) At all times when engaged in any activity for which a commercial fishing license is required, or in any activity described in this title for which a commercial fish business license is required, the person engaged in that activity

1 shall have in his or her possession, or immediately available to the person, a valid
2 driver's license or identification card issued to him or her by the Department of
3 Motor Vehicles, or by the entity issuing driver's licenses from the person's state of
4 domicile.

5 (b) The driver's license or identification card shall be exhibited upon demand to
6 any person authorized by the department to enforce this code, or regulations
7 adopted pursuant to this code.

8 **Comment.** Section 20225 continues the part of former Fish and Game Code Section 7852.27
9 applicable to fishing business licenses without substantive change.

10 **Note.** Existing Fish and Game Code Section 7852.27 (which, as applicable to fish business
11 licenses would be continued by proposed Section 20225), in requiring a license to have in
12 possession at all times a valid driver's license or identification card, appears to limit "persons"
13 who may receive a fish business license to only natural persons. Given that existing Section 67
14 defines "person" as including a partnership, corporation, limited liability company, trust, or other
15 type of association, is it the intent of this provision to foreclose any of these listed entities from
16 being issued a fish business license in the name of the entity?

17 **The Commission invites comment on this issue.**

18 **§ 20230. Fee for multi-function fish business license**

19 20230. (a) The annual fee for a multi-function commercial fish business license
20 is one thousand three hundred seventy-three dollars (\$1,373).

21 (b) The commission shall adjust the amount of the fee specified in subdivision
22 (a), as necessary, to fully recover, but not exceed, all reasonable administrative
23 and implementation costs of the department and the commission relating to those
24 licenses.

25 (c) The fee specified in this section is applicable to the 2004 license year, and
26 shall be adjusted annually thereafter pursuant to Section 3755.

27 **Comment.** Subdivision (a) of Section 20230 continues the second sentence of former Fish and
28 Game Code Section 8032(a) without substantive change.

29 Subdivision (b) continues former Fish and Game Code Section 8032(c) without substantive
30 change.

31 Subdivision (c) continues the part of former Fish and Game Code Section 8039 applicable to
32 multi-function commercial fish business licenses without substantive change.

33 **§ 20235. Denial of application based on prior dishonored check**

34 20235. Notwithstanding any other provision of law, the department may deny
35 the issuance or renewal of any license, permit, or other authorization to conduct
36 business involving fish, that are issued pursuant to this part, or the renewal thereof,
37 if the applicant for that authorization or renewal has, within the preceding year,
38 issued to the department a check that was dishonored by the bank upon which the
39 check was drawn and the person has failed to reimburse the department for the
40 amount due plus a fee of thirty dollars (\$30) and any dishonored check charges
41 incurred by the department.

1 **Comment.** Section 20235 continues the part of former Fish and Game Code Section 7852.25
2 applicable to licenses and other entitlements related to fish businesses without substantive
3 change.

4 CHAPTER 2. SPECIALTY LICENSES

5 Article 1. General Provisions

6 **§ 20300. Licensing for persons engaged in multiple businesses**

7 20300. A person who engages in business involving fish which business
8 activity would require more than one class of license under this chapter shall
9 obtain either a multi-function commercial fish business license pursuant to
10 subdivision (a) of Section 20205, or shall obtain each specialty license required for
11 each activity engaged in, as provided in this chapter.

12 **Comment.** Section 20300 continues the first sentence of former Fish and Game Code Section
13 8037(a) without substantive change.

14 Article 2. Fish Importer

15 **§ 20350. Required license**

16 20350. Any person who purchases or receives fish that are taken outside of this
17 state and brought into this state by a person who is not a licensed commercial
18 fisherman, for the purpose of resale to other than the ultimate consumer, shall
19 obtain a fish importer's license.

20 **Comment.** Section 20350 continues the first sentence of former Fish and Game Code Section
21 8036(a) without substantive change.

22 **§ 20355. Fee**

23 20355. (a) The annual fee for a fish importer's license is five hundred forty-nine
24 dollars (\$549).

25 (b) The fee specified in this section is applicable to the 2004 license year, and
26 shall be adjusted annually thereafter pursuant to Section 3755.

27 **Comment.** Subdivision (a) of Section 20355 continues the second sentence of former Fish and
28 Game Code Section 8036(a) without substantive change.

29 Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to
30 the fee for a fish importer's license, without substantive change.

31 Article 3. Fish Processor

32 **§ 20400. Required license**

33 20400. Any person who processes fish for profit shall obtain a fish processor's
34 license.

35 **Comment.** Section 20400 continues the first sentence of former Fish and Game Code Section
36 8034(a) without substantive change.

1 **§ 20405. Fee**

2 20405. (a) The annual fee for a fish processor's license is five hundred forty-
3 nine dollars (\$549).

4 (b) The fee specified in this section is applicable to the 2004 license year, and
5 shall be adjusted annually thereafter pursuant to Section 3755.

6 **Comment.** Subdivision (a) of Section 20405 continues the second sentence of former Fish and
7 Game Code Section 8034(a) without substantive change.

8 Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to
9 the fee for a fish processor's license, without substantive change.

10 Article 4. Fish Receiver

11 **§ 20450. Required license**

12 20450. (a) Except as provided in subdivision (b), any person who purchases or
13 receives fish for commercial purposes from a fisherman who is required to be
14 licensed under Section 14500, or any person who removes fish from the point of
15 the first landing that the person has caught for his or her own processing or sale,
16 shall obtain a fish receiver's license.

17 (b) Subdivision (a) does not apply to the following persons:

18 (1) A person who holds a valid and unrevoked marine aquaria receiver license.

19 (2) A person who holds a valid and unrevoked fisherman's retail license.

20 (3) Transporting fish from the point of first landing to a fish receiver under a
21 transportation receipt completed pursuant to Chapter 4 (commencing with Section
22 21200) of Title 10.

23 **Comment.** Section 20450 combines and restates former Fish and Game Code Sections 8033(a)
24 and 8047(c)(4) without substantive change.

25 **Note.** Proposed Section 20450 is intended to combine and restate existing Fish and Game
26 Code Sections 8033(a) and 8047(c)(4) to clarify the meaning of those provisions, without
27 changing their substantive meaning. The existing provisions read as follows:

28 8033. (a) Except as provided in Section 8033.1 or 8033.5, or subdivision (c) of Section 8047,
29 any person who purchases or receives fish for commercial purposes from a fisherman who is
30 required to be licensed under Section 7850, or any person who removes fish from the point of the
31 first landing that the person has caught for his or her own processing or sale, shall obtain a fish
32 receiver's license.

33 8047. (c)(4) A person transporting fish from the point of first landing under a transportation
34 receipt is not required to be licensed to conduct the activities of a fish receiver as described in
35 Section 8033.

36 **The Commission invites comment on whether proposed Section 20450 accurately**
37 **continues the intended meaning of existing Sections 8033(a) and 8047(c)(4).**

38 **§ 20455. License fee**

39 20455. (a) The annual fee for a fish receiver's license is five hundred forty-nine
40 dollars (\$549).

(b) The fee specified in this section applies to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 3755.

Comment. Subdivision (a) of Section 20455 continues former Fish and Game Code Section 8033(b) without substantive change.

Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to the fee for a fish receiver's license, without substantive change.

§ 20460. Cooperative association

20460. A cooperative association of fishers may be licensed as fish receivers.

Comment. Section 20460 continues former Fish and Game Code Section 8033(c) without substantive change.

Article 5. Fish Retailer

§ 20500. Required license

20500. Any commercial fisherman who sells fish for other than marine aquaria pet trade or research purposes that he or she has taken to the ultimate consumer of that fish shall obtain a fisherman's retail license.

Comment. Section 20500 continues the first sentence of former Fish and Game Code Section 8033.5(a) without substantive change.

§ 20505. Fee

20505. (a) The annual fee for a fish retailer's license is sixty-nine dollars (\$69).

(b) The fee specified in this section is applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 3755.

Comment. Subdivision (a) of Section 20505 continues the second sentence of former Fish and Game Code Section 8033.5(a) without substantive change.

Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to the fee for a fish retailer's license without substantive change.

Article 6. Fish Wholesaler

§ 20550. Required license

20550. (a) Except as provided in Section 20200, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish from another person, who is required to be licensed as a fish receiver, fish processor, fish importer, or fish wholesaler under this title, shall obtain a fish wholesaler's license.

(b) This section does not apply to either of the following:

(1) Persons required to have a marine aquaria receiver's license pursuant to Section 20600.

(2) Persons licensed pursuant to Section 20350 who only purchase or obtain fish from outside this state.

1 **Comment.** Subdivision (a) of Section 20550 continues former Fish and Game Code Section
2 8035(a) without substantive change.

3 Subdivision (b) continues former Fish and Game Code Section 8035(c) without substantive
4 change.

5 **§ 20555. Fee**

6 20555. (a) The annual fee for a fish wholesaler's license is three hundred
7 seventy-one dollars (\$371).

8 (b) The fee specified in this section is applicable to the 2004 license year, and
9 shall be adjusted annually thereafter pursuant to Section 3755.

10 **Comment.** Subdivision (a) of Section 20555 continues former Fish and Game Code Section
11 8035(b) without substantive change.

12 Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to
13 the fee for a fish wholesaler's license, without substantive change.

14 Article 7. Marine Aquaria Receiver

15 **§ 20600. Required license**

16 20600. Any person engaged in any of the following activities involving species
17 identified in Section 20710 shall obtain a nontransferable marine aquaria
18 receiver's license:

19 (a) A person who is required to have a marine aquaria collector's permit
20 pursuant to Section 20705 who sells live marine organisms indigenous to
21 California, that the person has taken, to the ultimate consumer.

22 (b) A person who purchases or receives live marine species indigenous to
23 California for commercial purposes from any of the following:

24 (1) A fisherman who is required to have a marine aquaria collector's permit
25 pursuant to Section 20705.

26 (2) A person who imports from neighboring states species that are also
27 indigenous to California waters.

28 **Comment.** Section 20600 continues former Fish and Game Code Section 8033.1(a) without
29 substantive change.

30 **§ 20605. License fee**

31 20605. (a) The annual fee for a marine aquaria receiver's license is one thousand
32 three hundred seventy-three dollars (\$1,373).

33 (b) The fee specified in this section is applicable to the 2004 license year, and
34 shall be adjusted annually thereafter pursuant to Section 3755.

35 **Comment.** Subdivision (a) of Section 20605 continues former Fish and Game Code Section
36 8033.2 without substantive change.

37 Subdivision (b) continues the part of former Fish and Game Code Section 8039 applicable to
38 the fee for a marine aquaria receiver's license, without substantive change.

1 **§ 20610. Source of indigenous organisms**

2 20610. A person required to be licensed as a marine aquaria receiver shall obtain
3 all live marine organisms indigenous to California waters only from fishermen,
4 aquaculturists, or importers who hold current and appropriate licenses or permits.

5 **Comment.** Section 20610 continues former Fish and Game Code Section 8033.1(b) without
6 substantive change.

7 **CHAPTER 3. MARINE AQUARIA PET TRADE**

8 **§ 20700. Definitions**

9 20700. The following definitions govern the construction of this chapter:

10 (a) “Marine aquaria pet trade” means any activities connected with collecting,
11 holding, selling, and displaying live aquatic marine life for pet, hobby, curio, or
12 display purposes. “Marine aquaria pet trade” does not include activities connected
13 with collecting, holding, selling, or displaying live aquatic marine life by, or for,
14 scientific institutions exempted from permits pursuant to subdivision (c) of Section
15 26710.

16 (b) “Drop net” means a small, circular net with weights attached along the
17 perimeter and a single float attached at the center. A drop net is not more than 48
18 inches in its greatest diameter.

19 **Comment.** Section 20700 continues former Fish and Game Code Section 8596 without
20 substantive change.

21 **§ 20705. Permit requirement**

22 20705. (a) It is unlawful for any person to take, possess aboard a boat, or land,
23 for a marine aquaria pet trade purpose, any live organism identified in Section
24 20710, unless that person has a valid marine aquaria collector’s permit that has not
25 been suspended or revoked. If the activity takes place on board or from a boat on
26 which more than one person is aboard, at least one person aboard the boat shall
27 have a valid marine aquaria collector permit.

28 **Comment.** Section 20705 continues former Fish and Game Code Section 8597(a) without
29 substantive change.

30 See also Section 5106 (enforcement).

31 **§ 20710. Permitted organisms**

32 20710. Except as provided in Section 20725, and unless otherwise prohibited in
33 this code, or regulations adopted pursuant to this code, specimens of the following
34 groups or species may be taken, possessed aboard a boat, or landed under a marine
35 aquaria collector’s permit:

36 (a) Marine plants:

37 (1) Chlorophyta.

38 (2) Phaeophyta.

39 (3) Rhodophyta.

40 (4) Spermatophyta, all species.

- (b) Invertebrates:
 - (1) Polychaeta—worms; all species.
 - (2) Crustacea—shrimp, crabs; all species, except the following:
 - (A) Dungeness crab—*Cancer magister*.
 - (B) Yellow crab—*Cancer anthonyi*.
 - (C) Red crab—*Cancer productus*.
 - (D) Sheep crab—*Loxorhynchus grandis*.
 - (E) Spot prawn—*Pandalus platyceros*.
 - (F) Ridgeback prawn—*Sicyonia ingentis*.
 - (G) Golden prawn—*Penaeus californiensis*.
 - (H) Sand crab—*Emerita analoga*.
 - (I) Redrock shrimp—*Lysmata californica*.
 - (J) Bay shrimp—*Crangon* sp. and *Palaemon macrodactylus*.
 - (K) Ghost shrimp—*Callinassa* sp.
 - (3) Asteroidea—Sea stars; all species.
 - (4) Ophiuroidea—Brittle stars; all species.
 - (5) Gastropoda—snails, limpets, sea slugs; all species, except Kellet’s whelk—*Kelletia kelleti*.
 - (6) Bivalvia—clams and mussels; all species.
 - (7) Polyplacophora—Chitons; all species.
 - (8) Cephalopoda—Octopuses and squids; all species, except two spot octopuses—*Octopus bimaculatus* and *Octopus maculoides*—and market squid—*Loligo opalescens*.
 - (9) Tunicata—Sea squirts; all species.
- (c) Vertebrates:
 - (1) Osteichthyes—Finfishes; all species, except the following:
 - (A) Rockfish—*Sebastes* sp. larger than six inches total length.
 - (B) Sheephead—*Semicossyphus pulcher* larger than six inches total length.
 - (C) Anchovy—*Engraulis mordax*.
 - (D) Sardine—*Sardinops sagax*.
 - (E) Pacific/chub —*Scomber japonicus*.
 - (F) Jack mackerel—*Trachurus symmetricus*.
 - (G) Queenfish—*Seriphus politus*.
 - (H) White Croaker—*Genyonemus lineatus*.
 - (I) Top smelt—*Atherinops affinis*.
 - (J) Grunion—*Leuresthes tenuis*.
 - (K) Shiner surf perch—*Cymatogaster aggregata*.
 - (L) Longjawed mudsucker—*Gillichthys mirabilis*.
 - (2) Chondrichthyes—sharks, rays, and skates; all species less than 18 inches total length, except that leopard shark (*Triakis semifasciata*) shall be 36 inches or larger in total length.

Comment. Section 20710 continues former Fish and Game Code Section 8597(b) without substantive change.

1 **§ 20715. Scope of permit**

2 20715. The holder of a permit issued pursuant to this title is not required to
3 obtain or possess a kelp harvester's license issued pursuant to Section 54030, a
4 tidal invertebrate permit issued pursuant to Section 45010, or a general trap permit
5 issued pursuant to Section 19205, when taking, possessing, or landing a live
6 organism for a marine aquaria pet trade purpose pursuant to subdivision (b),
7 subject to regulations governing the taking of tidal invertebrates. The commission
8 shall adopt regulations to implement this section, and, for that purpose, may
9 incorporate other regulations by reference.

10 **Comment.** Section 20715 continues former Fish and Game Code Section 8597(c) without
11 substantive change.

12 **§ 20720. Prohibited take or possession**

13 20720. (a) Notwithstanding Section 14260 or Section 20710, specimens of the
14 following groups or species shall not be taken, possessed aboard a boat, or landed
15 for a commercial purpose. Taking, possessing, or landing of any of the following
16 species in a commercial operation is prima facie evidence that it was taken,
17 possessed, or landed for a commercial purpose:

18 (1) Invertebrates:

19 (A) Phylum Porifera—all sponges.

20 (B) Genus *Pelagia* sp.—jellyfish.

21 (C) Coelenterata—corals, anemones; all species.

22 (D) Order Gorgonacea—all gorgonians.

23 (E) Order Pennatulacea—all species, except *Renilla kollikeri*.

24 (F) Feather-duster worm—*Eudistylia polymorpha*.

25 (G) Fiddler crab—*Uca crenulata*.

26 (H) Umbrella crab—*Cryptolithodes sitchensis*.

27 (I) Stalked or goose barnacles—*Pollicipes* sp.

28 (J) Giant acorn barnacle—*Balanus nubilus* or *B. aguilula*.

29 (K) Owl limpet—*Lottia gigantea*.

30 (L) Coffee bean shells—*Trivia* sp.

31 (M) Three-winged murex—*Pteropurpura trialata*.

32 (N) Vidler's simnia—*Simnia vidleri*.

33 (O) Queen tegula—*Tegula regina*.

34 (P) Opisthobranchia (including nudibranchs)—all subclass Opisthobranchia
35 species except:

36 (i) Sea hares—*Aplysia californica* and *Aplysia vaccaria*.

37 (ii) *Hermisenda crassicornis*.

38 (iii) Lion's mouth—*Melibe leonina*.

39 (iv) *Aeolidia papillosa*.

40 (v) Spanish shawl—*Flabellina iodinea*.

41 (2) Vertebrates:

42 (A) All shark and ray eggcases.

1 (B) Brown smoothhound sharks—*Mustelus hinlei*—that are less than 18 inches
2 in a whole condition or dressed with head and tail removed.

3 (C) Family Agonidae—all poachers.

4 (D) Wolf-eel—*Anarrhichthys ocellatus*.

5 (E) Juvenile sheephead—*Semicossyphus pulcher* (under six inches).

6 (F) Garibaldi—*Hypsypops rubicundus*.

7 (3) Live rocks.

8 (A) Rocks with living organisms attached, commonly called “live rocks,” shall
9 not be taken or possessed except as provided in subparagraph (C).

10 (B) Rocks shall not be broken to take marine aquaria species, and any rock
11 displaced to access any of those species shall be returned to its original position.

12 (C) Rocks cultured under the authority of an aquaculture registration may be
13 possessed.

14 (b) No organisms may be taken, possessed, or landed for a marine aquaria pet
15 trade purpose under the terms of a marine aquaria collector’s permit in any of the
16 following areas:

17 (1) On the north side of Santa Catalina Island from a line extending three
18 nautical miles 90 degrees true from Church Rock to a line extending three nautical
19 miles 270 degrees true from the extreme west end of the island.

20 (2) On the south or “back” side of Santa Catalina Island from a line extending
21 three nautical miles 90 degrees true from Church Rock to a line extending three
22 nautical miles 270 degrees true from the extreme west end of the island.

23 (3) A marine life refuge, marine reserve, ecological reserve, or state reserve.

24 **Comment.** Section 20720 continues former Fish and Game Code Section 8598 without
25 substantive change.

26 See also Section 5106 (enforcement).

27 **§ 20725. Methods of take**

28 20725. (a) Marine organisms identified in Section 20710 shall not be taken
29 except by the following methods:

30 (1) Hook and line.

31 (2) Drop net.

32 (3) Dip Net.

33 (4) Trap.

34 (5) Hand.

35 (6) Slurp gun.

36 (7) Spatula.

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

bottles, that can be used to target those marine organisms, is possessed aboard the vessel.

(c) Appliances shall be used so that rocks or other mineral matter, aquatic plants, fish, or other aquatic life not listed in Section 20710 are not removed from the bottom or otherwise disturbed.

Comment. Section 20725 continues former Fish and Game Code Section 8598.2 without substantive change.

See also Section 5106 (enforcement).

§ 20730. Permit fee

20730. (a) The fee for a marine aquaria collector's permit shall be three hundred thirty dollars (\$330).

(b) A person engaged in taking, possessing, or landing marine species under a marine aquaria collector's permit shall not take, possess aboard a boat, or land any species under the authority of a scientific collector's permit issued pursuant to Section 9200, 38200, or 58630 on the same fishing trip.

(c) The commission shall adjust the amount of the fee specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to marine aquaria collector's permits.

Comment. Section 20730 continues former Fish and Game Code Section 8598.3(a) and (c) without substantive change.

§ 20735. Concurrent take or possession under scientific collector's permit

20735. A person engaged in taking, possessing, or landing marine species under a marine aquaria collector's permit shall not take, possess aboard a boat, or land any species under the authority of a scientific collector's permit issued pursuant to Section 9200, 38200, or 58630, on the same fishing trip.

Comment. Section 20735 continues former Fish and Game Code Section 8598.3(b) without substantive change.

§ 20740. Closure of fishery

20740. (a) Notwithstanding any other provision of this code, the director may close any portion of the fishery established under this chapter or any area in which that fishery is conducted, if, upon written finding, the director determines the action is necessary to protect any organisms listed in Section 20710, or the environment in which any of those organisms are located.

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

Comment. Section 20740 continues former Fish and Game Code Section 8598.4 without substantive change.

1 TITLE 10. LANDING FEES AND RECEIPTS

2 CHAPTER 1. GENERAL PROVISIONS

3 § 20900. Definitions

4 20900. The following definitions govern the construction of this title:

5 (a) “Commercial fisherman” means a person who has a valid, unrevoked
6 commercial fishing license issued pursuant to Section 14500.

7 (b) “Landing fee” means a fee imposed on a fish receiver or processor, as
8 described in Section 20950.

9 **Comment.** Section 20900 continues former Fish and Game Code Section 8040 without
10 substantive change.

11 § 20905. Information from marine aquaria receivers

12 20905. The department may require any information from a marine aquaria
13 receiver that the department deems necessary to carry out this title.

14 **Comment.** Section 20905 continues former Fish and Game Code Section 8043.1(b) without
15 substantive change.

16 CHAPTER 2. LANDING FEE

17 § 20950. Persons required to pay fee

18 20950. (a) The following persons shall pay the landing fee determined pursuant
19 to Section 20955:

20 (1) A person who is required to be licensed as a fish receiver, and any person
21 who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to
22 former Fish and Game Code Section 8040 and who receives fish from commercial
23 fishermen.

24 (2) A commercial fisherman who sells fish to a person who is not a licensed fish
25 receiver.

26 (b) The following people are exempt from the landing fee imposed under this
27 title:

28 (1) A person licensed pursuant to Section 22100 who only takes, transports, or
29 sells live freshwater fish for bait.

30 (2) A commercial fisherman who sells live freshwater fish for bait to person
31 described in paragraph (1).

32 (3) A person licensed pursuant to Section 20600 who takes, transports, or sells
33 live aquaria fish as described in Section 20600.

34 (4) A commercial fisherman who sells live aquaria fish.

35 (c) It is the intent of the Legislature that the license fee for live aquaria fish
36 described in Section 20600 shall be in lieu of a landing fee imposed under this
37 title.

Comment. Section 20950 restates existing Fish and Game Code Section 8041 without substantive change.

See also Section 5150 (enforcement).

Notes. (1) Proposed Section 20950 is intended to restate existing Fish and Game Code Section 8041 for clarity, without changing their substantive effect. The existing provision reads as follows:

8041. (a) The following persons shall pay the landing fee determined pursuant to Section 8042:

(1) Any person who is required to be licensed as a fish receiver, and any person who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

(2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

(b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live freshwater fish for bait to such a licensed person, and a person licensed pursuant to Section 8033.1 who takes, transports, or sells live aquaria fish as described in Section 8597 or a commercial fisherman who sells live aquaria fish, are exempt from the landing fee imposed under this article. It is the intent of the Legislature that the license fee for live aquaria fish described in Section 8033.1 shall be in lieu of a landing fee imposed under this article.

(c) Notwithstanding subdivision (a), a person who purchases, sells, takes, or receives live marine fish for use as live bait as described in subdivision (g) of Section 8030 is exempt from the landing fee imposed under this article.

The Commission invites comment on whether that restatement would cause any change in meaning.

(2) As indicated above, existing Section 8041 includes among the persons obligated to pay the fee, in addition to fish receivers, person “licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

It is not clear whether such persons still exist in practice. If not, the reference could perhaps be deleted as obsolete.

The Commission invites comment on that issue.

§ 20955. Calculation of fee

20955. (a) The amount of the landing fee under this article shall be determined by multiplying the weight of fish delivered in this state by a commercial fisherman, in pounds, or fraction of pounds, by the rate per pound for the type of fish delivered set forth in the following table:

	Rate per pound
Lobster	\$ 0.1333
Spot prawn and abalone	\$ 0.1000
Salmon and swordfish, based only on the weight in the round	\$ 0.0333
Halibut, sea cucumber, white seabass, sheephead, and Dungeness crab	\$ 0.0333
Shortspine thornyhead, sablefish, lingcod, and prawns and shrimp (except spot prawn and pink shrimp)	\$ 0.0133
Angel, thresher, and bonito sharks, based only on the weight in the round	\$ 0.0097
All fish and invertebrates unless otherwise specified	\$ 0.0067

1	Sea urchin, pink shrimp, smelts, soles, turbot, longspine thornyhead,	
2	night smelt, and sanddabs	\$ 0.0047
3	Bonito, flounder, grenadiers, herring, and skates	\$ 0.0027
4	Market squid	\$ 0.0023
5	Anchovy, mackerel, sardines, and Pacific whiting	\$ 0.0010

6 (b) If the fee is imposed based upon weight in the round, and the fish is cleaned,
7 gutted, beheaded, or otherwise not in the round at the time of delivery, the fee
8 shall be adjusted by a conversion factor as determined by the department by
9 regulation.

10 **Comment.** Subdivision (a) of Section 20955 combines and continues the first sentence of
11 former Fish and Game Code Section 8042, and former Fish and Game Code Section 8051,
12 without substantive change.

13 Subdivision (b) continues the second sentence of former Fish and Game Code Section 8042
14 without substantive change.

15 **§ 20960. Remittance of fee**

16 20960. Persons subject to Section 21000 shall remit the landing fee imposed by
17 Section 20950.

18 **Comment.** Section 20960 continues the second sentence of former Fish and Game Code
19 Section 8047(b) without substantive change.

20 **CHAPTER 3. LANDING RECEIPTS**

21 **Article 1. Completion**

22 **§ 21000. Persons required to complete receipt**

23 21000. The following persons are required to make a true, legible, and complete
24 landing receipt, on a form and in a manner prescribed by the department:

25 (a) The fish receiver, if any.

26 (b) The marine aquaria receiver, if any.

27 (c) A commercial fisherman who sells or delivers fish that he or she has taken to
28 any person who is not required to be licensed under Title 9 (commencing with
29 Section 20150).

30 (d) A person required to be licensed under Title 9 (commencing with Section
31 20150) who takes his or her own fish.

32 **Comment.** Subdivision (a) of Section 21000 combines and restates the second clause of the
33 first sentence of former Fish and Game Code Section 8043(a) and the second sentence of former
34 Fish and Game Code Section 8047(a)(2) without substantive change.

35 Subdivision (b) continues former Fish and Game Code Section 8043.1(a) without substantive
36 change.

37 Subdivision (c) combines and restates the first clause of the first sentence of former Fish and
38 Game Code Section 8043(a), the third sentence of former Fish and Game Code Section
39 8047(a)(2), and the first sentence of former Fish and Game Code Section 8047(b), without
40 substantive change.

Subdivision (d) continues the first clause of the first sentence of former Fish and Game Code Section 8047(a)(1) without substantive change.

See also Section 5104 (enforcement).

Note. Proposed Section 21000(a) is intended to combine and restate the second clause of the first sentence of existing Fish and Game Code Section 8043(a), and the second sentence of existing Fish and Game Code Section 8047(a)(2) (shown in italics), to clarify the meaning of those provisions without changing their substantive effect. The existing provisions read as follows:

8043. (a) Every ... person who is required to be licensed under Article 7 (commencing with Section 8030) to conduct the activities of a fish receiver, as described in Section 8033, shall make a legible landing receipt record on a form to be furnished by the department....

8047. (a)(2) A person licensed under Section 8033.5 who sells his or her fish to a licensed receiver may use a transportation receipt to transport those fish only to that licensed receiver. *The receiver shall complete a landing receipt for those fish....*

The Commission invites comment on whether the restatement of these provisions in proposed Section 21000(a) would cause any substantive change in the meaning of any of the provisions.

(2) Proposed Section 21000(c) is intended to combine and restate the first clause of the first sentence of existing Fish and Game Code Section 8043(a), the third sentence of existing Fish and Game Code Section 8047(a)(2) (shown in italics), and the first sentence of existing Fish and Game Code Section 8047(b), to clarify the meaning of those provisions without changing their substantive effect. The existing provisions read as follows:

8043. (a) Every commercial fisherman who sells or delivers fish that he or she has taken to any person who is not licensed under Article 7 (commencing with Section 8030)... shall make a legible landing receipt record on a form to be furnished by the department....

8047. (a)(2) A person licensed under Section 8033.5 who sells his or her fish to a licensed receiver may use a transportation receipt to transport those fish only to that licensed receiver. The receiver shall complete a landing receipt for those fish. *A person who sells his or her fish to the ultimate consumer shall complete a landing receipt pursuant to Sections 8043 and 8043.2.*

8047. (b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1....

The Commission invites comment on whether the restatement of these provisions in proposed Section 21000(c) would cause any substantive change in the meaning of any of the provisions.

§ 21005. When receipt must be completed

21005. (a) A fish receiver or commercial fisherman who is required to complete a landing receipt shall do so at the time of the receipt, purchase, or transfer of the fish, whichever occurs first.

(b) A marine aquaria receiver who is required to complete a landing receipt shall do so at the time of the receipt of the organisms.

(c) A person required to be licensed under Title 9 (commencing with Section 20150) who takes his or her own fish or marine aquaria organisms shall complete a landing receipt at the time the fish or marine aquaria organisms are brought ashore.

Comment. Subdivision (a) of Section 21005 restates the second sentence of former Fish and Game Code Section 8043(a) without substantive change.

Subdivision (b) restates the first sentence of former Fish and Game Code Section 8043.1(c) without substantive change.

Subdivision (c) combines and restates the second sentence of former Fish and Game Code Section 8043.1(c) and the second clause of the first sentence of former Fish and Game Code Section 8047(a)(1) without substantive change.

Notes. (1) Proposed Section 21005(a) is intended to restate the second sentence of existing Fish and Game Code Section 8043(a), to clarify the meaning of that provision without changing its substantive effect. The existing provision (indicated in italics) reads as follows:

8043. (a) Every commercial fisherman who sells or delivers fish that he or she has taken to any person who is not licensed under Article 7 (commencing with Section 8030), and every person who is required to be licensed under Article 7 (commencing with Section 8030) to conduct the activities of a fish receiver, as described in Section 8033, shall make a legible landing receipt record on a form to be furnished by the department. *The landing receipt shall be completed at the time of the receipt, purchase, or transfer of fish, whichever occurs first.*

The Commission invites comment on whether the restatement of this provision in proposed Section 21005(a) would cause any substantive change in the meaning of the provision.

(2) Proposed Section 21005(b) is intended to restate the first sentence of existing Fish and Game Code Section 8043.1(c), to clarify the meaning of that provision without changing its substantive effect. The existing provision (indicated in italics) reads as follows:

8043.1. (a) A person required to be licensed as a marine aquaria receiver shall make a legible, true, and complete record of the landing receipts on a form and in a manner prescribed by the department.

....
(c) *The landing receipt form shall be completed at the time the organisms are received from the commercial fisherman. ...*

The Commission invites comment on whether the restatement of this provision in proposed Section 21005(b) would cause any substantive change in the meaning of the provision.

(3) Proposed Section 21005(c) is intended to combine and restate the second sentence of former Fish and Game Code Section 8043.1(c) and the second clause of the first sentence of existing Fish and Game Code Section 8047(a)(1) (shown in italics), to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

8043.1(c) ... A person required to be licensed as a marine aquaria receiver who takes his or her own organisms shall complete a marine aquaria landing receipt form at the time the organisms are brought ashore.

8047. (a)(1) A person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish shall make a legible record in the form of the landing receipt as required by Sections 8043 and 8043.1 *at the time the fish are brought ashore.*

The Commission invites comment on whether the restatement of this provision in proposed Section 21005(c) would cause any substantive change in the meaning of the provision.

1 **§ 21010. Method of completion by commercial fisherman**

2 21010. A commercial fisherman who is required to complete a landing receipt
3 shall do so in either of the following ways:

4 (a) For each individual sale by that commercial fisherman, at the time of the
5 sale.

6 (b) For each day that the commercial fisherman is engaged in one or more sales
7 to the ultimate consumers, the commercial fisherman shall maintain an accurate
8 tally sheet of sales, which shall include complete header and signature box
9 information filled out prior to any sales, and the number of pounds, by species, of
10 fish sold. The total of the daily sales shall be recorded on the landing receipt at the
11 completion of sales for that day. A copy of the completed tally sheet shall be
12 attached to the corresponding landing receipt. The original completed tally sheet
13 shall be attached to the commercial fisherman's copy of the corresponding landing
14 receipt and maintained for a period of four years.

15 **Comment.** Section 21010 restates former Fish and Game Code Section 8043.2(a) without
16 substantive change.

17 **Note.** Proposed Section 21010 is intended to restate existing Fish and Game Code Section
18 8043.2(a) to clarify the meaning of that provision, without changing its substantive effect. The
19 existing provision reads as follows:

20 8043.2. (a) A commercial fisherman licensed pursuant to Section 8033.5 who sells fish from a
21 vessel directly to the ultimate consumer and who is required pursuant to Section 8043 to make a
22 landing receipt shall make a landing receipt in either of the following ways:

23 (1) For each individual sale by that fisherman at the time of the sale.

24 (2) For each day that the fisherman is engaged in one or more sales to the ultimate consumers,
25 the fisherman shall maintain an accurate tally sheet of sales, which shall include complete header
26 and signature box information filled out prior to any sales, and the number of pounds by species
27 of fish sold. The total of the daily sales shall be recorded at the completion of sales for that day on
28 a landing receipt. A copy of the completed tally sheet shall be attached to the corresponding
29 landing receipt. The original completed tally sheet shall be attached to the fisherman's copy of the
30 corresponding landing receipt and maintained for a period of four years.

31 **The Commission invites comment on whether the restatement of this provision in**
32 **proposed Section 21010 would cause any substantive change in the meaning of the**
33 **provision.**

34 **§ 21015. Advance notification to agent when specified fish landed**

35 21015. On delivery of sardines, anchovies, mackerel, squid, tuna, or bonito
36 intended to be processed or sold as fresh fish, the person who completes the
37 landing receipt, upon request of the authorized agent described in Section 21110,
38 shall notify that agent of the unloading and weighing of the fish, and shall permit
39 the agent to be present at all times during the weighing of the fish.

40 **Comment.** Section 21015 restates former Fish and Game Code Section 8046(b) without
41 substantive change.

42 **Note.** Proposed Section 21015 is intended to restate existing Fish and Game Code Section
43 8046(b) to clarify the meaning of that provision, without changing its substantive effect. The
44 existing provision reads as follows:

1 8046. (b) On delivery of sardines, anchovies, mackerel, squid, tuna, or bonito intended to be
2 processed or sold as fresh fish, the person licensed pursuant to Article 7 (commencing with
3 Section 8030) who filled out the landing receipt, upon request of the authorized agent described
4 in subdivision (c), shall notify the authorized agent of the unloading and weighing of the fish and
5 shall permit the authorized agent to be present at all times during the weighing of the fish.

6 **The Commission invites comment on whether the restatement of this provision in**
7 **proposed Section 21015 would cause any substantive change in the meaning of the**
8 **provision.**

9 **§ 21020. Content of receipt**

10 21020. A landing receipt shall show all of the following:

11 (a) The names of the species of landed fish as designated by the department, or
12 if not designated, the commonly used name of the species.

13 (b) The accurate weight of the species of fish received. Sablefish may be
14 reported in dressed weight, and if so reported, shall have the round weights
15 computed, for purposes of management quotas, by multiplying 1.6 times the
16 reported dressed weight.

17 (c) The commercial fisherman's name and commercial fishing license
18 identification number.

19 (d) The commercial boat registration number of the boat.

20 (e) The name of the recipient of the fish, and that person's identification
21 number, if applicable.

22 (f) The date of receipt.


23 (g) The price paid for the fish.

24 (h) The department origin block number where the fish were caught.

25 (i) The type of gear used.

26 (j) Any other information the department may require.

27 **Comment.** Section 21020 combines and restates former Fish and Game Code Sections 8043(b)
28 and 8045 without substantive change.

29  **Note.** Proposed Section 21020 is intended to combine and restate existing Fish and Game
30 Code Sections 8043(b) and 8045, to clarify the meaning of those provisions without changing
31 their substantive effect. The existing provisions read as follows:

32 8043. (b) The landing receipt shall show all of the following:

33 (1) The accurate weight of the species of fish received, as designated pursuant to Section 8045.
34 Sablefish may be reported in dressed weight, and if so reported, shall have the round weights
35 computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed
36 weight.

37 (2) The name of the fisherman and the fisherman's identification number.

38 (3) The department registration number of the boat.

39 (4) The recipient's name and identification number, if applicable.

40 (5) The date of receipt.

41 (6) The price paid.

42 (7) The department origin block number where the fish were caught.

43 (8) The type of gear used.

44 (9) Any other information the department may prescribe.

8045. The names used in the landing receipt and transportation receipt made under Sections 8043 and 8047 for designating the species of fish dealt with shall be those in common usage unless otherwise designated by the department.

The Commission invites comment on whether the restatement of these two provisions in proposed Section 21020 would cause any substantive change in the meaning of either provision.

§ 21025. Additional requirements applicable to completion of landing receipts

21025. (a) The person that completes the landing receipt shall sign the receipt.


(b) The numbered landing receipts in each individual landing receipt book shall be completed sequentially.

(c) A voided fish landing receipt shall have the word “VOID” plainly and noticeably written on the face of the receipt, and shall be submitted to the department in the same manner as a completed fish landing receipt is submitted to the department.

Comment. Subdivision (a) of Section 21025 restates the third sentence of former Fish and Game Code Section 8047(b) without substantive change.

Subdivision (b) continues the first sentence of former Fish and Game Code Section 8043(c) without substantive change.

Subdivision (c) continues the second and third sentences of former Fish and Game Code Section 8043(c) without substantive change.

 **Note.** Proposed Section 21025(a) is intended to restate the third sentence of existing Fish and Game Code Section 8047(b) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

8047. (b)... The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt.

The Commission invites comment on whether the restatement of this provision in proposed Section 21025(a) would cause any substantive change in the meaning of the provision.

Article 2. Retention and Delivery of Copies

§ 21100. When receipt completed by fish receiver or marine aquaria receiver

21100. (a) A fish receiver or marine aquaria receiver who completes a landing receipt shall retain a completed copy of the receipt for a period of four years, which shall be available for inspection at any time within that period by the department.

(b) The receiver shall also deliver a completed copy of the receipt to the commercial fisherman at the time of the purchase or receipt of the fish, which shall be retained by the commercial fisherman for a period of four years, and shall be available for inspection at any time during that period by the department.

Comment. Section 21100 restates the third, fourth, and fifth sentences of former Fish and Game Code Section 8046(a) without substantive change.

Note. Proposed Section 21100 is intended to restate the third, fourth, and fifth sentences of existing Fish and Game Code Section 8046(a) to clarify the meaning of those sentences, without changing their substantive effect. The existing sentences read as follows:

8046. (a).... A copy of the landing receipt shall be delivered to the commercial fisherman at the time of the purchase or receipt of the fish. That copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time during that period by the department. A copy of the landing receipt shall be kept by the person licensed pursuant to Article 7 (commencing with Section 8030) who filled out the landing receipt for a period of four years and shall be available for inspection at any time within that period by the department.

The Commission invites comment on whether the restatement of these sentences in proposed Section 21100 would cause any substantive change in the meaning of the provision.

§ 21105. When receipt completed by commercial fisherman

21105. (a) A commercial fisherman who completes a landing receipt shall retain a completed copy of the receipt for a period of four years, which shall be available for inspection at any time within that period by the department.

(b) The commercial fisherman shall also deliver a completed copy of the receipt to the person taking, purchasing, or receiving the fish, which shall be retained by that person until the fish are prepared for consumption or otherwise disposed of.

Comment. Subdivision (a) of Section 21105 combines and restates the third sentence of existing Fish and Game Code Section 8047(a)(1) and the fifth sentence of former Fish and Game Code Section 8047(b) without substantive change.

Subdivision (b) restates the sixth sentence of former Fish and Game Code Section 8047(b) without substantive change.

Note. Proposed Section 21105(a) is intended to combine and restate the third sentence of existing Fish and Game Code Section 8047(a)(1) and the fifth and sixth sentences of existing Fish and Game Code Section 8047(b) to clarify the meaning of those sentences, without changing their substantive effect. The existing sentences read as follows:

8047(a)(1).... A copy of the landing receipt shall be retained by [a person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish] for a period of four years and shall be available for inspection at any time within that period by the department.

8047. (b).... A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of.

The Commission invites comment on whether the restatement of these sentences in proposed Section 21105 would cause any substantive change in the meaning of the provision.

§ 21110. Delivery of copy to agent

21110. Any person completing a landing receipt shall also deliver a completed copy of the receipt to any agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving a copy of the receipt pursuant to Section 21100.

1 **Comment.** Section 21110 combines and restates former Fish and Game Code Section 8046(c),
2 the fourth sentence of former Fish and Game Code Section 8047(a)(1), and the 7th sentence of
3 former Fish and Game Code Section 8047(b) without substantive change.

4 **Note.** Proposed Section 21110 is intended to combine and restate existing Fish and Game
5 Code Section 8046(c), the fourth sentence of existing Fish and Game Code Section 8047(a)(1),
6 and the 7th sentence of existing Fish and Game Code Section 8047(b) (which are themselves
7 identical) to clarify the meaning of those sentences, without changing their substantive effect. All
8 three of those provisions read as follows:

9 A copy of the landing receipt shall be delivered to an agent authorized in writing by the
10 majority of the persons who participated in the taking of the fish, excluding the commercial
11 fisherman receiving the original copy.

12 **The Commission invites comment on whether the restatement of these sentences in**
13 **proposed Section 21110 would cause any substantive change in the meaning of the**
14 **provision.**

15 **§ 21115. Landing of groundfish**

21115. In addition to the requirements of Sections 21015, 21100, 21110, and
21150, any person landing groundfish subject to federal groundfish regulations
adopted pursuant to the Magnuson Fishery Conservation and Management Act (16
U.S.C. Sec. 1801 et seq.) shall keep a copy of the landing receipt on board the
fishing vessel throughout, and for 15 days following, each period for which
cumulative landings by individual vessels are limited.

22 **Comment.** Section 21115 continues former Fish and Game Code Section 8046.1 without
23 substantive change.

24 Article 3. Delivery to Department

25 **§ 21150. Delivery of landing receipt to department**

26 21150. (a) The original signed copy of a paper landing receipt shall be delivered
27 to the department by the person completing the receipt on or before the 16th or last
28 day of the month in which the fish were landed, whichever date occurs first after
29 the landing.

(b) Landing receipt records completed and submitted electronically shall be submitted to the department within three business days of the landing.

32 **Comment.** Subdivision (a) of Section 21150 combines and restates former Fish and Game
33 Code Section 8043.1(d), the first sentence of former Fish and Game Code Section 8046(a), and
34 the second sentence of former Fish and Game Code Section 8047(a)(1), without substantive
35 change.

Subdivision (b) continues the second sentence of former Fish and Game Code Section 8046(a) without substantive change.

38 **Note.** Proposed subdivision (a) of Section 21150 is intended to combine and restate former
39 Fish and Game Code Section 8043.1(d), the first sentence of existing Fish and Game Code
40 Section 8046(a), and the second sentence of existing Fish and Game Code Section 8047(a)(1),
41 and the fourth sentence of former Fish and Game Code Section 8047(b), to clarify the meaning of
42 those provisions, without changing their substantive effect. The existing provisions read as
43 follows:

8043.1. (d) The copies of the aquaria landing receipts shall be delivered to the department, as provided in Section 8046.

8046. (a) The original signed copy of the landing receipt made under Section 8043 or 8043.1 shall be delivered to the department on or before the 16th or last day of the month in which the fish were landed, whichever date occurs first after the landing.

8047. (a)(1).... The original signed copy of the landing receipt shall be delivered by [a person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish] to the department, as provided in Section 8046.

8047. (b).... The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department, as provided in Section 8046.

The Commission invites comment on whether the restatement of these provisions in proposed Section 21150 would cause any substantive change in the meaning of the provisions.

(2) Proposed Section 21150 would continue part of the substance of Section 8046(a), which was parts of Sections 8043.1 and 8046, which were both amended by 2018 Cal. Stat. ch. 601. Although that bill will not operate until 2019, it is included here in anticipation of its operation.

§ 21155. Unused landing receipts

21155. A fish receiver who is no longer conducting business as a licensed receiver shall forward all unused landing receipts and landing receipt books to the department immediately upon terminating his or her business activity.

Comment. Section 21155 continues the fourth sentence of former Fish and Game Code Section 8043(c) without substantive change.

CHAPTER 4. TRANSPORTATION RECEIPTS

§ 21200. Issuance of transportation receipt book

21200. A transportation book receipt shall be issued to an individual commercial fisherman and is not transferable.

Comment. Section 21200 continues former Fish and Game Code Section 8047(c)(5) without substantive change.

§ 21205. Purpose

21205. A transportation receipt is required only for transit purposes.

Comment. Section 21205 continues former Fish and Game Code Section 8047(c)(3) without substantive change.

§ 21210. Persons required to complete

21210. (a) Every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, shall fill out a transportation receipt according to the instructions and on forms provided by the department.

(b) A commercial fisherman who sells his or her fish to a fish receiver may use a transportation receipt to transport those fish only to that receiver.

Comment. Subdivision (a) of Section 21210 continues the first part of former Fish and Game Code Section 8047(c)(1) without substantive change.

Subdivision (b) restates the first sentence of former Fish and Game Code Section 8047(a)(2) without substantive change.

Note. Proposed Section 21210(b) is intended to restate the first sentence of existing Fish and Game Code Section 8047(a)(1) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

8047. (a)(1) A person licensed under Section 8033.5 who sells his or her fish to a licensed receiver may use a transportation receipt to transport those fish only to that licensed receiver. The receiver shall complete a landing receipt for those fish.

As a “person licensed under existing Section 8033.5” is a commercial fisherman who sells fish to an ultimate consumer (rather than a receiver), the Commission has interpreted that language as referring to commercial fishers generally.

The Commission invites comment on whether that interpretation is correct, and whether the restatement of this provision in proposed Section 21210(b) would cause any substantive change in the meaning of the provision.

§ 21215. Time of completion

21215. A transportation receipt shall be completed at the time fish are transferred from the fishing vessel to the shore.

Comment. Section 21215 combines and restates the fourth sentence of former Fish and Game Code Section 8047(a)(2) and the last part of former Fish and Game Code Section 8047(c)(1), without substantive change.

Note. Proposed Section 21215 is intended to combine and restate the fourth sentence of existing Fish and Game Code Section 8047(a)(2) and the last part of existing Fish and Game Code Section 8047(c)(1) to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

8047. (a)(2)..... Transportation receipts shall be completed at the time the fish are transferred from the fishing vessel.

8047. (c)(1).... Every commercial fisherman... shall fill out a transportation receipt... at the time the fish are brought ashore.

The Commission invites comment on whether the restatement of these provisions in proposed Section 14450 would cause any substantive change in the meaning of the provisions.

§ 21220. Method of completion

21220. The numbered transportation receipt forms in each individual transportation receipt book shall be completed sequentially.

Comment. Section 21220 continues the first sentence of former Fish and Game Code Section 8047(e) without substantive change.

§ 21225. Content

21225. The transportation receipt shall contain all of the following information:

(a) The name of each transported species of fish as designated by the department, or if not designated, the commonly used name of each species.

(b) The date and time of the receipt.

(c) The accurate weight of the species of fish being transported. Sablefish may be reported in dressed weight, and if so reported, shall have the round weights computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed weight.

(d) The name and identification number of the commercial fisherman.

(e) The signature of the commercial fisherman authorizing transportation.

(f) The name of the person transporting the fish.

(g) The name of the fish business and fish business identification number.

(h) The corresponding landing receipt number issued by the fish business to the commercial fisherman.

(i) The department registration number of the vessel.

(j) The name of the vessel.

(k) The department origin block number where the fish were caught.

(l) The port of first landing.

(m) Any other information the department may prescribe.

Comment. Section 21225 combines and restates former Fish and Game Code Sections 8045 and 8047(d) without substantive change.

Note. Proposed Section 21225 is intended to combine and restate existing Fish and Game Code Sections 8045 and 8047(d), to clarify the meaning of those provisions without changing their substantive effect. The existing provisions read as follows:

8045. The names used in the landing receipt and transportation receipt made under Sections 8043 and 8047 for designating the species of fish dealt with shall be those in common usage unless otherwise designated by the department.

8047. (d) The transportation receipt shall contain all of the following information:

(1) The name of each species of fish, pursuant to Section 8045.

(2) The date and time of the receipt.

(3) The accurate weight of the species of fish being transported. Sablefish may be reported in dressed weight, and if so reported, shall have the round weights computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed weight.

(4) The name and identification number of the fisherman. The signature of the fisherman authorizing transportation.

(5) The name of the person transporting the fish.

(6) The name of the fish business, the fish business identification number, and the corresponding landing receipt number issued by the fish business to the commercial fisherman.

(7) The department registration number of the vessel and the name of the vessel.

(8) The department origin block number where the fish were caught.

(9) The port of first landing.

(10) Any other information the department may prescribe.

The Commission invites comment on whether the restatement of these two provisions in proposed Section 21225 would cause any substantive change in the meaning of either provision.

1 **§ 21230. Retention and delivery of copies**

2 21230. (a) A copy of a completed transportation receipt shall be retained by the
3 commercial fisherman who filled it out for a period of four years, and shall be
4 available for inspection at any time within that period by the department.

5 (b) A copy of the transportation receipt shall be given to and retained by the
6 person transporting the fish until the fish are sold fresh, processed, or otherwise
7 disposed of.

8 **Comment.** Subdivision (a) of Section 21230 continues the second sentence of former Fish and
9 Game Code Section 8047(c)(2) without substantive change.

10 Subdivision (b) continues the third sentence of former Fish and Game Code Section 8047(c)(2)
11 without substantive change.

12 **§ 21235. Delivery to department**

13 21235. The original transportation receipt shall be signed and delivered by the
14 commercial fisherman to the department on or before the 16th day or the last day
15 of the month in which the fish were landed, whichever date occurs first after
16 landing.

17 **Comment.** Section 21235 restates the first sentence of former Fish and Game Code Section
18 8047(c)(2) without substantive change.

19 **Note.** Proposed Section 21235 is intended to restate the first sentence of existing Fish and
20 Game Code Section 8047(c)(2) to clarify the meaning of that provision, without changing its
21 substantive effect. The existing provision reads as follows:

22 8047. (c)(2) The original signed copy of the transportation receipt shall be delivered by the
23 commercial fisherman to the department on or before the 16th day or the last day of the month in
24 which the fish were landed, whichever date occurs first after landing.

25 **The Commission invites comment on whether the restatement of this provision in**
26 **proposed Section 21235 would cause any substantive change in the meaning of the**
27 **provision.**

28 **§ 21240. Void receipts**

29 21240. A voided fish transportation receipt shall have the word “VOID” plainly
30 and noticeably written on the face of the receipt, and shall be submitted to the
31 department in the same manner as a completed fish transportation receipt is
32 submitted to the department.

33 **Comment.** Section 21240 continues the second and third sentences of former Fish and Game
34 Code Section 8047(e) without substantive change.

35 **§ 21245. Unused receipts**

36 21245. A person who was previously but is no longer conducting business as a
37 commercial fisherman shall forward all unused transportation receipts and
38 transportation receipt books to the department immediately upon terminating his
39 or her business activity.

40 **Comment.** Section 21245 continues the fourth sentence of former Fish and Game Code
41 Section 8047(e) without substantive change.

Note. Proposed Section 21245 is intended to restate the existing sentence of former Fish and Game Code Section 8047(e) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

8047. (e) A commercial fisherman who is no longer conducting business as a licensed fisherman shall forward all unused transportation receipts and transportation receipt books to the department immediately upon terminating his or her business activity.

The Commission invites comment on whether the restatement of this provision in proposed Section 21245 would cause any substantive change in the meaning of the provision.

CHAPTER 5. ACCOUNTING RECORDS

§ 21300. Accounting records

21300. (a) In addition to the receipt required by Section 21000, accounting records containing the information specified in subdivision (b) shall be kept by all of the following persons:

(1) Any person required to be licensed under Title 9 (commencing with Section 20150).

(2) Any person who deals in fresh or frozen fish for profit.

(b) The accounting records shall contain all of the following:

(1) The name as designated by the department of each different species of fish sold, distributed, or taken, or if not designated, the commonly used name of each species.

(2) The number of pounds sold, distributed, or taken of each different species.

(3) The name of the person to whom the fish were sold or distributed.

(4) The name, address, and phone number of the seller or distributor.

(5) The date of sale.

(6) The price paid.

(7) The intended use of the fish.

(c) Accounting record information required by this section that is transmitted from any person identified in subdivision (a) to any business that deals in fish for profit shall be in the English language.

(d) The accounting records shall be maintained within the state by both buyer and seller for a period of three years. Upon request, the records shall be open for inspection during normal business hours by the department.

Comment. Section 21300 restates former Fish and Game Code Section 8050 without substantive change.

Note. Proposed Section 21300 is intended to restate existing Fish and Game Code Section 8050 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

8050. (a) In addition to the receipt required in Section 8043, every person licensed under Article 7 (commencing with Section 8030), and any commercial fisherman who sells fish to persons who are not licensed under Article 7 (commencing with Section 8030), and any person

1 who deals in fresh or frozen fish for profit, shall keep accounting records in which all of the
2 following shall be recorded:

3 (1) The names of the different species.

4 (2) The number of pounds sold, distributed, or taken of each different species.

5 (3) The name of the person to whom the fish were sold or distributed.

6 (4) The name, address, and phone number of the seller or distributor.

7 (5) The date of sale.

8 (6) The price paid.

9 (7) The intended use.

10 (b) Accounting record information required by this section that is transmitted from any person
11 identified in subdivision (a) to any business that deals in fish for profit shall be in the English
12 language.

13 (c) The accounting records shall be maintained by both buyer and seller for a period of three
14 years and upon request, shall be open for inspection during normal business hours by the
15 department. The accounting records shall be maintained within the State of California.

16 (d) The names used for designating the species of fish shall be those in common usage unless
17 otherwise designated by the department.

18 **The Commission invites comment on whether the restatement of this provision in**
19 **proposed Section 21300 would cause any substantive change in the meaning of the**
20 **provision.**

21 CHAPTER 6. PAYMENT AND USE OF FEE

22 § 21350. Quarterly payment to department

23 21350. (a) Landing fees imposed by this title shall be paid quarterly to the
24 department, within 30 days after the close of each quarter.

25 (b) The department may adopt regulations specifying the procedures for
26 collecting landing fees not paid within 30 days after the close of the quarter for
27 which they are due. These procedures may include, but are not limited to, the
28 procedures prescribed for sales and use taxes provided in Chapter 5 (commencing
29 with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of
30 Division 2 of the Revenue and Taxation Code.

31 **Comment.** Section 21350 continues former Fish and Game Code Section 8053 without
32 substantive change.

33 § 21355. Use of landing fee

34 21355. Except as otherwise provided in this title, all moneys collected pursuant
35 to this title shall be paid to the department, and shall be expended for the patrol of
36 packing plants, inspection and regulation of the fishing industry, and conservation
37 work for the benefit of the commercial fishing industries.

38 **Comment.** Section 21355 continues former Fish and Game Code Section 8056 without
39 substantive change.

40 § 21360. Exceptions to use of landing fee

41 21360. Landing fees shall be used only for the administration of laws relating to
42 the commercial fishing industry, except as follows:

1 (a) Not less than 90 percent of the landing fee on herring taken for roe shall be
2 expended for research and management activities to maintain and enhance the
3 herring resources within the waters of the state.

4 (b) Not less than 90 percent of the landing fee on thresher shark or bonito
5 (mako) shark shall be expended for the study required by, and for the costs of
6 administering, Chapter 6 (commencing with Section 18300) of Title 4 of Part 6.

7 **Comment.** Section 21360 continues former Fish and Game Code Section 8052 without
8 substantive change.

9 **§ 21365. Overpayment of fee**

10 21365. (a) If the department determines that any fee or penalty has been paid
11 more than once or has been erroneously or illegally collected or computed, the
12 department shall set forth that fact in the records of the department. The excess
13 amount collected or paid shall be credited on any amounts then due and payable
14 from the person under this part, and the balance shall be refunded to the person, or
15 the person's successors, administrators, or executors.

16 (b) In the event of overpayment of any of the fees imposed by this title, the
17 feepayer may file a claim for refund or a claim for credit with the department. No
18 refund or credit shall be approved by the department unless the claim is filed with
19 the department within six months after the close of the calendar year in which the
20 overpayment was made.

21 (c) Every claim for refund or credit for overpayment of a landing fee shall be in
22 writing, and shall state the specific grounds upon which the claim is founded.

23 (d) Failure to file a claim for refund or credit within the time prescribed in this
24 title constitutes a waiver of any demand against the state on account of
25 overpayment of a landing fee.

26 (e) Within 30 days after disallowing any claim for refund or credit for
27 overpayment of a landing fee in whole or in part, the department shall serve notice
28 of its action on the claimant, either personally or by mail. If served by mail,
29 service shall be made pursuant to Section 1013 of the Code of Civil Procedure,
30 and shall be addressed to the licensee at the licensee's address as it appears in the
31 records of the department, but the service shall be deemed complete at the time of
32 the deposit of the notice in the mail without extension of time for any reason.

33 (f) Interest shall be paid upon any overpayment of landing fee at the rate of one-
34 half of 1 percent per month from the date of overpayment. The interest shall be
35 paid to the date the claim for refund or credit is approved by the department.

36 (g) If the department determines that any overpayment of a landing fee has been
37 made intentionally or by reason of carelessness, it shall not allow any interest on
38 that overpayment.

39 **Comment.** Subdivision (a) of Section 21365 continues former Fish and Game Code Section
40 8057 without substantive change.

41 Subdivision (b) continues former Fish and Game Code Section 8058 without substantive
42 change.

1 Subdivision (c) continues former Fish and Game Code Section 8059 without substantive
2 change.

3 Subdivision (d) continues former Fish and Game Code Section 8060 without substantive
4 change.

5 Subdivision (e) continues former Fish and Game Code Section 8061 without substantive
6 change.

7 Subdivision (f) continues former Fish and Game Code Section 8062 without substantive
8 change.

9 Subdivision (g) continues former Fish and Game Code Section 8063 without substantive
10 change.

11 **§ 21370. Legal process to prevent collection of fee**

12 21370. No injunction or writ of mandate or other legal or equitable process shall
13 issue in any suit, action, or proceeding in any court, against this state, or against
14 any officer of the state, to prevent or enjoin the collection under this title of any
15 landing fee.

16 **Comment.** Section 21370 continues former Fish and Game Code Section 8064 without
17 substantive change.

18 **§ 21375. Legal process to recover overpaid landing fee**

19 21375. (a) No suit or proceeding shall be maintained in any court for the
20 recovery of any amount of landing fee alleged to have been erroneously paid or
21 erroneously or illegally determined or collected, unless a claim for refund or credit
22 has been duly filed pursuant to Section 21365.

23 (b) Within 90 days after the mailing of the notice of the department's action
24 upon a claim filed pursuant to Section 21365, the claimant may bring an action
25 against the department on the grounds set forth in the claim, in a court of
26 competent jurisdiction in any city or city and county of this state in which the
27 Attorney General has an office, for the recovery of the whole or any part of the
28 amount with respect to which the claim has been disallowed. Failure to bring the
29 action within the time specified constitutes a waiver of any demand against the
30 state on account of alleged overpayments.

31 (c) If the department fails to mail notice of action on a claim for refund or credit
32 for overpayment of a landing fee within six months after the claim is filed, the
33 claimant may, before the mailing of notice by the department of its action on the
34 claim, consider the claim disallowed and bring an action against the department on
35 the grounds set forth in the claim for the recovery of the whole or any part of the
36 amount claimed as an overpayment.

37 (d) If judgment is rendered for the plaintiff, the amount of the judgment shall
38 first be credited on any landing fee due and payable from the plaintiff to the state
39 under this title. The balance of the judgment shall be refunded to the plaintiff.

40 (e) In any judgment, interest shall be allowed at the legal rate of interest on
41 unsatisfied judgments, as provided in Section 685.010 of the Code of Civil
42 Procedure, upon the amount found to have been illegally collected, from the date
43 of payment of the amount to the date of allowance of credit on account of the

1 judgment, or to a date to be determined by the department, preceding the date of
2 the refund warrant by not more than 30 days.

3 (f) A judgment shall not be rendered in favor of the plaintiff in any action
4 brought against the department to recover any amount paid, when the action is
5 brought by or in the name of an assignee of the person paying the amount or by
6 any person other than the person who paid the amount.

7 **Comment.** Subdivision (a) of Section 21375 continues former Fish and Game Code Section
8 8065 without substantive change.

9 Subdivision (b) continues former Fish and Game Code Section 8066 without substantive
10 change.

11 Subdivision (c) continues former Fish and Game Code Section 8067 without substantive
12 change.

13 Subdivision (d) continues former Fish and Game Code Section 8068 without substantive
14 change.

15 Subdivision (e) continues former Fish and Game Code Section 8069 without substantive
16 change.

17 Subdivision (f) continues former Fish and Game Code Section 8070 without substantive
18 change.

19 CHAPTER 7. MISCELLANEOUS PROVISIONS

20 § 21450. Weighmasters

21 21450. A commercial fisherman licensed pursuant to Section 20500 who sells
22 directly to the ultimate consumer, or a commercial fisherman who sells or delivers
23 fish that the fisherman has taken to any person who is not licensed under Title 9
24 (commencing with Section 20150) to conduct the activities of a fish receiver, shall
25 not be considered a weighmaster for purposes of Chapter 7 (commencing with
26 Section 12700) of Division 5 of the Business and Professions Code.

27 **Comment.** Section 21450 continues former Fish and Game Code Section 8043.2(b) without
28 substantive change.

29 § 21455. Requirement to make catch available for inspection and sampling

30 21455. A commercial fisherman selling his or her own catch to the ultimate
31 customer, upon request by an authorized agent or employee of the department,
32 shall immediately make available all fish in possession of the fisherman for
33 inspection and sampling by the agent or employee. Pursuant to Section 42110, the
34 fisherman shall relinquish the head from any sampled salmon with a missing
35 adipose fin.

36 **Comment.** Section 21455 restates former Fish and Game Code Section 8043.2(c) without
37 substantive change.

1 TITLE 11. FISH PROCESSING

2 CHAPTER 1. GENERAL PROVISIONS

3 § 21600. Definitions

4 21600. As used in this title:

5 (a) “Reduction plant” means any plant used in the reduction or conversion of
6 fish into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products
7 or byproducts.

8 (b) “Packer” means any person canning fish or preserving fish by the common
9 methods of drying, salting, pickling, smoking, cold packing, or vacuum packing.

10 (c) “Fish offal” means the head, viscera, or other parts of fish taken off in
11 preparing for canning, preserving, packing, and preparing for consumption in a
12 fresh state.

13 **Comment.** Section 21600 continues former Fish and Game Code Section 7700(a)-(c) without
14 substantive change.

15 § 21605. Commission regulation

16 21605. The commission may regulate and control fishing boats, barges, lighters
17 or tenders, receptacles or vehicles containing fish, commercial fishers, packers,
18 reduction plants, plants where fish products are manufactured, and dealers in fish
19 or fishery products, insofar as necessary to insure the taking and delivery of fish
20 and fishery products in a wholesome and sanitary condition to canning, packing or
21 preserving plants, or to any plant where fishery products are manufactured, or to
22 any fresh fish dealer, and to prevent deterioration and waste of fish.

23 **Comment.** Section 21605 continues former Fish and Game Code Section 7701 without
24 substantive change.

25 § 21610. Department inspection

26 21610. The department may enter and examine any canning, packing,
27 preserving, or reduction plant, or place of business where fish or other fishery
28 products are packed, preserved, manufactured, bought or sold, or board any
29 fishing boat, barge, lighter, tender, or vehicle or receptacle containing fish, and
30 ascertain the amount of fish received, or kind and amount of fishery products
31 packed or manufactured and the number and size of containers or cans for fishery
32 products purchased, received, used, or on hand and may examine any books and
33 records containing any account of fish caught, bought, canned, packed, stored or
34 sold.

35 **Comment.** Section 21610 continues former Fish and Game Code Section 7702 without
36 substantive change.

1 **§ 21615. Grading of fish by commission**

2 21615. The commission may establish grades for different varieties of fish or
3 fishery products, which shall be conformed to by all of the following persons or
4 entities:

5 (a) A person who takes or uses sardines for bait.

6 (b) A person who delivers fish or other fishery products to packers or to fresh
7 fish dealers.

8 (c) A packer of fish.

9 (d) A fish dealer.

10 (e) A manufacturer of fish products.

11 **Comment.** Section 21615 continues former Fish and Game Code Section 7703 without
12 substantive change.

13 **CHAPTER 2. REDUCTION PERMITS AND LICENSES**

14 **§ 21650. Authority of commission**

15 21650. The commission may grant a permit, subject to regulations it may adopt,
16 to take and use fish by a reduction or extraction process.

17 **Comment.** Section 21650 continues former Fish and Game Code Section 8075 without
18 substantive change.

19 **§ 21655. Required finding**

20 21655. No permit shall be issued except after a public hearing and a finding by
21 the commission that the granting of a permit would promote the economic
22 utilization of the fish resources of the state in the public interest. In making that
23 finding, the commission shall take into consideration the interest of the people of
24 the state in the utilization and conservation of the fish supply, and all economic
25 and other factors relating to that utilization and conservation, including the
26 efficient and economical operation of reduction plants.

27 **Comment.** Section 21655 continues former Fish and Game Code Section 8077 without
28 substantive change.

29 **§ 21660. Hearing**

30 21660. A hearing pursuant to this article shall be held within 30 days after
31 application for a permit, upon notice that the commission shall prescribe. The
32 commission may extend a hearing from time to time for a total period of not more
33 than 30 days.

34 **Comment.** Section 21660 continues former Fish and Game Code Section 8078 without
35 substantive change.

36 **§ 21665. Limit on number of permits**

37 21665. The commission shall, whenever necessary to prevent overexpansion,
38 insure the efficient and economical operation of reduction plants, or otherwise

1 carry out the provisions of this chapter, limit the total number of permits that are
2 granted.

3 **Comment.** Section 21665 continues former Fish and Game Code Section 8079 without
4 substantive change.

5 **§ 21670. License to dispose of dead or dying fish**

6 21670. Notwithstanding any other provision of this code or regulation adopted
7 pursuant to this code, the director or a representative appointed by the director,
8 may, without notice or a hearing, grant a license to a fish reduction plant to
9 dispose of dead or dying fish. The license may be immediately issued by the
10 director or the director's representative whenever that person determines, in that
11 person's discretion, that an emergency situation exists. The estimated tonnage to
12 be reduced shall be specified as a limit in the license.

13 **Comment.** Section 21670 continues former Fish and Game Code Section 8079.1 without
14 substantive change.

15 **§ 21675. No limit on court authority**

16 21675. Nothing in this chapter restricts the power of any court in any proceeding
17 relating to any matter arising out of the provisions of this article.

18 **Comment.** Section 21675 continues former Fish and Game Code Section 8080 without
19 substantive change.

20 **CHAPTER 3. VIOLATIONS**

21 **Article 1. Required Practices**

22 **§ 21750. Containers to allow viewing of fish and fish offal**

23 21750. All chutes or conveyors used to convey fish or fish offal to any
24 receptacle, and all receptacles containing fish or fish offal to be used for reduction
25 purposes, shall be so constructed and maintained that the fish or fish offal is at all
26 times open to view and inspection.

27 **Comment.** Section 21750 continues former Fish and Game Code Section 7705 without
28 substantive change.

29 **Article 2. Prohibitions**

30 **§ 21800. Affirmative authorization of fish reduction required**

31 21800. Except as permitted by this code, it is unlawful to use a fish, except fish
32 offal, in a reduction plant or by a reduction process.

33 **Comment.** Section 21800 continues former Fish and Game Code Section 7704(b) without
34 substantive change.

1 **§ 21805. Prohibited reduction**

2 21805. No reduction of fish is allowed that may tend to deplete a species, or
3 result in waste or deterioration of fish.

4 **Comment.** Section 21805 continues former Fish and Game Code Section 8076 without
5 substantive change.

6 **§ 21810. Unloading or weighing of specified fish**

7 21810. (a) No sardines, anchovies, mackerel, or squid intended for or used in
8 any cannery shall be unloaded from any vessel, except at a weighing or measuring
9 device approved by the Bureau of Weights and Measures.

10 (b) Those products shall be weighed by a public weighmaster licensed as an
11 individual under the laws of this state, and a receipt as to that weight shall be
12 immediately issued by the weighmaster to the commercial fisherman at the time of
13 receipt of the products.

14 (c) Copies of the receipt shall be handled in the manner provided in Chapter 3
15 (commencing with Section 21000) and Chapter 4 (commencing with Section
16 21200) of Title 10.

17 **Comment.** Section 21810 continues former Fish and Game Code Section 7702.1 without
18 substantive change.

19 Article 3. Enforcement

20 **§ 21850. Complaint alleging violation**

21 21850. (a) A written complaint may be made to the commission against any
22 person who violates any provision of this title, or any regulation adopted pursuant
23 to Section 14350 or any provision of this title, by any person having information
24 or knowledge of the violation. If the person charged in the complaint is found
25 guilty of the offense charged, the commission may suspend, for a period not to
26 exceed 90 days, any license issued by any state board or officer to that person to
27 take, buy, sell, can, or preserve fish or fishery products. No other license shall be
28 issued to that person during the period of suspension.

29 (b) The proceedings on a complaint shall be conducted at one of the
30 commission's regularly scheduled meetings.

31 **Comment.** Section 21850 restates former Fish and Game Code Section 7706 without
32 substantive change.

33 **Note.** Proposed Section 21850 is intended to restate existing Fish and Game Code Section
34 7706 to clarify the meaning of that provision, without changing its substantive effect. The
35 existing provision reads as follows:

36 7706. A written complaint may be made to the commission against any person who violates
37 Section 7700 to 7705, inclusive, 7707, 7708, 8075 to 8080, inclusive, or 8153, or any regulation
38 adopted thereunder, by any person having information or knowledge of the violation. If the
39 person charged is found guilty of the offense charged, the commission may suspend, for a period
40 not to exceed 90 days, any license issued by any state board or officer to that person to take, buy,
41 sell, can, or preserve fish or fishery products. No other license shall be issued to that person

during the period of suspension. The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

The Commission invites comment on whether the restatement of this provision in proposed Section 21850 would cause any substantive change in the meaning of the provision.

§ 21855. Nuisance

21855. (a) Any reduction plant in which any fish is used in violation of any provision of this title, or in violation of any regulation of the commission, is a nuisance.

(b) Whenever the existence of a nuisance under subdivision (a) is shown to the satisfaction of the superior court of the county in which the reduction plant is situated, by complaint filed in the name of the people of the State of California, the court may issue a temporary injunction to abate and prevent the continuance or recurrence of the nuisance.

(c) If the existence of a nuisance is established in an action pursuant to subdivision (b), an order of abatement shall be entered as part of the judgment in the case, which shall direct the closing, for 12 months, of the building or place where the nuisance was maintained, and, during that time, the building or place shall be and remain in the custody of the court.

Comment. Section 21855 restates former Fish and Game Code Section 7707 without substantive change. Nothing in this section precludes the application of the general law governing statutory nuisances. See Penal Code § 370; Civ. Code §§ 3479-3508.2.

The reference to a "part" of a fish in former Fish and Game Code Section 7707 is superfluous, and has been deleted. See Section 95 (reference to animal generally includes part of animal).

Note. Proposed Section 21855 is intended to restate existing Fish and Game Code Section 7707 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

7707. Any reduction plant in which any fish or any part thereof is used in violation of the provisions of Sections 7700 to 7706, inclusive, 7708, 8151, 8153 to 8157, inclusive, and 8075 to 8080, inclusive, of this code, or in violation of any regulation of the commission, is a nuisance. Whenever the existence of such nuisance is shown to the satisfaction of the superior court of the county in which the reduction plant is situated, by complaint filed in the name of the people of the State of California, the court may issue a temporary injunction to abate and prevent the continuance or recurrence of such nuisance. If the existence of a nuisance is established in such action, an order of abatement shall be entered as part of the judgment in the case, which order shall direct the closing, for 12 months, of the building or place where such nuisance was maintained, and, during such time, the building or place shall be and remain in the custody of the court.

Proposed Section 21855 would replace the cross-references in the first sentence of Section 7707 with a reference to all provisions in the title in which proposed Section 21855 would be included. That replacement is based on the Commission's belief that this title includes the continuation of all provisions cross-referenced in Section 7707, other than sections that have been repealed and not continued in substance in another provision.

The sections cross-referenced in Section 7707 that have been repealed read as follows:

8151. Sardines for use in a reduction plant, or by a packer, may be taken only in accordance with this article, and at the following times in the following places:

(a) In District 4,....

(b) Elsewhere in the State,....

8154. Any person engaged in canning sardines may take and use in a reduction plant 32 1/2 percent of the amount of sardines actually received at his canning plant during each calendar month.

8155. In determining the percentage of sardines that may be used for reduction purposes by a cannery, it shall be deemed that a ton of sardines suitable in size and condition for canning will produce 960 one-pound oval cans of sardines, or the equivalent if other size cans are used.

8156. A person engaged in preserving sardines by the common methods of drying, salting, smoking, or pickling may use in a reduction plant or by a reduction process such sardines, or fish delivered mixed with sardines, as are unfit for drying, salting, smoking, or pickling, which are not intentionally taken into the plant in a condition unfit for processing for human consumption.

8157. Fish which are mixed with sardines when delivered to the packer are the equivalent of sardines and shall be included within the percentage of the total amount of sardines received by the packer during the calendar month.

However, while the “Section 8154” set forth above that was in existence at the time Section 7707 was enacted was repealed in 1973, the Legislature enacted a new “Section 8154” in 1989, and *that* section remains an existing code section today. See 1988 Cal. Stat. ch. 858. That Section 8154 reads as follows:

8154. No person shall receive, possess, or sell sardines for any purpose except for that purpose specified on the fish receipt completed at the time of landing of those sardines pursuant to Section 8043.”

Nevertheless, nothing in the legislative history of this enactment or the text of this provision suggests the Legislature intended or contemplated that this provision would be a cross-reference in Section 7707, and proposed Section 21855 would also not include this provision as a cross-reference.

The Commission invites comment on whether the restatement of existing Section 7707 in proposed Section 15055 would cause any substantive change in the intended meaning of Section 7707.

TITLE 12. PASSENGER FISHING BOATS

§ 21900. Application of chapter

21900. This title applies only to a boat or vessel whose owner or his or her employee or other representative is with it when it is used for fishing.

Comment. Section 21900 continues the second sentence of former Fish and Game Code Section 7920 without substantive change.

§ 21905. Activity requiring license

21905. (a) The owner of any boat or vessel who, for profit, permits any person to take fish, shall procure a commercial passenger fishing boat license.

(b) A person operating a guide boat is not required to obtain a commercial passenger fishing boat license.

Comment. In combination with Section 275, Section 21905 continues the first and third sentences of former Fish and Game Code Section 7920 without substantive change.

1 **§ 21910. Commercial boat registration**

2 21910. An applicant for a commercial passenger fishing vessel license is
3 required to hold a commercial boat registration issued pursuant to Section 14755.

4 **Comment.** Section 21910 restates the second sentence of former Fish and Game Code Section
5 7921 without substantive change.

6 See also Section 4900 (suspension or revocation for specified violations).

7 **Note.** Proposed Section 21910 is intended to restate the second sentence of existing Fish and
8 Game Code Section 7921 to clarify the meaning of that provision, without changing its
9 substantive meaning. The existing provision reads as follows:

10 7921..... The commercial passenger fishing vessel license shall be issued to the holder of a
11 commercial boat registration issued pursuant to Section 7881.

12 **The Commission invites comment on whether proposed Section 21910 accurately**
13 **continues the intended meaning of the second sentence of existing Section 7921.**

14 **§ 21915. License fee**

15 21915. The base fee for a commercial passenger fishing boat license is two
16 hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted
17 annually thereafter pursuant to Section 3755.

18 **Comment.** Section 21915 continues the first sentence of former Fish and Game Code Section
19 7921 without substantive change.

20 **Note.** Existing Fish and Game Code Section 7921 (which would be continued by proposed
21 Sections 21910 and 21915) refer to both a “commercial passenger fishing *boat* license” and a
22 “commercial passenger fishing *vessel* license.”

23 **The Commission invites comment on whether and how this terminology should be**
24 **standardized.**

25 **§ 21920. Maintenance of records**

26 21920. The holder of a commercial passenger fishing boat license shall keep a
27 true record in the English language of all fish taken, and shall comply with all
28 regulations that the commission may adopt. The record and the information
29 contained in it shall be confidential, and the record shall not be a public record.

30 **Comment.** Section 21920 continues former Fish and Game Code Section 7923 without
31 substantive change.

32 **§ 21930. Fishing from commercial passenger fishing boat**

33 21930. The owner or operator of a boat or vessel licensed pursuant to Section
34 21905 shall not permit any person to fish from that boat or vessel unless that
35 person has, in his or her possession, a valid California sport fishing license and
36 any required stamp, report card, or validation issued pursuant to this code.

37 **Comment.** Section 21930 restates former Fish and Game Code Section 7147 without
38 substantive change.

1 **§ 21935. Ocean fishing**

2 21935. In addition to a valid California commercial passenger fishing boat
3 license issued pursuant to Section 21905, the owner of any boat or vessel who, for
4 profit, permits any person to fish from that boat or vessel, in ocean waters south of
5 a line extending due west from Point Arguello, shall have a valid commercial
6 fishing ocean enhancement validation issued for that vessel that has not been
7 suspended or revoked.

8 **Comment.** Section 21935 continues former Fish and Game Code Section 6596.1(b) without
9 substantive change.

10 **Note.** Under existing law, Section 6596.1(b) is governed by existing Section 6403, which
11 makes Section 6596.1(b) inapplicable to aquaculture business activities. The continuation of
12 Section 6596.1(b) in this location would make Section 6403 (proposed Section 25400)
13 inapplicable to Section 6596.1(b). Technically, this would make Section 6596.1(b) applicable to
14 aquaculture business activities. However, Section 6596.1(b) appears to have no application to
15 such activities. For that reason, the change described in this Note would seem to have no practical
16 effect.

17 **The Commission invites comment on whether this change would be a problem.**

18 **§ 21950. Possession limit for specified fish**

19 21950. No commercial fisherman, while on any barge or boat which for hire
20 carries any sport fisherman, may take or have in his or her possession in any one
21 day, more than the aggregate number of the following kinds of fish permitted in
22 the case of sport fishing: bluefin tuna, yellowfin tuna, skipjack, yellowtail, marlin,
23 broadbill swordfish, black seabass, albacore, barracuda, white seabass, bonito,
24 rock bass, kelp bass, California halibut, California corbina, yellowfin croaker, and
25 spotfin croaker.

26 **Comment.** Section 21950 continues former Fish and Game Code Section 8385 without
27 substantive change.

28 **TITLE 13. LIVE FRESHWATER FISH FOR BAIT**

29 **§ 22100. When license required**

30 22100. (a) Any person engaged for profit in the taking, transporting, or selling of
31 live fresh-water fish for bait shall first obtain from the department a live fresh-
32 water bait fish license to possess the fish for those purposes.

33 (b) A live freshwater bait fish license is not required for the raising, possession,
34 or sale of live freshwater fish for bait under authority of Part 1 (commencing with
35 Section 23300) of Division 7.

36 **Comment.** Subdivision (a) of Section 22100 continues the first paragraph of former Fish and
37 Game Code Section 8460 without substantive change.

38 Subdivision (b) continues the third paragraph of former Fish and Game Code Section 8460
39 without substantive change.

1 **§ 22105. Term of license**

2 22105. A live freshwater bait fish license shall be issued for a calendar year, or,
3 if issued after the beginning of the year, for the remainder of the year.

4 **Comment.** Section 22105 continues a part of the second paragraph of former Fish and Game
5 Code Section 8460 without substantive change.

6 **§ 22110. License fee**

7 22110. The annual fee for a live freshwater bait fish license is fifty-five dollars
8 (\$55).

9 **Comment.** Section 22110 continues former Fish and Game Code Section 8461 without
10 substantive change.

11 **§ 22120. Take only of permitted species**

12 22120. (a) A live freshwater bait fish license shall authorize the taking of only
13 golden shiners, fathead minnows, and any other species the department may
14 designate, under regulations adopted by the commission.

15 (b) The commission may prohibit in any part or all parts of the state the
16 possession alive of any species of fish that the commission considers a potential
17 threat to the fisheries of the state by reason of possible escape and establishment.

18 **Comment.** Section 22120 continues former Fish and Game Code Section 8462 without
19 substantive change.

20 **§ 22125. Restriction on gear used to take certain species**

21 22125. Traps not over 24 inches in greatest length nor more than 12 inches in
22 greatest depth or width, or seines of not over 1/2-inch mesh stretched measure and
23 not more than 4 x 30 feet in size, may be used for the taking of fish of the carp and
24 minnow family (family Cyprinidae), suckers (family Catostomidae), sculpins
25 (family Cottidae), or mosquito fish (genus Gambusia). Such traps may be used
26 only in lakes and impounded waters. Such seines may be used only in lakes,
27 impounded waters, and conduits.

28 (b) Fish taken as provided in this section may be sold only as bait.

29 (c) Fish other than those named in this section that may be taken in a trap or
30 seine described in this section shall be released and returned unharmed to the
31 water where taken.

32 **Comment.** Section 22125 continues former Fish and Game Code Section 8463 without
33 substantive change.

34 **§ 22130. Exemption**

35 22130. The provisions of this code on commercial fishing, packing, or
36 processing licenses, on reports by persons engaged in the commercial fish
37 industry, and on statements required by owners or operators of fishing boats, do
38 not apply to the taking, transporting, or selling of live fresh-water fish for bait.

39 **Comment.** Section 22130 continues the fourth paragraph of former Fish and Game Code
40 Section 8460 without substantive change.

1 **TITLE 14. COMMERCIAL FISHING REPORTS**

2 **§ 22200. Required record of fishing activities**

3 22200. The commission may require the owner and operator of a commercial
4 fishing vessel, the holder of a commercial fishing license or permit, and the owner
5 and licenseholder of a commercial passenger fishing boat to keep and submit a
6 complete and accurate record of fishing activities in a form prescribed by the
7 department.

8 **Comment.** Section 22200 continues former Fish and Game Code Section 8026(a) without
9 substantive change.

10 See also Sections 5170, 5172 (enforcement).

11 **§ 22205. Confidentiality of department records**

12 22205. (a) The receipts, reports, or other records filed with the department
13 pursuant to Title 1 (commencing with Section 14200), Title 2 (commencing with
14 Section 14500), Title 9 (commencing with Section 20150), Title 10 (commencing
15 with Section 20900), Title 11 (commencing with Section 21600), Title 12
16 (commencing with Section 21900), this title, Chapter 5 (commencing with Section
17 22800) of Title 15, Chapter 2 (commencing with Section 41350) of Title 2 of Part
18 17 of Division 10, Sections 42100 and 46150, and the information contained
19 therein, shall, except as otherwise provided in this section, be confidential, and the
20 records shall not be public records. Insofar as possible, the information contained
21 in the records shall be compiled or published as summaries, so as not to disclose
22 the individual record or business of any person.

23 (b) Notwithstanding any other provision of law, the department may release the
24 confidential information described in subdivision (a) to any federal agency
25 responsible for fishery management activities, provided the information is used
26 solely for the purposes of enforcing fishery management provisions and provided
27 the information will otherwise remain confidential. The department may also
28 release this information in accordance with Section 7315 or pursuant to a court
29 order, to a public or private postsecondary institution engaged in research under
30 the terms of a legally binding confidentiality agreement, or under other conditions
31 as the commission by regulation may provide.

32 (c) All forms, logs, books, covers, documents, electronic data, software, and
33 other records of any kind issued or otherwise supplied, directly or indirectly, by
34 the department, the purpose of which is to provide a means for reports, records, or
35 other information to be filed with the department pursuant to Title 1 (commencing
36 with Section 14200), Title 2 (commencing with Section 14500), Title 9
37 (commencing with Section 20150), Title 10 (commencing with Section 20900),
38 Title 11 (commencing with Section 21600), Title 12 (commencing with Section
39 21900), this title, Chapter 5 (commencing with Section 22800) of Title 15,
40 Chapter 2 (commencing with Section 41350) of Title 2 of Part 17 of Division 10,
41 Sections 42100 and 46150, continue to be the property of the department. Those

forms, logs, books, covers, documents, electronic data, software, other records, and any portion of any of those items remain the property of the department, whether used, unused, attached, or detached from their original binding, packaging, or other medium and shall be immediately surrendered upon demand to a peace officer of the department acting in his or her official capacity, without being altered in any manner.

Comment. Section 22205 continues former Fish and Game Code Section 8022 without substantive change.

§ 22210. Compilation of reports by department

22210. The department shall do all of the following:

(a) Gather and prepare data of the commercial fisheries, showing particularly the extent of the fisheries and the extent to which the various species abound.

(b) Make such investigations of the biology and the environment of the living marine resources as will aid in the collection and preparation of the statistical information necessary to determine the population dynamics of the species relative to their scientific management.

(c) Make such investigations as will disclose the optimum sustainable yield of the various marine resources.

(d) Determine what measures may be advisable to conserve any fishery, or to enlarge and assist any fishery, where that may be done without danger to the supply.

Comment. Section 22210 continues former Fish and Game Code Section 8010 without substantive change.

TITLE 15. COMMERCIAL FISHERIES

CHAPTER 1. MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

Article 1. General Provisions

§ 22300. Defined terms

22300. As used in this title:

(a) “Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

(b) “Council” means the Pacific Fishery Management Council established pursuant to the act, or its successor agency.

(c) “Fishery” has the same meaning as defined in Section 1802(13) of Title 16 of the United States Code.

(d) “Joint committee” means the Joint Committee on Fisheries and Aquaculture created pursuant to Resolution Chapter 88 of the Statutes of 1981.

1 (e) “Optimum,” with respect to the yield from a fishery, has the same meaning
2 as defined in Section 1802(28) of Title 16 of the United States Code.

3 (f) “Secretary” means the federal Secretary of Commerce.

4 **Comment.** Section 22300 continues former Fish and Game Code Section 7650 without
5 substantive change.

6 **§ 22305. Declaration of legislative findings**

7 22305. The Legislature finds and declares:

8 (a) That the actions taken by the federal Pacific Fishery Management Council
9 have resulted in significant economic losses to California’s salmon and groundfish
10 fisheries, have caused significant waste of fish, and have failed to manage and
11 conserve fisheries for their optimum yield.

12 (b) That the California Salmon Fishery has been severely affected by regulations
13 imposed by the Pacific Fishery Management Council and the federal Department
14 of Commerce.

15 (c) That the membership of the Pacific Fishery Management Council has never
16 included a commercial salmon troll fisherman, and has at times lacked balance and
17 representation from major fisheries subject to the fishery management plans of the
18 council.

19 **Comment.** Section 22305 continues former Fish and Game Code Section 7654 without
20 substantive change.

21 **§ 22310. Declaration of policy**

22 22310. (a) It is the policy of the state that it be represented on the Pacific Fishery
23 Management Council by people who are knowledgeable about fisheries directly
24 subject to the fishery management plans of the council. Nominations and
25 appointments to the Pacific Fishery Management Council shall be a balanced
26 representation of interested parties, including, but not limited to, representatives
27 from the commercial salmon troll fishery, the groundfish fishery, the coastal
28 pelagic species fishery, the seafood processing industry, the commercial passenger
29 carrying fishing industry, nongovernmental environmental organizations, and
30 marine scientists.

31 (b) When the Governor nominates persons for any seat on the Pacific Fishery
32 Management Council, those individuals shall be knowledgeable of California’s
33 fishery resources and its fishing industry. Further, the nominations may be made
34 after consultation with fishery organizations and other interested parties, including
35 parties representing the public’s interest in the fishery resources and marine
36 environment.

37 **Comment.** Section 22310 continues former Fish and Game Code Section 7655 without
38 substantive change.

1 **§ 22315. Inapplicability of Administrative Procedure Act**

2 22315. Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of
3 the Government Code does not apply to this title.

4 **Comment.** Section 22315 continues former Fish and Game Code Section 7652(d) without
5 substantive change.

6 Article 2. Adoption of New Regulations

7 **§ 22400. Required public hearing**

8 22400. (a) Notwithstanding any other section of this title or any other law, the
9 director shall hold a public hearing or hearings in the area of the fishery under
10 consideration after a recommendation by the council to the secretary of a fishery
11 management plan or amendment of a fishery management plan pursuant to the act,
12 or after approval by the secretary of a fishery management plan or amendment of a
13 fishery management plan pursuant to the act.

14 (b) If the secretary approves a fishery management plan or amendment of a
15 fishery management plan that is substantially identical to a fishery management
16 plan or amendment of a fishery management plan that has been recommended by
17 the council, and the director has held a public hearing on the council's
18 recommended fishery management plan or amendment of a fishery management
19 plan, the director is not required to hold a second public hearing under this section
20 after the approval by the secretary.

21 (c) The hearing shall be held not less than four days after the recommendation
22 by the council to the secretary of a fishery management plan or amendment of a
23 fishery management plan, or after the approval by the secretary of a fishery
24 management plan or amendment of a fishery management plan. The director shall
25 arrange the time and place of the hearing, shall provide adequate public notice and
26 adequate notice to the appropriate standing policy committee of each house of the
27 Legislature and to the joint committee, and shall convene the hearing at the time
28 and place arranged.

29 (c) At the hearing or hearings, the director shall take evidence of the effects any
30 proposed regulation would have on the state's fishery resources, the commercial or
31 recreational fishing industry, and the state's ability to manage fishery resources in
32 waters of the state.

33 (d) After the hearings, the director shall submit a written report to the
34 Legislature that summarizes the reasons for the proposed regulation.

35 (e) The report to the Legislature shall be delivered or placed in the United States
36 Postal Service addressed to the Chairperson of the Joint Committee on Fisheries
37 and Aquaculture and to the chairperson of the appropriate policy committee of
38 each house of the Legislature.

39 **Comment.** Subdivisions (a) through (d) of Section 22400 continue former Fish and Game
40 Code Section 7652.1 without substantive change.

1 Subdivision (e) continues the part of former Fish and Game Code Section 7652.3(b) applicable
2 to former Fish and Game Code Section 7652.1 without substantive change.

3 **§ 22405. Adoption of regulations to conform state law**

4 22405. Upon the preparation by the council, and the recommendation by the
5 council to the secretary, of a fishery management plan or amendment of a fishery
6 management plan pursuant to the act, or upon the approval by the secretary of a
7 fishery management plan, or amendment of a fishery management plan, pursuant
8 to the act, the director may do any of the following to conform state law or
9 regulations of the commission to the fishery management plan, or amendment of a
10 fishery management plan, if the director finds that the action is necessary to
11 achieve optimum yield in California, and that it is necessary to avoid a substantial
12 and adverse effect on the plan by that state law or the regulations in order to
13 continue state jurisdiction pursuant to Section 1856 of the act:

14 (a) Adopt regulations that would make inoperative any statute or regulation of
15 the commission, including, but not limited to, statutes or regulations regulating
16 bag limits, methods of taking, and seasons for taking of fish for commercial
17 purposes.

18 Any regulation adopted by the director pursuant to this subdivision shall specify
19 the particular statute or regulation of the commission to be inoperative.

20 (b) Adopt regulations governing phases of the taking of fish for commercial
21 purposes that are not presently regulated by statute or regulation of the
22 commission.

23 (c) Adopt regulations governing phases of the taking of fish for commercial
24 purposes that are presently regulated by statute or regulation of the commission,
25 but only if the statutes or regulations are first made inoperative pursuant to
26 subdivision (a) for the effective period of the regulations adopted by the director
27 pursuant to this subdivision.

28 **Comment.** Section 22405 combines and continues former Fish and Game Code Section
29 7652(a)-(c) without substantive change.

30 **§ 22410. Hearing and report to Legislature prerequisite to adoption of regulation**

31 22410. The director shall not adopt any regulation pursuant to this chapter until
32 the director has held one or more hearings, and submitted a report to the
33 Legislature, pursuant to Section 22400.

34 **Comment.** Section 22410 continues the part of former Fish and Game Code Section 7652.3(a)
35 applicable to adoption of regulations under former Fish and Game Code Section 7652.1 without
36 substantive change.

37 **§ 22415. Report to Legislature of need to conform state law**

38 22415. Upon the adoption of any regulation pursuant to Section 22405, the
39 director shall report to the Legislature which statutes or regulations of the
40 commission need to be amended or repealed, and any regulations adopted by the
41 director that need to be enacted as statutes, to conform state law to any fishery

1 management plan, or amendment of a fishery management plan, that has been
2 approved by the secretary, to avoid any substantial and adverse effect on such plan
3 or amendment by that state law.

4 **Comment.** Section 22415 continues former Fish and Game Code Section 7653 without
5 substantive change.

6 Article 3. Repeal or Amendment of Regulations

7 § 22450. Amendment or repeal of regulation by director

8 22450. (a) The director may repeal or amend any regulation adopted pursuant to
9 Section 22405, or any other regulation, to conform the regulation to federal
10 regulations pursuant to the act, if the director finds that this action is necessary to
11 achieve optimum yield in California.

12 (b) Notwithstanding any other section of this title or any other law, the director
13 shall hold a public hearing or hearings in the area of the fishery under
14 consideration before the director repeals or amends any regulation pursuant to this
15 section. The director shall arrange the time and place of the hearing or hearings,
16 shall provide adequate public notice and adequate notice to the appropriate
17 standing policy committee of each house of the Legislature and to the joint
18 committee, and shall convene the hearing or hearings at the time and place
19 arranged.

20 (c) At the hearing or hearings, the director shall take evidence of the effects the
21 proposed repeal or amendment would have on the state's fishery resources, the
22 commercial or recreational fishing industry, and the state's ability to manage
23 fishery resources in waters of the state.

24 (d) After the hearing or hearings, the director shall submit a written report to the
25 Legislature that summarizes the reasons for the proposed repeal or amendment.

26 (e) The report to the Legislature shall be delivered or placed in the United States
27 Postal Service addressed to the Chairperson of the Joint Committee on Fisheries
28 and Aquaculture and to the chairperson of the appropriate policy committee of
29 each house of the Legislature.

30 **Comment.** Subdivisions (a) through (d) of Section 22450 continue former Fish and Game
31 Code Section 7652.2 without substantive change.

32 Subdivision (e) continues the part of former Fish and Game Code Section 7652.3(b) applicable
33 to former Fish and Game Code Section 7652.2 without substantive change.

34 § 22455. Hearing and report to Legislature prerequisite to amendment or repeal of 35 regulation

36 22455. The director shall not amend or repeal any regulation pursuant to this
37 chapter until the director has held one or more hearings, and submitted a report to
38 the Legislature, pursuant to Section 22450.

39 **Comment.** Section 22455 continues the part of former Fish and Game Code Section 7652.3(a)
40 applicable to amendment or repeal of regulations under former Fish and Game Code Section
41 7652.2 without substantive change.

CHAPTER 2. LIMITED ENTRY FISHERIES

§ 22500. Eligibility

22500. (a) Any commercial fisherman shall be eligible for inclusion during the initial year of a limited entry fishery established by statute that becomes operative after January 1, 1982, or by regulation that becomes operative after January 1, 1999, regardless of the prescribed conditions for entry into the fishery, if the commercial fisherman presents to the department satisfactory evidence that he or she has been licensed as a California commercial fisherman for at least 20 years and has participated in the fishery for at least one of those 20 years, with qualifying participation in the fishery to be determined by the commission based on landings or other appropriate criteria.

(b) Commercial fishers who have established eligibility to participate in a limited entry fishery under this section are subject to conditions of continuing eligibility established by statute or regulation if those fishers desire to maintain their eligibility.

Comment. Section 22500 continues former Fish and Game Code Section 8101 without substantive change.

§ 22505. Partnerships

22505. (a) The Legislature finds and declares that, in some limited entry fisheries, two or more partners may be operating with one of the partners holding the permit to participate in the fishery. The Legislature further finds and declares that undocumented, de facto, family partnerships are a longstanding custom in these fisheries. The Legislature further finds and declares that great hardship results when the permittee partner is no longer able to continue working and leaves the other partner without a permit to continue participating in the fishery.

(b) In any limited entry fishery in which permits are allocated to participants in the fishery, and where the death, incapacity, or retirement of a permittee from that fishery would deprive a working partner of the permittee of the ability to continue to derive a livelihood from that fishery, a permit shall be issued, upon application, to one remaining partner.

(c) A working partner for the purposes of this section shall be a spouse, child (including an adopted child), or sibling of the permittee, whose investment or equity need not be proven by documentation, or a person who can prove an investment or equity in the vessel or gear used in the fishery, and who would otherwise have been eligible for a permit and did not obtain one because he or she was working with or was a partner with the permittee.

(d) The working partner shall also provide substantial evidence of an actual physical working participation aboard the vessel supported by the submission of documents filed with the Franchise Tax Board and supported by trip settlement sheets or similar documents that demonstrate earnings from that participation. “Trip settlement sheet” for purposes of this subdivision means a document

1 prepared after a vessel has completed a fishing trip which displays the costs
2 incurred, revenues received, and profits paid out. Investment or equity alone does
3 not establish that the person is a working partner.

4 (e) Those existing working partners other than the family relationships specified
5 in subdivision (c) may, not later than February 1, 1984, declare and prove the
6 working partnership in a manner satisfactory to the department and request that the
7 department state the fact of the working partnership upon the permit. Thereafter, a
8 nonfamily working partnership shall be declared, proved, and noted upon any
9 limited entry permit at the first issuance of the permit.

10 (f) This article does not apply to permits to take herring for roe in California.

11 **Comment.** Section 22505 continues former Fish and Game Code Section 8102 without
12 substantive change.

13 **§ 22510. Accidental death of permittee**

14 22510. (a) The Legislature finds and declares as follows:

15 (1) The accidental death of a limited entry permittee results in great hardships on
16 the permittee's family.

17 (2) Under the law as it existed immediately prior to January 1, 1987, if a
18 member of the permittee's family has not been actively working in the fishery, the
19 limited entry permit could not be transferred to a member of the family, an action
20 which deprives the family of the opportunity to continue to derive a livelihood
21 from the fishery and which imposes greater hardships.

22 (3) When there is an accidental death of a limited entry permittee, a transition
23 period is necessary to allow a family member to join the fishery and to become
24 acclimated, knowledgeable, and experienced in the fishery.

25 (b) Notwithstanding Section 22505, the department shall transfer a permit for a
26 limited entry fishery, upon application, to a parent, spouse, child, or sibling of a
27 permittee whose death was the result of an accident that occurred after January 1,
28 1986.

29 (c) Application for the transfer of a permit pursuant to subdivision (b) shall be
30 made on or before January 1, 1987, or not more than one year after the death of
31 the permittee, whichever is later.

32 (d) The director may authorize another person, when requested by the new
33 permittee, to serve in the place of the new permittee and to engage in fishing
34 activities under the authority of the limited entry permit for not more than two
35 years from the date of the permit transfer.

36 (e) "Accidental death" means death resulting directly and solely from any of the
37 following:

38 (1) An accidental injury visible on the surface of the body or disclosed by an
39 autopsy, sustained solely by external, violent, and accidental means.

40 (2) A disease or infection resulting directly from an accidental injury and
41 beginning within 30 days after the date of the injury.

42 (3) An accidental drowning.

Comment. Section 22510 continues former Fish and Game Code Section 8103 without substantive change.

§ 22515. Transfer of permit of deceased permittee

22515. (a) Upon the death of a limited entry permittee, the permit shall vest in the permittee's estate or in the surviving community estate, and may be transferred by the executor, administrator, personal representative, or surviving spouse to a qualified pointholder pursuant to Section 40380 or to a partner qualified pursuant to Section 40375.

(b) The transfer shall be initiated by notice to the department, in writing, sent by certified mail, within one year of the date of death.

(c) If no transfer is initiated within one year of the date of death, the permit shall revert to the department for disposition pursuant to Section 40395 and shall be thereafter treated as a herring permit that has not been renewed.

(d) The department may, upon written application, grant an extension of time up to one additional year for the transfer to be initiated.

Comment. Section 22515 continues former Fish and Game Code Section 8104 without substantive change.

Note. Existing Fish and Game Code Section 8104 (which would be continued by proposed Section 22510) appears to apply to the permit of *any* deceased limited entry permittee, but provides for a transfer of that permit only to a person qualified to operate in a *herring* fishery.

The Commission invites comment on whether proposed Section 22510 was intended to apply upon the death of a herring fishery permittee, and should be revised and relocated in the proposed law accordingly.

CHAPTER 3. NEARSHORE FISHERIES MANAGEMENT ACT

§ 22600. Name

22600. This chapter shall be known and may be cited as the Nearshore Fisheries Management Act.

Comment. Section 22600 continues former Fish and Game Code Section 8585 without substantive change.

§ 22605. Legislative declaration

22605. 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

1 some of these species by state and federal governments, there are many gaps in the
2 information on these species and their habitats and that there is no program
3 currently adequate for the systematic research, conservation, and management of
4 nearshore fish stocks and the sustainable activity of recreational and commercial
5 nearshore fisheries. The Legislature further finds and declares that recreational
6 fishing in California generates funds pursuant to the Federal Aid in Sport Fish
7 Restoration Act (16 U.S.C. Secs. 777 to 777l, inclusive), with revenues used for,
8 among other things, research, conservation, and management of nearshore fish.
9 The Legislature further finds and declares that a program for research and
10 conservation of nearshore fish species and their habitats is needed, and that a
11 management program for the nearshore fisheries is necessary. The Legislature
12 further finds and declares that the commission should be granted additional
13 authority to regulate the commercial and recreational fisheries to assure the
14 sustainable populations of nearshore fish stocks. Lastly, the Legislature finds and
15 declares that, whenever feasible and practicable, it is the policy of the state to
16 assure sustainable commercial and recreational nearshore fisheries, to protect
17 recreational opportunities, and to assure long-term employment in commercial and
18 recreational fisheries.

19 **Comment.** Section 22605 continues former Fish and Game Code Section 8585.5 without
20 substantive change.

21 **§ 22610. Definitions**

22 22610. The following definitions govern the construction of this chapter:

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

29 (b) “Nearshore fisheries” means the commercial or recreational take or landing
30 of any species of nearshore finfish stocks.

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

34 **Comment.** Section 22610 continues former Fish and Game Code Section 8586 without
35 substantive change.

36 **§ 22615. Funding**

37 22615. Funding to prepare the plan pursuant to Section 12320, and for any
38 planning and scoping meetings, shall be derived from moneys deposited in the
39 Fish and Game Preservation Fund pursuant to Section 22630 and other funds
40 appropriated for those purposes.

1 **Comment.** Section 22615 continues former Fish and Game Code Section 8589 without
2 substantive change.

3 **§ 22620. Adoption of regulations**

4 22620. (a) The commission may adopt regulations as it determines necessary,
5 based on the advice and recommendations of the department, to regulate nearshore
6 fish stocks and fisheries. Regulations adopted by the commission pursuant to this
7 section may include, but are not limited to, requiring submittal of landing and
8 permit information, including logbooks; establishing a restricted access program;
9 establishing permit fees; and establishing limitations on the fishery based on time,
10 area, type, and amount of gear, and amount of catch, species, and size of fish.

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

15 (c) The circumstances, restrictions, and requirements of Section 1025 do not
16 apply to regulations adopted pursuant to this section.

17 (d) Any regulations adopted pursuant to this section shall be adopted following
18 consultation with fishery participants and other interested persons consistent with
19 Section 12165.

20 **Comment.** Section 22620 continues former Fish and Game Code Section 8587.1 without
21 substantive change.

22 See also Section 5050 (enforcement).

23 **§ 22625. Costs of act**

24 22625. Funding to pay the costs of this chapter shall be made available from the
25 revenues deposited in the Fish and Game Preservation Fund pursuant to Sections
26 5050, 22630, and 22635, and other funds appropriated for these purposes.

27 **Comment.** Section 22625 continues former Fish and Game Code Section 8586.1 without
28 substantive change.

29 **§ 22630. Required permit**

30 22630. (a) Any person taking, possessing aboard a boat, or landing any species
31 of nearshore fish stock for a commercial purpose shall possess a valid nearshore
32 fishery permit issued to that person that has not been suspended or revoked, except
33 that when using a boat to take nearshore fish stocks at least one person aboard the
34 boat shall have a valid nearshore fishery permit.

35 (b) Nearshore fishing permits are revocable.

36 (c) The fee for a nearshore fishing permit is one hundred and twenty five dollars
37 (\$125).

38 **Comment.** Section 22630 continues former Fish and Game Code Section 8587 without
39 substantive change.

40 See also Section 5050 (enforcement).

1 **§ 22635. Use of permit fees**

2 22635. (a) Fees received by the department pursuant to Section 22630 shall be
3 deposited in the Fish and Game Preservation Fund, to be used by the department
4 to prepare, develop, and implement the nearshore fisheries management plan, and
5 for the following purposes:

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

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

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

18 (b) The department shall maintain internal accounts that ensure that the fees
19 received pursuant to Section 22630 are disbursed for the purposes stated in
20 subdivision (a).

21 (c) The commission shall require an annual accounting from the department on
22 the deposits into, and expenditures from, the Fish and Game Preservation Fund, as
23 related to the revenues generated pursuant to Section 22630. Notwithstanding
24 Section 7550.5 of the Government Code, a copy of the accounting shall be
25 provided to the Legislature for review by the Joint Committee on Fisheries and
26 Aquaculture, and if that committee is not in existence at the time, by the
27 appropriate policy committee in each house of the Legislature.

28 (d) Unencumbered fees collected pursuant to Section 22630 during any previous
29 calendar year shall remain in the fund and expended for the purposes of
30 subdivision (a). All interest and other earnings on the fees received pursuant to
31 Section 22630 shall be deposited in the fund and shall be used for the purposes of
32 subdivision (a).

33 **Comment.** Section 22635 continues former Fish and Game Code Section 8589.7 without
34 substantive change.

35 **CHAPTER 4. FAR OFFSHORE FISHERY**

36 **§ 22700. “Far offshore fishery”**

37 22700. “Far offshore fishery” means a fishery that lies beyond the outer
38 boundary of the outer boundary of the United States 200-mile exclusive economic
39 zone, as that term is defined by paragraph (11) of Section 1802 of Title 16 of the
40 United States Code.

1 **Comment.** Section 22700 continues former Fish and Game Code Section 8111 without
2 substantive change.

3 **§ 22705. Legislative declaration**

4 22705. (a) The Legislature finds and declares that dramatic changes have taken
5 place in the methods and geographic areas of effort by California-based
6 commercial fishers.

7 (b) The Legislature further finds and declares that because the conditions that
8 now exist could not be seen at the time of their inception, some existing
9 regulations are now unreasonably restrictive. In some cases, existing statutes and
10 regulations prohibit California fishers from participating in, or landing in
11 California the primary product or incidental product of, their effort in newly
12 developed far offshore fisheries. This situation is detrimental to the interests of the
13 fishers, fish processors, and consumers of California.

14 **Comment.** Section 22705 continues former Fish and Game Code Section 8110 without
15 substantive change.

16 **§ 22710. Landing of fish taken in far offshore fishery**

17 22710. Notwithstanding any other section of this code, fish taken in a far
18 offshore fishery, which may be lawfully imported, may be landed in this state by
19 persons operating a commercial fishing vessel registered pursuant to Article 1
20 (commencing with Section 14750) of Chapter 2 of Title 2, who took the fish in the
21 far offshore fishery.

22 **Comment.** Section 22710 continues former Fish and Game Code Section 8112 without
23 substantive change.

24 **§ 22715. Declaration of intended landing**

25 22715. (a) Prior to departure from any port in the United States for the purpose
26 of taking fish in a far offshore fishery, the operator of any vessel landing fish in
27 California that will be taken in the far offshore fishery shall file a declaration of
28 that intention with the department, on forms prescribed by the department.

29 (b) The declaration shall be valid when signed by the vessel operator and
30 completed with information prescribed by the department.

31 (c) Upon completion of the trip and within 12 hours of arrival at a port in this
32 state, the operator of the vessel shall complete and submit the return portion of the
33 declaration to the department.

34 (d) This section does not apply to a commercial fisherman who uses or
35 possesses only troll lines, or gear for angling for the taking or possession of
36 albacore only.

37 **Comment.** Section 22715 continues former Fish and Game Code Section 8113 without
38 substantive change.

39 **Note.** Existing Fish and Game Code Section 8113(d) uses the term “troll line,” but does not
40 appear to be governed by the definition of that term provided in Fish and Game Code Section

9025.5(b) (proposed Section 18715). **The Commission invites comment on whether that definition should apply.**

§ 22720. Prohibited fishing during declared trip

22720. It is unlawful for the operator of a vessel operating under authority of this article to fish in, or land fish from, any waters within the United States 200-mile exclusive economic zone, as that term is defined by paragraph (11) of Section 1802 of Title 16 of the United States Code, during any trip for which the operator filed a declaration with the department to fish in a far offshore fishery.

Comment. Section 22720 continues former Fish and Game Code Section 8114 without substantive change.

CHAPTER 5. RESTRICTION OR CLOSURE OF FISHERIES

§ 22800. Restriction on take based on unsustainable fishing

22800. (a) If the director determines, based on the best available scientific information, or other relevant information that the director possesses or receives, and on at least one public hearing in the area of a fishery, that taking of a species in the fishery is being conducted in a manner that is not sustainable, the director may order the closure of any waters or otherwise restrict the taking in waters of the state of that species.

(b) The department shall give notice of any hearing to be held pursuant to this section to the commission and its marine resources committee as far in advance of the hearing date as possible.

(c) Any closure or restriction order shall be adopted by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(d) The director shall bring to the attention of the commission within seven working days any regulation adopted pursuant to this section.

(e) Any regulation adopted shall be effective for only 30 days, unless the commission extends the closure or restriction under any authority it may have, or unless the director orders another closure or restriction, consistent with the requirements of subdivision (a).

(f) Nothing in this section restricts any existing jurisdiction of the department with regard to the regulation of fisheries on the high seas.

Comment. Subdivisions (a) through (e) of Section 22800 restate former Fish and Game Code Section 7710(a)-(c) without substantive change.

Subdivision (f) continues the part of the last paragraph of former Fish and Game Code Section 7710 applicable to that section without substantive change.

Notes. (1) Although existing Fish and Game Code Section 7710 authorizes the director, under specified circumstances, to order the closure of any waters or otherwise restrict the taking “under a fishing license” of certain species, it is unlikely the Legislature intended to limit that authorized restriction solely to *licensed* taking. Proposed Section 22800 (which would continue existing Section 7710) would authorize the director to restrict both licensed and unlicensed taking.

(2) Proposed Section 22800(a) is intended to restate the first sentence of existing Fish and Game Code Section 7710(a) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

7710. (a) If the director determines, based on the best available scientific information, or other relevant information that the director possesses or receives, and on at least one public hearing in the area of the fishery, that taking in a fishery is being conducted in a manner that is not sustainable, the director may order the closure of any waters or otherwise restrict the taking under a fishing license in state waters of that species.

The Commission invites comment on whether proposed Section 22800(a) accurately continues the intended meaning of the first sentence of existing Section 7710(a).

§ 22805. Removal of restriction

22805. (a) If, during the period that regulations adopted pursuant to Section 22800 are effective, the director determines, based on thorough and adequate scientific evidence and at least one public hearing in the area of the fishery, that any species or subspecies whose take was previously restricted has recovered, or additional evidence indicates that the species or subspecies is not in danger of irreparable injury, the director may remove the restriction on taking.

(b) Action to remove the restriction shall be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The director shall bring to the attention of the Legislature, within seven calendar days, any regulation adopted pursuant to this section.

(d) Nothing in this section restricts any existing jurisdiction of the department with regard to the regulation of fisheries on the high seas.

Comment. Subdivisions (a) through (c) of Section 22805 continue former Fish and Game Code Section 7710.5 without substantive change.

Subdivision (d) continues the part of the last paragraph of former Fish and Game Code Section 7710 applicable to former Fish and Game Code Section 7710.5 without substantive change.

§ 22810. Appeal of closure or restriction

22810. A closure or restriction under Section 22800, or the removal of a closure or restriction under Section 22805, may be appealed to the commission. The commission shall hear and decide the appeal within a time that is meaningful, taking into account the duration of the fishery and the economics of the fishery.


Comment. Section 22810 continues former Fish and Game Code Section 7710.1 without substantive change.

§ 22815. Development of alternative fisheries or alternative fishing gear

22815. Where a fishery is closed or restricted due to the need to protect a fishery resource, marine mammals, or sea birds, or due to a conflict with other fisheries or uses of the marine environment, it shall be the policy of the department and the commission, consistent with budgetary and personnel considerations, to assist and foster the development of alternative fisheries or alternative fishing gear for those commercial fishers affected by the restriction, closure, or resource loss, including,

1 but not limited to, the issuing of experimental fishing permits pursuant to Chapter
2 5 (commencing with Section 12050) of Title 2 of Part 4.

3 **Comment.** Section 22815 continues former Fish and Game Code Section 7712 without
4 substantive change.

5  **Note.** Proposed Section 22815 would continue Section 7712, which was amended by 2018
6 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
7 anticipation of its effect.

8 CHAPTER 6. COMMERCIAL FISHERIES CAPACITY REDUCTION
9 PROGRAM

10 **§ 22900. Federal groundfish buy-back program**

11 22900. It is the intent of the Legislature to enact legislation establishing a
12 comprehensive program to allow California groundfish fishers to participate in any
13 federally established buy-back program for the Pacific groundfish fishery.

14 **Comment.** Section 22900 continues former Fish and Game Code Section 7630 without
15 substantive change.

16 **§ 22905. Establishment of program**

17 22905. There is hereby established the Commercial Fisheries Capacity
18 Reduction Account in the Fish and Game Preservation Fund. Fees collected
19 pursuant to Section 16610 shall be deposited into the account. Money in the
20 account shall be used to repay the California fishers' share of any federal loans
21 used in the federal West Coast Groundfish Fishery Capacity Reduction Program
22 (Sec. 212, P.L. 107-206).

23 **Comment.** Section 22905 continues the first and second sentences of former Fish and Game
24 Code Section 8125 without substantive change.

25 **§ 22910. Capacity reduction fee**

26 22910. The commission shall establish a capacity reduction fee on the taking of
27 certain species of fish and shellfish, consistent with the West Coast Groundfish
28 Fishery Capacity Reduction Program. In establishing the fee, the commission shall
29 also consider the administrative cost associated with collecting these fees.

30 **Comment.** Section 22910 continues former Fish and Game Code Section 8126 without
31 substantive change.

32 **§ 22915. Regulation conforming state law with federal law**

33 22915. The commission may establish, by regulation, any additional program
34 elements necessary to conform state law to federal law, in order to allow
35 California groundfish fishers to fully participate in the federally established buy-
36 back program for the Pacific groundfish fishery.

37 **Comment.** Section 22915 continues the third sentence of former Fish and Game Code Section
38 8125 without substantive change.

1 TITLE 16. MISCELLANEOUS PROGRAMS

2 CHAPTER 1. INSURANCE POOLING

3 § 23100. Loss or damage to vessel or machinery

4 23100. (a) Any person engaged in the business of licensed commercial fishing
5 may enter into an arrangement with other authorized persons for the pooling of
6 funds to pay claims or losses arising out of loss or damage to a vessel or
7 machinery used in the business of commercial fishing and owned by a member of
8 the pool. A pool established pursuant to this section is not, and shall not be,
9 subject to the Insurance Code and is not a member of the California Insurance
10 Guarantee Association under Article 14.2 (commencing with Section 1063) of
11 Chapter 1 of Part 2 of Division 1 of the Insurance Code.

12 (b) The pool established pursuant to this section shall have initial pooled
13 resources of not less than two hundred fifty thousand dollars (\$250,000), and shall
14 operate under generally acceptable accounting principles.

15 (c) All participating persons in any pool established pursuant to this section shall
16 agree to pay premiums or make other mandatory financial contributions or
17 commitments necessary to ensure a financially sound risk pool.

18 (d) For the purpose of this section, “person engaged in the business of licensed
19 commercial fishing” and “authorized person” mean any natural person,
20 partnership, corporation, limited liability company, or other person or entity
21 engaged in the business of fishing for commercial purposes for which that person
22 or its agents or employees are required to be licensed.

23 **Comment.** Section 23100 continues former Fish and Game Code Section 7690 without
24 substantive change.

25 CHAPTER 2. EDUCATIONAL AND SCIENTIFIC PROGRAMS

26 § 23150. Take for educational or scientific purposes

27 23150. The commission may establish rules and regulations for the commercial
28 taking of fish for educational and scientific purposes.

29 **Comment.** Section 23150 continues former Fish and Game Code Section 7709 without
30 substantive change.

31 CHAPTER 3. MARKETING

32 § 23200. Collection of an assessment on behalf of marketing council or commission

33 23200. The director may enter into an agreement with the Secretary of Food and
34 Agriculture for the collection of an assessment on behalf of any marketing council
35 or commission for fish or seafood organized under the Food and Agricultural
36 Code. The agreement may authorize the department to collect the assessment in
37 conjunction with the collection of landing fees on those species for which the

1 marketing council or commission is organized. The department shall remit the
2 amount of the assessment collected to the Secretary of Food and Agriculture
3 according to the agreement after making the collection. Before remitting the
4 assessments, the department may deduct an administrative fee in an amount agreed
5 to with the Secretary of Food and Agriculture to pay the costs of collection and
6 remission of the assessments. The administrative fees shall be deposited in the
7 Fish and Game Preservation Fund.

8 **Comment.** Section 23200 continues former Fish and Game Code Section 1069 without
9 substantive change.

10 DIVISION 7. WILDLIFE PROPAGATION, DOMESTICATION, 11 POSSESSION, AND SALE

12 PART 1. AQUACULTURE

13 TITLE 1. GENERAL PROVISIONS

14 § 23300. Applicability of part

15 23300. Nothing in this part applies to authorized species of ornamental marine
16 or freshwater plants or animals that are not utilized for human consumption or bait
17 purposes and that are maintained in closed systems for personal, pet industry, or
18 hobby purposes.

19 **Comment.** Section 23300 continues former Fish and Game Code Section 15006 without
20 substantive change.

21 § 23305. Governing provisions

22 23305. The business of aquaculture is governed by this part, and is exempt from
23 Part 6 (commencing with Section 14200) of Division 6 and any other provision of
24 this code relating to commercial fishing, harvesting, processing, and marketing.

25 **Comment.** Section 23305 continues former Fish and Game Code Section 15000(a) without
26 substantive change.

27 TITLE 2. ADMINISTRATION

28 CHAPTER 1. AGENCY DUTIES AND POWERS

29 § 23350. Coordination of agencies

30 23350. (a) Except as provided in Sections 23355, 23800, 23810, and 23815, the
31 business of aquaculture processing, distribution, and marketing is administered by
32 the Secretary of Food and Agriculture.

33 (b) The director may enter into an agreement with the Secretary of Food and
34 Agriculture for the resolution of any conflict that arises under subdivision (a).

1 (c) Any costs incurred by the department in implementing Sections 23355,
2 23800, 23810, and 23815 shall be recovered pursuant to this part.

3 **Comment.** Section 23350 continues former Fish and Game Code Section 15000(b)-(d) without
4 substantive change.

5 **§ 23355. Commission regulation**

6 23355. (a) When necessary for the protection of native wildlife, the commission
7 may regulate the transportation, purchase, possession, and sale of specific
8 aquaculture products as provided for in this section.

9 (b) The commission may determine that aquaculture products shall be
10 accompanied by a document containing any of the following information:

11 (1) The name, address, and registration number of the aquaculture producer.

12 (2) The species.

13 (3) The weight, volume, or count within the container.

14 (4) The date of the shipment.

15 (5) The name and address of the intended receiver.

16 (c) The commission may require that certain aquaculture products shall be
17 additionally identified as being aquaculture produced, except for the following:

18 (1) Trout.

19 (2) Catfish.

20 (3) Kelp and aquatic plants.

21 (4) Frogs and amphibia.

22 (5) All bivalve mollusks (except little neck clams).

23 (6) All members of the family Centrarchidae.

24 (7) Crayfish.

25 (8) Sea urchins.

26 (9) Shrimp and fresh water prawns.

27 (10) Crab.

28 **Comment.** Section 23355 continues former Fish and Game Code Section 15005 without
29 substantive change.

30 **§ 23360. Preparation of environmental impact reports by department**

31 23360. (a) The department shall, in consultation with the Aquaculture
32 Development Committee, prepare programmatic environmental impact reports for
33 existing and potential commercial aquaculture operations in both coastal and
34 inland areas of the state if both of the following conditions are met:

35 (1) Funds are appropriated to the department for this purpose.

36 (2) Matching funds are provided by the aquaculture industry. For the purpose of
37 this section, “matching funds” include, but are not limited to, any funds expended
38 by the aquaculture industry before January 1, 2006, for the preparation of a
39 programmatic environmental impact report.

40 (b) If the final programmatic environmental impact report is prepared pursuant
41 to subdivision (a) for coastal marine finfish aquaculture projects and approved by

1 the commission under the California Environmental Quality Act set forth in
2 Division 13 (commencing with Section 21000) of the Public Resources Code, the
3 report shall provide a framework for managing marine finfish aquaculture in an
4 environmentally sustainable manner that, at a minimum, adequately considers all
5 of the following factors:

6 (1) Appropriate areas for siting marine finfish aquaculture operations to avoid
7 adverse impacts, and minimize any unavoidable impacts, on user groups, public
8 trust values, and the marine environment.

9 (2) The effects on sensitive ocean and coastal habitats.

10 (3) The effects on marine ecosystems, commercial and recreational fishing, and
11 other important ocean uses.

12 (4) The effects on other plant and animal species, especially species protected or
13 recovering under state and federal law.

14 (5) The effects of the use of chemical and biological products and pollutants and
15 nutrient wastes on human health and the marine environment.

16 (6) The effects of interactions with marine mammals and birds.

17 (7) The cumulative effects of a number of similar finfish aquaculture projects on
18 the ability of the marine environment to support ecologically significant flora and
19 fauna.

20 (8) The effects of feed, fish meal, and fish oil on marine ecosystems.

21 (9) The effects of escaped fish on wild fish stocks and the marine environment.

22 (10) The design of facilities and farming practices so as to avoid adverse
23 environmental impacts, and to minimize any unavoidable impacts.

24 **Comment.** Section 23360 continues former Fish and Game Code Section 15008 without
25 substantive change.

26 **§ 23365. Department aquaculture coordinator**

27 23365. There is within the department an aquaculture coordinator who shall
28 perform all of the following duties as part of the department's aquaculture
29 program:

30 (a) Promote understanding of aquaculture among public agencies and the
31 general public.

32 (b) Propose methods of reducing the negative impact of public regulation at all
33 levels of government on the aquaculture industry.

34 (c) Provide information on all aspects of regulatory compliance to the various
35 sectors of the aquaculture industry.

36 (d) Provide advice to the owner of a registered aquaculture facility on project
37 siting and facility design, as necessary, to comply with regulatory requirements.

38 (e) Coordinate with the Aquaculture Development Committee regarding the
39 duties described in subdivisions (a) to (d), inclusive.

40 **Comment.** Section 23365 continues former Fish and Game Code Section 15100 without
41 substantive change.

CHAPTER 2. FEES AND COSTS

§ 23500. Costs for requested inspections

23500. Aquaculturists operating under this part shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this part, or by regulations adopted pursuant to this part, when requested by the aquaculturists.

Comment. Section 23500 continues former Fish and Game Code Section 15004(c) without substantive change.

§ 23505. Evaluation of fees by department

23505. (a) At least once every five years, the department shall analyze the fees and taxes authorized by this part to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program.

(b) The department shall, as appropriate, recommend fee or tax changes to the Legislature or the commission.

Comment. Section 23505 continues former Fish and Game Code Section 15004(a) and (b) without substantive change.

TITLE 3. REGISTRATION

CHAPTER 1. GENERAL PROVISIONS

§ 23600. Registration requirement

23600. It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this chapter.

Comment. Section 23600 continues the third sentence of former Fish and Game Code Section 15101(b) without substantive change.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15101, the first effective until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, § 3, 4. However, the provision that would be continued by proposed Section 23600 is the same in both versions. For that reason, only one version of Section 23600 is included in the proposed law.

§ 23605. Required information

23605. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

(1) The owner's name.

(2) The species grown.

(3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Comment. Subdivision (a) of Section 23605 continues former Fish and Game Code Section 15101(a) without substantive change.

Subdivision (b) continues the first part of the first sentence of former Fish and Game Code Section 15101(b) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 15101(c) without substantive change.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, § 3, 4. However, the provisions that would be continued by proposed Section 23605 are the same in both versions. For that reason, only one version of Section 23605 is included in the proposed law.

§ 23610. Department review of registration

23610. The department may establish a procedure for the review of the information provided pursuant to Section 23605, to ensure that the operation will not be detrimental to native wildlife.

Comment. Section 23610 continues the second part of the first sentence of former Fish and Game Code Section 15101(b) without substantive change.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, § 3, 4. However, the provision that would be continued by proposed Section 23610 is the same in both versions. For that reason, only one version of Section 23610 is included in the proposed law.

§ 23615. Denial of application based on prior dishonored check

23615. Notwithstanding any other provision of law, the department may deny the issuance or renewal of any licenses, permits, or other authorizations to take or possess fish for commercial purposes, or to conduct business involving fish, that are issued pursuant to this title if the applicant for that authorization or renewal has, within the preceding year, issued to the department a check that was dishonored by the bank upon which the check was drawn and the person has failed to reimburse the department for the amount due plus a fee of thirty dollars (\$30) and any dishonored check charges incurred by the department.

Comment. Section 23615 continues the part of former Fish and Game Code Section 7852.25 applicable to licenses and other entitlements related to aquaculture without substantive change.

Note. The substance of Section 7852.25 has been divided between proposed Sections 14555 (commercial fishing), 20235 (fish businesses), and 23615 (aquaculture). Should an equivalent provision be added to the law that governs commercial fishing vessel registrations (perhaps as proposed Section 14795)?

CHAPTER 2. FEES

§ 23700. Registration fee (effective until January 1, 2023)

23700. (a) The department shall impose a registration fee of eight hundred dollars (\$800) to recover the cost of reviewing new registrations.

(b) For renewing registrations, the department shall impose a registration fee of five hundred dollars (\$500).

(c) The registration fees specified in this section are applicable to the 2013 registration year, and shall be adjusted annually thereafter pursuant to Section 3755.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

Comment. Subdivisions (a) through (c) of Section 23700 continue, without substantive change, a part of the first sentence, the second sentence, and the fourth sentence of former Fish and Game Code Section 15101(b), as amended by Section 3 of Chapter 521 of the Statutes of 2017.

Subdivision (d) continues former Fish and Game Code Section 15101(d) without substantive change.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, § 3, 4. As the provisions that would be continued by proposed Section 23700 are substantively different in the two versions of Section 15101, the proposed law includes two versions of proposed Section 23700.

§ 23700. Registration fee (operative on January 1, 2023)

23700. (a) The department shall impose a registration fee of five hundred forty-nine dollars (\$549) to recover the cost of reviewing new registrations.

(b) For renewing registrations, the department shall impose a registration fee of two hundred seventy-five dollars (\$275).

(c) The registration fees specified in this section are applicable to the 2004 registration year, and shall be adjusted annually thereafter pursuant to Section 3755.

(d) This section shall become operative on January 1, 2023, at which time the registration fees specified in this section shall be adjusted pursuant to subdivision (c) as if this section had not been inoperative.

Comment. Subdivisions (a) through (c) of Section 23700 continue, without substantive change, a part of the first sentence, the second sentence, and the fourth sentence of former Fish and Game Code Section 15101(b), as amended by Section 4 of Chapter 521 of the Statutes of 2017.

Subdivision (d) continues former Fish and Game Code Section 15101(d) without substantive change.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15101, the first operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, § 3, 4. As the provisions that would be continued by proposed Section

23700 are different in the two versions of Section 15101, the proposed law includes two versions of proposed Section 23700.

§ 23705. Surcharge fee (effective until January 1, 2023)

23705. (a) In addition to the fees specified in Section 23700, a surcharge fee of six hundred (\$600) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 23710.

(c) The surcharge imposed pursuant to this section shall be applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 3755.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

Comment. Section 23705 continues, without substantive change, former Fish and Game Code Section 15103(a), (c)-(e), as amended by Section 5 of Chapter 521 of the Statutes of 2017.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15103, one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, § 5, 6. As the provisions that would be continued by proposed Section 23705 are substantively different in the two versions of Section 15103, the proposed law includes two versions of proposed Section 23705.

§ 23705. Surcharge fee (operative January 1, 2023)

23705. (a) In addition to the fees specified in Section 23700, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).

(b) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 23710.

(c) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 3755.

(d) This section shall become operative on January 1, 2023, at which time the surcharge fee specified in this section shall be adjusted pursuant to subdivision (c) as if this section had not been inoperative.

Comment. Section 23705 continues, without substantive change, former Fish and Game Code Section 15103(a), (c)-(e), as amended by Section 6 of Chapter 521 of the Statutes of 2017.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15103, one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat.

ch. 521, § 5, 6. As the provisions that would be continued by proposed Section 23705 are substantively different in the two versions of Section 15103, the proposed law includes two versions of proposed Section 23705.

§ 23710. Delinquent fee payment (effective until January 1, 2023)

23710. (a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of one hundred fifty dollars (\$150).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2013 registration year, and shall be adjusted thereafter pursuant to Section 3755.

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

Comment. Section 23710 continues, without substantive change, former Fish and Game Code Section 15104, as amended by Section 7 of Chapter 521 of the Statutes of 2017.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15104, one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, §§ 7, 8. As the provisions that would be continued by proposed Section 23710 are substantively different in the two versions of Section 15104, the proposed law includes two versions of proposed Section 23710.

§ 23710. Delinquent fee payment (operative January 1, 2023)

23710. (a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of fifty dollars (\$50).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2005 registration year, and shall be adjusted thereafter pursuant to Section 3755.

(d) This section shall become operative on January 1, 2023, at which time the penalty specified in this section shall be adjusted pursuant to subdivision (c) as if this section had not been inoperative.

Comment. Section 23710 continues, without substantive change, former Fish and Game Code Section 15104, as amended by Section 8 of Chapter 521 of the Statutes of 2017.

Note. The Fish and Game Code contains two versions of Fish and Game Code Section 15104, one operative until January 1, 2023, the second operative on January 1, 2023. See 2017 Cal. Stat. ch. 521, §§ 7, 8. As the provisions that would be continued by proposed Section 23710 are substantively different in the two versions of Section 15104, the proposed law includes two versions of proposed Section 23710.

1 **§ 23715. Expenditure of collected funds**

2 23715. (a) Notwithstanding Section 3600, 3605, or 3810, all moneys collected
3 by the department pursuant to this part shall be deposited in the Fish and Game
4 Preservation Fund, and shall be expended solely on the department's aquaculture
5 program pursuant to this part.

6 (b) Notwithstanding Section 3800, these moneys are available for appropriation
7 by the Legislature in the annual Budget Act for purposes of this part.

8 (c) The department shall maintain internal accountability necessary to ensure
9 that all restrictions on the expenditure of these funds are met, and shall provide an
10 accounting of the aquaculture program account balance and expenditures upon
11 request of the Aquaculture Development Committee, or the Joint Committee on
12 Fisheries and Aquaculture.

13 (d) Revenues pursuant to this chapter may be used only to pay the costs incurred
14 in the administration and enforcement of the department's aquaculture program.

15 (e) The department shall prepare and submit to the Legislature, on or before
16 February 1, 2022, a report regarding the aquaculture program undertaken using
17 revenues derived pursuant to that program, the benefits derived, and its
18 recommendations for revising the aquaculture program requirement, if any. The
19 report shall be submitted in compliance with Section 9795 of the Government
20 Code.


21 (f) The requirement for submitting a report under subdivision (e) is inoperative
22 on February 1, 2026, pursuant to Section 10231.5 of the Government Code.

23 **Comment.** Section 23715 continues former Fish and Game Code Section 15105 without
24 substantive change.

25 **§ 23720. Sales and production records**

26 23720. Each owner of a registered aquaculture facility shall maintain sales and
27 production records which shall be made available upon request of the department
28 to assist the department in the administration of Section 23365, and this title.

29 **Comment.** Section 23720 continues former Fish and Game Code Section 15103(b) without
30 substantive change.

31  **Note.** The Fish and Game Code contains two versions of Fish and Game Code Section
32 15103, the first operative until January 1, 2023, the second operative on January 1, 2023. See
33 2017 Cal. Stat. ch. 521, § 5, 6. However, the provision that would be continued by proposed
34 Section 23720 is the same in both versions. For that reason, only one version of Section 23720 is
35 included in the proposed law.

1 TITLE 4. AQUATIC ORGANISMS

2 § 23800. Regulation of placement of organisms

3 23800. (a) The commission may regulate the placing of aquatic plants and
4 animals in waters of the state.

5 (b) The commission may prohibit the placement of specific species of aquatic
6 plants or animals in designated waters of the state. The prohibition may not
7 include species that are found to be native, or that are stocked by the state in a
8 location where prohibition is contemplated.

9 **Comment.** Subdivision (a) of Section 23800 continues the first sentence of former Fish and
10 Game Code Section 15200 without substantive change.

11 Subdivision (b) continues former Fish and Game Code Section 15202 without substantive
12 change.

13 See also Section 5252 (enforcement).

14 § 23805. Operation detrimental to adjacent wildlife

15 23805. The department may prohibit an aquaculture operation or the culturing of
16 any species at any location where it is determined it would be detrimental to
17 adjacent native wildlife.

18 **Comment.** Section 23805 continues former Fish and Game Code Section 15102 without
19 substantive change.

20 § 23810. Permit required to place organisms

21 23810. (a) A permit is required to place fish on public or private land or water in
22 any watershed above an established public or private fish hatchery.

23 (b) The department shall deny the permit if there is evidence that water quality
24 or potential disease transfer will be adverse to the established hatchery.

25 **Comment.** Section 23810 continues former Fish and Game Code Section 15201 without
26 substantive change.

27 § 23815. Movement of fish between registered aquaculturists

28 23815. Movement of live fish between two registered aquaculturists who are
29 registered for those species does not require a permit.

30 **Comment.** Section 23815 continues the second sentence of former Fish and Game Code
31 Section 15200 without substantive change.

32 § 23820. Fee for use of public land and waters

33 23820. (a) The department may assess a fee on persons growing aquaculture
34 products on public lands and in public waters based on the price per pound of the
35 products sold. The fees, if imposed, shall be set at amounts necessary to defray the
36 costs of the commission and the department in administering this part. However,
37 the fees, if any, may not exceed the rates as provided in Section 20955.

38 (b) The price per pound shall be based on the whole product weight, or its
39 equivalent as taken by the lessee.

(c) The fee imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

Comment. Section 23820 continues former Fish and Game Code Section 15003 without substantive change.

TITLE 5. ACQUISITION OF ORGANISMS

§ 23900. Sources for brood stock

23900. Aquatic plants or animals may be legally obtained for use as brood stock from any of the following sources:

(a) A holder of a commercial fishing license.

(b) A registered aquaculturist.

(c) The department.

(d) Imported sources authorized by Title 8 (commencing with Section 24700).

Comment. Section 23900 continues former Fish and Game Code Section 15300 without substantive change.

§ 23905. Collection of organisms by registered aquaculturist

23905. Aquatic plants and animals may be collected by a registered aquaculturist only with the written approval of the department. The department may specify the time, place, and manner of collection, and may collect a fee from the aquaculturist in an amount sufficient to cover the cost of processing the approval.

(b) Notwithstanding subdivision (a), the fee for collecting sturgeon or striped bass broodstock shall be five hundred dollars (\$500).

Comment. Subdivision (a) of Section 23905 continues former Fish and Game Code Section 15301(b) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 15301(c) without substantive change.

§ 23910. Sale of organisms by department

23910. (a) The department may sell wild aquatic plants or animals, except rare, endangered, or fully protected species, for aquaculture use, at a price approximating the administrative cost to the department for the collection or sale of the plants or animals. The commission shall set this price.

Comment. Section 23910 continues former Fish and Game Code Section 15301(a) without substantive change.

§ 23915. Ownership of progeny

23915. The cultured progeny of wild plants and animals lawfully obtained under Section 23900 are the exclusive property of that person who cultured them, or that person's successor in interest.

1 **Comment.** Section 23915 continues former Fish and Game Code Section 15001 without
2 substantive change.

3 TITLE 6. LEASING OF STATE WATER BOTTOMS

4 CHAPTER 1. GENERAL PROVISIONS

5 **§ 24000. Authority and procedure**

6 24000. (a) Except as prohibited by Chapter 2 (commencing with Section 24950)
7 of Title 10, the commission may lease state water bottoms, or the water column, to
8 any person for aquaculture, including, but not limited to, marine finfish
9 aquaculture.

10 (b) Upon appropriation of funds for that purpose, or if funds are otherwise
11 available, the commission shall adopt regulations governing the terms of the
12 leases, after consulting with affected stakeholders in a public process.

13 (c) No state leases shall be issued, unless the commission determines that the
14 lease is in the public interest in a public hearing conducted in a fair and transparent
15 manner, with notice and comment, in accordance with commission procedures.

16 (d) Leases issued, and regulations adopted, pursuant to this section, shall not be
17 construed to be fishery management plans.

18 **Comment.** Section 24000 continues former Fish and Game Code Section 15400(a) without
19 substantive change.

20 **§ 24005. Lease required for marine finfish aquaculture**

21 24005. A person shall not engage in marine finfish aquaculture in ocean waters
22 within the jurisdiction of the state without a lease from the commission pursuant to
23 Chapter 2 (commencing with Section 24950) of Title 10.

24 **Comment.** Section 24005 continues the first sentence of former Fish and Game Code Section
25 15400(b) without substantive change.

26 **§ 24010. Standards for leases and regulation**

27 24010. Leases and regulations adopted by the commission for marine finfish
28 aquaculture shall meet, but are not limited to, all of the following standards:

29 (a) The lease site is considered appropriate for marine finfish aquaculture in the
30 programmatic environmental impact report if prepared and approved by the
31 commission pursuant to Section 23360.

32 (b) A lease shall not unreasonably interfere with fishing or other uses or public
33 trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably
34 harm the ability of the marine environment to support ecologically significant
35 flora and fauna.

36 (c) A lease shall not have significant adverse cumulative impacts.

37 (d) To reduce adverse effects on global ocean ecosystems, the use of fish meal
38 and fish oil shall be minimized. Where feasible, alternatives to fish meal and fish

1 oil, or fish meal and fish oil made from seafood harvesting byproducts, shall be
2 utilized, taking into account factors that include, but need not be limited to, the
3 nutritional needs of the fish being raised and the availability of alternative
4 ingredients.

5 (e) Lessees shall establish best management practices, approved by the
6 commission, for each lease site. Approved best management practices shall
7 include a regular monitoring, reporting, and site inspection program that requires
8 at least annual monitoring of lease sites to ensure that the operations are in
9 compliance with best management practices related to fish disease, escapement,
10 and environmental stewardship, and that operations are meeting the requirements
11 of this section.

12 (f) The commission may remove fish stocks, close facilities, or terminate the
13 lease if it finds that the lessee is not in compliance with best management
14 practices, that the lessee's activities have damaged or are damaging the marine
15 environment, or that the lessee is not in compliance with this section. The
16 commission shall take immediate remedial action to avoid or eliminate significant
17 damage, or the threat of significant damage, to the marine environment.

18 (g) Before issuance of the lease, the lessee shall provide baseline benthic habitat
19 and community assessments of the proposed lease site to the applicable regional
20 water quality control board or the State Water Resources Control Board, and shall
21 monitor the benthic habitat and community during the operation of the lease in a
22 manner determined by the regional board or the State Water Resources Control
23 Board.

24 (h) The regional board and the State Water Resources Control Board may
25 establish and impose reasonable permit fees to pay for the costs of administering
26 and conducting the assessment and monitoring program.

27 (i) Finfish numbers and density shall be limited to what can be safely raised
28 while protecting the marine environment, as specified by the terms of the lease,
29 subject to review and amendment by the commission.

30 (j) The use of all drugs, chemicals, and antibiotics, and amounts used and
31 applied, shall be minimized. All drugs, therapeutic substances, and antibiotics
32 shall be used and applied only as approved by the United States Food and Drug
33 Administration for marine finfish aquaculture. The lessee shall report that use and
34 application to the commission on a regular schedule, as determined by the
35 commission, but no less than annually, that shall be included in the terms of the
36 lease. The commission shall review those reports on a regular basis and at least
37 annually.

38 (k) The commission shall require all farmed fish to be marked, tagged, or
39 otherwise identified as belonging to the lessee in a manner determined appropriate
40 by the commission, unless the commission determines that identifying farmed fish
41 is unnecessary for protecting wild fish stocks, the marine environment, or other
42 ocean uses.

(l) All facilities and operations shall be designed to prevent the escape of farmed fish into the marine environment and to withstand severe weather conditions and marine accidents. The lessee shall maintain records on all escapes in a manner determined by the commission. In the event of more than de minimis escapement, the number of escaped fish and the circumstances surrounding the incident shall be reported immediately to the commission, and the lessee shall be responsible for damages to the marine environment caused by those escaped fish, as determined by the commission.

(m) The lessee shall, at a minimum, meet all applicable requirements imposed by the State Water Resources Control Board and the regional water quality control boards, and shall prevent discharges to the maximum extent possible. Monitoring and testing of water quality shall be required on a regular basis as deemed appropriate by the State Water Resources Control Board or the regional water quality control boards. All inspection and monitoring reports and other records, and all data on the discharge of chemical and biological pollutants shall be kept on file and available for public review.

Comment. Section 24010 continues the second sentence of former Fish and Game Code Section 15400(b) without substantive change.

§ 24015. Exemption from standards for specified restoration or enhancement plans

24015. If a restoration or enhancement plan is submitted to, and approved by, the commission, and that plan, among other things, provides for monitoring and protecting the benthic habitat, the prevention of pollution, and the prevention of adverse impacts on wild fish stocks from disease, parasites, and genetic alterations, Section 24010 shall not apply to any of the following:

(a) Artificial propagation, rearing, and stocking projects for the purpose of recovery, restoration, or enhancement of native fish stocks carried out under either of the following:

(1) A scientific collecting or research permit issued by the department.

(2) The California Ocean Resources Enhancement and Hatchery Program, as set forth in Title 4 (commencing with Section 25700) of Part 3, and Sections 12910, 14620, 21935, and subdivision (c) of Section 38875, for the enhancement of white sea bass.

(b) Nonprofit hatcheries and nonprofit artificial propagation projects operated by, or on behalf of, licensed commercial or sport fishers for the purpose of recovery, restoration, or enhancement of California's native marine fish populations, pursuant to Chapter 2 (commencing with Section 11800) of Title 2 of Part 4 of Division 6, and Section 25125.

Comment. Section 24015 continues former Fish and Game Code Section 15400(c) without substantive change.

1 **§ 24020. Disclaimer of application to other marine finfish aquaculture law or regulation**

2 24020. Nothing in this chapter shall be construed to limit or expand the
3 application of any other state law or regulation pertaining to marine finfish
4 aquaculture conducted within the ocean waters under the jurisdiction of this state.

5 **Comment.** Section 24020 continues former Fish and Game Code Section 15400(d) without
6 substantive change.

7 **CHAPTER 2. LEASE PROCEDURE**

8 **§ 24100. Application for lease**

9 24100. (a) A person wishing to lease a state water bottom shall make a written
10 application to the commission.

11 (b) The application shall contain all of the following information:

12 (1) A map showing the area to be leased, its general vicinity, and all ownership
13 and boundary lines in the vicinity.

14 (2) A description of the organisms to be grown and the culture techniques to be
15 used.

16 (3) An estimate of the acreage to be leased.

17 (4) A nonrefundable filing fee of five hundred dollars (\$500).

18 (c) Areas used by the public for digging clams shall not be leased. The
19 department shall designate those areas.

20 **Comment.** Subdivisions (a) and (b) of Section 24100 continue all but the last sentence of
21 former Fish and Game Code Section 15403 without substantive change.

22 Subdivision (c) continues former Fish and Game Code Section 15401 without substantive
23 change.

24 **§ 24105. Public notice of application**

25 24105. (a) If the commission finds that a state water bottom applied for is
26 available for lease, and that the lease would be in the public interest, the
27 commission shall publish a notice that the area is being considered for leasing.

28 (b) The commission shall also publish legal notices in a newspaper of general
29 circulation in each county where the water bottom or any part of the water bottom
30 is located, describing the area to be leased and the type of operation to be
31 conducted.

32 (c) The publication shall comply with Sections 6060 and 6066 of the
33 Government Code.

34 **Comment.** Section 24105 continues former Fish and Game Code Section 15404 without
35 substantive change.

36 **§ 24110. Notification to State Lands Commission**

37 24110. (a) The department shall notify the State Lands Commission of all
38 applications for water bottom leases.

39 (b) The department shall inform the State Lands Commission of all leases
40 executed, renewed, or assigned pursuant to this title, and shall furnish the State

1 Lands Commission with information concerning those leases that the State Lands
2 Commission may require.

3 **Comment.** Section 24110 continues former Fish and Game Code Section 15415 without
4 substantive change.

5 **§ 24115. Lease to new bidders**

6 24115. (a) Except as specified in subdivision (b), the commission shall award
7 state water bottom leases to the highest responsible bidder, if the bid meets or
8 exceeds the minimum annual rent established by the commission, which shall not
9 be less than two dollars (\$2) per acre, for all species cultivated, unless the acreage
10 applied for is 10 acres or less, in which case the minimum acceptable rent shall be
11 ten dollars (\$10) per acre.

12 (b) The commission may reject any or all bids for the lease of state water
13 bottoms if it deems the rejection to be in the public interest.

14 (c) Fees for marine finfish aquaculture leases shall, at a minimum, be sufficient
15 to pay for the costs of administering the marine finfish leasing program, and for
16 monitoring and enforcing the terms of the leases.

17 **Comment.** Subdivision (a) of Section 24115 continues the first sentence of former Fish and
18 Game Code Section 15406.5(a) without substantive change.

19 Subdivision (b) continues the third sentence of former Fish and Game Code Section 15406.5(a)
20 without substantive change.

21 Subdivision (c) continues former Fish and Game Code Section 15406.5(b) without substantive
22 change.

23 **CHAPTER 3. TERMS OF LEASE**

24 **§ 24200. Term of lease**

25 24200. (a) Except as specified in subdivision (b), no initial term of a state water
26 bottom lease shall exceed 25 years.

27 (b) The initial term of a state water bottom lease for marine finfish aquaculture
28 shall not exceed 10 years.

29 **Comment.** Section 24200 continues former Fish and Game Code Section 15405 without
30 substantive change.

31 **§ 24205. Rent increases by Legislature**

32 24205. All state water bottom leases shall be subject to the power of the
33 Legislature to increase or decrease the rents, fees, taxes, and other charges relating
34 to the lease, but no increase in rent shall be applicable to an existing lease until it
35 is renewed.

36 **Comment.** Section 24205 continues former Fish and Game Code Section 15410 without
37 substantive change.

1 **§ 24210. Renewal of lease**

2 24210. (a) Each state water bottom lease shall specify a period prior to
3 expiration when renewal of the lease may be requested by the lessee. If during that
4 period the lessee is still actively engaged in aquaculture, as determined by the
5 commission, the lessee shall have a prior right to renew the lease on terms agreed
6 upon between the commission and the lessee. If terms are not agreed upon, the
7 commission shall advertise for bids on the lease. If a request for renewal is not
8 made by the lessee, the commission shall advertise for bids on the lease. The
9 commission shall consider bids only from aquaculturists registered pursuant to
10 Chapter 1 (commencing with Section 23600) of Title 3.

11 (b) Notwithstanding subdivision (a), with respect to any lease of state water
12 bottoms in effect on January 1, 1983, the lessee shall have a prior right to renew
13 the lease. If the lessee does not renew the lease, the commission shall advertise for
14 bids on the lease. The commission shall consider bids only from aquaculturists
15 registered pursuant to Chapter 1 (commencing with Section 23600) of Title 3.

16 (c) Except as specified in subdivision (d), a lease may be renewed for additional
17 periods not to exceed 25 years each.

18 (d) A lease for marine finfish aquaculture may be renewed for additional periods
19 not to exceed five years each.

20 **Comment.** Section 24210 continues former Fish and Game Code Section 15406 without
21 substantive change.

22 **§ 24215. Periodic reports to commission**

23 24215. A water bottom lease may require periodic reports that the commission
24 deems necessary for the proper administration of the state's water bottoms.

25 **Comment.** Section 24215 continues former Fish and Game Code Section 15414 without
26 substantive change.

27 **§ 24220. Oyster leases**

28 24220. (a) The annual rent for any lease in effect on January 1, 1983, for the
29 cultivation of oysters, shall be one dollar (\$1) per acre, until the expiration of the
30 lease.

31 (b) In addition to the rent specified in subdivision (a), every person operating
32 under an oyster lease shall pay a privilege fee of four cents (\$0.04) per packed
33 gallon, or fraction of a gallon, of shucked oysters harvested by the lessee.

34 (c) If the oysters are marketed in the shell, the privilege fee shall be based on the
35 equivalent yield of shucked oyster meat. In determining the yield of oysters, it
36 shall be deemed that 100 oysters are equivalent to one packed gallon of shucked
37 oyster meat.

38 (d) The privilege fee imposed by this section is the exclusive privilege fee that
39 shall be imposed on lessees of state water bottoms for oyster cultivation,
40 notwithstanding subdivision (a) of Section 23820.

Comment. Subdivision (a) of Section 24220 continues the second sentence of former Fish and Game Code Section 15406.5(a) without substantive change.

Subdivisions (b) through (d) continue former Fish and Game Code Section 15406.7 without substantive change.

Note. The reference to a “privilege tax” in existing Section 15406.7 (which would be continued by proposed Section 24220(b)-(d)) has been revised to refer to a “privilege fee.”

The Commission invites comment on whether that revision is appropriate.

CHAPTER 4. RIGHTS AND RESPONSIBILITIES OF LESSEE

§ 24300. Payment of rent

24300. (a) The annual rent for a state water bottom lease shall be paid to the department within 30 days of the commencement of the lease and within 30 days of each anniversary of the commencement of the lease.

(b) The commission may establish penalty fees for late payment of rent due under a state water bottom lease.

(c) The commission may cancel a state water bottom lease if rent is not paid within 90 days of the commencement of the lease and within 90 days of each anniversary of the commencement of the lease.

Comment. Section 24300 continues former Fish and Game Code Section 15407 without substantive change.

§ 24305. Lessee responsibility for infringement

24305. A lessee of a state water bottom shall assume responsibility for any infringement on privately owned water bottoms, or water bottoms owned by, or under the jurisdiction of any city, county, or district.

Comment. Section 24305 continues the last sentence of former Fish and Game Code Section 15403 without substantive change.

§ 24310. Lessee rights to organisms

24310. A lessee of a state water bottom owns all lawfully cultivated organisms that are described in the application for the lease and produced in the area leased. The lessee has the exclusive right to cultivate and harvest the aquatic organisms in the area leased.

Comment. Section 24310 continues former Fish and Game Code Section 15402 without substantive change.

§ 24315. Accommodation of public activity in leased area

24315. (a) Lessees under a state water bottom lease may not unreasonably impede public access to waters of the state for purpose of fishing, navigation, commerce, or recreation.

(b) Notwithstanding subdivision (a), a lessee of a state water bottom may limit public access to the extent necessary to avoid damage to the leasehold, or to the aquatic life culture in the leasehold.

1 (c) The commission may prohibit any recreational activity in any aquaculture
2 area subject to a state water bottom lease, if it determines that the activity is
3 detrimental to the enhancement of the resource.

4 **Comment.** Section 24315 continues former Fish and Game Code Section 15411 without
5 substantive change.

6 **§ 24320. Termination of lease**

7 24320. (a) The commission shall adopt regulations governing the termination of
8 a state water bottom lease due to failure to pay rent, or improper use of the
9 leasehold.

10 (b) Upon termination of a state water bottom lease for any reason, all structures
11 shall be removed at the lessee's expense from the leasehold, and the area shall be
12 restored to its original condition. If the lessee fails to remove the structures, the
13 state may remove them and the lessee shall pay the removal costs incurred.

14 (c) The commission shall require financial assurances of each marine finfish
15 aquaculture lessee to ensure that restoration is performed to the satisfaction of the
16 commission. Financial assurances may take the form of surety bonds executed by
17 an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms
18 of financial assurances specified by the commission, as it determines are available
19 and adequate to ensure the lease site is restored pursuant to this section.

20 (d) Marine finfish aquaculture lessees shall be responsible for any damages
21 caused by their operations, as determined by the commission, including, but not
22 limited to, reimbursement for any costs for natural resource damage assessment.

23 (e) Nothing in this section limits the state in pursuing additional remedies
24 authorized by law.

25 **Comment.** Subdivision (a) of Section 24320 continues former Fish and Game Code Section
26 15408 without substantive change.

27 Subdivisions (b) through (e) continue former Fish and Game Code Section 15409 without
28 substantive change.

29 **§ 24325. Assignment of lease**

30 24325. No water bottom lease may be assigned without the prior approval of the
31 commission. Application for approval of a lease assignment shall comply with all
32 of the requirements for an original lease.

33 **Comment.** Section 24325 continues former Fish and Game Code Section 15412 without
34 substantive change.

35 **CHAPTER 5. PROHIBITIONS**

36 **§ 24400. Protection of leased area**

37 24400. (a) No person may enter an area subject to a state water bottom lease in
38 which aquatic life is cultivated, or remove aquatic life from that area, without the
39 consent of the lessee, or willfully destroy the cultivated aquatic life or any markers
40 intended to designate the boundaries and limits of the leased area.

1 **Comment.** Section 24400 continues former Fish and Game Code Section 15413 without
2 substantive change.

3 TITLE 7. DISEASE CONTROL

4 CHAPTER 1. ADMINISTRATION

5 **§ 24500. Responsibilities for disease control**

6 24500. (a) Upon the recommendation of the department and after consultation
7 with the Aquaculture Disease Committee created pursuant to this title, the
8 commission shall compile a list of diseases and parasites, and the aquatic plants
9 and animals they are known to infect or parasitize.

10 (b) All government activities relating to aquaculture disease detection, control,
11 and eradication that do not affect human health and safety are the responsibility of
12 the department.

13 **Comment.** Section 24500 continues former Fish and Game Code Section 15500 without
14 substantive change.

15 **§ 24505. Inspection of areas by department**

16 24505. The department may enter, under an inspection warrant issued pursuant
17 to Title 5 (commencing with Section 1822.50) of Part 3 of the Code of Civil
18 Procedure, at any time, any car, warehouse, depot, ship, or growing area where
19 any aquatic plants or animals are held or stored, for the purpose of making an
20 examination to ascertain whether the aquatic plants or animals are infected,
21 diseased, or parasitized.

22 **Comment.** Section 24505 continues former Fish and Game Code Section 15501 without
23 substantive change.

24 **§ 24510. Aquaculture Disease Committee**

25 24510. (a) The director, in consultation with the Aquaculture Industry Advisory
26 Committee and the Interagency Committee for Aquaculture Development, shall
27 appoint an 11-member Aquaculture Disease Committee consisting of at least six
28 industry producers selected to represent geographic, specie, and other diverse
29 aspects of the industry; two to represent the department; one to represent the
30 Department of Food and Agriculture; an academic scientist who is an expert in
31 aquatic diseases; and one representative of the University of California
32 Cooperative Extension.

33 (b) Members of the committee shall serve without compensation, but shall be
34 paid their necessary expenses.

35 **Comment.** Section 24510 continues former Fish and Game Code Section 15502 without
36 substantive change.

1 **§ 24515. Recommendation of regulations**

2 24515. (a) The Aquaculture Disease Committee may recommend regulations to
3 the commission designed to safeguard wild and cultured organisms from the list of
4 harmful organisms compiled pursuant to Section 24500.

5 (b) Regulations recommended by the committee and adopted by the commission
6 may include all of the following:

7 (1) Routine monitoring procedures.

8 (2) Standardized diagnostic procedures.

9 (3) A requirement for the confirmation of the diagnosis by the state through at
10 least one other independent and qualified laboratory.

11 (4) Criteria for ordering quarantine, condemnation, or destruction.

12 (5) A stated maximum time period between diagnosis and destruction.

13 (6) Methods to be employed in animal destruction and facility cleanup.

14 (7) Procedures for determining fair and rapid compensation.

15 (8) Any other related procedures that the commission may determine are
16 necessary.

17 **Comment.** Subdivision (a) of Section 24515 continues former Fish and Game Code Section
18 15503 without substantive change.

19 Subdivision (b) continues former Fish and Game Code Section 15504 without substantive
20 change.

21 **§ 24520. Authorized action by director**

22 24520. If any disease or parasite listed pursuant to Section 24500 is found to
23 exist that the director, in consultation with the Aquaculture Disease Committee
24 and consistent with the regulations adopted pursuant to Section 24515, deems to
25 be detrimental to the aquaculture industry or to wild stocks of aquatic plants and
26 animals, the director may do any of the following:

27 (a) Establish the area to be quarantined and list the aquatic plants and animals
28 affected by it.

29 (b) Post notices describing, as nearly as possible, the boundaries of an area
30 within which specific disease or parasite infestations are found. Notices posted
31 pursuant to this subdivision shall be published once a week for four successive
32 weeks in a newspaper of general circulation in the county in which the infected
33 area is located. If there is no newspaper of general circulation in that county, then
34 the notice shall be published in a newspaper of general circulation published in an
35 adjoining county.

36 (c) Hold and impound diseased or parasitized plants and animals.

37 (d) Forbid, prevent, or restrict the movement of all plants and animals subject to
38 the disease or parasite from or into the area, or from place to place within it,
39 during the existence of the quarantine.

40 (e) Order the destruction and disposal of diseased or parasitized plants and
41 animals consistent with Section 24515.

42 **Comment.** Section 24520 continues former Fish and Game Code Section 15505 without
43 substantive change.

1 **§ 24525. Quarantine or destruction of other plants or animals infected with nonlisted**
2 **disease**

3 24525. Except for those diseases in the list compiled pursuant to Section 24500,
4 a plant or animal shall not be quarantined or destroyed, unless the director, in
5 consultation with the Aquaculture Disease Committee, finds that an outbreak of
6 aquatic disease among privately cultured plants or animals presents a threat to the
7 aquaculture industry or to fish life or plant life.

8 **Comment.** Section 24525 continues former Fish and Game Code Section 15506 without
9 substantive change.

10 **§ 24530. Coordination of action in government and private facilities**

11 24530. If the director, in consultation with the Aquaculture Disease Committee,
12 finds that a disease is present in a nearby government operated facility or in nearby
13 wild stocks, infected plants or animals in a private aquaculture facility shall not be
14 quarantined or destroyed unless similar action is taken with respect to the
15 government facility and wild stocks.

16 **Comment.** Section 24530 restates former Fish and Game Code Section 15507 without
17 substantive change.

18 **§ 24535. Investigation of reported disease or parasite**

19 24535. Reports of diseases and parasites compiled pursuant to Section 24500
20 shall be immediately forwarded by the director to the Aquaculture Disease
21 Committee, and shall be promptly investigated by the department.

22 **Comment.** Section 24535 continues former Fish and Game Code Section 15508 without
23 substantive change.

24 **§ 24540. Prevention of importation of diseased aquatic plant or animal**

25 24540. (a) If the director determines that a disease designated pursuant to
26 Section 24500 exists among domestic aquatic plants and animals, or that aquatic
27 plants and animals have been exposed, or may have been exposed, to the disease,
28 or to the vectors of the disease, in any other state or territory in the United States,
29 or in any foreign country, and the importation of aquatic plants or animals from
30 that state, territory, or foreign country may transmit, carry, or disseminate the
31 disease to domestic plants and animals within this state, the director shall notify
32 the commission.

33 (b) The commission, after consulting the State Department of Health Care
34 Services and the Department of Food and Agriculture, may issue a regulation
35 restricting or prohibiting the importation of the diseased or infected aquatic plants
36 or animals into this state from any other state, territory, or foreign country.

37 **Comment.** Section 24540 continues former Fish and Game Code Section 15510 without
38 substantive change.

39 See also Section 5254 (enforcement).

1 **§ 24545. Permit to move quarantined plant or animal**

2 24545. No person may move, or allow to be moved, any of the aquatic plants or
3 animals that are subject to a quarantine established pursuant to Section 24520
4 across the quarantine line that is established, unless the person has first obtained a
5 permit from the director authorizing the movement. The director may issue a
6 permit after inspection, if the aquatic plants, animals, premises, transportation
7 vehicles, and equipment that are subject to the quarantine established pursuant to
8 Section 24520 are properly cleaned and disinfected.

9 **Comment.** Section 24545 continues former Fish and Game Code Section 15509 without
10 substantive change.

11 See also Section 5256 (enforcement).

12 CHAPTER 2. CLAIMS

13 **§ 24600. Compensation to owner of destroyed plant or animal**

14 24600. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e)
15 of Section 24520, and a claim is submitted pursuant to Section 24605, the owner
16 shall be promptly paid from the General Fund an amount equal to 75 percent of
17 the replacement value of the plants or animals, less the value determined by the
18 department of any replacement stock provided by the department under
19 subdivision (b). If the replacement value is not settled between the owner and the
20 department, the replacement value shall be determined by an appraiser appointed
21 by the director and an appraiser appointed by the owner. Appraiser's fees shall be
22 paid by the appointing party. Disputes between these two appraisers shall be
23 submitted to arbitration under the Commercial Arbitration Rules of the American
24 Arbitration Association.

25 (b) If the department provides replacement stock to an aquaculturist whose
26 plants or animals are destroyed pursuant to subdivision (e) of Section 24520, the
27 amount to be paid to the aquaculturist pursuant to this section shall be reduced by
28 the value of the replacement stock, as determined by the department.

29 (c) The result of the arbitration or the amount settled between the owner and the
30 department, reduced by the value determined by the department of any
31 replacement stock provided under subdivision (b), may be submitted as a claim by
32 the owner to the Department of General Services pursuant to Section 24605.

33 **Comment.** Section 24600 restates former Fish and Game Code Section 15512 without
34 substantive change.

35 **Note.** The first sentence of proposed Section 24600(a) is intended to restate the first sentence
36 of existing Fish and Game Code Section 15512(a), to clarify the meaning of that provision,
37 without changing its substantive meaning. The existing sentence reads as follows:

38 15512. (a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section
39 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of
40 the replacement value of the plants or animals, less the value determined by the department of
41 any replacement stock provided by the department under subdivision (b) if the claim is submitted
42 pursuant to Section 15513.

1 **The Commission invites comment on whether the first sentence of proposed Section**
2 **24600(a) accurately continues the intended meaning of the first sentence of existing Section**
3 **15512(a).**

4 **§ 24605. Claims against the department**

5 24605. Claims against the department arising under this title may be submitted
6 pursuant to Section 905.2 of the Government Code.

7 **Comment.** Section 24605 continues former Fish and Game Code Section 15513 without
8 substantive change.

9 **§ 24610. Disallowing of claim**

10 24610. No claim arising under this title shall be paid where the director, in
11 consultation with the Aquaculture Disease Committee, finds that the claimant's
12 management practices were negligent or in violation of law, and that the
13 negligence or violation was the proximate cause of the disease or infection
14 prompting the order of destruction or finds that the claimant willfully violated any
15 provision of Section 24520.

16 **Comment.** Section 24610 continues former Fish and Game Code Section 15514 without
17 substantive change.

18 **§ 24615. Liability for disease eradication**

19 24615. (a) The owner of an aquaculture product who does not diligently pursue
20 the eradication of a disease from its facility when ordered to do so by the director
21 shall be responsible for paying to the director the full costs of the department for
22 all disease eradication efforts conducted by the department to eradicate the
23 disease.

24 (b) Payment of the costs under this section shall not excuse compliance with the
25 provisions of law, regulations of the commission, or orders of the director, nor be
26 a defense in any criminal or civil proceeding.

27 **Comment.** Section 24615 continues former Fish and Game Code Section 15516 without
28 substantive change.

29 **TITLE 8. IMPORTATION OF AQUATIC PLANTS**
30 **AND ANIMALS**

31 **§ 24700. Application of title**

32 24700. (a) Nothing in this title prohibits the importation of Atlantic salmon or
33 the roe of Atlantic salmon, or the continued possession of Atlantic salmon or the
34 roe of Atlantic salmon that were lawfully imported or possessed in the Smith
35 River watershed on or before February 22, 1988, under a written approval of the
36 department issued pursuant to Section 24705 or 24710.

(b) Nothing in this title applies to the importation or possession of dead Atlantic salmon or nonviable roe of Atlantic salmon imported for human consumption, if the importer has the appropriate licenses issued by the department.

Comment. Section 24700 continues former Fish and Game Code Section 15605 without substantive change.

§ 24705. Required approval by department

24705. No live aquatic plant or animal may be imported into this state by a registered aquaculturist without the prior written approval of the department, pursuant to the regulations adopted by the commission.

Comment. Section 24705 continues former Fish and Game Code Section 15600(a) without substantive change.

See also Section 5258 (enforcement).

§ 24710. Prohibited importation

24710. (a) Except as provided in subdivision (b), the department shall not approve a person's importation of, or renew a person's permit to import, any anadromous fish or roe from an anadromous fish listed in Section 26520, or the regulations adopted pursuant to Section 26520, into the Smith River watershed, unless that person had a permit or authorization approved before February 22, 1988.

(b) The department may issue or renew a permit for the importation of any anadromous fish or roe from an anadromous fish specifically for research purposes conducted at any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

Comment. Section 24710 continues former Fish and Game Code Section 15600(b) without substantive change.

§ 24715. Application for importation

24715. A written application for the importation of a live aquatic plant or animal that is submitted in conformance with the procedural requirements established by the commission is deemed to be approved if it has not been denied within 60 days.

Comment. Section 24715 restates former Fish and Game Code Section 15601 without substantive change.

Note. Proposed Section 24715 is intended to restate existing Fish and Game Code Section 15601 to clarify the meaning of that provision, without changing its substantive meaning. The existing provision reads as follows:

15601. A written application for the importation submitted in conformance with the procedural requirements established by the commission is deemed to be approved where it has not been denied within 60 days.

The Commission invites comment on whether proposed Section 24715 accurately continues the intended substantive meaning of existing Section 15601.

1 **§ 24720. Application of California Environmental Quality Act**

2 24720. No facility constructed for the purpose of spawning, incubating, or
3 raising of anadromous fish listed in Section 26520 in the Smith River watershed is
4 exempt from any provision of the California Environmental Quality Act.

5 **Comment.** Section 24720 continues former Fish and Game Code Section 15604 without
6 substantive change.

7 **TITLE 9. AQUACULTURE DEVELOPMENT**
8 **COMMITTEE**

9 **§ 24800. Composition of committee**

10 24800. (a) The director shall appoint an Aquaculture Development Committee,
11 consisting of the following persons:

12 (1) At least 12 members representing all sectors of the fresh and salt water
13 aquaculture industry.

14 (2) One member representing the department, two members from and chosen by
15 the University of California, one with expertise in aquaculture science and one
16 with expertise in outreach to the fisheries community, and one member each from
17 and chosen by the Department of Food and Agriculture, the California Coastal
18 Commission, the State Lands Commission, the State Water Resources Control
19 Board, the State Department of Public Health, and the Joint Legislative Committee
20 on Fisheries and Aquaculture.

21 (b) The member of the committee appointed by the Joint Legislative Committee
22 on Fisheries and Aquaculture shall meet and, except as otherwise provided by the
23 California Constitution, advise the committee, to the extent that this advisory
24 participation is not incompatible with his or her position as a Member of the
25 Legislature.

26 **Comment.** Section 24800 continues former Fish and Game Code Section 15700 without
27 substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of
28 specified references in former Fish and Game Code to State Department of Health Services).

29 **Note.** The reference in existing Fish and Game Code Section 15700 to the State Department
30 of Health Services would be revised by proposed Section 24800 to instead refer to the State
31 Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and
32 131052(6).

33 **The Commission invites comment on whether that revision is appropriate.**

34 **§ 24805. Term of membership**

35 24805. (a) The term of membership for members of the committee other than
36 representatives of public agencies shall be three years.

37 (b) The representatives of public agencies shall serve at the pleasure of the
38 agency that the member represents.

39 **Comment.** Section 24805 continues former Fish and Game Code Section 15701(a) without
40 substantive change.

1 **§ 24810. Compensation**

2 24810. Members of the committee shall serve without compensation.

3 **Comment.** Section 24810 continues former Fish and Game Code Section 15701(b) without
4 substantive change.

5 **§ 24815. Meetings**

6 24815. The committee shall meet on the call of the director, but not less than
7 twice each year.

8 **Comment.** Section 24815 continues former Fish and Game Code Section 15703 without
9 substantive change.

10 **§ 24820. Function of committee**

11 24820. (a) The committee shall be advisory to the director on all matters
12 pertaining to aquaculture and shall coordinate activities among public entities.

13 (b) The committee shall assist the director in developing and implementing a
14 state aquaculture plan, identify the opportunities for regulatory relief, assist in
15 development of research and development priorities, assist in the development of
16 criteria to assure that publicly financed pilot programs are compatible with
17 industry needs, and identify other opportunities for industrial development.

18 **Comment.** Section 24820 continues former Fish and Game Code Section 15702 without
19 substantive change.

20 **TITLE 10. PROHIBITIONS**

21 **CHAPTER 1. GENERAL PROVISIONS**

22 **§ 24900. Unlawful taking**

23 24900. Any person who takes an aquaculture product without lawful entitlement
24 is subject to prosecution for theft.

25 **Comment.** Section 24900 continues former Fish and Game Code Section 15002 without
26 substantive change.

27 **§ 24905. Prohibited fish cultural operations**

28 24905. Except under permit of the department, it is unlawful to carry on fish
29 cultural operations on any stream above a point where water is diverted for the use
30 and operation of a state fish hatchery.

31 **Comment.** Section 24905 continues former Fish and Game Code Section 5511 without
32 substantive change.

CHAPTER 2. EXOTIC OR TRANSGENIC SPECIES

§ 24950. Application of chapter

24950. (a) Nothing in this chapter applies to salmon or steelhead trout reared from native California stocks that are propagated and cultured for either of the following:

(1) Research conducted by, or on behalf of, the department.

(2) Release into ocean waters for the purpose of recovery, restoration, or enhancement of California's native salmon and steelhead trout populations pursuant to Chapter 2 (commencing with Section 11800) of Title 2 of Part 4 of Division 6, and Section 25125.

(b) Nothing in this chapter authorizes artificial propagation, rearing, or stocking of transgenic freshwater and marine fishes, invertebrates, crustaceans, or mollusks.

Comment. Subdivision (a) of Section 24950 continues the third sentence of former Fish and Game Code Section 15007(a) without substantive change.

Subdivision (b) continues the former Fish and Game Code Section 15007(b) without substantive change.

§ 24955. Definitions

24955. The following definitions govern the provisions of this chapter:

(a) "Exotic species" means a fish that is not native to California waters, and that does not currently exist as a viable population in a wild condition in the state.

(b) "Transgenic" has the meaning specified in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

Comment. Section 24955 continues former Fish and Game Code Section 15007(f) without substantive change.

§ 24960. Prohibitions

24960. (a) In the waters of the Pacific Ocean that are regulated by this state, it is unlawful to spawn, incubate, or cultivate any species of finfish belonging to the family Salmonidae, any transgenic fish species, or any exotic species of finfish.

(b) Except as authorized pursuant to Section 24965, it is unlawful to spawn, incubate, or cultivate any transgenic species of finfish belonging to the family Salmonidae in this state.

(c) Research or experimentation for the commercial production of transgenic salmonids is prohibited.

Comment. Subdivision (a) of Section 24960 continues the first sentence of former Fish and Game Code Section 15007(a) without substantive change.

Subdivision (b) continues the second sentence of former Fish and Game Code Section 15007(a) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 15007(c) without substantive change.

1 **§ 24965. Research pursuant to permit**

2 24965. (a) Medical or scientific research conducted on transgenic finfish species
3 by accredited California academic institutions or private entities for research only
4 and not for commercial production may be authorized pursuant to a permit issued
5 by the department pursuant to Section 671 of Title 14 of the California Code of
6 Regulations, as that section read on May 14, 2003.

7 (b) At a minimum, research activities conducted pursuant to this section shall be
8 conducted in a closed system that has eliminated the risk of escape of transgenic
9 finfish species and any potential disease they may transmit.

10 (c) A permit application applied for pursuant to this section shall include a
11 research plan specifying the objectives and goals of the proposed research.

12 (d) Nothing in this section shall be construed to require the disclosure of
13 proprietary information.

14 **Comment.** Section 24965 continues former Fish and Game Code Section 15007(d) without
15 substantive change.

16 **§ 24970. Notification of permit application**

17 24970. The department shall notify the Joint Committee on Fisheries and
18 Aquaculture and the commission upon receipt of a permit application applied for
19 pursuant to Section 24965, at least 30 days prior to the approval or disapproval of
20 the permit.

21 **Comment.** Section 24970 continues former Fish and Game Code Section 15007(e) without
22 substantive change.

23 **PART 2. FISH HATCHERIES**

24 **TITLE 1. FISH HATCHERIES GENERALLY**

25 **§ 25100. Fish hatcheries**

26 25100. The commission shall establish fish hatcheries for stocking the waters of
27 the state with fish. The department shall maintain and operate the hatcheries.

28 **Comment.** Section 25100 continues former Fish and Game Code Section 1120 without
29 substantive change.

30 **§ 25105. Liability arising from lease of real property**

31 25105. (a) Whenever the state leases real property from any county, city,
32 irrigation district, or other public agency in this state for the purpose of
33 establishing or maintaining a fish hatchery, the state may agree to indemnify and
34 hold the lessor harmless for uses authorized by that lease.

35 (b) Insurance may be purchased by the Department of General Services to
36 protect the state against loss or expense arising out of an agreement entered into
37 pursuant to subdivision (a).

1 **Comment.** Section 25105 continues former Fish and Game Code Section 1121 without
2 substantive change.

3 **§ 25110. Claim for damages**

4 25110. Any claim for damages arising against the state under Section 25105
5 shall be presented to the Department of General Services in accordance with
6 Section 905.2 of the Government Code, and if not covered by insurance provided
7 pursuant to Section 25105, the claim shall be payable only out of funds
8 appropriated by the Legislature for that purpose. If the state elects to insure its
9 liability under Section 25105, the Department of General Services may
10 automatically deny the claim.

11 **Comment.** Section 25110 continues former Fish and Game Code Section 1122 without
12 substantive change.

13 **§ 25115. Bird exclosures**

14 25115. Notwithstanding any other provision of law, department personnel may
15 construct or repair bird exclosures at state owned or operated fish hatcheries.
16 These activities shall not be subject to review by the Public Works Board. Nothing
17 in this section exempts the department from complying with any provision of law
18 governing services performed under contract by noncivil service employees.

19 **Comment.** Section 25115 continues former Fish and Game Code Section 1126 without
20 substantive change.

21 **§ 25120. County fish hatcheries**

22 25120. The boards of supervisors of the several counties may establish and
23 maintain fish hatcheries, and may purchase the spawn or ova of fish.

24 **Comment.** Section 25120 continues former Fish and Game Code Section 1150 without
25 substantive change.

26 **§ 25125. Nonprofit hatcheries**

27 25125. (a) The department shall encourage nonprofit hatcheries and nonprofit
28 artificial propagation operations, operated by, or on behalf of, licensed fishermen,
29 for the purpose of rebuilding or enhancing marine fish populations, including, but
30 not limited to, those for Dungeness crab, sea urchin, and California halibut,
31 consistent with the protection of these species in the wild, in order to provide
32 sustainable marine fish populations for harvest by commercial and recreational
33 fishermen.

34 (b) The department shall, to the extent funds and personnel are available,
35 cooperate with these nonprofit hatcheries and nonprofit artificial propagation
36 operations in determining the feasibility, siting, and establishment of those
37 activities and sharing technical information to ensure the protection of the marine
38 environment.

39 **Comment.** Section 25125 continues former Fish and Game Code Section 6903.5 without
40 substantive change.

1 **§ 25130. Mount Whitney Fish Hatchery**

2 25130. (a) Notwithstanding any other provision of law, the Director of General
3 Services, with the consent of the department, may lease to the Friends of the
4 Mount Whitney Fish Hatchery, at no cost, and subject to any other terms and
5 conditions that the director deems appropriate, for a term not to exceed 25 years
6 and with the possibility of renewal, the Mount Whitney Fish Hatchery, or any part
7 of the hatchery.

8 (b) Any part of the hatchery that is leased pursuant to subdivision (a) shall be
9 used for environmental education purposes and other related activities designed to
10 benefit the hatchery and the community.

11 (c) The lease shall require the Friends of the Mount Whitney Fish Hatchery to
12 permit reasonable public access to the hatchery, to obtain and maintain liability
13 insurance for the leased portion of the hatchery, and to maintain the leased portion
14 of the hatchery at all times. The lease shall provide that any work done on the
15 hatchery shall be performed in consultation with the State Office of Historic
16 Preservation. The lease shall also provide that the state, agents of the state, the
17 department, and agents of the department shall be held harmless from, and
18 indemnified against, any liability resulting from any act or omission of the Friends
19 of the Mount Whitney Fish Hatchery arising out of performance of the lease.

20 **Comment.** Section 25130 restates former Fish and Game Code Section 1122.5 without
21 substantive change.

22 **Note.** Proposed Section 25130 is intended to restate the part of existing Fish and Game Code
23 Section 1122.5 to improve its clarity, without changing its substantive effect. The existing
24 provision reads as follows:

25 1122.5. Notwithstanding any other provision of law, the Director of General Services, with the
26 consent of the department, may lease to the Friends of the Mount Whitney Hatchery, at no cost,
27 and subject to any other terms and conditions that the director deems appropriate, for a term not
28 to exceed 25 years, and with the possibility of renewal, the Mount Whitney Fish Hatchery
29 facilities, or any portion thereof, situated in the County of Inyo. The leased portion of the building
30 shall be used for environmental education purposes and other related activities designed to benefit
31 the hatchery and the community. The lease shall require the Friends of the Mount Whitney Fish
32 Hatchery to permit reasonable public access to the facility, to obtain and maintain liability
33 insurance for the leased portion of the facility, and to maintain the leased portion of the facility at
34 all times. The lease shall provide that any work done on the facility shall be performed in
35 consultation with the State Office of Historic Preservation. The lease shall also provide that the
36 state, agents of the state, the department, and agents of the department shall be held harmless
37 from, and indemnified against, any liability resulting from the acts or omissions of the Friends of
38 the Mount Whitney Fish Hatchery performed in the course of the lease agreement.

39 **The Commission invites comment on whether the restatement would cause any**
40 **substantive change in the meaning of the provision.**

41 **§ 25135. Transgenic species of salmonids**

42 25135. (a) The hatchery production and stocking of transgenic species of
43 salmonids is prohibited.

1 (b) As used in this section, “transgenic” has the same meaning as in Section 1.92
2 of Title 14 of the California Code of Regulations, as that section read on May 14,
3 2003.

4 **Comment.** Section 25135 continues former Fish and Game Code Section 1210 without
5 substantive change.

6 TITLE 2. ANADROMOUS FISH HATCHERIES

7 § 25200. Permit to operate hatchery

8 25200. The commission may issue a permit, subject to such restrictions and
9 regulations as the commission deems desirable, to a nonprofit organization to
10 construct and operate an anadromous fish hatchery.

11 **Comment.** Section 25200 continues former Fish and Game Code Section 1170 without
12 substantive change.

13 § 25205. Financial capability

14 25205. The commission shall not issue a permit unless it determines the
15 nonprofit organization has the financial capability to successfully construct and
16 operate the hatchery and will diligently and properly conduct the operation
17 authorized under the permit.

18 **Comment.** Section 25205 continues former Fish and Game Code Section 1171 without
19 substantive change.

20 § 25210. Restrictions

21 25210. No permit will be issued which may tend to deplete the natural runs of
22 anadromous fish, result in waste or deterioration of fish, or when the proposed
23 operation is located on a stream or river below a state or federal fish hatchery or
24 egg-taking station.

25 **Comment.** Section 25210 continues former Fish and Game Code Section 1172 without
26 substantive change.

27 § 25215. Fish property of state

28 25215. All fish handled under authority of this chapter during the time they are
29 in the hatchery or in the wild are the property of the state and when in the wild
30 may be taken under the authority of a sport or commercial fishing license as
31 otherwise authorized for wild fish.

32 **Comment.** Section 25215 continues former Fish and Game Code Section 1173 without
33 substantive change.

34 § 25220. Conditions of permit

35 25220. Any permit granted by the commission pursuant to this chapter shall
36 contain all of the following conditions:

(a) If after a hearing the commission finds that the operation described in the permit and conducted pursuant to this chapter is not in the best public interest, the commission may alter the conditions of the permit to mitigate the adverse effects, or may cause an orderly termination of the operation under the permit. An orderly termination shall not exceed a three-year period and shall culminate in the revocation of the permit in its entirety.

(b) If the commission finds that the operation has caused deterioration of the natural run of anadromous fish in the waters covered by the permit, it may require the permittee to return the fishery to the same condition as was prior to issuance of the permit. If the permittee fails to take appropriate action, the commission may direct the department to take the action, and the permittee shall bear any cost incurred by the department.

(c) Prior to release into waters of the state and at any other time deemed necessary by the department, the fish may be examined by the department to determine that they are not diseased or infected with any disease which, in the opinion of the department, may be detrimental to the state fishery resources.

Comment. Section 25220 continues former Fish and Game Code Section 1174 without substantive change.

§ 25225. Disclaimer of state liability

25225. The state shall assume no responsibility for the operation of a hatchery pursuant to this chapter and shall not be in any manner liable for its operation.

Comment. Section 25225 continues former Fish and Game Code Section 1175 without substantive change.

TITLE 3. COOPERATIVE SALMON AND STEELHEAD REARING FACILITIES

§ 25300. Department agreement

25300. (a) The department is authorized to enter into agreements with counties, nonprofit groups, private persons, individually or in combination, for the management and operation of rearing facilities for salmon and steelhead. All agreements shall be in accordance with the policies of the commission and the criteria of the department that govern the operation of those facilities under those agreements.

(b) The purpose for operating the facilities shall be to provide additional fishing resources and to augment natural runs.

Comment. Section 25300 continues former Fish and Game Code Section 1200 without substantive change.

§ 25305. Demonstration of financial ability

25305. (a) An applicant who wishes to enter into an agreement to operate a rearing facility shall demonstrate, to the satisfaction of the department prior to

1 executing the agreement, the applicant's financial ability to properly operate the
2 rearing facility.

3 (b) The department shall develop and specify the means for an applicant to make
4 such a demonstration.

5 **Comment.** Section 25305 continues former Fish and Game Code Section 1201 without
6 substantive change.

7 **§ 25310. Property of state**

8 25310. All fish handled or released under authority of this title are the property
9 of the state and may be taken only after their release into the wild and under the
10 authority of a sport or commercial fishing license.

11 **Comment.** Section 25310 continues the part of former Fish and Game Code Section 1202
12 without substantive change.

13 **§ 25315. Release determined by Commission**

14 25315. The release of fish reared in facilities pursuant to this title shall be made
15 in accordance with the policy of the commission.

16 **Comment.** Section 25315 continues former Fish and Game Code Section 1203 without
17 substantive change.

18 **§ 25320. Funding of agreements**

19 25320. (a) The department shall fund the agreements provided for in Section
20 25300 only on a matching basis with the persons or entities who enter into those
21 agreements. Funds appropriated for the purposes of this title shall not be used to
22 purchase equipment or for construction.

23 (b) The department shall be reimbursed from funds appropriated for the
24 purposes of this title for administrative costs, legal costs, and supervisorial costs
25 relating to the execution and supervision of agreements provided for in Section
26 25300 by the department.

27 **Comment.** Section 25320 continues former Fish and Game Code Section 1204 without
28 substantive change.

29 **§ 25325. Department to make fish available**

30 25325. The department shall, subject to the limitations of appropriate egg
31 sources and funding, make available fish of appropriate size and species to persons
32 or entities who enter into agreements pursuant to this title.

33 **Comment.** Section 25325 continues former Fish and Game Code Section 1205 without
34 substantive change.

35 **§ 25330. Location of release**

36 25330. Salmon and steelhead raised pursuant to this title shall be released in
37 streams, rivers, or waters north of Point Conception and upon release shall have
38 unimpeded access to the sea.

1 **Comment.** Section 25330 continues former Fish and Game Code Section 1206 without
2 substantive change.

3 PART 3. FISH PLANTING

4 TITLE 1. GENERAL PROVISIONS

5 **§ 25400. Application of part**


6 25400. This title, Title 3 (commencing with Section 25600), and Title 4
7 (commencing with Section 25700), do not apply to activities governed by Division
8 12 (commencing with Section 23300).

9 **Comment.** Section 25400 continues former Fish and Game Code Section 6403 as it applied to
10 former Fish and Game Code Sections 6400, 6401, 6402, and 6420 through 6424, inclusive,
11 subdivision (b) of Former Fish and Game Code Section 6425, former Fish and Game Code
12 Sections 6590 through 6595, inclusive, and former Fish and Game Code Sections 6597 through
13 6598, inclusive, without substantive change.

14 **§ 25405. Spawn and ova**

15 25405. The department may purchase and import spawn or ova of fish suitable
16 for food, and stock the waters of the state with that spawn or ova.

17 **Comment.** Section 25405 continues former Fish and Game Code Section 1123 without
18 substantive change.

19  **Note.** The continuation of this section in this title would subject it to existing Section 6403
20 (proposed Section 25400), making it inapplicable to aquaculture business activities. That
21 technical change would not seem to have any practical effect, because the public entity activities
22 described in this section do not appear to be aquaculture business activities.

23 **The Commission invites comment on whether the proposed placement of this section in**
24 **this title would cause any problems.**

25 **§ 25410. Permit to stock fish**

26 25410. Any person may, under the terms of a permit first obtained from the
27 department, under regulations the commission may adopt, purchase or receive live
28 fish from any registered aquaculturist, and may stock the fish in a stream or a lake.

29 **Comment.** Section 25410 continues former Fish and Game Code Section 6401 without
30 substantive change.

31 **§ 25415. Planting of fish**

32 25415. It is unlawful to place, plant, or cause to be placed or planted, in any of
33 the waters of the state, any live fish, any fresh or salt water animal, or any aquatic
34 plant, whether taken without or within the state, without first submitting it for
35 inspection to, and securing the written permission of, the department.


36 **Comment.** Section 25415 continues former Fish and Game Code Section 6400 without
37 substantive change.

38 See also Sections 5250, 5260 (enforcement).

1 **§ 25420. Fish cultural operations and scientific investigations**

2 25420. The Secretary of the Interior of the United States and the secretary's duly
3 authorized agents may conduct fish cultural operations and scientific
4 investigations in the waters of the state in a manner and at times as may be jointly
5 considered necessary and proper by the secretary and the secretary's agents, and
6 the commission.

7 **Comment.** Section 25420 continues former Fish and Game Code Section 1125 without
8 substantive change.

9  **Note.** The continuation of this section in this title would subject it to existing Section 6403
10 (proposed Section 25400), making it inapplicable to aquaculture business activities. That
11 technical change would not seem to have any practical effect, because the public entity activities
12 described in this section do not appear to be aquaculture business activities.

13 **The Commission invites comment on whether the proposed placement of this section in**
14 **this title would cause any problems.**

15 **TITLE 2. AQUATIC NUISANCE SPECIES**

16 **§ 25500. Damages**

17 25500. (a) A person who personally or through another violates Section 25415,
18 through the use of an aquatic nuisance species, is liable to the owner of any
19 privately or publicly owned property for any damages to that property caused by
20 the violation. A person who violates Section 25415 through the use of an aquatic
21 nuisance species shall also be liable for all monetary damages directly, indirectly,
22 and proximately caused thereby, including, but not limited to, damages to any
23 commercial fishery, sport fishery, or to the public communities which depend
24 upon those fisheries for a portion of their annual income. The Attorney General
25 may file a civil action on behalf of the fisheries or communities that are damaged
26 as a result of the violation. In addition, a private citizen who suffers damages as a
27 result of the violation may file a civil action against the violator.

28 (b) A person who allows an aquatic nuisance species to escape from his or her
29 property to the property of another, whether privately or publicly owned, is liable
30 to the owner of the intruded upon property for any damages caused by the species.

31 (c) This section shall not apply to the placement of any live fish, any fresh or
32 salt water animal, or any aquatic plant from the discharge or exchange of ballast
33 water from any vessel as defined by Section 21 of the Harbors and Navigation
34 Code.

35 (d) This section does not apply to the placement of an aquatic plant by a person
36 who was unaware that he or she was in possession of the plant. This exception
37 includes circumstances in which a plant becomes unknowingly and temporarily
38 attached or affixed to a boat, boat trailer, or boat motor.

39 **Comment.** Section 25500 continues former Fish and Game Code Section 12023(b)-(e) without
40 substantive change. See also Section 5260 (criminal penalty).

1 **§ 25505. Response costs**

2 25505. (a) In addition to Section 5260, a person who violates Section 25415
3 through the use of an aquatic nuisance species is liable for all public and private
4 response, treatment, and remediation efforts resulting from the violation. The cost
5 of these efforts shall constitute a debt of that person, and shall be collectible by the
6 federal, state, county, public agency, or private individual or individuals, incurring
7 those costs in the same manner as in the case of an obligation under a contract,
8 expressed or implied.

9 (b) Public agencies participating in a response to a violation of Section 25415
10 through the use of an aquatic nuisance species may designate one or more of the
11 participating agencies to bring an action to recover costs incurred by all of the
12 participating agencies.

13 (c) The costs relating to an accounting for a violation of Section 25415 through
14 the use of an aquatic nuisance species and the collection of any funds, including,
15 but not limited to, the administrative, legal, and public relations costs of operating
16 a response and remediation program may also be the subject of an action to
17 recover costs which are charged against the responsible person.

18 **Comment.** Section 25505 continues former Fish and Game Code Section 12024 without
19 substantive change.

20 **§ 25510. Reward**

21 25510. Any person whom the department determines has provided evidence or
22 information leading to the arrest and conviction of a person or persons found
23 guilty of violating Section 25415 through the use of an aquatic nuisance species, is
24 eligible to obtain a reward of up to fifty thousand dollars (\$50,000) pursuant to
25 Section 4300.

26 **Comment.** Section 25510 continues former Fish and Game Code Section 12026 without
27 substantive change.

28 **TITLE 3. ARTIFICIAL REEFS**

29 **§ 25600. Legislative findings and declaration**

30 25600. The Legislature finds and declares all of the following:

31 (a) Declines in various southern California marine species of fish have adversely
32 affected the sport and commercial fishing industry.

33 (b) Efforts to enhance these species through the placement of artificial reefs
34 need to be investigated.

35 (c) A program of artificial reef research and development, including reef design,
36 placement, and monitoring, is in the public interest and can best be accomplished
37 under the administration of the department with the cooperation and assistance of
38 the University of California, the California State University, other established,
39 appropriate academic institutions, and other organizations with demonstrated
40 expertise in the field.

(d) A state artificial reef research and construction program under the administration of the department is necessary to coordinate ongoing studies and construction of artificial reefs in waters of the state.

Comment. Section 25600 continues former Fish and Game Code Section 6420 without substantive change.

§ 25605. Definitions

25605. For purposes of this title, the following terms have the following meaning:

(a) “Artificial reef” means manmade or natural objects intentionally placed in selected areas of the marine environment to duplicate those conditions that induce production of fish and invertebrates on natural reefs and rough bottoms, and that stimulate the growth of kelp or other midwater plant life which creates natural habitat for those species.

(b) “Production” means increases in the biomass of a species or number of species.

(c) “Program” means the California Artificial Reef Program.

Comment. Section 25605 continues former Fish and Game Code Section 6421 without substantive change.

§ 25610. Department administration

25610. The department shall administer the California Artificial Reef Program.

Comment. Section 25610 continues former Fish and Game Code Section 6422 without substantive change.

§ 25615. Elements of program

25615. The program shall include all of the following:

(a) The placement of artificial reefs in state waters.

(b) A study of existing successful reefs and all new reefs placed by the program to determine the design criteria needed to construct artificial reefs capable of increasing fish and invertebrate production in waters of the state.

(c) A determination of the requirements for reef siting and placement.

Comment. Section 25615 continues former Fish and Game Code Section 6423 without substantive change.

§ 25620. Allocation

25620. (a) The amount allocated for the administration of the program in any fiscal year may not exceed the amount authorized by applicable state and federal policy guidelines.

(b) It is the intent of the Legislature that future sources of funding for the program may include, but are not limited to, the Fish and Game Preservation Fund, the California Environmental License Plate Fund, the Wildlife Restoration Fund, recreational bond act funds, federal grants-in-aid, county fish and game propagation funds, and private donations.

Comment. Subdivision (a) of Section 25620 continues former Fish and Game Code Section 6424 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 6425(b) without substantive change.

Note. Existing Fish and Game Code Section 6425(a), referring to the California Artificial Reef program, reads as follows:

(a) It is the intent of the Legislature that not more than five hundred thousand dollars (\$500,000) shall be allocated to the program for the 1985–86 fiscal year.

The Commission invites comment on whether this provision is now obsolete, and may be discontinued in the proposed law.

TITLE 4. OCEAN FISHERY RESEARCH

§ 25700. Legislative findings and declaration

25700. The Legislature finds and declares all of the following:

(a) Substantial declines in various species of desirable fish that are caught in southern California ocean waters have adversely affected recreational and commercial fishing and their related industries.

(b) Research and development of artificial propagation, rearing, and stocking techniques and equipment have been sufficiently developed. The purpose of this chapter is to determine if hatchery-released fish can artificially enhance certain stocks of various desirable species, through increased hatchery production of fish and increased monitoring of fisheries to assess the contribution of hatchery-released fish to that enhancement.

(c) Funding for research pertaining to enhancement and artificial propagation, rearing, and stocking are most appropriately borne by a special fund derived from user fees on recreational and commercial fishermen who stand to directly benefit from the resurgence of depressed marine fisheries.

(d) The department has continuing resource management, administrative, and policy review responsibility in marine resources issues.

(e) Volunteers from the recreational fishing community have developed and operated grow-out facilities with private funding. These volunteer activities greatly enhance the effectiveness of the program and are fully compatible with the overall program objectives.

(f) As white sea bass hatchery production is established, additional grow-out facilities will be required and coordination between these facilities will be necessary. The ocean resources enhancement advisory panel may encourage contracts to carry out coordination activities and recommend to the director that this coordination remain a high priority. Those coordination activities may be funded with fees collected by the department pursuant to this title.

(g) The use of federal matching funds, including sportfish restoration account funds, shall be a high priority for use to match state dollars for this program.

1 **Comment.** Section 25700 continues former Fish and Game Code Section 6590 without
2 substantive change.

3 **§ 25705. Definitions**

4 25705. For purposes of this title, “program” means the California Ocean
5 Resources Enhancement and Hatchery Program established by this title.

6 **Comment.** Section 25705 continues former Fish and Game Code Section 6591 without
7 substantive change.

8 **§ 25710. Purpose of program**

9 25710. There is hereby established in state government the California Ocean
10 Resources Enhancement and Hatchery Program, for the purpose of basic and
11 applied research on the artificial propagation, rearing, stocking, and distribution of
12 adversely affected marine fish species that are important to sport or commercial
13 fishing in the ocean waters off the coast of California south of a line extending due
14 west from Point Arguello.

15 **Comment.** Section 25710 continues former Fish and Game Code Section 6592 without
16 substantive change.

17 **§ 25715. Creation of advisory panel**

18 25715. (a) To assist the director in establishing policy and direction for the
19 research and enhancement programs to be supported from the Fish and Game
20 Preservation Fund, there is hereby created in the department an Ocean Resources
21 Enhancement Advisory Panel.

22 (b) The panel shall consist of the following members:

23 (1) One member representing the department.

24 (2) One member from the University of California, appointed by the president.

25 (c) One member from the California State University System, appointed by the
26 chancellor.

27 (4) Two members representing persons working in the southern California
28 commercial fishing industry, of which one shall be appointed by the director from
29 a list of at least three persons submitted by the California Gillnetters Association
30 and one shall be appointed by the director from a list of at least three persons
31 submitted by the California Fisheries and Seafood Institute.

32 (5) One member representing the southern California commercial passenger
33 fishing vessel industry, appointed by the director from a list of at least three
34 persons submitted by the Sportfishing Association of California.

35 (6) Three members representing persons who engage in southern California
36 ocean sport fishing, of which one shall be appointed by the director from a list of
37 at least three persons submitted by the United Anglers of California, one appointed
38 by the director from a list of at least three persons submitted by the National
39 Coalition for Marine Conservation, Pacific Region, and one appointed by the
40 director from a list of at least three persons submitted by California resident
41 members of the American Fishing Tackle Manufacturers Association.

1 (7) One member representing the California Aquaculture Association
2 established pursuant to Section 24800.

3 (c) No person shall serve on the panel if that person is receiving research
4 funding from the program.

5 **Comment.** Subdivision (a) of Section 25715 continues former Fish and Game Code Section
6 6594 without substantive change.

7 Subdivision (b) continues the second sentence of former Fish and Game Code Section 6593
8 without substantive change.

9 **§ 25720. Administration of program**

10 25720. The program is administered by the director, with the advice and
11 assistance of the advisory panel created in Section 25715. The director may
12 appoint, with the advice and consent of the advisory panel, a program manager to
13 assist in administering the program.

14 **Comment.** Section 25720 continues the first and third sentences of former Fish and Game
15 Code Section 6593 without substantive change.

16 **§ 25725. Use of funds**

17 25725. (a) All fees collected by the department pursuant to this title, Section
18 13255, 14620, and any interest earned on those fees, shall be deposited in the Fish
19 and Game Preservation Fund and shall be available, upon appropriation by the
20 Legislature, solely for purposes of the program. The department shall maintain the
21 internal accountability necessary to ensure that expenditures of these funds meet
22 the requirements and restrictions of the purposes of the program.

23 (b) An amount, not to exceed 15 percent of the total annual revenues deposited
24 in the fund pursuant to this title, may be appropriated for the administration of the
25 program, including any reasonable and necessary expenses incurred by members
26 of the Ocean Resources Enhancement Advisory Panel in the discharge of their
27 duties pursuant to this title.

28 (c) No part of the program may be financed pursuant to this title unless it has
29 been approved by both the director and a majority of the members of the Ocean
30 Resources Enhancement Advisory Panel.

31 **Comment.** Section 25725 continues former Fish and Game Code Section 6595 without
32 substantive change.

33 **§ 25730. Contracting with nonprofit organizations**

34 25730. The department may contract with private nonprofit organizations that,
35 prior to January 1, 1984, were conducting research related to the purposes of the
36 program, to conduct research projects pursuant to this title.

37 **Comment.** Section 25730 continues former Fish and Game Code Section 6597 without
38 substantive change.

1 **§ 25735. Participation by other entities**

2 25735. It is in the interest of the state to have broad participation in
3 enhancement programs. Therefore, this program shall be open to participation by
4 qualified academic institutions, as determined by the department, and nonprofit
5 organizations, commercial aquaculturists, and for profit enterprises.

6 **Comment.** Section 25735 continues former Fish and Game Code Section 6597.5 without
7 substantive change.

8 **§ 25740. Name of program location**

9 25740. Any place at which all or a significant part of the program is conducted
10 shall be named the “California Marine Hatchery Institute.”


11 **Comment.** Section 25740 continues former Fish and Game Code Section 6598 without
12 substantive change.

13 **TITLE 5. MISCELLANEOUS PROVISIONS**

14 **§ 25850. Youth camps**

15 25850. The department may plant fish in streams passing through, or in lakes on,
16 land on which is located a youth camp for underprivileged children.

17 **Comment.** Section 25850 continues former Fish and Game Code Section 6402 without
18 substantive change.

19  **Note.** Under existing law, Section 6402 is governed by existing Section 6403, which makes
20 Section 6402 inapplicable to aquaculture business activities. The continuation of Section 6402 in
21 this location would make Section 6403 (proposed Section 25400) inapplicable to Section 6402.
22 Technically, this would make Section 6402 applicable to aquaculture business activities.
23 However, the public entity activity described in Section 6402 does not appear to be an
24 aquaculture business activity. For that reason, the change described in this Note would seem to
25 have no practical effect.

26 **The Commission invites comment on whether this change would be a problem.**

27 **§ 25855. Urban fishing program**

28 25855. Notwithstanding Section 25100 or any other provision of law, all funds
29 allocated for fish purchases for the department’s urban fishing program shall be
30 used to purchase all fish and aquatic organisms by contract, pursuant to the
31 requirements of the Public Contract Code, from private registered aquaculture
32 facilities within the state unless the department determines one of the following
33 conditions exists:

34 (a) After reasonable notice, the private facilities are unable to provide the
35 specified fish or aquatic organism.

36 (b) The fish or aquatic organism is infected or diseased.

37 **Comment.** Section 25855 continues former Fish and Game Code Section 1123.5 without
38 substantive change.

PART 4. DOMESTICATION OF GAME ANIMALS

TITLE 1. GAME ANIMALS GENERALLY

§ 26000. License requirement

26000. Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder's license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:

- (a) Licensed pheasant clubs, except to the extent provided in Section 29365.
- (b) Licensed domesticated migratory game bird shooting areas as defined in Title 2 (commencing with Section 26200).
- (c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of those birds or mammals for actual consumption on the premises.
- (d) Retail meat dealers selling such meat to customers for actual consumption.
- (e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange, or donation to other public zoological gardens.

Comment. Section 26000 continues former Fish and Game Code Section 3200 without substantive change.

Note. Existing Fish and Game Code Section 3200(a) exempts from the section's licensing requirement "[l]icensed pheasant clubs, except to the extent provided in Section 3283." However, former Fish and Game Code Section 3283 was repealed by 1994 Cal. Stat. ch. 849, the digest of which indicated that the subject matter of Section 3283, and other deleted sections, would be instead governed by regulations adopted by the Fish and Game Commission. The same bill also added Fish and Game Code Section 3270(a) (which would be continued in the proposed law by proposed Section 29365), which provides:

3270. (a) In order to provide additional hunting by stocking domestically propagated game birds, and to permit the taking of game birds under conditions that will not conflict with the public interest, any person who owns or controls the hunting rights on a tract of land may apply to the department for a game bird club license authorizing the taking of game birds upon that land in accordance with the regulations of the commission for the administration, including the implementation and enforcement, of this section.

To express this legislative change, proposed Section 2600(a) would restate the exemption in that provision as "Licensed pheasant clubs, except to the extent provided in Section 29365."

The Commission invites comment on the appropriateness of the proposed restatement of this provision.

§ 26005. Sale of carcass

26005. No person shall sell the carcass of any domesticated game bird or domesticated game mammal without first obtaining a domesticated game breeder's license from the department. The department may issue that license upon terms and conditions as the commission may prescribe, and the commission may at any time revoke the license for sufficient cause.

1 **Comment.** Section 26005 continues former Fish and Game Code Section 3201 without
2 substantive change.

3 **§ 26010. Class 1 and class 2 licenses**

4 26010. There are classes of domesticated game breeder's licenses, designated
5 "class 1" and "class 2."

6 (a) A class 1 domesticated game breeder's license authorizes the licensee to
7 engage in all domesticated game breeding activities except that not more than 175
8 Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof,
9 may be sold under a class 1 license.

10 (b) A class 2 domesticated game breeder's license is required in order to sell
11 more than 175 Chinese ringneck or Mongolian ringneck pheasants, or both, or
12 hybrids thereof, and entitles the licensee to all the rights and privileges of a class 1
13 license.

14 **Comment.** Section 26010 continues former Fish and Game Code Section 3202 without
15 substantive change.

16 **§ 26015. License fee**

17 26015. The department shall issue a class 1 domesticated game breeder's license
18 upon the payment of a base fee of eight dollars (\$8), as adjusted under Section
19 3755, and a class 2 domesticated game breeder's license upon the payment of a
20 base fee of forty dollars (\$40), as adjusted under Section 3755.

21 **Comment.** Section 26015 continues former Fish and Game Code Section 3203 without
22 substantive change.

23 **§ 26020. Term of license**

24 26020. A license issued under the provisions of this title is valid for a term of
25 one year from January 1, or if issued after the beginning of the term, for the
26 remainder of that term.

27 **Comment.** Section 26020 continues the first paragraph of former Fish and Game Code Section
28 3204 without substantive change.

29 **§ 26025. Display of license**

30 26025. A domesticated game breeder's license shall be conspicuously displayed
31 on the property where the birds or mammals are held in captivity.

32 **Comment.** Section 26025 continues the second paragraph of former Fish and Game Code
33 Section 3204 without substantive change.

34 **§ 26030. Carriers for hire**

35 26030. Carriers for hire may carry within the state live domesticated game birds
36 and live domesticated game mammals upon terms and conditions as the
37 commission may prescribe.

38 **Comment.** Section 26030 continues former Fish and Game Code Section 3205 without
39 substantive change.

1 **§ 26035. Tag requirement**

2 26035. (a) No domesticated game bird or domesticated game mammal shall be
3 transported or sold dead unless each quarter and each loin of the carcass of each
4 large mammal, the carcass of each bird, except as provided in Section 28505 for a
5 bird raised outside this state, and the carcass of each small mammal, is tagged with
6 a domesticated game breeder's tag or seal. The tag or seal shall not be removed
7 until such quarter, loin, or carcass is prepared for consumption.

8 (b) No tag so affixed shall be used again.

9 (c) No tag or seal shall be sold by the department to anyone other than a person
10 who is legally in possession of domesticated game.

11 **Comment.** Section 26035 continues former Fish and Game Code Section 3206 without
12 substantive change.

13 **§ 26040. Fee for tag**

14 26040. The department shall collect three cents (\$0.03) for each tag or seal.

15 **Comment.** Section 26040 continues former Fish and Game Code Section 3207 without
16 substantive change.

17 **§ 26045. Report to Department**

18 26045. (1) On or before January 31 of each year, every person to whom a
19 domesticated game breeder's license has been issued shall report the following to
20 the department on a form provided by the department:

21 (1) The total number of each species of birds and mammals killed, sold, or
22 shipped during the preceding year.

23 (2) The names of the persons to whom the birds or mammals were sold or
24 shipped.

25 (3) The name of the person in whose presence the birds or mammals were
26 tagged.

27 (4) A complete list of the game birds and mammals held in the person's
28 possession at the time the report is made.

29 (b) The report shall be verified by the affidavit of the licensee.

30 **Comment.** Section 26045 continues former Fish and Game Code Section 3208 without
31 substantive change.

32 **§ 26050. Poultry processing plants**

33 26050. (a) In lieu of the tag required by Section 26035, poultry processing plants
34 licensed pursuant to Chapter 4 (commencing with Section 18650) or Chapter 4.1
35 (commencing with Section 18940) of Part 3 of Division 9 of the Food and
36 Agricultural Code, which process domesticated game birds received from persons
37 licensed pursuant to this title, may package each individual carcass in a
38 nonreusable container clearly labeled on the outside with the species of bird and
39 the wording "Product of a Licensed California Domesticated Game Breeder."

1 (b) Each processor receiving domesticated game birds shall keep a complete
2 record of all birds received showing all of the following:

3 (1) The date received.

4 (2) The number and species of birds in each lot or shipment.

5 (3) The complete name, address, and domesticated game breeders' license
6 number of the person from whom the birds were received.

7 (4) The disposition of processed birds, the date of sale or shipment, the quantity
8 and species sold or shipped, and the person to whom the birds were sold or
9 shipped.

10 (c) The records shall be retained by the processor for one year following the date
11 of processing. These records shall be subject to inspection upon demand by any
12 officer of the department during hours the processing plant is in operation or open
13 for business.

14 (d) This section does not affect the requirements of Section 26035 governing
15 tagging domesticated game birds for transportation by those other than licensed
16 poultry processors.

17 **Comment.** Section 26050 continues former Fish and Game Code Section 3209 without
18 substantive change.

19 **§ 26055. Sale of meat by keeper of establishment**

20 26055. The keeper of a hotel, restaurant, boardinghouse, or club may sell
21 portions of a quarter or loin of a large mammal, or the carcass of a bird or mammal
22 raised or imported under a domesticated game breeder's license, to a patron for
23 actual consumption on the premises only, and no license for that purpose shall be
24 required of the keeper or club. All keepers of hotels, restaurants, boardinghouses,
25 or clubs who sell any a domesticated game bird or domesticated game mammal for
26 consumption to a patron shall be required to submit to the inspection of their
27 premises by the department and shall display for inspection any carcass or animal
28 parts held in storage for sale. That game shall be tagged under Section 26035.

29 **Comment.** Section 26055 continues former Fish and Game Code Section 3212 without
30 substantive change.

31 **§ 26060. Sale of meat by retail meat dealer**

32 26060. (a) A retail meat dealer may, without a license, sell portions of a quarter
33 or loin of a large mammal or the carcass of a bird or mammal raised or imported
34 under a domesticated game breeder's license to a customer for actual
35 consumption.

36 (b) Retail dealers shall submit their premises to inspection by the department,
37 and shall display at any authorized inspection any carcass or animal parts held by
38 them in storage. That game shall be tagged under Section 26035.

39 **Comment.** Section 26060 continues former Fish and Game Code Section 3213 without
40 substantive change.

1 **§ 26065. Confinement and escape**

2 26065. (a) Domesticated game breeders or other persons holding domesticated
3 game mammals in captivity shall confine the mammals in escape-proof cages or
4 enclosures.

5 (b) In the event any of the mammals escape from the cages or enclosures, the
6 owner shall immediately make every reasonable effort to recapture them.

7 (c) If the owner fails to recapture the escaped mammals, the department may
8 capture the mammals or remove them from the wild by whatever means may be
9 necessary if, in the opinion of the department, the mammals may conflict with
10 native species of birds or mammals or cause damage to public or private property.

11 (d) The owner shall reimburse the department for all costs incurred in capturing
12 or removing the mammals from the wild. The owner shall be responsible for any
13 damage the mammals may cause to public or private property.

14 (e) Any domesticated big game mammal may be marked with ear tags or other
15 suitable markings or tags, as may be specified by the commission, which shall
16 identify the owner of the mammals.

17 **Comment.** Section 26065 continues former Fish and Game Code Section 3214 without
18 substantive change.

19 **§ 26070. Killing of domesticated game animals**

20 26070. All domesticated game birds and domesticated game mammals,
21 excepting deer, sold under the provisions of this title, shall be killed by means
22 other than by shooting. This section does not apply to licensed pheasant clubs,
23 licensed domesticated migratory game bird shooting areas, or to the training or
24 practice of hunting dogs.

25 **Comment.** Section 26070 continues former Fish and Game Code Section 3216 without
26 substantive change.

27 **§ 26075. Evidence of domesticated status**

28 26075. The carcass of a game bird that shows that it has been killed by shooting
29 shall constitute prima facie evidence that it was not a domesticated game bird. The
30 fact that the bird has been tagged in accordance with Section 26035 of this code
31 shall not alter this presumption.

32 **Comment.** Section 26075 continues former Fish and Game Code Section 3217 without
33 substantive change.

34 **§ 26085. Domesticated reindeer**

35 26085. Domesticated reindeer may be imported into this state and sold only in
36 accordance with regulations that the commission may adopt.

37 **Comment.** Section 26085 continues former Fish and Game Code Section 3219 without
38 substantive change.

TITLE 2. MIGRATORY GAME BIRDS

§ 26200. Definition

26200. For purposes of this part, a “domesticated migratory game bird” is a migratory game bird held live in captivity at or after six weeks of age.

Comment. Section 26200 restates the second paragraph of former Fish and Game Code Section 3300 without substantive change.

Notes. (1) Proposed Section 26200 restates the second paragraph of existing Section 3300 to improve its clarity, and make clear that the definition in the provision is meant to apply throughout existing Sections 3300 through 3311, without changing the substantive effect of the provision. The existing provision reads as follows:

Any bird of a species included in the definition of migratory game birds, as defined in Section 3500, which has been held live in captivity is a “domesticated migratory game bird” for purposes of this section, except such a bird that has been released from captivity and any control before attaining six weeks of age.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

(2) The second paragraph of existing Section 3300 defines a “domesticated migratory game bird” for purposes of “this section.” However, the term “domesticated migratory game bird” is used elsewhere in the existing Fish and Game Code, with no corresponding definition. See existing Sections 3031, 3200, 3216, 3240.5.

Should this definition be made applicable to the code generally, and included with the general definitions in the first division of the proposed law?

§ 26205. License requirement

26205. It is unlawful to raise and release, or release, domesticated migratory game birds for shooting by a person paying for that privilege, without a revocable nontransferable license issued by the department pursuant to Section 26210.

Comment. Section 26205 restates the first sentence of the first paragraph of former Fish and Game Code Section 3300 without substantive change.

§ 26210. License to raise and release

26210. (a) A license to raise and release, or release, domesticated migratory game birds for shooting by persons who pay for that privilege may be issued annually by the department, and shall be valid from July 1 through the following June 30, upon payment of a base fee of eighty dollars (\$80), as adjusted under Section 3755.

(b) The application for the license shall show the size and location of the area to be licensed.

Comment. Subdivision (a) of Section 26210 continues the second sentence of the first paragraph of former Fish and Game Code Section 3300 without substantive change.

Subdivision (b) continues the first sentence of former Fish and Game Code Section 3301 without substantive change.

1 **§ 26215. Posting of area**

2 26215. A person licensed pursuant to Section 26210 shall post the boundaries of
3 the licensed area with signs, at intervals of not more than 500 feet, which shall
4 indicate that the area is licensed for the shooting of domesticated migratory game
5 birds. The dimensions of each sign shall be at least 12 by 18 inches.

6 **Comment.** Section 26215 continues the second and third sentences of former Fish and Game
7 Code Section 3301 without substantive change.

8 **§ 26220. Additional regulatory requirements**

9 26220. The commission may adopt additional regulations deemed necessary for
10 the releasing and shooting of domesticated migratory game birds and shall set the
11 season and areas where domesticated migratory game birds may be taken. If a
12 person licensed pursuant to Section 26210 violates any provision of this title or
13 any regulation adopted pursuant to this title, the commission may cancel or revoke
14 that license after providing the licensee notice and an opportunity to be heard by
15 the commission.

16 **Comment.** Section 26220 continues former Fish and Game Code Section 3302 without
17 substantive change.

18 **§ 26225. Care of birds**

19 26225. When domesticated migratory game birds are raised or held for release
20 by a person licensed pursuant to Section 26210, the licensee shall provide proper
21 and adequate care for the birds and shall raise and hold them only under sanitary
22 conditions. Conditions for proper care and raising shall be prescribed by the
23 commission.

24 **Comment.** Section 26225 continues the first and second sentences of former Fish and Game
25 Code Section 3303 without substantive change.

26 **§ 26230. Inspection of birds and facilities**

27 26230. A person licensed pursuant to Section 26210 shall provide for the
28 inspection of birds and facilities upon the request of the department.

29 **Comment.** Section 26230 continues the third sentence of former Fish and Game Code Section
30 3303 without substantive change.

31 **§ 26235. Condition of birds**

32 26235. A person licensed pursuant to Section 26210 may only release for
33 shooting domesticated migratory game birds that are at least 14 weeks of age,
34 capable of strong and sustained flight, fully feathered, and otherwise in condition
35 to survive in the wild. A licensee shall not release a domesticated migratory game
36 bird that is in any of the following conditions:

37 (a) Altered in any manner that would, in the opinion of the department, render
38 the bird incapable of normal sustained flight.

39 (b) Diseased.

40 (c) Shows evidence of malnutrition or injury.

1 **Comment.** Section 26235 restates former Fish and Game Code Section 3305 without
2 substantive change.

3 **Note.** Proposed Section 26235 is intended to restate existing Section 3305 to improve its
4 clarity, without changing its substantive effect. The existing provision reads as follows:

5 All domesticated migratory game birds at time of release for shooting shall be at least 14 weeks
6 of age, capable of strong and sustained flight, fully feathered, and otherwise in condition to
7 survive in the wild. Birds that are altered in any manner which would, in the opinion of the
8 department, render them incapable of normal sustained flight, or which are diseased, or show
9 evidence of malnutrition or injury, shall not be released.

10 **The Commission invites comment on whether the proposed restatement would cause any**
11 **substantive change in the meaning of the provision.**

12 **§ 26240. Blinds**

13 26240. (a) Shooting in an area licensed pursuant to Section 26210 shall be
14 confined to blinds, except for shooting necessary to recover a downed and injured
15 bird.

16 (b) No more than three shooters shall occupy or use each blind.

17 (c) Blinds shall be constructed to prevent the shooting of domestic migratory
18 game birds over water, and to insure maximum safety to occupants of adjoining
19 blinds.

20 (d) Blinds shall be situated so that the occupants of the blinds cannot see the
21 release site.

22 **Comment.** Section 26240 continues the first and second paragraphs of former Fish and Game
23 Code Section 3306 without substantive change.

24 **§ 26245. Shooting or taking near release point**

25 26245. (a) A person licensed pursuant to Section 26210 shall not permit any
26 shooting within 500 feet of a point where a domesticated migratory bird is
27 released.

28 (b) A domesticated migratory game bird shall not be taken within 500 feet of its
29 point of release.

30 **Comment.** Section 26245 continues the third paragraph of former Fish and Game Code
31 Section 3306 without substantive change.

32 **§ 26250. Birds injured or killed**

33 26250. (a) A person licensed pursuant to Section 26210 shall not permit an
34 injured bird to remain on a pond or feeding area, or knowingly permit an injured
35 bird to be used in any subsequent release.

36 (b) Any bird killed or injured by a shooter shall be retrieved without delay, and
37 any injured bird shall be humanely dispatched.

38 **Comment.** Subdivision (a) of Section 26250 continues the second sentence of the first
39 paragraph of former Fish and Game Code Section 3307 without substantive change.

40 Subdivision (b) continues the first sentence of the first paragraph of former Fish and Game
41 Code Section 3307 without substantive change.

1 **§ 26255. Retrieving dog**

2 26255. In order to prevent the loss of any dead or injured bird, a person licensed
3 pursuant to Section 26210 shall provide the use of a retrieving dog, without cost,
4 to all shooters, except that shooters may provide their own retrieving dogs. A
5 licensee shall not permit the shooting of any bird unless a retrieving dog is
6 immediately available for use by all shooters.

7 **Comment.** Section 26255 continues the second paragraph of former Fish and Game Code
8 Section 3307 without substantive change.

9 **§ 26260. Seal**

10 26260. (a) No dead domesticated migratory game bird shall be removed from an
11 area licensed pursuant to Section 26210 until a seal is securely attached to the
12 carcass.

13 (b). The seal shall remain attached to the carcass until the carcass is finally
14 prepared for consumption.

15 (c) Each seal shall be supplied by the department, at a fee set by the commission
16 that may not exceed five cents (\$0.05).

17 **Comment.** Section 26260 continues former Fish and Game Code Section 3309 without
18 substantive change.

19 **§ 26265. Inspection fee**

20 26265. A person licensed pursuant to Section 26210 shall pay the department an
21 inspection fee not to exceed five cents (\$0.05) for each domesticated migratory
22 game bird raised or used on the area licensed, to insure adherence to these
23 regulations.

24 **Comment.** Section 26265 continues former Fish and Game Code Section 3308 without
25 substantive change.

26 **§ 26270. Shooter required to have hunting license**

27 26270. It is unlawful to shoot a domesticated game bird in an area licensed
28 pursuant to Section 26210 without a valid hunting license as provided by Section
29 10210.

30 **Comment.** Section 26270 continues former Fish and Game Code Section 3310 without
31 substantive change.

32 **§ 26275. Federal requirements**

33 26275. A person releasing or shooting a domesticated migratory game bird shall
34 comply with all applicable federal laws and regulations relating to the releasing or
35 shooting of domesticated migratory game birds.

36 **Comment.** Section 26275 continues former Fish and Game Code Section 3311 without
37 substantive change.

38 **Note.** Existing Section 3311 appears designed as a reminder that federal laws and regulations
39 may also govern the releasing and shooting of domesticated migratory game birds. However, the
40 use of the word “licensee” in the provision is problematic, for two reasons.

First, it is not clear whether the “licensee” referred to is (1) a person issued a license to *raise and release, or release* domesticated migratory game birds for shooting by others pursuant to existing Section 3300, (2) a person issued the hunting license referred to in existing Section 3310 to *shoot* domesticated migratory game birds, or (3) both of the above. The ambiguity is enhanced by a reference in Section 3311 to federal laws and regulations relating to the “releasing *and* shooting” of domesticated migratory game birds.

Second, regardless of which “licensee” is contemplated, the implication that this provision is applicable only to those licensees is confusing. Absent an exemption in federal law, all persons releasing or shooting a domesticated migratory game bird, whether licensed or not, would be required to comply with whatever federal laws or regulations were “applicable” to that conduct.

To address both of these issues, the Commission has revised the provision so it applies to *any* person who either releases or shoots a domesticated migratory game bird.

The Commission invites comment on whether that revision is appropriate.

PART 5. PROPAGATION OF FUR-BEARING MAMMALS

§ 26400. Applicability of other code provisions

26400. The provisions of this code relating to the trapping of fur-bearing mammals, or to fur dealer license requirements, do not apply to, or prohibit the propagation of, fur-bearing mammals that are confined in accordance with regulations of the commission.

Comment. Section 26400 continues former Fish and Game Code Section 4010 without substantive change.

PART 6. IMPORTATION, TRANSPORTATION, AND POSSESSION

TITLE 1. GENERAL PROVISIONS

§ 26500. “Wild animal”

26500. As used in this part, “wild animal” means any animal of the class Aves (birds), class Mammalia (mammals), class Amphibia (frogs, toads, salamanders), class Osteichthyes (bony fishes), class Monorhina (lampreys), class Reptilia (reptiles), class Crustacea (crayfish), or class Gastropoda (slugs, snails), which is not normally domesticated in this state as determined by the commission.

Comment. Section 26500 continues former Fish and Game Code Section 2116 without substantive change.

§ 26505. “Enforcing officers”

26505. (a) As used in this part, “enforcing officers” means the department, the state plant quarantine officers, the local law enforcement agents, the county sheriffs, and the county agricultural commissioners.

(b) Enforcing officers are authorized and empowered to enforce the provisions of this part or any regulation implementing this part.

Comment. Section 26505 continues former Fish and Game Code Section 2117 without substantive change.

1 **§ 26510. Legislative findings and declarations**

2 26510. (a) The Legislature finds and declares that wild animals are being
3 captured for importation and resale in California; that some populations of wild
4 animals are being depleted; that many animals die in captivity or transit; that some
5 keepers of wild animals lack sufficient knowledge or facilities for the proper care
6 of wild animals; that some wild animals are a threat to the native wildlife or
7 agricultural interests of this state; and that some wild animals are a threat to public
8 health and safety.

9 (b) It is the intention of the Legislature that the importation, transportation, and
10 possession of wild animals shall be regulated to protect the health and welfare of
11 wild animals captured, imported, transported, or possessed, to reduce the depletion
12 of wildlife populations, to protect the native wildlife and agricultural interests of
13 this state against damage from the existence at large of certain wild animals, and
14 to protect the public health and safety in this state.

15 **Comment.** Section 26510 continues former Fish and Game Code Section 2116.5 without
16 substantive change.

17 **TITLE 2. RESTRICTIONS**

18 **CHAPTER 1. GENERAL PROVISIONS**

19 **§ 26600. Adoption of regulations relating to importation and possession**

20 26600. (a) The commission, in cooperation with the Department of Food and
21 Agriculture, shall adopt regulations governing both of the following:

22 (1) The entry, importation, possession, transportation, keeping, confinement, or
23 release of any and all wild animals that will be or that have been imported into this
24 state pursuant to this title.

25 (2) The possession of all other wild animals.

26 (b) The regulations shall be designed to prevent damage to the native wildlife or
27 agricultural interests of this state resulting from the existence at large of these wild
28 animals, and to provide for the welfare of wild animals and the safety of the
29 public.

30 (c) The regulations shall also include criteria for all of the following:

31 (1) The receiving, processing, and issuing of a permit and conducting
32 inspections.

33 (2) Contracting out inspection activities.

34 (3) Responding to public reports and complaints.

35 (4) The notification of the revocation, termination, or denial of permits, and
36 related appeals.

37 (5) The method by which the department determines that the breeding of wild
38 animals pursuant to a single event breeding permit for exhibitor or a breeding
39 permit is necessary and will not result in unneeded or uncared for animals, and the
40 means by which the criteria will be implemented and enforced.

1 (6) How a responding agency will respond to an escape of a wild animal. This
2 shall include, but not be limited to, the establishment of guidelines for the safe
3 recapture of the wild animal and procedures outlining when lethal force would be
4 used to recapture the wild animal.

5 (d) These regulations shall be developed and adopted by the commission on or
6 before January 1, 2007.

7 **Comment.** Section 26600 continues former Fish and Game Code Section 2120 without
8 substantive change.

9 **§ 26605. Designated exemption from permit requirement**

10 26605. The commission may designate wild animals that may be possessed
11 without a permit.

12 **Comment.** Section 26605 continues former Fish and Game Code Section 2118.5 without
13 substantive change.

14 **§ 26610. Commission to adopt regulations providing guidance to enforcing officers**

15 26610. The commission shall adopt regulations in cooperation with the State
16 Department of Food and Agriculture for the guidance of enforcing officers. The
17 regulations shall include a list of the wild animals for which permits that may be
18 issued under this part will be refused, and the disposition of wild animals illegally
19 imported into this state.

20 **Comment.** Section 26610 continues former Fish and Game Code Section 2122 without
21 substantive change.

22 **§ 26615. Department to publish list of prohibited animals**

23 26615. The department shall publish from time to time as changes arise, a list of
24 animals that may not be imported or transported into this state.

25 **Comment.** Section 26615 continues former Fish and Game Code Section 2119 without
26 substantive change.

27 **§ 26620. Department to furnish descriptive explanatory material**

28 26620. The department in cooperation with the State Department of Food and
29 Agriculture shall furnish descriptive and illustrative material concerning the wild
30 animals enumerated in or designated pursuant to Sections 26700 through 26730, as
31 well as explanatory material setting forth the reasons for designating those animals
32 as undesirable and a menace to native wildlife or to the agricultural interests of
33 this state for the information and guidance of the enforcing officers.

34 **Comment.** Section 26620 continues former Fish and Game Code Section 2123 without
35 substantive change.

CHAPTER 2. CLASSES OF RESTRICTED ANIMALS

§ 26700. Restricted birds

26700. It is unlawful to import, transport, possess, or release alive into this state, except under a revocable, nontransferable permit as provided in this part and the regulations pertaining to this part, any wild animal of the following species of the Class Aves (birds):

- (a) Family Cuculidae (cuckoos): All species.
- (b) Family Alaudidae (larks): Skylark, *Alauda arvensis*.
- (c) Family Corvidae (crows, jays, magpies): All species.
- (d) Family Turdidae (thrushes):
 - (1) European blackbird, *Turdus merula*.
 - (2) Missel (or mistle), thrush, *Turdus viscivorus*.
- (e) Family Sturnidae (starlings and mynas or mynahs): All species of the family, except hill myna (or hill mynah), and *Gracula religiosa* (sometimes referred to as *Eulabes religiosa*).
- (f) Family Ploceidae (weavers):
 - (1) Spanish sparrow, *Passer hispaniolensis*.
 - (2) Italian sparrow, *Passer italiae*.
 - (3) European tree sparrow, *Passer montanus*.
 - (4) Cape sparrow, *Passer capensis*.
 - (5) Madagascar weaver, *Foudia madagascariensis*.
 - (6) Baya weaver, *Ploceus baya*.
 - (7) Hawaiian rice bird, *Munia nitoria*.
 - (8) Red-billed quelea, *Quelea quelea*.
 - (9) Red-headed quelea, *Quelea erythrops*.
- (g) Family Fringillidae (sparrows, finches, buntings): Yellowhammer, *Emberiza citronella*.

Comment. Section 26700 continues former Fish and Game Code Section 2118(a) without substantive change.

§ 26705. Restricted mammals

26705. (a) It is unlawful to import, transport, possess, or release alive into this state, except under a revocable, nontransferable permit as provided in this part and the regulations pertaining to this part, any wild animal of the following species of the Class Mammalia (mammals):

- (1) Order Primates: All species except those in family Hominidae.
- (2) Order Edentata (sloths, anteaters, armadillos, etc.): All species.
- (3) Order Marsupialia (marsupials or pouched mammals): All species.
- (4) Order Insectivora (shrews, moles, hedgehogs, etc.): All species.
- (5) Order Dermoptera (gliding lemurs): All species.
- (6) Order Chiroptera (bats): All species.
- (7) Order Monotremata (spiny anteaters, platypuses): All species.

- 1 (8) Order Pholidota (pangolins, scaly anteaters): All species.
2 (9) Order Lagomorpha (pikas, rabbits, hares): All species, except domesticated
3 races of rabbits.
4 (10) Order Rodentia (rodents): All species, except the following species:
5 (A) Domesticated golden hamsters, also known as Syrian hamster, *Mesocricetus*
6 *auratus*.
7 (B) Domesticated races of rats or mice (white or albino; trained, dancing or
8 spinning, laboratory-reared).
9 (C) Domestic strains of guinea pig (*Cavia porcellus*).
10 (11) Order Carnivora (carnivores): All species, except domestic dogs (*Canis*
11 *familiaris*) and domestic cats (*Felis catus*).
12 (12) Order Tubulidentata (aardvarks): All species.
13 (13) Order Proboscidea (elephants): All species.
14 (14) Order Hyracoidea (hyraxes): All species.
15 (15) Order Sirenia (dugongs, manatees): All species.
16 (16) Order Perissodactyla (horses, zebras, tapirs, rhinoceroses, etc.): All species
17 except those of the family Equidae.
18 (17) Order Artiodactyla (swine, peccaries, camels, deer, elk, except elk (genus
19 *Cervus*) that are subject to Section 26865, moose, antelopes, cattle, goats, sheep,
20 etc.): All species except the following species:
21 (A) Domestic swine of the family Suidae.
22 (B) American bison.
23 (C) Anomestic cattle.
24 (D) Sheep and goats of the family Bovidae.
25 (E) Races of big-horned sheep (*Ovis canadensis*) now or formerly indigenous to
26 this state.
27 (b) Mammals of the orders Primates, Edentata, Dermoptera, Monotremata,
28 Pholidota, Tubulidentata, Proboscidea, Perissodactyla, Hyracoidea, Sirenia and
29 Carnivora are restricted for the welfare of the animals, except animals of the
30 families Viverridae and Mustelidae in the order Carnivora are restricted because
31 such animals are undesirable and a menace to native wildlife, the agricultural
32 interests of the state, or to the public health or safety.
33 **Comment.** Section 26705 continues former Fish and Game Code Section 2118(b) without
34 substantive change.

35 **§ 26710. Restricted amphibians**

36 26710. It is unlawful to import, transport, possess, or release alive into this state,
37 except under a revocable, nontransferable permit as provided in this part and the
38 regulations pertaining to this part, any wild animal of the following species of the
39 Class Amphibia (frogs, toads, salamanders):

- 40 (a) Family Bufonidae (toads).
41 (b) Giant toad or marine toad, *Bufo marinus*.

1 **Comment.** Section 26710 continues former Fish and Game Code Section 2118(c) without
2 substantive change.

3 **§ 26715. Restricted fish**

4 26715. It is unlawful to import, transport, possess, or release alive into this state,
5 except under a revocable, nontransferable permit as provided in this part and the
6 regulations pertaining to this part, any wild animal of the following species of fish:

7 (a) Class Monorhina (lampreys): All species.

8 (b) Class Osteichthyes (bony fishes):

9 (1) Family Serranidae (bass): White perch, *Morone* or *Roccus americana*.

10 (2) Family Clupeidae (herring): Gizzard shad, *Dorosoma cepedianum*.

11 (3) Family Sciaenidae (croakers): Freshwater sheepshead, *Aplodinotus*
12 *grunniens*.

13 (4) Family Characidae (characins):

14 (A) Banded tetra, *Astyanax fasciatus*.

15 (B) All species of piranhas.

16 (5) Family Lepisosteidae (gars): All species.

17 (6) Family Amiidae (bowfins): All species.

18 (c) Except as expressly authorized in this code, any live nonindigenous Atlantic
19 salmon or its roe, in the Smith River watershed.

20 **Comment.** Section 26715 continues former Fish and Game Code Section 2118(d)-(e) and (j)
21 without substantive change.

22 **§ 26720. Restricted reptiles**

23 26720. It is unlawful to import, transport, possess, or release alive into this state,
24 except under a revocable, nontransferable permit as provided in this part and the
25 regulations pertaining to this part, any wild animal of the following species of the
26 Class Reptilia (snakes, lizards, turtles, alligators): all species of the Family
27 Crocodilidae.

28 **Comment.** Section 26720 continues former Fish and Game Code Section 2118(f) without
29 substantive change.

30 **§ 26725. Restricted invertebrates**

31 26725. It is unlawful to import, transport, possess, or release alive into this state,
32 except under a revocable, nontransferable permit as provided in this part and the
33 regulations pertaining to this part, any wild animal of the following species of
34 invertebrates:

35 (a) Class Crustacea (crustaceans):

36 (1) Genus *Cambarus* (crayfishes): All species.

37 (2) Genus *Astacus* (crayfishes): All species.

38 (3) Genus *Astacopsis* (crayfishes): All species.

39 (b) Class Gastropoda (slugs, snails, clams):

40 (1) All species of slugs.

41 (2) All species of land snails.

1 **Comment.** Section 26725 continues the part of former Fish and Game Code Section 2118(g)-
2 (h) without substantive change.

3 **§ 26730. Animals restricted by designation**

4 26730. It is unlawful to import, transport, possess, or release alive into this state,
5 except under a revocable, nontransferable permit as provided in this part and the
6 regulations pertaining to this part, any wild animal of any class, order, family,
7 genus, and species that may be designated by the commission in cooperation with
8 the Department of Food and Agriculture, (1) when the class, order, family, genus,
9 or species is proven to be undesirable and a menace to native wildlife or the
10 agricultural interests of the state, or (2) to provide for the welfare of wild animals.

11 **Comment.** Section 26730 continues former Fish and Game Code Section 2118(i) without
12 substantive change.

13 **§ 26735. Addition or deletion of animals from restriction**

14 26735. Classes, families, genera, and species may be added to or deleted from
15 Sections 26555 through 26580, inclusive, from time to time, by commission
16 regulations in cooperation with the Department of Food and Agriculture.

17 **Comment.** Section 26735 continues former Fish and Game Code Section 2118(k) without
18 substantive change.

19 **CHAPTER 3. ADDITIONAL PROHIBITIONS**

20 **§ 26850. Prohibition relating to gain, amusement, or sport**

21 26850. (a) Except as otherwise authorized by this code or regulations adopted
22 pursuant to this code, including, but not limited to provisions that authorize raising
23 deer to produce venison for market, it is unlawful for any person to possess,
24 transport, import, export, propagate, purchase, sell, or transfer any live mammal
25 listed in Section 26705 for the purpose of maiming, injuring, or killing the
26 mammal for gain, amusement, or sport.

27 (b) Except as otherwise authorized by this code or regulations adopted pursuant
28 to this code, the buyer of a live mammal listed in Section 26705 shall not resell the
29 live mammal to another buyer who has the intent to maim, injure, or kill that
30 mammal for purpose of gain, amusement, or sport.

31 (c) This section does not apply to the meat, hide, or parts of a dead mammal.

32 **Comment.** Section 26850 continues former Fish and Game Code Section 2124 without
33 substantive change.

34 **§ 26855. Prohibited take**

35 26855. (a) Except as otherwise authorized by this code or regulations adopted
36 pursuant to this code, it is unlawful for any person to take any mammal listed in
37 Section 26705.

38 (b) This section does not prohibit the euthanasia of a mammal as appropriately
39 directed by a licensed veterinarian or animal health technician.

1 **Comment.** Section 26855 continues former Fish and Game Code Section 2126 without
2 substantive change.

3 **§ 26860. Prohibited release of wild animal**

4 26860. No person having possession or control over any wild animal under this
5 part shall intentionally free, or knowingly permit the escape, or release of that
6 animal, except in accordance with the regulations of the commission.

7 **Comment.** Section 26860 continues former Fish and Game Code Section 2121 without
8 substantive change.

9 **§ 26865. Elk**

10 26865. (a) Except as provided in this section or Section 1710, it is unlawful to
11 import any elk (genus *Cervus*) into this state.

12 (b) The department may import elk pursuant to Section 1710, if prior to such
13 importation, the department issues written findings justifying the need for and
14 explaining the purpose of the importation.

15 (c) Subdivision (a) shall not apply to zoos certified by the United States
16 Department of Agriculture.

17 (d) No part of any elk horn or antler shall be removed from any live elk for
18 commercial purposes.

19 **Comment.** Subdivisions (a) through (c) of Section 26865 continue former Fish and Game
20 Code Section 2118.2 without substantive change.

21 Subdivision (d) continues former Fish and Game Code Section 2118.3 without substantive
22 change.

23 See also Section 5280 (enforcement).

24 **§ 26870. Elephants**

25 26870. (a) Any person who houses, possesses, manages, or is in direct contact
26 with an elephant shall not do either of the following:

27 (1) Use a bullhook, ankus, baseball bat, axe handle, pitchfork, or other device
28 designed to inflict pain for the purpose of training or controlling the behavior of an
29 elephant.

30 (2) Authorize or allow an employee, agent, or contractor to use a bullhook,
31 ankus, baseball bat, axe handle, pitchfork, or other device designed to inflict pain
32 for the purpose of training or controlling the behavior of an elephant.

33 (b) Use prohibited by subdivision (a) includes brandishing, exhibiting, or
34 displaying the devices in the presence of an elephant.

35 (c) The provisions of this section are in addition to, and not in lieu of, any other
36 laws protecting animal welfare. This section shall not be construed to limit any
37 state law or rules protecting the welfare of animals or to prevent a local governing
38 body from adopting and enforcing its own animal welfare laws and regulations.

39 **Comment.** Section 26870 continues former Fish and Game Code Section 2128(a) & (c)
40 without substantive change.

41 See also Section 5282 (enforcement).

CHAPTER 4. LOCAL ENTITIES

§ 27020. Eligible local entity

27020. (a) The department may reimburse eligible local entities, pursuant to a memorandum of understanding entered into pursuant to this section, for costs incurred by the eligible local entities in the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal listed in or designated pursuant to Sections 26700 through 26730, inclusive.

(b) The department may enter into memorandums of understanding with eligible local entities for the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal listed in or designated pursuant to Sections 26700 through 26730, inclusive.

(c) The commission shall adopt regulations that establish specific criteria an eligible local entity shall meet in order to qualify as an eligible local entity.

(d) For the purposes of this division, “eligible local entity” means a county, local animal control officer, local humane society official, educational institution, or trained private individual that enters into a memorandum of understanding with the department pursuant to this section.

Comment. Section 27020 continues former Fish and Game Code Section 2127 without substantive change.

Note. Subdivisions (a) and (b) of existing Fish and Game Code Section 2127 refer to a wild animal “designated pursuant to” existing Fish and Game Code Section 2118. Several other sections in the chapter in which Sections 2118 and 2127 appear refer to wild animals “enumerated in or designated pursuant to” Section 2118. For consistency, the proposed law would revise all of those references, including the two references in proposed Section 27020(a) and (b), to read “listed in or designated pursuant to” the provisions that would continue Section 2118.

The Commission invites comment on whether this revision would substantively change the intended meaning of existing Section 2127(a) or (b).

TITLE 3. PERMITS

§ 27200. Issuance of permit

27200. (a) The department, in cooperation with the Department of Food and Agriculture, may, upon application, issue a written permit to import into, possess, or transport within this state any wild animal enumerated in, or designated pursuant to, Section 671 of Title 14 of the California Code of Regulations, upon a determination that the animal is not detrimental or that no damage or detriment can be caused to agriculture, native wildlife, the public health or safety, or the welfare of the animal, as a result of the importation, transportation, or possession.

(b) A permit may be issued to any person only upon application and payment of a nonrefundable application fee in an amount determined by the department

1 pursuant to subdivision (a) of Section 27215. Application forms shall be provided
2 by the department and shall be designed to ascertain the applicant's ability to
3 properly care for the wild animal or animals the applicant seeks to import,
4 transport, or possess. Proper care includes providing adequate food, shelter, and
5 veterinary care, and other requirements the commission may designate.

6 **Comment.** Section 27200 continues former Fish and Game Code Section 2150(a) without
7 substantive change.

8 See also Section 5208 (revocation of permit).

9 **§ 27205. Denial of permit**

10 27205. The commission or the department shall deny a permit under Section
11 27200 if it finds that an applicant is unable to meet the requirements for importing,
12 transporting, possessing, or confining any wild animal as established pursuant to
13 Section 26600.

14 **Comment.** Section 27205 continues former Fish and Game Code Section 2150(b), as it related
15 to denial of a permit, without substantive change.

16 **§ 27210. Special entities**

17 27210. (a) A zoo is exempt from any permit requirement pursuant to this title
18 except for animals whose importation, transportation, or possession is determined
19 by the department, in cooperation with the Department of Food and Agriculture, to
20 be detrimental or cause damage to agriculture, native wildlife, or the public health
21 or safety. For purposes of this section, "zoo" means any organization which is
22 accredited as meeting the standards and requirements of the American Zoo and
23 Aquarium Association (AZA). Any California organization which is not
24 accredited by the AZA may apply to the department for a waiver of specified
25 permit requirements of this title. The department may grant or deny the request for
26 a waiver for justified reasons. Foreign zoos outside this state are not subject to the
27 permit requirements of this title beyond those specific permit requirements
28 affecting California zoos or organizations with which they are collaborating. Any
29 organization may appeal the determination of the department to the commission.

30 (b) An exhibitor licensed by the United States Department of Agriculture or a
31 dealer who is so licensed who buys any animal specified in subdivision (a) from a
32 zoo within the state, may sell or transfer it only to a private individual who has a
33 permit issued pursuant to this section prior to the receipt of the animal or to a
34 public or private organization that has a permit issued pursuant to this section prior
35 to the receipt of the animal. The exhibitor or dealer who sells or transfers that
36 animal shall pay a fee pursuant to subdivision (a) of Section 27215 to the
37 department.

38 (c) Any university, college, governmental research agency, or other bona fide
39 scientific institution, as defined in regulations adopted by the commission,
40 engaging in scientific or public health research is exempt from any permit
41 requirement pursuant to this title except for animals whose importation,

1 transportation, or possession is determined by the department, in cooperation with
2 the Department of Food and Agriculture, to be detrimental or cause damage to
3 agriculture, native wildlife, or the public health or safety.

4 (d) Notwithstanding the provisions of this section, every zoo, university, college,
5 governmental research agency, or other bona fide scientific institution shall
6 comply with the requirements of Section 27275 for all animals the zoo, university,
7 college, governmental research agency, or other bona fide scientific institution
8 possesses that are enumerated in, or designated pursuant to, Section 671 of Title
9 14 of the California Code of Regulations.

10 **Comment.** Section 27210 continues former Fish and Game Code Section 2150(c)-(f) without
11 substantive change.

12 **§ 27215. Fees**

13 27215. (a) The department shall establish fees for permits, permit applications,
14 and facility inspections in amounts sufficient to cover the costs of administering,
15 implementing, and enforcing this part.

16 (b) Fees collected pursuant to this part for permits, permit applications, and
17 facility inspections shall be deposited in the Fish and Game Preservation Fund.
18 The department shall annually identify the amount collected for each type of
19 permit, permit application, or inspection for which a fee is collected.

20 **Comment.** Subdivision (a) of Section 27215 continues former Fish and Game Code Section
21 2150.2 without substantive change.

22 Subdivision (b) continues former Fish and Game Code Section 2150.1 without substantive
23 change.

24 **§ 27220. Advisory committee**

25 27220. (a) The director shall appoint a committee to advise the director on the
26 humane care and treatment of wild animals.

27 (b) The committee shall make recommendations to the director for the
28 establishment of standards of performance for administration and enforcement,
29 which shall include, but are not limited to, requiring that the eligible local entity
30 possess a knowledge of humane wild animal training methods.

31 (c) The committee shall make recommendations to the director as to the
32 frequency of inspections necessary for the enforcement and administration of any
33 provision concerning the possession of, handling of, care for, or holding facilities
34 provided for, a wild animal listed in or designated pursuant to Sections 26700
35 through 26730, inclusive.

36 (d) The committee shall advise and assist the director in entering into
37 memorandums of understanding with eligible local entities and in determining
38 whether the memorandums of understanding meet the requirements of this title.

39 **Comment.** Section 27220 continues former Fish and Game Code Section 2150.3 without
40 substantive change.

41 **Note.** Existing Fish and Game Code Section 2150.3(c) (which would be continued by
42 proposed Section 27020(c)) refers to a wild animal “designated pursuant to” existing Fish and

Game Code Section 2118. Several other sections in the chapter in which Sections 2118 and 2150.3 appear refer to wild animals “enumerated in or designated pursuant to” Section 2118. For consistency, the proposed law would revise all of those references, including the reference in proposed Section 27020(c), to read “listed in or designated pursuant to” the provisions that would continue Section 2118.

The Commission invites comment on whether this revision would substantively change the intended meaning of existing Section 2150.3(c).

§ 27225. Inspection of facilities

27225. (a) The department or an eligible local entity shall inspect the wild animal facilities, as determined by the director’s advisory committee, of each person holding a permit issued pursuant to Section 27200 authorizing the possession of a wild animal.

(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 27200 for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department shall collect an inspection fee, in an amount determined by the department pursuant to subdivision (a) of Section 27215.

(c) No later than January 1, 2009, the department, in cooperation with the committee created pursuant to Section 27220, shall develop, implement, and enter into memorandums of understanding with eligible local entities if the department elects not to inspect every wild animal facility pursuant to subdivisions (a) and (b). Eligible local entities shall meet the criteria established in regulations adopted pursuant to Section 27265.

Comment. Section 27225 continues former Fish and Game Code Section 2150.4 without substantive change.

§ 27230. Permit for animal acquired prior to 1975

27230. Classes, orders, families, genera, and species which may not be imported, transported, possessed, or released alive in this state solely because of concern for the welfare of the animal may be possessed under permit when the owner can demonstrate that such animal was legally acquired and possessed in California before January 1, 1975. The department may require the owner of an animal which may be possessed under this section to mark or otherwise identify such animal and progeny, so as not to endanger the welfare of that animal, to the satisfaction of the department. The owner shall not transfer such animal or progeny to any other person without prior approval of the department.

Comment. Section 27230 continues former Fish and Game Code Section 2150.5 without substantive change.

1 **§ 27235. Required content of permit application**

2 27235. A permit shall be issued only upon written application from the person
3 desiring to import or transport the species, enumerating all of the following:

4 (a) The approximate number and true scientific name of each species of wild
5 animal for which a permit is requested.

6 (b) The carrier and probable point of first arrival in this state of each shipment of
7 such species.

8 (c) The purpose for which they are to be imported or transported.

9 (d) The name and address of the consignee.

10 (e) The name and address of the consignor.

11 **Comment.** Section 27235 continues former Fish and Game Code Section 2151 without
12 substantive change.

13 **§ 27240. Content of permit**

14 27240. Each permit issued shall set forth all of the following:

15 (a) The number and true scientific name of the species of wild animal for which
16 the permit is granted.

17 (b) A statement of the manner and conditions under which the entry of such
18 species is permitted.

19 (c) A statement of the conditions under which the species shall be kept after
20 importation or during transportation.

21 **Comment.** Section 27240 continues former Fish and Game Code Section 2152 without
22 substantive change.

23 **§ 27245. Distribution of copies of permit**

24 27245. Whenever any permit is issued under the provisions of this title, one
25 copy shall be sent by the department to the State Department of Food and
26 Agriculture, one copy to the county agricultural commissioner or to the state plant
27 quarantine officer having jurisdiction at the place designated in the application as
28 the probable point of first arrival in the state of such species, and one copy shall
29 accompany each shipment of wild animals involved.

30 **Comment.** Section 27245 continues former Fish and Game Code Section 2153 without
31 substantive change.

32 **§ 27250. Progeny of imported or possessed animals**

33 27250. The provisions of this part and regulations adopted pursuant to this part
34 shall apply to the progeny of any wild animal imported or possessed under those
35 laws and regulations, except that no permit shall be required for the possession of
36 progeny if a permit has already been obtained by the owner for the parent animal,
37 and the progeny are kept at the same site.

38 **Comment.** Section 27250 continues former Fish and Game Code Section 2155 without
39 substantive change.

1 **§ 27255. Local ordinances**

2 27255. Neither the provisions of this part nor the regulations of the commission
3 shall prevent any city or county from enacting ordinances relating to the
4 possession or care of wild animals, provided those ordinances are more restrictive.

5 **Comment.** Section 27255 continues former Fish and Game Code Section 2156 without
6 substantive change.

7 **§ 27260. Required reporting of health and safety risk**

8 27260. Every person holding a permit issued pursuant to Section 27200 shall
9 uniquely identify each wild mammal that poses a risk to the health and safety of
10 the public and report this identification to the department to maintain in a registry.

11 **Comment.** Section 27260 continues former Fish and Game Code Section 2157(a) without
12 substantive change.

13 **§ 27265. Commission regulations relating to identification of health and safety risk**

14 27265. The commission shall adopt regulations that address the following:

15 (a) Identify the mammals that pose a risk to the health and safety of the public
16 and are subject to Section 27260. This identification shall include the following
17 species of mammals:

18 (1) Wild cats.

19 (2) Elephants.

20 (3) Nonhuman primates.

21 (4) Bears.

22 (5) Wolves.

23 (b) Acceptable forms of identification.

24 (c) How and when a permittee must notify the department of the unique
25 identifier required by Section 27260.

26 (d) These regulations shall be developed and adopted by the commission, on or
27 before January 1, 2007.

28 **Comment.** Section 27265 continues former Fish and Game Code Section 2157(b) and (d)
29 without substantive change.

30 **§ 27270. Department to establish registry**

31 27270. The department shall establish a registry listing the permit number, type,
32 expiration date, name and address of the permittee, and an inventory of each
33 mammal covered by the permit and the identification assigned or affixed to that
34 mammal pursuant to Section 27260.

35 **Comment.** Section 27270 continues former Fish and Game Code Section 2157(c) without
36 substantive change.

37 **§ 27275. Required reporting of escape or release**

38 27275. (a) Every person who holds a permit issued pursuant to Section 27200
39 shall immediately report by telephone the intentional or unintentional escape or
40 release of any wild animal covered by the permit, to the department and the

1 nearest enforcing officer of the city or county in which the wild animal was
2 released or escaped.

3 (b) The permitholder shall be liable for all expenses associated with efforts to
4 recapture the wild animal.

5 (c) For the purposes of this section, the exhibition of a wild animal on a movie
6 set, film set, television set, still photography set, or any other professional activity
7 allowable under a permit issued pursuant to Section 27200, does not constitute an
8 intentional or unintentional escape or release of the wild animal unless the person
9 exhibiting the wild animal has lost control of the wild animal.

10 **Comment.** Section 27275 continues former Fish and Game Code Section 2193(a) without
11 substantive change.

12 **§ 27280. Commission regulations relating to taking possession of permitted animal**

13 27280. (a) The commission shall promulgate regulations establishing the criteria
14 for permitholders to notify the department prior to taking possession of or
15 transferring an animal and upon the death of an animal.

16 (b) These regulations shall be developed and adopted by the commission on or
17 before January 1, 2007.

18 **Comment.** Section 27280 continues former Fish and Game Code Section 2193(b)-(c) without
19 substantive change.

20 **TITLE 4. INSPECTION OF ARRIVING ANIMAL**

21 **§ 27400. Special definition of “enforcing officer”**

22 27400. Notwithstanding Section 26505, for the purposes of this title, “enforcing
23 officer” means the enforcement personnel of the department, the state plant
24 quarantine officers, and county agricultural commissioners.

25 **Comment.** Section 27400 continues former Fish and Game Code Sections 2185(b), 2186(b),
26 and 2187(b) without substantive change.

27 **§ 27405. Notification of law enforcement of arriving wild animal**

28 27405. Any person who transports, receives, or imports into the state, or
29 transports within the state, any live wild animal listed in or designated pursuant to
30 Section 26700 through 26730, inclusive, shall hold that animal in confinement for
31 inspection, and immediately notify the nearest enforcing officer of the arrival of
32 that animal. If there is found in any shipment any animal of a species not specified
33 in the permit issued under this part, or more than the number of animals of any
34 species specified, those animals shall be disposed of as provided in subdivision (b)
35 of Section 27505.

36 **Comment.** Section 27405 continues former Fish and Game Code Section 2185(a) without
37 substantive change.

38 **Note.** The second sentence of existing Fish and Game Code Section 2185(a) (which would be
39 continued by proposed Section 27405) provides that if an enforcing officer finds in any shipment

of wild animals transported into this state any animal of a species not specified in a permit issued under this part, or more than the number of animals of any species specified, those animals shall be “refused admittance as provided in Section 2188 of this part.” However, former Fish and Game Code Section 2188 was repealed by 1989 Cal. Stat. ch. 431, a bill that also added to existing law Fish and Game Code Section 2189 (which would be continued by proposed Sections 27500, 27505, and 27510).

Proposed Section 27405 would revise the quoted language above to instead refer to and reflect the language of the section of the proposed law that would continue existing Fish and Game Code Section 2189(c), which refers to the “disposition” of a live nonnative wild animal that is possessed or transported within this state in violation of the chapter of existing law containing Section 2189, and which also contained Section 2188.

The Commission invites comment on the appropriateness of this revision.

§ 27410. Discovery of disease during inspection

27410. If during inspection upon arrival any wild animal is found to be diseased, or there is reason to suspect the presence of disease, or there is reason to suspect the presence of disease that is or may be detrimental to agriculture, to native wildlife, or to the public health or safety, the diseased animal, and if necessary, the entire shipment shall be destroyed by, or under the supervision of, the enforcing officer, unless no detriment can be caused by its detention in quarantine for a time and under conditions satisfactory to the enforcing officer for disinfection, treatment, or diagnosis, or no detriment can be caused by its return to its point of origin at the option and expense of the owner or possessor.

Comment. Section 27410 continues former Fish and Game Code Section 2186(a) without substantive change.

§ 27415. Periodic subsequent examination of animal

27415. (a) Whenever any wild animal is brought into this state under permit, as provided in this part, the enforcing officers may, from time to time, examine the conditions under which that species is kept, and report to the department any suspicion or knowledge of any disease or violations of the conditions of the permit or of the regulations promulgated under this part.

(b) The enforcing officer may order the transfer of the animal to new owners or the correction of the conditions under which the species is being kept if not in conformance with the terms of the permit, at the expense of the owner or possessor. If neither transfer or improvement of conditions is accomplished, the officer may order destruction of the animal.

Comment. Section 27415 continues former Fish and Game Code Section 2187(a) without substantive change.

TITLE 5. NONNATIVE WILD ANIMALS

§ 27500. “Nonnative wild animal”

27500. (a) As used in this title, “nonnative wild animal” means any nonnative animal species, or hybrid thereof, that is not normally domesticated pursuant to

1 this code or regulations adopted pursuant to this code, and that is not designated as
2 a furbearing, game, nongame, threatened, or endangered animal.

3 **Comment.** Section 27500 continues former Fish and Game Code Section 2189(a) without
4 substantive change.

5 **§ 27505. Prohibitions**

6 27505. (a) No person shall import into this state any live nonnative wild animal
7 except pursuant to this part, or regulations adopted pursuant to this part.

8 (b) Any live nonnative wild animal that is possessed or transported within this
9 state in violation of this part or regulations adopted pursuant to this part shall be
10 disposed of in accordance with regulations adopted pursuant to Section 26610, at
11 the expense of the owner or possessor. The owner or possessor shall pay the costs
12 associated with the seizure, care, holding, transfer, and destruction of the animal.

13 **Comment.** Section 27505 continues former Fish and Game Code Section 2189(b)-(c) without
14 substantive change.

15 **§ 27510. Animals found at large**

16 27510. (a) Any live, nonnative wild animal found at large within this state shall
17 be either summarily destroyed or, if captured, shall be confined for not less than
18 72 hours following notification of the local humane society. Any local, state, or
19 federal governmental agency that has public safety responsibilities is authorized to
20 implement this subdivision.

21 (b) If, during the 72-hour holding period, any person claims ownership of the
22 animal, that person shall only be allowed to dispose of the animal pursuant to
23 subdivision (c).

24 (c) After the 72-hour holding period, if the animal is unclaimed, it shall be
25 disposed of in accordance with regulations adopted pursuant to Section 26610,
26 unless the animal is listed as a threatened or endangered species by either state or
27 federal regulation. Notwithstanding subdivision (c), if the animal is listed as a
28 threatened or endangered species in either state or federal regulation, the
29 department shall be notified of the animal's location and the department shall be
30 responsible for proper disposition.

31 **Comment.** Section 27510 continues former Fish and Game Code Section 2189(d)-(f) without
32 substantive change.

33 **TITLE 6. MAMMALS USED FOR HIRE**

34 **§ 27600. "Mammal"**

35 27600. For purposes of this title, "mammal" means any wild animal of the class
36 Mammalia as specified in Section 26705 or as specified in a regulation adopted
37 pursuant to Title 2, which affects commerce.

38 **Comment.** Section 27600 continues former Fish and Game Code Section 2200 without
39 substantive change.

1 **§ 27605. Animal Trust Fund**

2 27605. The Animal Trust Fund is hereby established in the State Treasury. Upon
3 appropriation by the Legislature, the money in the fund is available to the
4 department for the administration of this title and to make grants pursuant to
5 Section 27615. The department may use not more than 5 percent of the money in
6 the fund for the costs of administering this title.

7 **Comment.** Section 27605 continues former Fish and Game Code Section 2201 without
8 substantive change.

9 **§ 27610. Grants and donations**

10 27610. The department may seek grants and accept donations from private and
11 public organizations and agencies for the purposes of this chapter for deposit in
12 the Animal Trust Fund.

13 **Comment.** Section 27610 continues former Fish and Game Code Section 2202 without
14 substantive change.

15 **§ 27615. Regulations relating to grant program**

16 27615. (a) The director, with the advice of the committee established pursuant to
17 Section 27220, shall adopt regulations to establish and administer a grant program,
18 including eligibility criteria, by which persons or governmental agencies who
19 operate facilities to care and shelter mammals may apply for grants for
20 maintenance, operations, and capital improvements. The program shall include
21 provisions for emergency grants with an expedited review process.

22 (b) Each member of the committee who is eligible to receive per diem and
23 mileage shall be allowed per diem and mileage in accordance with the rules of the
24 Department of Human Resources for attending any meeting of the committee
25 involving this title.

26 **Comment.** Section 27615 continues former Fish and Game Code Section 2203 without
27 substantive change.

28 **TITLE 7. MISCELLANEOUS PROVISIONS**

29 **§ 27700. Prohibited release of wild animal**

30 27700. It is unlawful for any person who keeps in confinement, with or without
31 a permit, any wild animal of a species listed in or designated pursuant to Sections
32 26700 through 26730, inclusive, to liberate, ship, or transport the animal except in
33 accordance with the conditions of a permit first obtained from the department.

34 **Comment.** Section 27700 continues former Fish and Game Code Section 2190 without
35 substantive change.

36 **§ 27705. Civil action to recover costs**

37 27705. When a wild animal enumerated in or designated pursuant to Section 671
38 of Title 14 of the California Code of Regulations is properly confiscated by the

department, the new custodian with whom the animal is placed by the department may bring a civil action to recover the reasonable costs incurred by the custodian for any necessary relocation of the animal to a new facility, any actual and necessary costs to construct new caging to house the animal, and any actual and necessary costs to return the animal to a healthy state, to the extent that the department or new custodian has not already collected the costs pursuant to Section 27015. The prior owner or possessor from whom the animal was confiscated shall be liable for these costs only if the conditions that led to the animal's confiscation were the result of acts or omissions of the prior owner or possessor.

Comment. Section 27705 continues former Fish and Game Code Section 2195 without substantive change.

§ 27710. Regulations relating to caging standards

27710. Notwithstanding Part 2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, Section 11356 of the Government Code, or any other provision of law, regulations of the commission relating to the construction, fixtures, and other minimum caging standards adopted by the commission for the confinement of live wild animals pursuant to this part are not building standards subject to the approval of the State Building Standards Commission.

Comment. Section 27710 continues former Fish and Game Code Section 2192 without substantive change.

**PART 7. IMPORTATION AND TRANSPORTATION OF LIVE PLANTS
AND ANIMALS**

TITLE 1. BIRDS

§ 28000. Prohibition against transport of specified live birds

28000. Except as otherwise provided, it is unlawful for any common carrier to transport any live protected nongame bird or any live resident or migratory game bird for which there is no open season.

Comment. Section 28000 continues former Fish and Game Code Section 2225 without substantive change.

TITLE 2. AQUATIC PLANTS AND ANIMALS

§ 28100. Potentially diseased plants or animals

28100. It is unlawful for any person to receive, bring, or cause to be brought into this state, for the purpose of propagation, any fish, reptile, amphibian, or aquatic plant from any place wherein any infected, diseased, or parasitized fish, reptile, amphibian, or aquatic plants are known to exist.

1 **Comment.** Section 28100 continues former Fish and Game Code Section 2270 without
2 substantive change.

3 See also Section 5262 (enforcement).

4 **§ 28105. Aquaculture exception**

5 28105. Section 28100 does not apply to the importation of live aquatic plants or
6 animals for aquaculture purposes by a registered aquaculturist if the importation
7 has been approved by the department pursuant to Sections 24705 and 24710.

8 **Comment.** Section 28105 continues former Fish and Game Code Section 2270.5 without
9 substantive change.

10 **§ 28110. Approval from department required for importation**

11 28110. (a) No live aquatic plant or animal may be imported into this state
12 without the prior written approval of the department pursuant to regulations
13 adopted by the commission.

14 (b) A written application for the importation, submitted in conformance with the
15 procedural requirements established by the commission, is deemed approved
16 where it has not been denied within 60 days.

17 (c) This section does not apply to the following plants or animals unless the
18 plants or animals are or may be placed in waters of the state:

19 (1) Mollusks.

20 (2) Crustaceans.

21 (3) Ornamental marine or freshwater plants and animals that are not utilized for
22 human consumption or bait purposes and are maintained in closed systems for
23 personal, pet industry, or hobby purposes.

24 (d) The section does not apply to any live aquatic plant or animal imported by a
25 registered aquaculturist.

26 **Comment.** Section 28110 continues former Fish and Game Code Section 2271 without
27 substantive change.

28 See also Section 5264 (enforcement).

29 **§ 28115. Packaging**

30 28115. Each package containing any live aquatic plant or animal shall bear, in a
31 conspicuous place, a tag on which shall be stated the name and address of the
32 consignor, the name and address of the consignee, and the exact contents of the
33 package.

34 **Comment.** Section 28115 continues former Fish and Game Code Section 2272 without
35 substantive change.

PART 8. AQUATIC INVASIVE SPECIES

TITLE 1. GENERAL PROVISIONS [RESERVED]

TITLE 2. CAULERPA ALGAE

§ 28250. Prohibition

28250. (a) No person shall sell, possess, import, transport, transfer, release alive in the state, or give away without consideration the salt water algae of the *Caulerpa* species: *taxifolia*, *cupressoides*, *mexicana*, *sertularioides*, *floridana*, *ashmeadii*, *racemosa*, *verticillata*, and *scapelliformis*.

(b) Notwithstanding subdivision (a), a person may possess, for bona fide scientific research, as determined by the department, upon authorization by the department, the salt water algae of the *Caulerpa* species: *taxifolia*, *cupressoides*, *mexicana*, *sertularioides*, *floridana*, *ashmeadii*, *racemosa*, *verticillata*, and *scapelliformis*.

Comment. Section 28250 continues former Fish and Game Code Section 2300(a)-(b) without substantive change.

See also Section 5266 (enforcement).

PART 9. IMPORTATION AND TRANSPORTATION OF DEAD ANIMALS

TITLE 1. DEAD WILD ANIMALS

§ 28400. Application of title

28400. (a) This title applies to all dead wild birds, mammals, fish, reptiles, and amphibians. This chapter also applies to live mollusks and crustaceans that are transported for purposes other than placement in the waters of this state.

(b) This chapter does not apply to animals imported for purposes of aquaculture under Part 1 (commencing with Section 23300).

Comment. Section 28400 continues former Fish and Game Code Section 2345 without substantive change.

§ 28405. Transportation of more than bag limit

28405. (a) It is unlawful for a common carrier or his or her agent to transport for, or to receive for transportation from, any one person, during any interval of time, more than the bag limit of birds, mammals, fish, reptiles, or amphibians that may legally be taken and possessed by that person during that interval.

(b) It is unlawful for any person to offer for transportation by common carrier during any interval of time more than the bag limit of birds, mammals, fish,

1 reptiles, or amphibians that may legally be taken and possessed by that person
2 during that interval.

3 **Comment.** Subdivision (a) of Section 28405 continues former Fish and Game Code Section
4 2346 without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 2347 without substantive
6 change.

7 **§ 28410. Marking on packaging containing animal**

8 28410. (a) The outside of a package offered to or received by a common carrier
9 or the carrier's agent for transportation, or transported by a common carrier or
10 agent, that contains a bird, mammal, fish, reptile, or amphibian, shall clearly and
11 conspicuously indicate the following:

12 (1) The name and address of the shipper.

13 (2) The name and address of the consignee.

14 (3) The number and kind of bird, mammal, fish, reptile, and amphibian
15 contained in the package.

16 (b) Licensed commercial fishermen and licensed commercial fish dealers are
17 subject to all of the provisions of this section, except that commercial shipments of
18 fish may be indicated by total net weight of each species instead of by numbers.

19 **Comment.** Section 28410 continues former Fish and Game Code Section 2348 without
20 substantive change.

21 **§ 28415. Parcel post generally prohibited**

22 28415. No bird, mammal, fish, reptile, or amphibian, except smoked, cured, or
23 dried fish other than trout, may be shipped by parcel post.

24 **Comment.** Section 28415 continues former Fish and Game Code Section 2349 without
25 substantive change.

26 **§ 28420. Transport of specified birds**

27 28420. Except as permitted by this code, it is unlawful for any common carrier
28 to transport any protected nongame bird, or to transport any resident or migratory
29 game bird for which there is no open season.

30 **Comment.** Section 28420 continues former Fish and Game Code Section 2352 without
31 substantive change.

32 **§ 28425. Requirements for importation or possession**

33 28425. (a) Birds, mammals, fish, reptiles, or amphibians shall not be imported or
34 possessed in this state unless all of the following requirements are met:

35 (1) The animals were legally taken and legally possessed outside of this state.

36 (2) This code and regulations adopted pursuant thereto do not expressly prohibit
37 their possession in this state.

38 (3) A declaration is submitted to the department or a designated state or federal
39 agency at or immediately before the time of entry, in the form and manner
40 prescribed by the department.

(b) Birds, mammals, fish, reptiles, or amphibians legally taken and legally possessed outside of this state may be imported into this state and possessed without a declaration if the shipment is handled by a common carrier under a bill of lading or as supplies carried into this state by common carriers for use as food for the passengers.

(c) The commission and the department shall not modify this section by any regulation that would prohibit the importation of lawfully killed migratory game birds taken in any other state or country and transported into this state pursuant to the migratory bird regulations adopted annually by the Secretary of the Interior.

Comment. Section 28425 continues former Fish and Game Code Section 2353 without substantive change.

TITLE 2. DEAD DOMESTICATED BIRDS AND MAMMALS

§ 28500. Transport by common carrier

28500. (a) A common carrier may transport the carcass of a dead domesticated game bird or mammal tagged with a domesticated game breeder's tag as provided in Title 1 (commencing with Section 26000) of Part 4.

(b) A tag or label shall be affixed to every package containing a carcass transported pursuant to subdivision (a), which shall state all of the following:

(1) The name of the person to whom the game breeder's license was issued.

(2) The name of the person who killed the game bird or mammal.

(3) The name of the person to whom the game bird or mammal is consigned.

(4) The name of the person who tagged the game bird or mammal.

(5) The number of carcasses or parts of carcasses contained in the package.

(6) That the game birds or mammals were killed and tagged in accordance with the provisions of Title 1 (commencing with Section 26000) of Part 4.

Comment. Section 28500 continues former Fish and Game Code Section 2400 without substantive change.

§ 28505. Domesticated game birds raised outside state

28505. (a) Notwithstanding the provisions of Section 26035, the carcasses or parts of domesticated game birds that have been raised outside of this state may be imported into this state, and transported, sold, or possessed in this state.

(b) A common carrier may receive and transport carcasses or parts of game birds described in subdivision (a) at any time. A label shall be affixed to every package containing those carcasses or parts with the following plainly written or printed on the label:

(1) The names and addresses of the consignor and consignee.

(2) The number and kinds of carcasses or parts.

(3) A statement that the contents are carcasses or parts of domesticated game birds raised outside this State.

1 **Comment.** Section 28505 continues former Fish and Game Code Section 2401 without
2 substantive change.

3 References to “parts” of domesticated game birds in this section is superfluous. See Section 95
4 (reference to animal generally includes part of animal). Those references are retained solely for
5 clarity, and are not intended to affect the meaning of any other provision of this code that includes
6 or omits a reference to a “part” of an animal.

7 PART 10. PROHIBITED SALE AND POSSESSION FOR SALE

8 TITLE 1. POSSESSION IN EATING 9 ESTABLISHMENT

10 § 28600. Prohibition

11 28600. (a) Except as otherwise provided in this section, it is unlawful to possess
12 a bird, mammal, fish, amphibian, or reptile, that may not be legally sold, in a
13 restaurant or other eating establishment.

14 (b) This section does not apply to any of the following:

15 (1) A person who lawfully took or otherwise legally possessed the bird,
16 mammal, fish, or amphibian.

17 (2) A person preparing the bird, mammal, fish, amphibian, or reptile for
18 consumption by the person who lawfully took or possessed it, or by that person
19 and others, if the person who took or possessed it is present on the premises.

20 (3) A bird, mammal, fish, amphibian, or reptile tagged with a signed statement
21 of the person who took the bird, mammal, fish, amphibian, or reptile, stating that
22 person’s name and address, the date taken, and the total number and kind taken.

23 **Comment.** Section 28600 continues former Fish and Game Code Section 2015 without
24 substantive change.

25 TITLE 2. IVORY AND RHINOCEROS HORNS

26 § 28650. Definitions

27 28650. For the purposes of this part, the following terms have the following
28 meanings:

29 (a) “Bona fide educational or scientific institution” means an institution that
30 establishes through documentation either of the following:

31 (1) Educational or scientific tax exemption, from the federal Internal Revenue
32 Service or the institution’s national, state, or local tax authority.

33 (2) Accreditation as an educational or scientific institution, from a qualified
34 national, regional, state, or local authority for the institution’s location.

35 (b) “Ivory” means a tooth or tusk from a species of elephant, hippopotamus,
36 mammoth, mastodon, walrus, warthog, whale, or narwhal, or a piece thereof,
37 whether raw ivory or worked ivory, and includes a product containing, or
38 advertised as containing, ivory.

1 (c) “Rhinoceros horn” means the horn, or a piece thereof, or a derivative such as
2 powder, of a species of rhinoceros, and includes a product containing, or
3 advertised as containing, a rhinoceros horn.

4 (d) “Sale” or “sell” means selling, trading, bartering for monetary or
5 nonmonetary consideration, giving away in conjunction with a commercial
6 transaction, or giving away at a location where a commercial transaction occurred
7 at least once during the same or the previous calendar year.

8 (e) “Total value” means either the fair market value or the actual price paid for
9 ivory or rhinoceros horn, whichever is greater.

10 **Comment.** Section 28650 continues former Fish and Game Code Section 2022(a) without
11 substantive change.

12 **§ 28655. Prohibition**

13 28655. (a) Except as provided in subdivision (b), it is unlawful to purchase, sell,
14 offer for sale, possess with intent to sell, or import with intent to sell ivory or
15 rhinoceros horn.

16 (b) The prohibitions set forth in subdivision (a) do not apply to any of the
17 following:

18 (1) An employee or agent of the federal or state government undertaking a law
19 enforcement activity pursuant to federal or state law, or a mandatory duty required
20 by federal law.

21 (2) An activity that is authorized by an exemption or permit under federal law or
22 that is otherwise expressly authorized under federal law.

23 (3) Ivory or rhinoceros horn that is part of a musical instrument, including, but
24 not limited to, a string or wind instrument or piano, and that is less than 20 percent
25 by volume of the instrument, if the owner or seller provides historical
26 documentation demonstrating provenance and showing the item was manufactured
27 no later than 1975.

28 (4) Ivory or rhinoceros horn that is part of a bona fide antique and that is less
29 than five percent by volume of the antique, if the antique status is established by
30 the owner or seller of the antique with historical documentation demonstrating
31 provenance and showing the antique to be not less than 100 years old.

32 (5) The purchase, sale, offer for sale, possession with intent to sell, or
33 importation with intent to sell ivory or rhinoceros horn for educational or scientific
34 purposes by a bona fide educational or scientific institution if both of the
35 following criteria are satisfied:

36 (A) The purchase, sale, offer for sale, possession with intent to sell, or import
37 with intent to sell the ivory or rhinoceros horn is not prohibited by federal law.

38 (B) The ivory or rhinoceros horn was legally acquired before January 1, 1991,
39 and was not subsequently transferred from one person to another for financial gain
40 or profit after July 1, 2016.

41 **Comment.** Section 28655 continues former Fish and Game Code Section 2022(b) and (c)
42 without substantive change.

1 See also Sections 5300-5308 (enforcement).

2 **§ 28660. Prima facie evidence**

3 28660. Possession of ivory or rhinoceros horn in a retail or wholesale outlet
4 commonly used for the buying or selling of similar items is prima facie evidence
5 of possession with intent to sell. This evidence does not preclude a finding of
6 intent to sell based on any other evidence that may serve to establish that intent
7 independently or in conjunction with this evidence.

8 **Comment.** Section 28660 continues former Fish and Game Code Section 2022(d) without
9 substantive change.

10 **TITLE 3. SALE OR PURCHASE OF BIRD OR**
11 **MAMMAL FOUND IN WILD**

12 **§ 28750. Prohibition**

13 28750. (a) Except as otherwise provided in this section, Section 10830, Section
14 34410, another provision of this code, or a regulation adopted pursuant to this
15 code, it is unlawful to sell or purchase a bird or mammal found in the wild in
16 California.

17 (b) Products or handicraft items made from furbearing mammals and nongame
18 mammals lawfully taken under the authority of a trapping license may be
19 purchased or sold at any time.

20 (c) Shed antlers, or antlers taken from domestically reared animals that have
21 been manufactured into products or handicraft items, or that have been cut into
22 blocks or units that are to be handcrafted or manufactured into those articles, may
23 be purchased or sold at any time. However, complete antlers, whole heads with
24 antlers, antlers that are mounted for display, or antlers in velvet, may not be sold
25 or purchased at any time, except as authorized by Section 10830.

26 (d) Notwithstanding Section 28910, inedible parts of domestically raised game
27 birds may be sold or purchased at any time.

28 (e) A person who illegally takes a bird or mammal for profit or for personal gain
29 by engaging in an activity authorized by this section is subject to civil liability
30 pursuant to Section 4482.

31 **Comment.** Section 28750 continues former Fish and Game Code Section 3039 without
32 substantive change.

DIVISION 8. BIRDS

PART 1. GENERAL PROVISIONS

§ 28900. Governance by other provisions

28900. Animals governed by this division are also governed by other provisions of this code, including but not limited to Divisions 6 (commencing with Section 8000) and 7 (commencing with Section 23300).

Comment. Section 28900 is new. It is added for drafting convenience.

§ 28905. Bird nest or eggs

28905. It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as provided by this code or any regulation adopted pursuant to this code.

Comment. Section 28905 continues former Fish and Game Code Section 3503 without substantive change.

See also Section 5310 (enforcement).

§ 28910. Sale or purchase of game or nongame bird

28910. Subject to the provisions of this code permitting the sale of domestically raised game birds, it is unlawful to sell or purchase a game bird or nongame bird.

Comment. Section 28910 continues former Fish and Game Code Section 3504 without substantive change.

§ 28915. Control of birds unduly preying on other animals

28915. The department may take any individual bird, or birds of any species, that, in its opinion, are unduly preying upon any species of bird, mammal, reptile, amphibian, or fish.

Comment. Section 28915 continues former Fish and Game Code Section 3803 without substantive change.

PART 2. DISEASE CONTROL

TITLE 1. GENERAL PROVISIONS [RESERVED]

TITLE 2. AVIAN INFLUENZA WILDLIFE
SURVEILLANCE ACT

§ 29050. Name of act

29050. This title shall be known, and may be cited, as the Avian Influenza Wildlife Surveillance Act.

1 **Comment.** Section 29050 continues former Fish and Game Code Section 3860 without
2 substantive change.

3 **§ 29055. Findings and declarations**

4 29055. The Legislature finds and declares all of the following:

5 (a) Avian influenza and other emerging diseases of wildlife are a serious threat
6 to the people of California.

7 (b) California is home to large populations of migratory birds and other wildlife
8 species.

9 (c) California is a central part of the Pacific Flyway, and a seasonal home to
10 species of birds that migrate to and from Asia, Central America, South America,
11 and other regions.

12 (d) Surveillance of wild birds and animals across the state is a key element
13 among efforts to prevent avian influenza and other emerging wildlife diseases
14 from harming the people and the natural resources of the state.

15 (e) In the interest of public health, the state shall support a surveillance program
16 for avian influenza in wild bird and animal populations.

17 **Comment.** Section 29055 continues former Fish and Game Code Section 3861 without
18 substantive change.

19 **§ 29060. Consultation among agencies to develop plan**

20 29060. The Natural Resources Agency, in consultation with the department, the
21 Department of Food and Agriculture, the State Department of Public Health, the
22 Office of Emergency Services, and the University of California, shall develop and
23 implement a plan for the surveillance, monitoring, sampling, diagnostic testing,
24 and reporting of avian influenza in wild birds and animals in the state. The Natural
25 Resources Agency shall consult with the United States Fish and Wildlife Service
26 and the United States Department of Food and Agriculture in developing the plan.

27 **Comment.** Section 29060 continues former Fish and Game Code Section 3862 without
28 substantive change.

29 **§ 29065. Avian Influenza Working Group**

30 29065. (a) The Secretary of the Natural Resources Agency shall formally
31 establish the Avian Influenza Working Group to assist in the development of the
32 plan described in Section 29060. The Avian Influenza Working Group shall
33 utilize, as guidance for early detection, the national protocol that has been
34 developed to guide states in developing state-specific plans, known as the Early
35 Detection System for Asian H5N1 Highly Pathogenic Avian Influenza in Wild
36 Migratory Birds. The Avian Influenza Working Group shall also continue,
37 enhance, and facilitate the work already begun by the department, other state
38 departments, and the University of California, to coordinate communication of
39 information and response plans for highly pathogenic avian influenza in wild
40 birds.

(b) The Avian Influenza Working Group shall be composed of all of the following members:

(1) The Secretary of the Natural Resources Agency, or a designee.

(2) The director, or a designee.

(3) The Secretary of Food and Agriculture, or a designee.

(4) The State Public Health Officer, or a designee.

(5) The Director of Emergency Services, or a designee.

(6) One representative appointed by the Regents of the University of California.

(7) Two representatives from a qualified research organization or other qualified nongovernmental organization appointed by the Secretary of the Natural Resources Agency.

(c) The director shall chair the Avian Influenza Working Group.

(d) A majority of the Avian Influenza Working Group shall constitute a quorum for the transaction of business.

(e) The duties of the Avian Influenza Working Group shall include all of the following:

(1) Developing strategies for the detection of, and response to, the avian influenza virus in wild birds in California.

(2) Fostering communication among state and federal agencies regarding the avian influenza surveillance program.

(3) Developing strategies for public outreach and education.

(f) The Avian Influenza Working Group may consult with other public and nonprofit groups potentially affected by avian influenza in wild birds.

Comment. Section 29065 continues former Fish and Game Code Section 3863 without substantive change.

PART 3. CLASSES OF BIRDS

TITLE 1. MIGRATORY BIRDS

§ 29200. Taking

29200. Migratory game birds may be taken in conformity with federal laws and regulations and the regulations of the commission adopted pursuant to this title.

Comment. Section 29200 restates the first paragraph of former Fish and Game Code Section 356 without substantive change.

Note. Proposed Section 29200 is intended to restate the first paragraph of existing Section 356, to clarify its meaning without changing its substantive effect. The existing provision reads as follows:

Migratory game birds may be taken in conformity with the federal laws and regulations and the regulations of the commission as provided in Section 355.

The cross-reference to regulations of the Commission “as provided in Section 355” has been updated to refer to Commission regulations adopted pursuant to the title in which Section 355

appears. This would include regulations adopted pursuant to the second paragraph of existing Section 356 (proposed Section 29215), which also governs the take of migratory game birds.

The Commission invites comment on whether this revision is appropriate.

§ 29205. License to permit feeding

29205. (a) In order to aid in relieving widespread waterfowl depredation of agricultural crops, the department may issue licenses under regulations which the commission may adopt to permit the feeding of migratory game birds.

(b) The commission may prescribe an annual fee for the license.

Comment. Section 29205 continues former Fish and Game Code Section 3806 without substantive change.

§ 29210. Commission regulations relating to Migratory Bird Treaty Act

29210. (a) The commission may annually adopt regulations pertaining to migratory birds to conform with or to further restrict the rules and regulations prescribed pursuant to the Migratory Bird Treaty Act.

(b) Regulations adopted pursuant to this section are not subject to Sections 11343.4, 11346.1, 11346.4, and 11346.8 of the Government Code.

Comment. Section 29210 continues the first and second paragraphs of former Fish and Game Code Section 355 without substantive change.

§ 29215. Commission regulation in the absence of federal regulation

29215. In the event no regulations are prescribed by the proper federal agency, the commission may determine and fix the area or areas, the seasons and hours, the species, the bag and possession limits, and the total number that may be taken during any open season for the taking of migratory game birds, under such rules and regulations as the commission may adopt. Such rules and regulations as the Commission may adopt shall have the same effect as if enacted by the Legislature.

Comment. Section 29215 continues the second paragraph of former Fish and Game Code Section 356 without substantive change.

Notes. (1) The meaning of “such rules and regulations” in the last sentence of this section is unclear. Does it include only those regulations adopted pursuant to existing Section 356? Or does it also include regulations adopted pursuant to existing Section 355?

The Commission invites comment on the issue.

(2) Once the meaning of “such rules and regulations” is clarified, the reference to “rules” will be deleted as redundant. The Commission sees no authority for it to adopt “rules” that are not “regulations.” See also Gov’t Code § 11340.5 (barring “rules” that are not properly promulgated regulations). The Commission will also delete the word “such” and replace it with suitable alternatives.


(3) The intended effect of the last sentence of existing Section 356 is also unclear. Is the provision intended to delegate lawmaking power to the Fish and Game Commission, pursuant to Article 4, Section 20 of the California Constitution? That provision states that “The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit.” Given the unusual nature of this provision in Section 356, and its possible validation by the California Constitution, the Commission is reluctant to disturb the statutory language (except perhaps to clarify its scope).

1 **Nonetheless, comment on the meaning and effect of the provision would be helpful.**

2 **§ 29220. Effective date of regulation**

3 29220. Every regulation of the commission adopted pursuant to this title shall
4 become effective upon filing unless otherwise specified in the regulation.

5 **Comment.** Section 29220 continues the third paragraph of former Fish and Game Code
6 Section 355 without substantive change.

7  **Note.** The requirement that every regulation of the Commission adopted pursuant to the
8 article containing existing Section 355 be filed with the Secretary of State is deleted as
9 superfluous. See existing Government Code Section 11343.

10 **§ 29225. President as ex officio member of Migratory Bird Conservation Commission**

11 29225. The president of the commission may be a member ex officio of the
12 Migratory Bird Conservation Commission created by the act of Congress known
13 as the “Migratory Bird Conservation Act.”

14 **Comment.** Section 29225 continues former Fish and Game Code Section 357 without
15 substantive change.


16 **TITLE 2. GAME BIRDS**

17 **CHAPTER 1. GENERAL PROVISIONS**

18 **§ 29350. Use of mammal**

19 29350. It is unlawful to use any mammal (except a dog) or an imitation of a
20 mammal as a blind in approaching or taking a game bird.

21 **Comment.** Section 29350 continues former Fish and Game Code Section 3502 without
22 substantive change.

23  **Note.** The provision above appears to govern the use of an animal (or imitation animal) as a
24 “blind” for taking game birds. The Commission is familiar with hunting blinds that are used to
25 conceal hunters and their dogs from their prey, but has not found information discussing using an
26 animal *as* a blind. Is the meaning of this usage understood in the hunting community, or is the
27 provision worded in a confusing way?

28 **The Commission invites comment on the issue.**

29 **§ 29355. Use of vehicle**

30 29355. It is unlawful to use a powerboat, motor vehicle, or airplane to drive a
31 game bird toward another person, with the intent that the other person take the
32 bird.

33 **Comment.** Section 29355 continues former Fish and Game Code Section 3501 without
34 substantive change.

1 **§ 29360. Use of dog during closed season**

2 29360. It is unlawful to break, train, hold field trials with, or practice dogs on
3 any wild game bird or domesticated game bird during the closed season for that
4 bird, except as authorized by the commission.

5 **Comment.** Section 29360 continues former Fish and Game Code Section 3508 without
6 substantive change.

7 **Note.** The terms “wild game bird” and “domesticated game bird” are not defined in the
8 existing Fish and Game Code.

9 **Do these two terms together comprise the entire universe of game birds, such that the**
10 **language of proposed Section 29360 could be made applicable to any “game bird”?**

11 **§ 29365. Game bird club license**

12 29365. In order to provide additional hunting by stocking domestically
13 propagated game birds, and to permit the taking of game birds under conditions
14 that will not conflict with the public interest, any person who owns or controls the
15 hunting rights on a tract of land may apply to the department for a game bird club
16 license authorizing the taking of game birds upon that land in accordance with the
17 regulations of the commission for the administration, including the
18 implementation and enforcement, of this section.

19 **Comment.** Section 29365 continues former Fish and Game Code Section 3270(a) without
20 substantive change.

21 **Note.** Existing Section 3270(b), identifying the operative date of the section as July 1, 1995,
22 is deleted as obsolete.

23 **§ 29370. Waste**

24 29370. No person shall through carelessness or neglect allow any game bird that
25 is in the person’s possession, or any portion of the flesh of a game bird usually
26 eaten by humans, to go needlessly to waste.

27 **Comment.** Section 29370 restates the part of the first sentence of former Fish and Game Code
28 Section 4304 applicable to game birds without substantive change.

29 See also Section 5450 (enforcement).

30 **Note.** Proposed Section 29370 is intended to restate the part of the first sentence of existing
31 Section 4304 applicable to game birds, to clarify the meaning of that provision without changing
32 its substantive effect. The existing provision reads as follows:

33 [N]or shall any person at any time leave through carelessness or neglect any game mammal or
34 game bird which is in his possession, or any portion of the flesh thereof usually eaten by humans,
35 to go needlessly to waste.

36 **The Commission invites comment on whether the proposed restatement would cause any**
37 **substantive change in the meaning of these provisions.**

38 **§ 29375. Transport out of state**

39 29375. It is unlawful to transport or carry a game bird out of this state, except by
40 the holder of a nonresident hunting license or under a written permit issued by the
41 department.

1 **Comment.** Section 29375 continues the part of former Fish and Game Code Section 2350
2 applicable to game birds without substantive change.

3 CHAPTER 2. UPLAND GAME BIRDS

4 **§ 29500. Taking**

5 29500. It is unlawful for any person, except a person licensed pursuant to
6 paragraph (2) of subdivision (a) of Section 10210, to take any upland game bird
7 species without first procuring an upland game bird hunting validation, as
8 provided in Section 28505, and having the validation permanently affixed to his or
9 her valid hunting license.

10 **Comment.** Section 29500 continues former Fish and Game Code Section 3682.1(a) without
11 substantive change.

12 **§ 29505. Upland game bird validation**

13 29505. An upland game bird hunting validation may be obtained from the
14 department or a licensed agent authorized pursuant to Section 3200 for a fee of six
15 dollars and twenty-five cents (\$6.25), adjusted pursuant to Section 3755.

16 **Comment.** Section 29505 continues former Fish and Game Code Section 3682.1(b) without
17 substantive change.

18 **§ 29510. Collectible upland game bird stamp**

19 29510. (a) Upon full implementation of the Automated License Data System,
20 the department shall continue to prepare, or have prepared, upland game bird
21 stamps depicting upland game birds.

22 (b) Any person who obtains an upland game bird hunting validation pursuant to
23 Section 28505 is entitled, upon request, to receive an upland game bird stamp at
24 no additional charge.

25 (c) Any person may purchase an upland game bird stamp for a fee of six dollars
26 and twenty-five cents (\$6.25), as adjusted pursuant to Section 3755.

27 (d) Possession of an upland game bird stamp obtained pursuant to this section
28 does not entitle the holder to take any upland game bird species.

29 **Comment.** Section 29510 continues former Fish and Game Code Section 3682.2 without
30 substantive change.

31 **§ 29515. Upland Game Bird Account**

32 29515. (a) The Upland Game Bird Account is hereby established within the Fish
33 and Game Preservation Fund.

34 (b) All funds derived from the sale of upland game bird hunting validations and
35 upland game bird stamps shall be deposited in the Upland Game Bird Account to
36 permit separate accountability for the receipt and expenditure of these funds.

37 (c) The department shall maintain the internal accountability necessary to ensure
38 compliance with the collection, deposit, and expenditure of funds specified in this
39 section.

1 (d) Funds deposited in the Upland Game Bird Account shall be available for
2 expenditure upon appropriation by the Legislature to the department.

3 (e) The department shall post budget information and a brief description on its
4 Internet Web site for all projects funded from the Upland Game Bird Account.

5 **Comment.** Subdivision (a) of Section 29515 continues former Fish and Game Code Section
6 3684(a) without substantive change.

7 Subdivision (b) continues former Fish and Game Code Section 3684(b) without substantive
8 change.

9 Subdivision (c) continues former Fish and Game Code Section 3684(g) without substantive
10 change.

11 Subdivision (d) continues the first sentence of former Fish and Game Code Section 3684(c)
12 without substantive change.

13 Subdivision (e) continues the second sentence of former Fish and Game Code Section 3684(e)
14 without substantive change.

15 **§ 29520. Use of funds**

16 29520. (a) Funds deposited in the Upland Game Bird Account shall be expended
17 solely for the purpose of acquiring land, completing projects and implementing
18 programs to benefit upland game bird species, and expanding public hunting
19 opportunities and related public outreach, including, but not limited to, enhancing
20 upland game bird habitat.

21 (b) Notwithstanding subdivision (a), the department may also use funds from the
22 Upland Game Bird Account to pay for administrative and enforcement costs of the
23 programs and activities described in this section. The amount allocated from the
24 account for administrative costs shall be limited to the reasonable costs associated
25 with administration of the programs and activities described in this section.

26 (c) Projects authorized pursuant to this section are governed by Section 54555.

27 **Comment.** Subdivision (a) of Section 29520 continues the second sentence of former Fish and
28 Game Code Section 3684(c) without substantive change.

29 Subdivision (b) continues the fourth and fifth sentences of former Fish and Game Code Section
30 3684(c) without substantive change.

31 Subdivision (c) continues the first sentence of former Fish and Game Code Section 3686
32 without substantive change.

33 **§ 29525. Acquired land**

34 29525. Any land acquired with funds from the Upland Game Bird Account shall
35 be acquired in fee title or protected with a conservation easement and, to the extent
36 possible, be open or provide access to the public for upland game bird hunting.

37 **Comment.** Section 29525 continues the third sentence of former Fish and Game Code Section
38 3684(c) without substantive change.

39 **§ 29530. Involvement with nonprofit organization**

40 29530. (a) The department may make a grant to, reimburse, or enter into a
41 contract or other agreement as defined in subdivision (a) of Section 56205 with, a
42 nonprofit organization for the use of the funds from the Upland Game Bird

1 Account to carry out the purposes of Section 29515, 29520, 29525, 29535, or
2 29540, including related habitat conservation projects.

3 (b) With the approval of the entity in control of property affected by a project,
4 the department may make grants to, or enter into contracts with, nonprofit
5 organizations for the accomplishment of those projects, or the department may
6 reimburse the controlling entity for its costs of accomplishing the project.

7 **Comment.** Subdivision (a) of Section 29530 continues former Fish and Game Code Section
8 3684(d) without substantive change.

9 Subdivision (b) continues the second sentence of former Fish and Game Code Section 3686
10 without substantive change.

11 **§ 29540. Review by advisory committee**

12 29540. An advisory committee, as determined by the department, that includes
13 interested nonprofit organizations that have goals and objectives directly related to
14 the management and conservation of game bird species and primarily represent the
15 interests of persons licensed pursuant to Section 10210 shall review and provide
16 comments to the department on all proposed projects funded from the Upland
17 Game Bird Account to help ensure that the requirements of this section have been
18 met.

19 **Comment.** Section 29540 continues the first sentence of former Fish and Game Code Section
20 3684(e) without substantive change.

21 **§ 29545. Non-applicability of other statutory requirements**

22 29545. Upland game bird projects authorized pursuant to Section 29520 or
23 29530 are not subject to Part 2 (commencing with Section 10100) of Division 2 of
24 the Public Contract Code or Article 6 (commencing with Section 999) of Chapter
25 6 of Division 4 of the Military and Veterans Code.

26 **Comment.** Section 29545 continues former Fish and Game Code Section 3684(f) without
27 substantive change.

28 **CHAPTER 3. RESIDENT GAME BIRDS**

29 **§ 29650. Regulations**

30 29650. The commission may adopt regulations it deems necessary to govern the
31 inspection of resident game birds imported into this state.

32 **Comment.** Section 29650 continues the second paragraph of former Fish and Game Code
33 Section 3516 without substantive change.

34 **CHAPTER 4. EXOTIC NONRESIDENT GAME BIRDS**

35 **§ 29700. Regulations**

36 29700. The commission may adopt regulations it deems necessary to govern the
37 release, taking, and possession of exotic nonresident game birds.

Comment. Section 29700 continues the first paragraph of former Fish and Game Code Section 3516 without substantive change.

§ 29705. Release

29705. An exotic nonresident game bird may be released in this state only on prior approval of the commission.

Comment. Section 29705 continues former Fish and Game Code Section 3515 without substantive change.

TITLE 3. NONGAME BIRDS

CHAPTER 1. GENERAL PROVISIONS [RESERVED]


CHAPTER 2. TAKING AND POSSESSION

§ 29850. Taking nongame bird

29850. It is unlawful to take any nongame bird except as provided in this code or in accordance with regulations of the commission or, when relating to mining operations, a mitigation plan approved by the department pursuant to Title 2 (commencing with Section 71500) of Part 5 of Division 17.

Comment. Section 29850 continues the second sentence of former Fish and Game Code Section 3800(a) without substantive change.

See also Section 5340 (enforcement).

 **Note.** The law governing mining mitigation plans has been relocated. A cross-reference to that law has been added to proposed Section 29850.

§ 29855. Taking or possession of migratory nongame bird

29855. It is unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act, except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of that act.

Comment. Section 29855 continues former Fish and Game Code Section 3513 without substantive change.

See also Section 5342 (enforcement).

§ 29860. Taking of nongame birds injuring crops or property

29860. (a) Nongame birds not covered by the Migratory Bird Treaty Act that are found to be injuring growing crops or property may be taken by any of the following:

(1) The owner or tenant of the premises where the crops or property are located.

(2) Officers or employees of the Department of Food and Agriculture or federal or county officers or employees when acting in their official capacities pursuant to the provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(b) Landowners and tenants taking birds in accordance with this section are exempt from Section 9500.

Comment. Section 29860 continues former Fish and Game Code Section 3801.5 without substantive change.

CHAPTER 3. NONGAME BIRD PARTS

§ 30000. Possession of parts of nongame bird

30000. Except as otherwise provided in this code or regulations adopted pursuant to this code, it is unlawful to possess the carcass, skin, or other part of any nongame bird.

Comment. Section 30000 continues the first sentence of former Fish and Game Code Section 3801.6(a) without substantive change.

See also Section 5344 (enforcement).

§ 30005. Exception for possession of parts of nongame bird by Native American

30005. It shall be an affirmative defense to a violation of Section 30000 if the possessor of feathers, carcass, skin, or part of a nongame bird legally acquired the feathers, carcass, skin, or part, possesses them for a tribal, cultural, or spiritual purpose, and satisfies either of the following criteria:

(a) The possessor is an enrolled member of a federally recognized Native American tribe or nonfederally recognized California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission and has, in that person's immediate possession, valid tribal identification or other irrefutable proof of current enrollment.

(b) The possessor has a certificate of degree of Indian blood issued by the United States Bureau of Indian Affairs in that person's immediate possession.

Comment. Section 30005 continues former Fish and Game Code Section 3801.6(b)(1) without substantive change.

§ 30010. Salvaging of nongame birds

30010. A Native American satisfying the criteria that would constitute an affirmative defense under Section 30005 may salvage a dead nongame bird, if all of the following conditions are satisfied:

(a) The person does not possess, nor is in the company of any person who possesses, a firearm, BB device as defined in Section 16250 of the Penal Code, trap, snare, net archery equipment, device capable of discharging a projectile, or any apparatus designed to take a bird.

(b) The person was not involved in nor present at the take of the nongame bird to be salvaged, and had not received related information originating from any person present at the time of the take of the nongame bird.

(c) The nongame bird salvaged had not been struck with any thrown or discharged projectile, or trapped, netted, caught, or snared.

1 **Comment.** Subdivision (a) of Section 30010 restates the second, third, and fourth sentences of
2 former Fish and Game Code Section 3801.6(b)(2) without substantive change.

3 **Note.** Proposed Section 30010(a) is intended to restate the second, third, and fourth sentences
4 of existing Section 3801.6(b)(2) to improve their clarity, without changing their substantive
5 effect. The existing sentences read as follows:

6 Native Americans meeting the affirmative defense requirements may salvage dead nongame
7 birds so long as the person salvaging these birds does not possess, nor is in the company of any
8 person who possesses, a firearm, BB device as defined in Section 16250 of the Penal Code, trap,
9 snare, net archery equipment, device capable of discharging a projectile, or any apparatus
10 designed to take birds. Salvaging shall not take place by any person involved in the take of the
11 nongame bird to be salvaged, any person present at the time of the take, or by any person who
12 received related information originating from any person present at the time of the take of the
13 nongame bird. Salvaging pursuant to this subdivision shall not take place if a bird has been struck
14 with any thrown or discharged projectile, trapped, netted, caught, or snared.

15 **The Commission invites comment on whether the proposed restatement would cause any**
16 **substantive change in the meaning of these sentences.**

17 **§ 30015. Sale of parts of nongame bird**

18 30015. Nothing in this chapter allows any person to sell the feathers, carcass,
19 skin, or other part of a nongame bird.

20 **Comment.** Section 30015 continues the first sentence of former Fish and Game Code Section
21 3801.6(b)(2) without substantive change.

22 **TITLE 4. BIRDS OF PREY**

23 **§ 30100. Falconry registration and licensing**

24 30100. (a) The commission may adopt regulations for the possession or training,
25 and the capture, importation, exportation, or intrastate transfer, of any bird in the
26 orders Falconiformes and Strigiformes (birds-of-prey) used in the practice of
27 falconry and may authorize the issuance and provide for the revocation of licenses
28 and permits to persons for the practice of falconry.

29 (b) It is unlawful to capture, possess, or train any bird in the orders
30 Falconiformes and Strigiformes (birds-of-prey) in the practice of falconry without
31 procuring a falconry license.

32 **Comment.** Section 30100 continues former Fish and Game Code Section 395 without
33 substantive change.

34 **§ 30105. Falconry license**

35 30105. (a) The falconry license shall be valid for a license year beginning on
36 July 1, and ending on the last day of June of the next succeeding calendar year. If
37 issued after July 1 of any year, a falconry license is valid for the remainder of that
38 license year.

39 (b) For the license years beginning on or after March 1, 1987, the fee for a
40 falconry license is a base fee of thirty dollars (\$30) as adjusted under Section
41 3755.

(c) The base year for determining the inflationary index applied to the fee established by subdivision (b) shall be the 1984–85 fiscal year.

Comment. Subdivisions (a) and (b) of Section 30105 continue former Fish and Game Code Section 396 without substantive change.

Subdivision (c) continues the first clause of former Fish and Game Code Section 398 without substantive change. The second clause of former Fish and Game Code Section 398, which applied to a code section repealed in 2007, is obsolete and is not continued.

§ 30110. Taking or possession

30110. It is unlawful to take, possess, or destroy a bird in the order Falconiformes or Strigiformes (birds-of-prey), or to take, possess, or destroy a nest or egg of a bird in either of those orders, except as provided by this code or any regulation adopted pursuant to this code.

Comment. Section 30110 continues former Fish and Game Code Section 3503.5 without substantive change.

See also Section 5350 (enforcement).

§ 30115. Cooperative contracts with the United States Fish and Wildlife Service

30115. The department may enter into cooperative contracts with the United States Fish and Wildlife Service in the Department of the Interior for the purpose of controlling or eradicating any predatory bird, and may expend any money made available to the department for that purpose.

Comment. Section 30115 restates former Fish and Game Code Section 3802 without substantive change.

Note. Proposed Section 30115 is intended to restate existing Fish and Game Code Section 3802 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

3802. The department may enter into cooperative contracts with the United States Fish and Wildlife Service in the Department of the Interior in relation to the control or eradication of predatory birds, and for that purpose may expend any money made available to the department for expenditure for the control or eradication of predatory birds.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provisions.

TITLE 5. FULLY PROTECTED BIRDS

§ 30200. Take or possession prohibited

30200. Except as provided in Article 1 (commencing with Section 63300) of Chapter 4 of Title 3 of Part 1 of Division 17, Section 64605, or this title:

(a) A fully protected bird may not be taken or possessed at any time.

(b) No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected bird, and no issued permit or license shall be construed to authorize the taking of a fully protected bird.

Comment. Section 30200 continues the first two sentences of former Fish and Game Code Section 3511(a)(1) without substantive change.

See also Section 5320 (enforcement).

§ 30205. Department research

30205. (a) The department may authorize the taking of a fully protected bird for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, and may authorize the live capture and relocation of a fully protected bird pursuant to a permit for the protection of livestock.

(b) Before authorizing the take of a fully protected bird, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization.

(c) The notice shall be published in the California Regulatory Notice Register and shall be delivered to each person who has given the department written notice of that person's interest in fully protected species and provided the department either an e-mail or postal address.

(d) Affected and interested parties shall have 30 days after the notice is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.

(e) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

Comment. Section 30205 continues the third through the sixth sentences of former Fish and Game Code Section 3511(a)(1), and former Fish and Game Code Section 3511(a)(2), without substantive change.

Note. The term "project" is defined, for purposes of the entire Fish and Game Code, by existing Section 711.2(a), as having "the same meaning as defined in Section 21065 of the Public Resources Code." In the proposed law, that definitional provision will be added to the list of generally applicable definitional provisions in Division 1 (but has not as yet been assigned a section number).

The Commission invites comment on whether or not that generally applicable definitional provision should be cross-referenced in proposed Section 30205.

§ 30210. Possession of legally imported fully protected birds

30210. A legally imported fully protected bird may be possessed under a permit issued by the department.

Comment. Section 30210 continues former Fish and Game Code Section 3511(a)(3) without substantive change.

PART 4. SPECIFIC TYPES OF BIRDS

1 TITLE 1. BIRD OF PARADISE

2 § 30300. Prohibited take, sale, or purchase

3 30300. It is unlawful to take, sell, or purchase a bird of paradise.

4 **Comment.** Section 30300 continues the part of former Fish and Game Code Section 3505
5 applicable to birds of paradise without substantive change.

6 TITLE 2. CONDORS

7 CHAPTER 1. GENERAL PROVISIONS

8 § 30350. Fully protected bird

9 30350. For the purposes of this code, a California condor is a fully protected
10 bird.

11 **Comment.** Section 30350 continues former Fish and Game Code Section 3511(b)(5) without
12 substantive change.

13 § 30355. Provisions not exclusive

14 30355. The provisions of this title are not intended to be exclusive. Other
15 provisions that govern condor include, but are not limited to, the following
16 provisions:

17 (a) Section 10000.

18 (b) Section 10005.

19 (c) Section 10010.

20 (d) Section 10015.

21 (e) Section 10020.

22 (f) Section 10025.

23 (g) Section 10030.

24 (h) Section 55725.

25 **Comment.** Section 30355 is new. It is added for drafting convenience.

26 CHAPTER 2. CONSERVATION

27 Article 1. California Condor Preservation Project

28 § 30360. California condor preservation project

29 30360. The department may carry out a California condor preservation project
30 which has the following objectives:

31 (a) Habitat protection, consistent with the department's existing legal authority.

32 (b) Field research, including mortality studies.

33 (c) Captive breeding program.

34 (d) Condor release program.

1 **Comment.** Section 30360 continues former Fish and Game Code Section 3850 without
2 substantive change.

3 **§ 30365. Joint planning with federal authorities**

4 30365. The department, jointly with the federal-state condor recovery team
5 established pursuant to the federal Endangered Species Act shall develop a plan to
6 respond to the objectives in Section 30360. Based on the plan, the department
7 shall develop specific activities, studies, and programs to be administered by the
8 department in the areas of habitat protection and field research. The department
9 may contract for all or some of these activities, studies, and programs.

10 **Comment.** Section 30365 continues former Fish and Game Code Section 3851 without
11 substantive change.

12 **§ 30370. Breeding program**

13 30370. The department shall provide funds to the Zoological Society of San
14 Diego and to the Los Angeles Zoo for a condor breeding program on the grounds
15 of each zoo.

16 **Comment.** Section 30370 continues former Fish and Game Code Section 3852 without
17 substantive change.

18 **§ 30375. Release program**

19 30375. In addition to the programs in Section 30370, a condor release program
20 administered by the department and the United States Fish and Wildlife Service
21 may be contracted to the Zoological Society of San Diego and the Los Angeles
22 Zoo.

23 **Comment.** Section 30375 continues former Fish and Game Code Section 3853 without
24 substantive change.

25 **§ 30380. Use of funds for administrative costs**

26 30380. Not more than 10 percent of the funds provided to the zoos under this
27 article may be used for administrative costs of the program.

28 **Comment.** Section 30380 continues former Fish and Game Code Section 3854 without
29 substantive change.

30 **§ 30385. Monitoring of programs**

31 30385. Both the breeding program and the release program, if authorized by the
32 department, shall meet criteria established by the department and shall be
33 monitored by the department. The zoos shall submit biannual reports to the
34 department that describe progress made in the breeding program and the release
35 program.

36 **Comment.** Section 30385 continues former Fish and Game Code Section 3855 without
37 substantive change.

1 **§ 30390. Report to Legislature**

2 30390. The department shall include copies of the biannual reports from the
3 zoos in the annual report to the Legislature on the status of listed species required
4 in Section 62525.

5 **Comment.** Section 30390 continues former Fish and Game Code Section 3856 without
6 substantive change.

7 **§ 30395. Department to seek funding**

8 30395. To the extent possible, the department shall seek private sector funding
9 and any federal funds that may be available to augment state funds for the
10 purposes of this article.

11 **Comment.** Section 30395 continues former Fish and Game Code Section 3857 without
12 substantive change.


13 Article 2. Northern California Condor Restoration Program

14 **30425. Take**

15 30425. (a) For purposes of this section, the term “Northern California Condor
16 Restoration Program” means the California condor restoration program in northern
17 California associated with the California Condor Recovery Plan published by the
18 United States Fish and Wildlife Service in April 1996, or a subsequent revision of
19 that plan.

20 (b) Notwithstanding Title 5 (commencing with Section 30200) of Part 3, if the
21 take of California condors under the Northern California Condor Restoration
22 Program is exempt from further authorization or approval under Part 1
23 (commencing with Section 62000) of Division 17 pursuant to Section 63550 or
24 63555, and the director finds the enhancement of survival permit described in
25 subdivision (a) of Section 63550 or federal regulations described in paragraph (1)
26 of subdivision (b) of Section 63555, as applicable, to be consistent with the
27 objectives and plans developed pursuant to this chapter, the take or possession of
28 California condors under the Northern California Condor Restoration Program
29 shall also be exempt from the prohibitions in Title 5 (commencing with Section
30 30200) of Part 3.

31 **Comment.** Section 30425 continues former Fish and Game Code Section 3858 without
32 substantive change.

33  **Note.** Proposed Section 30425 would continue Section 3858, which was amended by 2018
34 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

TITLE 3. DUCKS AND GEESE

§ 30500. Classification

30500. For the purposes of this code, ducks and geese are migratory birds and game birds.

Comment. Section 30500 continues former Fish and Game Code Section 3500(b)(1) without substantive change.

§ 30505. Required validation

30505. It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 10210, to take a duck or goose without obtaining and possessing at the time of taking a state duck hunting validation as provided in Section 30515.

Comment. Section 30505 continues former Fish and Game Code Section 3700.1(a) without substantive change.

See also Sections 4704, 5464 (enforcement).

Note. Existing Section 3700.1 applies to the taking of “any migratory game bird, except jacksnipe, coots, gallinules, western mourning doves, white-winged doves, and band-tailed pigeons.” The only “migratory game birds” that are not listed in Section 3700.1 are ducks and geese. See existing Section 3500(b). In the interest of clarity, the reference has been simplified accordingly. **The Commission invites comment on whether that change would cause any problems.**

§ 30510. Taking in District 2580 or 2585

30510. (a) In Districts 2580 and 2585, it is unlawful to take a duck or a goose below the incoming or outgoing tidewater’s edge, or from any blind, boat, floating device, island, islet, or exposed tidal flat.

(b) Subdivision (a) does not apply on Saturdays, Sundays, Wednesdays, holidays, and the opening and closing days during the prescribed open season.

(c) Notwithstanding subdivision (a), the use of boats is permitted to retrieve crippled or dead birds.

Comment. Section 30510 restates former Fish and Game Code Section 3681 without substantive change.

Note. Proposed Section 30510 is intended to restate existing Section 3681 to improve its clarity, without changing its substantive effect. The existing section reads as follows:

3681. In Districts 8 and 9, it is unlawful to take ducks or geese in any manner below the incoming or outgoing tidewater’s edge or from any blind, boat, floating device, island, islet, or exposed tidal flat except on Saturdays, Sundays, Wednesdays, holidays and the opening and closing days during the prescribed open season except that the use of boats is permitted to retrieve crippled or dead birds.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

1 **§ 30515. State duck hunting validation**

2 30515. A state duck hunting validation shall be sold for a fee of ten dollars (\$10)
3 by the department and by license agents, who are authorized by the department
4 pursuant to Section 3200, in the same manner as hunting licenses.

5 **Comment.** Section 30515 continues former Fish and Game Code Section 3700.1(b) without
6 substantive change.

7 **§ 30520. Collectible state duck stamp**

8 30520. (a) Upon full implementation of the Automated License Data System,
9 the department shall continue to prepare, or have prepared, state duck stamps
10 depicting migratory waterfowl.

11 (b) Any person who obtains a duck hunting validation pursuant to Section 30515
12 is entitled, upon request, to receive a state duck stamp, open edition, at no
13 additional charge.

14 (c) Any person may purchase a state duck stamp, open edition, for a fee of ten
15 dollars (\$10).

16 (d) A state duck stamp, Governor's edition, may be printed and sold on a bid
17 basis, beginning at a minimum bid, as determined by the department or its
18 representative.

19 (e) The commission shall determine the form of the state duck stamp.

20 (f) Possession of a state duck stamp obtained pursuant to this section does not
21 entitle the holder to take a duck or goose.

22 **Comment.** Section 30520 continues former Fish and Game Code Section 3700.2(a)-(f) without
23 substantive change.


24 **§ 30525. Promotional material**

25 30525. (a) The department may prepare and sell artwork, posters, and other
26 promotional materials related to the sale of duck stamps or waterfowl hunting and
27 conservation.

28 (b) The department may permit individual artists to sell a limited number of
29 prints of duck stamp related artwork or posters.

30 **Comment.** Subdivision (a) of Section 30525 continues former Fish and Game Code Section
31 3700.2(g) without substantive change.

32 Subdivision (b) continues the first sentence of former Fish and Game Code Section 3702.5
33 without substantive change.

34  **Note.** The second sentence of existing Section 3702.5, identifying the operative date of that
35 section as July 1, 1993, is deleted as obsolete.

36 **§ 30530. State Duck Stamp Account**

37 30530. (a) All funds derived from the sale of state duck hunting validations,
38 state duck stamps, and related items authorized by subdivision (a) of Section
39 30525 shall be deposited in the State Duck Stamp Account in the Fish and Game
40 Preservation Fund to permit separate accountability for the receipt and expenditure
41 of these funds.

(b) An amount not to exceed 6 percent of the amount annually deposited in the account may be used for administrative overhead related to the use of those funds and for implementation of the federal Migratory Bird Harvest Program.

Comment. Section 30530 continues former Fish and Game Code Section 3701 without substantive change.

Note. A reference to “subdivision (e) of Section 3700” in existing Section 3701 has not been continued. Section 3700 does not exist. **The Commission invites comment on whether some other provision should be referenced in place of the reference to Section 3700(e).**

§ 30535. Allocation of funds in State Duck Stamp Account

30535. (a) Two dollars and twenty-five cents (\$2.25) of the amount collected by the department for each state duck stamp sold shall be allocated by the commission for the purposes of the North American Waterfowl Management Plan in those areas of Canada from which come substantial numbers of waterfowl migrating to, or through, California. These funds shall be matched with federal or private funds available for that purpose.

(b) The available balance of the funds shall be used for any project authorized pursuant to Section 30540 in California. However, any lands acquired in California with those funds shall be open to waterfowl hunting as a public shooting ground or wildlife management area.

Comment. Section 30535 continues the first paragraph of former Fish and Game Code Section 3704 without substantive change.

Note. The second paragraph of existing Section 3704 (which establishes the operative date of the section) appears to be obsolete. It has not been continued.

§ 30540. Use of funds

30540. Funds deposited in the State Duck Stamp Account shall be used for projects or endowments approved by the commission for the purpose of protecting, preserving, restoring, enhancing, and developing migratory waterfowl breeding and wintering habitat, evaluating habitat projects, and conducting waterfowl resource assessments and other waterfowl related research. Subject to Section 30535, the department may make grants or enter into contracts with nonprofit organizations for the use of these funds when it finds that the contracts are necessary for carrying out the purposes of this article.

Comment. Section 30540 continues former Fish and Game Code Section 3702 without substantive change.

§ 30560. Project prerequisites

30560. (a) Before the commission may consider any project that proposes the use of funds from the State Duck Stamp Account, the department shall analyze the project and provide the commission with recommendations as to the project’s feasibility and need.

(b) Before allocating funds to any project to be undertaken outside the state, or outside the United States, the commission shall secure evidence that the project is acceptable to the government agency having jurisdiction over the lands and waters affected by the project.

Comment. Subdivision (a) of Section 30560 continues former Fish and Game Code Section 3703 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 3705 without substantive change.

§ 30565. Advisory committee

30565. An advisory committee, as determined by the department, that includes interested nonprofit organizations that have goals and objectives directly related to the management and conservation of waterfowl species and primarily represent the interests of persons licensed pursuant to Section 10210 shall review and provide comments to the department on all proposed projects funded from the State Duck Stamp Account to help ensure that the requirements of Sections 30535 and 30540, and subdivision (a) of 30560 have been met.

Comment. Section 30565 continues former Fish and Game Code Section 3702.1 without substantive change.

§ 30570. Exemptions


30570. Waterfowl projects authorized pursuant to Section 30540 or 56700 are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

Comment. Section 30570 continues the first sentence of the first paragraph of former Fish and Game Code Section 3704.5 without substantive change.

§ 30575. Contracts, grants, and reimbursement of controlling entity

30575. With the approval of the entity in control of property affected by a project, the department may make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of those projects, or the department may reimburse the controlling entity for its costs of accomplishing the project.

Comment. Section 30570 continues the second sentence of the first paragraph of former Fish and Game Code Section 3704.5 without substantive change.

 **Note.** The second paragraph of existing Section 3704.5 (which establishes the operative date of the section) appears to be obsolete. It has not been continued.

TITLE 4. EGRET

§ 30700. Prohibited take, sale, or purchase

30700. It is unlawful to take, sell, or purchase an egret.

Comment. Section 30700 continues the part of former Fish and Game Code Section 3505 applicable to egrets without substantive change.

1 TITLE 5. GOURA

2 § 30750. Prohibited take, sale, or purchase

3 30750. It is unlawful to take, sell, or purchase a goura.

4 **Comment.** Section 30750 continues the part of former Fish and Game Code Section 3505
5 applicable to gouras without substantive change.

6 TITLE 6. NUMIDI

7 § 30800. Prohibited take, sale, or purchase

8 30800. It is unlawful to take, sell, or purchase a numidi.

9 **Comment.** Section 30800 continues the part of former Fish and Game Code Section 3505
10 applicable to numidi without substantive change.

11 TITLE 7. OSPREY

12 § 30850. Prohibited take, sale, or purchase

13 30850. It is unlawful to take, sell, or purchase an osprey.

14 **Comment.** Section 30850 continues the part of former Fish and Game Code Section 3505
15 applicable to ospreys without substantive change.

16 TITLE 8. PHEASANT

17 § 30900. Classification

18 30900. For the purposes of this code, a ring-necked pheasant, and varieties
19 thereof, are both resident game birds and upland game birds.

20 **Comment.** Section 30900 combines and continues former Fish and Game Code Sections
21 3500(a)(10) and 3683(a)(11) without substantive change.

22 § 30905. Provisions not exclusive

23 30905. The provisions of this title are not intended to be exclusive. Other
24 provisions that govern pheasants include, but are not limited to, the following
25 provisions:

26 (a) Section 325.

27 (b) Section 545.

28 (c) Section 10210.

29 (d) Section 26000.

30 (e) Section 26010.

31 (f) Section 26070.

32 **Comment.** Section 30905 is new. It is added for drafting convenience.

1 **§ 30910. Prohibited take**

2 30910. (a) It is unlawful to take a pheasant within 300 yards of a vehicle from
3 which pheasants are being released into an area for hunting, while the pheasants
4 are being released.

5 (b) It is unlawful to possess a pheasant carcass in a condition that the sex or
6 species of the pheasant cannot be easily determined, while in the field or forest or
7 while upon any highway, train, car, boat, or other conveyance when returning
8 from any hunting trip with gun or other hunting equipment.

9 **Comment.** Subdivision (a) of Section 30910 continues former Fish and Game Code Section
10 3010 without substantive change.

11 Subdivision (b) continues former Fish and Game Code Section 3660 without substantive
12 change.

13 **TITLE 9. PIGEON**

14 **§ 31000. Classification**

15 31000. For the purposes of this code, a band-tailed pigeon is both a migratory
16 game bird and an upland game bird.

17 **Comment.** Section 31000 combines and continues former Fish and Game Code Sections
18 3500(b)(6) and 3683(b)(4), without substantive change.

19 **§ 31005. Provisions not exclusive**

20 31005. The provisions of this title are not intended to be exclusive. Other
21 provisions that govern pigeons include, but are not limited to, Section 410.

22 **Comment.** Section 31005 is new. It is added for drafting convenience.

23 **TITLE 10. SPARROW AND STARLING**

24 **§ 31050. Authorized take or possession**

25 31050. (a) Except as provided in Section 9590 and this section, the following
26 nongame birds may be taken or possessed at any time:

27 (1) English sparrow (*Passer domesticus*).

28 (2) Starling (*Sturnus vulgaris*).

29 (b) Notwithstanding Section 9500 or any other provision of this code or
30 regulation adopted pursuant to this code requiring the possession of a hunting
31 license, a landowner or lessee, or an agent of either in immediate possession of
32 written authority from the landowner or lessee, shall not be required to obtain a
33 hunting license or a depredation permit to take a nongame bird listed in
34 subdivision (a) on land owned or leased by the landowner or lessee.

35 (c) All other persons taking a nongame bird listed in subdivision (a) shall be
36 licensed pursuant to Section 9500.

37 **Comment.** Section 31050 restates former Fish and Game Code Section 3801 without
38 substantive change.

Notes: (1) Proposed Section 31050 is intended to restate existing Section 3801 to improve its clarity, without changing its substantive effect. The existing section reads as follows:

3801. Notwithstanding Section 3007 or any other provision of this code or regulations made pursuant thereto requiring the possession of a hunting license, a landowner or lessee or agent of either in immediate possession of written authority from the landowner or lessee, shall not be required to obtain a hunting license or a depredation permit to take the following nongame birds on land owned or leased by the landowner or lessee. Hunters otherwise taking the following nongame birds shall be licensed pursuant to Section 3007. The following nongame birds taken in compliance with this section may be taken and possessed by any person at any time, except as provided in Section 3000:

- (a) English sparrows (*Passer domesticus*).
- (b) Starlings (*Sturnus vulgaris*).

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 3801 was amended in 2007 to add most of the above language relating to licensure. 2007 Cal. Stat. ch. 285. Previously, the section had read:

3801. Unless otherwise provided by the regulations of the commission the following nongame birds may be taken and possessed by any person at any time, except as provided in Section 3000:

- (a) English sparrows (*Passer domesticus*).
- (b) Starlings (*Sturnus vulgaris*).

The 2007 amendment to the section deleted the language authorizing the Commission to regulate the taking of sparrows and starlings. That deletion may have had an inadvertent effect, by removing statutory authority for existing Commission regulations that govern the *manner* in which sparrows and starlings may be taken. See 14 CFR 472(a); 14 CFR 475.

The Commission invites comment on whether the introductory clause of proposed Section 31050(a) should be revised to read: “Except as provided in Section 9590 and this section, the following nongame birds may be taken or possessed at any time, subject to any regulation adopted by the Commission that governs the manner of that taking:”

TITLE 11. WILD TURKEY

§ 31100. Classification

31100. For the purposes of this code, a wild turkey of the order Galliformes is both a resident game bird and an upland game bird.

Comment. Section 31100 continues former Fish and Game Code Sections 3500(a)(11) and 3683(a)(12) without substantive change.

§ 31110. Depredation permit for wild turkeys

31110. (a) An owner or tenant of land or property that is being damaged or destroyed, or is in danger of being damaged or destroyed, by wild turkey, may apply to the department for a permit to kill the wild turkey causing or threatening the damage or destruction.

(b) The department, upon satisfactory evidence of actual or immediately threatened damage or destruction of land or property, shall issue a revocable permit for the taking and disposition of the responsible wild turkey, under

1 regulations adopted by the commission. The permit shall include a statement of
2 the penalties that may be imposed for a violation of the permit conditions.

3 (c) Wild turkey taken under a permit issued pursuant to subdivision (b) shall not
4 be sold or shipped from the premises on which they are taken, except pursuant to
5 instructions from the department.

6 (d) No poison of any type may be used to take any wild turkey pursuant to this
7 section.

8 (e) It is unlawful for any person to violate the terms of any permit issued
9 pursuant to this section.

10 **Comment.** Section 31110 restates the part of former Fish and Game Code Section 4181(a)
11 applicable to wild turkeys without substantive change.

12 **Note.** Proposed Section 31110 is intended to restate the part of existing Fish and Game Code
13 Section 4181 applicable to wild turkeys to clarify the meaning of that language, without changing
14 its substantive effect. Existing Section 4181 reads as follows:

15 4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is
16 being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver,
17 wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the
18 animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory
19 evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable
20 permit for the taking and disposition of the animals under regulations adopted by the commission.
21 The permit shall include a statement of the penalties that may be imposed for a violation of the
22 permit conditions. Animals so taken shall not be sold or shipped from the premises on which they
23 are taken except under instructions from the department. No iron-jawed or steel-jawed or any
24 type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any
25 type may be used to take any gray squirrel or wild turkey pursuant to this section. The department
26 shall designate the type of trap to be used to ensure the most humane method is used to trap gray
27 squirrels. The department may require trapped squirrels to be released in parks or other
28 nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under
29 this section.

30 (b)....

31 The references in existing Section 4181 to existing Section 4181.1 and to subdivisions (b) and (d)
32 of Section 4181 have not been continued in proposed Section 31110, as those provisions do not
33 apply to turkeys.

34 **The Commission invites comment on whether the restatement would cause any**
35 **substantive change in the meaning of the provision.**

36 **§ 31115. Access by licensed hunters for depredator control of wild turkeys**

37 31115. (a) If a landowner or tenant applies for a permit under Section 31110 to
38 take wild turkey, the department shall inform the applicant about available options
39 for allowing access by licensed hunters, including, but not limited to, access
40 authorized pursuant to Title 7 (commencing with Section 56200) of Part 2 of
41 Division 15 to control wild turkey.

42 (b) The commission, in lieu of a permit described in Section 31110, and with the
43 consent of, or upon the request of, the landowner or tenant, may pursuant to
44 appropriate regulation authorize the issuance of permits to persons holding valid
45 hunting licenses to take wild turkey in sufficient numbers to stop the damage or

1 threatened damage. Before issuing permits to licensed hunters, the department
2 shall investigate and determine the number of permits necessary, the territory
3 involved, the dates of the proposed hunt, the manner of issuing the permits, and
4 the fee for the permit.

5 **Comment.** Section 31115 restates the part of former Fish and Game Code Section 4188
6 applicable to wild turkey without substantive change.

7 **NS Note.** Proposed Section 31015 is intended to restate the part of existing Fish and Game Code
8 Section 4188 applicable to wild turkeys to improve its clarity, without changing its substantive
9 effect. The existing provision reads as follows:

10 4188. (a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild
11 turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant
12 about available options for allowing access by licensed hunters, including, but not limited to,
13 access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division
14 2 to control wild pigs, wild turkeys, and deer.

15 (b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of,
16 or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the
17 issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or
18 deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to
19 licensed hunters, the department shall investigate and determine the number of permits necessary,
20 the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the
21 fee for the permit.

22 **The Commission invites comment on whether the restatement would cause any**
23 **substantive change in the meaning of the provision.**

24 DIVISION 9. MAMMALS

25 PART 1. GENERAL PROVISIONS

26 TITLE 1. APPLICATION OF OTHER PROVISIONS

27 § 31400. Governance by other provisions

28 31400. Animals governed by this division are also governed by other provisions
29 of this code, including but not limited to Divisions 6 (commencing with Section
30 8000) and 7 (commencing with Section 23300).

31 **Comment.** Section 31400 is new. It is added for drafting convenience.

32 TITLE 2. DOGS PURSUING OR INJURING MAMMALS

33 CHAPTER 1. GENERAL PROVISIONS

34 § 31500. Definitions

35 31500. For the purposes of this title:

36 (a) “Pursue” means pursue, run, or chase.

(b) “Bear” means any black bear (*Ursus americanus*) found in the wild in this state.

Comment. Section 31500 restates former Fish and Game Code Sections 3032(a)(1), 3960(a), 3960.2(a) (as applied to bear), 3960.4(a), and 3960.6(a) without substantive change.

Notes. (1) Proposed Section 31500 is intended to merge and restate existing Fish and Game Code Sections 3032(a)(1), 3960(a), 3960.2(a), 3960.4(a), and 3960.6(a) to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

3032. (a) As used in this section:

(1) “Bear” and “pursue” have the same meanings as defined in Section 3960.

(2) “Bear” means any black bear (*Ursus americanus*) found in the wild in this state.

...

3960. (a) As used in this section:

(1) “Pursue” means pursue, run, or chase.

(2) “Bear” means any black bear (*Ursus americanus*) found in the wild in this state.

3960.2. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as defined in Section 3960.

3960.4. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as defined in Section 3960.

3960.6. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as defined in Section 3960.

The Commission invites comment on whether the proposed restatement would cause any substantive change in the meaning of any of the provisions.

(2) In the existing Fish and Game Code, the two definitions in proposed Section 31500 are limited in their applicability to the sections in this proposed title. Nevertheless, that limitation may either have been unintentional, or has been overlooked in the enactment of other provisions making use of either of the two terms.

The Commission invites comment on whether either of the definitions in proposed Section 31400 should be generalized to apply to the entire code, and relocated in the proposed law among other code-wide definitions.

§ 31505. Hound tag program

31505. (a) As used in this section, “hound” means a dog used to pursue mammals.

(b) The commission may establish a hound tag program.

(c) If a hound tag program is established, the commission may require all of the following:

(1) That each hound be issued a license tag bearing a unique identifying number that is to be worn at all times by the hound while pursuing mammals.

(2) That all relevant local and state laws pertaining to dogs are being followed while the hound is being used to pursue mammals.

(3) That each hound be microchipped with an implanted transponder that has a unique identification code.

(4) That the owner maintain documentation showing that the hound is current on all required vaccinations and treatments for the prevention of rabies and any other disease specified by the department.

(5) That the owner report, within 24 hours of its last sighting, any hound that is lost during hunting, pursuing, or tracking activities.

(6) That the hound's tag identification number be recorded on the hunting tag of any animal taken using the services of the hound.

(d) If a hound tag program is established, the commission may adjust the amount of the fees for the hound tag as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to the program.

Comment. Section 31505 continues former Fish and Game Code Section 3032(a)(2)-(d) without substantive change.

§ 31510. Use of dog to pursue specified mammals

31510. (a) It is unlawful to permit or allow any dog to pursue any of the following mammals, under the specified conditions:

(1) A big game mammal, during the closed season for that mammal.

(2) A fully protected, rare, or endangered mammal, at any time.

(3) A bear or bobcat, at any time.

(4) A mammal in a game refuge or ecological reserve, if hunting within that refuge or ecological reserve is unlawful.

(b) This section does not apply to the use of dogs to pursue bears or bobcats by federal, state, or local law enforcement officers, or their agents or employees, while carrying out official duties as required by law.

Comment. Subdivision (a) of Section 31510 continues former Fish and Game Code Section 3960(b) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 3960(c)(3) without substantive change.

Notes. (1) Existing Fish and Game Code Section 3960(b) declares it unlawful to either "permit" or "allow" a dog to engage in the conduct described in the provision.

The Commission invites comment on whether one of these two terms, which in this context appear to be synonymous, can be deleted without substantively changing the meaning of the provision.

(2) The existing Fish and Game Code contains no definition of the term "big game mammal," which appears in Section 3960(b) as well as several other sections of the code. See existing Sections 3004.5(j)(2), 3214, 3960.

The term "big game" is also used in several sections of the existing code, without definition. See existing Sections 3953, 12013.3, and 12013.5. However, one code section, Section 3004.5(a)(1), refers to the term "as defined in the department's mammal hunting regulations."

Those regulations provide that "'Big game' means the following: deer (genus *Odocoileus*), elk (genus *Cervus*), pronghorn antelope (genus *Antilocarpa*), wild pig (feral pigs, European wild pigs and their hybrids (genus *Sus*), black bear (genus *Ursus*), and Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) in the areas described in subsection 4902(b) of the Fish and Game Code." 14 CCR § 350.

The Commission invites comment on whether a definition of the term "big game mammal" should be added to the proposed law. Such a definition could either reiterate the

existing regulation's substantive content or could instead incorporate the regulation by reference (which would preserve the possibility of the department revising the content if necessary).

CHAPTER 2. UNCONTROLLED DOGS

§ 31550. Capture or dispatch by department

31550. (a) The department may take any of the following actions:

(1) Capture any dog not under the reasonable control of its owner or handler, when that uncontrolled dog is pursuing, in violation of Section 31510, any of the following mammals:

(A) A big game mammal.

(B) A bear or bobcat.

(C) A fully protected, rare, or endangered mammal.

(2) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any of the following mammals, under the specified conditions:

(A) A big game mammal, during the closed season on that mammal.

(B) A bear or bobcat, at any time.

(C) A fully protected, rare, or endangered mammal, at any time.

(D) A mammal in a game refuge or ecological reserve, if hunting within that refuge or ecological reserve is unlawful.

(b) No criminal or civil liability shall accrue to any department employee as a result of enforcement of this section.

(c) If a dog captured or dispatched pursuant to this section has identification, its owner shall be notified by the department within 72 hours after the capture or dispatch.

Comment. Section 31550 continues former Fish and Game Code Section 3960(c)(1), (2), and (4) without substantive change.

Notes. (1) Proposed Section 31550 is intended to restate existing Fish and Game Code Section 3960(c)(1), (2), and (4) to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

(c)(1) The department may take any of the following actions:

(A) Capture any dog not under the reasonable control of its owner or handler, when that uncontrolled dog is pursuing, in violation of this section, any big game mammal, any bear or bobcat, or any fully protected, rare, or endangered mammal.

(B) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any big game mammal during the closed season on that mammal, and the department may capture or dispatch any dog inflicting injury or immediately threatening to inflict injury on any bear or bobcat at any time, or any fully protected, rare, or endangered mammal at any time.

(C) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological reserve is unlawful.

(2) No criminal or civil liability shall accrue to any department employee as a result of enforcement of this section.

....

(4) Owners of dogs with identification, that have been captured or dispatched, shall be notified within 72 hours after capture or dispatch.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Fish and Game Section 3960(b) (which would be continued by proposed Section 31510(a)) prohibits permitting or allowing a dog to pursue four described categories of mammals under specified conditions:

- (a) A big game mammal, during the closed season for that mammal,
- (b) A fully protected, rare, or endangered mammal, at any time,
- (c) A bear or bobcat, at any time, or
- (d) A mammal in a game refuge or ecological reserve, if hunting within that refuge or ecological reserve is unlawful.

Existing Section 3960(c)(1)(A) (which would be continued by proposed Section 31550(a)(1)) authorizes the Department of Fish and Wildlife to capture any uncontrolled dog that is *pursuing* a mammal listed in the first three categories above, but not the fourth (mammals in game refuges and ecological preserves where hunting is not permitted).

Should the fourth category be included?

§ 31555. Seizure or dispatch generally

31555. (a) Whenever an employee of the department is not present to carry out the provisions of Section 31550 with respect to any dog inflicting injury or immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for those mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or that person's employee, may seize or dispatch the dog, if the dog is found on that person's land or premises without the permission of the person who is in immediate possession of the land.

(b) Notwithstanding subdivision (a), if a dog described in subdivision (a) bears any readily visible identification tag or license tag required by Section 30951 of the Food and Agricultural Code, the dog may be dispatched under this section only if the dog has, and its owner has been notified that the dog has, previously threatened any of these species.

(c) No action, civil or criminal, shall be maintained based on a dog lawfully seized or dispatched pursuant to this section.

(d) If a dog seized or dispatched under this section bears the identification tag or license tag required by Section 30951 of the Food and Agricultural Code, its owner shall be notified within 72 hours of the seizure or dispatch.

Comment. Section 31555 restates former Fish and Game Code Section 3961 without substantive change.

Notes. (1) Proposed Section 31555 is intended to restate existing Fish and Game Code Section 3961 to improve its clarity, without changing its substantive effect. The existing section read as follows:

3961. Whenever an employee of the department is not present to carry out the provisions of Section 3960 with respect to any dog inflicting injury or immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for these mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or his or her employee, may seize or dispatch the dog if it is found on his or her land or premises without the

permission of the person who is in immediate possession of the land. If the dog has on it any readily visible identification tag or license tag as prescribed by Section 30951 of the Food and Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk, or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and the owner has been notified that the dog has, previously threatened any of these species.

No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched pursuant to this article.

The owner of a dog shall be notified within 72 hours of the seizure or dispatching of that dog under this section if it had the identification tag or license tag which is required pursuant to Section 30951 of the Food and Agricultural Code.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) The second paragraph of existing Fish and Game Section 3961 provides:

No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched pursuant to this article.

However, the reference to “article” in this provision is erroneous. Section 3961 is not and never has been contained in an article. In proposed Section 31555, the cross-reference is revised to refer to “this section.” This would parallel language in a related provision, existing Section 3960.

The Commission invites comment on whether that revision is appropriate.

TITLE 3. DEPREDATOR CONTROL

§ 31600. Department take of depredator

31600. The department may take any mammal that it determines is unduly preying on any bird, mammal, or fish.

Comment. Section 31600 continues the second paragraph of former Fish and Game Code Section 4153 without substantive change.

§ 31605. Immature mammals in den

31605. (a) It is unlawful to do either of the following to an immature depredator mammal while it is in its den:

(1) Use a snare, hook, or barbed wire to remove the mammal.

(2) Use fire to kill the mammal.

(b) Nothing in this section shall prohibit the use of fire-ignited gas cartridges or other products registered or permitted under the Federal Insecticide, Rodenticide, and Fungicide Act (7 U.S.C. 136 et seq.).

Comment. Subdivision (a) of Section 31605 restates the first paragraph of former Fish and Game Code Section 4180.1 without substantive change.

Subdivision (b) continues the second paragraph of former Fish and Game Code Section 4180.1 without substantive change.

Notes. (1) Proposed Section 31605 is intended to restate the first paragraph of existing Fish and Game Code Section 4180.1 to clarify the meaning of that sentence, without changing its substantive effect. The existing sentence reads as follows:

It is unlawful to use snares, hooks, or barbed wire to remove from the den, or fire to kill in the den, any immature depredator mammal.


The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) The Commission invites comment on the meaning of the term “depredator mammal” as used in Section 4180.1.

§ 31610. Identification of depredator

31610. The department shall tag, brand, or otherwise identify in a persistent and distinctive manner any large depredatory mammal relocated by, or relocated with the approval of, the department for game management purposes.

Comment. Section 31610 continues former Fish and Game Code Section 4190 without substantive change.

 **Notes.** (1) Existing Fish and Game Code Section 4190 refers to a “large” depredatory mammal.

The Commission invites comment on whether more precise or descriptive language might be substituted for the word “large” to provide better notice of the scope of the section’s prohibition.

(2) The Commission invites comment on the meaning of the term “depredatory mammal” as used in Section 4190.

PART 2. DISEASE CONTROL

§ 31700. Disease outbreak

31700. (a) Fur-bearing mammals, game mammals, and nongame mammals, when involved in dangerous disease outbreaks, may be taken by duly constituted officials of any of the following:

(1) The United States Department of Agriculture.

(2) The United States Department of the Interior.

(3) The United States Department of Health and Human Services.

(4) The California Department of Food and Agriculture.

(5) The California Department of Public Health.

(6) The department.

(b) A county official may take fur-bearing mammals, game mammals, and nongame mammals pursuant to this section with the prior approval of and in a manner approved by the director or the director’s designee.

Comment. Section 31700 continues former Fish and Game Code Section 4011 without substantive change.

PART 3. CLASSES OF MAMMALS

TITLE 1. GAME MAMMALS

CHAPTER 1. GENERAL PROVISIONS

§ 31800. Waste of game mammal

31800. (a) Except as provided in subdivision (b), no person shall through carelessness or neglect allow any game mammal that is in that person's possession, or any portion of the game mammal's flesh that is usually eaten by humans, to be needlessly wasted.

(b) The prohibition in subdivision (a) does not apply to game mammals taken pursuant to Section 35215, 35610, 35710, or 36010.

Comment. Section 31800 restates the part of the first sentence of former Fish and Game Code Section 4304 applicable to game mammals, and the second sentence of Section 4304, without substantive change.

Notes. (1) Proposed Section 31800 restates part of the first sentence of existing Fish and Game Code Section 4304 applicable to game mammals, and the second sentence of that section, to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

4304. [N]or shall any person at any time leave through carelessness or neglect any game mammal ... which is in his possession, or any portion of the flesh thereof usually eaten by humans, to go needlessly to waste. The provisions of this section shall not apply to game mammals taken under the authority of Sections 4152 and 4183 of this code.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 4183, which is cross-referenced in existing Section 4304, was repealed in 1984. 1984 Cal. Stat. ch. 1365. The repealed section related to taking bears that kill livestock.

The Commission invites comment on whether a reference to a different code section should be substituted for the reference to Section 4183.

§ 31805. Report on reduced-price tags

31805. (a) The department shall prepare a report to the Legislature no later than July 1, 2024, on the effects of the reduced-price tags issued pursuant to Sections 32950, 33300, 34850, and 35900 on rates of participation by junior hunters, the Big Game Management Account, and the Fish and Game Preservation Fund. The department shall collect relevant, sufficient, and appropriate data to evaluate the reduced-price tag program in the report, and make recommendations on improving the cost-effectiveness of those tags.

(b) The report required to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on July 1, 2028.

1 **Comment.** Section 31805 continues former Fish and Game Code Section 3034 without
2 substantive change.

3 **Note.** Proposed Section 31805 incorporates Section 3034, which was added by 2018 Cal.
4 Stat. ch. 295, § 7. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 CHAPTER 2. BIG GAME MANAGEMENT ACCOUNT

7 **§ 31900. Account established**

8 31900. The Big Game Management Account is hereby established within the
9 Fish and Game Preservation Fund.

10 **Comment.** Section 31900 continues former Fish and Game Code Section 3953(a) without
11 substantive change.

12 **§ 31905. Use of funds**

13 31905. (a) Funds deposited in the Big Game Management Account shall be
14 available for expenditure upon appropriation by the Legislature to the department.
15 These funds shall be expended solely for the purposes set forth in this chapter,
16 Sections 34955, 34960, 35810, and 35815, subdivisions (b) and (c) of Section
17 35825, Sections 35900, 35915, and 37300, and Chapter 6 (commencing with
18 Section 34500) of Title 6 of Part 4 of Division 9, including acquiring land,
19 completing projects, and implementing programs to benefit antelope, elk, deer,
20 wild pigs, bear, and sheep, and expanding public hunting opportunities and related
21 public outreach.

22 (b) Any land acquired with funds from the Big Game Management Account
23 shall be acquired in fee title or protected with a conservation easement and, to the
24 extent possible, be open or provide access to the public for antelope, elk, deer,
25 wild pig, bear, or sheep hunting.

26 (c) The department may also use funds from the Big Game Management
27 Account to pay for administrative and enforcement costs of the programs and
28 activities described in this section. The amount allocated from the account for
29 administrative costs shall be limited to the reasonable costs associated with
30 administration of the programs and activities described in this section.

31 **Comment.** Section 31905 continues former Fish and Game Code Section 3953(c) without
32 substantive change.

33 **§ 31910. Non-profit organizations**

34 31910. The department may make grants to, reimburse, or enter into contracts or
35 other agreements, as defined in subdivision (a) of Section 56205, with nonprofit
36 organizations for the use of the funds from the Big Game Management Account to
37 carry out the purposes of this section, including related habitat conservation
38 projects.

39 **Comment.** Section 31910 continues former Fish and Game Code Section 3953(d) without
40 substantive change.

1 **§ 31915. Advisory committee**

2 31915. An advisory committee, as determined by the department, that includes
3 interested nonprofit organizations that have goals and objectives directly related to
4 the management and conservation of big game species and primarily represent the
5 interests of persons licensed pursuant to Section 10210, shall review and provide
6 comments to the department on all proposed projects funded from the Big Game
7 Management Account, to help ensure that the requirements of this chapter have
8 been met.

9 **Comment.** Section 31915 continues the first sentence of former Fish and Game Code Section
10 3953(e) without substantive change.

11 **§ 31920. Online information**

12 31920. The department shall post, on an Internet website, budget information
13 and a brief description for all projects funded from the Big Game Management
14 Account.

15 **Comment.** Section 31920 continues the second sentence of former Fish and Game Code
16 Section 3953(e) without substantive change.

17 **§ 31925. Exemptions**

18 31925. Big game projects authorized pursuant to this section are not subject to
19 Part 2 (commencing with Section 10100) of Division 2 of the Public Contract
20 Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of
21 the Military and Veterans Code.

22 **Comment.** Section 31925 continues former Fish and Game Code Section 3953(f) without
23 substantive change.

24 **§ 31930. Accountability**

25 31930. The department shall maintain the internal accountability necessary to
26 ensure compliance with the collection, deposit, and expenditure of funds specified
27 in this section.

28 **Comment.** Section 31930 continues former Fish and Game Code Section 3953(g) without
29 substantive change.

30 **§ 31935. Transfer of funds from other accounts**

31 31935. The Augmented Deer Tags Account, Bighorn Sheep Permit Account,
32 and Wild Pig Account, within the Fish and Game Preservation Fund, shall be
33 consolidated and any remaining funds in these accounts transferred to the Big
34 Game Management Account, consistent with Sections 32950, 33305, 34240,
35 34865, 35825, and 37220. The department, after consultation with the Department
36 of Finance and the Legislative Analyst's Office, shall provide recommendations to
37 the Legislature for consolidation of additional dedicated accounts within the Fish
38 and Game Preservation Fund if, in the determination of the department,
39 consolidation would serve to reduce administrative costs to the department and

1 enhance its ability to meet current needs, while still preserving the generally stated
2 purpose of the dedicated accounts.

3 **Comment.** Section 31935 continues former Fish and Game Code Section 13205 without
4 substantive change.

5 TITLE 2. FUR-BEARING MAMMALS

6 § 32150. Allowed methods of taking

7 32150. (a) A fur-bearing mammal may be taken only with a trap, firearm, bow
8 and arrow, dog, or poison.

9 (b) It is unlawful to use poison to take fur-bearing mammals without a permit
10 from the department. The department may issue the permit upon a written
11 application indicating the kind of poison desired to be used and the time and place
12 of use.

13 **Comment.** Subdivision (a) of Section 32150 continues former Fish and Game Code Section
14 4002 without substantive change.

15 Subdivision (b) continues former Fish and Game Code Section 4003 without substantive
16 change.

17 See also Section 4806 (enforcement).

18 § 32155. Take and possession

19 32155. (a) Except as provided by Section 11200, fur-bearing mammals that are
20 injuring property may be taken at any time and in any manner not prohibited by
21 this code or regulations adopted pursuant to this code.

22 (b) Raw fur removed from a fur-bearing mammal that is taken pursuant to
23 subdivision (a) shall not be sold.

24 (c) A trap used to take a fur-bearing mammal pursuant to subdivision (a) shall be
25 inspected, and any animal found in a trap shall be removed, at least once daily.
26 The inspection and removal shall be done by the person who sets the trap, the
27 owner of the land where the trap is set, or an agent of either.

28 **Comment.** Section 32155 continues former Fish and Game Code Section 4180 without
29 substantive change.

30 TITLE 3. NONGAME MAMMALS

31 CHAPTER 1. GENERAL PROVISIONS

32 § 32300. Take or possession

33 32300. A nongame mammal may not be taken or possessed except as provided
34 in this code or in accordance with regulations adopted by the commission.

35 **Comment.** Section 32300 continues the second sentence of former Fish and Game Code
36 Section 4150 without substantive change.

37 See also Section 4806 (enforcement).

§ 32305. Protection of property

32305. (a) Except as provided in paragraph (6) of subdivision (b) of Section 11200, a nongame mammal that is found to be injuring growing crops or other property may be taken by the following persons at any time or in any manner not prohibited by this code or regulations adopted pursuant to this code:

(1) The owner or tenant of the premises.

(2) An employee or agent of the owner or tenant of the premises, who is in immediate possession of written permission from the owner or tenant to take a nongame mammal described in this subdivision.

(3) An officer or employee of the Department of Food and Agriculture.

(4) A federal, county, or city officer or employee acting in official capacity pursuant to provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(b) A person that takes a nongame mammal pursuant to this section is exempt from Section 9500, except when providing trapping services for a fee.

(c) Raw fur from a nongame mammal taken pursuant to this section shall not be sold.

Comment. Section 32305 restates the part of former Fish and Game Code Section 4152 applicable to nongame mammals without substantive change.

See also Section 11000 (inspection and removal of animals from traps).

Notes. (1) Proposed Section 32305 is intended to restate the part of existing Fish and Game Code Section 4152 applicable to nongame mammals to clarify the meaning of that language, without changing its substantive effect. Existing Section 4152 reads as follows:

4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes necator*), and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code and regulations adopted pursuant to this code by the owner or tenant of the premises or employees and agents in immediate possession of written permission from the owner or tenant thereof. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from Section 3007, except when providing trapping services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 4152 refers to employees and agents in “immediate possession” of written permission from the owner or tenant of premises where depredators are injuring property.

The Commission invites comment on whether or how the term “immediate possession” differs from “possession,” and whether the more familiar term “possession” could be substituted without substantively changing the meaning of the provision.

1 **§ 32310. Agreements relating to control of harmful nongame mammals**

2 32310. (a) The department may enter into cooperative agreements with any
3 agency of the state or the United States for the purpose of controlling harmful
4 nongame mammals.

5 (b) The department may enter into cooperative contracts with the United States
6 Fish and Wildlife Service in the Department of the Interior for the purpose of
7 controlling or eradicating any nongame mammal, and may expend any money
8 made available to the department for that purpose.

9 **Comment.** Subdivision (a) of Section 32310 continues the first paragraph of former Fish and
10 Game Code Section 4153 without substantive change.

11 Subdivision (b) restates former Fish and Game Code Section 4154 without substantive change.

12 **Note.** Proposed Section 32310(b) restates existing Fish and Game Code Section 4154 to
13 improve its clarity, without changing its substantive effect. The existing provision reads as
14 follows:

15 4154. The department may enter into cooperative contracts with the United States Fish and
16 Wildlife Service in the Department of the Interior in relation to the control of nongame mammals
17 and for that purpose may expend any money made available to the department for expenditure for
18 control or eradication of nongame mammals.

19 **The Commission invites comment on whether the proposed restatement would cause any**
20 **substantive change in the meaning of the provision.**

21 CHAPTER 2. MARINE MAMMALS

22 **§ 32500. Taking**

23 32500. (a) It is unlawful to take any marine mammal except in accordance with
24 provisions of the Marine Mammal Protection Act of 1972 (Chapter 31
25 (commencing with Section 1361) of Title 16 of the United States Code) or
26 provisions of Title 50 of the Code of Federal Regulations, or pursuant to
27 subdivision (b) of this section.

28 (b) If federal laws or regulations permit the state to assume jurisdiction over
29 marine mammals, the commission may adopt regulations governing marine
30 mammals and the taking of marine mammals.

31 (c) For purposes of this section, “marine mammals” means sea otters, whales,
32 dolphins, porpoises, seals, and sea lions.

33 **Comment.** Section 32500 continues former Fish and Game Code Section 4500 without
34 substantive change.

35 See also Section 5520 (enforcement).

36 TITLE 4. FULLY PROTECTED MAMMALS

37 **§ 32700. Take generally prohibited**

38 32700. (a) Except as provided in this part, Article 1 (commencing with Section
39 63300) of Chapter 4 of Title 3 of Part 1 of Division 17 or Section 64605, a fully
40 protected mammal may not be taken or possessed at any time.

(b) No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take any fully protected mammal, and no issued permit or license shall have any force or effect for that purpose.

Comment. Subdivisions (a) and (b) of Section 32700 continue the first two sentences of former Fish and Game Code Section 4700(a)(1) without substantive change.

See also Section 5400 (enforcement).

Note. Existing Fish and Game Code Section 4700(a)(1) provides that “Except as provided in Section 2081.7 or 2835, fully protected mammals or parts thereof may not be taken or possessed at any time.” However, Section 4700 itself (which would be continued by the provisions in this proposed title) provides exceptions to that prohibition.

In addition, existing Section 4902 (which would be continued by proposed Sections 35900) provides for limited sport hunting of a category of bighorn sheep (mature Nelson bighorn rams), which are generally classified by existing Section 4700(b)(2) as fully protected mammals.

Proposed Section 32700 would therefore restate the list of provisions containing exceptions to the prohibition against the take or possession of fully protected mammals to include the provisions of this part.

The Commission invites comment on whether that restatement would substantively change the meaning of existing Section 4700(a)(1).

§ 32705. Take for scientific purposes

32705. (a) The department may authorize the taking of a fully protected mammal for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, subject to the following:

(1) Before authorizing the take of a fully protected mammal, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization.

(2) The notification shall be published in the California Regulatory Notice Register, and be made available to each person who has notified the department, in writing, of that person’s interest in fully protected species and has provided an email address, if available, or postal address to the department.

(3) Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(b) As used in this section, “scientific research” does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

Comment. Section 32705 continues the third through sixth sentences of former Fish and Game Code Section 4700(a)(1), and Section 4700(a)(2), without substantive change.

§ 32710. Imported animal

32710. A legally imported fully protected mammal may be possessed under a permit issued by the department.

Comment. Section 32710 continues former Fish and Game Code Section 4700(a)(3) without substantive change.

PART 4. SPECIFIC TYPES OF MAMMALS

TITLE 1. ANTELOPE

CHAPTER 1. GENERAL PROVISIONS

§ 32900. Classification

32900. For the purposes of this code, a prong-horned antelope (genus *Antilocapra*) is a game mammal.

Comment. Section 32900 continues the part of former Fish and Game Code Section 3950(a) applicable to antelope without substantive change.

§ 32905. Provisions not exclusive

32905. The provisions of this title are not intended to be exclusive. Other provisions that govern antelope include, but are not limited to, the following provisions:

(a) Section 31555.

(b) Section 4570.

Comment. Section 32905 is new. It is added for drafting convenience.

CHAPTER 2. TAGS

§ 32950. Issuance of tags (operative until July 1, 2025)

32950. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of pronghorn antelope (*Antilocapra americana*) that may be taken under regulations that the commission may adopt from time to time. Only a person possessing a valid hunting license may obtain a tag for the taking of pronghorn antelope.

(b) The department may issue a pronghorn antelope tag upon payment of a fee. The fee for a pronghorn antelope tag for a resident of the state, except for a pronghorn antelope tag issued to a resident junior hunter, shall be fifty-five dollars (\$55), as adjusted under Section 3755. The fee for a pronghorn antelope tag for a resident junior hunter shall be twenty dollars (\$20), as adjusted under Section 3755. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than a fee of three hundred fifty dollars (\$350), as adjusted under Section 3755. The fees shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of persons in the department as set forth in Section 31900.

(c) The commission shall direct the department to annually authorize not less than one pronghorn antelope tag or more than 1 percent of the total number of tags available for the purpose of raising funds for programs and projects to benefit

1 pronghorn antelope. These tags may be sold at auction to residents or nonresidents
2 of the state or by another method and are not subject to the fee limitation
3 prescribed in subdivision (b). All revenues from sales pursuant to this subdivision
4 shall be deposited in the Big Game Management Account established in Section
5 31900 and, upon appropriation by the Legislature, shall be expended as set forth in
6 that section.

7 (d) The commission shall direct the department to annually authorize one
8 pronghorn antelope tag of the total number of tags available for issuance to
9 nonresidents of the state.

10 (e) This section shall become inoperative on July 1, 2025, and, as of January 1,
11 2026, is repealed.

12 **Comment.** Section 32950 continues former Fish and Game Code Section 331, as amended by
13 2018 Cal. Stat. ch. 295, § 1, without substantive change.

14 **Note.** This version of proposed Section 32950 would continue Section 331, as amended by
15 2018 Cal. Stat. ch. 295, § 1. Although that bill will not take effect until 2019, it is included here in
16 anticipation of its effect.

17 **§ 32950. Issuance of tags (operative July 1, 2025)**

18 32950. (a) The commission may determine and fix the area or areas, the seasons
19 and hours, the bag and possession limit, and the sex and total number of pronghorn
20 antelope (*Antilocapra americana*) that may be taken under regulations that the
21 commission may adopt from time to time. Only a person possessing a valid
22 hunting license, who has not received a pronghorn antelope tag under these
23 provisions during a period of time specified by the commission, may obtain a tag
24 for the taking of pronghorn antelope.

25 (b) The department may issue a pronghorn antelope tag upon payment of a fee.
26 The fee for a pronghorn antelope tag shall be fifty-five dollars (\$55) for a resident
27 of the state, as adjusted under Section 3755. On or before July 1, 2007, the
28 commission shall, by regulation, fix the fee for a nonresident of the state at not
29 less than a fee of three hundred fifty dollars (\$350), as adjusted under Section
30 3755. The fees shall be deposited in the Big Game Management Account
31 established in Section 3953 and, upon appropriation by the Legislature, shall be
32 expended, in addition to moneys budgeted for salaries of persons in the
33 department as set forth in Section 3953.

34 (c) The commission shall direct the department to annually authorize not less
35 than one pronghorn antelope tag or more than 1 percent of the total number of tags
36 available for the purpose of raising funds for programs and projects to benefit
37 pronghorn antelope. These tags may be sold at auction to residents or nonresidents
38 of the state or by another method and are not subject to the fee limitation
39 prescribed in subdivision (b). All revenues from sales pursuant to this subdivision
40 shall be deposited in the Big Game Management Account established in Section
41 3953 and, upon appropriation by the Legislature, shall be expended as set forth in
42 that section.

(d) The commission shall direct the department to annually authorize one pronghorn antelope tag of the total number of tags available for issuance to nonresidents of the state.

(e) This section shall become operative on July 1, 2025.

Comment. Section 32950 continues former Fish and Game Code Section 331, as added by 2018 Cal. Stat. ch. 295, § 2, without substantive change.

Note. This version of proposed Section 32950 would continue Section 331, as added by 2018 Cal. Stat. ch. 295, § 2. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 32960. Deposit of fees

32960. Except as provided in Section 32965, all revenues from the sale of antelope tags, including any fundraising tags, shall be deposited in the Big Game Management Account established in Section 31900 to permit separate accountability for the receipt and expenditure of these funds.

Comment. Section 32960 continues the part of the first sentence of former Fish and Game Code Section 3953(b) applicable to antelope without substantive change.

§ 32965. Sale of tag by nonprofit organization

32965. (a) A nonprofit organization designated by the department to assist in the sale of antelope fundraising tags that are sold on behalf of the department for the purpose of raising funds for specified programs and projects pursuant to subdivision (a) of Section 32950 is authorized to retain 5 percent of the amount of the sale price of the tag as a reasonable vendor fee.

(b) Within 30 days of the date of the sale, the selling nonprofit organization shall send the department 95 percent of the total auction sale price of the tag, with an itemized receipt showing the sale price and the 5-percent reduction retained by the nonprofit organization as a vendor's fee.

Comment. Subdivision (a) of Section 32965 continues the part of former Fish and Game Code Section 709 applicable to antelope without substantive change.

Subdivision (b) continues the part of the second sentence of former Fish and Game Code Section 3953(b) applicable to antelope without substantive change.

TITLE 2. BEAR

CHAPTER 1. GENERAL PROVISIONS

§ 33100. Classification

33100. For the purposes of this code, a black bear, brown bear, and cinnamon bear (genus *Euarctos*) are game mammals.

Comment. Section 33100 continues the part of former Fish and Game Code Section 3950(a) applicable to black, brown, and cinnamon bears, without substantive change.

1 **§ 33105. Provisions not exclusive**

2 33105. The provisions of this title are not intended to be exclusive. Other
3 provisions that govern bear include, but are not limited to, Section 26765.

4 **Comment.** Section 33105 is new. It is added for drafting convenience.

5 **§ 33110. Bear taken out of state**

6 33110. The provisions of this title relating to the possession of bear also apply to
7 bear taken outside this state and transported into this state.

8 **Comment.** Section 33110 continues former Fish and Game Code Section 4760 without
9 substantive change.

10 CHAPTER 2. TAKE GENERALLY

11 **§ 33200. Metal-jawed trap prohibited**

12 33200. No person, including an employee of the state, federal or a county
13 government, shall take a bear using an iron-jawed, steel-jawed or other type of
14 metal-jawed trap, and no provision of this code or any other law shall be construed
15 to authorize, or to permit the authorizing of, the use of an iron-jawed, steel-jawed
16 or other type of metal-jawed trap, to take a bear.

17 **Comment.** Section 33200 continues former Fish and Game Code Section 3011 without
18 substantive change.

19 **§ 33205. Tag required**

20 33205. It is unlawful to take any bear with a firearm, trap, or bow and arrow,
21 without first procuring a tag authorizing the taking of that bear in accordance with
22 this chapter, but no iron or steel-jawed or any type of metal-jawed trap shall be
23 used to take any bear.

24 **Comment.** Section 33205 continues former Fish and Game Code Section 4750 without
25 substantive change.

26 See also Sections 4704, 4860, 5464 (enforcement).

27 **§ 33210. Use of tag**

28 33210. (a) The person to whom a bear tag has been issued shall carry the tag
29 while hunting bear. Upon the killing of any bear, that person shall immediately fill
30 out the tag completely, legibly, and permanently, and cut out or punch out and
31 completely remove notches or punch holes for the month and the date of the kill.
32 One part of the tag shall be immediately attached to the ear of the bear and kept
33 attached during the open season and for 15 days thereafter. The holder of the bear
34 tag shall immediately, upon harvesting a bear, notify the department in a manner
35 specified by the commission.

36 (b) Except as otherwise provided by this code or regulations adopted pursuant to
37 this code, it is unlawful to possess any untagged bear.

38 **Comment.** Section 33210 continues former Fish and Game Code Section 4753 without
39 substantive change.

Note. The Commission invites comment on whether a more common term could be substituted for the word “harvesting” as used in existing Fish and Game Code Section 4753.

§ 33215. Countersigning

33215. Any person legally killing a bear in this state shall have the tag for that bear countersigned by a commissioner, a person employed by the department, a person designated for that purpose by the commission, a notary public, a postmaster, a peace officer, or an officer authorized to administer oaths, before transporting the bear, except to transport the bear to the nearest person authorized by this section to countersign the tag on the route from where the bear is taken to that person.

Comment. Section 33215 restates former Fish and Game Code Section 4755 without substantive change.

Note. Proposed Section 33215 is intended to restate existing Fish and Game Code Section 4755 to improve its clarity, without changing its substantive effect. The existing provisions read as follows:

4755. Any person legally killing a bear in this state shall have the tag countersigned by a fish and game commissioner, a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer or by an officer authorized to administer oaths, before transporting that bear except for the purpose of taking it to the nearest officer authorized to countersign the tag, on the route being followed from the point where the bear is taken.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 33220. Retention of skin and head

33220. Any person taking a bear must retain possession of the skin of the bear, and the portion of the bear’s head that includes both ears, during the open season for that bear and for 15 days thereafter, and must produce the skin and that portion of the head upon the demand of any officer authorized to enforce the provisions of this code.

Comment. Section 33220 restates former Fish and Game Code Section 4757 without substantive change.

Note. Proposed Section 33220 is intended to restate existing Fish and Game Code Section 4757 to improve its clarity, without changing its substantive effect. The existing provisions read as follows:

4757. Any person taking any bear must retain in his possession during the open season thereon, and for 15 days thereafter, the skin and portion of the head bearing the ears, and must produce the skin and portion of the head upon the demand of any officer authorized to enforce the provisions of this code.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

1 **§ 33225. Killing bear held in captivity**

2 33225. Except as authorized under a domesticated game breeder's license, a
3 bear kept in captivity may be killed only with the approval of the department, and
4 pursuant to any regulation that the commission may adopt. The carcass of a bear
5 kept in captivity may not be sold, and shall be disposed of as directed by the
6 department.

7 **Comment.** Section 33225 continues the part of former Fish and Game Code Section 3006
8 applicable to bears without substantive change.

9 CHAPTER 3. TAGS

10 **§ 33300. Issuance of tag (operative until July 1, 2025)**

11 33300. (a) Any resident of this state, 18 years of age or older, who possesses a
12 valid hunting license, may procure the number of bear tags corresponding to the
13 number of bear that may legally be taken by one person during the current license
14 year, upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section
15 3755, for each bear tag.


16 (b) Any resident of this state, who possesses a valid junior hunting license and is
17 at least 12 years of age, may procure the number of bear tags corresponding to the
18 number of bear that may legally be taken by one person during the current license
19 year, upon payment of a base fee of twenty dollars (\$20), as adjusted under
20 Section 3755, for each bear tag.

21 (c) Any nonresident of this state, 12 years of age or older, who possesses a valid
22 California hunting license, may procure the number of bear tags corresponding to
23 the number of bear that may be legally taken by one person during the current
24 license year upon payment of the base fee of one hundred five dollars (\$105), as
25 adjusted under Section 3755, for each bear tag.

26 (d) Fee revenues collected pursuant to this section shall be deposited in the Big
27 Game Management Account established in Section 31900 and, upon appropriation
28 by the Legislature, shall be expended as set forth in that section.

29 (e) This section shall become inoperative on July 1, 2025, and, as of January 1,
30 2026, is repealed.

31 **Comment.** Section 33300 continues former Fish and Game Code Section 4751, as amended by
32 2018 Cal. Stat. ch. 295, § 8, without substantive change.

33  **Note.** This version of proposed Section 33300 would continue Section 4751, as amended by
34 2018 Cal. Stat. ch. 295, § 8. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

36 **§ 33300. Issuance of tag (operative on July 1, 2025)**

37 33300. (a) Any resident of this state, 12 years of age or older, who possesses a
38 valid hunting license, may procure the number of bear tags corresponding to the
39 number of bear that may legally be taken by one person during the current license
40 year, upon payment of a base fee of fifteen dollars (\$15), as adjusted under Section

3755, for each bear tag. Fee revenues collected pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(b) Any nonresident of this state, 12 years of age or older, who possesses a valid California hunting license, may procure the number of bear tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the base fee of one hundred five dollars (\$105), as adjusted under Section 31900, for each bear tag. Fee revenues collected pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(c) This section shall become operative on July 1, 2025.

Comment. Section 33300 continues former Fish and Game Code Section 4751, as added by 2018 Cal. Stat. ch. 295, § 9, without substantive change.

Note. This version of proposed Section 33300 would continue Section 4751, as added by 2018 Cal. Stat. ch. 295, § 9. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 33305. Deposit of fees

33305. All revenues from the sale of bear tags, including any fundraising tags, shall be deposited in the Big Game Management Account established in Section 31900 to permit separate accountability for the receipt and expenditure of these funds.

Comment. Section 33305 continues the part of the first sentence of former Fish and Game Code Section 3953(b) applicable to bears without substantive change.

§ 33310. Time period when tags are valid

33310. Bear tags are valid only during that portion of the current hunting license year in which a bear may be taken or possessed in any district.

Comment. Section 33310 continues former Fish and Game Code Section 4752 without substantive change.

CHAPTER 4. POPULATION MANAGEMENT

§ 33400. Seasons

33400. (a) When adopting regulations pursuant to any authority otherwise vested in the commission by this code, the commission shall annually determine whether to continue, repeal, or amend regulations establishing hunting seasons for black bears. The determination shall include a review of factors that impact the health and viability of the black bear population.

(b) Prior to adopting a regulation authorizing a special hunting season for black bears for the purpose of curtailing property damage in any specified area, the

commission shall comply with Title 4 (commencing with Section 10500) of Part 2 of Division 6.

Comment. Subdivision (a) of Section 33400 continues former Fish and Game Code Section 302 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 303 without substantive change.

CHAPTER 5. USE OF PARTS

§ 33450. Personal use of bear parts

33450. (a) The skin, hide, teeth, claws, or other parts of any bear lawfully taken and possessed for the period provided in Section 33220 may be tanned or otherwise used for personal use only.

(b) Notwithstanding the provisions of Section 33220, the skin, hide, teeth, claws, or other parts of any bear lawfully taken may be donated at any time to a veterans' organization or veterans' service committee for use by veterans for rehabilitation purposes. If the donation occurs during the retention period specified in Section 33220, the donor shall obtain a receipt and retain it for the donation for the duration of that period.

Comment. Subdivision (a) of Section 33450 continues the first sentence of former Fish and Game Code Section 4759 without substantive change.

Subdivision (b) restates the second and third sentences of former Fish and Game Code Section 4759 without substantive change.

Note. Subdivision (b) of proposed Section 33450 is intended to restate the second and third sentences of existing Fish and Game Code Section 4759 to improve its clarity, without changing its substantive effect. The existing provisions read as follows:

Notwithstanding the provisions of Section 4757, the skin, hide, teeth, claws, or other parts of any bear lawfully taken may be donated any time to veterans' organizations or veterans' service committees for use by veterans for rehabilitation purposes. The donor shall obtain a receipt which shall be retained during the period stipulated by Section 4757.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of those sentences.

§ 33455. Commercial use of bear parts

33455. (a) Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or possess for sale, the meat, skin, hide, teeth, claws, or other parts of any bear in this state.

(b) For the purposes of subdivision (a), possession of more than one bear gall bladder is prima facie evidence that the bear gall bladders are possessed for sale.

(c) Nothing in this section prohibits a sale authorized pursuant to Section 10830.

Comment. Section 33455 continues former Fish and Game Code Section 4758 without substantive change.

See also Sections 4704, 5462, 5464 (enforcement).

CHAPTER 6. TAKE TO PROTECT PROPERTY

§ 33500. Take to protect property

33500. The following provisions do not apply to the taking of bear that is authorized to protect livestock, land, or property from damage or threatened damage from bear:

- (a) Section 33110.
- (b) Section 33210.
- (c) Section 33215.
- (d) Section 33220.
- (e) Section 33300.
- (f) Section 33310.
- (g) Section 33450.
- (h) Section 33455.
- (i) Section 33500.

Comment. Section 33500 continues former Fish and Game Code Section 4763 without substantive change.

§ 33505. Protection of livestock or crops

33505. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as defined in Section 31500.

(b) Notwithstanding Section 31510, dogs that are guarding or protecting livestock or crops on property owned, leased, or rented by the owner of the dogs may be used to pursue a bear, if the dogs are maintained with, and remain in reasonable proximity to, the livestock or crops being guarded or protected.

Comment. Section 33505 continues the part of former Fish and Game Code Section 3960.6 applicable to bears without substantive change.

§ 33510. Bear killing livestock

33510. (a) A bear encountered in the act of inflicting injury to, molesting, or killing, livestock may be taken immediately by the owner of the livestock or the owner’s employee, subject to subdivision (e) and the following requirements:

(1) The taking shall be reported to the department no later than the next working day.

(2) The carcass of any bear taken is made available to the department.

(b) The department shall make a record of each report made pursuant to subdivision (a), and may have an employee of the department investigate the taking, or cause the taking to be investigated. Upon completion of an investigation, the investigator may, upon a finding that the requirements of this section have been met with respect to a bear taken under subdivision (a), issue a written statement to the person taking the bear, confirming that the requirements of this section have been met.

1 (c) Notwithstanding Section 33500, any part of a bear lawfully possessed
2 pursuant to this section is subject to Section 33455.

3 (d) Nothing in this section prohibits a federal, state, or county trapper from
4 killing or trapping a bear that is killing or molesting livestock.

5 **Comment.** Subdivision (a) of Section 33510 continues former Fish and Game Code Section
6 4181.1(a) without substantive change.

7 Subdivision (b) continues the part of former Fish and Game Code Section 4181.1(c) applicable
8 to bear without substantive change.

9 Subdivision (c) continues former Fish and Game Code Section 4181.1(d) without substantive
10 change.

11 Subdivision (d) continues former Fish and Game Code Section 4181.1(e) without substantive
12 change.

13 **§ 33515. Use of dogs**

14 33515. (a) As used in this section, the terms “bear” and “pursue” have the same
15 meanings as defined in Section 31500.

16 (b) Notwithstanding Section 31510, not more than three dogs may be used to
17 pursue a bear pursuant to a depredation permit issued by the department, if all of
18 the following conditions are met:

19 (1) The applicant demonstrates, in writing, that nonlethal and avoidance
20 measures were undertaken prior to requesting the depredation permit.

21 (2) The applicant demonstrates, in writing, the specific need for the use of dogs
22 in carrying out the depredation permit.

23 (3) The depredation permit authorizing the use of dogs is valid for the take of
24 one bear.

25 (4) The depredation permit authorizing the use of dogs is valid for a period not
26 to exceed 20 consecutive days.

27 (5) The depredation permit specifies the name and address of any dog handler
28 who will be utilized in the pursuit or taking.

29 (6) The dog handler has the depredation permit in his or her possession at all
30 times during the pursuit or taking.

31 (7) The dog handler does not pursue a bear more than one mile off the property
32 on which the depredation activity occurred.

33 (c) After any taking of a bear, the applicant is required to submit the skull to the
34 department as described in the department’s Black Bear Management Plan. No
35 part of any bear taken pursuant to a depredation permit may be sold, purchased, or
36 possessed for sale, as described in Section 33455.

37 (d) No holder of a depredation permit may solicit or receive compensation from
38 any person in exchange for carrying out the terms of the permit. For the purpose of
39 this subdivision, “compensation” means remuneration paid in money, property, or
40 anything else of value.

41 (e) The holder of a depredation permit, within 30 days of its issuance, shall
42 report to the department detailing the use of the permit and the results of any

pursuits, including information about bear pursued and whether the bear was or was not harmed, but not killed.

Comment. Section 33515 continues the part of former Fish and Game Code Section 3960.2 applicable to bears without substantive change.

Note. Existing Fish and Game Code Section 3960.2 and a number of other existing code sections refer to the issuance by the department of a “depredation permit.” However, there appear to be no sections in the existing code that either authorize the Department to issue such permits, or specify any process relating to the issuance of such permit.

The Commission invites comment on whether a provision should be added to the proposed law providing general authorization for the issuance of such permits.

§ 33520. Depredation permit

33520. (a) Except as provided in Section 33510, an owner or tenant of land or property that is being damaged or destroyed, or is in danger of being damaged or destroyed, by bear, may apply to the department for a permit to kill the bear causing or threatening the damage or destruction.

(b) Subject to the limitations in subdivision (e), the department, upon satisfactory evidence of actual or immediately threatened damage or destruction of land or property, shall issue a revocable permit for the taking and disposition of the responsible bear, under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions.

(c) Bear taken under a permit issued pursuant to subdivision (b) shall not be sold or shipped from the premises on which they are taken, except pursuant to instructions from the department.

(d) No iron-jawed, steel-jawed, or any other type of metal-jawed trap shall be used to take any bear pursuant to this section.

(e) The permit issued for taking bear pursuant to subdivision (a) shall contain the following facts:

(1) Why the issuance of the permit was necessary.

(2) What efforts were made to prevent the actual or immediately threatened damage or destruction without killing the bear or bears.

(3) What corrective actions should be implemented to prevent reoccurrence of the damage or destruction.

(f) It is unlawful for any person to violate the terms of any permit issued pursuant to this section.

Comment. Subdivisions (a) through (d) and (f) of Section 33520 restate the part of former Fish and Game Code Section 4181(a) applicable to bear without substantive change.

Subdivision (e) continues former Fish and Game Code Section 4181(b) without substantive change.

Note. Proposed Section 33520(a)-(d) and (f) are intended to restate the part of existing Fish and Game Code Section 4181(a) applicable to bear to clarify the meaning of that language, without changing its substantive effect. Existing Section 4181 reads as follows:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the animals under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions. Animals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. No iron-jawed or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel or wild turkey pursuant to this section. The department shall designate the type of trap to be used to ensure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under this section.

(b) The permit issued for taking bears pursuant to subdivision (a) shall contain the following facts:

- (1) Why the issuance of the permit was necessary.
- (2) What efforts were made to solve the problem without killing the bears.
- (3) What corrective actions should be implemented to prevent reoccurrence.
- (c)...
- (d)...

The reference in existing Section 4181 to subdivision (d) of Section 4181 has not been continued in proposed Section 33520, as that provision does not apply to bears.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

CHAPTER 7. TAKE FOR SCIENTIFIC PURPOSES

§ 33600. Scientific research

33600. (a) As used in this section, the terms “bear” and “pursue” have the same meanings as defined in Section 31500.

(b) Notwithstanding Section 31510, the department may authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to use dogs to pursue bears for the purpose of scientific research, provided that the research project is designed to do all of the following:

- (1) Contribute to knowledge of natural wildlife ecosystems.
- (2) Follow best practices and minimize disruptions in the lives and movements of bears and other wildlife, as well as impacts to the habitat while maintaining the applicant’s objectives.
- (3) Directly or indirectly support the sustainability and survival of bear populations and healthy ecosystems.
- (4) Exclude the intentional injury or killing of any bear.
- (5) Exclude the intentional relocation of any bear other than to areas suitable to them in the state. Any relocation shall comply with the requirements of Section 31610.

(c) Any research project authorized pursuant to subdivision (b) shall be undertaken pursuant to a memorandum of understanding between the department and the authorized research entity that addresses all of the following:

(1) Trapping and anesthetizing of the animals pursued, collection of diagnostic samples, attaching or surgically implanting monitoring or recognition devices or markings, and providing veterinary care or euthanasia, as required, for the health, safety, and humane treatment of the animals.

(2) Qualifications of onsite field supervisors necessary for carrying out authorized research procedures.

(3) Immediate reporting of any incidental mortality or injury to a bear as a result of authorized research activities. Reports of any incidental mortality or injury to a bear shall be made available to the public upon request.

(4) Filing of annual and final progress reports of research involving pursuit by dogs. Annual and final progress reports shall be made available to the public upon request.

(d) The department shall provide notice to the public of any bear research project authorized pursuant to subdivision (b) at least 30 days prior to its initiation, and, upon request, shall make available to the public copies of the memorandum of understanding between the department and the authorized research entity required pursuant to subdivision (c).

Comment. Section 33600 continues the part of former Fish and Game Code Section 3960.4 applicable to bears without substantive change.

Note. Existing Fish and Game Code Section 3960.4 authorizes the Department to use dogs to pursue bears *or* bobcats for scientific research, provided the research project meets certain conditions. Among those conditions are safeguards that generally protect against harm to any “bear *or* bobcat.” See Section 3960.4(b)(3), (4), (5) (which would be continued by proposed Section 33600(b)(3), (4), (5)).

Proposed Section 33600 would continue the provisions of Section 3960.4 that relate only to the pursuit and protection of bears, and all references to bobcats have therefore been deleted from the proposed section. (The provisions of Section 3960.4 that relate to the pursuit and protection of bobcats are continued elsewhere.)

The Commission invites comment on whether any of the deletions of the references to bobcats in this section would cause any substantive change in the meaning of any provision in Section 3960.4.

CHAPTER 8. MISCELLANEOUS PROVISIONS

§ 33650. Bears within San Bernardino and Riverside counties

33650. In any district or part of a district located within either San Bernardino or Riverside counties, a bear may be taken at any time with traps, if all of the following conditions are satisfied:

(a) The traps are set inside a good and substantial fence, as defined by Section 17121 of the Food and Agricultural Code.

(b) The fence surrounds one or more beehives.

(c) No part of the fence is at a distance greater than 50 yards from a beehive.

(d) A conspicuous sign is posted and maintained at each entrance to the enclosed premises, warning of the presence of the traps.

(e) No iron-jawed, steel-jawed, or any other type of metal-jawed trap is used.

Comment. Section 33650 continues former Fish and Game Code Section 4185 without substantive change.

TITLE 3. BEAVER

§ 33700. Fur-bearing mammal

33700. For the purposes of this code, a beaver is a fur-bearing mammal.

Comment. Section 33700 continues the part of former Fish and Game Code Section 4000 applicable to beavers without substantive change.

§ 33705. Provisions not exclusive

33705. The provisions of this title are not intended to be exclusive. Other provisions that govern beaver include, but are not limited to, Section 11010.

Comment. Section 33705 is new. It is added for drafting convenience.

§ 33710. Depredation permit

33710. (a) An owner or tenant of land or property that is being damaged or destroyed, or is in danger of being damaged or destroyed, by beaver, may apply to the department for a permit to kill the beaver causing or threatening the damage or destruction.

(b) The department, upon satisfactory evidence of actual or immediately threatened damage or destruction of land or property, shall issue a revocable permit for the taking and disposition of the responsible beaver, under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions.

(c) Beaver taken under a permit issued pursuant to subdivision (b) shall not be sold or shipped from the premises on which they are taken, except pursuant to instructions from the department.

(d) It is unlawful for any person to violate the terms of any permit issued pursuant to this section.

Comment. Section 33710 restates the part of former Fish and Game Code Section 4181(a) applicable to beaver without substantive change.

Note. Proposed Section 33710 is intended to restate the part of existing Fish and Game Code Section 4181(a) applicable to beaver to clarify the meaning of that language, without changing its substantive effect. Existing Section 4181 reads as follows:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the animals under regulations adopted by the commission.

The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions. Animals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. No iron-jawed or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel or wild turkey pursuant to this section. The department shall designate the type of trap to be used to ensure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under this section.

The references in existing Section 4181 to existing Section 4181.1 and to subdivisions (b) and (d) of Section 4181 have not been continued in proposed Section 31110, as those provisions do not apply to beavers.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

TITLE 4. BOBCAT

CHAPTER 1. GENERAL PROVISIONS

§ 33750. Provisions not exclusive

33750. The provisions of this title are not intended to be exclusive. Other provisions that govern bobcats include, but are not limited to, the following provisions:

(a) Section 31510.

(b) Section 31550.

Comment. Section 33750 is new. It is added for drafting convenience.

§ 33755. Definition of “pursue”

33755. As used in this title, the term “pursue” has the same meaning as defined in Section 31500.

Comment. Section 33755 continues the parts of former Fish and Game Code Sections 3960.2, 3960.4, and 3960.6 applicable to the word “pursue” without substantive change.

CHAPTER 2. TAKE GENERALLY

§ 33800. Trapping on private land

33800. (a) Notwithstanding Section 9580 or any other provision of this code, on and after January 1, 2014, it shall be unlawful to trap a bobcat, or attempt to do so, on private land not belonging to the trapper without the express written consent of the owner of that property.

(b) The placing or possession of a trap or the possession of a bobcat on land is prima facie evidence of a violation of this section.

Comment. Section 33800 continues former Fish and Game Code Section 4155(d) without substantive change.

1 **§ 33805. Joshua Tree National Park**

2 33805. Commencing January 1, 2014, it shall be unlawful to trap a bobcat, or
3 attempt to do so, or to sell or export a bobcat taken in the area surrounding Joshua
4 Tree National Park, defined as follows: East and South of State Highway 62 from
5 the intersection of Interstate 10 to the intersection of State Highway 177; West of
6 State Highway 177 from the intersection of State Highway 62 to the intersection
7 with Interstate 10; North of Interstate 10 from State Highway 177 to State
8 Highway 62.

9 **Comment.** Section 33805 continues former Fish and Game Code Section 4155(a) without
10 substantive change.

11 **§ 33810. Parks, preserves, and conservancies**

12 33810. (a) Through the commission's next regularly scheduled mammal
13 hunting and trapping rulemaking process occurring after January 1, 2014, the
14 commission shall amend its regulations to prohibit the trapping of bobcats
15 adjacent to the boundaries of each national or state park and national monument or
16 wildlife refuge in which bobcat trapping is prohibited.

17 (b) Commencing January 1, 2016, the commission shall consider whether to
18 prohibit bobcat trapping within, and adjacent to, preserves, state conservancies,
19 and any additional public or private conservation areas identified to the
20 commission by the public as warranting protection. The commission, as necessary,
21 shall amend its regulations through its next subsequently scheduled mammal
22 hunting and trapping rulemaking process to prohibit bobcat trapping in any area
23 determined by the commission to warrant protection.

24 (c) The commission shall delineate the boundaries of an area in which bobcat
25 trapping is prohibited pursuant to subdivisions (a) or (b) using readily identifiable
26 features, such as highways or other major roads, such as those delineated for
27 Joshua Tree National Park in Section 33805.

28 (d) The prohibition on the trapping of bobcats in the areas designated pursuant
29 to Section 33805 and this section shall not apply to any of the following:

30 (1) The taking of a bobcat by an employee of the department acting in an official
31 capacity.

32 (2) The taking of a bobcat in accordance with the conditions of a scientific,
33 educational, or propagation permit pursuant to Section 9200 by the holder of that
34 permit.

35 (3) The lawful taking of a bobcat found to be injuring crops or other property,
36 pursuant to Section 32305, another provision of this code, or a regulation adopted
37 pursuant to this code.

38 **Comment.** Section 33810 continues former Fish and Game Code Section 4155(b)-(c) without
39 substantive change.

1 **§ 33815. Trapping fees**

2 33815. Consistent with the requirements of subdivision (b) of Section 11215,
3 the commission shall set trapping license fees and associated fees, including, but
4 not limited to, shipping tags required pursuant to Section 479 of Chapter 6 of
5 Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for
6 the 2014–15 season, and any subsequent seasons in which bobcat trapping is
7 allowed, at the levels necessary to fully recover all reasonable administrative and
8 implementation costs of the department and the commission associated with the
9 trapping of bobcats in the state, including, but not limited to, enforcement costs.

10 **Comment.** Section 33815 continues former Fish and Game Code Section 4155(e) without
11 substantive change.

12 **§ 33820. Effect of chapter**

13 33820. This chapter does not limit the ability of the department or the
14 commission to impose additional requirements, restrictions, or prohibitions related
15 to the taking of bobcats, including a complete prohibition on the trapping of
16 bobcats pursuant to this code.

17 **Comment.** Section 33820 continues former Fish and Game Code Section 4155(f) without
18 substantive change.

19 **CHAPTER 3. PURSUIT TO PROTECT PROPERTY**

20 **§ 33900. Pursuit to protect livestock or crops**

21 33900. Notwithstanding Section 31510, dogs that are guarding or protecting
22 livestock or crops on property owned, leased, or rented by the owner of the dogs
23 may be used to pursue a bobcat, if the dogs are maintained with, and remain in
24 reasonable proximity to, the livestock or crops being guarded or protected.

25 **Comment.** Section 33900 continues the part of former Fish and Game Code Section 3960.6(b)
26 applicable to bobcats without substantive change.

27 **§ 33905. Depredation permit**

28 33905. (a) Notwithstanding Section 31510, three or fewer dogs may be used to
29 pursue a bobcat pursuant to a depredation permit issued by the department, if all of
30 the following conditions are met:

31 (1) The applicant demonstrates, in writing, that nonlethal and avoidance
32 measures were undertaken prior to requesting the depredation permit.

33 (2) The applicant demonstrates, in writing, the specific need for the use of dogs
34 in carrying out the depredation permit.

35 (3) The depredation permit authorizing the use of dogs is valid for the take of
36 one bobcat.

37 (4) The depredation permit authorizing the use of dogs is valid for a period not
38 to exceed 20 consecutive days.

1 (5) The depredation permit specifies the name and address of any dog handler
2 who will be utilized in the pursuit or taking.

3 (6) The dog handler has the depredation permit in his or her possession at all
4 times during the pursuit or taking.

5 (7) The dog handler does not pursue a bobcat more than one mile off the
6 property on which the depredation activity occurred.

7 (b) No holder of a depredation permit may solicit or receive compensation from
8 any person in exchange for carrying out the terms of the permit. For the purpose of
9 this subdivision, “compensation” means remuneration paid in money, property, or
10 anything else of value.

11 (c) The holder of a depredation permit, within 30 days of its issuance, shall
12 report to the department detailing the use of the permit and the results of any
13 pursuits, including information about bobcat pursued and whether the bobcat was
14 or was not harmed, but not killed.

15 **Comment.** Section 33905 continues the part of former Fish and Game Code Section 3960.2
16 applicable to bobcats without substantive change.

17 CHAPTER 4. PURSUIT FOR SCIENTIFIC PURPOSES

18 § 33950. Pursuit in furtherance of scientific research

19 33950. (a) Notwithstanding Section 31510, the department may authorize
20 qualified individuals, educational institutions, governmental agencies, or
21 nongovernmental organizations to use dogs to pursue bobcats for the purpose of
22 scientific research, provided that the research project is designed to do all of the
23 following:

24 (1) Contribute to knowledge of natural wildlife ecosystems.

25 (2) Follow best practices and minimize disruptions in the lives and movements
26 of bobcats and other wildlife, as well as impacts to the habitat while maintaining
27 the applicant’s objectives.

28 (3) Directly or indirectly support the sustainability and survival of bobcat
29 populations and healthy ecosystems.

30 (4) Exclude the intentional injury or killing of any bobcat.

31 (5) Exclude the intentional relocation of any bobcat other than to areas suitable
32 to them in the state. Any relocation shall comply with the requirements of Section
33 31610.

34 (b) Any research project authorized pursuant to subdivision (a) shall be
35 undertaken pursuant to a memorandum of understanding between the department
36 and the authorized research entity that addresses all of the following:

37 (1) Trapping and anesthetizing of the animals pursued, collection of diagnostic
38 samples, attaching or surgically implanting monitoring or recognition devices or
39 markings, and providing veterinary care or euthanasia, as required, for the health,
40 safety, and humane treatment of the animals.

(2) Qualifications of onsite field supervisors necessary for carrying out authorized research procedures.

(3) Immediate reporting of any incidental mortality or injury to a bobcat as a result of authorized research activities. Reports of any incidental mortality or injury to a bobcat shall be made available to the public upon request.

(4) Filing of annual and final progress reports of research involving pursuit by dogs. Annual and final progress reports shall be made available to the public upon request.

(c) The department shall provide notice to the public of any bobcat research project authorized pursuant to subdivision (a) at least 30 days prior to its initiation, and, upon request, shall make available to the public copies of the memorandum of understanding between the department and the authorized research entity required pursuant to subdivision (b).

Comment. Section 33950 continues the part of former Fish and Game Code Section 3960.4(b)-(d) applicable to bobcats without substantive change.

Note. Existing Fish and Game Code Section 3960.4 authorizes the Department to use dogs to pursue bears *or* bobcats for scientific research, provided the research project meets certain conditions. Among those conditions are safeguards that generally protect against harm to any “bear *or* bobcat.” See Section 3960.4(b)(3), (4), (5) (which would be continued by proposed Section 33950(a)(3), (4), and (5)).

Proposed Section 33950 would continue the provisions of Section 3960.4 that relate only to the pursuit and protection of bobcats, and all references to bears have therefore been deleted from the proposed section. (The provisions of Section 3960.4 that relate to the pursuit and protection of bears are continued elsewhere.)

The Commission invites comment on whether any of the deletions of the references to bears in this section would cause any substantive change in the meaning of any provision in Section 3960.4.

TITLE 5. BURRO

§ 34050. Provisions not exclusive

34050. The provisions of this title are not intended to be exclusive. Other provisions that govern burros include, but are not limited to, the following provisions:

(a) Section 400.

(b) Section 35815.

Comment. Section 34050 is new. It is added for drafting convenience.

§ 34055. Prohibitions

34055. (a) It is unlawful to kill, wound, capture, or have in possession any undomesticated burro, except as provided in Section 53074.5 of the Government Code.

(b) As used in this section, “undomesticated burro” means a wild burro or a burro that has not been tamed or domesticated for a period of three years after its

1 capture. The fact that a burro was killed, wounded, or captured on publicly owned
2 land, or on land owned by a person other than the person who killed, wounded, or
3 captured the burro is prima facie evidence that the burro was an undomesticated
4 burro at the time it was killed, wounded, or captured.

5 (c) Neither the commission nor any other department or agency has any power
6 to modify the provisions of this section by any order, rule, or regulation.

7 **Comment.** Section 34055 continues former Fish and Game Code Section 4600 without
8 substantive change.

9 See also Section 5540 (enforcement).

10 **§ 34060. Burro sanctuary**

11 34060. The following is a burro sanctuary: All that area within the following
12 boundaries:

13 Beginning at the point at which the northern boundary line of Death Valley
14 National Monument intersects with the easterly boundary line of the State of
15 California;

16 Thence westerly along the northern boundary line of Death Valley National
17 Monument to the point of intersection with the line common to R. 40 and 41 E.,
18 Mount Diablo Meridian, being the NE. corner of Sec. 24, T. 10 S., R. 40 E., M. D.
19 B. & M.;

20 Thence northerly along the line common to R. 40 and 41 E., M. D. M., to the
21 point of intersection with the line common to T. 9 and 10 S., Mount Diablo Base,
22 being the NE. corner of Sec. 1, T. 10 S., R. 40 E., M. D. B. & M.;

23 Thence westerly along the line common to T. 9 and 10 S., M.D.B., and the
24 prolongation thereof, to the point of intersection with the most easterly boundary
25 line of the Inyo National Forest, as such boundary exists on the effective date of
26 this act, being the NW. corner of Sec. 6, T. 10 S., R. 37 E., M. D. B. & M.;

27 Thence southerly and easterly along the most easterly boundary line of the Inyo
28 National Forest to the most easterly southeast corner of said national forest;

29 Thence in a direct line in a generally southeasterly direction to the point at
30 which the center line of State Highway Route 127 (No. 190) intersects with the
31 line common to R. 41 and 42 E., M. D. M.;

32 Thence southerly along the line common to R. 41 and 42 E., M. D. M., to the
33 point of intersection with the line common to T. 20 and 21 S., M. D. B., being the
34 SW. corner of Sec. 31, T. 20 S., R. 42 E., M. D. B. & M.;

35 Thence westerly one-half mile, more or less, along the line common to T. 20 and
36 21 S., M. D. B., to the point of intersection with the line common to R. 41 and 42
37 E., M. D. M., being the NW. corner of Sec. 6, T. 21 S., R. 42 E., M. D. B. & M.;

38 Thence southerly along the line common to R. 41 and 42 E., M. D. M., to the
39 point of intersection with the boundary line between Inyo and San Bernardino
40 Counties;

41 Thence easterly along said county boundary line to the point of intersection with
42 the easterly boundary line of the State of California;

1 Thence northwesterly along said easterly boundary line of the State to the point
2 of beginning.

3 **Comment.** Section 34060 continues former Fish and Game Code Section 10930 without
4 substantive change.

5 **§ 34065. Prohibited conduct in burro sanctuary**

6 34065. (a) Except as otherwise provided in Chapter 5 (commencing with Section
7 4600) of Part 3, Division 4 of this code it is unlawful to take, possess, harm,
8 molest, harass, or in any manner interfere with any burro that is in a burro
9 sanctuary described in Section 34060.

10 (b) The provisions of this section, other than those relating to the taking and
11 possession of burros, do not apply to persons while lawfully on lands included
12 within the sanctuary and engaged in the business of raising cattle.

13 **Comment.** Section 34065 continues the first sentence of subdivision (a) and subdivision (b) of
14 former Fish and Game Code Section 10931 without substantive change.

15 See also Section 5542 (enforcement).

16 **TITLE 6. DEER**

17 **CHAPTER 1. GENERAL PROVISIONS**

18 **§ 34100. Game mammal**

19 34100. For the purposes of this code, a deer (genus *Odocoileus*) is a game
20 mammal.

21 **Comment.** Section 34100 continues the part of former Fish and Game Code Section 3950(a)
22 applicable to deer without substantive change.

23 **§ 34105. Provisions not exclusive**

24 34105. The provisions of this title are not intended to be exclusive. Other
25 provisions that govern deer include, but are not limited to, the following
26 provisions:

27 (a) Section 1000.

28 (b) Section 4570.

29 (c) Section 10500.

30 (d) Section 10700.

31 (e) Section 26550.

32 (f) Section 26070.

33 (g) Section 31555.

34 (h) Section 34535.

35 (i) Section 55725.

36 (j) Section 56585.

37 (k) Section 56590.


38 (l) Section 56595.

1 **Comment.** Section 34105 is new. It is added for drafting convenience.

2 **§ 34110. Retention of deer head**

3 34110. Any person taking a deer must retain possession of that portion of the
4 deer's head that in adult males normally bears the antlers, during the open season
5 for that deer and for 15 days thereafter, and must produce that portion of the head
6 upon the demand of any officer authorized to enforce the provisions of this code.

7 **Comment.** Section 34110 restates former Fish and Game Code Section 4302 without
8 substantive change.

9  **Note.** Proposed Section 34110 is intended to restate existing Fish and Game Code Section
10 4302 to clarify the meaning of that provision, without changing its substantive effect. The
11 existing provision reads as follows:

12 Any person taking any deer shall retain in his possession during the open season thereon, and
13 for 15 days thereafter, that portion of the head which in adult males normally bears the antlers,
14 and shall produce the designated portion of the head upon the demand of any officer authorized to
15 enforce the provisions of this code.

16 **The Commission invites comment on whether the restatement would cause any**
17 **substantive change in the meaning of either section.**

18 **§ 34115. Killing deer held in captivity**

19 34115. Except as authorized under a domesticated game breeder's license, a
20 deer kept in captivity may be killed only with the approval of the department, and
21 pursuant to any regulation that the commission may adopt. The carcass of a deer
22 kept in captivity may not be sold, and shall be disposed of as directed by the
23 department.

24 **Comment.** Section 34115 continues the part of former Fish and Game Code Section 3006
25 applicable to deer without substantive change.

26 **§ 34120. Transport out of state**

27 34120. It is unlawful to transport or carry a deer out of this state, except by the
28 holder of a nonresident hunting license or under a written permit issued by the
29 department.

30 **Comment.** Section 34120 continues the part of former Fish and Game Code Section 2350
31 applicable to deer without substantive change.

32 **§ 34125. Transport into state**

33 34125. Deer may be transported into this state only when in accordance with the
34 law of the state in which the deer was taken, and when in accordance with the law
35 of this state and the regulations of the commission adopted pursuant to the law of
36 this state.

37 **Comment.** Section 34125 continues former Fish and Game Code Section 2355 without
38 substantive change.

CHAPTER 2. TAGS

§ 34200. Required tag or permit

34200. It is unlawful to take a deer without first obtaining a deer tag or permit authorizing the taking of that deer.

Comment. Section 34200 continues former Fish and Game Code Section 4330 without substantive change.

See also Sections 4704, 5450, 5464 (enforcement).

§ 34205. Tagging of deer

34205. (a) A person issued a deer tag shall carry the tag while hunting deer.

(b) A person that kills a deer shall immediately fill out a deer tag issued to that person completely, legibly, and permanently, and cut out or punch out and completely remove notches or punch holes for the month and date of the kill. The deer tag shall then be immediately attached to the antlers of antlered deer or to the ear of any other deer, and shall be kept attached during the open season and for 15 days thereafter.

(c) A person that harvests a deer shall immediately notify the department of the harvesting, in a manner specified by the commission.

(d) Except as otherwise provided by this code or regulation adopted pursuant to this code, it is unlawful to possess any untagged deer.

Comment. Section 34205 continues former Fish and Game Code Section 4336 without substantive change.

Note. The Commission invites comment on whether a more common term could be substituted for the word “harvesting” as used in existing Fish and Game Code Section 4336.

§ 34210. Countersigning

34210. Any person legally killing a deer in this state shall have the tag for that deer countersigned by a person employed by the department, a person designated for that purpose by the commission, a notary public, a postmaster, a peace officer, or an officer authorized to administer oaths, before transporting the deer, except to transport the deer to the nearest person authorized to countersign the tag, on the route from where the deer is taken to that person.

Comment. Section 34210 restates former Fish and Game Code Section 4341 without substantive change.

Note. Proposed Section 34210 is intended to restate existing Fish and Game Code Section 4341 to improve its clarity, without changing its substantive effect. The existing provisions read as follows:

4341. Any person legally killing a deer in this state shall have the tag countersigned by a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer, or an officer authorized to administer oaths, before transporting such deer, except for the purpose of taking it to the nearest person authorized to countersign the tag, on the route being followed from the point where the deer is taken.

1 **The Commission invites comment on whether the restatement would cause any**
2 **substantive change in the meaning of the provision.**

3 **§ 34215. Issuance of tags**

4 34215. (a) The commission shall annually direct the department to authorize,
5 pursuant to Section 2945, the sale of not more than 10 deer tags for the purpose of
6 raising funds for programs and projects as set forth in Sections 31905 and 31910.
7 All revenue from the sale of tags pursuant to this section shall be deposited in the
8 Big Game Management Account established in Section 31900.

9 (b) Tags issued pursuant to subdivision (a) may be sold to residents or
10 nonresidents of the state at auction or by any other method, and are not limited to
11 the fees prescribed by Section 33225.

12 (c) Funds received pursuant to this section shall augment, not supplant, any
13 other funds appropriated to the department for the preservation, restoration,
14 utilization, and management of deer. All revenue derived from the sale of tags
15 issued pursuant to subdivision (a) shall be remitted to the department by the seller.

16 **Comment.** Section 34215 continues former Fish and Game Code Section 4334 without
17 substantive change.

18 **§ 34220. Design and makeup of tag**

19 34220. The commission may determine the design and makeup of the deer tag
20 and prescribe the procedures for issuance and use.

21 **Comment.** Section 34220 continues former Fish and Game Code Section 4331 without
22 substantive change.

23 **§ 34225. Fee**

24 34225. (a) Any person 12 years of age or over, who possesses a valid hunting
25 license, may obtain one tag for the taking of one deer by one person during the
26 current license year, upon payment of a fee as follows:

27 (1) For a resident of this state, a base fee of ten dollars (\$10) for the license year
28 beginning July 1, 1986, adjusted under Section 3755 for subsequent license years.

29 (2) For a nonresident of this state, a base fee of one hundred dollars (\$100) for
30 the license year beginning July 1, 1986, adjusted under Section 3755 for
31 subsequent license years.

32 (b) If provided in regulations adopted by the commission under Section 1000,
33 any person 12 years of age or over who possesses a deer tag for the current license
34 season may procure one additional deer tag for the taking of one additional deer
35 during the current license season, upon payment of a fee as follows:

36 (1) For a resident of this state, a base fee of twelve dollars and fifty cents
37 (\$12.50) for the license year beginning July 1, 1986, adjusted under Section 3755
38 for subsequent license years.

(2) For a nonresident of this state, a base fee of one hundred dollars (\$100) for the license year beginning July 1, 1986, adjusted under Section 3755 for subsequent license years.

Comment. Section 34225 restates former Fish and Game Code Section 4332(a)-(d) without substantive change.

Note. Proposed Section 34225 is intended to restate existing Fish and Game Code Section 4332(a)-(d) to clarify the meaning of that language, without changing its substantive effect. The existing provisions read as follows:

4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of ten dollars (\$10) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of one hundred dollars (\$100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(c) If provided in regulations adopted by the commission under Section 200, any resident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of twelve dollars and fifty cents (\$12.50) for the license years beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(d) If provided in regulations adopted by the commission under Section 200, any nonresident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of one hundred dollars (\$100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 34230. Duration of tag

34230. A deer tag is valid only during that portion of the current hunting license year in which deer may be taken or possessed in any area.

Comment. Section 34230 continues former Fish and Game Code Section 4333 without substantive change.

§ 34240. Deposit of fees

34240. Except as provided in Section 34245, all revenues from the sale of deer tags, including any fundraising tags, shall be deposited in the Big Game Management Account established in Section 31900 to permit separate accountability for the receipt and expenditure of these funds.

Comment. Section 34240 continues the part of the first sentence of former Fish and Game Code Section 3953(b) applicable to deer without substantive change.

Note. This provision appears to render existing Section 4332(e) superfluous, and that provision would not be continued in the proposed law. Existing Section 4332, which relates to the sale of deer tags, would generally be continued by proposed Section 34240. Existing Section 4332(e) reads as follows:

4332. (e) All revenues pursuant to this section shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

The Commission invites comment on whether the discontinuation of existing Section 4332(e) in the proposed law is appropriate.

§ 34245. Sale of tag by nonprofit organization

34245. (a) A nonprofit organization designated by the department to assist in the sale of deer fundraising tags that are sold on behalf of the department for the purpose of raising funds for specified programs and projects, pursuant to subdivision (a) of Section 34215 is authorized to retain 5 percent of the amount of the sale price of the tag as a reasonable vendor fee.

(b) Within 30 days of the date of the sale, the selling nonprofit organization shall send the department 95 percent of the total auction sale price of the tag, with an itemized receipt showing the sale price and the 5-percent reduction retained by the nonprofit organization as a vendor's fee.

Comment. Subdivision (a) of Section 34245 continues the part of former Fish and Game Code Section 709 applicable to deer without substantive change.

Subdivision (b) continues the part of the second sentence of former Fish and Game Code Section 3953(b) applicable to deer without substantive change.

CHAPTER 3. BOW HUNTING

§ 34350. Archery season

34350. (a) In every area in which deer may lawfully be taken during the general open season, there shall be an archery season for the taking of deer with bow and arrow. The commission shall prescribe the season for each area, but with a minimum interval of three days immediately preceding the regular open season on deer in that area.

(b) Except as provided in subdivision (c), a person taking or attempting to take deer during the archery season shall neither carry nor have under the person's immediate control any kind of firearm.

(c) A peace officer listed in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whether active or honorably retired, may carry a firearm capable of being concealed on the person while engaged in the taking of deer with bow and arrow in accordance with subdivision (a), but shall not take or attempt to take deer with the firearm.

Comment. Section 34350 continues former Fish and Game Code Section 4370 without substantive change.

§ 34355. Taking with bow and arrow

34355. The provisions of this code relating to deer shall be applicable to the taking of deer with a bow and arrow.

Comment. Section 34355 continues former Fish and Game Code Section 4371 without substantive change.

CHAPTER 4. USE OF PARTS

§ 34400. Commercial use of deer meat

34400. (a) As used in this section, “deer” includes any animal of the family Cervidae.

(b) Except as otherwise provided in this section, it is unlawful to sell, purchase, or transport for the purpose of sale any deer meat in this state, whether fresh, smoked, canned, or preserved by any means.

(c) The prohibition in subdivision (a) does not apply to the following:

(1) Conduct authorized by provisions of this code permitting the sale of domestically raised game mammals.

(2) Fallow deer meat processed by a slaughterer in accordance with Chapter 4 (commencing with Section 18650) of, and Chapter 4.1 (commencing with Section 18940) of, Part 3 of Division 9 of the Food and Agricultural Code.

(3) Deer meat imported into this state from a foreign country for the purpose of preparing and selling for human consumption a product commonly known and properly labeled as venison jerky, deer jerky, venison salami, or deer salami.

Comment. Subdivision (a) of Section 34400 continues former Fish and Game Code Section 4301(b) without substantive change.

Subdivisions (b) and (c) restate the first sentence of former Fish and Game Code Section 4301(a) without substantive change.

Notes. (1) Subdivisions (b)-(c) of proposed Section 34400 are intended to restate the first sentence of existing Fish and Game Code Sections 4301(a) to clarify the meaning of that sentence, without changing its substantive effect. The existing sentence reads as follows:

Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or transport for the purpose of sale, any deer meat in this state whether fresh, smoked, canned, or preserved by any means, except fallow deer meat processed by a slaughterer in accordance with Chapter 4 (commencing with Section 18650) of, and Chapter 4.1 (commencing with Section 18940) of, Part 3 of Division 9 of the Food and Agricultural Code, and except that deer meat may be imported into this state from a foreign country for the purpose of processing (manufacturing) and selling a product commonly known as venison or deer jerky or venison or deer salami, properly labeled as such, for human consumption.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of either section.

(2) Existing Fish and Game Code Section 4301(b) (which would be continued by proposed Section 34400(a)) provides a definition of the term “deer” as used in existing Section 4301. However, the term “deer” appears in many other sections of the existing Fish and Game Code, with no corresponding definition. See, e.g., existing Sections 450-460, 4302-4304. The inclusion of a definition of the term applicable only to one section of the code creates an inference that the term is intended to have some slightly different meaning in all other sections.

The Commission invites comment on whether the definition of “deer” in Section 4301 should be made applicable to the code generally, and included with the general definitions in the first division of the proposed law.

1 **§ 34405. Importation of deer meat**

2 34405. (a) As used in this section, “deer” includes any animal of the family
3 Cervidae.

4 (b) All deer meat imported into this state shall meet all of the sanitary and
5 inspection requirements for wholesomeness, except an antemortem inspection, but
6 including a postmortem inspection, as required for other meat imported for human
7 consumption.

8 (c) Imported deer meat shall be in an identifiable condition and accompanied by
9 a bill of lading, showing the name of the consignor, the consignee, and the weight
10 of the deer meat shipped. A copy of the bill of lading shall be delivered to the
11 nearest office of the department either prior to, or not later than, two days from the
12 date of receipt of the deer meat.

13 (d) No deer meat imported into this state may leave the premises of the original
14 consignee unless one of the following occurs:

15 (1) Written permission to take the meat from the premises is received from the
16 department.

17 (2) The meat is processed into the form of the product commonly known as
18 jerky or salami.

19 **Comment.** Subdivision (a) of Section 34405 continues former Fish and Game Code Section
20 4301(b) without substantive change.

21 Subdivisions (b)-(d) continue the second through fifth sentences of former Fish and Game
22 Code Section 4301(a) without substantive change.

23 **§ 34410. Use of skin or hide of deer**

24 34410. (a) The skin or hide of any deer lawfully taken may be sold, purchased,
25 tanned, or manufactured into articles for sale.

26 (b) Skins or hides of deer lawfully taken may be donated at any time to veterans’
27 organizations or veterans’ service committees for use by veterans for rehabilitation
28 purposes.

29 **Comment.** Section 34410 continues former Fish and Game Code Section 4303 without
30 substantive change.

31 **§ 34415. Needless waste of deer**

32 34415. (a) Except as provided in subdivision (b), no person shall do any of the
33 following:

34 (1) Take a deer and separate from its carcass only the head, hide, antlers, or
35 horns.

36 (2) Allow a deer in that person’s possession, or any portion of the deer’s flesh
37 that is usually eaten by humans, to be needlessly wasted through carelessness or
38 neglect.

39 (b) The prohibitions in subdivision (a) do not apply to a deer taken pursuant to
40 Section 32305.

41 **Comment.** Section 34415 restates the part of former Fish and Game Code Section 4304
42 applicable to deer without substantive change.

1 **Notes.** (1) Proposed Section 34415 is intended to restate the part of existing Fish and Game
2 Code Section 4304 applicable to deer to improve its clarity, without changing its substantive
3 effect. The existing section reads as follows:

4 4304. No person shall at any time capture or destroy any deer and detach or remove from the
5 carcass only the head, hide, antlers, or horns; nor shall any person at any time leave through
6 carelessness or neglect any game mammal or game bird which is in his possession, or any portion
7 of the flesh thereof usually eaten by humans, to go needlessly to waste. The provisions of this
8 section shall not apply to game mammals taken under the authority of Sections 4152 and 4183 of
9 this code.

10 **The Commission invites comment on whether the restatement would cause any**
11 **substantive change in the meaning of the provision.**

12 (2) Existing Fish and Game Code Section 4183, which is cross-referenced in existing Section
13 4304, was repealed in 1984. 1984 Cal. Stat. ch. 1365. The repealed section related to taking bears
14 that kill livestock.

15 (3) The first clause of existing Section 4304 (which would be continued by proposed Section
16 34415(a)(1)) appears inconsistent with existing Sections 4302 (which would be continued by
17 proposed Section 34110) and 4303 (which would be continued by proposed Section 34410), as
18 the two latter sections both clearly contemplate separating parts of a deer from its body.

19 **The Commission invites comment on this issue.**

20 CHAPTER 5. GAME REFUGES

21 § 34450. Opening of game refuge for taking of deer

22 34450. Before the commission opens any game refuge for the taking of deer, a
23 public hearing shall be held at which at least one member of the commission shall
24 be in attendance and such officers and employees of the department as are deemed
25 necessary or are requested by interested parties, notice of which has been
26 published at least once and at least 30 days prior to the hearing in a newspaper of
27 general circulation which is printed and published in the county, or one of the
28 counties, in which the area lies. If there is no newspaper of general circulation in
29 any such county, the notice shall be published in such newspaper of general
30 circulation as the commission determines will be most likely to give notice to the
31 inhabitants of the area and such determination by the commission shall be final
32 and conclusive.

33 **Comment.** Section 34450 continues former Fish and Game Code Section 10501 without
34 substantive change.

35 CHAPTER 6. POPULATION MANAGEMENT

36 § 34500. Declaration of legislative policy

37 34500. It is hereby declared to be the policy of the Legislature to encourage the
38 conservation, restoration, maintenance, and utilization of California's wild deer
39 populations. Such conservation shall be in accordance with the principles of
40 conservation of wildlife resources set forth in Section 54505 and in accordance

1 with the objectives and elements stated in “A Plan for California Deer,” State of
2 California, Department of Fish and Game (1976).”

3 **Comment.** Section 34500 continues former Fish and Game Code Section 450 without
4 substantive change.

5 **§ 34505. Deer herd management units**

6 34505. The department shall designate deer herd management units and
7 designate a manager for each unit. A unit may encompass a single deer herd or a
8 group of deer herds having similar management and habitat requirements and
9 characteristics. The boundaries of units need not follow county boundary lines,
10 unless it is appropriate that they do so.

11 **Comment.** Section 34505 continues former Fish and Game Code Section 452 without
12 substantive change.

13 **§ 34510. Management unit plans**

14 34510. (a) The department shall develop plans for deer herd management units.
15 The objectives of the plans shall be the restoration and maintenance of healthy
16 deer herds in the wild, and the provision of high quality and diversified use of deer
17 in California.

18 (b) The management plans shall contain the following program elements:

19 (1) Document existing information on deer herd management units and
20 programs, to obtain information that may be needed.

21 (2) Develop programs to maintain and increase the quality of deer habitat
22 statewide that emphasize cooperative action between the department and the
23 appropriate land management entities, both public and private. Emphasis shall be
24 directed towards identifying critical deer habitat areas and the maintenance and
25 management of such areas.

26 (3) Develop programs to reduce natural mortalities where reduction may be
27 critical to meeting deer herd plan objectives.

28 (4) Develop programs to decrease the illegal taking of deer through modern law
29 enforcement methods, supported by public and private cooperative efforts.

30 (5) Develop diversified recreational use programs, including both hunting and
31 non-hunting uses, consistent with basic individual deer herd management unit
32 capabilities.

33 (c) Deer herd management unit plans shall be reviewed annually and shall be the
34 basis for department recommendations to the commission pursuant to Sections
35 34515, 34520, and 34530.

36 **Comment.** Subdivision (a) of Section 34510 continues former Fish and Game Code Section
37 453 without substantive change.

38 Subdivision (b) continues former Fish and Game Code Section 454 without substantive
39 change.

40 Subdivision (c) continues former Fish and Game Code Section 455 without substantive change.

1 **§ 34515. Biennial report to Legislature and Commission**

2 34515. (a) The department shall biennially report to the Legislature and to the
3 commission on the progress being made toward restoration and maintenance of
4 California's deer herds.

5 (b) The report shall include all of the following:

6 (1) A description of ongoing program activities relating to deer habitat,
7 particularly those addressing problems identifying and preserving critical deer
8 habitat areas.

9 (2) A statement of the amount of revenue derived from the sale of deer tags
10 during the two previous fiscal years.

11 (3) A list of expenditures during the two previous fiscal years.

12 (4) A list of proposed expenditures in the current fiscal year.

13 (5) A report of general benefits that have accrued to deer resources as a result of
14 programs developed pursuant to Section 34510.

15 **Comment.** Subdivision (a) of Section 34515 continues the first sentence of former Fish and
16 Game Code Section 456 without substantive change. The second sentence of the section is
17 discontinued as obsolete.

18 Subdivision (b) restates the third sentence of former Fish and Game Code Section 456 without
19 substantive change.

20 **Notes.** (1) The Department of Fish and Wildlife has suggested that the report required by this
21 section should be repealed as obsolete. The Commission invites comment on that suggestion.

22 (2) Subdivision (b) of proposed Section 34515 is intended to restate the third sentence of
23 Section 456 to improve its clarity, without changing its substantive effect. The existing provision
24 reads as follows:

25 The report shall include program activities regarding deer habitat, particularly addressing
26 problems dealing with identification and preservation of critical deer habitat areas; the amount of
27 revenue derived from the sale of deer tags during the two previous fiscal years; a list of
28 expenditures during the two previous fiscal years and proposed expenditures during the current
29 fiscal year; and a report of general benefits accrued to the deer resources as a result of the
30 program.

31 **The Commission invites comment on whether the restatement would cause any**
32 **substantive change in the meaning of that provision.**

33 **§ 34520. Annual recommendations by department**

34 34520. (a) Not later than December 15 of each year, the department shall
35 determine its proposed recommendations to the commission relating to the
36 management of deer, including its recommendations as to whether any antlerless
37 deer hunts should be ordered.

38 (b) The recommendations shall include all of the following:

39 (1) The number, if any, of antlerless deer that should be taken in particular deer
40 management units.

41 (2) Proposed dates for any recommended taking.

42 (3) The number of permits proposed for each management unit.

43 (4) Whether the permits should be either-sex permits.

1 **Comment.** Section 34520 restates former Fish and Game Code Section 457 without
2 substantive change.

3 **Note.** Proposed Section 34520 is intended to restate existing Fish and Game Code Section
4 457 to improve its clarity, without changing its substantive effect. The existing provision reads as
5 follows:

6 The department shall determine prior to December 15 of each year its proposed
7 recommendations to the commission, including its recommendations as to whether any antlerless
8 deer hunts should be ordered. The recommendations of the department shall include the number,
9 if any, of antlerless deer that should be taken in units, whether the permits should be either-sex
10 permits, the proposed dates for each such taking, and the number of permits proposed for each
11 unit.

12 **The Commission invites comment on whether the restatement would cause any**
13 **substantive change in the meaning of that provision.**

14 **§ 34525. Affected counties**

15 34525. (a) Not later than December 15 of each year, the department shall
16 provide notice of its proposed recommendations under Section 34520 to the board
17 of supervisors of each county affected by a recommendation, by certified mail.

18 (b) Not later than the February 1 next following the department's notice, the
19 board of supervisors of any affected county may elect to hold a public hearing on
20 the department's proposed recommendations. The director or the director's
21 representative shall attend all hearings held pursuant to this subdivision.

22 (c) Not later than the February 1 next following the department's notice, the
23 board of supervisors of any affected county that has held a public hearing pursuant
24 to subdivision (b) may by resolution object to the proposed recommendations of
25 the department, or may by resolution determine that the proposed
26 recommendations should be modified and state the necessary modifications. A
27 resolution objecting to or stating necessary modifications of the proposed
28 recommendations shall be based on testimony and information presented at a
29 hearing conducted pursuant to subdivision (b), or presented to the board of
30 supervisors at its meeting to consider the resolution.

31 (d) The board of supervisors of any affected county may, by resolution, elect not
32 to exercise the rights conferred by this section.

33 (e) The department shall not recommend to the commission, and the commission
34 shall not authorize, the taking of antlerless deer in an affected county, if the board
35 of supervisors of that county submits a resolution pursuant to subdivision (c)
36 objecting to that taking.

37 (f) If a board of supervisors of an affected county submits a resolution
38 determining that a department's proposed recommendation relating to the taking
39 of antlerless deer should be modified for that county, the department and the
40 commission shall do one of the following:

41 (1) The department shall modify its recommendations and the commission shall
42 modify its orders to incorporate the modifications determined to be necessary by
43 the county board of supervisors.

(2) The department shall not recommend, and the commission shall not authorize, the taking of antlerless deer in that county.

(f) This section applies only to the counties of, and to those districts or parts of districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

Comment. Section 34525 combines and restates former Fish and Game Code Sections 458 and 459 without substantive change.

Note. Proposed Section 10030 is intended to combine and restate existing Fish and Game Code Sections 458 and 459 to clarify the meaning of those sections, without changing their substantive effect. The existing sections read as follows:

458. The department not later than December 15 shall notify, by certified mail, the board of supervisors of each county affected of the details of its recommendations under Section 457.

The board of supervisors of any affected county may elect to hold a public hearing on the proposed recommendations of the department. Any such hearing shall be held prior to February 1. The director or his or her representative shall attend the hearing.

The board of supervisors of any county to which this section is applicable may, by resolution, elect not to exercise the rights conferred by this section.

This section applies only to the counties of, and to those districts or parts of districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

459. The board of supervisors of any county specified in Section 458 which has held a public hearing pursuant to Section 458 may, not later than February 1, by resolution, object to the proposed recommendations of the department or may, by resolution, determine that the proposed recommendation should be modified, setting forth the necessary modifications.

A resolution objecting to, or setting forth modifications of, the proposed recommendations shall be based upon the testimony and information presented at the hearing or presented to the board of supervisors at its meeting to consider the resolution.

The department shall not recommend to the commission, and the commission shall not authorize, the taking of antlerless deer in a county specified in Section 458 if it has received from the board of supervisors of that county a resolution objecting to that taking. If a board of supervisors of a county has submitted a resolution determining that the department's proposed recommendations on the taking of antlerless deer should be modified for that county, the department shall either so modify its recommendations and the commission shall so modify its orders or the department shall not recommend, and the commission shall not authorize, the taking of antlerless deer in that county.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of either section.

(2) Existing Fish and Game Code Section 459 does not address the manner, timing, or recipient of a resolution described in the section that must be "submitted" by a county's board of supervisors, or "received" by an undesignated entity.

The Commission invites comment on whether these matters should be clarified in the proposed law.

1 **§ 34530. Department recommendations relating to deer hunting**

2 34530. (a) Prior to each meeting of the commission at which the commission
3 considers the regulation of deer and takes action pursuant to paragraph (1) of
4 subdivision (a) of Section 1105, the department shall recommend to the
5 commission the deer herd management units to be placed under a general deer
6 hunting season.

7 (b) At the same time, the department shall do all of the following:

8 (1) Recommend, subject to the provisions of Section 34525, whether any
9 antlerless deer should be taken, and if so in which deer herd management units.

10 (2) If in the judgment of the department there are deer herd management units in
11 which hunting pressure would adversely affect the deer herd, impair the hunting
12 experience, or endanger the public safety, recommend those deer herd
13 management units where hunter numbers should be restricted, and those which
14 should be removed from the general deer hunting season designation.

15 (3) Inform the commission of the condition of each deer herd management unit.

16 (4) Submit its recommendations determined in accordance with the provisions of
17 Section 34525.

18 (5) Recommend the establishment of any hunter-restricted quota units, if
19 needed, and the number of the quota and manner in which the quota permits
20 should be issued.

21 (d) Upon receipt of the recommendations and information required by this
22 section, the commission shall make that material and its determinations regarding
23 proposed regulations known to the public.

24 (e) As used in this section, “general deer hunting season” means the annual
25 season for the area in question as is set by the commission under its general
26 regulatory powers, or set by statute, for the taking of male deer.

27 **Comment.** Subdivisions (a) through (d) of Section 34530 restate former Fish and Game Code
28 Section 460 without substantive change.

29 Subdivision (e) continues former Fish and Game Code Section 451 without substantive change.

30 **Notes.** (1) Proposed Section 34530(a)-(d) is intended to restate existing Fish and Game Code
31 Section 460 to improve its clarity, without changing its substantive effect. The existing section
32 reads as follows:

33 460. Prior to each meeting of the commission at which the commission considers the regulation
34 of deer and takes action pursuant to paragraph (1) of subdivision (a) of Section 255, the
35 department shall recommend to the commission those deer herd units to be placed under a general
36 deer hunting season. At the same time, the department shall recommend to the commission,
37 subject to the provisions of Sections 458 and 459, whether any antlerless deer should be taken
38 and in what deer herd units antlerless deer are to be taken. If in the judgment of the department
39 there are deer herd units in which hunting pressure would adversely affect the deer herd, impair
40 the hunting experience, or endanger the public safety, the department shall also recommend to the
41 commission those deer herd units where hunter numbers should be restricted and which should be
42 removed from the general deer hunting season designation. The department shall inform the
43 commission of the condition of each deer herd unit. Upon receipt of the recommendations and
44 information required in this section, the commission shall make that material known to the public
45 and its determinations regarding proposed regulations. The recommendations of the department

shall, in accordance with the provisions of Sections 458 and 459, include the number, if any, of antlerless deer that should be taken in deer herd units, whether the permits should be either-sex permits, the proposed dates for the taking, and the number of permits proposed for each deer herd unit. At the same time, the department shall recommend the establishment of any hunter-restricted quota units, if needed, and the number of the quota and manner in which the quota permits should be issued.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of existing Section 460.

(2) Although existing Section 451 (which would be continued by proposed Section 34530(e)) defines the term “general deer hunting season” as used in the chapter in which Section 451 appears, the term is only used in one section of that chapter, existing Section 460 (which would be continued by proposed Section 10035(a)-(d)). In proposed Section 34530(e), the reference to “chapter” is therefore revised to refer to this “section.”

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of existing Section 451.

§ 34535. Feeding of deer

34535. (a) The department shall provide for the feeding of deer wherever the director finds that natural forage is unavailable therefor due to excessive snow. The times, extent, and manner of such feeding shall be prescribed by the director. In carrying out the provisions of this section neither the department nor the director shall be bound by any policy determination or regulation of the commission, it being the purpose of this section to commit to the independent discretion of the director all matters within the purview of this section.

(b) No deer shall be fed pursuant to this section upon any privately owned land without the consent of the owner or person in lawful possession of such land.

Comment. Section 34535 continues former Fish and Game Code Section 1503 without substantive change.

CHAPTER 7. TAKE TO PROTECT PROPERTY

§ 34600. Permit to take deer

34600. (a) Any owner or tenant of land or property that is being damaged or destroyed or is in immediate danger of being damaged or destroyed by deer may apply to the department for a permit to kill those deer. The department, upon satisfactory evidence of actual or immediately threatened damage or destruction shall, pursuant to regulations adopted by the commission, issue a revocable permit for the taking and disposition of the responsible deer, for a designated period not to exceed 60 days.

(b) The regulations of the commission shall provide for the types of weapons that may be used to kill deer pursuant to subdivision (a), and shall also provide for the following:

(1) The weapons provided for shall be those that will ensure humane killing.

(2) The regulations shall provide for the use of a sufficient variety of weapons to permit the designation of particular types to be used in any particular locality commensurate with the need to protect persons and property.

(3) Firearms using .22-caliber rimfire cartridges may be used only when authorized by the director or his designee.

(4) No pistols shall be used.

(5) Rifle ammunition used shall have expanding bullets.

(6) Shotgun ammunition shall have only single slugs, or, if authorized by the department, 0 or 00 buckshot.

(c) The caliber and type of weapon to be used by each permittee shall be specified in each permit by the officer issuing the permit, who shall take into consideration the location of the area, the necessity for clean kills, the safety factor, local firearms ordinances, and other factors that apply.

(d) At the time a permit is issued pursuant to subdivision (a), the department shall issue tags similar to those provided for in Section 34220. The permittee shall carry the tags while hunting the deer for which the permit was issued, and upon killing any deer, shall immediately do all of the following:

(1) Fill out both parts of the tag, and clearly punch out the date of the kill.

(2) Immediately attach one part of the completed tag to the antlers of antlered deer, or to the ear of any other deer, and keep that part of the tag attached to the deer until 10 days after the permit has expired.

(3) Obtain a countersignature on the other part of the tag pursuant to Section 34210.

(4) Send the countersigned part of the tag to the department.

(e) A permit issued pursuant to this section may be renewed only after a finding by the department that further damage has occurred or will occur, unless that permit is renewed. A person seeking renewal of a permit pursuant to this subdivision shall do all of the following:

(1) Account for all tags previously issued with all prior permits.

(2) If any previously issued tags are unused, show either of the following:

(A) That any deer previously killed pursuant to a previously issued permit could not reasonably have been tagged.

(B) Why the offending deer were not killed within the time allotted for that killing, and why the killing would be accomplished under a new time period.

Comment. Section 34600 restates former Fish and Game Code Section 4181.5 without substantive change.

Note. Proposed Section 34600 is intended to restate existing Fish and Game Code Section 4181.5 to clarify the meaning of that section, without changing its substantive effect. The existing section reads as follows:

4181.5. (a) Any owner or tenant of land or property that is being damaged or destroyed or is in immediate danger of being damaged or destroyed by deer may apply to the department for a permit to kill those deer. The department, upon satisfactory evidence of that damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and

disposition of those deer for a designated period not to exceed 60 days under regulations promulgated by the commission.

(b) The regulations of the commission shall include provisions concerning the type of weapons to be used to kill the deer. The weapons shall be those as will ensure humane killing, but the regulations of the commission shall provide for the use of a sufficient variety of weapons to permit the designation of particular types to be used in any particular locality commensurate with the need to protect persons and property. Firearms using .22-caliber rimfire cartridges may be used only when authorized by the director or his designee. No pistols shall be used. The caliber and type of weapon to be used by each permittee shall be specified in each permit by the issuing officer who shall take into consideration the location of the area, the necessity for clean kills, the safety factor, local firearms ordinances, and other factors that apply. Rifle ammunition used shall have expanding bullets; shotgun ammunition shall have only single slugs, or, if authorized by the department, 0 or 00 buckshot.

(c) The department shall issue tags similar to those provided for in Section 4331 at the same time the permit is issued. A permittee under this section shall carry the tags while hunting deer, and upon the killing of any deer, shall immediately fill out both parts of the tag and punch out clearly the date of the kill. One part of the tag shall be immediately attached to the antlers of antlered deer or to the ear of any other deer and kept attached until 10 days after the permit has expired. The other part of the tag shall be immediately sent to the department after it has been countersigned by any person authorized by Section 4341.

(d) A permit issued pursuant to this section may be renewed only after a finding by the department that further damage has occurred or will occur unless that permit is renewed. A person seeking renewal of the permit shall account for all prior tags issued at the time he or she received any prior permits, and if any tags are unused, he or she shall show either that any deer killed could not reasonably be tagged or why the killing was not accomplished within the allotted time and why that killing would be accomplished under a new time period.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of either section.

§ 34605. Access by licensed hunters for depredator control

34605. (a) If a landowner or tenant applies for a permit under Section 34600 to take deer, the department shall inform the applicant about available options for allowing access by licensed hunters, including, but not limited to, access authorized pursuant to Title 7 (commencing with Section 56200) of Part 2 of Division 15 to control deer.

(b) The commission, in lieu of a permit described in Section 34600, and with the consent of, or upon the request of, the landowner or tenant, may pursuant to appropriate regulation authorize the issuance of permits to persons holding valid hunting licenses to take deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to licensed hunters, the department shall investigate and determine the number of permits necessary, the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the fee for the permit.

Comment. Section 34605 restates the part of former Fish and Game Code Section 4188 applicable to deer without substantive change.

Note. Proposed Section 34605 is intended to restate the part of existing Fish and Game Code Section 4188 applicable to deer to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

1 4188. (a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild
2 turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant
3 about available options for allowing access by licensed hunters, including, but not limited to,
4 access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division
5 2 to control wild pigs, wild turkeys, and deer.

6 (b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of,
7 or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the
8 issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or
9 deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to
10 licensed hunters, the department shall investigate and determine the number of permits necessary,
11 the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the
12 fee for the permit.

13 **The Commission invites comment on whether the restatement would cause any**
14 **substantive change in the meaning of the provision.**

15 TITLE 7. ELK

16 CHAPTER 1. GENERAL PROVISIONS

17 § 34800. Game mammal

18 34800. For the purposes of this code, an elk (genus *Cervus*) is a game mammal.

19 **Comment.** Section 34800 continues the part of former Fish and Game Code Section 3950(a)
20 applicable to elk without substantive change.

21 § 34805. Provisions not exclusive

22 34805. The provisions of this title are not intended to be exclusive. Other
23 provisions that govern elk include, but are not limited to, the following provisions:

24 (a) Section 4570.

25 (b) Section 10700.

26 (c) Section 31555.

27 **Comment.** Section 34805 is new. It is added for drafting convenience.

28 § 34810. Killing elk held in captivity

29 34810. Except as authorized under a domesticated game breeder's license, an
30 elk kept in captivity may be killed only with the approval of the department, and
31 pursuant to any regulation that the commission may adopt. The carcass of an elk
32 kept in captivity may not be sold, and shall be disposed of as directed by the
33 department.

34 **Comment.** Section 34810 continues the part of former Fish and Game Code Section 3006
35 applicable to elk without substantive change.

CHAPTER 2. TAGS

§ 34850. Issuance of tags (operative until 7/1/2025)

34850. (a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the number of elk that may be taken under rules and regulations that the commission may adopt from time to time. The commission may authorize the taking of tule elk if the average of the department's statewide tule elk population estimates exceeds 2,000 animals, or the Legislature determines, pursuant to the reports required by Section 34960, that suitable areas cannot be found in the state to accommodate that population in a healthy condition.

(b) Only a person possessing a valid hunting license may obtain a tag for the taking of elk.

(c) The department may issue an elk tag upon payment of a fee. The fee for an elk tag for a resident of the state, except for an elk tag issued to a resident junior hunter, shall be one hundred sixty-five dollars (\$165), as adjusted under Section 3755. The fee for an elk tag for a resident junior hunter shall be twenty dollars (\$20), as adjusted under Section 3755. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand fifty dollars (\$1,050), as adjusted under Section 3755. The fees shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of the department as set forth in Section 31900.

(d) The commission shall annually direct the department to authorize not more than three elk tags for the purpose of raising funds for programs and projects to benefit elk. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (c). All revenues from sales pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) The commission shall direct the department to annually authorize one elk tag of the total number of tags available for issuance to nonresidents of the state.

(f) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

Comment. Section 34850 continues former Fish and Game Code Section 332, as amended by 2018 Cal. Stat. ch. 295, § 3, without substantive change.

Note. This version of proposed Section 34850 would continue Section 332, as amended by 2018 Cal. Stat. ch. 295, § 3. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

1 **§ 34850. Issuance of tags (operative on 7/1/2025)**

2 (a) The commission may determine and fix the area or areas, the seasons and
3 hours, the bag and possession limit, and the number of elk that may be taken under
4 rules and regulations that the commission may adopt from time to time. The
5 commission may authorize the taking of tule elk if the average of the department's
6 statewide tule elk population estimates exceeds 2,000 animals, or the Legislature
7 determines, pursuant to the reports required by Section 34960, that suitable areas
8 cannot be found in the state to accommodate that population in a healthy
9 condition.

10 (b) Only a person possessing a valid hunting license may obtain a tag for the
11 taking of elk.

12 (c) The department may issue an elk tag upon payment of a fee. The fee for an
13 elk tag shall be one hundred sixty-five dollars (\$165) for a resident of the state, as
14 adjusted under Section 3755. On or before July 1, 2007, the commission shall, by
15 regulation, fix the fee for a nonresident of the state at not less than one thousand
16 fifty dollars (\$1,050), as adjusted under Section 3755. The fees shall be deposited
17 in the Big Game Management Account established in Section 31900 and, upon
18 appropriation by the Legislature, shall be expended, in addition to moneys
19 budgeted for salaries of the department as set forth in Section 31900.

20 (d) The commission shall annually direct the department to authorize not more
21 than three elk tags for the purpose of raising funds for programs and projects to
22 benefit elk. These tags may be sold at auction to residents or nonresidents of the
23 state or by another method and are not subject to the fee limitation prescribed in
24 subdivision (c). All revenues from sales pursuant to this subdivision shall be
25 deposited in the Big Game Management Account established in Section 31900
26 and, upon appropriation by the Legislature, shall be expended as set forth in that
27 section.

28 (e) The commission shall direct the department to annually authorize one elk tag
29 of the total number of tags available for issuance to nonresidents of the state.

30 (f) This section shall become operative on July 1, 2025.

31 **Comment.** Section 34850 continues former Fish and Game Code Section 332, as added by
32 2018 Cal. Stat. ch. 295, § 4, without substantive change.

33 **Note.** This version of proposed Section 34850 would continue Section 332, as added by 2018
34 Cal. Stat. ch. 295, § 4. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

36 **34865. Deposit of fees**

37 34865. Except as provided in Section 34870, all revenues from the sale of elk
38 tags, including any fundraising tags, shall be deposited in the Big Game
39 Management Account established in Section 31900 to permit separate
40 accountability for the receipt and expenditure of these funds.

41 **Comment.** Section 34865 continues the part of the first sentence of former Fish and Game
42 Code Section 3953(b) applicable to elk without substantive change.

Note. The Commission invites comment on whether Section 3953(b) can be deleted as redundant. Compare proposed Section 34850(c) and (d).

§ 34870. Sale of tag by nonprofit organization

34870. (a) A nonprofit organization designated by the department to assist in the sale of elk fundraising tags that are sold on behalf of the department for the purpose of raising funds for specified programs and projects, pursuant to subdivision (d) of Section 34850 is authorized to retain 5 percent of the amount of the sale price of the tag as a reasonable vendor fee.

(b) Within 30 days of the date of the sale, the selling nonprofit organization shall send the department 95 percent of the total auction sale price of the tag, with an itemized receipt showing the sale price and the 5-percent reduction retained by the nonprofit organization as a vendor's fee.

Comment. Subdivision (a) of Section 34870 continues the part of former Fish and Game Code Section 709 applicable to elk without substantive change.

Subdivision (b) continues the part of the second sentence of former Fish and Game Code Section 3953(b) applicable to elk without substantive change.

CHAPTER 3. POPULATION MANAGEMENT

§ 34955. Tule elk management plan

34955. The department shall develop a statewide elk management plan, consistent with the state's wildlife policy as set forth in Section 54505. The statewide elk management plan shall emphasize maintaining sufficient elk populations in perpetuity, while considering all of the following:

(a) Characteristics and geographic range of each elk subspecies within the state, including Roosevelt elk, Rocky Mountain elk, and tule elk.

(b) Habitat conditions and trends within the state.

(c) Major factors affecting elk within the state, including, but not limited to, conflicts with other land uses.

(d) Management activities necessary to achieve the goals of the plan and to alleviate property damage.

(e) Identification of high priority areas for elk management.

(f) Methods for determining population viability and the minimum population level needed to sustain local herds.

(g) Description of the necessary contents for individual herd management plans prepared for high priority areas.

Comment. Section 34955 continues former Fish and Game Code Section 3952 without substantive change.

§ 34960. Relocation

34960. (a) When relocating tule elk, the department shall relocate the elk in areas suitable to them in the state, and shall cooperate to the maximum extent possible with federal and local agencies and private property owners in relocating

1 tule elk in suitable areas under their jurisdiction or ownership. When property or
2 environmental damage occurs, emphasis shall be placed on managing each tule elk
3 herd at a biologically sound level through the use of relocation, regulated hunting,
4 or other appropriate methods, individually or in combination, as determined by the
5 department in accordance with the statewide elk management plan developed
6 pursuant to Section 34955, after consulting with local landowners.

7 (b) The number of tule elk in the Owens Valley shall not be permitted to
8 increase beyond 490, or any greater number hereafter determined by the
9 department to be the Owens Valley's holding capacity in accordance with game
10 management principles.

11 **Comment.** Section 34960 continues former Fish and Game Code Section 3951 without
12 substantive change.

13 CHAPTER 4. TAKE TO PROTECT PROPERTY

14 § 35000. Depredation permit

15 35000. (a) An owner or tenant of land or property that is being damaged or
16 destroyed, or is in danger of being damaged or destroyed, by elk, may apply to the
17 department for a permit to kill the elk causing or threatening the damage or
18 destruction.

19 (b) Subject to the limitations in subdivision (d), the department, upon
20 satisfactory evidence of actual or immediately threatened damage or destruction of
21 land or property, shall issue a revocable permit for the taking and disposition of
22 the responsible elk, under regulations adopted by the commission. The permit
23 shall include a statement of the penalties that may be imposed for a violation of
24 the permit conditions.

25 (c) Elk taken under a permit issued pursuant to subdivision (b) shall not be sold
26 or shipped from the premises on which they are taken, except pursuant to
27 instructions from the department.

28 (d) Prior to issuing a depredation permit pursuant to subdivision (a), the
29 department shall do all of the following:

30 (1) Verify the actual or immediately threatened damage or destruction.

31 (2) Provide a written summary of corrective measures necessary to immediately
32 alleviate the problem.

33 (3) Determine the viability of the local herd, and determine the minimum
34 population level needed to maintain the herd.

35 (4) Ensure the permit will not reduce the local herd below the minimum.

36 (5) Work with affected landowners to develop measures to achieve long-term
37 resolution, while maintaining viability of the herd.

38 (e) After completing the statewide elk management plan pursuant to Section
39 34955, the department shall use the information and methods contained in the plan
40 to meet the requirements of paragraphs (3), (4), and (5) of subdivision (d).

(f) It is unlawful for any person to violate the terms of any permit issued pursuant to this section.

Comment. Subdivisions (a) through (c) and (f) of Section 35000 restate the part of former Fish and Game Code Section 4181(a) applicable to elk without substantive change.

Subdivisions (d) and (e) continue former Fish and Game Code Section 4181(d) without substantive change.

Note. Proposed Section 35000(a)-(c) and (f) are intended to restate the part of existing Fish and Game Code Section 4181(a) applicable to elk to clarify the meaning of that language, without changing its substantive effect. Existing Section 4181 reads as follows:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the animals under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions. Animals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. No iron-jawed or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel or wild turkey pursuant to this section. The department shall designate the type of trap to be used to ensure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under this section.

(b) ...

(c)...

(d) With respect to elk, the following procedures shall apply:

(1) Prior to issuing a depredation permit pursuant to subdivision (a), the department shall do all of the following:

(A) Verify the actual or immediately threatened damage or destruction.

(B) Provide a written summary of corrective measures necessary to immediately alleviate the problem.

(C) Determine the viability of the local herd, and determine the minimum population level needed to maintain the herd.

(D) Ensure the permit will not reduce the local herd below the minimum.

(E) Work with affected landowners to develop measures to achieve long-term resolution, while maintaining viability of the herd.

(2) After completing the statewide elk management plan pursuant to Section 3952, the department shall use the information and methods contained in the plan to meet the requirements of subparagraphs (C), (D), and (E) of paragraph (1).

The references in existing Section 4181 to existing Section 4181.1 and to subdivision (b) of Section 4181 have not been continued in proposed Section 35000, as those provisions do not apply to elk.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

TITLE 8. FOXES

§ 35200. Classification

35200. For the purposes of this code, a gray fox, red fox, and kit fox are fur-bearing mammals.

Comment. Section 35200 continues the part of former Fish and Game Code Section 4000 applicable to gray foxes, red foxes, and kit foxes, without substantive change.

§ 35205. Provisions not exclusive

35205. The provisions of this title are not intended to be exclusive. Other provisions that govern foxes include, but are not limited to, Section 55725.

Comment. Section 35205 is new. It is added for drafting convenience.

§ 35210. Take for profit

35210. It is unlawful to take a red fox for a profitmaking purpose.

Comment. Section 35210 continues former Fish and Game Code Section 4012 without substantive change.

See also Section 4806 (enforcement).

§ 35215. Protection of property

35215. (a) Except as provided in Section 11200, a subspecies of red fox that is not the native Sierra Nevada red fox (*Vulpes vulpes necator*) and that is found to be injuring growing crops or other property may be taken by the following persons at any time or in any manner not prohibited by this code or regulations adopted pursuant to this code:

(1) The owner or tenant of the premises.

(2) An employee or agent of the owner or tenant of the premises, who is in immediate possession of written permission from the owner or tenant to take a fox described in this subdivision.

(3) An officer or employee of the Department of Food and Agriculture.

(4) A federal, county, or city officer or employee acting in official capacity pursuant to provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(b) A person that takes a red fox pursuant to this section is exempt from Section 9500, except when providing trapping services for a fee.

(c) Raw fur from a red fox taken pursuant to this section shall not be sold.

Comment. Section 35215 restates the part of former Fish and Game Code Section 4152 applicable to certain subspecies of red foxes without substantive change.

See also Section 11000 (inspection and removal of animals from traps).

Notes. (1) Proposed Section 35215 is intended to restate the part of existing Fish and Game Code Section 4152 applicable to certain subspecies of red foxes to clarify the meaning of that language, without changing its substantive effect. Existing Section 4152 reads as follows:

4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes necator*), and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code and regulations adopted pursuant to this code by the owner or tenant of the premises or employees and agents in immediate possession of written permission from the owner or tenant thereof. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from Section 3007, except when providing trapping services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.


(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 4152 refers to employees and agents in “immediate possession” of written permission from the owner or tenant of premises where depredators are injuring property.

The Commission invites comment on whether or how the term “immediate possession” differs from “possession,” and whether the more familiar term “possession” could be substituted without substantively changing the meaning of the provision.

TITLE 9. MOUNTAIN LION

 **Note.** Existing Fish and Game Code Sections 3950.1, 4800-4801, and 4802-4809 (which would be continued in this title) and in proposed Section 5402, were added in 1990 pursuant to an initiative statute, Proposition 117. The Commission believes that the nonsubstantive continuation of those provision in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

CHAPTER 1. GENERAL PROVISIONS

§ 35305. Provisions not exclusive

35305. The provisions of this title are not intended to be exclusive. Other provisions that govern mountain lions include, but are not limited to, the following provisions:

(a) Section 55800.

(b) Section 55830.

Comment. Section 35305 is new. It is added for drafting convenience.

§ 35310. Rulemaking limitation

35310. Section 1025 does not apply to this title. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes a provision of this title.

Comment. Section 35310 continues former Fish and Game Code Section 4800(d) without substantive change.

§ 35315. “Agent”

35315. As used in this title, “agent” means the agent or employee of the owner of the damaged or destroyed property, any county or city predator control officer, any employee of the Animal Damage Control Section of the United States Department of Agriculture, any departmental personnel, or any authorized or permitted houndsman registered with the department as possessing the requisite experience and having no prior conviction of any provision of this code or regulation adopted pursuant to this code. A plea of nolo contendere is a conviction for purposes of this section.

Comment. Section 35315 continues former Fish and Game Code Section 4808 without substantive change.

Note. Existing Fish and Game Code Section 3950.1 (which would be continued by proposed Section 375(b) and (c)) was added to the existing code in 1990 by an initiative statute, Proposition 117. The Commission believes that the nonsubstantive continuation of that provision in proposed Section 375 would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

CHAPTER 2. SPECIAL PROTECTIONS

§ 35350. Prohibitions on take and possession

35350. (a) The mountain lion (genus Puma) is a specially protected mammal under the laws of this state.

(b)(1) It is unlawful to take, injure, possess, transport, import, or sell a mountain lion or a product of a mountain lion, except as specifically provided in this title or in Part 6 (commencing with Section 26500) of Division 7.

(2) This title does not prohibit the sale or possession of a mountain lion or a product of a mountain lion, when the owner can demonstrate that the mountain lion, or product of a mountain lion, was in the person’s possession on June 6, 1990.

(3) This title does not prohibit the possession of a mountain lion carcass or a product of a mountain lion carcass, if all of the following requirements are met:

(A) The carcass or carcass product is prepared or being prepared for display, exhibition, or storage, for a bona fide scientific or educational purpose, at a nonprofit museum or government-owned facility generally open to the public or at an educational institution, including a public or private postsecondary institution.

(B) The mountain lion was taken in California consistent with the requirements of this title and any other applicable law.

(C) The department has authorized the possession of the carcass or carcass product for the purposes of this paragraph.

Comment. Section 35350 continues former Fish and Game Code Section 4800(a)-(b) without substantive change.

See also Section 5402 (enforcement).

CHAPTER 3. PUBLIC SAFETY AND PROTECTION OF PROPERTY

§ 35400. Removal by department

35400. The department may remove or take any mountain lion, or authorize an appropriate local agency with public safety responsibility to remove or take any mountain lion, that is perceived to be an imminent threat to public health or safety or that is perceived by the department to be an imminent threat to the survival of any threatened, endangered, candidate, or fully protected sheep species.

Comment. Section 35400 continues former Fish and Game Code Section 4801 without substantive change.

§ 35405. Permit to protect property

35405. Any person, or the employee or agent of a person, whose livestock or other property is being or has been injured, damaged, or destroyed by a mountain lion may report that fact to the department and request a permit to take the mountain lion.

Comment. Section 35405 continues former Fish and Game Code Section 4802 without substantive change.

§ 35410. Confirmation of depredation

35410. Upon receipt of a report pursuant to Section 35405, the department, or any animal damage control officer specifically authorized by the department to carry out this responsibility, shall immediately take the action necessary to confirm that there has been depredation by a mountain lion as reported. The confirmation process shall be completed as quickly as possible, but in no event more than 48 hours after receiving the report. If satisfied that there has been depredation by a mountain lion as reported, the department shall promptly issue a permit to take the depredating mountain lion.

Comment. Section 35410 continues former Fish and Game Code Section 4803 without substantive change.

§ 35415. Permit conditions

35415. In order to ensure that only the depredating mountain lion will be taken, the department shall issue the permit pursuant to Section 35410 with the following conditions attached:

(a) The permit shall expire 10 days after issuance.

(b) The permit shall authorize the holder to begin pursuit not more than one mile from the depredation site.

(c) The permit shall limit the pursuit of the depredating mountain lion to within a 10-mile radius from the location of the reported damage or destruction.

Comment. Section 35415 continues former Fish and Game Code Section 4804 without substantive change.

1 **§ 35420. Expedited permit**

2 35420. Whenever immediate authorization will materially assist in the pursuit of
3 the particular mountain lion believed to be responsible for the depredation
4 reported pursuant to Section 35405, the department or the animal damage control
5 officer may orally authorize the pursuit and taking of the depredating mountain
6 lion, and the department shall issue a written permit for the period previously
7 authorized as soon as practicable after the oral authorization.

8 **Comment.** Section 35420 continues former Fish and Game Code Section 4805 without
9 substantive change.

10 **§ 35425. Report to department**

11 35425. (a) Any person issued a permit pursuant to Section 35410 or 35420 shall
12 report the capturing, injuring, or killing of any mountain lion to an office of the
13 department by telephone within 24 hours, or, if telephoning is not practicable,
14 shall submit a report in writing within five days after the capturing, injuring, or
15 killing of the mountain lion.

16 (b) At the time of making the report of the capturing, injuring, or killing, the
17 holder of the permit shall make arrangements to turn over the mountain lion or the
18 entire carcass of the mountain lion that has been recovered to a representative of
19 the department, and shall do so in a timely manner.

20 **Comment.** Section 35425 continues former Fish and Game Code Section 4806 without
21 substantive change.

22 **§ 35430. Immediate taking of encountered depredator**

23 35430. (a) Any mountain lion that is encountered while in the act of pursuing,
24 inflicting injury to, or killing livestock, or domestic animals, may be taken
25 immediately by the owner of the property or the owner's employee or agent. The
26 taking shall be reported within 72 hours to the department. The department shall
27 investigate the depredation, and, if the mountain lion was captured, injured, or
28 killed, the mountain lion or the entire carcass of the mountain lion that has been
29 recovered shall be turned over to the department.

30 (b) Upon satisfactorily completing the investigation and receiving the mountain
31 lion or the carcass, if recovered, the department shall issue a permit confirming
32 that the requirements of this section have been met with respect to the particular
33 mountain lion taken under these circumstances.

34 (c) The department shall undertake a complete necropsy on any returned
35 mountain lion carcass and report the findings to the commission. The commission
36 shall compile the reported findings and prepare an annual written report that shall
37 be submitted to the Legislature not later than the January 15 next following the
38 year in which the mountain lion was taken.

39 **Comment.** Section 35430 continues former Fish and Game Code Section 4807 without
40 substantive change.

1 **§ 35435. Method of taking**

2 35435. A mountain lion authorized to be taken pursuant to this title shall be
3 taken by the most effective means available to take the mountain lion causing the
4 damage or destruction, except that no mountain lion shall be taken by means of
5 poison, leg-hold or metal-jawed traps, and snares.

6 **Comment.** Section 35435 continues former Fish and Game Code Section 4809 without
7 substantive change.

8 **§ 35440. Use of nonlethal procedures**

9 35440. (a) Unless authorized in this title, nonlethal procedures shall be used
10 when removing or taking any mountain lion that has not been designated as an
11 imminent threat to public health or safety.

12 (b) For purposes of this title, “imminent threat to public health or safety” means
13 a situation where a mountain lion exhibits one or more aggressive behaviors
14 directed toward a person that is not reasonably believed to be due to the presence
15 of responders.

16 (c) For purposes of this title, “nonlethal procedures” means procedures that may
17 include, but are not limited to, capturing, pursuing, anesthetizing, temporarily
18 possessing, temporarily injuring, marking, attaching to or surgically implanting
19 monitoring or recognition devices, providing veterinary care, transporting, hazing,
20 rehabilitating, releasing, or taking no action.

21 (d) The department may, as the department determines is necessary to protect
22 mountain lions or the public, authorize qualified individuals, educational
23 institutions, governmental agencies, or nongovernmental organizations to
24 implement nonlethal procedures on a mountain lion in accordance with
25 subdivision (a).

26 **Comment.** Section 35440 continues former Fish and Game Code Section 4801.5 without
27 substantive change.”

28 **CHAPTER 4. TAKE FOR SCIENTIFIC PURPOSES**

29 **§ 35500. Research**

30 35500. (a) As used in this section:

31 (1) “Authorized research project” means a research project involving mountain
32 lions subject to a Scientific Collecting Permit issued in accordance with this
33 section.

34 (2) “Permitholder” means a person to whom the department has issued a
35 Scientific Collecting Permit in accordance with this section.

36 (3) “Scientific Collecting Permit” or “permit” means a permit issued pursuant to
37 Section 9200 for a research project involving mountain lions in accordance with
38 this section.

39 (b) The department may authorize qualified individuals, educational institutions,
40 governmental agencies, or nongovernmental organizations to conduct scientific

1 research involving mountain lions pursuant to a Scientific Collecting Permit as
2 provided in Section 9200.

3 (c) The department may authorize a permitholder to pursue, capture, temporarily
4 possess, temporarily injure, mark, surgically implant a monitoring or recognition
5 devices in or attach such a device to, provide veterinary care to, and transport, a
6 mountain lion or a product of a mountain lion.

7 (d) In addition to the requirements in Section 9200, an authorized research
8 project shall be designed to do the following:

9 (1) Contribute to the knowledge of natural wildlife ecosystems.

10 (2) Minimize disruptions in the lives and movements of mountain lions and
11 other wildlife, as well as impacts to mountain lion or other wildlife habitat, while
12 maintaining the permitholder's research objectives.

13 (3) Directly or indirectly support the sustainability and survival of mountain lion
14 populations and healthy ecosystems.

15 (4) Prevent the permanent injury or killing of a mountain lion.

16 (e) An authorized research project shall be governed by the Scientific Collecting
17 Permit. The permit shall include, at a minimum, proposed research methods and
18 recordkeeping procedures that address the following:

19 (1) The capture of, anesthetization of, collection of diagnostic samples from, and
20 transport of, mountain lions or product of a mountain lion or a product of a
21 mountain lion.

22 (2) Attaching monitoring or recognition devices to, surgically implanting
23 those devices in, or marking, animals affect by the research project.

24 (3) Providing veterinary care as required for the health, safety, and humane
25 treatment of animals affected by the research project.

26 (4) The recording of the adverse effects of authorized research procedures on
27 mountain lions and other wildlife.

28 (5) The qualifications of onsite personnel necessary for carrying out authorized
29 research procedures. A permit applicant shall submit verifiable documentation
30 demonstrating that at least one onsite staff person has at least one year of
31 experience in proposed research methods that involve activities described in
32 subdivision (c).

33 (6) Annual and final reports to the department.

34 (f) The department shall notify the public at least 30 days prior to the issuance of
35 a permit, and, upon request, shall make available to the public copies of the permit
36 and annual and final reports.

37 (g) The department shall handle mortality or permanent injury to a mountain
38 lion as a result of research authorized pursuant to this section in a manner
39 consistent with the reporting and processing requirements imposed in Section
40 35430.

41 **Comment.** Section 35500 continues former Fish and Game Code Section 4810 without
42 substantive change.

TITLE 10. MUSKRAT

§ 35600. Fur-bearing mammal

35600. For the purposes of this code, a muskrat is a fur-bearing mammal.

Comment. Section 35600 continues the part of former Fish and Game Code Section 4000 applicable to muskrats without substantive change.

§ 35605. Provisions not exclusive

35605. The provisions of this title are not intended to be exclusive. Other provisions that govern muskrat include, but are not limited to, the following provisions:

(a) Section 11010.

(b) Section 37460.

Comment. Section 35605 is new. It is added for drafting convenience.

§ 35610. Protection of property

35610. (a) Except as provided in Section 11200, a muskrat that is found to be injuring growing crops or other property may be taken by the following persons at any time or in any manner not prohibited by this code or regulations adopted pursuant to this code:

(1) The owner or tenant of the premises.

(2) An employee or agent of the owner or tenant of the premises, who is in immediate possession of written permission from the owner or tenant to take muskrat described in this subdivision.

(3) An officer or employee of the Department of Food and Agriculture.

(4) A federal, county, or city officer or employee acting in official capacity pursuant to provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(b) A person that takes a muskrat pursuant to this section is exempt from Section 9500, except when providing trapping services for a fee.

(c) Raw fur from a muskrat taken pursuant to this section shall not be sold.

Comment. Section 35610 restates the part of former Fish and Game Code Section 4152 applicable to muskrats without substantive change.

See also Section 11000 (inspection and removal of animals from traps).

Notes. (1) Proposed Section 35610 is intended to restate the part of existing Fish and Game Code Section 4152 applicable to muskrats to clarify the meaning of that language, without changing its substantive effect. Existing Section 4152 reads as follows:

4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes necator*), and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code and regulations adopted pursuant to this code by the owner or tenant of the premises or employees and agents in immediate possession of written permission from the owner or tenant thereof. They may also be

taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from Section 3007, except when providing trapping services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 4152 refers to employees and agents in “immediate possession” of written permission from the owner or tenant of premises where depredators are injuring property.

The Commission invites comment on whether or how the term “immediate possession” differs from “possession,” and whether the more familiar term “possession” could be substituted without substantively changing the meaning of the provision.

§ 35615. Importation or transportation of live muskrat

35615. (a) It is unlawful to import or transport any live muskrat (genus *Ondatra*) into, or possess any live muskrat in, California except under permit issued by the department pursuant to Section 26520, or as otherwise provided by law.

(b) A county agricultural commissioner, fish and game deputy, or state plant quarantine officer may enter upon lands or waters west of the crest of the Cascade-Sierra Nevada mountain system, and west and south of the Tehachapi, Liebre, San Gabriel, San Bernardino, San Jacinto, Cuyamaca, and connected mountains south to the international boundary, or in any watershed tributary to, or draining into, the Pacific Ocean to remove or destroy the muskrats.

Comment. Section 35615 continues former Fish and Game Code Section 2250 without substantive change.

TITLE 11. RABBIT AND HARE

§ 35700. Classification

35700. For the purposes of this code, a jackrabbit and varying hares (genus *Lepus*), a cottontail, brush rabbit, and a pigmy rabbit (genus *Sylvilagus*), are game mammals.

Comment. Section 35700 continues the part of former Fish and Game Code Section 3950(a) applicable to jackrabbits and varying hares, cottontails, brush rabbits, and pigmy rabbits, without substantive change.

§ 35705. Protection of crops

35705. (a) Notwithstanding any provision of this code to the contrary, an owner or tenant of land, or any person authorized in writing by that owner or tenant, may take cottontail or brush rabbits during any time of the year when damage to crops or forage is being experienced on that land.

(b) Any person transporting a rabbit taken pursuant to subdivision (a) from the land where the rabbit was taken, other than the owner or tenant of that land, shall have in possession written authority from the owner or tenant of the land.

(c) Rabbits taken pursuant to this section shall not be sold.

Comment. Section 35705 continues former Fish and Game Code Section 4186 without substantive change.

§ 35710. Taking of jackrabbit injuring property

35710. (a) Except as provided in Section 11200, a black-tailed jackrabbit that is found to be injuring growing crops or other property may be taken by the following persons at any time or in any manner not prohibited by this code or regulations adopted pursuant to this code:

(1) The owner or tenant of the premises.

(2) An employee or agent of the owner or tenant of the premises, who is in immediate possession of written permission from the owner or tenant to take a black-tailed jackrabbit described in this subdivision.

(3) An officer or employee of the Department of Food and Agriculture.

(4) A federal, county, or city officer or employee acting in official capacity pursuant to provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(b) A person that takes a black-tailed jackrabbit pursuant to this section is exempt from Section 9500, except when providing trapping services for a fee.

(c) Raw fur from a black-tailed jackrabbit taken pursuant to this section shall not be sold.

Comment. Section 35710 restates the part of former Fish and Game Code Section 4152 applicable to black-tailed jackrabbits without substantive change.

See also Section 11000 (inspection and removal of animals from traps).

Notes. (1) Proposed Section 35710 is intended to restate the part of existing Fish and Game Code Section 4152 applicable to black-tailed jackrabbits to clarify the meaning of that language, without changing its substantive effect. Existing Section 4152 reads as follows:

4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes necator*), and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code and regulations adopted pursuant to this code by the owner or tenant of the premises or employees and agents in immediate possession of written permission from the owner or tenant thereof. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from Section 3007, except when providing trapping services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 4152 refers to employees and agents in “immediate possession” of written permission from the owner or tenant of premises where depredators are injuring property.

The Commission invites comment on whether or how the term “immediate possession” differs from “possession,” and whether the more familiar term “possession” could be substituted without substantively changing the meaning of the provision.

TITLE 12. SEA OTTER

§ 35750. Classification

35750. For the purposes of this code:

(a) A sea otter is a marine mammal.

(b) A Southern sea otter (*Enhydra lutris nereis*) is a fully protected mammal.

Comment. Subdivision (a) of Section 35750 continues the part of former Fish and Game Code Section 4500(c) applicable to sea otters without substantive change.

Subdivision (b) continues former Fish and Game Code Section 4700(b)(8) without substantive change.

§ 35755. Regulation of cat litter

35755. (a) The Legislature finds and declares that several types of nonpoint source pollution are harmful to sea otters, and that scientific studies point to links between cat feces, the pathogen T-gondii, and sea otter mortality. The Legislature further finds and declares that efforts to reduce the flushing of cat litter and cat feces are steps toward better water quality in the sea otters’ natural habitat.

(b) Any cat litter offered for sale in this state shall contain one of the following statements:

(1) “Encouraging your cat to use an indoor litter box, or properly disposing of outdoor cat feces, is beneficial to overall water quality. Please do not flush cat litter in toilets or dispose of it outdoors in gutters or storm drains.”

(2) A general statement that encourages the disposal of cat feces in trash and discourages flushing cat feces in toilets or disposing of them in drains.

Comment. Section 35755 continues former Fish and Game Code Section 4501 without substantive change.

1 TITLE 13. SHEEP

2 CHAPTER 1. GENERAL PROVISIONS

3 § 35800. Classification

4 35800. For the purposes of this code, except as provided by subdivision (b) of
5 Section 35900, a Bighorn sheep (*Ovis canadensis*) is a fully protected mammal.

6 **Comment.** Section 35800 continues former Fish and Game Code Section 4700(b)(2) without
7 substantive change.

8 § 35805. Provisions not exclusive

9 35805. The provisions of this title are not intended to be exclusive. Other
10 provisions that govern sheep include, but are not limited to, the following
11 provisions:

12 (a) Paragraph (5) of subdivision (a) of Section 460.

13 (b) Section 35400.

14 (c) Section 55725.

15 (d) Section 60855.

16 **Comment.** Section 35805 is new. It is added for drafting convenience.

17 § 35810. Legislative declaration of policy

18 35810. The Legislature declares that bighorn sheep are an important wildlife
19 resource of the state to be managed and maintained at sound biological levels.
20 Therefore, it is hereby declared to be the policy of the state to encourage the
21 preservation, restoration, utilization, and management of California's bighorn
22 sheep population. The management shall be in accordance with the policy set forth
23 in Section 54505.

24 **Comment.** Section 35810 continues former Fish and Game Code Section 4900 without
25 substantive change.

26 § 35815. Development of plans for population management

27 35815. The department shall determine the status and the trend of bighorn sheep
28 populations by management units. A plan shall be developed for each of the
29 management units. The plan for each management unit shall include all of the
30 following:

31 (a) Data on the numbers, age, sex ratios, and distribution of bighorn sheep
32 within the management unit.

33 (b) A survey of range conditions and a report on the competition that may exist
34 as a result of human, livestock, wild burro, or any other mammal encroachment.

35 (c) An assessment of the need to relocate or reestablish bighorn populations.

36 (d) A statement on the prevalence of disease or parasites within the population.

37 (e) Recommendations for achieving the policy objective of Section 35810.

1 **Comment.** Section 35815 continues former Fish and Game Code Section 4901 without
2 substantive change.

3 **§ 35820. Sale of tag by nonprofit organization**

4 35820. (a) A nonprofit organization designated by the department to assist in the
5 sale of bighorn sheep fundraising tags that are sold on behalf of the department for
6 the purpose of raising funds for specified programs and projects, pursuant to
7 subdivision (d) of Section 35900, is authorized to retain 5 percent of the amount of
8 the sale price of the tag as a reasonable vendor fee.

9 (b) Within 30 days of the date of the sale, the selling nonprofit organization shall
10 send the department 95 percent of the total auction sale price of the tag, with an
11 itemized receipt showing the sale price and the 5-percent reduction retained by the
12 nonprofit organization as a vendor's fee.

13 **Comment.** Subdivision (a) of Section 35820 continues the part of former Fish and Game Code
14 Section 709 applicable to bighorn sheep without substantive change.

15 Subdivision (b) continues the part of the second sentence of former Fish and Game Code
16 Section 3953(b) applicable to sheep without substantive change.

17 **§ 35825. Deposit of fees**

18 35825. Except as provided in subdivision (a) of Section 35820, all revenues
19 from the sale of sheep tags, including any fundraising tags, shall be deposited in
20 the Big Game Management Account established in Section 31900 to permit
21 separate accountability for the receipt and expenditure of these funds.

22 **Comment.** Section 35825 continues the part of the first sentence of former Fish and Game
23 Code Section 3953(b) applicable to sheep without substantive change.

24 **CHAPTER 2. NELSON BIGHORN SHEEP**

25 **§ 35900. Issuance of tags (operative until 7/1/25)**

26 35900. (a) The commission may adopt all regulations necessary to provide for
27 biologically sound management of Nelson bighorn sheep (subspecies *Ovis*
28 *canadensis nelsoni*).

29 (b) (1) After the plans developed by the department pursuant to Section 35815
30 for the management units have been submitted, the commission may authorize
31 sport hunting of mature Nelson bighorn rams. Before authorizing the sport
32 hunting, the commission shall take into account the Nelson bighorn sheep
33 population statewide, including the population in the management units designated
34 for hunting.

35 (2) Notwithstanding Section 1025, the commission shall not, however, adopt
36 regulations authorizing the sport hunting in a single year of more than 15 percent
37 of the mature Nelson bighorn rams in a single management unit, based on the
38 department's annual estimate of the population in each management unit.

39 (c) The fee for a bighorn ram tag for a resident of the state, except for a bighorn
40 ram tag issued to a resident junior hunter, to take a Nelson bighorn ram shall be

four hundred dollars (\$400), as adjusted pursuant to Section 3755. The fee for a bighorn ram tag for a resident junior hunter to take a Nelson bighorn ram shall be twenty dollars (\$20), as adjusted under Section 3755. On or before July 1, 2015, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand five hundred dollars (\$1,500), which shall be adjusted annually pursuant to Section 3755. Fee revenues shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(d) The commission shall annually direct the department to authorize not more than three of the tags available for issuance that year to take Nelson bighorn rams for the purpose of raising funds for programs and projects to benefit Nelson bighorn sheep. These tags may be sold to residents or nonresidents of the State of California at auction or by another method and shall not be subject to the fee limitation prescribed in subdivision (c). Commencing with tags sold for the 1993 hunting season, if more than one tag is authorized, the department shall designate a nonprofit organization organized pursuant to the laws of this state, or the California chapter of a nonprofit organization organized pursuant to the laws of another state, as the seller of not less than one of these tags. The number of tags authorized for the purpose of raising funds pursuant to this subdivision, if more than one, shall not exceed 15 percent of the total number of tags authorized pursuant to subdivision (b). All revenue from the sale of tags pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) No tag issued pursuant to this section shall be valid unless and until the licensee has successfully completed a prehunt hunter familiarization and orientation and has demonstrated to the department that he or she is familiar with the requisite equipment for participating in the hunting of Nelson bighorn rams, as determined by the commission. The orientation shall be conducted by the department at convenient locations and times preceding each season, as determined by the commission.

(f) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

Comment. Section 35900 continues former Fish and Game Code Section 4902, as amended by 2018 Cal. Stat. ch. 295, § 10, without substantive change.

Note. This version of proposed Section 35900 would continue Section 4902, as amended by 2018 Cal. Stat. ch. 295, § 10. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 35900. Issuance of tags (operative on 7/1/25)

35900. (a) The commission may adopt all regulations necessary to provide for biologically sound management of Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*).

1 (b) (1) After the plans developed by the department pursuant to Section 4901 for
2 the management units have been submitted, the commission may authorize sport
3 hunting of mature Nelson bighorn rams. Before authorizing the sport hunting, the
4 commission shall take into account the Nelson bighorn sheep population
5 statewide, including the population in the management units designated for
6 hunting.

7 (2) Notwithstanding Section 219, the commission shall not, however, adopt
8 regulations authorizing the sport hunting in a single year of more than 15 percent
9 of the mature Nelson bighorn rams in a single management unit, based on the
10 department's annual estimate of the population in each management unit.

11 (c) The fee for a bighorn ram tag to take a Nelson bighorn ram shall be four
12 hundred dollars (\$400) for a resident of the state, which shall be adjusted annually
13 pursuant to Section 713. On or before July 1, 2015, the commission shall, by
14 regulation, fix the fee for a nonresident of the state at not less than one thousand
15 five hundred dollars (\$1,500), which shall be adjusted annually pursuant to
16 Section 713. Fee revenues shall be deposited in the Big Game Management
17 Account established in Section 3953 and, upon appropriation by the Legislature,
18 shall be expended as set forth in that section.

19 (d) The commission shall annually direct the department to authorize not more
20 than three of the tags available for issuance that year to take Nelson bighorn rams
21 for the purpose of raising funds for programs and projects to benefit Nelson
22 bighorn sheep. These tags may be sold to residents or nonresidents of the State of
23 California at auction or by another method and shall not be subject to the fee
24 limitation prescribed in subdivision (c). Commencing with tags sold for the 1993
25 hunting season, if more than one tag is authorized, the department shall designate
26 a nonprofit organization organized pursuant to the laws of this state, or the
27 California chapter of a nonprofit organization organized pursuant to the laws of
28 another state, as the seller of not less than one of these tags. The number of tags
29 authorized for the purpose of raising funds pursuant to this subdivision, if more
30 than one, shall not exceed 15 percent of the total number of tags authorized
31 pursuant to subdivision (b). All revenue from the sale of tags pursuant to this
32 subdivision shall be deposited in the Big Game Management Account established
33 in Section 3953 and, upon appropriation by the Legislature, shall be expended as
34 set forth in that section.

35 (e) No tag issued pursuant to this section shall be valid unless and until the
36 licensee has successfully completed a prehunt hunter familiarization and
37 orientation and has demonstrated to the department that he or she is familiar with
38 the requisite equipment for participating in the hunting of Nelson bighorn rams, as
39 determined by the commission. The orientation shall be conducted by the
40 department at convenient locations and times preceding each season, as
41 determined by the commission.

42 (f) This section shall become operative on July 1, 2025.

Comment. Section 35900 continues former Fish and Game Code Section 4902, as added by 2018 Cal. Stat. ch. 295, § 11, without substantive change.

Note. This version of proposed Section 35900 would continue Section 4902, as added by 2018 Cal. Stat. ch. 295, § 11. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 35915. Use of revenue

35915. (a) Revenue from the fees authorized by this chapter shall be deposited in the Big Game Management Account established in Section 31900 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(b) Administrative overhead shall be limited to the reasonable costs associated with the direct administration of the program.

(c) These funds shall be used to augment, and not to replace, moneys appropriated from existing funds available to the department for the preservation, restoration, utilization, and management of bighorn sheep. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

Comment. Section 35915 continues former Fish and Game Code Section 4903 without substantive change.

TITLE 14. SQUIRREL

§ 36000. Classification

36000. For the purposes of this code, a tree squirrel (genus *Sciurus* and *Tamiasciurus*) is a game mammal.

Comment. Section 36000 continues the part of former Fish and Game Code Section 3950(a) applicable to tree squirrels without substantive change.

§ 36005. Provisions not exclusive

36005. The provisions of this part are not intended to be exclusive. Other provisions that govern squirrels include, but are not limited to, Section 37460.

Comment. Section 36005 is new. It is added for drafting convenience.

§ 36010. Protection of property

36010. (a) Except as provided in Section 11200, a red fox squirrel that is found to be injuring growing crops or other property may be taken by the following persons at any time or in any manner not prohibited by this code or regulations adopted pursuant to this code:

(1) The owner or tenant of the premises.

(2) An employee or agent of the owner or tenant of the premises, who is in immediate possession of written permission from the owner or tenant to take a squirrel described in this subdivision.

(3) An officer or employee of the Department of Food and Agriculture.

(4) A federal, county, or city officer or employee acting in official capacity pursuant to provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(b) A person that takes a red fox squirrel pursuant to this section is exempt from Section 9500, except when providing trapping services for a fee.

(c) Raw fur from a red fox squirrel taken pursuant to this section shall not be sold.

Comment. Section 36010 restates the part of former Fish and Game Code Section 4152 applicable to red fox squirrels without substantive change.

See also Section 11000 (inspection and removal of animals from traps).

Notes. (1) Proposed Section 36010 is intended to restate the part of existing Fish and Game Code Section 4152 applicable to red fox squirrels to clarify the meaning of that language, without changing its substantive effect. Existing Section 4152 reads as follows:

4152. (a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (*Vulpes vulpes necator*), and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code and regulations adopted pursuant to this code by the owner or tenant of the premises or employees and agents in immediate possession of written permission from the owner or tenant thereof. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from Section 3007, except when providing trapping services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

(2) Existing Section 4152 refers to employees and agents in “immediate possession” of written permission from the owner or tenant of premises where depredators are injuring property.

The Commission invites comment on whether or how the term “immediate possession” differs from “possession,” and whether the more familiar term “possession” could be substituted without substantively changing the meaning of the provision.

§ 36015. Depredation permit

36015. (a) An owner or tenant of land or property that is being damaged or destroyed, or is in danger of being damaged or destroyed, by gray squirrels, may apply to the department for a permit to kill the squirrels causing or threatening the damage or destruction.

(b) The department, upon satisfactory evidence of actual or immediately threatened damage or destruction of land or property, shall issue a revocable permit for the taking and disposition of the responsible squirrels, under regulations

adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions.

(c) Gray squirrels taken under a permit issued pursuant to subdivision (b) shall not be sold or shipped from the premises on which they are taken, except pursuant to instructions from the department.

(d) No poison of any type may be used to take any gray squirrel pursuant to this section.

(e) The department shall designate the type of trap to be used to trap gray squirrels, ensuring that the designated trap is the most humane method available. The department may require trapped squirrels to be released in parks or other nonagricultural areas.

(f) It is unlawful for any person to violate the terms of any permit issued pursuant to this section.

Comment. Section 36015 restates the part of former Fish and Game Code Section 4181(a) applicable to gray squirrels without substantive change.

Note. Proposed Section 36015 is intended to restate the part of existing Fish and Game Code Section 4181(a) applicable to gray squirrels to clarify the meaning of that language, without changing its substantive effect. Existing Section 4181 reads as follows:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the animals under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions. Animals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. No iron-jawed or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel or wild turkey pursuant to this section. The department shall designate the type of trap to be used to ensure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under this section.

(b)

The references in existing Section 4181 to existing Section 4181.1 and to subdivisions (b) and (d) of Section 4181 have not been continued in proposed Section 36015, as those provisions do not apply to squirrels.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

TITLE 15. WHALE

CHAPTER 1. WHALES GENERALLY

§ 37000. Classification

37000. For the purposes of this code:

1 (a) A whale is a marine mammal.

2 (b) A Pacific right whale (*Eubalaena sieboldi*) is a fully protected mammal.

3 **Comment.** Subdivision (a) of Section 37000 continues the part of former Fish and Game Code
4 Section 4500(c) applicable to whales without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 4700(b)(6) without substantive
6 change.

7 **§ 37005. Provisions not exclusive**

8 37005. The provisions of this part are not intended to be exclusive. Other
9 provisions that govern whales include, but are not limited to, the following
10 provisions:

11 (a) Section 430.

12 (b) Section 16905.

13 (c) Section 28650.

14 (d) Section 32500.

15 **Comment.** Section 37005 is new. It is added for drafting convenience.

16 **CHAPTER 2. ORCA**

17 **§ 37050. California Orca Protection Act**

18 37050. This section shall be known, and may be cited, as the California Orca
19 Protection Act.

20 (a) It is unlawful for any person to do any of the following:

21 (1) (A) Except as provided in subparagraph (B) and subdivision (c), hold in
22 captivity an orca, whether wild-caught or captive-bred, for any purpose, including,
23 but not limited to, display, performance, or entertainment purposes.

24 (B) An orca located in the state on January 1, 2017, may continue to be held in
25 captivity for its current purpose and after June 1, 2017, may continue to be used
26 for educational presentations.

27 (2) Breed or impregnate any orca held in captivity in the state.

28 (3) Export, collect, or import the semen, other gametes, or embryos of an orca
29 held in captivity for the purpose of artificial insemination.

30 (4) Export, transport, move, or sell an orca located in the state to another state or
31 country unless otherwise authorized by federal law or if the transfer is to another
32 facility within North America that meets standards comparable to those provided
33 under the Animal Welfare Act (7 U.S.C. Sec. 2131 and following).

34 (b) This section does not apply to an orca that is held by a bona fide educational
35 or scientific institution for rehabilitation after a rescue or stranding or for research
36 purposes. However, the department shall be notified immediately upon the rescue
37 or acquisition of any orca, and an orca that is held for rehabilitation or research
38 purposes shall be returned to the wild whenever possible. If return to the wild is
39 not possible, the orca may be used for educational presentations, but shall not be
40 used for breeding, performance, or entertainment purposes.

(c) As used in this section, the following terms are defined as follows:

(1) “Educational presentation” means a live, scheduled orca display in the presence of spectators that includes natural behaviors, enrichment, exercise activities, and a live narration and video content that provides science-based education to the public about orcas.

(2) “Orca” means a killer whale (*Orcinus orca*).

(3) “Bona fide educational or scientific institution” means an institution that establishes through documentation any of the following:

(A) Educational or scientific tax exemption from the Internal Revenue Service or the institution’s national, state, or local tax authority.

(B) Accreditation as an educational or scientific institution from a qualified national, regional, state, or local authority for the institution’s location.

(C) Accreditation by a nationally or internationally recognized zoological or aquarium accreditation organization.

(d) The provisions of this section and Section 5522 are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Comment. Section 37050 continues former Fish and Game Code Section 4502.5(a), (c)-(e) without substantive change.

See also Section 5522 (enforcement).

TITLE 16. WILD PIG

CHAPTER 1. GENERAL PROVISIONS

§ 37100. Game mammal

37100. For the purposes of this code, a wild pig, including a feral pig and a European wild boar (genus *Sus*), is a game mammal.

Comment. Section 37100 continues the part of former Fish and Game Code Section 3950(a) applicable to wild pigs without substantive change.

§ 37105. “Wild pigs”

37105. For purposes of this title, “wild pig” means free-roaming pigs not distinguished by branding, ear marking, or other permanent identification methods.

Comment. Section 37105 continues former Fish and Game Code Section 4650 without substantive change, except that the definition is made applicable to the provisions that continue former Fish and Game Code Sections 4181, 4181.1, 4181.2, and 4188.

Note. Existing Section 4650 provides a definition of the term “wild pigs,” but limits the application of the definition to the provisions in the chapter of the existing code in which Section 4650 appears. (Those provisions are continued in Chapters 1 through 4 of this title.)

However, the term “wild pig” is used in several other provisions of the existing code, without definition. Among those provisions are existing Sections 4181, 4181.1, 4181.2, and 4188 (which

would be continued by the proposed provisions in Chapter 5 of this title), all relating to the taking of wild pigs that are damaging or injuring property. The Commission believes it would be minor substantive improvement to extend the application of the definition of the term “wild pig” to those provisions, and has therefore proposed a revision of this provision to achieve that objective.

The Commission invites comment on this revision. The Commission also invites comment on whether the definition of “wild pig” in this provision should be generalized to apply throughout the proposed law, and relocated with the other generally applicable definitional provisions in the proposed law.

§ 37110. Provisions not exclusive

37110. The provisions of this part are not intended to be exclusive. Other provisions that govern wild pigs include, but are not limited to, the following provisions:

(a) Section 4570.

(b) Section 59315

Comment. Section 37110 is new. It is added for drafting convenience.

CHAPTER 2. TAKE GENERALLY

§ 37150. Tag requirement

37150. It is unlawful to take any wild pig, except as provided in Section 37360, without first obtaining a tag authorizing the taking of that wild pig in accordance with this title.

Comment. Section 37150 continues former Fish and Game Code Section 4652, without substantive change.

§ 37155. Tagging of wild pig

37155. (a) The holder of a wild pig tag shall keep the tag in his or her possession while hunting wild pig.

(b) Before the taking of any wild pig, the holder of a wild pig tag, except for wild pig tags issued through the Automated License Data System, shall legibly write or otherwise affix the holder’s hunting license number to the wild pig tag.

(c) Upon the killing of any wild pig, the date of the kill shall be clearly marked by the holder of the tag on both parts of the tag. Before transporting the pig, a tag shall be attached to the carcass by the holder of the tag. The holder of the wild pig tag shall immediately, upon harvesting a pig, notify the department in a manner specified by the commission.

Comment. Section 37155 continues former Fish and Game Code Section 4657 without substantive change.

CHAPTER 3. TAGS

§ 37200. Design and issuance of wild pig tag

37200. The department may determine the design and type of information to be included on the wild pig tag and prescribe the procedures for the issuance and use of the tag.

Comment. Section 37200 continues former Fish and Game Code Section 4653 without substantive change.

§ 37205. Obtaining tag

37205. (a) To obtain a wild pig tag, a person must be 12 years of age or older, and possess either a valid hunting license, or if a nonresident, a valid California nonresident hunting license.

(b) A person authorized to obtain a wild pig tag may obtain the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year, upon payment of the fee required by Section 37215.

Comment. Section 37205 restates the part of former Fish and Game Code Section 4654 that relates to prerequisites for obtaining a wild pig tag, without substantive change.

Note. Proposed Section 37205 is intended to restate the part of existing Fish and Game Code Section 4654 that relates to prerequisites for obtaining a wild pig tag, to clarify the meaning of that language, without changing its substantive effect. The remainder of Section 4654, relating to fees for wild pig tags, would be continued by proposed Section 37215.

Section 4654 reads as follows:

4654. (a) Any resident of this state, 12 years of age or older, who possesses a valid hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year upon payment of a base fee of fifteen dollars (\$15), for each wild pig tag.

(b) Any nonresident, 12 years of age or older, who possesses a valid California nonresident hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year upon payment of a base fee of fifty dollars (\$50), for each wild pig tag.

(c) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

The Commission invites comment on whether the restatement of the part of Section 4654 continued in proposed Section 37205 would cause any substantive change in the meaning of the provision.

§ 37210. Period of validity of tag

37210. Wild pig tags are valid only during that portion of the current hunting license year in which wild pigs may be taken or possessed in any area of the state.

Comment. Section 37210 continues former Fish and Game Code Section 4655 without substantive change.

1 **§ 37215. Fees for wild pig tag**

2 37215. The fee for a wild pig tag shall be as follows:

3 (a) For a resident of the state, a base fee of fifteen dollars (\$15) per tag, adjusted
4 under Section 3755.

5 (b) For a nonresident, a base fee of fifty dollars (\$50) per tag, adjusted under
6 Section 3755.

7 **Comment.** Section 37215 restates the part of former Fish and Game Code Section 4654 that
8 relates to prerequisites for obtaining a wild pig tag, without substantive change.

9 **Note.** Subdivision (a) of proposed Section 37215 is intended to restate the part of existing
10 Fish and Game Code Section 4654 that relates to fees for wild pig tags, to clarify the meaning of
11 that language, without changing its substantive effect. The remainder of Section 4654, relating to
12 prerequisites for obtaining a wild pig tag, would be continued by proposed Section 37205.

13 Section 4654 reads as follows:

14 4654. (a) Any resident of this state, 12 years of age or older, who possesses a valid hunting
15 license, may procure the number of wild pig tags corresponding to the number of wild pigs that
16 may legally be taken by one person during the license year upon payment of a base fee of fifteen
17 dollars (\$15), for each wild pig tag.

18 (b) Any nonresident, 12 years of age or older, who possesses a valid California nonresident
19 hunting license, may procure the number of wild pig tags corresponding to the number of wild
20 pigs that may legally be taken by one person during the license year upon payment of a base fee
21 of fifty dollars (\$50), for each wild pig tag.

22 (c) The base fees specified in this section are applicable to the 2004 license year, and shall be
23 adjusted annually thereafter pursuant to Section 713.

24 **The Commission invites comment on whether the restatement of the part of Section 4654**
25 **continued in subdivision (a) of proposed Section 37215 would cause any substantive change**
26 **in the meaning of the provision.**

27 **§ 37220. Deposit of fees**

28 37220. All revenues from the sale of wild pig tags, including any fundraising
29 tags, shall be deposited in the Big Game Management Account established in
30 Section 31900 to permit separate accountability for the receipt and expenditure of
31 these funds.

32 **Comment.** Section 37220 continues the part of the first sentence of former Fish and Game
33 Code Section 3953(b) applicable to wild pigs without substantive change.

34 **Note.** This proposed section together with proposed Sections 31905 and 31930 appear to
35 render the existing Section 4656 superfluous, and that section would not be continued in the
36 proposed law. Existing Section 4656 reads as follows:

37 4656. Revenues received pursuant to this chapter shall be deposited in the Big Game
38 Management Account established in Section 3953. These funds shall be available for expenditure
39 by the department as set forth in Section 3953. The department shall maintain all internal
40 accounting measures necessary to ensure that all restrictions on these funds are met.

41 **The Commission invites comment on whether the discontinuation of existing Section 4656**
42 **in the proposed law is appropriate.**

CHAPTER 4. POPULATION MANAGEMENT

§ 37300. Management plan

37300. (a) The department shall prepare a plan for the management of wild pigs. Under the plan, the status and trend of wild pig populations shall be determined and management units shall be designated within the state. The plan may establish pig management zones to address regional needs and opportunities. In preparing the plan, the department shall consider available, existing information and literature relative to wild pigs.

(b) The plan may include all of the following:

(1) The distribution and abundance of wild pigs, including feral pigs and European wild boars (genus *Sus*).

(2) A survey of range conditions.

(3) Recommendations for investigations and utilization of wild pigs.

(4) Encouraging mitigation of depredation by sport hunting pursuant to this title.

(5) Live trapping and relocation of wild pigs to areas suitable and accessible to mitigation of depredation, with the consent of the landowner and after prior consultation with adjacent landowners who, in the department's opinion may be impacted, pursuant to this title.

Comment. Section 37300 continues former Fish and Game Code Section 4651 without substantive change.

Note. The intended meaning of the words “pursuant to this chapter” at the end of existing Fish and Game Code Section 4651(a)(5) (which would be continued by the words “pursuant to this title” at the end of proposed Section 37300(b)(5)) is unclear, as there are no provisions in that referenced chapter of the existing code that relate to the trapping or relocation of wild pigs.

The Commission invites comment on this issue.

CHAPTER 5. TAKE TO PROTECT PROPERTY

§ 37350. “Damage”

37350. (a) For the purposes of this chapter, “damage” caused by a wild pig means loss or harm resulting from injury to person or property.

(b) The department shall develop statewide guidelines to aid in determining the damage caused by wild pigs. The guidelines shall consider various uses of the land impacted by pigs.

Comment. Section 37350 continues former Fish and Game Code Section 4181.2 without substantive change.

§ 37355. Protection of property

37355. (a) Notwithstanding Section 37150, a wild pig encountered in the act of inflicting injury to, molesting, pursuing, worrying, or killing livestock, or damaging or destroying, or threatening to immediately damage or destroy, land or other property, including, but not limited to, rare, threatened, or endangered native

1 plants, wildlife, or aquatic species, may be taken immediately by any of the
2 following persons:

3 (1) The owner of the livestock, land, or property.

4 (2) The owner's agent or employee.

5 (3) An agent or employee of any federal, state, county, or city entity when acting
6 in official capacity.

7 (b) The person taking the wild pig shall report the taking no later than the next
8 working day to the department and shall make the carcass available to the
9 department.

10 (c) Unless otherwise directed by the department and notwithstanding Section
11 37155, a person taking a wild pig pursuant to this section, or to whom the carcass
12 of a wild pig taken pursuant to this section is transferred pursuant to subdivision
13 (e), may possess the carcass of the wild pig, or may transfer the carcass to another
14 person or entity, if the transfer is made for no compensation. A person who
15 arranges a transfer pursuant to this subdivision shall be deemed to be in
16 compliance with Section 31800.

17 (d) A violation of this section is punishable pursuant to subdivision (b) of
18 Section 4400. It is the intent of the Legislature that nothing in this section shall be
19 interpreted to authorize a person to take wild pig pursuant to this section in
20 violation of a state statute or regulation, or a local zoning or other ordinance that is
21 adopted pursuant to other provisions of law and that restricts the discharge of a
22 firearm.

23 (e) The department shall make a record of each report made pursuant to
24 subdivision (b), and may have an employee of the department investigate the
25 taking or cause the taking to be investigated. The person taking a wild pig shall
26 provide information as deemed necessary by the department. Upon completion of
27 an investigation, the investigator may, upon a finding that the requirements of this
28 section have been met with respect to a wild pig taken under subdivision (a), issue
29 a written statement to the person taking the wild pig, confirming that the
30 requirements of this section have been met.

31 (f) The department shall provide a person who reports taking wild pigs pursuant
32 to subdivision (b) with written information that sets forth available options for
33 wild pig control, including, but not limited to, depredation permits, allowing
34 periodic access to licensed hunters, and holding special hunts authorized pursuant
35 to Section 37365. The department may maintain and make available to these
36 persons lists of licensed hunters interested in wild pig hunting, and lists of
37 nonprofit organizations available to take possession of the carcasses of
38 depredating wild pigs.

39 **Comment.** Subdivisions (a) through (d) of Section 37355 continue former Fish and Game
40 Code Section 4181.1(b) without substantive change.

41 Subdivision (e) continues the part of former Fish and Game Code Section 4181.1(c) applicable
42 to wild pigs without substantive change.

43 Subdivision (f) continues the part of former Fish and Game Code Section 4181(c) applicable to
44 former Fish and Game Code Section 4181.1(b) without substantive change.

Note. A sentence within existing Fish and Game Code Section 4181.1(b) (which would be continued by the first sentence of proposed Section 37355(d)) indicates that a violation of Section 4181.1(b) “is punishable pursuant to Section 12000.” However, existing Section 12000 does not specify any punishment that would otherwise apply to a violation of Section 4181.1, nor does it specify a default punishment for a violation of the code.

The Commission believes it likely the section intended to be referenced was existing Section 12002, which in subdivision (a) does provide a default punishment for an unspecified code violation. Proposed Section 37355(d) would revise the reference to refer to the provision of the proposed law that would continue existing Section 12002(a).

The Commission invites comment on this revision.

§ 37360. Depredation permit

37360. (a) Except as provided in Section 37355, an owner or tenant of land or property that is being damaged or destroyed, or is in danger of being damaged or destroyed, by wild pig, may apply to the department for a permit to kill the wild pig causing or threatening the damage or destruction.

(b) The department, upon satisfactory evidence of actual or immediately threatened damage or destruction of land or property, shall issue a revocable permit for the taking and disposition of the responsible wild pig, under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions.

(c) Wild pig taken under a permit issued pursuant to subdivision (b) shall not be sold or shipped from the premises on which they are taken, except pursuant to instructions from the department.

(d) The department shall provide an applicant for a depredation permit with written information that sets forth available options for wild pig control, including, but not limited to, depredation permits, allowing periodic access to licensed hunters, and holding special hunts authorized pursuant to Section 37365. The department may maintain and make available to these persons lists of licensed hunters interested in wild pig hunting, and lists of nonprofit organizations available to take possession of the carcasses of depredating wild pigs.

(e) It is unlawful for any person to violate the terms of any permit issued pursuant to this section.

Comment. Subdivisions (a) through (c) and (e) of Section 37360 restate the part of former Fish and Game Code Section 4181(a) applicable to wild pigs without substantive change.

Subdivision (d) continues the part of former Fish and Game Code Section 4181(c) applicable to former Fish and Game Code Section 4181(a) without substantive change.

Note. Proposed Section 37360(a)-(c) and (e) are intended to restate the part of existing Fish and Game Code Section 4181(a) applicable to wild pig to clarify the meaning of that language, without changing its substantive effect. Existing Section 4181 reads as follows:

4181. (a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, beaver, wild pig, wild turkeys, or gray squirrels, may apply to the department for a permit to kill the animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the animals under regulations adopted by the commission.

The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions. Animals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. No iron-jawed or steel-jawed or any type of metal-jawed trap shall be used to take any bear pursuant to this section. No poison of any type may be used to take any gray squirrel or wild turkey pursuant to this section. The department shall designate the type of trap to be used to ensure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under this section.

(b)....

The references in existing Section 4181 to subdivisions (b) and (d) of Section 4181 have not been continued in proposed Section 37360, as those provisions do not apply to wild pigs.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 37365. Access by licensed hunters

37365. (a) If a landowner or tenant applies for a permit under Section 37360 to take wild pigs, the department shall inform the applicant about available options for allowing access by licensed hunters, including, but not limited to, access authorized pursuant to Title 7 (commencing with Section 56200) of Part 2 of Division 15 to control wild pigs.

(b) The commission, in lieu of a permit described in subdivision (a), and with the consent of, or upon the request of, the landowner or tenant, may pursuant to appropriate regulation authorize the issuance of permits to persons holding valid hunting licenses to take wild pigs in sufficient numbers to stop the damage or threatened damage. Before issuing permits to licensed hunters, the department shall investigate and determine the number of permits necessary, the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the fee for the permit.

Comment. Section 37365 restates the part of former Fish and Game Code Section 4188 applicable to wild pigs without substantive change.

Note. Proposed Section 37365 is intended to restate the part of existing Fish and Game Code Section 4188 applicable to wild pigs to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

4188. (a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant about available options for allowing access by licensed hunters, including, but not limited to, access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division 2 to control wild pigs, wild turkeys, and deer.

(b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of, or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to licensed hunters, the department shall investigate and determine the number of permits necessary, the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the fee for the permit.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

TITLE 17. WILD RODENT

§ 37450. Classification

37450. For the purposes of this code:

(a) A tree squirrel (genus *Sciurus* and *Tamiasciurus*) is a game mammal.

(b) A Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*) is a fully protected mammal.

(c) A salt-marsh harvest mouse (*Reithrodontomys raviventris*) is a fully protected mammal.

Comment. Subdivision (a) of Section 37450 continues the part of former Fish and Game Code Section 3950(a) applicable to tree squirrels without substantive change.

Subdivision (b) continues former Fish and Game Code Section 4700(b)(1) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 4700(b)(7) without substantive change.

§ 37455. Prohibitions

37455. (a) It is unlawful to knowingly capture for sale, transport for sale or sell a wild rodent, except as provided in Section 1700, 1705, 1710, 1745, 9200, or 9210.

(b) As used in this section, “wild rodent” means a wild ground squirrel, chipmunk, rat, mouse, or any other member of the order Rodentia native to California, except muskrat or beaver.

Comment. Subdivision (a) of Section 37455 continues former Fish and Game Code Section 2576 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 2575 without substantive change.

Note. Existing Fish and Game Code Section 2576 (which would be continued by proposed Section 37455) reads as follows:

2576. It is unlawful to knowingly capture for sale, transport for sale or sell wild rodents, except as provided in Article 1.5 (commencing with Section 1000) of Chapter 3 of Division 2.

There is no longer any “Article 1.5” in Chapter 3 of Division 2 of the existing code. At the time Section 2576 was enacted in 1971, there did exist an Article 1.5 in the indicated chapter and division, which contained many of the sections that are now in Article 1 (commencing with Section 1000) of Chapter 3 of Division 2 of the existing code. However, since 1971, new sections have been added to that article, and some of the sections that were in that article in 1971 have since been amended.

Proposed Section 37455 would replace the cross-reference to the now non-existent “Article 1.5” with the sections contained in that former article that appear to have any relevance to the substance of existing Section 2576.

The Commission invites comment on whether the cross-reference in proposed Section 37455 specifying the exceptions to the proposed section should be revised in any way.

1 **§ 37460. Trapping**

2 37460. Except for fully protected mammals or species that are listed pursuant to
3 Part 1 (commencing with Section 62000) of Division 17, nothing in this code or a
4 regulation adopted pursuant to this code shall prevent or prohibit a person from
5 trapping any of the following animals:

6 (a) Gopher.

7 (b) House mouse.

8 (c) Mole.

9 (d) Rat.

10 (e) Vole.

11 **Comment.** Section 37460 continues former Fish and Game Code Section 4005(f) without
12 substantive change.

13 **DIVISION 10. FISH**

14 **PART 1. GENERAL PROVISIONS**

15 **§ 37800. Governance by other provisions**

16 37800. Animals governed by this division are also governed by other provisions
17 of this code, including but not limited to Divisions 6 (commencing with Section
18 8000) and 7 (commencing with Section 23300).

19 **Comment.** Section 37800 is new. It is added for drafting convenience.

20 **§ 37805. Scope of commercial provisions**

21 37805. The provisions of this division that are expressly identified as
22 commercial provisions apply to the taking and possession of fish for any
23 commercial purpose. Those commercial provisions do not apply to activities
24 governed by Part 1 (commencing with Section 23300) of Division 7.


25 **Comment.** Section 37805 continues the part of former Fish and Game Code Section 7600
26 applicable to the provisions of this division without substantive change.

27 **§ 37810. “Vessel owner”**

28 37810. (a) For the purposes of this division, “vessel owner,” or a reference to an
29 owner of a vessel, means a person designated as the registered owner of a vessel,
30 on a certificate of documentation issued by the United States Coast Guard or on a
31 copy of the vessel registration issued by the vessel registration agency of the state
32 where the owner is a resident.

33 (b) For purposes of this section, the vessel registration agency in California is
34 the Department of Motor Vehicles.

35 **Comment.** Section 37810 restates former Fish and Game Code Section 7601 without
36 substantive change.

 **Note.** The definition of “vessel owner” has been continued in two places, so that it will continue to have its existing scope of application. See also Section 14205.

PART 2. DISEASE CONTROL

§ 37950. Application of title

37950. (a) This title applies to all fish, including, but not limited to, fish being imported or transported.

(b) This chapter does not apply to activities governed by Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 37950 continues the part of former Fish and Game Code Section 6300 applicable to fish without substantive change.

§ 37955. Authorized entry by department

37955. The department may enter at any time any vehicle, container, warehouse, depot, ship, or growing area where any fish are held, transported, or stored, for the purpose of making a regulatory inspection to ascertain whether those fish are infected, diseased, or parasitized, or to determine if aquaculture products are being or have been legally imported, transported, or possessed.

Comment. Section 37955 continues the part of former Fish and Game Code Section 6301 applicable to fish without substantive change.

§ 37960. Public nuisance

37960. Except as otherwise provided in Part 1 (commencing with Section 23300) of Division 7, all fish found to be infected, diseased, or parasitized are a public nuisance and shall be summarily destroyed by the department.

Comment. Section 37960 continues the part of former Fish and Game Code Section 6302 applicable to fish without substantive change.

§ 37965. Conditional destruction

37965. All fish that the department determines are merely deleterious to fish, amphibians, aquatic plants, or aquatic animal life, shall be destroyed by the department, unless the owner or person in charge of the fish ships them out of the state within a period of time to be specified by the department.

Comment. Section 37965 continues the part of former Fish and Game Code Section 6303 applicable to fish without substantive change.

§ 37970. Posting of notices

37970. (a) If the department finds any infected, diseased, or parasitized fish within this state, the department shall post notices describing, as nearly as possible, the boundaries of the area within which the fish are found, and shall state the period during which the taking, carrying, and transportation of the fish from the area shall be unlawful.

1 (b) The fact of posting the notices shall be published once a week for four
2 successive weeks in some newspaper of general circulation in the county in which
3 the infected area is situated, and, if there is no newspaper of general circulation in
4 that county, then in a newspaper of general circulation published in an adjoining
5 county.

6 **Comment.** Section 37970 continues the part of former Fish and Game Code Section 6304
7 applicable to fish without substantive change.

8 **§ 37975. Prohibited transportation within state**

9 37975. It is unlawful to carry or cause to be carried from one point in this state
10 which has been posted according to the provisions of this article, to any other
11 point in this state, any infected, diseased, or parasitized fish.

12 **Comment.** Section 37975 continues the part of former Fish and Game Code Section 6305
13 applicable to fish without substantive change.

14 **§ 37980. Expense of examination**

15 37980. (a) Except as provided in subdivision (b), the expense of any
16 examination of any fish made necessary by the provisions of this code shall be
17 borne by the owner of the fish, or the person or persons importing the fish into this
18 state.

19 (b) The department may assume that expense in the case of fish imported to
20 provide fishing under the authority of a sport fishing license in the public waters of
21 this state.

22 **Comment.** Section 37980 continues the part of former Fish and Game Code Section 6306
23 applicable to fish without substantive change.

24 **PART 3. CLASSES OF FISH**

25 **TITLE 1. FULLY PROTECTED FISH**

26 **§ 38200. Prohibition on take and possession**

27 38200. (a) Except as provided in this section or Section 63300, 63450, 63475,
28 63955, or 64605, a fully protected fish shall not be taken or possessed at any time.

29 (b) No provision of this code or any other law shall be construed to authorize the
30 issuance of a permit or license to take a fully protected fish, and no permit or
31 license previously issued shall have force or effect for that purpose. However, the
32 department may authorize the taking of a fully protected fish for necessary
33 scientific research, including efforts to recover fully protected, threatened, or
34 endangered species.

35 (c) Before authorizing the take of a fully protected fish, the department shall
36 make an effort to notify all affected and interested parties to solicit information
37 and comments on the proposed authorization. The notification shall be published
38 in the California Regulatory Notice Register and be made available to each person


who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(d) A legally imported fully protected fish may be possessed under a permit issued by the department.

(e) As used in this section, “scientific research” does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

Comment. Section 38200 continues former Fish and Game Code Section 5515(a) without substantive change.

See also Sections 4570, 5600 (enforcement).

 **Note.** Proposed Section 38200 would continue Section 5515(a), which was amended by 2018 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

TITLE 2. GROUND FISH

CHAPTER 1. GENERAL PROVISIONS [*RESERVED*]

CHAPTER 2. COMMERCIAL PROVISIONS

§ 38350. Application of title

38350. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 38350 is new. It is added for drafting convenience.

§ 38355. Federal groundfish regulations

38355. It is unlawful for any person possessing or operating any type of net, trap, or line that is subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.) to possess or land any load of fish in violation of those federal groundfish regulations.

Comment. Section 38355 continues former Fish and Game Code Section 8607 without substantive change.

§ 38360. Marine species of finfish

38360. To the extent not in conflict with Section 38355, marine species of finfish that are classified as groundfish may be taken under the regulations of the commission.

Comment. Section 38360 continues former Fish and Game Code Section 8403(a) without substantive change.

1 **§ 38365. Retention of landing receipt**

2 38365. In addition to the requirements of Sections 21015, 21100, 21110, and
3 21150, any person landing groundfish subject to federal groundfish regulations
4 adopted pursuant to the Magnuson Fishery Conservation and Management Act (16
5 U.S.C. Sec. 1801 et seq.) shall keep a copy of the landing receipt on board the
6 fishing vessel throughout, and for 15 days following, each period for which
7 cumulative landings by individual vessels are limited.

8 **Comment.** Section 38365 continues former Fish and Game Code Section 8046.1 without
9 substantive change.

10 **PART 4. ANCHOVIES**

11 **TITLE 1. ANCHOVIES GENERALLY**

12 **§ 38450. Provisions not exclusive**

13 38450. The provisions of this part are not intended to be exclusive. Other
14 provisions that may govern anchovies include, but are not limited to, the following
15 provisions:

16 (a) Section 15915.

17 (b) Section 16475.

18 (c) Section 20710.

19 (d) Section 21015.

20 (e) Section 21810.

21 **Comment.** Section 38450 is new. It is added for drafting convenience.

22 **TITLE 2. COMMERCIAL PROVISIONS**

23 **CHAPTER 1. PRELIMINARY PROVISIONS**

24 **§ 38500. Application of title**

25 38500. For purposes of Section 37805, the provisions in this title are commercial
26 provisions.

27 **Comment.** Section 38500 is new. It is added for drafting convenience.

28 **CHAPTER 2. MANAGEMENT OF RESOURCE**

29 **§ 38550. Policy declaration**

30 38550. (a) It is the policy of the State of California that the anchovy resource
31 shall be managed in a manner that insures the continued abundance of the species.
32 To that end, the department shall conduct, or have others conduct, annual anchovy
33 egg-larvae surveys or any other annual surveys, research, and analyses necessary
34 to insure that an accurate biomass estimate is made.

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

4 **Comment.** Section 38550 continues former Fish and Game Code Section 8190 without
5 substantive change.

6 **§ 38555. Area south of Point Mugu**

7 38555. (a) In any district or part of a district lying south of a line drawn east and
8 west through Point Mugu, anchovies may be taken in any quantity for bait or for
9 human consumption in a fresh state, or, by contract with the department, for
10 hatchery food, not to exceed 500 tons per year.

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

16 (c) The operator of any boat engaged in taking anchovies in waters south of the
17 line described in subdivision (a) shall at all times while operating the boat identify
18 it by displaying on an exposed part of the superstructure, amidships on each side
19 and on top of the house visible from the air, the Department of Fish and Wildlife
20 registration number of the boat, in 14-inch black numerals on white background.

21 **Comment.** Subdivision (a) of Section 38555 continues former Fish and Game Code Section
22 8180 without substantive change.

23 Subdivision (b) continues former Fish and Game Code Section 8181 without substantive
24 change.

25 Subdivision (c) continues former Fish and Game Code Section 8182 without substantive
26 change.

27 See also Section 5650 (enforcement).

28 **§ 38560. Humboldt Bay**

29 38560. (a) No anchovies may be taken for any purpose in Humboldt Bay, except
30 under the following conditions:

31 (1) Anchovies may be taken between May 1 and December 1.

32 (2) Not more than 60 tons of anchovies may be taken between May 1 and
33 December 1 of each year.

34 (3) Only bait nets, as defined in Section 15900, shall be used to take anchovy.

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

37 (b) An accurate record of all fishing operations shall be kept and is subject to
38 inspection by the department.

39 (c) The commission may adopt regulations it determines are necessary to protect
40 anchovy in Humboldt Bay, including, if applicable and based on credible science,
41 a regulation that changes the permitted take amount established pursuant to
42 paragraph (2) of subdivision (a).

1 **Comment.** Section 38560 continues former Fish and Game Code Section 8183 without
2 substantive change.

3 See also Section 5650 (enforcement).

4 **Note.** Proposed Section 38560 would continue Section 8183, which was amended by 2018
5 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
6 anticipation of its effect.

7 PART 5. BARRACUDA

8 TITLE 1. BARRACUDA GENERALLY

9 **§ 38700. Provisions not exclusive**

10 38700. The provisions of this part are not intended to be exclusive. Other
11 provisions that may govern barracuda include, but are not limited to, the following
12 provisions:

13 (a) Section 21950.

14 (b) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

15 **Comment.** Section 38700 is new. It is added for drafting convenience.

16 **§ 38705. Delivery of barracuda taken from waters off coast of Mexico**

17 38705. (a) Barracuda taken in waters lying south of the maritime boundary line
18 between the United States and Mexico, with that maritime boundary line
19 including, but not limited to, the federal Exclusive Economic Zone boundary, may
20 be delivered to California ports aboard boats, including boats carrying purse seine
21 or round haul nets, in accordance with those regulations as the commission may
22 make governing the inspection and marking of those fish imported into this state.
23 The cost of that inspection and marking shall be paid by the importer.

24 (b) Barracuda taken in Mexico shall not be imported, unless legally taken and
25 legally possessed, and a declaration is submitted to the department pursuant to
26 Section 28425.

27 **Comment.** Section 38705 continues the part of former Fish and Game Code Section 2362
28 applicable to barracuda without substantive change.

29 TITLE 2. COMMERCIAL PROVISIONS

30 **§ 38750. Application of title**

31 38750. For purposes of Section 37805, the provisions in this title are commercial
32 provisions.

33 **Comment.** Section 38750 is new. It is added for drafting convenience.

1 **§ 38755. Size restrictions**

2 38755. (a) Barracuda shall be measured from the tip of the lower jaw to the end
3 of the longer lobe of the tail.

4 (b) Barracuda measuring equal to or greater than 28 inches in length may be
5 taken with hook and line at any time.

6 (c) Barracuda measuring less than 28 inches in length may not be sold or
7 purchased, except that not more than five barracuda per day of any length may be
8 possessed by a commercial fisherman for noncommercial use, if taken incidentally
9 while engaged in commercial fishing.

10 **Comment.** Subdivision (a) of Section 38755 continues the part of former Fish and Game Code
11 Section 8386 applicable to barracuda without substantive change.

12 Subdivision (b) continues the part of former Fish and Game Code Section 8382 applicable to
13 barracuda without substantive change.

14 Subdivision (c) continues the part of former Fish and Game Code Section 8384 applicable to
15 barracuda without substantive change.

16 **§ 38760. Use of purse seines or round haul nets**

17 38760. (a) It is unlawful to use any purse seine or round haul net to take a
18 barracuda.

19 (b) It is unlawful to possess a barracuda, except those taken south of the
20 international boundary between the United States and Mexico, and imported into
21 the state under regulations of the commission as provided in Section 38705, on
22 any boat carrying or using any purse seine or round haul net, including, but not
23 limited to, a bait net as described in Section 15900.

24 (c) Notwithstanding subdivision (b), the department may issue permits to hook
25 and line commercial fishermen to possess a bona fide bait net on their vessels for
26 the purpose of taking bait for their own use only.

27 **Comment.** Section 38760 continues the parts of former Fish and Game Code Section 8623(a),
28 (b), and (e) applicable to barracuda without substantive change.

29 **Note.** The portion of existing Fish and Game Code Section 8623(a) and (b) that applies to
30 barracuda would be continued by proposed Section 38760(a) and (b).

31 Existing Section 8623 also includes a disclaimer in subdivision (e) that, by its terms, applies to
32 all provisions of that section (“Notwithstanding the provisions of this section...”)

33 However, despite the broad wording of this disclaimer, the Commission’s analysis suggests
34 that the substantive portion of subdivision (e) logically applies only to subdivision (b). Proposed
35 Section 38760(c) would state that specific application expressly.

36 **The Commission invites comment on whether that expressly stated application would**
37 **cause any problems.**

PART 6. BASS

TITLE 1. BASS GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 38800. Provisions not exclusive

38800. The provisions of this part are not intended to be exclusive. Other provisions that may govern bass include, but are not limited to, the following provisions:

(a) Section 12105.

(b) Section 12165.

(c) Section 12305.

(d) Section 12310.

(e) Section 13900.

(f) Section 14875.

(g) Section 15540.

(h) Section 18040.

(i) Section 18045.

(j) Section 18050.

(k) Section 18365.

(l) Section 18815.

(m) Section 18820.

(n) Section 18825.

(o) Section 21950.

(p) Section 20105.

(q) Section 23905

(r) Section 24000

(s) Section 25700.

(t) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

Comment. Section 38800 is new. It is added for drafting convenience.

CHAPTER 2. SPECIFIC TYPES OF BASS

§ 38850. Black bass

38850. Black bass lawfully taken may be carried or transported into and possessed in an area where the season is closed.

Comment. Section 38850 continues the part of former Fish and Game Code Section 2360 applicable to black bass without substantive change.

1 **§ 38855. Giant seabass**

2 38855. Giant seabass (*Stereolepis gigas*) may not be taken under a sport fishing
3 license except by hook and line when engaged in the taking of other fish. This
4 section, and any regulation adopted by the commission relating to this section,
5 shall supersede Section 28425.

6 **Comment.** Section 38855 continues former Fish and Game Code Section 7350 without
7 substantive change.

8 **§ 38860. Spotted bass**

9 38860. Spotted bass lawfully taken may be carried or transported into and
10 possessed in an area where the season is closed.

11 **Comment.** Section 38860 continues the part of former Fish and Game Code Section 2360
12 applicable to spotted bass without substantive change.

13 **§ 38865. Striped bass**

14 38865. (a) Except as provided in subdivision (b), striped bass may be
15 transported or carried out of or into this state only as follows:

16 (1) A resident of California, or the holder of a valid nonresident California sport
17 fishing license, lawfully taking striped bass from the Colorado River or from the
18 Arizona shore of that river, may transport or carry the fish taken into California.

19 (2) A resident of Arizona, or the holder of a valid nonresident Arizona sport
20 fishing license, lawfully taking striped bass from the Colorado River or from the
21 California shore of that river, may transport or carry the fish taken into Arizona.

22 (b) Striped bass legally taken in another state that permits the sale of that fish
23 may be imported into this state under regulations of the commission. Before the
24 commission adopts any regulation pursuant to this section, a public hearing shall
25 be held in the San Francisco or Sacramento area.

26 **Comment.** Subdivision (a) of Section 38865 restates former Fish and Game Code Section
27 2359 without substantive change.

28 Subdivision (b) continues the part of former Fish and Game Code Section 2363 applicable to
29 striped bass without substantive change.

30 **Note.** Proposed Section 38865(a) is intended to restate existing Fish and Game Code Section
31 2359 to clarify the meaning of that provision, without changing its substantive effect. The
32 existing provision reads as follows:

33 Except as provided in Section 2363, no striped bass may be transported or carried out of or into
34 this state, except striped bass taken from the Colorado River by sportfishing licensees to the
35 extent and in the manner following:

36 (a) A resident of California, or the holder of a valid nonresident California sportfishing license,
37 lawfully taking such fish on the waters or from the Arizona shore of the river may transport or
38 carry such fish into California.

39 (b) A resident of Arizona, or the holder of a valid nonresident Arizona sportfishing license,
40 lawfully taking such fish on the waters or from the California shore of the river may transport or
41 carry such fish into Arizona.

42 **The Commission invites comment on whether the restatement would cause any**
43 **substantive change in the meaning of existing Section 2359.**

1 **§ 38870. White bass**

2 38870. In addition to Section 25415, it is unlawful to transport or possess any
3 live white bass (*Marone chrysops*), whether taken within or without the state,
4 unless it is first submitted for inspection to, and written permission is obtained
5 from, the department.

6 (b) This section does not apply to activities governed by Part 1 (commencing
7 with Section 23300) of Division 7.

8 **Comment.** Subdivision (a) of Section 38870 continues former Fish and Game Code Section
9 6400.5 without substantive change.

 Subdivision (b) continues former Fish and Game Code Section 6403 as it applied to former
Fish and Game Code Section 6400.5 without substantive change.

10 **§ 38875. White sea bass**

11 38875. (a) White sea bass taken in waters lying south of the maritime boundary
12 line between the United States and Mexico, with that maritime boundary line
13 including, but not limited to, the federal Exclusive Economic Zone boundary, may
14 be delivered to California ports aboard boats, including boats carrying purse seine
15 or round haul nets, in accordance with those regulations as the commission may
16 make governing the inspection and marking of those fish imported into this state.
17 The cost of that inspection and marking shall be paid by the importer.

18 (b) White sea bass taken in Mexico shall not be imported unless legally taken
19 and legally possessed, and a declaration is submitted to the department pursuant to
20 Section 28425.

21 (c) Any person who takes, possesses aboard a boat, or lands any white sea bass
22 for a commercial purpose, in ocean waters south of a line extending due west from
23 Point Arguello, shall have a valid commercial fishing ocean enhancement
24 validation issued to that person that has not been suspended or revoked.

25 **Comment.** Subdivisions (a) and (b) of Section 38875 continues the part of former Fish and
26 Game Code Section 2362 applicable to white sea bass without substantive change.

27 Subdivision (c) continues former Fish and Game Code Section 6596.1(c) without substantive
28 change.

29 **Note.** Under existing law, Section 6596.1(c) (proposed Section 38875(c)) is governed by
30 existing Section 6403, which makes Section 6596.1(c) inapplicable to aquaculture business
31 activities. The continuation of Section 6596.1(c) in this location would make Section 6403
32 (proposed Section 25400) inapplicable to Section 6596.1(c). Technically, this would make
33 Section 6596.1(c) applicable to aquaculture business activities. However, Section 6596.1(c)
34 appears to have no application to such activities. For that reason, the change described in this
35 Note would seem to have no practical effect.

36 **The Commission invites comment on whether this change would be a problem.**

37 CHAPTER 3. BLACK BASS CONSERVATION AND MANAGEMENT ACT OF 1980

38 **§ 38900. Name of act**

39 38900. This chapter shall be known as the Black Bass Conservation and
40 Management Act of 1980.

1 **Comment.** Section 38900 continues former Fish and Game Code Section 1740 without
2 substantive change.

3 **§ 38905. Declaration of preservation**

4 38905. The Legislature hereby finds and declares that it is the policy of the state
5 to preserve and enhance black bass resources and to manage black bass
6 populations to provide satisfactory recreational opportunities to the public.

7 **Comment.** Section 38905 continues former Fish and Game Code Section 1741 without
8 substantive change.

9 **§ 38910. Declaration relating to funding**

10 38910. The Legislature further finds and declares that the black bass
11 management program components specified in this chapter are a continuation of
12 the department's existing warmwater fisheries program, and, as such, shall be
13 funded from existing department budgetary resources.

14 **Comment.** Section 38910 continues former Fish and Game Code Section 1742 without
15 substantive change.

16 **§ 38915. Components of management program**

17 38915. (a) The department's black bass management program shall include, but
18 not be limited to, the following components:

19 (1) The department shall determine the angler harvest of black bass populations
20 and shall recommend to the commission the changes in angling regulations for
21 black bass that would be necessary to prevent or correct overharvest.

22 (2) The department shall consider recommending to the commission catch and
23 release regulations for black bass, including minimum or maximum size
24 restrictions and management for trophy-sized black bass in some waters.

25 (3) The department shall consider the suitability of the many different species,
26 subspecies, and strains of black bass when management programs are formulated.

27 (4) The department shall improve shoreline habitat for black bass in waters
28 where insufficient habitat exists and shall encourage reservoir operating agencies
29 to carry out shoreline habitat improvement projects.

30 (b) For the purposes of this section, "black bass" means fishes of the
31 Centrarchidae family.

32 **Comment.** Section 38915 continues former Fish and Game Code Section 1743 without
33 substantive change.

1 TITLE 2. COMMERCIAL PROVISIONS

2 CHAPTER 1. PRELIMINARY PROVISIONS

3 § 38950. Application of title

4 38950. For purposes of Section 37805, the provisions in this title are commercial
5 provisions.

6 **Comment.** Section 38950 is new. It is added for drafting convenience.

7 CHAPTER 2. STRIPED BASS

8 § 39000. Take with purse or round haul net

9 39000. Striped bass may not be taken with a purse or round haul net.

10 **Comment.** Section 39000 continues the part of former Fish and Game Code Section 8756
11 applicable to striped bass without substantive change.

12 § 39005. Required return to water

13 39005. (a) Any striped bass that is taken in any type of net shall, regardless of its
14 condition, be immediately freed and removed from the net by the fisherman, and
15 immediately returned to the water without further harm.

16 (b) A commercial fisherman shall not have any striped bass, whether dead or
17 alive, in his or her possession, at any time when conducting netting operations or
18 when going to or from those operations, except when releasing a striped bass from
19 a net.

20 (c) The return of striped bass to the water pursuant to this section is not
21 deterioration, waste, or spoilage of fish for purposes of Section 14310.

22 **Comment.** Section 39005 continues the part of former Fish and Game Code Section 8370
23 applicable to striped bass without substantive change.

24 § 39010. Possession, offer for sale, sale, or purchase

25 39010. Striped bass may be possessed, offered for sale, sold, or purchased, only
26 under the following conditions:

27 (a) If the striped bass is taken or possessed by, and is the cultured progeny of, an
28 aquaculturist registered under Section 23605, the striped bass may be possessed,
29 offered for sale, sold, or purchased subject to regulations of the commission.

30 (b) If the striped bass is taken legally in another state that permits its sale, and
31 lawfully imported under Section 38865, the striped bass may be possessed, offered
32 for sale, sold, or purchased.

33 **Comment.** Section 39010 continues former Fish and Game Code Section 8371(a) and (b)
34 without substantive change.

CHAPTER 3. WHITE SEA BASS

§ 39050. Undersized white sea bass

39050. It is unlawful to take, possess, sell, or purchase any white sea bass less than 28 inches in length, measured from the tip of the lower jaw to the end of the longer lobe of the tail.

Comment. Section 39050 continues former Fish and Game Code Section 8383.5 without substantive change.

§ 39055. Use of purse seines or round haul nets

39055. (a) It is unlawful to use any purse seine or round haul net to take a white sea bass.

(b) It is unlawful to possess a white sea bass, except those taken south of the international boundary between the United States and Mexico, and imported into the state under regulations of the commission as provided in Section 38875, on any boat carrying or using any purse seine or round haul net, including, but not limited to, a bait net as described in Section 15900.

(c) Notwithstanding subdivision (b), the department may issue permits to hook and line commercial fishermen to possess a bona fide bait net on their vessels for the purpose of taking bait for their own use only.

Comment. Section 39055 continues the parts of former Fish and Game Code Section 8623(a), (b), and (e) applicable to white sea bass without substantive change.

Note. The portion of existing Fish and Game Code Section 8623(a) and (b) that applies to white sea bass would be continued by proposed Section 39060(a) and (b).

Existing Section 8623 also includes a disclaimer in subdivision (e) that, by its terms, applies to all provisions of that section (“Notwithstanding the provisions of this section...”)

However, despite the broad wording of this disclaimer, the Commission’s analysis suggests that the substantive portion of subdivision (e) logically applies only to subdivision (b). Proposed Section 39055(c) would state that specific application expressly.

The Commission invites comment on whether that expressly stated application would cause any problems.

CHAPTER 4. OTHER BASS

§ 39100. Giant seabass

39100. (a) Giant seabass (*Stereolepis gigas*) may not be taken for any purpose, except that not more than one fish per vessel may be possessed or sold if taken incidentally in commercial fishing operations by gill or trammel net. Any fish so taken shall not be transferred to any other vessel.

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

1 permit issued by the Mexican government constitutes valid evidence that the giant
2 seabass were taken south of the international boundary.

3 **Comment.** Section 39100 continues former Fish and Game Code Section 8380 without
4 substantive change.

5 **§ 39105. Kelp bass, sand bass, or spotted bass**

6 39105. (a) Kelp bass, sand bass, and spotted bass, all of the genus *Paralabrax*,
7 shall not be sold or purchased, or possessed in any place where fish are purchased,
8 possessed for sale, or sold, or where food is offered or processed for sale, or in any
9 truck, vessel, or other conveyance operated by or for a place so selling or
10 possessing fish, except that those fish may be imported into this state pursuant to
11 Section 38850, 38860, 38865, or 38875, or Part 9 (commencing with Section
12 28400) of Division 7, and may be sold under regulations as the commission may
13 adopt.

14 (b) It is unlawful to take, possess, or sell any fish specified in this section that is
15 less than 10 1/2 inches in length.

16 **Comment.** Section 39105 continues former Fish and Game Code Section 8372 without
17 substantive change.

18 See also Section 5102 (enforcement).

19 **PART 7. CARP**

20 **TITLE 1. CARP GENERALLY**

21 **CHAPTER 1. PRELIMINARY PROVISIONS**

22 **§ 39150. Application of title**

23 39150. The provisions of this title do not apply to activities governed by Part 1
24 (commencing with Section 23300) of Division 7.

25 **Comment.** Section 39150 continues former Fish and Game Code Section 6403 as it applied to
26 former Fish and Game Code Sections 6440 through 6460, inclusive, without substantive change.

27 **§ 39155. Provisions not exclusive**

28 39155. The provisions of this part are not intended to be exclusive. Other
29 provisions that govern carp include, but are not limited to, the following
30 provisions:

31 (a) Section 17025.

32 (b) Section 15525.

33 (c) Section 15535.

34 (d) Section 20100.

35 (e) Section 22125.

36 **Comment.** Section 39155 is new. It is added for drafting convenience.

CHAPTER 2. GRASS CARP

§ 39200. Preexisting grass carp programs

39200. Nothing in this chapter shall be construed as restricting grass carp programs approved by the department on or before June 1, 1995.

Comment. Section 39200 continues former Fish and Game Code Section 6456 without substantive change.

§ 39205. Legislative declaration

39205. The Legislature finds and declares that triploid grass carp have the potential to control aquatic nuisance plants in non-public waters allowing for reduced chemical control but that the threat that grass carp pose to aquatic habitat may outweigh its benefits. It is the intent of this section to allow the department to use its management authority to provide for the long-term health of the ecosystem in the state, including the aquatic ecosystem, and, in that context, manage grass carp either through control of movement, eradication of populations, acquisition of habitat, and any other action that the department finds will maintain the biological diversity and the long term, overall health of the state's environment. The department shall undertake the management of grass carp in a manner that is consistent with provisions of this code, and, for the purposes of this section the department shall define management as handling, controlling, destroying, or moving species. The Legislature does not intend for this section to provide a right for the use of triploid grass carp if the department finds that use of the species poses an unacceptable risk to the state's existing ecosystem.

Comment. Section 39205 continues former Fish and Game Code Section 6440 without substantive change.

§ 39210. Department regulations

39210. The department shall adopt regulations that provide for the control of aquatic plant pests using artificially introduced triploid grass carp under a permit issued by the department. The regulations shall do all of the following:

(a) Restrict triploid grass carp introductions to those triploid grass carp that have been rendered sterile immediately after the eggs have been fertilized.

(b) Require individual fish to be checked to ensure that a third, triploid, set of chromosomes has been retained, preventing further reproduction by that individual fish.

(c) Limit aquatic plant pest control programs using triploid grass carp to the use of sterile triploid grass carp with documented certification of triploidy to ensure sterility.

(d) Require the identification by tagging of individual fish as the property of each owner.

(e) Require the posting of notices at stocked bodies of water declaring the penalties for removing triploid grass carp.

1 (f) Limit the permits for the use of triploid grass carp in waters on golf courses
2 located in residential areas to those waters that are determined by the department
3 to be secure from the removal of triploid grass carp to unauthorized waters.

4 (g) Provide for management of the triploid grass carp populations in a manner
5 consistent with the provisions of this code where the department finds that such
6 actions will benefit the long-term health of the state's biodiversity as a whole.

7 (h) Until January 1, 1999, the regulations shall not authorize the issuance of
8 permits for the use of triploid grass carp in waters located within condominium
9 areas of any residential area for which a permit may not be issued pursuant to
10 subdivision (f), except at three locations within the area authorized pursuant to this
11 subdivision. The three locations shall be selected by the department in consultation
12 with the Imperial Irrigation District. The limitation to three locations is necessary
13 to enable monitoring of human-induced movement of triploid grass carp to
14 unauthorized waters, and to permit the evaluation of the impact of the experiment.

15 **Comment.** Section 39210 continues former Fish and Game Code Section 6450 without
16 substantive change.

17 **§ 39215. Certification by providers**

18 39215. All providers of triploid grass carp for use under this chapter shall
19 provide certification acceptable to the department of triploidy and disease-free
20 conditions for all fish introduced.

21 **Comment.** Section 39215 continues former Fish and Game Code Section 6451 without
22 substantive change.

23 **§ 39220. Information required for permit**

24 39220. Prior to receiving a permit from the department to use triploid grass carp,
25 the potential user shall provide to the department all information required by the
26 department, including, but not limited to, information relating to the following
27 matters:

28 (a) The type of waterway to be stocked.

29 (b) The absence of a connection between the site and adjacent fresh water
30 systems.

31 (c) All aquatic plant management problems, including, but not limited to,
32 problems relating to the following matters:

33 (1) The acres of aquatic plants, by species, at the peak of growing season.

34 (2) The desired vegetation quantity or coverage.

35 (3) The number and size of triploid grass carp recommended.

36 (4) All sensitive plant or animal species within the waterway to be stocked.

37 (5) Connected waterways.

38 **Comment.** Section 39220 continues former Fish and Game Code Section 6452 without
39 substantive change.

1 **§ 39225. Permit conditions**

2 39225. The department shall impose conditions in the permit to use triploid
3 grass carp under this chapter that it finds necessary to prevent escape of the
4 triploid grass carp from the targeted area. The conditions shall include, but are not
5 limited to, the following:

6 (a) No permit shall be issued for the use of triploid grass carp in waters with an
7 open fresh water connection to other waters of the state.

8 (b) Any waters in which triploid grass carp are used under this chapter shall be
9 under the control of the permittee. In addition, barriers to fish movement
10 acceptable to the department shall be in place before introduction of triploid grass
11 carp under this chapter. Movement of triploid grass carp to areas outside the
12 control of the permittee is prohibited.

13 (c) Any waters in which triploid grass carp are used under this chapter shall have
14 sufficient dissolved oxygen and suitable vegetation for consumption to sustain the
15 introduced triploid grass carp, as determined by the department.

16 (d) Except within closed basins, including the Salton Sea, no permit shall be
17 issued for the use of triploid grass carp within the 100-year flood plain.

18 (e) It is unlawful to introduce triploid grass carp into any area, or to transfer
19 triploid grass carp from one site to another, without a permit from the department.

20 **Comment.** Section 39225 continues former Fish and Game Code Section 6455(a)-(d) and part
21 of (e), without substantive change.

22 See also Section 5670 (enforcement).

23 **§ 39230. Permit and inspection fees**

24 39230. The department shall establish permit and inspection fees sufficient to
25 recover, but not exceed, the initial and ongoing costs of the program under this
26 chapter.

27 **Comment.** Section 39230 continues former Fish and Game Code Section 6454 without
28 substantive change.

29 **§ 39235. Report by permittee**

30 39235. (a) On or before March 1 of each year following the first year after
31 triploid grass carp introduction, the permittee shall provide to the department all of
32 the information required by the department, including, but not limited to, the
33 following:

34 (1) The number and size of triploid grass carp recommended for the waterway
35 stocked.

36 (2) The number and size of triploid grass carp stocked in the waterway.

37 (3) The acres of aquatic plants, by species, at the peak of the growing season in
38 the year prior to introduction of triploid grass carp in the waterway stocked.

39 (4) The acres of aquatic plants, by species, at the peak of the current year
40 growing season.

(b) The annual report shall be submitted until five years after the use of triploid grass carp to control aquatic plant pests is terminated, unless evidence acceptable to the department is provided that all triploid grass carp have been removed from the waterway.

Comment. Section 39235 continues former Fish and Game Code Section 6453 without substantive change.

§ 39240. Consultation with Department of Food and Agriculture

39240. Because of its experience and continuing involvement with hydrilla control programs, the implementation of Sections 25910 and 25930 shall be carried out in consultation with the Department of Food and Agriculture.

Comment. Section 39240 continues former Fish and Game Code Section 6457 without substantive change.

§ 39245. Suspension of permit issuance process

39245. (a) The department may suspend the permit issuance process authorized by this chapter, if it obtains documented and verifiable evidence of escapements of triploid grass carp permitted under this chapter into unauthorized waters, the unauthorized use of grass carp, or threats to fish and wildlife and their habitats as the result of this program, and the director makes a written finding to that effect.

(b) If the situation is local, the suspension may be limited to the area whose waters, habitat, and fish and wildlife resources are threatened.

(c) The suspension shall last until the director makes a written finding that the threat has been abated.

Comment. Section 39245 continues former Fish and Game Code Section 6460 without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

§ 39300. Application of title

39300. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 39300 is new. It is added for drafting convenience.

§ 39305. Use of traps

39305. Traps may be used throughout the year to take carp in any district, subject to the following restrictions:

(a) Traps shall not exceed six feet in greatest dimension.

(b) Traps shall be made of cotton or nylon twine.

(c) Meshes shall not be less than three and one-half inches in length, except that fyke and bait bags may be any size mesh.

(d) Traps shall have only a single vertical fyke opening at the top of the trap.

(e) Traps shall be baited only with grain or grain products.

(f) Fish other than carp taken in traps pursuant to this section shall be immediately returned to the water.

Comment. Section 39305 continues former Fish and Game Code Section 9023 without substantive change.

See also Section 4900 (enforcement).

PART 8. CATFISH

TITLE 1. CATFISH GENERALLY [*RESERVED*]

TITLE 2. COMMERCIAL PROVISIONS

§ 39400. Application of title

39400. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 39400 is new. It is added for drafting convenience.

§ 39405. Provisions not exclusive

39405. The provisions of this part are not intended to be exclusive. Other provisions that govern catfish include, but are not limited to, Section 23355.

Comment. Section 39405 is new. It is added for drafting convenience.

§ 39410. Prohibited sale

39410. No catfish may be sold, except catfish imported from outside the state or catfish grown pursuant to Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 39410 continues former Fish and Game Code Section 8435 without substantive change.

PART 9. CROAKER

TITLE 1. CROAKER GENERALLY

§ 39500. Provisions not exclusive

39500. The provisions of this part are not intended to be exclusive. Other provisions that govern croaker include, but are not limited to, the following provisions:

(a) Section 14870.

(b) Section 15915.

(c) Section 16805.

(d) Section 21950.

(e) Section 20710.

1 (f) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

2 **Comment.** Section 39500 is new. It is added for drafting convenience.

3 TITLE 2. COMMERCIAL PROVISIONS

4 § 39550. Application of title

5 39550. For purposes of Section 37805, the provisions in this title are commercial
6 provisions.

7 **Comment.** Section 39550 is new. It is added for drafting convenience.

8 § 39555. Yellowfin croaker, spotfin croaker, or California corbina

9 39555. Yellowfin croaker, spotfin croaker, and California corbina shall not be
10 sold or purchased, or possessed in any place where fish are purchased, possessed
11 for sale, or sold, or where food is offered for sale, or in any truck or other
12 conveyance operated by or for a place selling or possessing fish.

13 **Comment.** Section 39555 continues former Fish and Game Code Section 8373 without
14 substantive change.

15 See also Sections 4900, 5102 (enforcement).

16 PART 10. GRUNION

17 TITLE 1. GRUNION GENERALLY

18 § 39600. Provisions not exclusive

19 39600. The provisions of this part are not intended to be exclusive. Other
20 provisions that govern grunion include, but are not limited to Section 20710.

21 **Comment.** Section 39600 is new. It is added for drafting convenience.

22 TITLE 2. COMMERCIAL PROVISIONS

23 § 39650. Application of title

24 39650. For purposes of Section 37805, the provisions in this title are commercial
25 provisions.

26 **Comment.** Section 39650 is new. It is added for drafting convenience.

27 § 39655. Season

28 39655. It is unlawful to take grunion (*Leuresthes tenuis*) between March 31 and
29 June 1.

30 **Comment.** Section 39655 continues former Fish and Game Code Section 8381 without
31 substantive change.

32 See also Section 4900 (enforcement).

PART 11. HAGFISH

TITLE 1. HAGFISH GENERALLY

§ 39700. Provisions not exclusive

39700. The provisions of this part are not intended to be exclusive. Other provisions that govern hagfish include, but are not limited to the following provisions:

(a) Section 19230.

(b) Section 19500.

Comment. Section 39700 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 39750. Application of title

39750. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 39750 is new. It is added for drafting convenience.

§ 39755. Definitions

39755. For the purposes of this title, the following terms have the following meanings:

(a) “Bucket trap” means a plastic bucket of five gallons or less in capacity.

(b) “General trap permit” means a valid permit to take fish for a commercial purpose issued pursuant to Section 19205 that has not been suspended or revoked.

(c) “Korean trap” means a molded plastic cylinder that does not exceed 6 inches in diameter and does not exceed 24 inches in length.

(d) “Popup” means a mechanism capable of releasing a submerged buoy at a predetermined time.

Comment. Section 39755 continues former Fish and Game Code Section 9000.5(a), (c), (d), and (f) without substantive change.

§ 39760. Take

39760. Hagfish may be taken under a general trap permit, if all of the following criteria are met:

(a) Korean traps and bucket traps may be used to take only hagfish under this article.

(b) No more than a total of 500 Korean traps or a total of 200 bucket traps may be possessed aboard a vessel or in the water or combination thereof.

(c) No permittee may possess both Korean traps or bucket traps and other types of traps aboard a vessel at the same time. When Korean traps or bucket traps are

1 being used or possessed aboard a vessel, no species of finfish other than hagfish
2 shall be taken, possessed aboard, or sold for commercial purposes.

3 (d) Popups shall not be used on buoy lines attached to Korean traps or bucket
4 traps, and shall not be possessed by a commercial fisherman aboard a vessel when
5 taking hagfish.

6 **Comment.** Section 39760 continues former Fish and Game Code Section 9001.6 without
7 substantive change.

8 See also Section 4900 (enforcement).

9 PART 12. HALIBUT

10 TITLE 1. HALIBUT GENERALLY

11 § 39800. Provisions not exclusive

12 39800. The provisions of this part are not intended to be exclusive. Other
13 provisions that govern halibut include, but are not limited to the following
14 provisions:

15 (a) Section 13900.

16 (b) Section 16805.

17 (c) Section 16110.

18 (d) Section 18505.

19 (e) Section 18510.

20 (f) Section 18800.

21 (g) Section 18805.

22 (h) Section 18810.

23 (i) Section 18815.

24 (j) Section 18820.

25 (k) Section 18825.

26 (l) Section 21950.

27 (m) Section 25125.

28 (n) Section 50520.

29 (o) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

30 **Comment.** Section 39800 is new. It is added for drafting convenience.

31 § 39805. Conformity with other law

32 39805. The commission may prohibit the taking or possessing of Pacific halibut
33 (Hippoglossus) in the same manner as the taking or possessing of Pacific halibut is
34 prohibited by federal law or by rules or regulations adopted by the International
35 Pacific Halibut Commission, notwithstanding any other provision of this code.

36 **Comment.** Section 39805 continues former Fish and Game Code Section 316 without
37 substantive change.

1 TITLE 2. COMMERCIAL PROVISIONS

2 CHAPTER 1. PRELIMINARY PROVISIONS

3 § 39850. Application of title

4 39850. For purposes of Section 37805, the provisions in this title are commercial
5 provisions.

6 **Comment.** Section 39850 is new. It is added for drafting convenience.

7 CHAPTER 2. TAKE, POSSESSION, OR SALE

8 Article 1. General Provisions

9 § 39900. Season

10 39900. California halibut (*Paralichthys californicus*) may be taken at any time.

11 **Comment.** Section 39900 continues former Fish and Game Code Section 8391 without
12 substantive change.

13 § 39905. Size restrictions

14 39905. (a) No California halibut may be taken, possessed, or sold that measures
15 less than 22 inches in total length.

16 (b) For purposes of subdivision (a), total length means the shortest distance
17 between the tip of the jaw or snout, whichever extends farthest while the mouth is
18 closed, and the tip of the longest lobe of the tail, measured while the halibut is
19 lying flat in natural repose, without resort to any force other than the swinging or
20 fanning of the tail.

21 **Comment.** Section 39905 continues former Fish and Game Code Section 8392 without
22 substantive change.

23 See also Section 5680 (enforcement).

24 Article 2. Halibut Bottom Trawl Permit

25 § 39950. Permit requirement

26 39950. Any vessel using bottom trawl gear in state-managed halibut fisheries, as
27 described in subdivision (a) of Section 16110, shall possess a valid California
28 halibut bottom trawl vessel permit that has not been suspended or revoked and that
29 is issued by the department authorizing the use of trawl gear by that vessel for the
30 take of California halibut.

31 **Comment.** Section 39950 continues former Fish and Game Code Section 8494(a) without
32 substantive change.

33 See also Section 5680 (enforcement).

1 **Note.** Proposed Section 39950 would continue Section 8494(a), which was amended by 2018
2 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
3 anticipation of its effect.

4 **§ 39955. Issuance**

5 39955. A California halibut bottom trawl vessel permit shall be issued annually,
6 commencing with the 2006 permit year and an applicant shall have been issued a
7 California halibut bottom trawl vessel permit in the immediately preceding permit
8 year.

9 **Comment.** Section 39955 continues former Fish and Game Code Section 8494(b) without
10 substantive change.

11 See also Section 5680 (enforcement).

12 **Notes.** (1) Proposed Section 39955 would continue Section 8494(b), which was amended by
13 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
14 anticipation of its effect.

15 (2) The meaning of “and an applicant shall have been issued a California halibut bottom trawl
16 vessel permit in the immediately preceding permit year” is not clear. Is the intention to limit the
17 issuance of permits to persons who held a permit in the preceding year? **The Commission invites**
18 **comment on the meaning of the provision.**

19 **§ 39960. Transfers generally**

20 39960. Permits issued pursuant to this article may be transferred only if at least
21 one of the following occur:

22 (a) The commission adopts a restricted access program for the fishery that is
23 consistent with the commission’s policies regarding restricted access to
24 commercial fisheries.

25 (b) The transfer is approved pursuant to Section 39965.

26 **Comment.** Section 39960 continues former Fish and Game Code Section 8494(c)(1) and part
27 of (c)(2) without substantive change.

28 See also Section 5680 (enforcement).

29 **Note.** Proposed Section 39960 would continue Section 8494(c)(1) and part of (c)(2), which
30 were amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is
31 included here in anticipation of its effect.

32 **§ 39965. Permitted transfers**

33 39965. (a) Prior to the implementation of a halibut trawl restricted access
34 program, the department may consider requests from a vessel permitholder or his
35 or her conservator or estate representative, as applicable, to transfer a vessel
36 permit to a vessel consistent with the requirements of subdivision (b) or (c). The
37 department may request information that it determines is reasonably necessary
38 from the permitholder or his or her conservator or heirs or estate for the purpose of
39 verifying statements in the request prior to authorizing the transfer of the permit.

1 (b) The department may approve the transfer of a California halibut bottom
2 trawl vessel permit to a replacement vessel if all of the following requirements are
3 met:

4 (1) In the form of a notarized application, the permitholder submits to the
5 department a request for the transfer of a California halibut bottom trawl vessel
6 permit to another vessel owned by the permitholder.

7 (2) The permitholder provides a current United States Coast Guard certificate of
8 documentation or vessel marine survey to the department for the permitted vessel
9 and replacement vessel.

10 (3) Based on the information provided pursuant to paragraph (2), the department
11 determines that the replacement vessel is equal to or less than the capacity of the
12 permitted vessel.

13 (4) The department determines the California halibut bottom trawl vessel permit
14 for the permitted vessel is valid and has not been suspended or revoked.

15 (5) If applicable, the department receives written confirmation from the
16 replacement vessel's owner or authorized agent, or mortgager, of the vessel's
17 participation in the transfer of the California halibut bottom trawl vessel permit.

18 (6) The replacement vessel is registered with the department pursuant to Section
19 14755 at the time the application is submitted pursuant to paragraph (1).

20 (c) The department may approve the transfer of a California halibut bottom trawl
21 vessel permit to another person if all of the following requirements are met:

22 (1) In the form of a notarized application, the permitholder or his or her
23 conservator or estate submits to the department a request to transfer a California
24 halibut bottom trawl vessel permit to another person.

25 (2) If the permitholder's estate submits a request pursuant to paragraph (1), the
26 estate submits the notarized application to the department within one year of the
27 death of the permitholder as listed on the death certificate.

28 (3) A current United States Coast Guard certificate of documentation or vessel
29 marine survey is provided to the department for the permitted vessel and vessel to
30 be used by the proposed transferee.

31 (4) Based on the information provided pursuant to paragraph (3), the department
32 determines that the vessel to be used by the proposed transferee is equal to or less
33 than the capacity of the permitted vessel.

34 (5) The proposed transferee meets both of the following requirements:

35 (A) The person has a valid commercial fishing license issued pursuant to Section
36 14500 that has not been suspended or revoked.

37 (B) The person is the owner of a commercial fishing vessel that is registered
38 with the department pursuant to Section 14755 and that registration has not been
39 suspended or revoked.

40 (6) The permit for the permitted vessel is current, and the permitholder or his or
41 her conservator or estate submitting the application is responsible for any renewal
42 of the permit that becomes due during the application processing period.

(7) Under penalty of perjury, the permitholder or his or her conservator or estate signs the application for transfer and certifies that the information included is true to the best of his or her information and belief.

(d) Any applicant who is denied transfer pursuant to this section may appeal the denial in writing describing the basis for the appeal to the commission within 60 days from the date of the department's decision.

Comment. Section 39965 continues part of former Fish and Game Code Section 8494(c)(2) without substantive change.

Note. Proposed Section 39965 would continue part of Section 8494(c)(2), which was amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 39970. Permit fees

39970. The commission shall establish California halibut bottom trawl vessel permit fees based on the recommendations of the department and utilizing the guidelines outlined in subdivision (b) of Section 3465 to cover the costs of administering this section. Prior to the adoption of a restricted access program pursuant to Section 39960, fees may not exceed one thousand dollars (\$1,000) per permit.

Comment. Section 39970 continues former Fish and Game Code Section 8494(d) without substantive change.

Note. Proposed Section 39970 would continue Section 8494(d), which was amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 39975. Application of federal permit

39975 Individuals holding a federal groundfish trawl permit may retain and land up to 150 pounds of California halibut per trip without a California halibut trawl permit in accordance with federal and state regulations, including, but not limited to, regulations developed under a halibut fishery management plan.

Comment. Section 39975 continues former Fish and Game Code Section 8494(e) without substantive change.

Note. Proposed Section 39975 would continue Section 8494(e), which was amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 39980. Commission regulation

39980. The commission may adopt regulations to implement this article.

Comment. Section 39980 continues former Fish and Game Code Section 8494(g) without substantive change.

§ 39985. Inoperative date of article

39985. This article shall become inoperative upon the adoption by the commission of a halibut fishery management plan in accordance with the requirements of Title 3 (commencing with Section 12100) of Part 4 of Division 6.

Comment. Section 39985 continues former Fish and Game Code Section 8494(f) without substantive change.

Article 3. Halibut Trawl Grounds

§ 40100. California halibut trawl grounds

40100. (a) The following areas are designated as the California halibut trawl grounds:

(1) The ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu.

(2) The ocean waters of Monterey Bay delineated by straight lines connecting the following points in the following order and excluding federal waters as defined by the order entered by the United States Supreme Court in the case of *United States of America v. State of California*, 135 S.Ct. 563 (2014):

Latitude	Longitude
36° 54.146' N	122° 4.244' W
36° 52.910' N	122° 4.225' W
36° 52.024' N	122° 2.117' W
36° 51.680' N	121° 59.321' W
36° 52.230' N	121° 57.810' W
36° 48.974' N	121° 52.474' W
36° 49.835' N	121° 51.840' W
36° 54.250' N	121° 54.883' W
36° 54.287' N	121° 58.062' W
36° 53.956' N	122° 2.117' W

(3) The ocean waters offshore of Port San Luis lying between one and three nautical miles from the mainland shore, as described by an area circumscribed by a line connecting the following points in clockwise order, with the line connecting the last two points approximately parallel to the lines connecting the preceding points:

Latitude	Longitude
35° 08' N	120° 46' W
35° 08' N	120° 40.1' W
35° 06.6' N	120° 39.2' W
35° 02.2' N	120° 39.3' W

1	34° 57' N	120° 40.7' W
2	34° 57' N	120° 43.5' W
3	35° 06.4' N	120° 46' W

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

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

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

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

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

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

(A) The ocean waters lying between one and three nautical miles from the mainland shore from a point east of a line extending seaward true south (180°) from a point on land approximately one-half mile east of Point Conception at longitude 120° 27.5' to a line extending due south from Gaviota.

(B) The ocean waters lying between one and two nautical miles from the mainland shore lying east of a line extending due south from Santa Barbara Point (180°) and west of a line extending due south from Pitas Point (180°).

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

(2) In making the finding described in paragraph (1), the commission shall pay special attention to areas where kelp and other biogenic habitats existed and where


1 restoring those habitats is reasonably feasible, and to hard bottom areas and other
2 substrate that may be particularly sensitive to bottom trawl impacts.

3 (d) Notwithstanding subdivision (a), the areas of the halibut trawl grounds
4 identified in paragraphs (2) and (3) of subdivision (a) shall remain closed to
5 trawling until the commission determines that trawling in those areas is consistent
6 with the provisions of this section. At the commission's discretion, a
7 determination pursuant to this subdivision may be made through the review
8 required pursuant to subdivision (e).

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

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

24 **Comment.** Section 40100 continues former Fish and Game Code Section 8495 without
25 substantive change.

26  **Note.** Proposed Section 40100 would continue Section 8495, which was amended by 2018
27 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **§ 40115. Other requirements**

30 40115. (a) Unless otherwise specified by the commission pursuant to
31 subdivision (b), within the California halibut trawl grounds the following
32 requirements shall apply to the use of trawl nets:

33 (1) Open season and hours of operation shall be as follows:

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

35 (B) In the designated halibut trawl grounds within Monterey Bay and offshore of
36 Port San Luis, trawl fishing gear may only be deployed to capture fish between
37 sunrise and sunset.

38 (2) California halibut shall only be taken pursuant to Section 39905.

39 (3) Not more than 500 pounds of fish other than California halibut may be
40 possessed, except that any amount of sea cucumbers may be possessed by a person
41 who holds a valid sea cucumber permit and who meets any conditions adopted by
42 the commission pursuant to Section 50520, and any amount of sharks, skates, or

rays for which the take or possession of that species is not otherwise prohibited by this code may be taken or possessed.

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

(5) Sections 16250, 16270, 16275, 16280, 16285, 16290, 16295, 16300, 16305 and 16310 do not apply to trawl nets when used or possessed on California halibut trawl grounds.

(6) Trawl nets described in Section 16355 shall only be used within the halibut trawl grounds.

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

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

(b) The commission may reduce the length of the open season or hours of operation, or either of those, specified in paragraph (1) of subdivision (a). The commission may also modify any of the requirements of paragraphs (2) to (8), inclusive, of subdivision (a) to make those requirements more restrictive.

Comment. Section 40115 continues former Fish and Game Code Section 8496 without substantive change.

See also Section 5680 (enforcement).

Note. Proposed Section 40115 would continue Section 8496, which was amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 40120. Season for take

40120. (a) If the director determines that the California halibut resource, or existing fishing operations, within the California halibut trawl grounds designated in Section 40100, are in danger of irreparable injury, the director may order the closure of part or all of the area to trawl net fishing, or may further restrict the nets that may be used in part or all of the area. Any closure or restriction order shall be adopted by emergency regulation, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The department shall bring any regulation adopted pursuant to this section to the attention of the Legislature within 30 calendar days after commencement of the next succeeding regular session of the Legislature.

Comment. Section 40120 continues former Fish and Game Code Section 8497 without substantive change.

1 **§ 40125. Incidental take or possession of halibut**

2 40125. When fishing for shrimp or prawns under a permit issued pursuant to
3 Section 51100, no Pacific halibut and not more than 150 pounds of California
4 halibut shall be possessed or landed.

5 **Comment.** Section 40125 continues the second sentence of former Fish and Game Code
6 Section 8842(c) without substantive change.

7 See also Section 5680 (enforcement).

8 **PART 13. HERRING**

9 **TITLE 1. HERRING GENERALLY**

10 **§ 40250. Provisions not exclusive**

11 40250. The provisions of this part are not intended to be exclusive. Other
12 provisions that govern herring include, but are not limited to, the following
13 provisions:

14 (a) Section 12165.

15 (b) Section 18065.

16 (c) Section 21210.

17 (d) Section 21360.

18 (e) Section 22505.

19 (f) Section 22515.

20 (g) Section 40500.

21 (h) Section 40505.

22 (i) Section 40510.

23 (j) Section 40515.

24 (k) Section 58630.

25 **Comment.** Section 40250 is new. It is added for drafting convenience.

26 **TITLE 2. COMMERCIAL PROVISIONS**

27 **CHAPTER 1. PRELIMINARY PROVISIONS**

28 **§ 40300. Application of title**

29 40300. For purposes of Section 37805, the provisions in this title are commercial
30 provisions.

31 **Comment.** Section 40300 is new. It is added for drafting convenience.

CHAPTER 2. PERMIT

§ 40350. Permit required for take

40350. (a) Herring may be taken for a commercial purpose only under a permit, subject to regulations adopted by the commission.

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

Comment. Subdivision (a) of Section 40350 continues the first sentence of former Fish and Game Code Section 8550 without substantive change.

Subdivision (b) continues the first sentence of former Fish and Game Code Section 8552(a) without substantive change.

See also Section 5690 (enforcement).

§ 40355. Limit on number of permits issued

40355. The commission may, whenever necessary to prevent overutilization, to ensure efficient and economic operation of the fishery, or to otherwise carry out this chapter, limit the total number of permits that are issued and the amount of herring that may be taken under the permits. In limiting the total number of permits, the commission shall take into consideration any restriction of the fishing area and the safety of others who, for purposes other than fishing, use the waters from which herring are taken.

Comment. Section 40355 continues the second and third sentences of former Fish and Game Code Section 8550 without substantive change.

§ 40360. Fee for permit

40360. (a) A herring net permit granting the privilege to take herring with nets for commercial purposes shall be issued to licensed commercial fishermen, subject to regulations adopted pursuant to Sections 40350 and 40355, as follows:

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

(2) To any nonresident to use gill nets, upon payment of a fee of one thousand dollars (\$1,000).

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

Comment. Section 40360 continues former Fish and Game Code Section 8550.5 without substantive change.

§ 40365. Permit requirements

40365. (a) No person may be issued more than one herring permit, and the department shall not issue a herring permit to more than one person except as provided in Section 40375.

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

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

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

6 **Comment.** Section 40365 continues former Fish and Game Code Section 8552(b)-(e) without
7 substantive change.

8 **§ 40370. Herring fishery experience points**

9 40370. (a) For purposes of this chapter, the experience points for a person
10 engaged in the herring roe fishery shall be based on the number of years holding a
11 commercial fishing license and the number of years having served as a
12 crewmember in the herring roe fishery, and determined by the sum of both of the
13 following:

14 (1) One point for each year in the previous 12 years (prior to the current license
15 year) that the person has held a commercial fishing license issued pursuant to
16 Section 14550, not to exceed a maximum of 10 points.

17 (2) Five points for one year of service as a paid crewmember in the herring roe
18 fishery, as determined pursuant to Section 40440, three points for a second year of
19 service as a paid crewmember, and two points for a third year as a paid
20 crewmember, beginning with the 1978–79 herring fishing season, not to exceed a
21 maximum of 10 points.

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

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

32 (d) The point provisions in this section are for purposes of sale of a permit, or
33 transfer to a partner of a co-owned permit.

34 **Comment.** Section 40370 continues former Fish and Game Code Section 8552.8 without
35 substantive change.

36 **§ 40375. Issuance of single permit to two individuals**

37 40375. (a) Notwithstanding Section 40365, a herring permit may be issued to
38 two individuals if one of the following criteria is met:

39 (1) The individuals are married to each other, or are registered domestic
40 partners, and file with the department a certified copy of their certificate of

1 marriage or registered domestic partner certificate, and a declaration under penalty
2 of perjury, or a court order, stating that the permit is community property.

3 (2) The individuals meet both of the following requirements:

4 (A) They are both engaged in the herring roe fishery, either by fishing aboard
5 the vessel, or by personally participating in the management, administration, and
6 operation of the partnership's herring fishing business.

7 (B) The individuals are partners in a partnership, in which each holds 50 percent
8 ownership in a herring fishery operation, including a vessel or equipment, and that
9 partnership is demonstrated by any two of the following:

10 (i) A copy of a federal partnership tax return.

11 (ii) A written partnership agreement.

12 (iii) Joint ownership of a fishing vessel used in the herring fishery as
13 demonstrated on federal vessel license documents.

14 (b) For purposes of this section, a herring permit does not constitute a herring
15 fishing operation.

16 (c) A herring permit may be transferred to one of the partners, to be held
17 thereafter in that partner's name, only if that partner has not less than 10 herring
18 fishery experience points computed pursuant to paragraph (2) of subdivision (a) of
19 Section 40370 and there has been a death or retirement of the other partner, a
20 dissolution of partnership, or the partnership is dissolved by a dissolution of
21 marriage or registered domestic partnership, or a decree of legal separation.

22 (d) A transfer under this section shall be authorized only if proof that the
23 partnership has existed for three or more consecutive years is furnished to the
24 department, or a certified copy of a certificate of marriage or registered domestic
25 partnership is on file with the department, and the permit is community property as
26 provided in subdivision (a).

27 (e) The transferor of a permit shall not, by reason of the transfer, become
28 ineligible to participate further in the herring fishery or to purchase another permit.

29 (f) Notwithstanding subdivision (b), in the event of the death of one of the
30 partners holding a herring permit pursuant to this section, where the partnership
31 existed for longer than six months but less than three years, and the surviving
32 partner does not have the minimum points pursuant to subdivision (c) to qualify
33 for a permit transfer, the permit may be transferred on an interim basis for a period
34 of not more than 10 years to the surviving partner, if an application is submitted to
35 the department within one year of the deceased partner's death and the surviving
36 partner participates in the fishery for the purpose of achieving the minimum
37 number of herring fishery experience points to be eligible for a permit transfer
38 pursuant to Section 40380. The interim permit shall enable the surviving partner to
39 participate in the herring fishery. At the end of the interim permit period, the
40 surviving partner, upon application to the department, may be issued the permit if
41 he or she has participated in the fishery and gained the minimum number of
42 herring fishery experience points for a permit.

Comment. Section 40375 combines and continues the second sentence of former Fish and Game Code Section 8552(a), and former Fish and Game Code Section 8552.6, without substantive change. See Family Code Section 297.5(a) (registered domestic partners have same rights, protections, and benefits under law as are granted to spouses).

§ 40380. Transfer of permit generally

40380. Notwithstanding Section 3050, a herring permit may be transferred from a herring permittee to a nonpermittee who has 20 or more herring fishery experience points, if the following conditions are satisfied:

(a) The permittee shall mail, by certified or registered mail, to the department and to every individual listed on the department's list of herring fishery participants with maximum 20 or more herring fishery experience points, a notice of intention to transfer the permittee's herring permit, which shall provide all of the following information:

(1) The gear type to be used under the herring permit.

(2) The name, address, and telephone number of the permittee and proposed transferee.

(3) The amount of consideration, if any, sought by the transferor.

(b) Sixty days after mailing the notice, the transferor may transfer the permit to any person having 20 or more herring fishery experience points without any further notice, if the transfer occurs within six months of the date the original notice was given. Transfers after that six-month period shall require another 60-day notice of intention to be given.

(c) A true copy of the notice of intention to transfer a permit shall be filed with the department by the transferor under penalty of perjury and shall be available for public review.

(d) No person may hold more than one herring permit.

Comment. Section 40380 combines and continues the second sentence of former Fish and Game Code Section 8552(a), and former Fish and Game Code Section 8552.2, without substantive change.

Note. Existing Fish and Game Code Section 8552.8 (which would be continued by proposed Section 40370) appears to indicate that the maximum number of herring fishery experience points that may be awarded is 20. However, existing Section 8552.2 (which would be continued by proposed Section 40380) refers several times to persons having 20 "or more" experience points.

The Commission invites comment that would clarify this issue.

§ 40385. Regulations relating to transfer of permits

40385. The commission may, in consultation with representatives of the commercial herring roe fishery, and after holding at least one public hearing, adopt regulations intended to facilitate the transfer of herring permits, including, but not limited to, regulations that would do the following:

(a) Allow an individual to own a single permit for each of the different herring gillnet platoons in San Francisco Bay.

(b) Eliminate the herring fishery experience point system for qualifying for a herring permit.

(c) Allow a herring permit to be passed from a parent to child, or between spouses.

Comment. Section 40385 continues former Fish and Game Code Section 8552.3 without substantive change.

§ 40390. Transfer fee

40390. (a) The department shall reissue a herring permit which has been transferred pursuant to Section 40375 or 40380 upon payment of a transfer fee of five thousand dollars (\$5,000) by the transferee of the permit.

(b) Transfer fees shall be deposited in the Fish and Game Preservation Fund, and shall be expended for research and management activities to maintain and enhance herring resources pursuant to subdivision (a) of Section 21360.

Comment. Section 40390 continues former Fish and Game Code Section 8552.7 without substantive change.

§ 40395. Drawing for expired permits

40395. Herring permits that are revoked or not renewed may be offered by the department to persons having 20 or more herring fishery experience points, in a drawing held on the first Friday of August of each year.

Comment. Section 40395 continues former Fish and Game Code Section 8552.4 without substantive change.

Note. Existing Fish and Game Code Section 8552.8 (which would be continued by proposed Section 40370) appears to indicate that the maximum number of herring fishery experience points that may be awarded is 20. However, existing Sections 8552.4 (which would be continued by proposed Section 40395) refers to persons having “20 or more” experience points.

The Commission invites comment that would clarify this issue.

§ 40400. Adjustment of fees

40400. The commission, in consultation with the department and representatives of the commercial roe herring fishery, and after holding at least one public hearing, may adjust any fee related to a herring permit, including the fee for the issuance of or transfer of a herring permit, to a level that will not discourage the transfer of permits or limit entry into the fishery, and that will ensure sufficient funds to cover reasonable department costs associated with the management of the fishery, including research and enforcement costs.

Comment. Section 40400 continues former Fish and Game Code Section 8552.1 without substantive change.

§ 40405. Temporary substitution of crewmember

40405. The commission, in adopting regulations for the commercial herring fishery, shall adopt one or more regulations providing that if a permittee is ill or injured, a crewmember aboard the vessel operated by the permittee may be

1 temporarily substituted as the permittee. The commission may require that proof
2 of the illness or injury be substantiated to the satisfaction of the department.

3 **Comment.** Section 40405 continues former Fish and Game Code Section 8554 without
4 substantive change.

5 **§ 40410. Periodic review of regulations and policies**

6 40410. The director shall periodically meet and confer with representatives of
7 the commercial herring roe fishery to review regulations and policies of the
8 commission and the department concerning that fishery, and to receive
9 recommendations on the regulation and management of that fishery. In particular,
10 those representatives and their legal counsel may recommend to the department,
11 for recommendation to the commission for adoption by the commission as
12 regulations, requirements for the payment of civil damages that may be imposed in
13 lieu of revoking or suspending a permit issued pursuant to this chapter, or for
14 violations of regulations adopted by the commission pertaining to the herring roe
15 fishery.

16 **Comment.** Section 40410 continues former Fish and Game Code Section 8555 without
17 substantive change.

18 **§ 40415. Regulation relating to use of gill nets**


19 40415. Notwithstanding any other provision of law, the commission shall
20 determine, by regulation, if drift or set gill nets may be used to take herring for a
21 commercial purpose. The commission may also determine, by regulation, the size
22 of the meshes of the material used to make those gill nets.

23 **Comment.** Section 40415 continues former Fish and Game Code Section 8556 without
24 substantive change.

25 **§ 40420. Determination relating to use of round haul nets in Districts 2600 and 2605**

26 40420. Notwithstanding any other provision of law, the commission shall
27 determine, by regulation, if round haul nets may be used to take herring in
28 Districts 2600 and 2605, and the conditions under which those nets may be used.

29 **Comment.** Section 40420 continues former Fish and Game Code Section 8557 without
30 substantive change.

31  **Note.** Existing Fish and Game Code Section 8557 (which would be continued by proposed
32 Section 40420), in contrast with preceding Section 8556 (which would be continued by proposed
33 Section 26915), requires the Fish and Game Commission to “determine” whether round haul nets
34 may be used to take herring in specified districts, but does not require that determination to be
35 made “by regulation.” The Commission believes the omission from Section 8557 was
36 inadvertent, and proposed Section 40420 would conform the language of the two sections by
37 expressing referencing a determination “by regulation.”

38 **The Commission invites comment on that revision.**

39 **§ 40425. Herring research and management account**

40 40425. (a) There is established within the Fish and Game Preservation Fund a
41 herring research and management account.

(b) The funds in the account shall be expended for the purpose of supporting, in consultation with the herring industry pursuant to Section 40410, department evaluations of and research on herring populations in San Francisco Bay, evaluations and research that may be required for Tomales Bay, Humboldt Bay, and Crescent City, and for assisting in enforcement of herring regulations.

(c) The evaluations and research shall be for the following purposes:

(1) Determining the annual herring spawning biomass.

(2) Determining the condition of the herring resource, which may include its habitat.

(3) Assisting the commission and the department in the adoption of regulations to ensure a sustainable herring roe fishery.

(d) An amount, not to exceed 15 percent of the total funds in the account, may be used for educational purposes regarding herring, herring habitat, and the herring roe fishery.

(e) The funds in the account shall consist of the funds deposited pursuant to Section 40435, and the funds derived from herring landing fees allocated pursuant to subdivision (a) of Section 21360.

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

Comment. Section 40425 continues former Fish and Game Code Section 8558 without substantive change.

§ 40430. San Francisco Bay herring stamp

40430. (a) No person shall purchase or renew any permit to take herring for a commercial purpose in San Francisco Bay, without first obtaining an annual herring stamp from the department.

(b) The fee for the annual herring stamp shall be one hundred dollars (\$100).

Comment. Section 40430 continues the first two sentences of former Fish and Game Code Section 8558.1(a) without substantive change.

§ 40435. Funds to be deposited in herring research and management account

40435. The following funds shall be deposited into the herring research and management account established pursuant to Section 40425:

(a) The amount of the difference between fees for nonresident and resident herring net permits, collected pursuant to Section 40360.

(b) Fees for San Francisco Bay herring permit transfers, collected pursuant to Section 40390.

(c) Fees for San Francisco Bay herring stamps, collected pursuant to Section 40425.

(d) One-half of all royalties collected by the department from the roe-on-kelp fishery, pursuant to paragraph (2) of subdivision (f) of Section 164 of Title 14 of the California Code of Regulations.

1 **Comment.** Subdivisions (a) and (b) of Section 40435 continue former Fish and Game Code
2 Section 8558.2 without substantive change.

3 Subdivision (c) continues the third sentence of former Fish and Game Code Section 8558.1(a)
4 without substantive change.

5 Subdivision (d) continues former Fish and Game Code Section 8558.3 without substantive
6 change.

7 **§ 40440. Proof of crewmember experience**

8 40440. The commission, in determining experience requirements for new
9 entrants into the herring fishery after January 1, 1987, shall require that any person
10 seeking a permit to operate a vessel to take herring and claiming crew experience
11 demonstrate, to the satisfaction of the department, proof of payment as a
12 crewmember in the herring fishery, based on tax records, or copies of canceled
13 checks offered and accepted as payment for service on a crew in the California
14 herring roe fishery.

15 **Comment.** Section 40440 continues former Fish and Game Code Section 8559 without
16 substantive change.

17 **§ 40455. Commission regulation**

18 40455. The commission may make and enforce regulations necessary or
19 convenient for carrying out any power, authority, or jurisdiction conferred under
20 this chapter.

21 **Comment.** Section 40455 continues former Fish and Game Code Section 8553 without
22 substantive change.

23 See also Section 5690 (enforcement).

24 CHAPTER 3. TAKE OF HERRING EGGS

25 **§ 40500. Permit to take herring eggs**

26 40500. Herring eggs may only be taken for a commercial purpose under a
27 revocable, nontransferable permit subject to regulations that the commission shall
28 adopt.

29 **Comment.** Section 40500 continues the first sentence of former Fish and Game Code Section
30 8389(a) without substantive change.

31 **§ 40505. Payment of royalty**

32 40505. In addition to the license fees provided for in this code, every person
33 taking herring eggs shall pay a royalty, as the commission may prescribe, of not
34 less than fifty dollars (\$50) per ton of herring eggs taken.

35 **Comment.** Section 40505 continues the second sentence of former Fish and Game Code
36 Section 8389(a) without substantive change.

37 **§ 40510. Permit limitations**

38 40510. (a) Whenever necessary to prevent overutilization, to ensure efficient and
39 economic operation of the fishery, or to otherwise carry out this chapter, the

commission may limit the number of permits that are issued, and the amount of herring eggs taken under those permits.

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

Comment. Subdivision (a) of Section 40510 continues former Fish and Game Code Section 8389(b) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 8389(c) without substantive change.

Note. Existing Fish and Game Code Section 8389(b) (which would be continued by proposed Section 40510(a)) provides that the Fish and Game Commission may place limits on herring egg permits, among other reasons, in order to “carry out this article.” However, the article in which Section 8389 appears, Article 9 (commencing with Section 8370) of Chapter 2 of Part 3 of Division 6 of the existing code, contains provisions governing the take of many different saltwater and anadromous fish, and Section 8389 is the only provision in that article relating to herring eggs.

Proposed Section 40510(a), in continuing Section 8389(b), would replace the reference to “this article” with a reference to only the provisions in the proposed law that continue existing Section 8389. Because Section 8389 would be divided into the four sections in a chapter of the proposed law continuing Section 8389(b), the reference has been changed to “this chapter.”

The Commission invites comment on the appropriateness of that revision.

§ 40515. Exception for incidental take of aquatic plants

40515. Every person operating under a permit issued pursuant to Section 40500 is excepted from the provisions of Title 1 (commencing with Section 54000) of Part 4 of Division 14, for aquatic plants taken incidental to the harvest of herring eggs.

Comment. Section 40515 continues former Fish and Game Code Section 8389(d) without substantive change.

PART 14. MACKEREL

TITLE 1. MACKEREL GENERALLY

§ 40550. Provisions not exclusive

40550. The provisions of this part are not intended to be exclusive. Other provisions that govern mackerel include, but are not limited to, the following provisions:

(a) Section 15915.

(b) Section 20710.

(c) Section 21015.

(d) Section 21810.

(e) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

Comment. Section 40550 is new. It is added for drafting convenience.

1 TITLE 2. COMMERCIAL PROVISIONS

2 § 40600. Application of title

3 40600. For purposes of Section 37805, the provisions in this title are commercial
4 provisions.

5 **Comment.** Section 40600 is new. It is added for drafting convenience.

6 § 40605. Authorized take

7 40605. Pacific mackerel may be taken under a revocable nontransferable permit
8 issued by the department to boat owners or operators under conditions prescribed
9 by the department.

10 **Comment.** Section 40605 continues former Fish and Game Code Section 8412 without
11 substantive change.

12 § 40610. Federal fishery regulations

13 40610. The department shall manage the Pacific mackerel resource in
14 conformance with the federal fishery regulations as recommended by the Pacific
15 Fishery Management Council and as adopted by the Secretary of Commerce.

16 **Comment.** Section 40610 continues former Fish and Game Code Section 8411 without
17 substantive change.

18 PART 15. MARLIN

19 TITLE 1. MARLIN GENERALLY

20 § 40700. Provisions not exclusive

21 40700. The provisions of this part are not intended to be exclusive. Other
22 provisions that govern marlin include, but are not limited to, the following
23 provisions:

24 (a) Section 14875.

25 (b) Section 18030.

26 (c) Section 18395.

27 (d) Section 18800.

28 (e) Section 18805.

29 (f) Section 18810.

30 (g) Section 18815.

31 (h) Section 18820.

32 (i) Section 18825.

33 (j) Section 21950.

34 **Comment.** Section 40700 is new. It is added for drafting convenience.

1 **§ 40705. Transport of marlin meat out of state**

2 40705. Marlin meat may not be transported out of this state.

3 **Comment.** Section 40705 continues former Fish and Game Code Section 2354 without
4 substantive change.

5 **§ 40710. Department monitoring of take**

6 40710. (a) The department shall develop a voluntary participation program for
7 the use of departmental observers on board vessels to monitor the taking of marlin
8 by persons engaged in sport fishing.

9 (b) The department shall, in accordance with Section 2205, procure insurance
10 against the liability of the owners or operators of vessels boarded by observers in
11 the event of injury to or death of any observer in the course and scope of
12 employment as an observer.

13 **Comment.** Section 40710 continues former Fish and Game Code Section 7123 without
14 substantive change.

15 **TITLE 2. COMMERCIAL PROVISIONS**

16 **§ 40750. Application of title**

17 40750. For purposes of Section 37805, the provisions in this title are commercial
18 provisions.

19 **Comment.** Section 40750 is new. It is added for drafting convenience.

20 **§ 40755. Marlin meat**

21 40755. Except where Section 40760 has been complied with, marlin meat,
22 whether fresh, smoked, canned, or preserved by any means, shall not be bought or
23 sold, or possessed or transported for the purpose of sale.

24 **Comment.** Section 40755 continues former Fish and Game Code Section 8393(a) without
25 substantive change.

26 **§ 40760. Importation for producing fish cakes**

27 40760. (a) Notwithstanding the provisions of section 27205, black marlin
28 (Makaira Indica) may be imported into this state for the purpose of processing
29 (manufacturing) a product commonly known as fish cakes for human
30 consumption.

31 (b) All black marlin (Makaira Indica) imported into this state must be in an
32 identifiable condition, and must be accompanied by a bill of lading, showing the
33 name of the consignor, the consignee, and the weight or number of fish shipped. A
34 copy of the bill of lading must be delivered to the nearest office of the department
35 either prior to or no later than two days after receipt of the fish.

36 (c) No black marlin (Makaira Indica) imported into California may leave the
37 premises of the original consignee unless written permission is received from the

1 department, or unless processed into the form of the product commonly known as
2 fish cakes.

3 **Comment.** Section 40760 continues former Fish and Game Code Section 8393(b) without
4 substantive change.

5 PART 16. SABLEFISH

6 TITLE 1. SABLEFISH GENERALLY

7 § 40850. Provisions not exclusive

8 40850. The provisions of this part are not intended to be exclusive. Other
9 provisions that govern sablefish include, but are not limited to, the following
10 provisions:

11 (a) Section 19230.

12 (b) Section 19500.

13 (c) Section 21020.

14 (d) Section 21225.

15 **Comment.** Section 40850 is new. It is added for drafting convenience.

16 TITLE 2. COMMERCIAL PROVISIONS

17 § 40900. Application of title

18 40900. For purposes of Section 37805, the provisions in this title are commercial
19 provisions.

20 **Comment.** Section 40900 is new. It is added for drafting convenience.

21 § 40905. Required permit

22 40905. Sablefish may be taken under a general trap permit issued pursuant to
23 Section 19205 in ocean waters between a line extending due west true from Point
24 Arguello in Santa Barbara County and the United States-Mexico international
25 boundary line, if all of the following criteria are also met:

26 (a) The trap shall be six feet or less in its greatest dimension.

27 (b) The mesh of any trap used for sablefish pursuant to this section shall
28 measure not less than two inches by two inches.

29 (c) The traps may be used only in waters 200 fathoms or deeper.

30 (d) No permittee may possess a sablefish trap and any other commercial fishing
31 gear aboard a vessel at the same time, except that spot prawn traps may be
32 possessed during spot prawn trap open fishing periods as established by the
33 commission, if the permittee has a valid spot prawn trap vessel permit that has not
34 been suspended or revoked.

35 **Comment.** Section 40905 continues former Fish and Game Code Section 9001.8 without
36 substantive change. A reference to Section 19205 was added to continue the application of the

1 definition of “general trap permit” that applied to former Fish and Game Code Section 9001.8.
2 See former Fish and Game Code Section 9000.5(c).

3 PART 17. SALMON

4 TITLE 1. SALMON GENERALLY

5 CHAPTER 1. PRELIMINARY PROVISIONS

6 § 40950. Provisions not exclusive

7 40950. The provisions of this part are not intended to be exclusive. Other
8 provisions that govern salmon include, but are not limited to, the following
9 provisions:

10 (a) Section 1725.

11 (b) Section 9105.

12 (c) Section 11905.

13 (d) Section 13105.

14 (e) Section 13900.

15 (f) Section 14875.

16 (g) Section 15540.

17 (h) Section 18040.

18 (i) Section 18045.

19 (j) Section 18050.

20 (k) Section 18085.

21 (l) Section 18095.

22 (m) Section 18210.

23 (n) Section 18805.

24 (o) Section 21455.

25 (p) Section 22305.

26 (q) Section 22310.

27 (r) Section 24700.

28 (s) Section 24950.

29 (t) Section 7650.

30 (u) Section 63360.

31 (v) Section 66350.

32 (w) Section 66355.

33 (x) Section 69500.

34 **Comment.** Section 40950 is new. It is added for drafting convenience.

35 § 40955. Legislative determination

36 40955. (a) The Legislature finds and declares all of the following:

(1) The commercial fishing industry of the North Coast has been greatly affected by decisions made by federal and state agencies concerning the health of the salmon resource and the consequent shortening or closing of the season, further impacting the already economically depressed region.

(2) Sportfishing on the North Coast, a staple of the tourism industry of the region, could be substantially affected by the limitations of the salmon seasons.

(3) The method of determining salmon escapement counts on only the Klamath River is inadequate for determining the overall health of the salmon resource in northern California waters and consequent decisions regarding the commercial, sport, and Indian salmon fisheries in those waters because it does not take into consideration the escapement figures on the Eel River and the Smith River.

(b) The department shall use present assessment methods to assess the salmon escapement count on the Eel River and the Smith River, as well as the Klamath River, systems, employing out-of-work fishermen, where possible, to do the counts with department personnel in supervisory capacities. Those figures shall be used by the commission and the department in all reports, recommendations, and decisions concerning the establishment of the commercial and sportfishing seasons in the waters of the state and in all recommendations to the Pacific Fishery Management Council or other regulatory agencies. This program shall be a priority for funding under the Fisheries Restoration Act of 1985 (Chapter 3 (commencing with Section 11900) of Title 2 of Part 4 of Division 6).

(c) The department shall install sonar fish counting devices on the Klamath River system as a three-year test program to determine the accuracy of the devices, and shall make recommendations to the Legislature by January 1, 1990, as to their accuracy and whether they should be installed on other river systems. Present assessment methods shall continue on the Klamath River system during the test period as a control mechanism.

Comment. Section 40955 continues former Fish and Game Code Section 1000.6 without substantive change.

CHAPTER 2. TAKE OR POSSESSION

§ 41000. Salmon spawning areas

41000. The commission may designate salmon spawning areas. It is unlawful to take salmon in any such spawning area, or within 250 feet of any salmon spawning station.

Comment. Section 41000 continues former Fish and Game Code Section 310 without substantive change.

§ 41005. Hook other than in mouth

41005. (a) It is unlawful, in inland waters, to kill or retain in possession any chinook, coho, or kokanee salmon that has not taken the bait or lure in its mouth.

(b) Any chinook, coho, or kokanee salmon hooked in inland waters other than in its mouth shall be released unharmed.

Comment. Section 41005 restates the part of former Fish and Game Code Section 5514 applicable to salmon without substantive change.

Note. Proposed Section 41005 is intended to restate the part of existing Fish and Game Code Section 5514 applicable to salmon to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

5514. (a) It is unlawful to kill or retain in possession any chinook, coho, or kokanee salmon or any steelhead that has not taken the bait or lure in its mouth, in inland waters.

(b) Any chinook, coho, or kokanee salmon or any steelhead hooked other than in its mouth in inland waters shall be released unharmed.

In the existing section, the placement of the phrase “in inland waters” creates possible ambiguity as to whether the section is meant to apply generally to persons fishing in inland waters, or to specified salmon that were not hooked in their mouths while in inland waters. The Commission believes the former interpretation was intended, and proposed Section 41005 would make that interpretation express.

The Commission invites comment on whether the restatement of Section 5514 would cause any substantive change in its meaning.

§ 41010. Conformity with federal law

41010. The commission may prohibit the taking or possessing of salmon in the same manner as the taking or possessing of salmon is prohibited by federal law or by rules or regulations adopted by the United States Secretary of Commerce, notwithstanding any other provision of this code.

Comment. Section 41010 continues former Fish and Game Code Section 316.5 without substantive change.

Note. Existing Section 316.5 provides that the Fish and Game Commission may prohibit the taking or possessing of salmon “in the same manner” as prohibited by federal law.

Should this provision be revised to make clear that the Commission’s authority to regulate the take or possession of salmon is not limited to take or possession that is regulated by federal law?

CHAPTER 3. IMPORTATION

§ 41050. Importation of undersized salmon

41050. (a) It is unlawful to import into this state for commercial purposes any salmon of smaller size than can be legally taken under regulations of either the Pacific Fishery Management Council or the state of landing.

(b) Subdivision (a) does not apply to domestically reared salmon, defined by commission regulations to include salmon that have returned to a hatchery or licensed artificial collection facility, if imported under regulations established by the commission.

Comment. Section 41050 continues former Fish and Game Code Section 2361 without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 41300. Application of title

41300. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 41300 is new. It is added for drafting convenience.

§ 41305. Definitions

41305. The following definitions govern the construction of this title:

(a) “Agent” means the person designated in writing by the owner as the owner’s representative.

(b) “Appeal” means a request for reconsideration of an action of the review board, the department, or the commission, pursuant to this title.

(c) “Change of ownership” means the transfer of ownership of a permitted vessel to a new owner.

(d) “Commercial salmon vessel permit” means an annual permit issued by the department to an owner of a commercial fishing vessel for use of that vessel to take salmon for commercial purposes and shall not be considered personal property.

(e) “Fishing potential” means the capability and capacity for harvesting salmon of a particular commercial fishing vessel. “Fishing potential” includes, but is not limited to, a rating based upon factors such as size, seaworthiness, propulsion system, hold size, and hull design.

(f) “Permit” means a commercial salmon vessel permit as defined in subdivision (d).

(g) “Permitted vessel” means a commercial fishing vessel for which a permit is currently valid.

(h) “Replacement vessel” means a commercial fishing vessel for the use of which a permit is proposed to be transferred pursuant to this title.

(i) “Review board” means the commercial salmon fishing review board created pursuant to Section 41900.

(j) “Transfer” means the issuance of a permit for use of a replacement vessel.

Comment. Section 41305 generalizes former Fish and Game Code Section 8231 without substantive change.

Note. Existing Fish and Game Code Section 8231 provides the definitions set forth in proposed Section 41305, but only for purposes of the article in which Section 8231 appears (Article 4.5 (commencing with Section 8230) of Chapter 2 of Part 3 of Division 6). Proposed Section 41305 would generalize the definitions in existing Section 8231 so that they apply to all commercial salmon fishing provisions in this proposed title.

The Commission invites comment on whether that generalization would be problematic.

1 CHAPTER 2. COMMERCIAL SALMON TROLLERS ENHANCEMENT AND
2 RESTORATION PROGRAM

3 **§ 41350. Declaration of legislative intent**

4 41350. (a) It is the intent of the Legislature that the department use the moneys
5 from the sale of commercial fishing salmon stamps allocated pursuant to
6 subdivision (b) of Section 41360, and the matching share contributed by the
7 department, to raise approximately two million chinook salmon annually to
8 yearling size, to contribute to the replenishing of California's salmon resource. In
9 no case shall moneys from the General Fund be used to match the salmon stamp
10 revenues expended for this program.

11 (b) It is the further intent of the Legislature that the salmon stamp fee authorized
12 in subdivision (b) of Section 41360 shall generate revenues equal to one-half the
13 amount necessary to raise this number of salmon to yearling size.

14 **Comment.** Section 41350 continues former Fish and Game Code Section 7861.3 without
15 substantive change.

16 **§ 41355. Commercial fishing salmon stamp requirement**

17 41355. (a) Except as provided in subdivision (f) or (g), no person who is 18
18 years of age or more and less than 70 years of age, on or before April 1 of the
19 current license year, shall take salmon for a commercial purpose or be on board a
20 vessel on which salmon are taken for a commercial purpose while salmon are
21 being taken or transported, unless that person has a commercial fishing salmon
22 stamp issued pursuant to this section affixed to his or her commercial fishing
23 license.

24 (b) Except as provided in subdivision (f) or (g), the operator of a vessel on
25 which salmon are taken for a commercial purpose shall not permit a person on
26 board that vessel while salmon are being taken or transported, unless that person
27 was less than 18 years of age or 70 years of age or more on April 1 of the current
28 license year or that person has a commercial fishing salmon stamp affixed to the
29 person's commercial fishing license.

30 (c) Except as provided in this subdivision, the department shall issue a
31 commercial fishing salmon stamp, upon application and payment of the fee of
32 eighty-five dollars (\$85). For any commercial salmon season preceded by a
33 commercial salmon season in which the commercial troll salmon landings in this
34 state equal or exceed 3,000,000 pounds dressed weight, as determined by the
35 department, the fee shall be increased by twelve dollars and fifty cents (\$12.50)
36 for every 250,000 pounds over 3,000,000 pounds of dressed weight landings,
37 except that the total fees as adjusted shall not exceed two hundred sixty dollars
38 (\$260).

39 (d) A commercial fishing salmon stamp is valid during the commercial salmon
40 season of the year in which it was issued.

1 (e) Upon application and payment of an additional fee equal to that prescribed in
2 subdivision (c), the department may issue an additional commercial fishing
3 salmon stamp for a crewmember to the owner or operator of a vessel who holds a
4 commercial fishing salmon stamp.

5 (f) Notwithstanding subdivision (a), one crewmember of a vessel for which a
6 commercial fishing salmon stamp is issued pursuant to subdivision (e) may be
7 aboard that vessel and take salmon for a commercial purpose as a crewmember on
8 that vessel without obtaining a commercial fishing salmon stamp, under the
9 following conditions:

10 (1) The crewmember is designated by name and commercial fishing license
11 number on a form furnished by the department before salmon are taken on the
12 vessel when that crewmember is aboard.

13 (2) The crewmember has a valid commercial fishing license issued under
14 Section 14500.

15 (3) The commercial fishing salmon stamp for the crewmember is affixed to the
16 form prescribed in paragraph (1) on which the vessel registration number of the
17 vessel is entered, and on which the crewmember who is exempted by this
18 subdivision is designated by the last entered name and commercial fishing license
19 number.

20 (g) Persons who are exempt from the license requirements, or who are not
21 required to be licensed, pursuant to Section 14500, are exempt from the
22 requirements of this section.

23 **Comment.** Section 41355 continues former Fish and Game Code Section 7860 without
24 substantive change.

25 **§ 41360. Use of fees from commercial fishing salmon stamps**

26 41360. (a) After deducting the administrative costs for issuing commercial
27 fishing salmon stamps, the department shall deposit the fees received pursuant to
28 Section 41355 in the Commercial Salmon Stamp Dedicated Subaccount, which is
29 hereby established in the Fish and Game Preservation Fund. The money in the
30 subaccount shall be available to the department, upon appropriation by the
31 Legislature, for new or expanded salmon restoration and enhancement programs in
32 the state that will serve to increase ocean salmon landings. No money in this
33 subaccount shall be used in lieu of other funds appropriated for salmon restoration
34 and enhancement programs authorized by law on or before January 1, 1988.

35 (b) Thirty dollars (\$30) of the fees collected for each commercial fishing salmon
36 stamp issued shall be allocated by the department to be used for raising chinook
37 salmon to a yearling size, at which size they shall be released into state waters.
38 The amount of salmon stamp revenues expended for this purpose in any fiscal year
39 shall not exceed the amount expended by the department for the same purpose
40 during the same period from other funds. The calculation of the amount expended
41 by the department for this purpose shall not include expenditures made by the
42 department for which reimbursements are received from state or federal agencies,

1 public utilities, or private entities for raising chinook salmon to yearling size as
2 part of a fish mitigation program instituted to compensate for the adverse effect of
3 a dam on natural salmon production. If the department expends no funds other
4 than moneys collected from the sale of commercial fishing salmon stamps or
5 moneys for which reimbursements are received as part of an anadromous fish
6 mitigation program for the raising of chinook salmon to yearling size within the
7 period of a fiscal year, the fees prescribed in Section 41355 shall be reduced by an
8 amount equivalent to that portion of the commercial fishing salmon stamp
9 program, as specified in this subdivision.

10 (c) If the salmon stamps issued pursuant to Section 41355 raise more money for
11 the purpose of subdivision (b) than is necessary to match the funds expended by
12 the department during any fiscal year from other funds, then the excess salmon
13 stamp revenue allocated pursuant to subdivision (b) shall be carried over into the
14 following fiscal year.

15 (d) The department shall post on its Internet Web site an accounting of the
16 projects undertaken with funds from the Commercial Salmon Stamp Dedicated
17 Subaccount, and the costs incurred to administer the program. At a minimum, the
18 Internet Web site shall list the project title, the applicant, a brief description of the
19 project, the amount approved, and the status of the project.

20 (e) Any moneys that were in the Commercial Salmon Stamp Account as of
21 March 14, 2013, and that were retained in the Fish and Game Preservation Fund,
22 shall be transferred to the Commercial Salmon Stamp Dedicated Subaccount.

23 (f) Not more than 15 percent of the funds expended pursuant to this section may
24 be used to pay the costs incurred in the administration of the program.

25 **Comment.** Subdivisions (a) through (e) of Section 41360 continue former Fish and Game
26 Code Section 7861 without substantive change.

27 Subdivision (f) continues former Fish and Game Code Section 7861.1 without substantive
28 change.

29 **§ 41365. Source of other funds for program**

30 41365. (a) Notwithstanding any other law, the department may receive on behalf
31 of the Commercial Salmon Trollers Enhancement and Restoration Program, for
32 deposit in the Commercial Salmon Stamp Dedicated Subaccount in the Fish and
33 Game Preservation Fund established pursuant to Section 41360, funds from
34 sources in addition to funds derived from the sale of commercial fishing salmon
35 stamps, including, but not limited to, grants from the federal government, grants
36 from private foundations, money disbursed from court settlements, and donations
37 and bequeaths from individuals.

38 (b) The additional nonfederal funds shall not be deposited in the Commercial
39 Salmon Stamp Dedicated Subaccount unless the person or entity providing the
40 funds specifically designates in writing, prior to or at the time of transmittal of the
41 funds to the department, that the funds are intended solely for deposit to that
42 subaccount.

(c) Funds received by the department that are not designated at the time of receipt as being intended solely for deposit to the Commercial Salmon Stamp Dedicated Subaccount shall be deposited in the Fish and Game Preservation Fund.

Comment. Section 41365 continues former Fish and Game Code Section 7861.2 without substantive change.

§ 41370. Allocation of funds

41370. In consultation with the Commercial Salmon Trollers Advisory Committee, the department may allocate funds from the Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game Preservation Fund for the following purposes:

(a) For restoration projects to assist in the recovery of salmon stocks listed as threatened or endangered under Part 1 (commencing with Section 62000) of Division 17, or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

(b) As matching funds for federal salmon restoration moneys.

Comment. Section 41370 continues former Fish and Game Code Section 7861.5 without substantive change.

§ 41375. Funding priority

41375. A priority for funding shall be given to programs and projects restoring, enhancing, and protecting salmon streams with funds appropriated pursuant to subparagraph (A) of paragraph (1) of subdivision (e) of Section 5907 of the Public Resources Code, which employ fishermen who are unemployed or underemployed as a result of commercial fishing restrictions within and immediately adjacent to the Klamath Management Zone imposed by federal laws or regulations.

Comment. Section 41375 continues former Fish and Game Code Section 7861.4 without substantive change.

§ 41380. Advisory Committee

41380. (a) A Commercial Salmon Trollers Advisory Committee shall be established consisting of six members selected by the director, as follows:

(1) One member shall be chosen from the personnel of the department.

(2) Four persons shall be selected, with alternates, from a list submitted by a fishermen's organization deemed to represent the commercial salmon fishermen of California.

(3) One member shall be selected, with an alternate, from lists submitted by individual commercial passenger fishing boat operators or by organizations deemed to represent the commercial passenger fishing boat operators of California.

(b) The term of appointment to the committee shall be for two years.

(c) Necessary and proper expenses, if any, and per diem shall be paid committee members from the special account created pursuant to subdivision (a) of Section

1 41360. The rate of per diem shall be the same as the rate established pursuant to
2 Section 8902 of the Government Code.

3 (d) The committee shall recommend programs and a budget from the special
4 account to the department.

5 **Comment.** Section 41380 continues former Fish and Game Code Section 7862 without
6 substantive change.

7 **§ 41385. Creation of artwork or related material for sale**

8 41385. (a) The Commercial Salmon Trollers Advisory Committee may also
9 recommend to the director that a nonprofit organization or the California Salmon
10 Council be authorized to create or contract to create salmon or salmon fishing
11 artwork and other materials based on that artwork, including, but not limited to, a
12 stamp, and offer those items for sale to the public during 2003 and thereafter, for
13 the purpose of augmenting funding for the Commercial Salmon Trollers
14 Enhancement and Restoration Program established under this chapter.

15 (b) The committee may not recommend a nonprofit organization or the
16 California Salmon Council as authorized under subdivision (a), unless all of the
17 following conditions are met:

18 (1) The proposed creation and sale of the artwork is pursuant to a written
19 business plan presented to the committee.

20 (2) The committee determines that a reasonable share of the sales of any stamp
21 will be remitted to the department for deposit into the Commercial Salmon Stamp
22 Dedicated Subaccount established in the Fish and Game Preservation Fund under
23 Section 41360.

24 (3) The committee determines that the creation and sale of the artwork will act
25 to increase public awareness and support for the salmon stamp program and the
26 restoration of salmon and their habitats in the state.

27 (4) Any other conditions deemed necessary by the committee for determining
28 whether to recommend approval to the director have been met.

29 (c) The director, upon receiving the recommendation of the committee, and
30 upon finding that there will be no new costs to the department, may authorize the
31 recommended entity to create or contract to create salmon or salmon fishing
32 artwork and other materials based on that artwork, including, but not limited to, a
33 stamp, and offer those items for sale to the public, for the purpose described in
34 subdivision (a).

35 (d) No person or entity, including, but not limited to, any nonprofit organization,
36 may use the name of the Commercial Salmon Stamp, the Commercial Salmon
37 Trollers Advisory Committee, or the Commercial Salmon Trollers Enhancement
38 and Restoration Program for the sale of artwork and other materials, unless that
39 person or entity has been approved by the director under this section for that
40 purpose. The approval of the director under this section shall be for one year, after
41 which the approval may be renewed for an additional year, upon recommendation
42 of the committee.

(e) No artwork sold in the form of a stamp under this section conveys to the purchaser any entitlement to engage in the commercial salmon fishery.


(f) Proceeds from the sales of artwork and other materials sold under this section, after deduction of all reasonable costs borne by the nonprofit organization or California Salmon Council for creation of the artwork and conducting the sales, shall be deposited in the Commercial Salmon Stamp Dedicated Subaccount.

Comment. Section 41385 continues former Fish and Game Code Section 7862.5 without substantive change.

§ 41390. Inoperative date of chapter

41390. This chapter shall remain in effect only until January 1, 2029, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2029, deletes or extends that date.

Comment. Section 41390 continues former Fish and Game Code Section 7863 without substantive change.

 **Note.** Proposed Section 41390 would continue Section 7863, which was amended by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

CHAPTER 3. PERMISSIONS AND PROHIBITIONS

§ 41450. Authorized take

41450. (a) Except as modified by the director pursuant to Section 22405, salmon may be taken under authority of a commercial fishing license and a commercial fishing salmon stamp only in Districts 2570, 2575, 2590, 2595, 2610, 2615, 2620, and 2625.

(b) All species of salmon, except silver salmon, may be taken only between April 15 and September 30. Silver salmon may be taken only between May 15 and September 30.

(c) No king salmon may be possessed that is less than 26 inches in length and no silver salmon may be possessed that is less than 22 inches. The length of salmon is to be measured from the tip of the snout to the extreme tip of the tail without resorting to any force other than swinging or fanning the tail.

(d) Salmon may be taken for commercial purposes only by hook and line, and there is no bag limit.

Comment. Section 41450 continues former Fish and Game Code Section 8210.2 without substantive change.

See also Section 5710 (enforcement).

§ 41455. Possession, sale, offer for sale, or purchase

41455. Salmon may be possessed, sold, offered for sale, or purchased only under one of the following conditions:

(a) If taken legally in another state that permits the sale of salmon, and lawfully imported consistent with Section 41050.

(b) If taken in compliance with this chapter.

Comment. Section 41455 combines and restates former Fish and Game Code Section 8217, and the part of Section 8371(c)-(d) applicable to salmon, without substantive change.

See also Section 5710 (enforcement).

Note. Proposed Section 41455 is intended to combine and restate existing Fish and Game Code Section 8217, and the part of Section 8371(c)-(d) applicable to salmon, to clarify the meaning of those provisions without changing their substantive effect. The existing provisions read as follows:

8217. Salmon may be sold subject to the exceptions and restrictions contained in this article.

8371. Striped bass and salmon may be sold or offered for sale only under the following conditions:

(a) If the striped bass is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, that striped bass may be sold or purchased subject to regulations of the commission.

(b) If the striped bass is taken legally in another state that permits the sale of that fish and if the fish is lawfully imported under Section 2363, the striped bass may be possessed, sold, or purchased.

(c) If the salmon is taken legally in another state that permits the sale of salmon, and is lawfully imported consistent with Section 2361, the salmon may be possessed, sold, or purchased.

(d) If the salmon is taken in accordance with Article 4 (commencing with Section 8210.2), the salmon may be possessed, sold, or purchased.

The Commission invites comment on whether the proposed combining and restatement would cause any substantive change in the meaning of the provisions.

§ 41460. Sale during period when take unlawful

41460. During the period when salmon may not be taken for commercial purposes in a district, salmon may be sold in that district only under the regulations of the commission.

Comment. Section 41460 continues former Fish and Game Code Section 8213 without substantive change.

See also Section 5710 (enforcement).

§ 41465. Take at mouth of Humboldt Bay

41465. It is unlawful to take salmon for commercial purposes at the mouth of Humboldt Bay in those portions of Districts 2570 and 2575 within three nautical miles north and south of a line drawn due west for three nautical miles from the center of the mouth of that bay.

Comment. Section 41465 continues former Fish and Game Code Section 8214 without substantive change.

See also Section 5710 (enforcement).

§ 41470. Sale, possession, or transport of silver salmon in specified districts

41470. Silver salmon may not be sold or possessed in, or transported through, District 2570, 2575, 2590, 2595, 2610, 2615, or 2620, during the time when the taking of silver salmon for commercial purposes is unlawful in those districts.

1 **Comment.** Section 41470 continues former Fish and Game Code Section 8215 without
2 substantive change.

3 See also Section 5710 (enforcement).

4 **§ 41475. Undersized salmon**

5 41475. It is unlawful to gaff, club, otherwise injure, or possess any king or silver
6 salmon under the legal size.

7 **Comment.** Section 41475 continues former Fish and Game Code Section 8218 without
8 substantive change.

9 See also Section 5710 (enforcement).

10 **§ 41480. Take for commercial purpose in District 2570 or 2575**

11 41480. Salmon may not be taken for commercial purposes in District 2570 at the
12 mouths of the Smith and Klamath Rivers within three nautical miles north and
13 south of a line drawn due west for three nautical miles from the center of the
14 mouth of each of those streams, or during the months of August and September in
15 District 2575 at the mouth of the Eel River within two nautical miles north and
16 south of a line drawn due west for two nautical miles from the center of the mouth
17 of that stream.

18 **Comment.** Section 41480 continues former Fish and Game Code Section 8219 without
19 substantive change.

20 See also Section 5710 (enforcement).

21 **§ 41485. Take with purse or round haul net**

22 41485. Salmon may not be taken with a purse or round haul net.

23 **Comment.** Section 41485 continues the part of former Fish and Game Code Section 8756
24 applicable to salmon without substantive change.

25 See also Section 5710 (enforcement).


26 **§ 41490. Use of trawl net**

27 41490. (a) Except as provided in subdivision (b), it is unlawful for any person to
28 possess salmon on board, or to land salmon from, a vessel on which exists any
29 type of trawl net.

30 (b) Salmon taken incidentally with other species with a trawl net may be
31 possessed and landed if authorized to be taken incidentally pursuant to Section
32 663.10 of Part 663 of Title 50 of the Code of Federal Regulations, pursuant to a
33 permit issued by the department under Chapter 5 (commencing with Section
34 12050) of Title 2 of Part 4 of Division 6, or pursuant to both.

35 **Comment.** Section 41490 continues former Fish and Game Code Section 8834.1 without
36 substantive change.

37 See also Section 5710 (enforcement).

38  **Note.** Proposed Section 41490 would continue Section 8834.1, which was amended by 2018
39 Cal. Stat. ch. 477. Although that bill will not take effect until 2019, it is included here in
40 anticipation of its effect.

1 **§ 41495. Required return to water if caught in net**

2 41495. (a) Any salmon that is taken in any type of net shall, regardless of its
3 condition, be immediately freed and removed from the net by the fisherman, and
4 immediately returned to the water without further harm.

5 (b) A commercial fisherman shall not have any salmon, whether dead or alive,
6 in his or her possession, at any time when conducting netting operations or when
7 going to or from those operations, except when releasing a salmon from a net.

8 (c) The return of salmon to the water pursuant to this section is not deterioration,
9 waste, or spoilage of fish for purposes of Section 14310.

10 **Comment.** Section 41495 continues the part of former Fish and Game Code Section 8370
11 applicable to salmon without substantive change.

12 CHAPTER 4. HIGH SEAS INTERCEPTION OF SALMON

13 **§ 41600. Definitions**

14 41600. The definitions in this section govern the construction of this chapter:

15 (a) “Environmental purpose” means the intent to prevent or minimize adverse
16 ecological effects to water quality.

17 (b) “High seas interception” means the unauthorized taking of salmon for
18 commercial purposes outside the United States 200-mile fishery conservation
19 zone.

20 (c) “Humanitarian purpose” means the intent to provide medical services for a
21 sick or injured person, or to prevent the loss of human life.

22 (d) “Process” means affecting the condition or location of salmon, including
23 preparation, packaging, storage, refrigeration, or transportation.

24 (e) “Unauthorized” means contrary to a statute or regulation of the United States
25 or this state or to a treaty or international fishery agreement, or in violation of a
26 foreign law.

27 (f) “Written instrument” means hand written or printed matter, including
28 vessels’ logs and papers, bills of lading and sale, documents relating to processing,
29 shipping, and customs, and information stamped on or affixed to cans, crates,
30 containers, freight, or other means of storage or packaging.

31 **Comment.** Section 41600 continues former Fish and Game Code Section 8120 without
32 substantive change.

33 **§ 41605. Prohibited acts generally**

34 41605. It is unlawful for any person to do any of the following:

35 (a) Buy, sell, trade, process, or possess salmon, or attempt to buy, sell, trade,
36 process, or possess salmon, with the knowledge that the salmon has been, or will
37 be, obtained by high seas interception.

38 (b) Knowingly provide financing, premises, equipment, supplies, services,
39 power, or fuel used to buy, sell, trade, process, or possess salmon that has been, or
40 will be, obtained by high seas interception.

1 (c) Act as a broker or middleman, or otherwise act on behalf of another person,
2 to arrange for or negotiate, or attempt to arrange for or negotiate, the purchase,
3 sale, trade, processing, or possession of salmon, with the knowledge that the
4 salmon has been, or will be, obtained by high seas interception.

5 (d) Create, circulate, or possess any written instrument related to salmon with
6 the knowledge that the written instrument conveys misleading or untrue
7 information about the ownership, possession, processing, origin, destination, route
8 of shipping, type, or condition of salmon, or the time, place, and manner of the
9 taking of the salmon.

10 **Comment.** Subdivisions (a) through (c) of Section 41605 continue former Fish and Game
11 Code Section 8121 without substantive change.

12 Subdivision (d) continues former Fish and Game Code Section 8122 without substantive
13 change.

14 **§ 41610. Prohibited acts on vessel known to contain unlawfully obtained salmon**

15 41610. (a) It is unlawful for a person who knows that a vessel contains salmon
16 obtained by high seas interception, or that the owner or operator of the vessel
17 intends to engage in the high seas interception of salmon, to do any of the
18 following:

19 (1) Move persons, cargo, or other property to or from the vessel.

20 (2) Service or repair the vessel or its equipment.

21 (3) Provide the vessel with power, supplies, equipment, or fuel.

22 (4) Provide the vessel with information, other than weather reports, capable of
23 aiding the high seas interception of salmon or frustrating or avoiding detection,
24 including communicating the movements, intentions, or activities of state or
25 federal law enforcement officials or other fishing vessels.

26 (5) Permit the vessel to dock or anchor, or to remain docked or anchored, if that
27 person is responsible for the operation of the facility, harbor, or anchorage.

28 (b) This section does not prohibit any person from performing any act or acts set
29 forth in subdivision (a) if that person reasonably believes that the act or acts were
30 necessary for humanitarian or environmental purposes or to prevent a significant
31 loss of property, if that person provides immediate notice, by the quickest
32 available means, to the United States Coast Guard, the department, or any law
33 enforcement agency, as to the type of assistance provided and the circumstances
34 involved.

35 **Comment.** Section 41610 continues former Fish and Game Code Section 8123 without
36 substantive change.

CHAPTER 5. COMMERCIAL SALMON VESSEL PERMITS

Article 1. General Provisions

§ 41650. Legislative declaration

41650. (a) The Legislature finds and declares that commercial salmon fishing is in the public interest and that the preservation of commercial salmon fishing directly affects the health and welfare of the public. The Legislature further finds and declares that, due to past declines in salmon stocks, the increase in the quality and value of salmon on the market, the number and types of vessels being used, the commensurate salmon fishing potential of the commercial salmon fishing fleet, and the demand for entry into the commercial salmon fishery, it is necessary and proper to limit the persons who are eligible to take salmon for commercial purposes and to regulate the amount of salmon that may be taken by restricting the number and salmon fishing potential of the vessels in the commercial salmon fishing fleet in order to preserve and rebuild the salmon resource, to protect commercial salmon fishing, and thereby to protect the health and welfare of the public.

(b) The Legislature further finds and declares the following:

(1) The salmon resource declined in 1983 and 1984 as a result of the most severe warm water El Nino current of this century, which caused major disruptions and hardship in the commercial salmon fishery. Habitat destruction in the rivers of California has also depleted the salmon stocks which are bred and reared in those rivers.

(2) The Pacific Fishery Management Council has imposed season closures on the taking of salmon since 1982, including a total prohibition on commercial taking of salmon in 1985 along portions of the northern California coast to protect the king salmon stock from the Klamath River. In 1987, a five-year agreement was signed which allocates the king salmon stock from the Klamath River between ocean commercial and recreational users and in-river Indian and recreational users. This agreement may result in further closures.

(3) Nearly 30 percent of the commercial salmon fishing vessels which were permitted to take salmon for commercial purposes in California did not record landings of salmon in the 1986 and 1987 commercial salmon seasons.

(4) There are more than enough commercial salmon fishing vessels for which commercial salmon fishing permits have been issued to harvest the less than 10 million pounds of salmon that are currently available annually. With the present fleet makeup between large vessels and small vessels and between full-time and part-time fishermen, it is estimated that the present resource capacity may accommodate a fleet of not more than 2,500 permitted vessels. Therefore, no new permits should be issued until the time that the fleet size falls below 2,500 permitted vessels. Adequate provision for entry of new persons or vessels to the

1 commercial salmon fishery is afforded by transfers of vessels for which permits
2 have been issued and renewed and by transfers of those existing permits to vessels
3 of the same or less salmon fishing potential.

4 **Comment.** Section 41650 continues former Fish and Game Code Section 8230 without
5 substantive change.

6 **§ 41655. Severability of provisions**

7 41655. If any provision of this chapter, or the application of those provisions, to
8 any person or circumstance, is held invalid, that invalidity shall not affect other
9 provisions or applications of the chapter that can be given effect without the
10 invalid provision or application, and to this end the provisions of those chapters
11 are severable.

12 **Comment.** Section 41655 continues former Fish and Game Code Section 8248 without
13 substantive change.

14 **§ 41660. Regulation and administrative procedures**

15 41660. (a) The commission and the department may make and enforce
16 regulations that may be necessary or convenient for carrying out any power,
17 authority, or jurisdiction delegated to it under this chapter.

18 (b) The department, in cooperation with the commercial salmon fishing review
19 board, shall establish and implement administrative procedures for the
20 administration of this chapter.

21 **Comment.** Subdivision (a) of Section 41660 continues former Fish and Game Code Section
22 8246.8 without substantive change.

23 Subdivision (b) continues former Fish and Game Code Section 8239.2 without substantive
24 change.

25 **§ 41665. Commercial take or possession on vessel**

26 41665. It is unlawful to take or possess salmon for a commercial purpose on a
27 vessel unless all of the following conditions are met:

28 (a) The vessel is registered with the department pursuant to Section 14755, and
29 the owner of the vessel has a valid commercial salmon vessel permit for the use of
30 that vessel.

31 (b) The permit for the use of the vessel is affixed to the vessel adjacent to the
32 department registration number unless otherwise authorized by the department.

33 (c) The permit affixed to the vessel is visible at all times.

34 **Comment.** Section 41665 continues former Fish and Game Code Section 8232 without
35 substantive change.

36 **§ 41670. Take for sport purposes**

37 41670. (a) Except as provided in this section, it is unlawful to take salmon for
38 sport purposes on a permitted vessel.

39 (b) Subdivision (a) does not prohibit taking salmon for sport purposes under a
40 sportfishing or a sport ocean fishing license, which is issued pursuant to Title 2

1 (commencing with Section 12850) of Part 5 of Division 6, on a vessel licensed as
2 a commercial passenger fishing boat pursuant to Section 21905 and engaged in
3 that business on any day when salmon are not being taken for commercial
4 purposes on that vessel.

5 (c) Subdivision (a) does not prohibit taking salmon for sport purposes under a
6 sportfishing or a sport ocean fishing license, which is issued pursuant to Title 2
7 (commencing with Section 12850) of Part 5 of Division 6, on a permitted vessel in
8 the Klamath Management Zone, as designated by the federal Pacific Fisheries
9 Management Council, when the commercial salmon season is closed and more
10 than 24 hours after the time when salmon taken during the commercial salmon
11 season are required to be landed.

12 (d) The use of a vessel pursuant to subdivision (c) shall be considered as being
13 engaged or employed exclusively in the taking and possession of fish or other
14 living resource of the sea for commercial purposes for purposes of subdivision (a)
15 of Section 227 of the Revenue and Taxation Code.

16 **Comment.** Section 41670 continues former Fish and Game Code Section 8232.5 without
17 substantive change.

18 **§ 41675. Conditions for issuance of any permit**

19 41675. The department shall not issue a permit under this chapter unless one of
20 the following first occurs:

21 (a) The applicant presents to the department a commercial fishing salmon stamp
22 issued to the owner or an agent of the owner. No commercial fishing salmon
23 stamp shall be presented or accepted by the department to authorize issuance of a
24 permit under this section for more than one vessel.

25 (b) The applicant obtains a commercial fishing salmon stamp and pays the fees
26 for the stamp.

27 (c) On or before April 1 of the current license year, the owner is 70 years of age.

28 **Comment.** Section 41675 continues former Fish and Game Code Section 8234(a) without
29 substantive change.

30 **§ 41680. Inapplicability of limited fishery eligibility provision**

31 41680. Section 22500 does not apply to this chapter.

32 **Comment.** Section 41680 continues former Fish and Game Code Section 8233.9 without
33 substantive change.

34 **§ 41685. Allowable number of permitted vessels**

35 41685. (a) If the department determines that the number of permitted vessels is
36 less than 2,500, the department shall determine, after consultation with the review
37 board, the number and vessel classification for which any new, original permits
38 may be issued to bring the total number of permitted vessels to no more than
39 2,500.

1 (b) New, original permits to be issued shall be authorized by vessel
2 classifications established under subdivision (a) of Section 41745.

3 Comment. Section 41685 continues former Fish and Game Code Section 8243 without
4 substantive change.

5 **§ 41690. New entry permit**

6 41690. A person seeking to gain entry into the commercial salmon fishery may
7 obtain a permit under either of the following conditions:

8 (a) By legally obtaining the ownership of a permitted vessel and notifying the
9 department of the change of ownership of the permitted vessel.

10 (b) By applying to obtain a new, original permit issued by the department
11 pursuant to Sections 41695 and 41700.

12 **Comment.** Section 41690 continues former Fish and Game Code Section 8242 without
13 substantive change.

14 **§ 41695. Application for new entry permit**

15 41695. (a) An applicant may apply for a new, original permit as an individual, a
16 joint venture, or a corporation. The applicant may submit only one application
17 annually. The application shall be made on a form provided by the department.

18 (b) An applicant for a new, original permit under this section shall submit a
19 completed application as directed by the department. The completed application,
20 and the application fees prescribed in subdivision (c), shall be delivered or
21 postmarked on or before February 1 in order to be considered for permits for the
22 subsequent permit year.

23 (c) The applicant shall submit with the application a nonrefundable application
24 fee determined by the department in an amount sufficient to pay the costs of
25 administering the issuance of new, original permits by the department, which shall
26 be not less than thirty-five dollars (\$35).

27 (d) The department, after consultation with the review board, shall determine the
28 fishing potential of the vessel for use of which the new, original permit is to be
29 issued and otherwise determine if the applicant is eligible to be issued a permit
30 under this chapter.

31 **Comment.** Section 41695 continues former Fish and Game Code Section 8244 without
32 substantive change.

33 **§ 41700. Drawing for new entry permits**

34 41700. (a) The department shall conduct a drawing from the applicants
35 determined to be eligible for new, original permits pursuant to Section 41695 on
36 the first Friday in March of each year that new, original permits are authorized to
37 be issued pursuant to Section 41685.

38 (b) The department shall issue a permit to each of those applicants who are
39 drawn upon payment of the fees prescribed in subdivision (c) for the permit and,
40 except as provided in subdivision (e), submittal of sufficient information to

1 establish that the applicant is the owner of a vessel within the vessel classification
2 designated in the application.

3 (c) The amount of the fees for a permit issued under this section are the same as
4 the amount of the fees for renewal of a permit for the subsequent license year
5 beginning on April 1 which are established pursuant to subdivision (b) of Section
6 41725. A successful applicant shall pay the fees for the permit on or before March
7 31. The department shall deposit the fees to the fund pursuant to Section 3600.

8 (d) Except as provided in subdivision (e), a successful applicant shall submit
9 proof of ownership of the vessel to be used under the permit within 90 days of the
10 drawing.

11 (e) A successful applicant may request one extension of no more than 90 days to
12 obtain a vessel as designated in the application. The department, after consultation
13 with the review board, may grant that extension.

14 (f) If any successful applicant does not establish that he or she is the owner of a
15 vessel as designated in the application and affix the new permit on that vessel or
16 on another vessel with the same or less fishing potential, as determined by the
17 department after consultation with the board, within 90 days or by the end of a 90
18 day extension granted by the department, the new permit is null and void.

19 (g) The department or the review board is not liable for any risk of failure by the
20 applicant to obtain a vessel which is designated in an application or to complete
21 the process for determination of the fishing potential of another vessel, or for
22 failure by the applicant to obtain that other vessel, in the time prescribed in this
23 section.

24 **Comment.** Section 41700 continues former Fish and Game Code Section 8245 without
25 substantive change.

26 **§ 41705. Review of new entry provisions**

27 41705. The review board shall review the effectiveness of new entry provisions
28 every three years beginning three years following the first permit drawing and
29 make recommendations to the department for any changes it finds to be needed in
30 the new entry system.

31 **Comment.** Section 41705 continues former Fish and Game Code Section 8245.5 without
32 substantive change.

33 **§ 41710. Issuance of new entry permit**

34 41710. Except as otherwise provided in this chapter, the department shall issue a
35 permit to the owner of a commercial salmon fishing vessel that is registered with
36 the department pursuant to Section 14755 for the new entry of that vessel into the
37 commercial salmon fishery, if that owner is authorized to be issued a permit for
38 the use of that new entry vessel pursuant to subdivision (b) of Section 41700.

39 **Comment.** Section 41710 continues former Fish and Game Code Section 8233.8 without
40 substantive change.

1 **§ 41715. Renewal required prior to expiration**

2 41715. Except as otherwise provided in this chapter, a permit shall be renewed
3 prior to expiration.

4 **Comment.** Section 41715 continues the first sentence of former Fish and Game Code Section
5 8233 without substantive change.

6 **§ 41720. Department to send renewal notice and application**

7 41720. (a) The department shall send a written notice of renewal and a permit
8 renewal application to the owner of each currently permitted vessel at the most
9 recent address of that owner in the records of the department. The notice shall be
10 sent by first-class mail before March 1. The department shall mail a copy of the
11 notice for renewal to all associations and groups known to the department to be
12 representing commercial salmon fishermen. The department shall also provide
13 blank permit renewal applications at appropriate offices of the department.

14 (b) The notice shall include all of the following:

15 (1) Instructions on how to apply for renewal of a permit.

16 (2) Information on the provisions of subdivisions (c) and (e) of Section 41725.

17 (c) Failure to receive the notice under this section does not exempt or excuse the
18 owner from the requirement of annual renewal of the permit on or before the
19 permit expiration date.

20 **Comment.** Section 41720 continues former Fish and Game Code Section 8236 without
21 substantive change.

22 **§ 41725. Renewal of permit**

23 41725. (a) The owner of a permitted vessel, or that owner's agent, may apply for
24 renewal of the permit annually on or before April 30, upon payment of the fees
25 established under subdivision (b), without penalty. Upon receipt of the application
26 and fees, the department shall issue the permit for use of the permitted vessel in
27 the subsequent permit year only to the owner of the permitted vessel.

28 (b) The department shall fix the annual fee for the renewal of the permit in an
29 amount it determines to be necessary to pay the reasonable costs of implementing
30 and administering this chapter.

31 (c) If an owner to whom a permit has been issued, or that owner's agent, applies
32 for renewal of the permit, the application for renewal shall be received or, if
33 mailed, postmarked, on or before April 30. An application received or, if mailed,
34 postmarked, after April 30 shall be assessed a late fee subject to Section 14605.
35 The department shall issue the permit for use of the permitted vessel in the
36 subsequent permit year.

37 (d) The department shall suspend a late fee otherwise due under subdivision (c)
38 and shall issue a permit for use of the permitted vessel in the subsequent permit
39 year if the department is unable to accept applications for renewal of permits by
40 March 1.

(e) Except as provided in subdivision (c), the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

Comment. Section 41725 continues former Fish and Game Code Section 8235 without substantive change.

§ 41730. Issuance of permit after renewal

41730. Except as otherwise provided in this chapter, the department shall issue a permit, upon application and payment of the renewal fees pursuant to Section 41725, that is valid for the subsequent permit year, to the owner of a permitted vessel that is registered with the department pursuant to Section 14755.

Comment. Section 41730 continues former Fish and Game Code Section 8233.3 without substantive change.

§ 41735. Change of ownership of vessel

41735. (a) Except as otherwise provided in this chapter, the department shall change the designation of the holder of a permit to the new owner of a permitted vessel upon receipt of a notice of change of ownership of the permitted vessel, whether the change of ownership is by contract, by operation of law, or otherwise.

(b) The permit shall not be transferred to any other vessel, except by the issuance of a permit for use of the replacement vessel pursuant to subdivision (c) subdivision (b) of Section 41660, and Sections 41740, 41750, 41755, and 41765.

(c) The owner of the permitted vessel may seek to retire the permitted vessel from the commercial salmon fishery and apply for transfer of the permit, to be issued pursuant to subdivision (j) of Section 41740, for use of a replacement vessel.

(d) A permit changed pursuant to this section is valid for the permit year during which it is issued.

(e) Upon change of the designation of the holder of the permit, all rights, privileges, and obligations of a permit holder, including rights of renewal, are transferred to the new owner of the permitted vessel.

Comment. Section 41735 combines and restates former Fish and Game Code Sections 8233.5 and 8237 without substantive change.

Note. Proposed Section 41735 is intended to combine and restate existing Fish and Game Code Sections 8233.5 and 8237 to improve their clarity, without changing their substantive effect. The existing provisions read as follows:

8233.5. Except as otherwise provided in this article, the department shall change the designation of the holder of a permit, and with it shall go all rights, privileges, and obligations of a permit holder, including rights of renewal, upon receipt of a notice of change of ownership to a new owner of a permitted vessel upon change of ownership in the permitted vessel. A permit changed pursuant to this section is valid for the permit year during which it is issued.

8237. (a) The department shall change the designation of the holder of a permit to the new owner of a permitted vessel upon change of ownership of the permitted vessel, whether the change of ownership is by contract, by operation of law, or otherwise.

(b) The permit shall not be transferred to any other vessel, except by the issuance of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections 8239 to 8241, inclusive.

(c) The owner of the permitted vessel may seek to retire the permitted vessel from the commercial salmon fishery and apply for transfer of the permit, to be issued pursuant to Section 8241, for use of a replacement vessel.

The Commission invites comment on whether the proposed combining and restatement would cause any substantive change in the meaning of the provisions.

§ 41740. Replacement vessel permit

41740. A transfer may be approved and a permit issued for use of a replacement vessel pursuant to subdivision (j) of Section 41740 under all of the following conditions:

(a) The vessel owner submits a written request for the transfer to the department on a form provided by the department and pays a nonrefundable transfer fee of two hundred dollars (\$200).

(b) The permit for the permitted vessel is current, and the owner of the permitted vessel makes assurances in the application that any renewal of the permit which becomes due during the application processing period will be made.

(c) The owner of the permitted vessel submits evidence with the application sufficient to establish that he or she is the owner of the permitted vessel at the time of the application for the transfer.

(d) The vessel owner submits evidence with the application sufficient, in the judgment of the review board and the department, to establish that the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.

(e) Under penalty of perjury, the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her information and belief.

(f) The same transfer has not been requested within the previous 12 months or the same transfer has not previously been denied and that denial is final, unless the application or supporting information are different than that contained in the previous application, as determined by the department and after consultation with the review board.

(g) The permittee has 50 percent or greater ownership interest in the permitted vessel and in the replacement vessel. For purposes of this subdivision and subdivision (h), “permittee” means an individual designated as the owner of the permitted vessel.

(h) Except as provided in subdivisions (a) through (c) of Section 41755, or paragraph (5) of subdivision (a) of Section 41780, the permittee has maintained a 50 percent or greater ownership interest in the permitted vessel for not less than 18 months prior to the date of the transfer and the permit for use of the permitted vessel has been maintained for that vessel and has not been previously transferred less than 18 months prior to the date of the transfer.

(i) The permittee has written authority from the legal owner, if other than the permittee or mortgager, if any, to transfer the vessel permit from the permitted vessel.

(j) The department determines, after consultation with the review board, the following:

(1) The replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel. The review board and the department shall consider the type of fishery the vessel was previously used in and the vessel's highest and best use by a prudent operator, and the review board shall make written findings on those facts.

(2) The replacement vessel's fishing potential will not substantially increase fishing capacity over that which resulted from the operation of the permitted vessel.

(3) The applicant owns the replacement vessel.

(4) The conditions in this chapter are satisfied.

Comment. Subdivisions (a) through (i) of Section 41740 continue former Fish and Game Code Section 8239 without substantive change.

Subdivision (j) continues former Fish and Game Code Section 8241 without substantive change.


§ 41745. Fishing potential classification system for replacement vessels

41745. (a) The department, in consultation with the review board, shall establish and adopt, in the manner prescribed in former Fish and Game Code Section 8238.3, a vessel classification system to determine the fishing potential of replacement vessels for applications for transferred permits to be issued pursuant to subdivision (j) of Section 41740, including consideration of how the vessel from which the permit is sought to be transferred was used, the vessel's highest and best use by a prudent operator, and the fishing potential of prospective vessels for applications for new, original permits.

(b) The vessel classification system shall be used by the department in consultation with the review board for issuance of new original vessel permits pursuant to Section 41685 and as a guideline for the review board in making its recommendations to the department on vessel permit transfers.

Comment. Subdivision (a) of Section 41745 continues former Fish and Game Code Section 8238 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 8238.1 without substantive change.

 **Note.** Existing Fish and Game Code Section 8238 requires the Department of Fish and Wildlife, on or before January 1, 1991, to establish and adopt a specified vessel classification system "in the manner prescribed in Section 8238.3." However, Section 8238.3 was repealed by its own terms in 1988, operative January 1, 1992. See 1988 Cal. Stat. ch. 1164

The Commission invites comment on how this part of Section 8238 should be continued in proposed Section 41745.

1 **§ 41750. Request for review of vessel before submission of transfer application**

2 41750. Notwithstanding subdivisions (a) through (i) of Section 41740,
3 subdivisions (a) through (c) of Section 41755, or subdivision (b) of Section 41660,
4 any person may request the review board to determine the fishing potential of any
5 permitted vessel or any replacement vessel before a transfer application for a
6 permit for use of a replacement vessel is submitted to the department. The person
7 making a request under this subdivision is not required to be the owner of either
8 vessel. A determination under this subdivision is not binding on the review board
9 or the department and is only advisory.

10 **Comment.** Section 41750 continues former Fish and Game Code Section 8239.9 without
11 substantive change.

12 **§ 41755. Transfer application based on lost, stolen, or destroyed vessel**

13 41755. (a) Unless otherwise prohibited, the department shall accept a transfer
14 application within one year after the date that a permitted vessel was lost, stolen,
15 or destroyed, notwithstanding any inability to physically examine the permitted
16 vessel to determine its salmon fishing potential. Only the permittee at the time of
17 the loss, theft, or destruction of the vessel may apply for the transfer of the vessel
18 permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a
19 copy of the report filed with the United States Coast Guard or any other law
20 enforcement agency or fire department investigating the loss.

21 (b) The owner, or the owner's agent, may request an extension of the time to
22 complete a transfer under subdivision (a) if the application for extension is
23 submitted before the end of the time to submit an application under subdivision
24 (a), or before the end of any previous extensions granted under this subdivision,
25 whichever date is later.

26 (c) The department, after consultation with the review board and for good cause
27 shown, including, but not limited to, inability to find a replacement vessel or
28 pending litigation, may grant an extension of the time to complete a transfer under
29 subdivision (a) for a period of six months. The department may grant further
30 extensions under this subdivision, not to exceed a total time period of five years
31 after the date the permitted vessel was lost, stolen, or destroyed if the permit fees
32 are paid annually as required in paragraph (2) of subdivision (b) of former Fish
33 and Game Code Section 8239, as amended by Chapter 1703 of the Statutes of
34 1990, and paragraph (3) of subdivision (d) of Section 41755.

35 (d) Notwithstanding any other provision of this section, the department shall not
36 issue a permit for use of a replacement vessel if any of the following
37 circumstances exist:

38 (1) The permitted vessel was reported as lost, stolen, or destroyed by fraudulent
39 means, or for fraudulent purposes.


40 (2) The permit application contains or is accompanied with fraudulent or
41 willfully misleading information.

(3) The permit for the permitted vessel expires and is not renewed. Except as provided in Section 41725, an owner of a permitted vessel shall renew the permit before the expiration date even if that owner has a transfer application pending.

(e) The department may refuse to issue a permit for use of a replacement vessel, or issue a permit to a new owner of a permitted vessel, on any grounds for which a permit may be suspended or revoked.

Comment. Subdivisions (a) through (c) of Section 41755 continue former Fish and Game Code Section 8239.1 without substantive change.

Subdivisions (d) and (e) continue former Fish and Game Code Section 8240 without substantive change.

 **Note.** Existing Fish and Game Code Section 8239.1(b)(2) (which would be continued by proposed Section 41755(c)) refers to permit fees being paid annually “as required in paragraph (2) of subdivision (b) of Section 8239.” However, that paragraph was in a version of Section 8239 that was repealed by its own terms, operative January 1, 1992, in 1990. See 1990 Cal. Stat. ch. 1703.

The Commission invites comment on how this part of Section 8239.1 should be continued in proposed Section 41755.

§ 41760. Issuance of replacement vessel permit

41760. Except as otherwise provided in this chapter, the department shall issue a permit, upon payment of the transfer fees pursuant to subdivision (a) of Section 41740 and surrender to the department of the permit for the use of the permitted vessel, to the owner of a replacement vessel that is registered with the department pursuant to Section 14755, if the transfer has been approved pursuant to subdivision (j) of Section 41740.

Comment. Section 41760 continues former Fish and Game Code Section 8233.4 without substantive change.

§ 41765. Term of permit for replacement vehicle

41765. A permit issued for the use of a replacement vessel under subdivision (j) of Section 41740 is valid for the balance of the permit year for which the permit for the use of the permitted vessel was originally issued or last renewed, and the permit issued under this section authorizes the use of the replacement vessel only for that period.

Comment. Section 41765 continues former Fish and Game Code Section 8239.6 without substantive change.

§ 41775. Appeal of denial or permit transfer

41775. A person who has been denied a permit transfer may appeal the denial to the commission by submitting the appeal in writing to the commission within 60 days of the decision.

Comment. Section 41775 continues former Fish and Game Code Section 8246.6, as it pertained to transfer, without substantive change.

1 **§ 41780. Reversal of denial of permit renewal or transfer**

2 41780. (a) The commission shall order a permit renewed or order the approval
3 of a permit transfer only if it finds one of the following grounds:

4 (1) The permittee failed to submit an application and pay the fees for renewal on
5 or before April 30 pursuant to Section 41725 and the failure to renew a permit
6 until after the expiration date was due to death, physical illness, mental incapacity,
7 or being called to active military duty, and the person was not reasonably able to
8 have an agent renew the permit.

9 (2) A lienholder of a permitted vessel, if the vessel is the property of the
10 lienholder as a result of foreclosure, surrender, or litigation, can show loss due to
11 the nonrenewal of a permit by the permittee, and the nonrenewal occurred without
12 the knowledge of the lienholder.

13 (3) The denial of the permit transfer was arbitrary or capricious.

14 (4) The denial of the permit transfer was pursuant to subdivision (g) or (h) of
15 Section 41740 and the applicant can show that the 18-month requirement cannot
16 be met due to death, physical illness, mental incapacity, or being called to active
17 military duty.

18 (b) Each appeal shall be heard and considered separately on its own merits.

19 **Comment.** Section 41780 continues former Fish and Game Code Section 8246.7, as it
20 pertained to renewal or transfer, without substantive change.

21 **§ 41795. Display of permit expiration date**

22 41795. Each permit issued by the department shall display the expiration date on
23 the face of the permit.

24 **Comment.** Section 41795 continues the second sentence of former Fish and Game Code
25 Section 8233 without substantive change.

26 **§ 41800. Commercial fishing salmon stamp**

27 41800. The first commercial fishing salmon stamp issued to an owner, or to that
28 owner's agent, shall be affixed to the commercial fishing license of that owner or
29 agent. Any additional commercial fishing salmon stamps issued to the owner or
30 the owner's agent pursuant to subdivision (a) of Section 41675 for purposes of
31 obtaining permits for use of additional commercial salmon fishing vessels shall be
32 affixed to each additional vessel's registration issued pursuant to Section 14755.

33 **Comment.** Section 41800 continues former Fish and Game Code Section 8234(b) without
34 substantive change.

35 Article 2. Commercial Salmon Fishing Review Board

36 **§ 41900. Creation of board**

37 41900. There is in the department a commercial salmon fishing review board,
38 which consists of five voting members appointed by the director.

1 **Comment.** Section 41900 continues the first sentence of former Fish and Game Code Section
2 8247 without substantive change.

3 🔍 **Note.** Existing Section 8247.3, a transitional provision, is deleted as obsolete. **The**
4 **Commission invites public comment on whether that deletion would be problematic.**

5 **§ 41905. Legislative declaration**

6 41905. The Legislature declares that individuals appointed as members of the
7 review board shall be chosen from the commercial salmon fishing industry in
8 order to represent and further the interest of the industry and commercial salmon
9 fishing vessel owners, and this representation serves the general public interest.

10 **Comment.** Section 41905 continues former Fish and Game Code Section 8247.5(a) without
11 substantive change.

12 **§ 41910. Adoption of regulations by director**

13 41910. The director may adopt standards and criteria by regulation that shall be
14 applied by the review board in carrying out its activities under this chapter.

15 **Comment.** Section 41910 continues former Fish and Game Code Section 8247.7 without
16 substantive change.

17 **§ 41915. Composition of board**

18 41915. (a) Three of the voting members of the review board shall be owners of
19 permitted vessels appointed by the director from lists submitted by associations or
20 groups representing commercial salmon fishing vessel owners.

21 (b) Two of the voting members of the review board shall be owners of permitted
22 vessels appointed by the director from lists submitted by individual commercial
23 salmon fishing vessel owners.

24 (c) Any voting member of the review board may appoint an alternate member to
25 represent him or her at any meeting of the review board. The director may, within
26 60 days of the appointment, refuse an alternate member. The alternate shall serve
27 at the pleasure of the member who appointed him or her and shall have all the
28 powers and duties of a member of the commercial salmon fishing review board,
29 except that the alternate shall only participate and vote in meetings in the absence
30 of the member who appointed him or her.

31 **Comment.** Section 41915 continues former Fish and Game Code Section 8247.1 without
32 substantive change.

33 **§ 41920. Exemption of board members**

34 41920. Each member of the review board is exempt from Section 87100 of the
35 Government Code, unless the result of his or her actions taken as board members
36 has a material financial effect on him or her distinguishable from its effect on
37 other members of the commercial salmon fishing industry generally.

38 **Comment.** Section 41920 former Fish and Game Code Section 8247.5(b) without substantive
39 change.

1 **§ 41925. Member terms**

2 41925. The terms of the members of the review board shall be for staggered four
3 year terms.

4 **Comment.** Section 41925 continues the first sentence of former Fish and Game Code Section
5 8247.2 without substantive change.

6 **§ 41930. Removal of board member**

7 41930. The director may remove a member of the review board for cause.

8 **Comment.** Section 41930 continues the third sentence of former Fish and Game Code Section
9 8247 without substantive change.

10 **§ 41935. Member compensation**

11 41935. (a) Necessary and proper expenses shall be paid to review board
12 members.

13 (b) Each member, or any alternate member participating on behalf of a regular
14 member in that member's absence, shall receive one hundred dollars (\$100) per
15 day, for each day of attendance and participation in meetings of the review board.

16 **Comment.** Section 41935 continues the second and third sentences of former Fish and Game
17 Code Section 8247.2 without substantive change.

18 **§ 41940. Meeting attendance by director or designee**

19 41940. The director or a designee of the director shall attend meetings of the
20 review board as a nonvoting member.

21 **Comment.** Section 41940 continues the second sentence of former Fish and Game Code
22 Section 8247 without substantive change.

23 **§ 41945. Function of board**

24 41945. (a) The review board shall function as an advisory body to the
25 department regarding implementation of the provisions of this chapter.

26 (b) The review board shall act by a majority vote of the members present and
27 voting. The review board shall not act unless there is a quorum of the voting
28 members, including alternate members in the absence of their appointing
29 members, and the director or his or her designee if present.

30 **Comment.** Section 41945 continues former Fish and Game Code Section 8247.4 without
31 substantive change.

32 **§ 41950. Duties of review board**

33 41950. The review board shall do all of the following:

34 (a) Consider and make recommendations to the department on requests for
35 permit transfers.

36 (b) Recommend to the department, the number and classification of new vessel
37 permits to be issued annually, if any, pursuant to Section 41685.

38 (c) Consult with and advise the commission as required by Sections 4910, 4916,
39 and 41790.

(d) Consult with the department and advise on the establishment of the vessel classification system pursuant to subdivision (a) of Section 41745.

Comment. Section 41950 continues former Fish and Game Code Section 8247.8 without substantive change.

§ 41955. Obligation of board members

41955. Members and alternate members of the review board shall act in the best interest of the state, the department, and the commercial salmon fishing industry. As members of the review board, no member or alternate member shall take any action, because of his or her position, that results in a direct material effect on any of them, distinguishable from its effect on other members of the commercial salmon fishing industry.

Comment. Section 41955 continues former Fish and Game Code Section 8247.6 without substantive change.

CHAPTER 6. SALMON MANAGEMENT

§ 42050. Department consultation

42050. (a) The department shall consult with the advisory committee and representatives of every user group known to the department on the progress being made in the development of the annual and long-term salmon management plans.

(b) For purposes of this section, “advisory committee” means the Advisory Committee on Salmon and Steelhead Trout, established pursuant to Resolution Chapter 141 of the Statutes of 1983, except that there shall be two additional members appointed by the Joint Committee on Fisheries and Aquaculture after consultation with the Director of Fish and Game and the Fish and Game Commission.

Comment. Subdivision (a) of Section 42050 continues former Fish and Game Code Section 7662 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 7660 without substantive change.

CHAPTER 7. MISCELLANEOUS PROVISIONS

§ 42100. Take from commercial passenger fishing boat

42100. (a) If a commercial passenger fishing boat is used to take salmon or has salmon aboard, in ocean waters north of Point Arguello, there shall be on board that vessel a total number of commercial fishing salmon stamps sufficient to have at least one for the operator and one for each crewmember required by United States Coast Guard regulations, excepting an operator or a crewmember who is exempt from the commercial fishing salmon stamp requirement of subdivision (b) of Section 41355. The commercial fishing salmon stamps shall be affixed to either the commercial fishing licenses of the operator and the crewmembers or, pursuant to subdivision (b), to the commercial passenger fishing license. No person shall

operate, or cause to be operated, a commercial passenger fishing boat in violation of this subdivision. Vessels permitted as commercial salmon fishing vessels pursuant to Section 41675 are exempt from the requirements of this subdivision.

(b) Notwithstanding Section 2930, the department may issue to the owner or operator of a vessel licensed pursuant to this chapter, upon application and payment of the fees prescribed in subdivision (c) of Section 41355, one commercial fishing salmon stamp for the operator and not more than one additional commercial salmon stamp for each crewmember required by the United States Coast Guard regulations. The commercial fishing salmon stamps issued under this subdivision shall be affixed to the vessel's commercial passenger fishing boat license issued pursuant to this chapter.

Comment. Section 42100 continues former Fish and Game Code Section 7925 without substantive change.

Notes. (1) Existing Fish and Game Code Section 7925(a) (which would be continued by proposed Section 42100(a)) requires there to be on board a described vessel commercial fishing salmon stamps sufficient for the operator and each crewmember, excepting an operator or a crewmember who is exempt from the similar requirement stated in "subdivision (b) of Section 7860." However, the reference to "subdivision (b) of Section 7860" is ambiguous, as that subdivision cross-references other subdivisions in Section 7860 that also contain exemptions from the commercial fishing salmon stamp requirement:

(b) Except as provided in subdivision (f) or (g), the operator of a vessel on which salmon are taken for commercial purposes shall not permit a person on board that vessel while salmon are being taken or transported unless that person was less than 18 years of age or 70 years of age or more on April 1 of the current license year or that person has a commercial fishing salmon stamp affixed to the person's commercial fishing license.

....

(f) Notwithstanding subdivision (a), one crewmember of a vessel for which a commercial fishing salmon stamp is issued pursuant to subdivision (e) may be aboard that vessel and take salmon for commercial purposes as a crewmember on that vessel without obtaining a commercial fishing salmon stamp under the following conditions:

(1) The crewmember is designated by name and commercial fishing license number on a form furnished by the department before salmon are taken on the vessel when that crewmember is aboard.

(2) The crewmember has a valid commercial fishing license issued under Section 7850.

(3) The commercial fishing salmon stamp for the crewmember is affixed to the form prescribed in paragraph (1) on which the vessel registration number of the vessel is entered and on which the crewmember who is exempted by this subdivision is designated by the last entered name and commercial fishing license number.

(g) Persons who are exempt from the license requirements, or who are not required to be licensed, pursuant to Section 7850, are exempt from the requirements of this section.

The Commission reads the exemption in existing Section 7925(a) as intended to apply to all persons exempted from the stamp requirement under any subdivision of Section 7860, and proposed Section 42100(a) would therefore revise the exemption in existing Section 7925(a) to refer to operators and crewmembers exempted from the commercial fishing salmon stamp requirement of "Section 7860."

The Commission invites comment on whether this revision changes the intended meaning of existing Section 7925.

(2) Existing Section 7149.05(a)(4) cross-refers to existing Section 1053 of the existing code, a section that was repealed by 2015 Cal. Stat. ch. 683. Section 1053 generally prohibited obtaining

1 more than one paper hunting license – a form of license that is now obsolete – for the same
2 license year, except under specified conditions. As a substantially similar prohibition applicable
3 to electronic hunting licenses appears in existing Section 1053.1, proposed Section 42100 cross-
4 refers to the section of the proposed law that continues existing Section 1053.1.

5 **The Commission seeks comment on whether that revision is appropriate.**

6 **§ 42110. Missing adipose fin**

7 42110. (a) Notwithstanding any measurement requirements under this code, and
8 to implement the department's salmon tagging program, any person in possession
9 of a salmon with a missing adipose fin, the small, fleshy fin on the back of the fish
10 between the back fin and the tail, upon request by an authorized agent or employee
11 of the department, shall immediately relinquish the head of the salmon to the state,
12 at no charge, for recovery of any coded-wire tag. The head may be removed by the
13 fish owner or, if removed by the official department representative, the head shall
14 be removed in a manner to minimize loss of salmon flesh and the salmon shall
15 immediately be returned to the rightful owner.

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

18 **Comment.** Section 42110 continues former Fish and Game Code Section 8226 without
19 substantive change.

20 **PART 18. SARDINES**

21 **TITLE 1. SARDINES GENERALLY**

22 **§ 42200. Provisions not exclusive**

23 42200. The provisions of this part are not intended to be exclusive. Other
24 provisions that govern sardines include, but are not limited to, the following
25 provisions:

26 (a) Section 15915.

27 (b) Section 16475.

28 (c) Section 20710.

29 (d) Section 21015.

30 (e) Section 21615.

31 (f) Section 21810.

32 (g) Section 58630.

33 **Comment.** Section 42200 is new. It is added for drafting convenience.

1 TITLE 2. COMMERCIAL PROVISIONS

2 CHAPTER 1. GENERAL PROVISIONS

3 § 42250. Application of title

4 42250. For purposes of Section 37805, the provisions in this title are commercial
5 provisions.

6 **Comment.** Section 42250 is new. It is added for drafting convenience.

7 § 42255. Declaration of legislative intent

8 42255. It is the intent of the Legislature that the sardine resource be managed
9 with the objective of maximizing the sustained harvest.

10 **Comment.** Section 42255 continues the first sentence of former Fish and Game Code Section
11 8150.7 without substantive change.

12 § 42260. Conformity with federal fishery regulations

13 42260. The department shall manage the sardine resource in conformance with
14 the federal fishery regulations as recommended by the Pacific Fishery
15 Management Council and as adopted by the Secretary of Commerce.

16 **Comment.** Section 42260 continues the second sentence of former Fish and Game Code
17 Section 8150.7 without substantive change.

18 § 42265. Take or possession

19 42265. (a) Sardines may not be taken or possessed on any boat, barge, or vessel
20 except pursuant to Sections 42255 and 42560.

21 (b) This section does not prohibit the possession or use of sardines imported into
22 this state under a bill of lading identifying the country of origin.

23 (c) Imported sardines may be used for dead bait under regulations adopted by
24 the commission.

25 **Comment.** Section 42265 continues former Fish and Game Code Section 8150.5 without
26 substantive change.

27 See also Section 5720 (enforcement).

28 CHAPTER 2. MISCELLANEOUS PROVISIONS

29 § 42350. Compliance with use stated on landing receipt

30 42350. No person shall receive, possess, or sell sardines for any purpose except
31 for that purpose specified on the fish receipt completed at the time of landing of
32 those sardines pursuant to Section 21005.

33 **Comment.** Section 42350 continues former Fish and Game Code Section 8154 without
34 substantive change.

35 See also Section 4900 (enforcement).

PART 19. SHAD

TITLE 1. SHAD GENERALLY

§ 42450. Provisions not exclusive

42450. The provisions of this part are not intended to be exclusive. Other provisions that govern shad include, but are not limited to, the following provisions:

(a) Section 13900.

(b) Section 20100.

(c) Section 15540.

Comment. Section 42450 is new. It is added for drafting convenience.

§ 42455. Importation of shad

42455. (a) Shad legally taken in another state that permits the sale of that fish may be imported into this state under regulations of the commission.

(b) Before the commission adopts any regulation pursuant to this section, a public hearing shall be held in the San Francisco or Sacramento area.

Comment. Section 42455 continues the part of former Fish and Game Code Section 2363 applicable to shad without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

§ 42500. Application of title

42500. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 42500 is new. It is added for drafting convenience.

§ 42505. Take with purse or round haul net

42505. Shad may not be taken with a purse or round haul net.

Comment. Section 42505 continues the part of former Fish and Game Code Section 8756 applicable to shad without substantive change.

PART 20. SHARKS

TITLE 1. SHARKS GENERALLY

§ 42600. Provisions not exclusive

42600. The provisions of this part are not intended to be exclusive. Other provisions that govern sharks include, but are not limited to, the following provisions:

(a) Section 12165.

- 1 (b) Section 17005.
2 (c) Section 18815.
3 (d) Section 18820.
4 (e) Section 18825.
5 (f) Chapter 6 (commencing with Section 18300) of Title 4 of Part 6 of Division
6 6.
7 (g) Section 19810.
8 (h) Section 20710.
9 (i) Section 20720.
10 (j) Section 21360.
11 (k) Section 40115.
12 (l) Section 43655.
13 **Comment.** Section 42600 is new. It is added for drafting convenience.

14 **§ 42605. Take generally**

- 15 42605. It is unlawful to take any white shark (*Carcharodon carcharias*), except
16 under permits issued pursuant to Section 9200 for scientific or educational
17 purposes.
18 **Comment.** Section 42605 continues former Fish and Game Code Section 5517 without
19 substantive change.

20 **§ 42610. Shark fins**

- 21 42610. (a) As used in this section, “shark fin” means the raw, dried, or otherwise
22 processed detached fin, or the raw, dried, or otherwise processed detached tail, of
23 an elasmobranch.
24 (b) Except as otherwise provided in this section, it shall be unlawful for any
25 person to possess, sell, offer for sale, trade, or distribute a shark fin.
26 (c) Any person who holds a license or permit pursuant to Section 9200 may
27 possess a shark fin or fins consistent with that license or permit.
28 (d) Any person who holds a license or permit issued by the department to take or
29 land sharks for recreational or commercial purposes may possess a shark fin or
30 fins consistent with that license or permit.
31 (e) Any person who holds a license or permit issued by the department to take or
32 land sharks for recreational or commercial purposes may possess, including for
33 purposes of consumption or taxidermy, or may donate to a person licensed or
34 permitted pursuant to Section 9200, a shark fin or fins consistent with that license
35 or permit.
36 (f) Nothing in this section prohibits the sale or possession of a shark carcass,
37 skin, or fin for taxidermy purposes pursuant to Section 10830.
38 **Comment.** Subdivisions (a) through (d) of Section 42610 continue former Fish and Game
39 Code Section 2021 without substantive change. Subdivision (e) of former Fish and Game Code
40 Section 2021 is obsolete and is not continued.

Subdivisions (e) and (f) continue former Fish and Game Code Section 2021.5(a) without substantive change. Subdivision (a)(2) of former Fish and Game Code Section 2021.5 is obsolete and is not continued.

§ 42615. Report by Ocean Protection Council

42615. (a) The Ocean Protection Council shall submit an annual report to the Legislature that lists any shark species that have been independently certified to meet internationally accepted standards for sustainable seafood, as defined in Section 35550 of the Public Resources Code, and adopted by the Ocean Protection Council pursuant to Section 35617 of the Public Resources Code, including chain of custody standards.

(b) The report required by subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

Comment. Section 42615 continues former Fish and Game Code Section 2021.5(b) without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 42700. Application of title

42700. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 42700 is new. It is added for drafting convenience.

CHAPTER 2. SHARK PARTS

§ 42750. Shark fin or tail

42750. (a) Except as permitted by this code or by regulation of the commission, it is unlawful to sell, purchase, deliver for a commercial purpose, or possess on a commercial fishing vessel registered pursuant to Section 14755, a shark fin or tail or part of a shark fin or tail that has been removed from the carcass.

(b) A thresher shark fin or tail that has been removed from the carcass and whose original shape remains unaltered may be possessed on a registered commercial fishing vessel, if the carcass corresponding to the fin or tail is also possessed.

Comment. Section 42750 continues former Fish and Game Code Section 7704(c) without substantive change.

CHAPTER 3. ANGEL SHARKS

§ 42800. Measurement

42800. (a) Angel shark total length shall be measured from the anterior end of the head to the tip of the tail while the fish is lying in a position of natural repose.

(b) Angel shark alternate length shall be measured from the point where the leading edge of the first dorsal fin meets the back to the tip of the tail.

(c) When measuring total length or alternate length, the tip of the tail may be laid flat against the surface of the measuring device.

(d) Angel sharks may be constrained from lateral movement during measurement by restraining devices approved by the department.

Comment. Section 42800 continues former Fish and Game Code Section 8388(b) without substantive change.

§ 42805. Size restrictions

42805. (a) No female angel shark measuring less than 42 inches in total length or 15 1/4 inches in alternate length, and no male angel shark measuring less than 40 inches in total length or 14 1/2 inches in alternate length, may be possessed, sold, or purchased.

(b) Notwithstanding subdivision (a), ten percent of the angel sharks in any load may measure not more than 1/2 inch less than the minimum sizes specified in this section.

Comment. Section 42805 continues former Fish and Game Code Section 8388(a) without substantive change.

§ 42810. Take in gill or trammel net

42810. (a) An angel shark taken in a gill or trammel net shall be landed (brought ashore) with at least one intact pelvic fin and the tail fin attached.

(b) An angel shark taken in a gill or trammel net shall not be transferred to or from another vessel, except that an angel shark may be transferred to or from a vessel with a department observer on board. An observer shall observe and make a written record of that transfer.

Comment. Subdivision (a) of Section 42810 continues former Fish and Game Code Section 8388(c) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 8388(d) without substantive change.

CHAPTER 4. BASKING SHARKS

§ 42850. Regulation

42850. (a) The commission may adopt regulations to manage basking sharks.

(b) A basking shark may not be taken commercially, unless the commission adopts regulations for that activity and the taking is in accordance with those regulations.


1 **Comment.** Section 42850 continues former Fish and Game Code Section 8599.4 without
2 substantive change.

3 CHAPTER 5. LEOPARD SHARKS

4 **§ 42900. Groundfish**

5 42900. For the purposes of this code, a leopard shark is a groundfish.

6 **Comment.** Section 42900 is new. It is added for drafting convenience.

7  **Note.** Based on Commission research, it appears that a sablefish is a groundfish. See 14
8 C.C.R. § 1.91(a)(5).

9 **The Commission invites comment on whether that classification is correct.**

10 **§ 42905. Take**

11 42905. (a) A person shall not take, possess, sell, or purchase, for a commercial
12 purpose, any leopard shark less than 36 inches in total length.

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

18 **Comment.** Section 42905 continues former Fish and Game Code Section 8388.5 without
19 substantive change.

20 See also Section 4900 (enforcement).

21 CHAPTER 6. WHITE SHARKS

22 **§ 42950. Take for commercial purpose**

23 42950. (a) It is unlawful to take any white shark (*Carcharodon carcharias*) for a
24 commercial purpose, except under a permit issued pursuant to Section 9200 for
25 scientific or educational purposes, or pursuant to subdivision (b) for scientific or
26 live display purposes.

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

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

35 **Comment.** Section 42950 continues former Fish and Game Code Section 8599 without
36 substantive change.

1 **§ 42955. Collection of data**

2 42955. The department shall cooperate, to the extent that it determines feasible,
3 with appropriate scientific institutions, to facilitate data collection on white sharks
4 taken incidentally by commercial fishing operations.

5 **Comment.** Section 42955 continues former Fish and Game Code Section 8599.3 without
6 substantive change.

7 **PART 21. STURGEON**

8 **TITLE 1. STURGEON GENERALLY**

9 **CHAPTER 1. PRELIMINARY PROVISIONS**

10 **§ 43100. Provisions not exclusive**

11 43100. The provisions of this part are not intended to be exclusive. Other
12 provisions that govern sturgeon include, but are not limited to, the following
13 provisions:

14 (a) Section 13900.

15 (b) Section 14875.

16 (c) Section 15540

17 (d) Section 23905.

18 (e) Section 7650.

19 **Comment.** Section 43100 is new. It is added for drafting convenience.

20 **CHAPTER 2. TAKE, POSSESSION, OR SALE**

21 **§ 43150. Take or possession**

22 43150. (a) It is unlawful to take or possess for a commercial purpose, buy or
23 sell, or offer to buy or sell, a whole sturgeon, or part of a sturgeon, including, but
24 not limited to, its eggs, except as follows:

25 (1) A sturgeon, part of a sturgeon, or sturgeon eggs, taken or possessed by, and
26 the cultured progeny of, an aquaculturist who is registered under Section 23605,
27 may be bought or sold subject to regulations of the commission.

28 (2) A sturgeon, part of a sturgeon, or sturgeon eggs, taken commercially in
29 another state that permits the sale of sturgeon, and lawfully imported under
30 Section 43200, may be possessed, bought, or sold.

31 (3) Sturgeon, or part of a sturgeon, taken pursuant to a sport fishing license,
32 which is processed in accordance with Section 13700.

33 (b) For purposes of this section, it is prima facie evidence that a sturgeon or part
34 of a sturgeon is possessed for a commercial purpose, if the possession is of more
35 than two times the sport bag limit.

Comment. Section 43150 continues former Fish and Game Code Section 7370 without substantive change.

See also Sections 4570, 5102, 5730 (enforcement).

CHAPTER 3. IMPORTATION

§ 43200. Importation of sturgeon

43200. (a) Sturgeon legally taken in another state that permits the sale of that fish may be imported into this state under regulations of the commission.

(b) Before the commission adopts any regulation pursuant to this section, a public hearing shall be held in the San Francisco or Sacramento area.

Comment. Section 43200 continues the part of former Fish and Game Code Section 2363 applicable to sturgeon without substantive change.

CHAPTER 4. STURGEON EGG PROCESSING


§ 43250. Required license

43250. (a) Every person engaged in the business of canning, curing, preserving, packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon for human consumption, shall obtain a sturgeon egg processing license from the department for that purpose. The license required by this title is in addition to any other license, permit, or other authorization required by this code or by any other provision of law.

(b) Possession of a sturgeon egg processing license issued pursuant to this title authorizes the licensee to can, cure, preserve, pack, or otherwise process, or deal at wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully taken or lawfully possessed pursuant to Section 13700 or 43150.

Comment. Section 43250 continues former Fish and Game Code Section 10000 without substantive change.

See also Section 5732 (enforcement).

 **Note.** Existing Fish and Game Code Section 10000(b) (which would be continued by proposed Section 43250(b)) authorizes specified conduct relating to sturgeon eggs “if, and only if, the eggs are lawfully taken or lawfully possessed pursuant to Section 7230 or 8371.” However, in 2007 language in existing Fish and Game Code Section 8371 relating to the taking or possession of “sturgeon, or parts thereof,” was deleted from that section, and added to existing Fish and Game Code Section 7370. See 2007 Cal. Stat. ch. 328. Proposed Section 43250 would therefore revise the cross-reference in existing Section 10000 to “Section 8371” to refer to the section in the proposed law that would continue existing Section 7370.

The Commission invites comment on how proposed Section 43250 should continue the reference to existing Fish and Game Code Section 8371 in existing Section 10000.

§ 43255. License fee

43255. A sturgeon egg processing license shall be issued and delivered upon application and the payment to the department of a base fee of one hundred dollars

1 (\$100), adjusted under Section 3755. The license shall be valid for a period of 12
2 months from the date of issuance.

3 **Comment.** Section 43255 continues the first sentence of former Fish and Game Code Section
4 10001 without substantive change.

5 **§ 43260. License term**

6 43260. A sturgeon egg processing license shall be issued and delivered upon
7 application and the payment to the department of a base fee of one hundred dollars
8 (\$100), as adjusted under Section 3755. The license shall be valid for a period of
9 12 months from the date of issuance.

10 **Comment.** Section 43260 continues the second sentence of former Fish and Game Code
11 Section 10001 without substantive change.

12 **§ 43265. Required documentation**

13 43265. Every person licensed pursuant to this chapter shall make a true and
14 legible record of each transaction involving the eggs of sturgeon. This
15 documentation shall show all of the following:

- 16 (a) The weight of the eggs received.
- 17 (b) The name and address of the person from whom the eggs were received.
- 18 (c) If the eggs were obtained from a sturgeon that was artificially propagated by
19 a person other than the licensee, the name and address of that person.
- 20 (d) If the eggs were obtained from a sturgeon that was not taken by the licensee,
21 the name and address of the person from whom the licensee obtained the sturgeon
22 from which the eggs were obtained.
- 23 (e) The date of receipt.
- 24 (f) If imported into this state, the place where the sturgeon were taken.
- 25 (g) Whether the eggs are to be processed by the recipient or sold by him or her
26 to another for processing, and, if the eggs are to be sold for processing by another,
27 the name and address of that person.
- 28 (h) Any other information that the department may require and specify on any
29 form provided.

30 **Comment.** Section 43265 restates former Fish and Game Code Section 10002 without
31 substantive change.

Note. Proposed Section 43265(b)-(d) is intended to restate existing Fish and Game Code Section 10002(b) to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

10002. Every person licensed pursuant to this division shall make a true and legible record of each transaction involving the eggs of sturgeon. This documentation shall show all of the following:

....

(b) The name and address of the person from whom the eggs were received, and, if different, the name and address of the person who artificially propagated the sturgeon from which the eggs were obtained or the name and address of the person from whom the sturgeon were received from which the eggs were obtained.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 43270. Retention and inspection of documentation

43270. (a) The documentation required by Section 43265 shall be kept by the person or business holding the sturgeon egg processing license for a period of two years from the date of receipt of eggs, and shall be available for inspection during normal business hours by the department.

(b) Any information received or requested by the department shall be confidential, and the records shall not be public records, except that the information contained in the records may be compiled and published as summaries in a manner that will not disclose the individual record or business of any person.

Comment. Subdivision (a) of Section 43270 continues former Fish and Game Code Section 10003 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 10004 without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

§ 43350. Application of title

43350. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 43350 is new. It is added for drafting convenience.

§ 43355. Required return to water if caught in net

43355. (a) Any sturgeon that is taken in any type of net shall, regardless of its condition, be immediately freed and removed from the net by the fisherman, and immediately returned to the water without further harm.

(b) A commercial fisherman shall not have any sturgeon, whether dead or alive, in his or her possession, at any time when conducting netting operations or when going to or from those operations, except when releasing a sturgeon from a net.

(c) The return of sturgeon to the water pursuant to this section is not deterioration, waste, or spoilage of fish for purposes of Section 14310.

1 **Comment.** Section 43355 continues the part of former Fish and Game Code Section 8370
2 applicable to sturgeon without substantive change.
3 See also Section 4900 (enforcement).

4 PART 22. SURFPERCH

5 TITLE 1. SURFPERCH GENERALLY

6 **§ 43500. Provisions not exclusive**

7 43500. The provisions of this part are not intended to be exclusive. Other
8 provisions that govern surfperch include, but are not limited to, the following
9 provisions:

10 (a) Title 6 (commencing with Section 59830) of Part 1 of Division 16.

11 **Comment.** Section 43500 is new. It is added for drafting convenience.

12 TITLE 2. COMMERCIAL PROVISIONS

13 **§ 43550. Application of title**

14 43550. For purposes of Section 37805, the provisions in this title are commercial
15 provisions.

16 **Comment.** Section 43550 is new. It is added for drafting convenience.

17 **§ 43555. Take**

18 43555. (a) Upon the recommendation of the director regarding management
19 measures for surfperch of the family Embiotocidae, the commission may adopt
20 regulations to manage the commercial surfperch resource and fisheries consistent
21 with Title 3 (commencing with Section 12100) of Part 4 of Division 4, including,
22 but not limited to, adoption of changes to the prohibitions imposed under
23 subdivision (b).

24 (b) Except as may be authorized under subdivision (a), surfperch of the family
25 Embiotocidae may be taken only between July 16 and April 30, except shiner
26 surfperch (*Cymatogaster aggregata*), which may be taken, sold, or purchased at
27 any time. Surfperch may be sold or purchased only between July 16 and May 10,
28 except as may be authorized under subdivision (a). South of a line drawn east and
29 west through Point Arguello, barred surfperch, redbtail surfperch, and calico
30 surfperch may not be taken for a commercial purpose, except as may be authorized
31 under subdivision (a). Surfperch of these three species that have been taken north
32 of the line during the open season and shipped south of the line may be sold or
33 purchased under regulations that the commission may adopt.

34 **Comment.** Section 43555 continues former Fish and Game Code Section 8395 without
35 substantive change.

36 See also Section 4900 (enforcement).

PART 23. SWORDFISH

TITLE 1. SWORDFISH GENERALLY

§ 43600. Provisions not exclusive

43600. The provisions of this part are not intended to be exclusive. Other provisions that govern swordfish include, but are not limited to, the following provisions:

(a) Section 18030.

(b) Chapter 6 (commencing with Section 18300) of Title 4 of Part 6 of Division 6.

(c) Chapter 2 (commencing with Section 18800) of Title 5 of Part 6 of Division 6.

(d) Section 21950.

Comment. Section 43600 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 43650. Application of title

43650. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 43650 is new. It is added for drafting convenience.

§ 43655. Permit requirement

43655. (a) A swordfish shall not be taken, possessed aboard a boat, or landed by a person, for commercial purposes, except under a valid swordfish permit. If more than one person is aboard the boat, at least one person shall have a swordfish permit issued to that person that has not been revoked or suspended, subject to regulations adopted by the commission.

(b) The fee for a permit issued pursuant to subdivision (a) is three hundred thirty dollars (\$330). This permit fee does not apply to the holder of a valid drift gill net shark and swordfish permit required under Chapter 6 (commencing with Section 18300) of Title 4 of Part 6 of Division 6 or to any person who participates in the permit transition program established by the department pursuant to Section 18400.

Comment. Subdivision (a) Section 43655 continues former Fish and Game Code Section 8394 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 8394.5 without substantive change.

See also Sections 4900, 5104 (enforcement).

Notes. (1) In existing Section 8394, the meaning of “subject to regulations adopted by the commission” is not entirely clear. **The Commission invites comment on the meaning of that language.**

(2) Proposed Section 43655(b) would continue Section 8394.5, which was amended by 2018 Cal. Stat. ch. 844. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

PART 24. TROUT

TITLE 1. TROUT GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 43800. Provisions not exclusive

43800. The provisions of this part are not intended to be exclusive. Other provisions that govern trout include, but are not limited to, the following provisions:

- (a) Section 420.
- (b) Section 7650.
- (c) Section 13010.
- (d) Section 21950.
- (e) Section 23355.
- (f) Section 28415.
- (g) Section 43805.
- (h) Section 55725.
- (i) Section 55830.

Comment. Section 43800 is new. It is added for drafting convenience.

§ 43805. Legislative declaration

43805. (a) The Legislature finds and declares all of the following:

(1) California has the greatest biodiversity of native trout species of any state in the nation. Trout can be found in more than 18,000 miles of California's cooler streams. California's trout are the principal sport fish in 3,581 cold-water lakes and reservoirs.

(2) Self-sustaining native trout populations in "Heritage Trout Waters" that retain and promote genetic trout diversity and overall sustainable watershed and ecosystem environmental health are state policy.

(b) Funding for "Heritage Trout Waters" is a priority for the Hatchery and Inland Fisheries Fund.

(c) The commission may designate "Heritage Trout Waters" to recognize the beauty, diversity, historical significance, and special values of California's native trout. The commission's designation shall meet both of the following criteria:

(1) Only waters supporting populations that best exemplify indigenous strains of native trout within their historic drainages may qualify for designation.

(2) Only waters providing anglers with an opportunity to catch native trout consistent with the conservation of the native trout may qualify for designation.

(3) Any stocking of heritage trout waters shall meet the criteria established by Chapter 1 (commencing with Section 11700) of Title 2 of Part 4 of Division 6.

Comment. Section 43805 continues former Fish and Game Code Section 7260 without substantive change.

CHAPTER 2. SHIPMENT OF TROUT

§ 43850. Transport of trout

43850. (a) It is unlawful at any time to offer for shipment, ship, or receive for shipment, or transport from this state any trout taken in the waters of this state, except as provided in subdivision (b).

(b) The following persons may personally transport from this state not more than one daily bag limit of trout:

(1) The holder of a nonresident sport fishing license.

(2) A person on active military duty with the armed forces of the United States who possesses a valid angling license.

(3) A person on active military duty with an auxiliary branch of the armed forces of the United States who possesses a valid angling license.

Comment. Section 43850 restates former Fish and Game Code Section 2356 without substantive change.

Note. Proposed Section 43850 is intended to restate existing Fish and Game Code Section 2356 to clarify the meaning of that provision, without changing its substantive effect. The existing provision reads as follows:

2356. It is unlawful at any time to offer for shipment, ship, or receive for shipment, or transport from this state any trout taken in the waters of this state, except that the holder of a nonresident angling license, or any person on active military duty with the armed forces of the United States or on active military duty with an auxiliary branch thereof who possesses a valid angling license, may personally transport from this state not more than one daily bag limit of trout.

The Commission invites comment on whether the restatement would cause any substantive change in the meaning of the provision.

§ 43855. Shipment of trout into area where season closed

43855. It is unlawful to ship trout into an area where the season is closed, unless the shipment is accompanied by a written statement containing the name and address of, and signed by, the person taking the trout, and countersigned, for the purpose of identification, by the agent of the carrier to whom the trout are offered for shipment.

Comment. Section 43855 continues former Fish and Game Code Section 2358 without substantive change.

CHAPTER 3. STEELHEAD TROUT

Article 1. General Provisions

§ 43900. Provisions not exclusive

43900. This chapter includes some but not all provisions of this code that govern steelhead trout. Other provisions that govern steelhead trout include, but are not limited to, the following provisions:

(a) Section 9105.

(b) Chapter 3 (commencing with Section 11900) of Title 2 of Part 4 of Division 6.

(c) Section 13105.

(d) Section 13900.

(e) Section 15440.

(f) Section 24950.

Comment. Section 43900 is new. It is added for drafting convenience.


Article 2. Take

§ 43950. Hook other than in mouth

43950. (a) It is unlawful, in inland waters, to kill or retain in possession any steelhead that has not taken the bait or lure in its mouth.

(b) Any steelhead hooked in inland waters other than in its mouth shall be released unharmed.

Comment. Section 43950 continues the part of former Fish and Game Code Section 5514 applicable to steelhead trout without substantive change.

 **Note.** See discussion of the proposed revision of this section following proposed Section 41005.

Article 3. Report-Restoration Card

§ 44000. Required trout fishing report-restoration card

44000. (a) In addition to a valid California sport fishing license and any applicable sport license issued pursuant to this code, a person taking steelhead trout in inland waters shall have in his or her possession a valid nontransferable steelhead trout fishing report-restoration card issued by the department. The cardholder shall record certain fishing information on the card as designated by the department. The month, day, and location fished shall be recorded before the cardholder begins fishing for the day and when the cardholder moves to another location listed on the back of the report-restoration card. The cardholder shall immediately record catch information upon keeping a steelhead trout and immediately record catch information regarding released steelhead trout whenever

1 the cardholder finishes fishing for the day, or moves to another location listed on
2 the back of the report-restoration card. The cardholder shall return the card to the
3 department on a schedule or date established by the department.

4 (b) The base fee for the card shall be five dollars (\$5) for the 2004 license year,
5 which may be adjusted annually thereafter pursuant to Section 3755. The funds
6 received by the department from the sale of the card shall be deposited in the Fish
7 and Game Preservation Fund, and shall be available for expenditure upon
8 appropriation by the Legislature. The department shall maintain the internal
9 accountability necessary to ensure that all restrictions and requirements pertaining
10 to the expenditure of these funds are met.

11 (c) The commission shall adopt regulations necessary to implement this section.
12 These regulations shall include, but not be limited to, procedures necessary to
13 obtain appropriate steelhead trout resources management information, a
14 requirement that the card contain a statement explaining potential uses of the funds
15 received as authorized by Section 44005, and a requirement that the cards be
16 returned to the department.

17 **Comment.** Section 44000 continues former Fish and Game Code Section 7380 without
18 substantive change.

19 **§ 44005. Use of revenue**

20 44005. (a) Revenue received pursuant to Section 44000 may be expended, upon
21 appropriation by the Legislature, only to monitor, restore, or enhance steelhead
22 trout resources consistent with Sections 11810 and 11815, and to administer the
23 fishing report-restoration card program. The department shall submit all proposed
24 expenditures, including proposed expenditures for administrative purposes, to the
25 Advisory Committee on Salmon and Steelhead Trout for review and comment
26 before submitting a request for inclusion of the appropriation in the annual Budget
27 Bill. The committee may recommend revisions in any proposed expenditure to the
28 Legislature and the commission.

29 (b) The department shall report to the Legislature on or before July 1, 2021,
30 regarding the steelhead trout fishing report-restoration card program's projects
31 undertaken using revenues derived pursuant to that program, the benefits derived,
32 and its recommendations for revising the fishing report-restoration card
33 requirement, if any. The report submitted pursuant to this subdivision shall be
34 submitted in compliance with Section 9795 of the Government Code.

35 **Comment.** Section 44005 continues former Fish and Game Code Section 7381 without
36 substantive change.

37 **§ 44010. Inoperative date of article**

38 44010. This article shall become inoperative on July 1, 2022, and, as of January
39 1, 2023, is repealed, unless a later enacted statute that is enacted before January 1,
40 2023, deletes or extends the dates on which it becomes inoperative and is repealed.

1 **Comment.** Section 44010 continues former Fish and Game Code Section 7382 without
2 substantive change.

3 TITLE 2. COMMERCIAL PROVISIONS

4 CHAPTER 1. TROUT GENERALLY

5 **§ 44100. Application of title**

6 44100. For purposes of Section 37805, the provisions in this title are commercial
7 provisions.

8 **Comment.** Section 44100 is new. It is added for drafting convenience.

9 **§ 44105. Sale or purchase**

10 44105. (a) Except as otherwise provided in this title, it is unlawful to sell or
11 purchase any species of trout.

12 (b) Subdivision (a) does not apply to trout grown pursuant to Part 1
13 (commencing with Section 23300) of Division 7.

14 **Comment.** Subdivision (a) of Section 44105 continues former Fish and Game Code Section
15 8430 without substantive change.

16 Subdivision (b) continues former Fish and Game Code Section 8433 without substantive
17 change.

18 CHAPTER 2. STEELHEAD AND DOLLY VARDEN TROUT

19 **§ 44200. Taken from out of state**

20 44200. (a) Dolly Varden or steelhead trout taken outside the state may be
21 possessed and sold within the state after inspection and tagging in accordance with
22 regulations adopted by the commission.

23 (b) The inspection and tagging shall be paid for by the person submitting the
24 trout for inspection and tagging.

25 (c) Notwithstanding subdivision (a), steelhead trout taken outside the state may
26 not be sold or possessed in District 2515 in excess of the daily bag limit on
27 steelhead trout for that district.

28 (d) This section does not apply to trout grown pursuant to Part 1 (commencing
29 with Section 23300) of Division 7.

30 **Comment.** Subdivisions (a) and (b) of Section 44200 continues former Fish and Game Code
31 Section 8431 without substantive change.

32 Subdivision (c) continues former Fish and Game Code Section 8432 without substantive
33 change.

34 Subdivision (d) continues former Fish and Game Code Section 8433 without substantive
35 change.

36 **§ 44205. Take with purse or round haul net**

37 44205. Steelhead may not be taken with a purse or round haul net.

1 **Comment.** Section 44205 continues the part of former Fish and Game Code Section 8756
2 applicable to steelhead without substantive change.
3 See also Section 4900 (enforcement).

4 PART 25. TUNA

5 TITLE 1. TUNA GENERALLY

6 CHAPTER 1. PRELIMINARY PROVISIONS

7 § 44300. Provisions not exclusive

8 44300. The provisions of this part are not intended to be exclusive. Other
9 provisions that govern tuna include, but are not limited to, the following
10 provisions:

11 (a) Section 21015.

12 (b) Section 21950.

13 **Comment.** Section 44300 is new. It is added for drafting convenience.

14 CHAPTER 2. TAKE OR POSSESSION

15 § 44350. Conformity with federal law

16 44350. The commission may prohibit the taking or possessing of tuna in the
17 same manner as taking or possessing tuna is prohibited by federal law or by rules
18 or regulations adopted pursuant to the Tuna Conventions Act of 1950, as amended
19 by Public Law 87-814 of the 87th Congress, notwithstanding any other provision
20 of this code.

21 **Comment.** Section 44350 continues former Fish and Game Code Section 313 without
22 substantive change.

23 TITLE 2. COMMERCIAL PROVISIONS

24 CHAPTER 1. PRELIMINARY PROVISIONS

25 § 44400. Application of title

26 44400. For purposes of Section 37805, the provisions in this title are commercial
27 provisions.

28 **Comment.** Section 44400 is new. It is added for drafting convenience.

29 CHAPTER 2. SPECIFIC TYPES OF TUNA

30 § 44450. Albacore

31 44450. Albacore may be taken at any time.

1 **Comment.** Section 44450 continues former Fish and Game Code Section 8376 without
2 substantive change.

3 **§ 44455. Bluefin tuna**

4 44455. (a) Bluefin tuna may be taken at any time.

5 (b) No bluefin tuna weighing less than 7 1/2 pounds may be sold, purchased, or
6 processed.

7 **Comment.** Subdivision (a) of Section 44455 continues the part of former Fish and Game Code
8 Section 8374 applicable to bluefin tuna without substantive change.

9 Subdivision (b) continues former Fish and Game Code Section 8375 without substantive
10 change.

11 **§ 44460. Pacific bonito**

12 44460. (a) Pacific bonito shall be measured from the tip of the lower jaw to the
13 center of the fork of the tail fin.

14 (b) Pacific bonito less than 24 inches fork length or five pounds in weight shall
15 not be taken or possessed on any vessel at any time for any commercial purpose,
16 except as follows:

17 (1) A load of bonito taken on a vessel by the use of round haul nets may contain
18 18 percent or less by number of bonito smaller than the minimum size.

19 (2) A load of fish taken on a vessel by the use of gill nets or trammel nets may
20 contain 1,000 pounds or less of bonito smaller than the minimum size per trip.

21 (3) Pacific bonito smaller than the minimum size that are incidentally taken may
22 be used for any purpose.

23 **Comment.** Subdivision (a) of Section 44460 continues former Fish and Game Code Section
24 8377.5 without substantive change.

25 Subdivision (b) continues former Fish and Game Code Section 8377 without substantive
26 change.

27 **§ 44465. Skipjack**

28 44465. Skipjack may be taken at any time.

29 **Comment.** Section 44465 continues former Fish and Game Code Section 8378 without
30 substantive change.

31 **§ 44470. Yellowfin tuna**

32 44470. Yellowfin tuna may be taken at any time.

33 **Comment.** Section 44470 continues the part of former Fish and Game Code Section 8374
34 applicable to yellowfin tuna without substantive change.

PART 26. YELLOWTAIL

TITLE 1. YELLOWTAIL GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 44600. Provisions not exclusive

44600. The provisions of this part are not intended to be exclusive. Other provisions that govern yellowtail include, but are not limited to, the following provisions:

(a) Section 21950.

(b) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

Comment. Section 44600 is new. It is added for drafting convenience.

CHAPTER 2. IMPORTATION

§ 44650. Delivery of yellowtail taken from waters off coast of Mexico

44650. (a) Yellowtail taken in waters lying south of the maritime boundary line between the United States and Mexico, with that maritime boundary line including, but not limited to, the federal Exclusive Economic Zone boundary, may be delivered to California ports aboard boats, including boats carrying purse seine or round haul nets, in accordance with those regulations as the commission may make governing the inspection and marking of those fish imported into this state. The cost of that inspection and marking shall be paid by the importer.

(b) Yellowtail taken in Mexico shall not be imported, unless legally taken and legally possessed, and a declaration is submitted to the department pursuant to Section 28425.

Comment. Section 44650 continues the part of former Fish and Game Code Section 2362 applicable to yellowtail without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

§ 44750. Application of title

44750. For purposes of Section 37805, the provisions in this title are commercial provisions.

Comment. Section 44750 is new. It is added for drafting convenience.

§ 44755. Size restrictions

44755. (a) Yellowtail shall be measured from the tip of the lower jaw to the end of the longer lobe of the tail.

(b) Yellowtail measuring equal to or greater than 28 inches in length may be taken with hook and line at any time.

(c) Yellowtail measuring less than 28 inches in length may not be sold or purchased, except that not more than five yellowtail per day of any length may be possessed by the holder of a commercial fishing license for noncommercial use, if taken incidentally in commercial fishing.

Comment. Subdivision (a) of Section 44755 continues the part of former Fish and Game Code Section 8386 applicable to yellowtail without substantive change.

Subdivision (b) continues the part of former Fish and Game Code Section 8382 applicable to yellowtail without substantive change.

Subdivision (c) continues the part of former Fish and Game Code Section 8384 applicable to yellowtail without substantive change.

§ 44760. Possession restrictions

44760. From May 1 to August 31, inclusive, all of the following are unlawful:

(a) Possession by one person on a boat, barge, or other vessel of more than 500 pounds of yellowtail.

(b) Possession by two or more persons on a boat, barge, or other vessel a combined weight of more than 500 pounds of yellowtail per person.

(c) Possession by five or more persons on a boat, barge, or other vessel a combined weight of more than 2,500 pounds of yellowtail.

Comment. Section 44760 continues former Fish and Game Code Section 8387 without substantive change.

§ 44765. Use of purse seines or round haul nets

44765. (a) It is unlawful to use any purse seine or round haul net to take a yellowtail.

(b) It is unlawful to possess a yellowtail, except those taken south of the international boundary between the United States and Mexico, and imported into the state under regulations of the commission as provided in Section 44650, on any boat carrying or using any purse seine or round haul net, including, but not limited to, a bait net as described in Section 15900.

(c) Notwithstanding subdivision (b), the department may issue permits to hook and line commercial fishermen to possess a bona fide bait net on their vessels for the purpose of taking bait for their own use only.

Comment. Section 44765 continues the parts of former Fish and Game Code Section 8623(a), (b), and (e) applicable to yellowtail without substantive change.

Note. The portion of existing Fish and Game Code Section 8623(a) and (b) that applies to yellowtail would be continued by proposed Section 44765(a) and (b).

Existing Section 8623 also includes a disclaimer in subdivision (e) that, by its terms, applies to all provisions of that section (“Notwithstanding the provisions of this section...”)

However, despite the broad wording of this disclaimer, the Commission’s analysis suggests that the substantive portion of subdivision (e) logically applies only to subdivision (b). Proposed Section 30465(c) would state that specific application expressly.

The Commission invites comment on whether that expressly stated application would cause any problems.

DIVISION 11. INVERTEBRATES

PART 1. GENERAL PROVISIONS

§ 45000. Governance by other provisions

45000. Animals governed by this division are also governed by other provisions of this code, including but not limited to Divisions 6 (commencing with Section 8000) and 7 (commencing with Section 23300).

Comment. Section 45000 is new. It is added for drafting convenience. It makes clear that this division does not contain the only provisions of the code governing invertebrates, and that invertebrates governed by this division may also be governed by other law. For example, as the definition of “fish” includes invertebrates, invertebrates may also be governed by other provisions of the code that apply by their terms to “fish.” See Sections 200, 335.

§ 45005. Scope of commercial provisions

45005. The provisions of this division that are expressly identified as commercial provisions apply to the taking and possession of invertebrates for any commercial purpose. Those commercial provisions do not apply to activities governed by Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 45005 continues the part of former Fish and Game Code Section 7600 applicable to the provisions of this division without substantive change.

§ 45010. Take or possession in tidal area

45010. (a) Except as otherwise expressly permitted in this code, an invertebrate may not be taken, possessed aboard a boat, or landed for a commercial purpose by any person in any tide pool or tidal area, including tide flats or other areas between the high tidemark and 1,000 feet beyond the low tidemark, unless a valid tidal invertebrate permit has been issued to that person that has not been suspended or revoked.

(b) The taking, possessing, or landing of an invertebrate pursuant to this section shall be subject to regulations adopted by the commission.

Comment. Section 45010 continues former Fish and Game Code Section 8500 without substantive change.

PART 2. DISEASE CONTROL *[RESERVED]*

PART 3. CLASSES OF INVERTEBRATES

TITLE 1. CRUSTACEANS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 45250. Use as bait

45250. A crustacean may be used for bait, or released in the same waters from which it was taken.

Comment. Section 45250 continues the part of former Fish and Game Code Section 5505 applicable to crustaceans without substantive change.

CHAPTER 2. COMMERCIAL PROVISIONS

§ 45300. Application of title

45300. For purposes of Section 45005, the provisions in this chapter are commercial provisions.

Comment. Section 45300 is new. It is added for drafting convenience.

§ 45305. Take with powered equipment

45305. (a) Powered equipment of such design as may be prescribed by the commission may be used to take crustaceans under a revocable permit issued by the department and under regulations adopted by the commission.

(b) Taking of crabs or lobster under this section is subject to Title 2 (commencing with Section 46800) of Part 6, and Title 2 (commencing with Section 49450) of Part 9.

Comment. Section 45305 continues the part of former Fish and Game Code Section 9053 applicable to crustaceans without substantive change.

Notes. (1) Existing Fish and Game Code Section 9053(b) (which would be continued by proposed Section 45305(b)) provides in part that taking of lobster or crabs under that section is “subject to Article 5 (commencing with Section 8250)....” In the proposed law, all the provisions contained in that article have been continued in Title 2 (commencing with Section 49450) of Part 9. However, that proposed title contains two provisions relevant to the subject matter of Section 9053(b) that are *not* in the “Article 5” referenced in existing Section 9053(b) – existing Section 9001.7(k), and existing Section 9010(c)-(e).

The Commission invites comment on whether the additional inclusion of those two provisions in the cross-reference in proposed Section 45305(b) would cause any problems.

(2) Existing Section 9053(b) also provides that the taking authorized under that section is “subject to Article 6 (commencing with Section 8275).” In the proposed law, all provisions contained in that article have been continued in Title 2 (commencing with Section 46800) of Part 6. However, that proposed title contains several additional provisions relevant to the subject

matter of Section 9053(b) that are *not* in the “Article 6” referenced in existing Section 9053(b): Sections 8834, 8834.5, 9011, and 9012.

The Commission invites comment on whether the additional inclusion of these provisions in the cross-reference in proposed Section 45305(b) would cause any problems.

TITLE 2. MOLLUSKS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 45400. Use as bait

45400. A mollusk may be used for bait, or released in the same waters from which it was taken.

Comment. Section 45400 continues the part of former Fish and Game Code Section 5505 applicable to mollusks without substantive change.

§ 45405. Take with powered equipment

45405. Powered equipment of such design as may be prescribed by the commission may be used to take mollusks under a revocable permit issued by the department and under regulations adopted by the commission.

Comment. Section 45405 continues the part of former Fish and Game Code Section 9053 applicable to mollusks without substantive change.

CHAPTER 2. MOLLUSK PURIFICATION

§ 45450. Specified districts

45450. Notwithstanding Sections 19805, 45505, 45510, and 46410, native and nonnative mollusks may be taken in Districts 2600 and 2605 and moved to other areas to be purified for human consumption under rules and regulations that may be established by the commission. The regulations may include, but are not limited to, bag limits, methods of harvest, and provisions for public use. Mollusks taken under this section shall not be used for human consumption unless such use is approved by the State Department of Public Health.

Comment. Section 45450 continues former Fish and Game Code Section 5700 without substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of specified references in former Fish and Game Code to State Department of Health Services).

Note. The reference in existing Fish and Game Code Section 5700 to the State Department of Health Services would be revised by proposed Section 45450 to instead refer to the State Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and 131052(6).

The Commission invites comment on whether that revision is appropriate.

§ 45455. Sanitary surveys

45455. The State Department of Public Health may make sanitary surveys of mollusk-growing areas or may use sanitary surveys of mollusk-growing areas

made by qualified state or county agencies, and based on such information may classify such areas for purposes of harvesting and moving mollusks that are to be purified for human consumption in accordance with Section 45450. The State Department of Public Health shall adopt rules and regulations as are necessary to implement this section.

Comment. Section 45455 continues former Fish and Game Code Section 5701 without substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of specified references in former Fish and Game Code to State Department of Health Services).

Note. The reference in existing Fish and Game Code Section 5701 to the State Department of Health Services would be revised by proposed Section 45455 to instead refer to the State Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and 131052(6).

The Commission invites comment on whether that revision is appropriate.

§ 45460. Certification of water quality

45460. If examinations are conducted by the State Department of Public Health pursuant to this chapter for purposes of certifying the quality of shellfish-growing waters, certification of water quality shall be commenced within 30 days and completed within six months of the filing of an application by an aquaculturist.

Comment. Section 45460 continues former Fish and Game Code Section 5701.5 without substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of specified references in former Fish and Game Code to State Department of Health Services).

Note. The reference in existing Fish and Game Code Section 5701.5 to the State Department of Health Services would be revised by proposed Section 45460 to instead refer to the State Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and 131052(6).

The Commission invites comment on whether that revision is appropriate.

§ 45465. Royalty

45465. Any person who moves any native mollusks taken under regulations of the commission from Districts 2600 and 2605, for purposes of purification for human consumption, shall pay a royalty, as the commission may prescribe, of not less than two cents (\$0.02) per pound of mollusks so taken.

Comment. Section 45465 continues former Fish and Game Code Section 5702 without substantive change.

CHAPTER 3. SHELLFISH

§ 45500. Authority of State Department of Public Health

45500. (a) The State Department of Public Health may do any of the following:

- (1) Examine any area from which shellfish may be taken.
- (2) Determine whether the area is subject to sewage contamination.
- (3) Determine whether the taking of shellfish from the area does or may constitute a menace to the lives or health of human beings.

(b) If an examination is conducted pursuant to this chapter for purposes of certifying the quality of shellfish-growing waters, certification of water quality shall be commenced within 30 days, and completed within three months of the filing of an application by an aquaculturist.

Comment. Subdivision (a) of Section 45500 combines and continues former Fish and Game Code Sections 5669 and 5671 without substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of specified references in former Fish and Game Code to State Department of Health Services).

Subdivision (b) continues former Fish and Game Code Section 5675 without substantive change.

Notes. (1) The reference in existing Fish and Game Code Section 5671 to the State Department of Health Services would be revised by proposed Section 45500 to instead refer to the State Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and 131052(6).

The Commission invites comment on whether that revision is appropriate.

(2) Existing Fish and Game Code Section 5675 (which would be continued by proposed Section 45500(b)) requires a specified examination to be completed “within three months of the filing of an application by an aquaculturist.” However, neither the section nor the article in which it appears provides any detail about this application.

The Commission invites comment on the intended meaning of this reference in existing Section 5675.

§ 45505. Prohibited take

45505. It is unlawful to take shellfish used or intended to be used for human consumption from any area from which it has been determined, as provided in this chapter, that the taking of shellfish does or may constitute a menace to the lives or health of human beings.

Comment. Section 45505 combines and continues former Fish and Game Code Section 5670 and the second paragraph of former Fish and Game Code Section 5672 without substantive change.

§ 45510. Notice of contamination

45510. (a) If the State Department of Public Health determines that an area from which any shellfish may be taken is or may be subject to sewage contamination, and that the taking of shellfish from that area does or may constitute a menace to the lives or health of human beings, that agency shall ascertain as accurately as it can the bounds of the contamination, and shall post notices on or in the area describing its bounds and prohibiting the taking of shellfish from the area.

(b) The taking of shellfish from the area is unlawful after the completion of the publication of the notices as prescribed in this article.

(c) The fact of posting the notices shall be published once a week for four successive weeks in a newspaper of general circulation published in the county in which the contaminated area is located. If no newspaper of general circulation is published in the county, the fact of the posting shall be published once a week for four successive weeks in a newspaper of general circulation published in an adjoining county.

Comment. Subdivision (a) of Section 45510 continues the first paragraph of former Fish and Game Code Section 5672 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 5673 without substantive change.

§ 45515. Enforcement

45515. The State Department of Public Health shall enforce the provisions of this chapter, and for that purpose the inspectors and employees of that agency may at any time enter public or private property where shellfish may be located.

Comment. Section 45515 continues former Fish and Game Code Section 5674 without substantive change. See also Health & Safety Code §§ 20, 131052(6) (directing revision of specified references in former Fish and Game Code to State Department of Health Services).

Note. The reference in existing Fish and Game Code Section 5674 to the State Department of Health Services would be revised by proposed Section 45515 to instead refer to the State Department of Public Health, pursuant to the directive of Health & Safety Code Sections 20 and 131052(6).

The Commission invites comment on whether that revision is appropriate.

CHAPTER 2. COMMERCIAL PROVISIONS [RESERVED]

PART 4. ABALONE

TITLE 1. ABALONE GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 45650. Mollusk

45650. For the purposes of Title 2 (commencing with Section 45400) of Part 3, an abalone is a mollusk.

Comment. Section 45650 is new. It is added for drafting convenience.

§ 45655. Provisions not exclusive

45655. The provisions of this part are not intended to be exclusive. Other provisions that govern abalone include, but are not limited to, the following provisions:

(a) Section 14875.

(b) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

Comment. Section 45655 is new. It is added for drafting convenience.

CHAPTER 2. TAKE

§ 45700. Take from ocean waters

45700. (a) A person shall not take abalone from ocean waters unless he or she first obtains, in addition to a valid California sport fishing license and any

1 applicable license validation or issued pursuant to this code, an abalone report
2 card, and maintains that report card in his or her possession while taking abalone.

3 (b) The department or an authorized license agent shall issue an abalone report
4 card upon payment of a fee of fifteen dollars (\$15) in the 2004 license year, which
5 shall be adjusted annually thereafter pursuant to Section 3755.

6 (c) The commission shall adjust the amount of the fees specified in subdivision
7 (b) as necessary, to fully recover, but not exceed, all reasonable administrative and
8 implementation costs of the department and the commission relating to those
9 licenses.

10 **Comment.** Section 45700 continues former Fish and Game Code Section 7149.8 without
11 substantive change.

12 See also Section 5800 (enforcement).

13 CHAPTER 3. IMPORTATION

14 § 45750. Requirements

15 45750. (a) Abalone or abalone meat legally taken outside this state may be
16 imported into this state when accompanied by a United States customhouse entry
17 certificate showing the place of origin, and a certificate or clearance from the
18 responsible governmental agency to the effect that the shipment was made in
19 compliance with the laws and regulations of the place or country of origin.

20 (b) Abalone and abalone meat described in subdivision (a) may be possessed in
21 this state, and shipped or transported out of the state, but all containers of that
22 abalone or abalone meat shall be marked with the abalone's place or country of
23 origin.

24 **Comment.** Section 45750 continues former Fish and Game Code Section 2371 without
25 substantive change.

26 CHAPTER 4. GEOGRAPHIC RESTRICTIONS

27 § 45800. Moratorium on take, possession, or landing

28 45800. (a) A moratorium is imposed on the taking, possessing, or landing of
29 abalone (genus *Haliotis*) for commercial or recreational purposes in ocean waters
30 of the state south of a line drawn due west magnetic from the center of the mouth
31 of the San Francisco Bay, including all islands offshore the mainland of
32 California, including, but not limited to, the Farallon Islands and the Southern
33 California Channel Islands.

34 (b) It is unlawful to take, possess, or land abalone for commercial or recreational
35 purposes in those ocean waters while the moratorium described in subdivision (a)
36 is in effect.

37 **Comment.** Section 45800 continues former Fish and Game Code Section 5521 without
38 substantive change.

39 See also Sections 4900, 5802, 5804 (enforcement).

1 **§ 45805. Commercial restriction on take**

2 45805. (a) In addition to the moratorium imposed by Section 45800, and
3 notwithstanding any other provision of law, it is unlawful to take abalone for
4 commercial purposes in District 2570, District 2575, District 2590 north of Point
5 Lobos, District 2610, District 2615, District 2630, or District 2640 between
6 Southeast Rock and the extreme westerly end of Santa Catalina Island.

7 (b) For a person who is required to obtain a license pursuant to Section 12900,
8 the possession of more than 12 individual abalone or abalone in excess of the
9 annual bag limit is prima facie evidence that the person possesses the abalone for
10 commercial purposes.

11 **Comment.** Section 45805 continues former Fish and Game Code Section 5521.5 without
12 substantive change.

13 See also Sections 4900, 5802, 5804 (enforcement).

14 **§ 45810. Collection as broodstock by aquaculturist**

15 45810. Notwithstanding Sections 45800 and 45805, a registered aquaculturist
16 may collect abalone for broodstock, in accordance with subdivision (a) of Section
17 23905.

18 **Comment.** Section 45810 continues former Fish and Game Code Section 5521.6 without
19 substantive change.

20 CHAPTER 5. RECREATIONAL ABALONE MANAGEMENT PROGRAM

21 **§ 45950. “Program”**

22 45950. For the purposes of this chapter, the following terms have the following
23 meanings:

24 (a) “Program” means the Recreational Abalone Management Program.

25 (b) “Research” includes, but is not limited to, investigation, experimentation,
26 monitoring, and analysis.

27 (c) “Management” means establishing and maintaining an optimal sustainable
28 utilization.

29 **Comment.** Subdivision (a) of Section 45950 continues the third sentence of former Fish and
30 Game Code Section 7149.9(a) without substantive change.

31 Subdivisions (b) and (c) continue the second sentence of former Fish and Game Code Section
32 7149.9(a)(1) without substantive change.

33 **§ 45955. Use of fees**

34 45955. (a) Fees received by the department pursuant to Section 45700 shall be
35 deposited in the Abalone Restoration and Preservation Account within the Fish
36 and Game Preservation Fund, which is hereby created. Notwithstanding Section
37 13340 of the Government Code, the moneys in the account are continuously
38 appropriated, without regard to fiscal year, to the department to be used only for
39 the Recreational Abalone Management Program.

(b) At least 15 percent of the funds deposited in the account shall be used for program activities south of San Francisco. To the extent possible, participants in the management activities of the program in that area shall be former commercial abalone divers.

(c) The department shall maintain internal accounts that ensure that the fees received pursuant to Section 45700 are disbursed for the purposes of subdivision (a). Not more than 20 percent of the fees received pursuant to Section 45700 shall be used for administration by the department.

(d) Unencumbered fees collected pursuant to Section 45700 during any previous calendar year may be expended for the purposes of subdivisions (a) and (b). All interest and other earnings on the fees received pursuant to Section 45700 shall be deposited in the account and shall be used for the purposes of subdivisions (a) and (b).

Comment. Subdivision (a) of Section 45955 continues the first two sentences of former Fish and Game Code Section 7149.9(a) without substantive change.

Subdivisions (b) through (d) continue former Fish and Game Code Section 7149.9(b)-(d) without substantive change.

§ 45960. Program elements

45960. The program shall include the following elements:

(a) Research and management of abalone and abalone habitat.

(b) Supplementary funding of allocations for the enforcement of statutes and regulations applicable to abalone, 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 recreational abalone regulations.

(c) Direction for volunteer groups relating to abalone and abalone habitat management, presentations of abalone related matters at scientific conferences and educational institutions, and publication of abalone related material.

Comment. Section 45960 continues the first sentence of former Fish and Game Code Section 7149.9(a)(1), and former Fish and Game Code Section 7149.9(a)(2) and (3), without substantive change.

CHAPTER 6. ABALONE RECOVERY AND MANAGEMENT PLAN

§ 46000. Declaration of legislative intent

46000. It is the intent of the Legislature that the commission undertake management of abalone in a manner consistent with the abalone recovery and management plan submitted pursuant to Section 46005.

Comment. Section 46000 continues former Fish and Game Code Section 5520 without substantive change.

1 **§ 46005. Elements of plan**

2 46005. (a) On or before January 1, 2003, the department shall submit to the
3 commission a comprehensive abalone recovery and management plan. The plan
4 shall contain all of the following:

5 (1) An explanation of the scientific knowledge regarding the biology, habitat
6 requirements, and threats to abalone.

7 (2) A summary of the interim and long-term recovery goals, including a range of
8 alternative interim and long-term conservation and management goals and
9 activities. The department shall report why it prefers the recommended activities.

10 (3) Alternatives for allocating harvest between sport and commercial divers if
11 the allocation of the abalone harvest is warranted.

12 (4) An estimate of the time and costs required to meet the interim and long-term
13 recovery goals for the species, including available or anticipated funding sources,
14 and an initial projection of the time and costs associated with meeting the final
15 recovery goals. An implementation schedule shall also be included.

16 (5) An estimate of the time necessary to meet the interim recovery goals and
17 triggers for review and amendment of strategy.

18 (6) A description of objective measurable criteria by which to determine
19 whether the goals and objectives of the recovery strategy are being met and
20 procedures for recognition of successful recovery. These criteria and procedures
21 shall include, but not be limited to, the following:

22 (A) Specified abundance and size frequency distribution criteria for former
23 abalone beds within suitable habitat not dominated by sea otters.

24 (B) Size frequency distributions exhibiting multiple size classes as necessary to
25 ensure continued recruitment into fishable stock.

26 (C) The reproductive importance to the entire ecosystem of those areas proposed
27 for reopening to harvest and the potential impact of each reopening on the
28 recovery of abalone population in adjacent areas.

29 (b) Where appropriate, the recovery and management plan may include the
30 following:

31 (1) A network of no-take abalone reserves.

32 (2) A total allowable catch, reflecting the long-term yield each species is capable
33 of sustaining, using the best available science and bearing in mind the ecological
34 importance of the species and the variability of marine ecosystems.

35 (3) A permanent reduction in harvest.

36 **Comment.** Section 46005 continues former Fish and Game Code Section 5522(a) and (b)
37 without substantive change.

38 **§ 46010. Funding of plan**

39 46010. Funding to prepare the recovery and management plan described in
40 Section 46005 and any planning and scoping meetings shall be derived from the
41 fees collected for the abalone report card.

1 **Comment.** Section 46010 continues former Fish and Game Code Section 5522(c) without
2 substantive change.

3 **Note.** Existing Fish and Game Code Section 5522(c) (which would be continued by
4 proposed Section 46010) refers to an “abalone stamp.” Proposed Section 46010 would instead
5 refer to an “abalone report card,” as it is the Commission’s understanding that the commercial
6 take of abalone now requires a report card, rather than a stamp.

7 **The Commission invites comment on whether proposed Section 46010 should be so**
8 **revised, or should be revised to refer to an “abalone stamp or report card.”**

9 **§ 46015. Action following adoption of plan**

10 46015. (a) On or before January 1, 2008, and following the adoption of the
11 recovery and management plan by the commission, the department may apply to
12 the commission to reopen sport or commercial fishing in all or any portion of the
13 waters described in Section 45800.

14 (b) If the commission makes a finding that the resource can support additional
15 harvest activities and that these activities are consistent with the abalone recovery
16 plan, all or a portion of the waters described in Section 45800 may be reopened
17 and management measures prescribed and implemented, as appropriate.

18 (c) The commission may close or, where appropriate, may establish no-take
19 marine refuges in any area opened pursuant to this section if it makes a finding
20 that this action is necessary to comply with the abalone management plan.

21 **Comment.** Section 46015 continues former Fish and Game Code Section 5522(d) without
22 substantive change.

23 **§ 46020. Priority for previous commercial permittees**

24 46020. If the commission determines that commercial fishing is an appropriate
25 management measure, priority for participation in the fishery shall be given to
26 those persons who held a commercial abalone permit during the 1996–97 permit
27 year.

28 **Comment.** Section 46020 continues former Fish and Game Code Section 5522(e) without
29 substantive change.

30 **CHAPTER 7. RECREATIONAL ABALONE ADVISORY COMMITTEE**

31 **§ 46050. Committee requirements**

32 46050. (a) The director shall appoint a Recreational Abalone Advisory
33 Committee, consisting of nine members who shall serve without compensation.
34 The members of the committee shall be selected as follows:

35 (1) Six members who are not officers or employees of the department. The six
36 members shall be residents of California, and meet the following requirements:

37 (A) Two members shall reside north of the southern boundary line of Marin
38 County and a line extending due east from the easternmost point of Marin County
39 located in San Pablo Bay. The two members shall be selected from nominations
40 submitted by the Northern California Shellfish Assessment Program or by

1 individuals or organizations that actively participate in the recreational abalone
2 fishery, except that not more than one of the members selected shall be an active
3 or former commercial abalone diver or involved in commercial seafood processing
4 or marketing.

5 (B) Two members shall reside south of the southern boundary line of Marin
6 County and a line extending due east from the easternmost point of Marin County
7 located in San Pablo Bay, and north of the boundary between Santa Barbara and
8 San Luis Obispo Counties and a line extending due east from the easternmost
9 point in that boundary line. The two members shall be selected from nominations
10 submitted by the Central California Council of Divers, the Southern California
11 Shellfish Assessment Program, the Northern California Shellfish Assessment
12 Program, or by individuals or organizations that actively participate in the
13 recreational abalone fishery, except that not more than one of the members
14 selected shall be an active or former commercial abalone diver or involved in
15 commercial seafood processing or marketing.

16 (C) Two members shall reside south of the boundary between Santa Barbara and
17 San Luis Obispo Counties and a line extending due east from the easternmost
18 point in that boundary line. The two members shall be selected from nominations
19 submitted by the Greater Los Angeles Council of Divers, the San Diego Council
20 of Divers, the Channel Islands Council of Divers, the Southern California
21 Shellfish Assessment Program, or by individuals or organizations that actively
22 participate in the recreational abalone fishery, except that not more than one of the
23 members selected shall be an active or former commercial abalone diver or
24 involved in commercial seafood processing or marketing.

25 (2) One member shall represent the department in enforcement activities and
26 shall be selected from personnel in the Wildlife Protection Division.

27 (3) Two members shall be marine scientists who are or have been involved in
28 abalone research at universities, state universities, or in state or federal programs.
29 Not more than one of the persons shall be an officer or employee of the
30 department.

31 (b) No member shall be involved in or profit from the culture for sale
32 (commercial aquaculture) of abalone.

33 (c) The advisory committee shall meet at least once each calendar year to review
34 proposals, and recommend projects and budgets to the director for the expenditure
35 of fees received pursuant to Section 45700. The committee may review progress
36 reports and the results of projects funded under this section, and make
37 recommendations to the director regarding abalone resource management.

38 **Comment.** Section 46050 continues former Fish and Game Code Section 7400 without
39 substantive change.

1 TITLE 2. COMMERCIAL PROVISIONS

2 CHAPTER 1. PRELIMINARY PROVISIONS

3 § 46100. Application of title

4 46100. For purposes of Section 45005, the provisions in this title are commercial
5 provisions.

6 **Comment.** Section 46100 is new. It is added for drafting convenience.

7 CHAPTER 2. ABALONE RESOURCES RESTORATION AND
8 ENHANCEMENT PROGRAM

9 § 46150. Funding of program

10 46150. (a) Any landing fee collected pursuant to former Fish and Game Code
11 Section 8051.3 shall be deposited in the Fish and Game Preservation Fund, and
12 shall be used only for the Abalone Resources Restoration and Enhancement
13 Program.

14 (b) The department shall maintain internal accounts necessary to ensure that the
15 funds are disbursed for the purposes in this section.

16 (c) The department may use for administration no more of the landing fee
17 collected pursuant to former Fish and Game Code Section 8051.3 than an amount
18 equal to the regularly approved department indirect overhead rate.

19 (d) Any interest on the revenues from the landing fee collected pursuant to
20 former Fish and Game Code Section 8051.3 shall be deposited in the fund, and
21 used for the purposes in this subdivision.

22 **Comment.** Section 46150 continues former Fish and Game Code Section 8051.4(a) without
23 substantive change.

24 PART 5. CLAMS

25 TITLE 1. CLAMS GENERALLY

26 CHAPTER 1. PRELIMINARY PROVISIONS

27 § 46200. Mollusk

28 46200. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a
29 clam is a mollusk.

30 **Comment.** Section 46200 is new. It is added for drafting convenience.

1 **§ 46205. Provisions not exclusive**

2 46205. The provisions of this part are not intended to be exclusive. Other
3 provisions that govern clams include, but are not limited to, the following
4 provisions:

5 (a) Section 19805.

6 (b) Section 20710.

7 (c) Section 23355.

8 (d) Section 24100.

9 (c) Section 60325.

10 **Comment.** Section 46205 is new. It is added for drafting convenience.

11 CHAPTER 2. PISMO CLAMS

12 **§ 46250. Possession**

13 46250. No pismo clam not in the shell may be possessed, except when it is being
14 prepared for immediate consumption.

15 **Comment.** Section 46250 continues former Fish and Game Code Section 7290 without
16 substantive change.

17 **§ 46255. Shipping**

18 46255. No pismo clam taken in this state may be shipped.

19 **Comment.** Section 46255 continues former Fish and Game Code Section 2368 without
20 substantive change.

21 **§ 46260. Importing**

22 46260. (a) Pismo clams taken outside this state may be imported into this state
23 when accompanied by a United States customhouse entry certificate showing their
24 place of origin, and a certificate or clearance from the responsible governmental
25 agency to the effect that such shipment was made in compliance with the laws and
26 regulations of the place or country of origin.

27 (b) Pismo clams authorized for importation pursuant to subdivision (a) may be
28 canned and shipped outside this state.

29 (c) The commission may adopt regulations governing the inspection and
30 marking of pismo clams imported into this state. The cost of such inspection and
31 marking shall be paid by the importer of the pismo clams.

32 **Comment.** Section 46260 continues former Fish and Game Code Section 2369 without
33 substantive change.

34 CHAPTER 3. MISCELLANEOUS PROVISIONS

35 **§ 46300. Digging instruments**

36 46300. No instrument capable of being used to dig clams may be possessed
37 between one-half hour after sunset and one-half hour before sunrise, on any beach

1 of this state, except tools and implements used in the work of cleaning, repairing,
2 or maintaining a beach, when possessed by a person authorized by appropriate
3 authority to perform that work.

4 **Comment.** Section 46300 continues former Fish and Game Code Section 7332 without
5 substantive change.

6 TITLE 2. COMMERCIAL PROVISIONS

7 CHAPTER 1. PRELIMINARY PROVISIONS

8 § 46350. Application of title

9 46350. For purposes of Section 45005, the provisions in this title are commercial
10 provisions.

11 **Comment.** Section 46350 is new. It is added for drafting convenience.

12 CHAPTER 2. TAKE

13 § 46400. When take permitted


14 46400. Except as otherwise provided in this chapter, in Districts 2580, 2585, and
15 2615, clams may be taken between September 1 and April 30, and in other
16 districts clams may be taken at any time.

17 **Comment.** Section 46400 continues former Fish and Game Code Section 8340 without
18 substantive change.

19 § 46405. Commission regulation of take of freshwater claims for commercial purpose

20 46405. Notwithstanding paragraph (2) of subdivision (b) of Section 1000, the
21 commission shall regulate the taking of freshwater clams for commercial
22 purposes.

23 **Comment.** Section 46405 continues former Fish and Game Code Section 8475 without
24 substantive change.

25  **Note.** Existing Fish and Game Code Section 8475 (which would be continued by proposed
26 Section 46405), is located in an article of the existing code entitled “Fresh-water Fish for Bait.”

27 **The Commission invites comment on whether this section is intended to apply only to**
28 **taking of freshwater clams for use as bait.**

29 § 46410. Littlenecks, chiones and hard-shell cockles

30 46410. (a) All species of clams commonly known as littlenecks, chiones and
31 hard-shell cockles, including thin-shelled littleneck, common littleneck, Japanese
32 littleneck, rough-sided littleneck, smooth chione, wavy chione, and banded chione,
33 may be taken at any time, except in the waters of Marin County, where they may
34 be taken only between September 1 and March 31.

1 (b) Notwithstanding subdivision (a), a clam listed in subdivision (a) that
2 measures less than one and one-half inches in greatest diameter may not be taken,
3 possessed, transported, or sold at any time.

4 (c) The bag limit on clams listed in subdivision (a) is 50 per day, in the
5 aggregate. Not more than one daily bag limit of clams listed in subdivision (a)
6 may be possessed by any person during one day.

7 (d) Notwithstanding any other provision of this section, a clam listed in
8 subdivision (a), when legally taken outside the state and brought within the state
9 pursuant to this code, may be possessed, transported, and sold without restrictions,
10 except that any shipment of clams listed in subdivision (a) into this state shall be
11 accompanied by a bill of lading, or invoice, showing the species, total number or
12 weight, and the origin of the clams.

13 **Comment.** Section 46410 continues former Fish and Game Code Section 8341 without
14 substantive change.

15 **§ 46415. Northern razor clams**

16 46415. Northern razor clams (*Siliqua patula*) may not be sold, except that
17 Northern razor clams taken outside the state and brought within the state may be
18 possessed, transported, and sold, without restriction.

19 **Comment.** Section 46415 continues former Fish and Game Code Section 8343 without
20 substantive change.

21 **§ 46420. Pismo clams**

22 46420. It is unlawful for any person to sell or purchase a pismo clam taken in
23 this state.

24 **Comment.** Section 46420 continues former Fish and Game Code Section 8346 without
25 substantive change.

26 **§ 46425. Washington clams and gappers**

27 46425. (a) In Districts 2515, 2580, and 2585, the bag limit on Washington clams
28 and gappers, sometimes known as bigneck clams, is 25 in the aggregate. In all other
29 districts the bag limit is 10 Washington clams and 10 gappers.

30 (b) No more than the daily bag limit may be possessed by any person during one
31 day, except that a market or restaurant, where clams are sold to the public, may
32 possess any number of Washington clams and gappers legally taken.

33 (c) In Districts 2580 and 2585, the holder of a commercial fishing license who
34 has in his possession a current daily written order for clams issued by a fish dealer
35 or restaurant may possess any number of Washington clams and gappers legally
36 taken, up to but not exceeding the number specified in the order.

37 **Comment.** Section 46425 continues former Fish and Game Code Section 8342 without
38 substantive change.

PART 6. CRAB

TITLE 1. CRAB GENERALLY

CHAPTER 1. PRELIMINARY PROVISIONS

§ 46500. Crustacean

46500. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a crab is a crustacean.

Comment. Section 46500 is new. It is added for drafting convenience.

§ 46505. Provisions not exclusive

46505. The provisions of this part are not intended to be exclusive. Other provisions that govern crab include, but are not limited to, the following provisions:

- (a) Section 16555.
- (b) Section 19205.
- (c) Section 19500.
- (d) Section 19805.
- (e) Section 20710.
- (f) Section 20720.
- (g) Section 47005.
- (h) Section 47450.

Comment. Section 46505 is new. It is added for drafting convenience.

CHAPTER 2. IMPORTATION

§ 46550. Importation of crab meat

46550. Crab meat from outside the state may be imported into the state under regulations of the commission.

Comment. Section 46550 continues former Fish and Game Code Section 2364 without substantive change.

TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 46800. Application of title

46800. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 46800 is new. It is added for drafting convenience.

1 **§ 46855. Definitions**

2 46855. Unless the provision or context otherwise requires, the definitions in this
3 section govern the construction of this title.

4 (a) “Dungeness crab” or “market crab” means crab of the species *Cancer*
5 *magister*.

6 (b) “Reconstruction” means major work on the hull of a vessel to make that
7 vessel operable in the California crab fishery if that work may reasonably be
8 expected to be of a duration that will preclude operation of that vessel in the crab
9 fishery for the length of the crab season or longer.

10 (c) “Rock crab” means any crab of the genus *Cancer* other than Dungeness crab
11 and includes rock crab (*Cancer antennarius*), red crab (*Cancer productus*), and
12 yellow crab (*Cancer anthonyi*).

13 (d) “Under construction” means having plans and materials and proceeding with
14 work toward the completion of an operational Dungeness crab fishing vessel.

15 **Comment.** Section 46855 continues former Fish and Game Code Section 8275 without
16 substantive change.

17 **CHAPTER 2. TAKE AND POSSESSION**

18 **§ 47000. Use of trawl or drag net**

19 47000. It is unlawful to take or possess more than 500 pounds of crabs on any
20 boat on which any type of trawl or drag net is carried or operated.

21 **Comment.** Section 47000 continues former Fish and Game Code Section 8834 without
22 substantive change.

23 **§ 47005. Concurrent take for commercial and sport purposes**

24 47005. No vessel may be used to take and land crab for both commercial and
25 sport purposes in the same day.

26 **Comment.** Section 47005 continues former Fish and Game Code Section 9012(a) without
27 substantive change.

28 **§ 47010. Restrictions on eligibility to take crab**

29 47010. (a) Eligibility to take crab in waters of the state and offshore for
30 commercial purposes may be subject to restrictions, including, but not limited to,
31 restrictions on the number of traps utilized by that person, if either of the
32 following occurs:

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

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

(b) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute that becomes operative on or before January 1, 2030, deletes or extends the date on which this section becomes inoperative or is repealed.

Comment. Subdivision (a) of Section 47010 continues former Fish and Game Code Section 8276.4(i) without substantive change.

Subdivision (b) continues the part of former Fish and Game Code Section 8276.4(j) as it applied to former Fish and Game Code Section 8276.4(i) without substantive change.

Note. Proposed Section 47060(b) would continue Section 8276(j) (as it applied to 8276.4(i)), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47015. Crab meat and frozen crab

47015. Crab meat and frozen crab taken during the open season may be possessed, transported, and sold at any time, subject to the regulations of the commission. The cost of inspection and marking, under the regulations of the commission, shall be paid by the owner or seller of the crab or crab meat.

Comment. Section 47015 continues former Fish and Game Code Section 8281 without substantive change.

CHAPTER 3. DUNGENESS CRAB

Article 1. General Provisions

§ 47050. Provisions not exclusive

47050. The provisions of this part are not intended to be exclusive. Other provisions that govern Dungeness crab include, but are not limited to, the following provisions:

(a) Section 19205.

(b) Section 19230.

(c) Section 25125.

(d) Section 20720.

(e) Section 47450.

Comment. Section 47050 is new. It is added for drafting convenience.

§ 47055. Prohibited sale of take from specified waters

47055. It is unlawful to sell any Dungeness crab taken in any of the following waters:

(a) The Eel River and its tributaries, between the Pacific Ocean and the west line of Sec. 35, T. 3 N., R. 1 W., H. B. & M.

(b) The Pacific Ocean, within a radius of one mile from the mouth of the Eel River.

(c) Humboldt Bay, including the entrance of that bay, and the Pacific Ocean within a radius of one mile from the extreme western point of the north jetty at the

entrance of the bay, and for a radius of one mile from the extreme western point of the south jetty at the entrance of the bay.

(d) Trinidad Bay, the body of water within the area enclosed by a line running southeasterly from the westernmost point of Trinidad Head to the mouth of Luftenholtz Creek.


(e) Bodega Lagoon.

Comment. Section 47055 continues former Fish and Game Code Section 8279 without substantive change.

§ 47060. Take in Crescent City Harbor area

47060. Except as provided in Section 47305 or Article 4 (commencing with Section 47350), Dungeness crab may not be taken for commercial purposes in any district, or part of a district, lying within the portions of Crescent City Harbor between the south sand barrier and the breakwater.

Comment. Section 47060 continues former Fish and Game Code Section 8276(c) without substantive change.

 **Note.** Proposed Section 47060 would continue Section 8276(c), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47065. Use of trawl or drag net south of Point Reyes

47065. It is unlawful for any person on a vessel on which any type of trawl or drag net is carried or operated to take or possess Dungeness crab, or to transfer Dungeness crab to another vessel, south of a line extending due west, true, from Point Reyes.

Comment. Section 47065 continues former Fish and Game Code Section 8834.5 without substantive change.


§ 47070. Size and sex restrictions

47070. (a) Except as otherwise provided, it is unlawful to take, possess, buy, or sell a male Dungeness crab of less than six and one-quarter (6 1/4) inches in breadth, or a female Dungeness crab of any breadth.

(b) In any load or lot of Dungeness crabs, one percent or less in number may be less than six and one-quarter (6 1/4) inches and equal to or greater than five and three-quarters (5 3/4) inches in breadth.

(c) The breadth of a Dungeness crab shall be measured by the shortest distance through the body from edge of shell to edge of shell directly from front of points (lateral spines).

Comment. Section 47070 continues former Fish and Game Code Section 8278 without substantive change.

 **Note.** Existing Fish and Game Code Section 8278 (which would be continued by proposed Section 47070) generally prohibits the take, possession, purchase, or sale, of undersized male Dungeness crabs, or female Dungeness crabs of any size, “except that not more than 1 percent in number of any load or lot of Dungeness crabs may be less than six and one-quarter (6 1/4) inches in breadth but not less than five and three-quarters (5 3/4) inches in breadth.”

Is this exception intended to include female Dungeness crabs of the specified breadth?

Article 2. Geographic Restrictions

§ 47150. Delayed opening season in District 2570, 2575, 2580, or 2585

47150. (a) If there is any delay ordered by the director pursuant to Article 4 (commencing with Section 47350) in the opening of the Dungeness crab fishery in District 2570, 2575, 2580, or 2585, a vessel shall not take or land crab within District 2570, 2575, 2580, and 2585 during any closure.

(b) If there is any delay in the opening of the Dungeness crab season pursuant to Article 4 (commencing with Section 47350), the opening date in District 2570, 2575, 2580, and 2585 shall be preceded by a 64-hour gear setting period, as ordered by the director.

(c) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Section 47150 continues former Fish and Game Code Section 8276.3 without substantive change.

Notes. (1) Read literally, Section 8276.3 prohibits the take of crab in *all* of the listed districts if *any* of those districts is closed. **The Commission invites comment on whether that is the intended meaning.**

(2) Proposed Section 47150 would continue Section 8276.3, which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47155. Ocean waters

47155. (a) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from a vessel in ocean waters for 30 days after the opening of those waters for the commercial Dungeness crab fishing season, if both of the following events have occurred:

(1) The opening of the season has been delayed in those waters.

(2) The same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes, from ocean waters outside of the delayed waters, before the opening of the delayed waters for the season.

(b) For purposes of this section, a delay in the opening of ocean waters for the commercial Dungeness crab fishing season has occurred in either of the following circumstances:

(1) The opening of those waters for the season has been delayed pursuant to Section 11500 or Article 4 (commencing with Section 47350).

(2) The opening of those waters for the season has been delayed in Oregon or Washington due to the tri-state quality testing program or by a closure to prevent a risk to human health.

(c) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Subdivisions (a) and (b) of Section 47155 continue former Fish and Game Code Section 8279.1(a)-(b) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 8279.1(d) without substantive change.

See also Section 5834 (enforcement).

Note. Proposed Section 47155 would continue Section 8279.1(a), (b), and (d), which were amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

Article 3. Seasons Generally

§ 47300. Seasons

47300. Except as provided in Section 47305 or Article 4 (commencing with Section 47350):

(a) Dungeness crab may be taken for commercial purposes in District 2570, 2575, 2580, or 2585 only between December 1 and July 15.

(b) Dungeness crab may be taken for commercial purposes in all other districts only between November 15 and June 30.

(c) All Dungeness crab traps shall be removed from state waters by 11:59 p.m. on the last day of the applicable Dungeness crab season.

Comment. Section 47300 continues former Fish and Game Code Section 8276(a), (b) and (d) without substantive change.

Note. Proposed Section 47300 would continue Section 8276(a), (b), and (d), which were amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47305. Extension of season

47305. (a) The director may extend the Dungeness crab season in any district or part of a district, as provided in this section.

(b) Before extending a Dungeness crab season, the director shall consider written findings of the department regarding the state of the Dungeness crab resource in the district, or part of a district, which consider, but are not limited to, population and maturity. The director may extend the season only if the written findings do not conclude that the extension will damage the Dungeness crab resource.

(c) The director shall not extend the Dungeness crab season past August 31 in a district, or part thereof, north of the southern boundary of Mendocino County or past July 31 in a district, or part of a district, south of Mendocino County. The director shall order closure of the season at any time during the extension period if the director determines that further fishing will damage the Dungeness crab resource.

1 **Comment.** Section 47305 continues former Fish and Game Code Section 8277 without
2 substantive change.

3 Article 4. Delayed Opening Seasons

4 **§ 47350. Authority of director to order delay**

5 47350. In District 2570, 2575, 2580, or 2585, the director may order a delay in
6 the opening of the Dungeness crab fishery beyond December 1 in any year. The
7 delay in opening shall not be delayed beyond January 15 of any year.

8 **Comment.** Section 47350 continues former Fish and Game Code Section 8276.2(a) without
9 substantive change.

10 **§ 47355. Authority of director to order quality testing**

11 47355. On or about November 1 of each year, the director may authorize one or
12 more operators of commercial fishing vessels to take and land a limited number of
13 Dungeness crab, for the purpose of quality testing pursuant to a testing program
14 conducted by, or on behalf of, the Pacific States Marine Fisheries Commission, or
15 by an entity approved by the department.

16 **Comment.** Section 47355 continues former Fish and Game Code Section 8276.2(b)(1) without
17 substantive change.

18 **§ 47360. Testing guidelines**

19 47360. For purposes of the testing program, the department shall develop
20 guidelines after consulting with representatives of the California Dungeness crab
21 industry, which shall include California delegates to the Tri-State Dungeness Crab
22 Commission, members of the California Dungeness Crab Task Force, or both. The
23 guidelines shall include the following:

24 (a) Suggested guidelines for the management of the funds received from, but not
25 limited to, the sale of the crab meat pursuant to Section 47370, including the
26 suggested guideline that funds in excess of the program costs may be donated for
27 charitable purposes.

28 (b) Guidelines for the testing program.

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

32 **Comment.** Section 47360 continues former Fish and Game Code Section 8276.2(b)(2)(B)
33 without substantive change.

34 **§ 47365. Delay in season opening in District 2570, 2575, 2580, or 2585 based on testing**

35 47365. (a) The entity authorized to conduct the approved testing program may
36 test, or cause to be tested, crabs taken for quality and soft shells pursuant to the
37 approved testing program.

(b) The director shall order the opening of the Dungeness crab season in Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in Section 47355 indicate the Dungeness crabs are not soft-shelled or low quality.


(c) If the tests are conducted on or about November 1 and result in a finding that Dungeness crabs are soft-shelled or low quality, the director shall authorize a second test to be conducted on or about November 15 pursuant to the approved testing program.

(d) If the second test results in a finding that Dungeness crabs are soft-shelled or low quality, the director may order the season opening delayed for a period of 15 days and may authorize a third test to be conducted on or about December 1.

(e) If the third test results in a finding that Dungeness crabs remain soft-shelled or of low quality, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted.

(4) This procedure may continue to be followed, except that tests shall not be conducted after January 15 for that season, and the season opening shall not be delayed by the director later than January 15.

Comment. Section 47365 continues former Fish and Game Code Section 8276.2(c), without substantive change.

 **Note.** Proposed Section 47365 would continue Section 8276.2(c), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47370. Sale of crab meat extracted for testing

47370. (a) The meat extracted from Dungeness crab tested pursuant to Section 47355 may be sold by the entity approved by the department to conduct the testing, and revenues from that sale may be used for purposes of managing the testing program.


(b) Revenues shall be deposited in an account managed and overseen by the Pacific States Marine Fisheries Commission.

Comment. Section 47370 continues former Fish and Game Code Section 8276.2(b)(2)(A) without substantive change.

§ 47375. Inoperative date of article

47375. This article shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute that becomes operative on or before January 1, 2030, deletes or extends the date on which this article becomes inoperative or is repealed.

Comment. Section 47375 continues former Fish and Game Code Section 8276.2(d) without substantive change.

 **Note.** Proposed Section 47375 would continue Section 8276.2(d), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

Article 5. Use of Traps Generally

§ 47450. Use of traps

47450. (a) Subject to Title 6 (commencing with Section 19200) of Part 6 of Division 6, and the provisions of this title, Dungeness crab may be taken with Dungeness crab traps.

(b) A Dungeness crab trap may have any number of openings of any size. However, every Dungeness crab trap shall have at least two rigid circular openings of not less than 4 1/4 inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(c) In District 2570, 2575, 2580, or 2585, no trap shall be used to take Dungeness crab if that trap is attached to another trap or other traps by a common line.

Comment. Subdivision (a) of Section 47450 combines and continues the first sentence of former Fish and Game Code Section 8284(a) and former Fish and Game Code Section 9011(a)(1) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 9011(a)(2) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 9012(b) without substantive change.

Note. The first sentence of existing Fish and Game Code Section 8284(a) (which would be continued by proposed Section 47450(a)) provides that crab traps may be used to take Dungeness crab for commercial purposes, “[s]ubject to” the article in the existing law in which Section 8284 appears. In the proposed law, all provisions contained in that article have been continued in the title containing proposed Section 47450(a). However, that proposed title contains several additional provisions relevant to the subject matter of Section 8284 that are *not* in the “Article 6” referenced in that section: Sections 8834, 8834.5, 9011, and 9012.

The Commission invites comment on whether the additional inclusion of these provisions in the cross-reference in proposed Section 47450(a) would cause any problems.

§ 47455. Setting and baiting of traps

47455. (a) Except as provided in subdivision (b), crab traps may be set and baited 18 hours in advance of the opening date of the Dungeness crab season, if no other attempt is made to take or possess Dungeness crab.

(b) Crab traps may be set and baited 64 hours prior to the opening date of the Dungeness crab season in District 2570, 2575, 2580, or 2585. Crab traps may be set and baited in advance of that opening date in those districts, if no other attempt is made to take or possess Dungeness crab in those districts.

Comment. Section 47455 continues former Fish and Game Code Section 8283 without substantive change.

(b) Subject to the provisions of this title, rock crab may be taken incidentally with a Dungeness crab trap used pursuant to Section 47450 to take Dungeness crab, provided that the incidental taking occurs only during the season when it is lawful to take both species. A rock crab taken incidentally with a Dungeness crab trap in non-compliance with this subdivision shall be immediately returned to the waters from which it was taken.

Subdivision (b) continues former Fish and Game Code Section 9011(a)(3) without substantive change.

The Commission invites comment on whether the additional inclusion of these provisions in the cross-reference in proposed Section 47460(b) would cause any problems.

47465. On or before January 1, 2013, the department shall report to the appropriate policy and fiscal committees of the Legislature the impacts, if any, of the changes made to former Fish and Game Code Section 911 by Chapter 478 of the Statutes of 2009. The report shall include information about citations issued pursuant to that section relating to both rock crab and Dungeness crab for the years 2010 to 2012, inclusive.

Note. The Commission invites comment on whether existing Fish and Game Code Section 9011(c) (which would be continued by proposed Section 47465) is obsolete, and need not be continued in the proposed law.

47600. For purposes of this article, “council” means the Ocean Protection Council established pursuant to Section 35600 of the Public Resources Code.

– 782 –

1 **§ 47605. Legislative declaration**

2 47605. (a) It is the intent of the Legislature that the department, the council, and
3 the Dungeness crab task force work with the Pacific States Marine Fisheries
4 Commission and the Tri-State Dungeness Crab Commission to resolve any issues
5 pertaining to moving the fair start line south to the border of California and
6 Mexico.

7 (b) For purposes of this section, the resolution of issues pertaining to the fair
8 start line shall be limited to assessing the positive and negative implications of
9 including District 2590 in the tri-state agreement, including working with the Tri-
10 State Dungeness Crab Commission to amend Oregon and Washington laws to
11 include District 2590 in the regular season fair start clause, and discussion of
12 providing different rules for District 2590 with regard to preseason quality testing.

13 **Comment.** Section 47605 continues former Fish and Game Code Section 8276.5(g) without
14 substantive change.

15 **§ 47610. Adoption of program**

16 47610. In consultation with the Dungeness crab task force, or its appointed
17 representatives, the director shall adopt a program, by March 31, 2013, for
18 Dungeness crab trap limits for all California permits.

19 **Comment.** Section 47610 continues the first sentence of former Fish and Game Code Section
20 8276.5(a) without substantive change.

21 See also Section 5836 (enforcement).

22 **§ 47615. Program requirements**

23 47615. Unless the director finds that there is consensus in the Dungeness crab
24 industry that modifications to the following requirements are more desirable, with
25 evidence of consensus, including, but not limited to, the record of the Dungeness
26 crab task force, the program shall include all of the requirements of this article.

27 **Comment.** Section 47615 continues the second sentence of former Fish and Game Code
28 Section 8276.5(a) without substantive change.

29 **§ 47620. Tier requirements**

30 47620. (a) The program shall contain seven tiers of Dungeness crab trap limits
31 based on California landings receipts under California permits between November
32 15, 2003, and July 15, 2008, as follows:

33 (a) The 55 California permits with the highest California landings shall receive a
34 maximum allocation of 500 trap tags.

35 (2) The 55 California permits with the next highest California landings to those
36 in paragraph (1) shall receive a maximum allocation of 450 trap tags.

37 (3) The 55 California permits with the next highest California landings to those
38 in paragraph (2) shall receive a maximum allocation of 400 trap tags.

39 (4) The 55 California permits with the next highest California landings to those
40 in paragraph (3) shall receive a maximum allocation of 350 trap tags.

(5) The 55 California permits with the next highest California landings to those in paragraph (4) shall receive a maximum allocation of 300 trap tags.

(6) The remaining California permits with the next highest California landings to those in paragraph (5), which are not described in paragraph (1) or (2) of subdivision (a) of Section 47010 shall receive a maximum allocation of 250 trap tags.

(7) The California permits described in paragraph (1) or (2) of subdivision (a) of Section 47010 shall receive a maximum allocation of 175 tags. The tags in this tier shall not be transferable for the first two years of the program.

(b) Notwithstanding subdivision (a), the director shall not remove a permitholder from a tier described in that subdivision if, after an allocation is made pursuant to that subdivision, an appeal pursuant to Section 47650 places a permitholder in a tier different than the original allocation.

Comment. Section 47620 continues former Fish and Game Code Section 8276.5(a)(1)-(2) without substantive change.

Notes. (1) The Commission invites comment on whether the second sentence of proposed Section 47620(a)(7) should be repealed as obsolete.

(2) Proposed Section 47620 would continue Section 8276.5(a)(1), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47625. Program participant requirements

47625. Participants in the program shall meet all of the following requirements:

(a) Unless a participant receives a waiver pursuant to Section 47630, pay a biennial fee for each trap tag issued pursuant to this article to pay the pro rata share of costs of the program, including, but not limited to, informing permitholders of the program, collecting fees, acquiring and sending trap tags to permitholders, paying for a portion of enforcement costs, and monitoring the results of the program. The fee shall not exceed five dollars (\$5) per trap, per two-year period. All of the trap tags allocated to each permit pursuant to this article shall be purchased by the permitholder or the permit shall be void.

(b) Purchase a biennial crab trap limit permit of not more than one thousand dollars (\$1,000) per two-year period to pay for the department's reasonable regulatory costs.

(c) Not lease a crab trap tag.

(d) Transfer a tag only as part of a transaction to purchase a California permitted crab vessel.

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

Comment. Section 47625 continues former Fish and Game Code Section 8276.5(a)(3) without substantive change.

1 **§ 47630. Fee waiver for military service**

2 47630. (a) The department shall issue a participant a waiver from the biennial
3 fee for each trap tag described in subdivision (a) of Section 47625 if the
4 participant is unable to fish due to mandatory military service and the participant
5 submits a request for a waiver to the department at the same time that the
6 participant renews the permit issued pursuant to subdivision (b) of Section 47625.

7 (b) A participant who receives a waiver pursuant to this section shall not apply
8 to the department to fish for Dungeness crab during the first year of the waiver,
9 but may apply to fish for Dungeness crab during the second year of the waiver if
10 the participant pays the full cost of the biennial fee for each trap tag.

11 (c) The department shall not limit the number of times a participant may request
12 a waiver.

13 **Comment.** Section 47630 continues former Fish and Game Code Section 8276.5(a)(4) without
14 substantive change.

15 **§ 47635. Transit with valid out-of-state tags**

16 47635. Notwithstanding subdivision (e) of Section 47625, a vessel may transit
17 state waters with Dungeness crab traps that are not tagged pursuant to subdivision
18 (e) of Section 47625 if the traps contain either a valid Oregon or Washington trap
19 tag, no crab species are onboard the vessel, and the traps are not deployed in state
20 waters.

21 **Comment.** Section 47635 continues former Fish and Game Code Section 8276.5(a)(5) without
22 substantive change.

23 **§ 47640. Department accounting**

24 47640. The department shall annually provide an accounting of all costs
25 associated with the crab trap limit program. The department shall use excess funds
26 collected to reduce the cost of the crab trap limit permit fee or tag fee in
27 subsequent years of the program.

28 **Comment.** Section 47640 continues former Fish and Game Code Section 8276.5(a)(6) without
29 substantive change.

30 **§ 47645. Lost tags**

31 47645. Permitholders may replace lost tags by application to the department,
32 and payment of a fee not to exceed the reasonable costs incurred by the
33 department, which may be waived or reduced by the department in the case of
34 catastrophic loss of tags.

35 **Comment.** Section 47645 continues former Fish and Game Code Section 8276.5(a)(7) without
36 substantive change.

37 **§ 47650. Appeal of trap tag allocation**

38 47650. Any Dungeness crab permitholder may submit to the director an appeal
39 of a trap tag allocation received pursuant to this section, by March 31, 2014, on a
40 permit-by-permit basis for the purpose of revising upward or downward any trap

tag allocation. Any appeal to revise upward a trap tag allocation shall be based on evidence that a permit's California landings during the period between November 15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual circumstances and that these circumstances constitute an unfair hardship, taking into account the overall California landings history as indicated by landing receipts associated with the permit. The director shall initiate the appeal process within 12 months of receiving an appeal request. The appeal shall be heard and decided by an administrative law judge of the Office of Administrative Hearings, whose decision shall constitute the final administrative decision. Any Dungeness crab permit holder requesting an appeal to revise upward the permit holder's trap tag allocation shall pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department's reasonable costs associated with the appeal process described in this section.

Comment. Section 47650 continues former Fish and Game Code Section 8276.5(a)(8) without substantive change. An obsolete reference to "subparagraph (B)" was not continued.

Notes. (1) Existing Fish and Game Code Section 8276.5(a)(8) provides for an appeal of an allocation made by March 31, 2014. **The Commission invites Comment on whether that provision can be repealed as obsolete. If so, should proposed Section 47620(b) also be deleted?**

(2) Proposed Section 47650 would continue Section 8276.5(a)(8), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47655. Submission of proposed program to task force

47655. (a) For the purposes of this article, a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab task force may be transmitted to the director or the Legislature as a recommendation, shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry. Any proposed recommendation that does not receive a vote sufficient to authorize transmittal to the director or Legislature as a recommendation shall be evidence of a lack of consensus by the Dungeness crab task force, and shall be considered to be evidence of a lack of consensus in the crab industry.

(b) The director may modify the program adopted pursuant to Section 47610, if consistent with the requirements of this article, after consultation with the Dungeness crab task force or its representatives and after the task force has had 60 days or more to review the proposed modifications and recommend any proposed changes. The director may implement the modifications earlier than 60 days after it is sent to the Dungeness crab task force for review, if recommended by the task force.

Comment. Section 47655 continues former Fish and Game Code Section 8276.5(c)-(d) without substantive change.

Note. Proposed Section 47665 would continue Section 8276.5(d), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

1 **§ 47660. Dungeness Crab Account**

2 47660. (a) The Dungeness Crab Account is hereby established in the Fish and
3 Game Preservation Fund and the fees collected pursuant to this article shall be
4 deposited in that account. The money in the account shall be used as follows:

5 (1) By the department, upon appropriation by the Legislature, for administering
6 and enforcing the program.

7 (2) In each fiscal year through the 2029 fiscal year, upon appropriation by the
8 Legislature, of the amount remaining in the account after an allocation pursuant to
9 paragraph (1), the sum of one hundred fifty thousand dollars (\$150,000), if
10 available, shall be allocated to the council to support the administration and
11 facilitation of the Dungeness crab task force.

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

21 **Comment.** Section 47660 continues former Fish and Game Code Section 8276.5(e)-(f) without
22 substantive change.

23 **Note.** Proposed Section 47660(a) would continue Section 8276.5(e), which was amended by
24 2018 Cal. Stat. ch. 663 as an urgency measure.

25 **§ 47665. Inoperative date of article**

26 47665. This article shall become inoperative on April 1, 2029, and, as of January
27 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or
28 before January 1, 2030, deletes or extends the dates on which it becomes
29 inoperative and is repealed.

30 **Comment.** Section 47665 continues former Fish and Game Code Section 8276.5(i) without
31 substantive change.

32 **Note.** Proposed Section 47665 would continue Section 8276.5(i), which was amended by
33 2018 Cal. Stat. ch. 663 as an urgency measure.

34 **Article 7. Dungeness Crab Task Force**

35 **§ 47800. Task force**

36 47800. (a) The Ocean Protection Council shall make a grant, upon appropriation
37 of funding by the Legislature, for the development and administration of a
38 Dungeness crab task force.

39 (b) The membership of the Dungeness crab task force shall be comprised of all
40 of the following:

(1) Two nonvoting members representing the department, appointed by the department.

(2) One nonvoting representative of University of California Sea Grant, appointed by University of California Sea Grant.

(3) Seven members appointed by the Chair of the Ocean Protection Council following a public solicitation for nominations, as follows:

(A) One voting and one nonvoting member representing sport fishing interests.

(B) Two voting members representing crab processing interests.

(C) One voting member representing commercial passenger fishing vessel interests.

(D) Two nonvoting members representing nongovernmental organization interests.

(4) Seventeen voting members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

(A) Three members from Crescent City.

(B) One member from Trinidad.

(C) Two members from Eureka.

(D) Two members from Fort Bragg.

(E) Two members from Bodega Bay.


(F) Two members from San Francisco.

(G) Two members from Half Moon Bay.

(H) Two members from ports south of Half Moon Bay.

(I) One member who has a valid California nonresident crab permit.

Comment. Section 47800 continues former Fish and Game Code Section 8276.4(a) without substantive change.

 **Note.** Proposed Section 47800 would continue Section 8276.4(a), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47805. Election of representatives

47805. (a) (1) Elected members in each port shall represent the following production levels:

(A) For ports with one elected member, the member shall represent both the upper and lower production levels.

(B) For ports with two elected members, one member shall represent the upper production level and one member shall represent the lower production level.

(C) For ports with three elected members, one member shall represent the upper production level, one member shall represent the lower production level, and one member shall represent both the upper and lower production levels.

(2) Upper and lower production levels shall be determined in relation to the average landing, during the five-year period before the beginning of an election cycle, of valid crab permitholders who landed a minimum of 25,000 pounds of crab during that period.

(b) Elections shall be held every three years in each port, on a staggered basis across ports, in coordination with the department or the Ocean Protection Council and with support from an administrative team of the Dungeness crab task force. In an election year, all elected members in a port shall be subject to reelection. There shall be no limit on the number of terms that may be served by any person.

Comment. Section 47805 continues former Fish and Game Code Section 8276.4(b)-(c) without substantive change.

Note. Proposed Section 47805 would continue Section 8276.4(b) and (c), which were amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47810. Alternates

47810. (a) Each member appointed pursuant to paragraph (1), (2), or (3) of subdivision (b) of Section 47800 shall select an alternate to serve and, if applicable, vote in the member's place in case of the member's absence from, or disqualification from participating in, a meeting of the task force. If the position of a member appointed pursuant to one of those paragraphs becomes vacant, the alternate member shall serve until the position is filled as required pursuant to that paragraph.

(b) Each elected member shall select an alternate in the same port and production level to serve and vote in the member's place in case of the member's absence from, or disqualification from participating in, a meeting of the task force. If the position of the member becomes vacant, the alternate shall serve and vote in the member's place until the next election is held in the port pursuant to subdivision (b) of Section 47805.

Comment. Section 47810 continues former Fish and Game Code Section 8276.4(d) without substantive change.

Note. Proposed Section 47810 would continue Section 8276.4(d), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47815. Responsibilities of task force

47815. The Dungeness crab task force shall do all of the following:

(a) Review and evaluate the commercial Dungeness crab management measures described in Article 6 (commencing with Section 47600), and make recommendations to the Joint Committee on Fisheries and Aquaculture, the department, and the commission, no later than January 15, 2022, and by January 15 of every third year thereafter through 2028.

(b) Make recommendations by the dates specified in subdivision (a) on all of the following: the need for a permanent Dungeness crab advisory committee, the economic impact of the program described in Article 6 (commencing with Section 47600) on permitholders of different tiers and the economies of different ports, the cost of the program to the department, including enforcement costs, the viability of a buyout program for the permitholders described in paragraph (7) of subdivision

(a) of Section 47620, refining commercial Dungeness crab management, and the need for statutory changes to accomplish task force objectives.

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

Comment. Section 47815 continues former Fish and Game Code Section 8276.4(e) without substantive change.

Note. Proposed Section 47815 would continue Section 8276.4(e), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47820. Subcommittees

47820. (a) The task force may establish subcommittees of specific user groups from the task force membership to focus on issues specific to commercial harvest or crab processing.

(b) The subcommittees shall report their recommendations, if any, to the task force.

Comment. Section 47820 continues former Fish and Game Code Section 8276.4(f) without substantive change.

Note. Proposed Section 47820 would continue Section 8276.4(f), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47825. Grant

47825. The Ocean Protection Council may include in a grant funding to cover department staffing costs, as well as travel costs for task force participants specified in paragraph (1) of subdivision (b) of Section 47800.

Comment. Section 47825 continues former Fish and Game Code Section 8276.4(g) without substantive change.

Note. Proposed Section 47825 would continue Section 8276.4(g), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47830. Task force recommendations

47830. Except as otherwise provided in Article 6 (commencing with Section 47600), a recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-thirds of the task force members.

Comment. Section 47830 continues former Fish and Game Code Section 8276.4(h) without substantive change.

§ 47835. Inoperative date of article

47835. This article shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or

1 before January 1, 2030, deletes or extends the dates on which it becomes
2 inoperative and is repealed.

3 **Comment.** Section 47835 continues former Fish and Game Code Section 8276.4(j) without
4 substantive change.

5 **Note.** Proposed Section 47835 would continue Section 8276.4(j), which was amended by
6 2018 Cal. Stat. ch. 663 as an urgency measure.

7 Article 8. Entanglement Risk Assessment and Mitigation

8 § 47850. Definitions

9 47850. For purposes of this article, the following definitions shall apply:

10 (a) "California Dungeness Crab Fishing Gear Working Group" means the
11 California Dungeness Crab Fishing Gear Working Group established by the
12 department, in partnership with the Ocean Protection Council and the National
13 Marine Fisheries Service, on September 21, 2015, and as defined by its most
14 recent charter as it may be amended from time to time.

15 (b) "Risk assessment and mitigation program" means the program developed by
16 the California Dungeness Crab Fishing Gear Working Group, as that program may
17 be amended from time to time until the regulations are adopted pursuant to
18 subdivision (b), to identify and assess elevated levels of entanglement risk and
19 determine the need for management options to reduce the risk of entanglement.

20 **Comment.** Section 47850 continues former Fish and Game Code Section 8276.1(a) without
21 substantive change.

22 **Note.** Proposed Section 47850 would continue Section 8276.1(a), which was added by 2018
23 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in
24 anticipation of its effect.

25 § 47855. Regulations

26 47855. (a) On or before November 1, 2020, the department, in consultation with
27 the California Dungeness Crab Fishing Gear Working Group and other
28 stakeholders, shall adopt regulations establishing criteria and protocols to evaluate
29 and respond to the potential risk of marine life entanglement. The regulations shall
30 include, but are not limited to, the risk assessment and mitigation program. Upon
31 the effective date of the regulations, the director may restrict the take of
32 Dungeness crab pursuant to the protocols and criteria.

33 (b) If the department has not developed the regulations pursuant to subdivision
34 (a) by November 1, 2020, the power of the director to exercise the authority
35 described in Section 47860 shall become inoperative on November 1, 2020.

36 **Comment.** Subdivision (a) of Section 47855 continues former Fish and Game Code Section
37 8276.1(b) without substantive change.

38 Subdivision (b) continues former Fish and Game Code Section 8276.1(e) without substantive
39 change.

Note. Proposed Section 47855 would continue Section 8276.1(b) and (e), which were added by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 47860. Mitigation

47860. (a) Until the regulations adopted pursuant to Section 47860 become effective or until November 1, 2020, whichever is sooner, if the director, in consultation with the California Dungeness Crab Fishing Gear Working Group, determines that the California Dungeness crab fishery is being conducted in a manner that poses a significant risk of marine life entanglement, the director may restrict the take of Dungeness crab in those areas where that risk has been determined to exist, including through time or area closures, or both.

(b) The authority of the director provided pursuant to subdivision (a) shall be temporary and shall expire upon the effective date of the regulations described in subdivision (a) of Section 47855 or upon the expiration of that authority pursuant to subdivision (b) of Section 47855, whichever is soonest.

(c) The director shall evaluate the following factors to determine if there is a significant risk of marine life entanglement and the appropriate management response:

(1) The conditions inherent to the fishery, such as safety of life at sea, weather, vessel operations, and other related issues.

(2) The duration of any delays in the normal start of the fishery.

(3) Indications of anomalous ocean or forage conditions, or both, in the current season.

(4) The known location of marine life of concern.

(5) The known location and intensity of fishing effort.

(6) The number of confirmed marine life entanglements documented in advance of or during the current fishing season.

(7) The existence and prevalence of factors that may result in significant risk of marine life entanglement.

(8) The likelihood of exceeding the potential biological removal level of a marine life species.

(9) The socioeconomic impacts of any management response to fishery stakeholders.

(d) (1) After making a preliminary determination pursuant to subdivision (a) that a significant risk of entanglement exists, the director shall provide 48 hours' notice to the California Dungeness Crab Fishing Gear Working Group and other stakeholders before taking any action to close the fishery or otherwise restrict the take of Dungeness crab.

(2) The notice shall provide the information supporting the director's determination of a significant risk of entanglement as well as the anticipated management response.

(3) The director shall consider any recommendations or new information provided by the California Dungeness Crab Fishing Gear Working Group or any member of the public within the 48-hour notice period in advance of enacting any management measures pursuant to this subdivision.

(e) Any time or area closures, or both, implemented pursuant to this section shall, while providing for adequate reduction of risk to marine life, be minimized in duration and extent.

(f) The director shall expeditiously lift any restriction in waters pursuant to this section if the director determines, in consultation with the California Dungeness Crab Fishing Gear Working Group, that the significant risk of entanglement in those waters has abated.

(g) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to actions taken pursuant to this section.

Comment. Section 47860 continues former Fish and Game Code Section 8276.1(c) without substantive change.

Note. Proposed Section 47850 would continue Section 8276.1(c), which was added by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 47865. Prohibition

47865. It shall be unlawful to take or possess Dungeness crab from any waters closed, or otherwise violate any restriction on take imposed, pursuant to this article.

Comment. Section 47865 continues former Fish and Game Code Section 8276.1(d) without substantive change.

Note. Proposed Section 47865 would continue Section 8276.1(d), which was added by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 47870. Sunset

47870. This article shall remain in effect only until January 1, 2024, and as of that date is repealed.

Comment. Section 47870 continues former Fish and Game Code Section 8276.1(f) without substantive change.

Note. Proposed Section 47870 would continue Section 8276.1(f), which was added by 2018 Cal. Stat. ch. 985. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

CHAPTER 4. DUNGENESS CRAB VESSEL PERMITS

Article 1. General Provisions

§ 47900. Permit requirement

47900. A person shall not use a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps authorized pursuant to Section 47450, unless the owner of that vessel has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked.

Comment. Section 47900 continues former Fish and Game Code Section 8280.1(a) without substantive change.

See also Sections 5820, 5832 (enforcement).

Note. Proposed Section 47900 would continue Section 8280.1(a), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 47905. Fees for permit

47905. The department shall charge a fee for each Dungeness crab vessel permit of two hundred dollars (\$200) for a resident of California, and four hundred dollars (\$400) for a nonresident of California, for the reasonable regulatory costs of the department.

Comment. Section 47905 continues former Fish and Game Code Section 8280.6(a) without substantive change.

§ 47910. Inoperative date of article

47910. This article shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Section 47910 combines and continues former Fish and Game Code Sections 8280.1(e) and 8280.6(d), without substantive change.

Note. Proposed Section 47910 would continue Sections 8280.1(e) and 8280.6(d), which were amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

Article 2. Issuance

§ 48100. No new permits

48100. A person shall not be issued a new, original Dungeness crab vessel permit. A Dungeness crab vessel permit may be issued only pursuant to a renewal or transfer of an existing permit as provided in Section 48110 or Article 4 (commencing with Section 48310).

Comment. Section 48100 continues former Fish and Game Code Sections 8280.1(b) without substantive change.

Note. Proposed Section 48100 would continue Section 8280.1(b), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 48105. Death of permittee

48105. A permit issued pursuant to paragraph (3) of subdivision (b) of former Fish and Game Code Section 8280.1, as that section read on August 1, 2018, or any prior version of that paragraph, shall become immediately null and void upon the death of the permittee.

Comment. Section 48105 continues former Fish and Game Code Sections 8280.1(c) without substantive change.

Note. Proposed Section 48105 would continue Section 8280.1(c), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 48110. Eligibility

48110. (a) The owner of a Dungeness crab vessel, for purposes of this section, may include a person with a bona fide contract for the purchase of a vessel who otherwise meets all other qualifications for a Dungeness crab vessel permit. If a contract is found to be fraudulent or written or entered into for the purposes of circumventing qualification criteria for the issuance of a permit, the applicant shall be permanently ineligible for a Dungeness crab vessel permit.

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


(c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel taking crab by traps. A permit shall not be issued to the owner of a vessel using trawl or other nets unless the owner of that vessel qualifies for a permit pursuant to paragraph (1) of subdivision (b) of former Fish and Game Code Section 8280.1, as that section read on August 1, 2018, or any prior version of that paragraph. A trawl or other net vessel authorized under this code to take Dungeness crab incidental to the taking of fish in trawl or other nets shall not be required to possess a Dungeness crab vessel permit.

(d) Dungeness crab vessel permits shall not be combined or otherwise aggregated for the purpose of replacing smaller vessels in the fishery with a larger vessel, and a permit shall not be divided or otherwise separated for the purpose of replacing a vessel in the fishery with two or more smaller vessels.

(e) Applications for renewal of all Dungeness crab vessel permits shall be received by the department, or, if mailed, postmarked, by April 30 of each year. In order for a vessel to retain eligibility, a permit shall be obtained each year subsequent to the initial permit year and the vessel shall be registered pursuant to Section 14755. The vessel owner shall have a valid commercial fishing license issued to that person pursuant to Section 14500 that has not been suspended or

1 revoked. Minimum landings of Dungeness crab shall not be required annually to
2 be eligible for a Dungeness crab vessel permit.


3 **Comment.** Section 48110 continues former Fish and Game Code Section 8280.2(a)-(e)
4 without substantive change.

5  **Note.** Proposed Section 48110 would continue Section 8280.2(a)-(e), which were amended
6 by 2018 Cal. Stat. ch. 663 as an urgency measure.

7 **§ 48115. Inoperative date of article**

8 48115. This article shall become inoperative on April 1, 2029, and, as of January
9 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or
10 before January 1, 2030, deletes or extends the dates on which it becomes
11 inoperative and is repealed.

12 **Comment.** Section 48115 continues former Fish and Game Code Sections 8280.1(e) and
13 8280.2(f) without substantive change.

14  **Note.** Proposed Section 48110 would continue Sections 8280.1(e) and 8280.2(f), which were
15 amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

16 **Article 3. Transfer Generally**

17 **§ 48300. Application for transfer**

18 48300. A vessel owner shall sign an application for transfer, and certify that the
19 information included in the application is true to the best of his or her information
20 and belief.

21 **Comment.** Section 48300 continues former Fish and Game Code Section 8280.6(c) without
22 substantive change.

23 **§ 48305. Fees for transfer**

24 48305. The department shall charge a nonrefundable fee of two hundred dollars
25 (\$200) for each transfer of a permit authorized pursuant to this chapter, for the
26 reasonable regulatory costs of the department.

27 **Comment.** Section 48305 continues former Fish and Game Code Section 8280.6(b) without
28 substantive change.

29 **Article 4. Specific Rules Governing Transfer**

30 **§ 48310. Restriction on transfer**

31 48310. Notwithstanding Chapter 2 (commencing with Section 22500) of Title
32 15 of Part 6 of Division 6, and except as provided in this article, a Dungeness crab
33 vessel permit shall not be transferred.

34 **Comment.** Section 48310 continues former Fish and Game Code Section 8280.3(b) without
35 substantive change.

§ 48315. Transfer to purchaser of vessel

48315. The owner of a vessel to whom a Dungeness crab vessel permit has been issued shall transfer the permit for the use of that vessel upon the sale of the vessel by the permitholder to the person purchasing the vessel, except that the permit shall not be transferred if the vessel is more than five feet longer in length overall, as determined by a licensed marine surveyor, than the baseline length on the permit. Thereafter, upon notice to the department, the person purchasing the vessel may use the vessel for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year, and that person is eligible for a permit pursuant to this title for the use of that vessel in subsequent years. The person purchasing the vessel shall not transfer the permit for use of that vessel in the Dungeness crab fishery to another replacement vessel during the same permit year.

Comment. Section 48315 continues former Fish and Game Code Section 8280.3(c) without substantive change.

Note. Proposed Section 48315 would continue Sections 8280.3(c), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 48320. Transfer to replacement vessel

48320. The owner of a vessel to whom the Dungeness crab vessel permit has been issued may transfer the permit to a replacement vessel of equivalent capacity, except as specified in this title. Thereafter, upon notice to the department and payment of the transfer fee specified in Section 48305, the replacement vessel may be used for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year and that person is eligible for a permit pursuant to this title for the use of that replacement vessel in subsequent years.

Comment. Section 48320 continues former Fish and Game Code Section 8280.3(d) without substantive change.

Note. Proposed Section 48320 would continue Sections 8280.3(d), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 48325. Transfer to replacement vessel in specified circumstances

48325. The department may authorize the owner of a permitted vessel to transfer the permit to a replacement vessel that was owned by that person on or before April 1, 1996, that does not fish with trawl nets that is greater than five feet longer in length overall than the baseline length on the permit, if all of the following conditions are satisfied:

(a) A vessel of a larger size is essential to the owner for participation in another fishery other than a trawl net fishery.

(b) The owner held a permit on or before January 1, 1995, for the fishery for which a larger vessel is needed and has participated in that fishery.

(c) The permit for the vessel from which the permit is to be transferred qualified pursuant to paragraph (1) of subdivision (b) of former Fish and Game Code

1 Section 8280.1, as that section read on August 1, 2018, or any prior version of that
2 paragraph.

3 (d) The vessel to which the permit is to be transferred does not exceed 20 feet
4 longer in length overall than the baseline length on the permit and the vessel to
5 which the permit is to be transferred does not exceed 60 feet in length overall.

6 **Comment.** Section 48325 continues former Fish and Game Code Section 8280.3(f) without
7 substantive change.

8 **Note.** Proposed Section 48325 would continue Sections 8280.3(f), which was amended by
9 2018 Cal. Stat. ch. 663 as an urgency measure.

10 **§ 48330. Transfer to vessel of greater capacity owned by permit holder**

11 48330 The owner of a permitted vessel may transfer the permit to a vessel of
12 greater capacity that was owned by that person on or before November 15, 1995,
13 not to exceed 10 feet longer in length overall than the baseline length on the
14 permit or to a vessel of greater capacity purchased after November 15, 1995, not to
15 exceed five feet longer in length overall than the baseline length on the permit.

16 **Comment.** Section 48330 continues former Fish and Game Code Section 8280.3(e) without
17 substantive change.

18 **Note.** Proposed Section 48315 would continue Sections 8280.3(e), which was amended by
19 2018 Cal. Stat. ch. 663 as an urgency measure.

20 **§ 48335. Restriction on transfer to larger vessel**

21 48335. A transfer of a permit to a larger vessel shall not be allowed more than
22 one time. If a permit is transferred to a larger vessel, any Dungeness crab vessel
23 permit for that permit year or any subsequent permit years for that larger vessel
24 shall not be transferred to another larger vessel. The department shall not
25 thereafter issue a Dungeness crab vessel permit for the use of the original vessel
26 from which the permit was transferred, except that the original vessel may be used
27 to take or land Dungeness crab after that transfer if its use is authorized pursuant
28 to another Dungeness crab vessel permit subsequently transferred to that vessel
29 pursuant to Section 48320, 48325, or 48330.

30 **Comment.** Section 48335 continues former Fish and Game Code Section 8280.3(g) without
31 substantive change.

32 **Note.** Proposed Section 48315 would continue Sections 8280.3(g), which was amended by
33 2018 Cal. Stat. ch. 663 as an urgency measure.

34 **§ 48340. Transfer where permitted vessel damaged, lost, or destroyed**


35 48340. (a) Upon the written approval of the department, the owner of a vessel to
36 whom the Dungeness crab vessel permit has been issued, which has California
37 Dungeness crab landings made with trap gear documented on department landing
38 receipts and which has had California Dungeness crab landings amounting to not
39 less than 5,000 pounds cumulative for the past two Dungeness crab seasons, may
40 temporarily transfer the permit to a replacement vessel for which use in the

1 Dungeness crab fishery is not permitted pursuant to this title that is of equivalent
2 size and capacity of the originally permitted vessel, no greater than 10 feet longer
3 in length overall than the vessel from which the permit is transferred, for a period
4 of not more than six months during the current permit year if the vessel for which
5 the permit was issued is seriously damaged, suffers major mechanical breakdown,
6 or is lost or destroyed, as determined by the department, upon approval of the
7 director. The owner of the vessel shall submit proof that the department may
8 reasonably require to establish the existence of the conditions of this subdivision.
9 Only the permittee at the time of the loss, theft, damage, breakdown, or
10 destruction of the vessel may apply for the transfer of the vessel permit. Proof of
11 loss or destruction shall be documented by submission of a copy of the report filed
12 with the United States Coast Guard or any other law enforcement or fire agency
13 that investigated the loss. In the case of mechanical breakdown, the request shall
14 include an estimate of the costs to repair the vessel from a marine surveyor or boat
15 repair yard. The department shall not issue a permit for a replacement vessel
16 pursuant to this subdivision if the permitted vessel was reported lost, stolen,
17 mechanically broken down, destroyed, or damaged for fraudulent purposes. Upon
18 approval by the director, the owner of a vessel granted a six-month temporary
19 transfer under this section may be granted an additional six-month extension of the
20 temporary transfer.

21 (b) Notwithstanding subdivision (e) of Section 48110, in the event of loss or
22 destruction of a vessel for which a Dungeness crab vessel permit was issued, or
23 serious damage that renders the vessel inoperable, and upon written approval of
24 the department, the owner of the vessel to whom the permit was issued may retain
25 the permit and may transfer the permit to another vessel of equivalent size and
26 capacity of the vessel that was lost or damaged during the period of two years after
27 the loss or damage of the vessel for which the permit was originally issued. The
28 owner of the lost or damaged vessel shall submit proof that the department may
29 reasonably require to establish the loss or damage of the vessel. Only the permittee
30 at the time of the loss, theft, damage, or destruction of the vessel may apply for the
31 transfer of the vessel permit. Proof of loss or destruction shall be documented by
32 submission of a copy of the report filed with the United States Coast Guard or any
33 other law enforcement or fire agency that investigated the loss. In the case of
34 mechanical breakdown, the request shall include an estimate of the costs to repair
35 the vessel from a marine surveyor or boat repair yard. The department shall not
36 issue a permit for a replacement vessel pursuant to this subdivision if the lost or
37 damaged vessel was reported lost, stolen, destroyed, mechanically broken down,
38 or damaged for fraudulent purposes. The department shall only transfer a permit
39 pursuant to this subdivision if the lost or damaged vessel has a current permit and
40 the owner of the lost or damaged vessel makes assurances in the application that
41 any renewal of the permit that becomes due during the application processing
42 period will be made. If the permit is not permanently transferred to another vessel

1 owned by the person to whom the vessel permit was originally issued within two
2 years of the loss or damage, the permit shall become void by operation of law.

3 **Comment.** Section 48340 continues former Fish and Game Code Section 8280.3(h) without
4 substantive change.

5  **Note.** Proposed Section 48315 would continue Sections 8280.3(h), which was amended by
6 2018 Cal. Stat. ch. 663 as an urgency measure.

7 **§ 48345. Transfer to new vessel**

8 48345. Upon written approval of the department, the owner of a vessel to whom
9 the Dungeness crab vessel permit has been issued may retain that permit upon the
10 sale of that permitted vessel for the purpose of transferring the permit to another
11 vessel to be purchased by that individual within one year of the time of sale of the
12 vessel for which the permit was originally issued if the requirements of this
13 section are satisfied, including the payment of transfer fees. If the permit is not
14 transferred to a new vessel owned by the person to whom the vessel permit was
15 originally issued within one year of the sale of the vessel for which it was
16 originally issued, or if the person does not retain ownership of the new vessel to
17 which the permit is transferred for a period of not less than one year, the permit
18 shall become void by operation of law.

19 **Comment.** Section 48345 continues former Fish and Game Code Section 8280.3(i) without
20 substantive change.

21 **§ 48350. Transfer on death of permitholder**

22 48350. In the event of the death or incapacity of a permitholder, the permit shall
23 be transferred, upon application, to the heirs or assigns, or to the working partner,
24 of the permitholder, together with the transfer of the vessel for which the permit
25 was issued, and the new owner may continue to operate the vessel under the
26 permit, renew the permit, or transfer the permit upon sale of the vessel pursuant to
27 subdivision (b). The estate of the holder of a transferable Dungeness crab vessel
28 permit may renew that permit as provided for in statute if needed to keep it valid.
29 The estate of the decedent may transfer that permit pursuant to these regulations
30 no later than two years from the date of death of the permitholder as listed on the
31 death certificate.

32 **Comment.** Section 48350 continues former Fish and Game Code Section 8280.3(j) without
33 substantive change.

34 **§ 48355. Length of vessel**

35 48355. (a) For purposes of this article, the term “length overall” means the
36 horizontal distance between the forward-most and after-most points on the hull of
37 a vessel. The length overall of a vessel does not include attachments fixed to the
38 stern and bow.

39 (b) For purposes of this article, the baseline length on a Dungeness crab vessel
40 permit shall be equal to the length overall of the vessel for which the permit was

originally issued, as originally documented on the permit, unless updated pursuant to subdivisions (c) and (d).

(c) If, on or before March 31, 2020, the owner of a vessel to whom a Dungeness crab vessel permit has been issued submits to the department a survey reflecting a current length overall of the vessel that is greater than the length overall described in subdivision (b), the baseline length on the permit shall be equal to that current length overall.

(d) A survey submitted pursuant to subdivision (c) shall be conducted by a licensed marine surveyor.

Comment. Section 48355 continues former Fish and Game Code Section 8280.3(a), (k) without substantive change.

Note. Proposed Section 48315 would continue Section 8280.3(a) and (k), which were amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 48360. Inoperative date

48360. This article shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Section 48360 continues former Fish and Game Code Sections 8280.3(l) and 8280.6(d) without substantive change.

Note. Proposed Section 48315 would continue Sections 8280.3(l), which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

Article 5. Miscellaneous Provisions

§ 48500. Legislative declaration

48500. (a) The Legislature finds and declares that the Dungeness crab fishery is important to the state because it provides a valuable food product, employment for those persons engaged in the fishery, and economic benefits to the coastal communities of the state.

(b) The Legislature further finds that, in order to protect the Dungeness crab fishery, it is necessary to limit the number of vessels participating in that fishery to take Dungeness crab and it may be necessary to limit the quantity and capacity of the fishing gear used on each vessel to take Dungeness crab.

(c) The Legislature further finds and declares that to limit the number of vessels in the Dungeness crab fishery, it is necessary to require that the owner of each vessel participating in the fishery obtain and possess a permit for that vessel and that the initial issuance of permits shall be limited to those persons owning vessels qualifying under former Fish and Game Code Section 8280.1, as that section read on August 1, 2018, or any prior version of that section.

Comment. Section 48500 continues former Fish and Game Code Section 8280 without substantive change.

Note. Proposed Section 48500 would continue Section 8280, which was amended by 2018 Cal. Stat. ch. 663 as an urgency measure.

§ 48505. Location where permits valid

48505. Dungeness crab vessel permits are valid only in waters of the state and in the Pacific Ocean in federal waters south of the border with Oregon.

Comment. Section 48505 continues former Fish and Game Code Section 8280.9 without substantive change.

§ 48510. Assistance of unpermitted vessel

48510. (a) Notwithstanding Section 47900, the owner of a vessel, who has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked, may contract for the use of a vessel that is registered pursuant to Section 14755 and for which a Dungeness crab vessel permit has not been issued, for the purpose of assisting the crew of the permitted vessel in the deployment of Dungeness crab traps.

(b) An unpermitted vessel used for the purpose of assisting in the deployment of Dungeness crab traps pursuant to this section shall not have on board any Dungeness crab, or equipment for the retrieval of Dungeness crab traps.

Comment. Section 48510 continues former Fish and Game Code Section 8280.7 without substantive change.

CHAPTER 5. ROCK CRAB

§ 48650. Rock crab season

48650. (a) Subject to Title 6 (commencing with Section 19200) of Part 6 of Division 6, Sections 47005 and 47460, this chapter, and subject to the regulation of the commission authorized under subdivision (c), rock crab may be taken in traps in any waters of the state at any time, except in Districts 2585, 2630, 2635, and 2650 and those portions of District 2640 lying on the north and east sides of Santa Catalina Island north of Southeast Rock. Rock crab (*Cancer antennarius*), red crab (*Cancer productus*), or yellow crab (*Cancer anthonyi*), which is less than 4 1/4 inches, measured in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, or sold.

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

(c) Upon the recommendation of the director regarding rock crab fishery management measures, and following a public hearing on the matter, the commission may adopt regulations to manage the rock crab resource consistent with Title 3 (commencing with Section 12100) of Part 4 of Division 6.

Comment. Section 48650 continues former Fish and Game Code Section 8282 without substantive change.

1 **§ 48655. Take of rock crab**

2 48655. (a) Subject to the provisions of this title, rock crab, as defined in Section
3 46855, may be taken with rock crab traps.

4 (b) A rock crab trap may have any number of openings of any size. However, a
5 rock crab trap constructed of wire mesh with an inside mesh measurement of not
6 less than 1 7/8 inches by 3 7/8 inches, with the 3 7/8 inch measurement parallel to
7 the floor, shall have at least one rigid circular opening of not less than 3 1/4
8 inches, inside diameter, located on any outside wall of the rearmost chamber of the
9 crab trap and shall be located so that at least one-half of the opening is in the upper
10 half of the trap. Rock crab traps constructed of other material shall have at least
11 two rigid circular openings of not less than 3 1/4 inches, inside diameter, on the
12 top or side of the rearmost chamber of the trap. If both of the openings are located
13 on the side of the trap, at least one of the openings shall be located so that at least
14 one-half of the opening is in the upper half of the trap. No rigid circular opening,
15 as required, shall extend more than 1/2 inch beyond the plane of the wall side or
16 top of the trap in which it is located, and it shall be clearly accessible to any crab
17 which may be in the trap.

18 (c) Subject to the provisions of this title, Dungeness crab may be taken
19 incidentally with a rock crab trap used pursuant to this subdivision to take rock
20 crab, provided that the incidental taking occurs only during the season when it is
21 lawful to take both species. A Dungeness crab, taken incidentally with a rock crab
22 trap, which does not comply with the provisions of this title shall be immediately
23 returned to the waters from which it was taken.

24 (d) A person shall not possess any lobster aboard a vessel while the vessel is
25 being used pursuant to this subdivision to take rock crab.

26 **Comment.** Section 48655 continues former Fish and Game Code Section 9011(b) without
27 substantive change.

28 **Note.** Existing Fish and Game Code Section 9011(b) (which would be continued by proposed
29 Section 48655) contains several cross-references to “Article 6 (commencing with Section 8275)
30 of Chapter 2.” In the proposed law, all provisions contained in that article have been continued in
31 the title containing proposed Section 48655. However, that proposed title contains several
32 additional provisions relevant to the subject matter of Section 9011(b) that are *not* in the “Article
33 6” referenced in that section: Sections 8834, 9011(a), and 9012.

34 **The Commission invites comment on whether the additional inclusion of these provisions**
35 **in the cross-reference in proposed Section 48655 would cause any problems.**

36 **§ 48660. Incidental take**

37 48660. (a) Except as provided in Section 47450, 48655, or subdivision (b), any
38 species other than rock crab taken incidentally in a crab trap being used to take
39 rock crab shall be immediately released back to the water.

40 (b) The following species may be taken incidentally in crab traps being used to
41 take rock crab, under a permit issued pursuant to Section 19205, in District 2625
42 or 2685:

43 (1) Kellet’s whelk.

- 1 (2) Octopus.
2 (3) Crabs other than of the genus *Cancer*, except as provided in Section 47450 or
3 48655.

4 **Comment.** Section 48660 continues former Fish and Game Code Section 8284(b) and (c)
5 without substantive change.

6 **PART 7. CRAYFISH**

7 **TITLE 1. CRAYFISH GENERALLY**

8 **§ 48950. Crustacean**

9 48950. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a
10 crayfish is a crustacean.

11 **Comment.** Section 48950 is new. It is added for drafting convenience.

12 **§ 48955. Provisions not exclusive**

13 48955. The provisions of this part are not intended to be exclusive. Other
14 provisions that govern crayfish include, but are not limited to, the following
15 provisions:

16 (a) Section 23355.

17 (b) Section 26500.

18 **Comment.** Section 48955 is new. It is added for drafting convenience.

19 **TITLE 2. COMMERCIAL PROVISIONS**

20 **§ 49000. Application of title**

21 49000. For purposes of Section 45005, the provisions in this title are commercial
22 provisions.

23 **Comment.** Section 49000 is new. It is added for drafting convenience.

24 **§ 49005. Take**

25 49005. The taking of crayfish shall be subject to regulations adopted by the
26 commission.

27 **Comment.** Section 49005 continues former Fish and Game Code Section 8490 without
28 substantive change.

29 **§ 49010. Use of traps**

30 49010. (a) Crayfish traps may be used at any time, in any district, to take
31 crayfish only.

32 (b) Traps shall not exceed three feet in greatest dimension.

33 (c) Any other species taken with crayfish traps shall be returned to the water
34 immediately.

(d) The commission may prohibit the use of crayfish traps that will injure fish, or that will entrap unnecessarily large numbers of fish other than crayfish.

Comment. Section 49010 continues former Fish and Game Code Section 9024 without substantive change.

See also Section 4900 (enforcement).

§ 49015. Take in Lake Tahoe

49015. (a) Any allowance for the commercial taking of crayfish in Lake Tahoe or in the Lake Tahoe Basin shall be for the primary purpose of population reduction and control of the signal crayfish, an invasive species. The commercial taking of crayfish may be allowed only to the extent that it is consistent with state goals for management of invasive species and other environmental standards, including an environmental analysis conducted by the Tahoe Regional Planning Agency or another appropriate lead agency for each proposed individual harvest operation.

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

Comment. Section 49015 continues former Fish and Game Code Section 8491 without substantive change.

§ 49020. Overfishing in Sacramento-San Joaquin Delta

49020. The department shall take the steps it determines are necessary to prevent overfishing of crayfish in the Sacramento-San Joaquin Delta. Those steps may include, but are not limited to, submitting to the Legislature proposed legislation to place limitations on the commercial crayfishing in that area.

Comment. Section 49020 continues former Fish and Game Code Section 8492 without substantive change.


PART 8. KRILL

TITLE 1. KRILL GENERALLY

§ 49150. Crustacean

49150. For the purposes of Title 2 (commencing with Section 45400) of Part 3, krill are crustaceans.

Comment. Section 49150 is new. It is added for drafting convenience.

 **Note.** Based on Commission research, it appears that krill are crustaceans. **The Commission invites comment on whether that is correct.**

1 **TITLE 2. COMMERCIAL PROVISIONS**

2 **§ 49200. Application of title**

3 49200. For purposes of Section 45005, the provisions in this title are commercial
4 provisions.

5 **Comment.** Section 49200 is new. It is added for drafting convenience.

6 **§ 49205. Take**

7 49205. (a) It is unlawful to take or land krill of any species of euphausiid for any
8 purpose, except scientific research pursuant to regulations adopted by the
9 commission.

10 (b) This section applies to krill taken in the waters of the state and up to 200
11 miles offshore, as long as federal law does not regulate the taking of krill.

12 **Comment.** Section 49205 continues former Fish and Game Code Section 8510 without
13 substantive change.

14 **PART 9. LOBSTER**

15 **TITLE 1. LOBSTER GENERALLY**

16 **§ 49300. Crustacean**

17 49300. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a
18 lobster is a crustacean.

19 **Comment.** Section 49300 is new. It is added for drafting convenience.

20 **§ 49305. Provisions not exclusive**

21 49305. The provisions of this part are not intended to be exclusive. Other
22 provisions that govern lobster include, but are not limited to, the following
23 provisions:

24 (a) Section 14875.

25 (b) Section 15510.

26 (c) Section 19205.

27 (d) Section 19500.

28 (e) Section 19230.

29 (f) Title 6 (commencing with Section 59600) of Part 1 of Division 16.

30 **Comment.** Section 49305 is new. It is added for drafting convenience.

31 **§ 49310. Take of spiny lobster**

32 49310. Spiny lobster may not be taken under a sport fishing license, except by
33 use of a hoop net or by hand.

34 **Comment.** Section 49310 continues former Fish and Game Code Section 7256 without
35 substantive change.

1 **§ 49315. Importing of spiny lobster**

2 49315. (a) Spiny lobsters may be imported into California until the twenty-sixth
3 day after the close of the California season.

4 (b) Lobsters imported into California and lobsters legally taken in California
5 during the open season prescribed in this code may be possessed and sold during
6 the closed season, subject to the regulations of the commission.

7 (c) The cost of inspection and marking, under the regulations of the commission,
8 shall be paid by the importer or owner of the lobsters.

9 **Comment.** Section 49315 continues former Fish and Game Code Section 2365 without
10 substantive change.

11 **TITLE 2. COMMERCIAL PROVISIONS**

12 **CHAPTER 1. PRELIMINARY PROVISIONS**

13 **§ 49450. Application of title**

14 49450. For purposes of Section 45005, the provisions in this title are commercial
15 provisions.

16 **Comment.** Section 49450 is new. It is added for drafting convenience.

17 **CHAPTER 2. PERMIT**

18 **§ 49500. Required permit**

19 49500. (a) Lobsters shall not be taken for a commercial purpose except under a
20 valid lobster permit issued to that person that has not been suspended or revoked,
21 and subject to regulations adopted by the commission.

22 (b) Every person who takes, assists in taking, possesses, or transports a lobster
23 for a commercial purpose while on any boat, barge, or vessel, or who uses or
24 operates or assists in using or operating any boat, net, trap, line, or other appliance
25 to take a lobster for a commercial purpose, shall have a valid lobster permit.

26 (c) The permit fee for a lobster permit is two hundred sixty-five dollars (\$265).

27 (d) The fee for a lobster crewmember permit is one hundred twenty-five dollars
28 (\$125).

29 (e) For the purposes of this section, possession of more than three times the
30 sport bag limit of lobster is prima facie evidence that the lobster in possession was
31 taken for a commercial purpose.

32 **Comment.** Section 49500 continues former Fish and Game Code Section 8254 without
33 substantive change.

34 See also Sections 4570, 5850 (enforcement).

1 **§ 49505. Display of permit number**

2 49505. The permit number of the person owning or in command of any boat
3 used to take lobster shall be visibly displayed on both sides of the boat, in 10-inch
4 black numbers, one inch wide, on a white background.

5 **Comment.** Section 49505 continues former Fish and Game Code Section 8257 without
6 substantive change.

7 **§ 49510. Limit on number of permits issued**

8 49510. Whenever it is necessary to prevent overutilization or to ensure efficient
9 and economic operation of the fishery, the commission may limit the number of
10 permits that may be issued pursuant to Section 49500. As it determines
11 appropriate to protect the resource, the commission may limit the number of
12 permits on a statewide basis or within selected geographical areas.

13 **Comment.** Section 49510 continues former Fish and Game Code Section 8259 without
14 substantive change.

15 CHAPTER 3. TAKE

16 **§ 49600. Season for take**

49600. (a) Spiny lobster may be taken only between the first Wednesday in
October and the first Wednesday after March 15.

(b) Lobster traps may be set and baited 24 hours in advance of the opening date of the lobster season if no other attempt is made to take or possess the lobsters.

21 **Comment.** Section 49600 continues former Fish and Game Code Section 8251 without
22 substantive change.

23 See also Section 5852 (enforcement).

24 **§ 49605. Size limitation**

49605. (a) No spiny lobster less than three and one-quarter inches in length measured in a straight line from the rear edge of the eye socket to the rear edge of the body shell, both points to be on the midline of the back, may be taken, possessed, purchased, or sold.

(b) Every person taking spiny lobster shall carry a measuring device, and shall measure any lobster immediately on removal from a trap. Any removed lobster that is found to be undersized shall be returned to the water immediately.

32 **Comment.** Section 49605 continues former Fish and Game Code Section 8252 without
33 substantive change.

See also Section 5852 (enforcement).

35 **§ 49610. Possession or landing on vessel**

49610. Lobster may be possessed aboard or landed from any vessel on which
finfish are present, if every person aboard the vessel has a valid lobster permit that
has not been suspended or revoked, and complies with Title 6 (commencing with

Section 19200) of Part 6 of Division 6, and Title 2 (commencing with Section 49450) of Part 9, and the regulations adopted pursuant to any of those provisions.

Comment. Section 49610 continues former Fish and Game Code Section 9001.7(k) without substantive change.

Note. Existing Fish and Game Code Section 9001.7(k) (which would be continued by proposed Section 49610), authorizes the possession of lobster aboard or landed from any vessel on which finfish are also present, in part if every person aboard the vessel complies with “Article 5 of Chapter 2 of the Fish and Game Code.”

Although there is more than one “Article 5” within a “Chapter 2” in the existing code, the Commission assumes the reference was intended to be to Article 5 (commencing with Section 8250) of Chapter 2 of Part 3 of Division 6 (governing lobster), and the cross-reference in proposed Section 49610 has been revised accordingly.

§ 49615. Filing of criminal complaint

49615. No complaint shall be filed in a court charging a commercial lobster permitholder with a violation of Section 49600 or 49605 unless evidence supporting the charge has been reviewed by the appropriate county or city prosecuting agency, and a criminal complaint has been issued by that agency.

Comment. Section 49615 continues the seventh sentence of former Fish and Game Code Section 8254.7 without substantive change.

CHAPTER 4. LOBSTER TRAPS

§ 49700. Use of trap

49700. Subject to Title 6 (commencing with Section 19200) of Part 6 of Division 6, and Title 2 (commencing with Section 49450) of Part 9, a lobster trap, as described in Section 49705, may be used to take lobster under a lobster permit issued pursuant to Section 49500.

Comment. Section 49700 combines and restates former Fish and Game Code Sections 8250.5(a) and 9010(a) without substantive change.

Note. Proposed Section 49700 is intended to combine and restate existing Fish and Game Code Sections 8250.5(a) and 9010(a) to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

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

9010. (a) Subject to Article 5 (commencing with Section 8250) of Chapter 2, spiny lobster may be taken with lobster traps under a lobster permit issued pursuant to Section 8254.

The Commission invites comment on whether the combining and restatement of these two provisions would cause any substantive change in the meaning of either.

§ 49705. Construction of trap

49705. (a) A wire lobster trap shall be built of rectangular wire mesh, with inside mesh measurement not less than 1 1/2 inches by 3 1/2 inches, the 3 1/2-inch measurement to be parallel to the floor of the trap. A wire lobster trap shall be

fitted with at least one rigid rectangular escape gap with an inside vertical measurement not less than 2 3/8 inches at all points, and an inside horizontal measurement of not less than 11 1/2 inches at all points. The horizontal sides of the escape gap shall be located parallel to, and the escape gap shall be located within 2 3/8 inches of, the floor on any outside wall of the rearmost chamber of the lobster trap. The escape gap shall be clearly accessible to the lobsters.

(b) Notwithstanding subdivision (a), wire may be used to hold the escape gap in place that reduces the inside vertical or horizontal measurement of the escape gap specified in subdivision (a), but only if all of the following requirements are met:

(1) The overall diameter of the wire, including any coating on the wire, shall measure less than 0.176 inches in diameter (the diameter of 7 SWG gauge wire using the Standard Wire Gauge (SWG) standard of measurement).

(2) A maximum of one wire wrap shall be located on each vertical side of the escape gap.

(3) A maximum of two wire wraps shall be located on the bottom horizontal side of the escape gap.

(4) Wire shall not be used on the top horizontal side of the escape gap.

(5) Each wire shall be tightly wrapped against the inside surface of the escape gap and shall not pass over the inside surface more than once. As used in this paragraph, “tightly wrapped” means no space exists at any point between the wire and the inside surface of the escape gap.

(c) A lobster trap constructed of lath or other material shall have an opening to allow a means of escape along the full length of one side of the rearmost chamber. The escape opening shall be of a spacing of not less than 2 3/8 inches, and the spacing shall be located parallel to, and within 2 3/8 inches of, the floor of the lobster trap.

Comment. Section 49705 continues former Fish and Game Code Section 9010(c)-(e) without substantive change.

§ 49710. Locations where traps may be used

49710. (a) Lobster traps may be used to take spiny lobster in Districts 2620, 2625, 2645, and those portions of District 2640 lying on the southerly side of Santa Catalina Island between Southeast Rock and China Point.

(b) Notwithstanding subdivision (a), or Sections 15500 and 15510, lobster traps may not be used within 75 feet of any private pier, wharf, jetty, breakwater, or dock.

Comment. Subdivision (a) of Section 49710 continues former Fish and Game Code Section 8258 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 9010(b) without substantive change.

Note. Existing Fish and Game Code Section 9010(b) (which would be continued by proposed Section 49710(b)), although not expressly referencing existing Fish and Game Code Section 8258 (which would be continued by proposed Section 49710(a)), appears to specify a blanket restriction on where lobster traps may otherwise be used to take lobster. Proposed Section

49710(b) would therefore make express that the authorization to use lobster traps provided by existing Section 9010(b) is subject to the restriction in existing Section 8258.

The Commission invites comment on whether proposed Section 49710 accurately reconciles the intended interrelationship between existing Sections 8258 and 9010(b).

§ 49715. Incidental take of other species

49715. The following species may be taken incidentally in lobster traps being fished under the authority of a lobster permit issued pursuant to Section 49500, and any other species taken incidentally shall be immediately released back to the water:

(a) Crab, other than Dungeness crab.

(b) Kellet's whelk.

(c) Octopus.

Comment. Section 49715 continues former Fish and Game Code Section 8250.5(b) without substantive change.

CHAPTER 5. OTHER PROHIBITIONS

§ 49750. Prohibition on sale of lobsters taken while skin diving

49750. Spiny lobsters taken by a person engaged in the activity commonly known as skin diving, or by a person using self-contained underwater breathing apparatus, shall not be sold.

Comment. Section 49750 continues former Fish and Game Code Section 8250.5(c) without substantive change.

§ 49755. Preserving

49755. (a) It is unlawful to pickle, can, or otherwise preserve a spiny lobster.

(b) Notwithstanding subdivision (a), a spiny lobster may be preserved by freezing.

(c) A spiny lobster may be cooked for consumption in the fresh state.

Comment. Section 49755 continues former Fish and Game Code Section 8253 without substantive change.

PART 10. MONARCH BUTTERFLIES

TITLE 1. MONARCH BUTTERFLIES
GENERALLY

§ 49825. Provisions not exclusive

49825. The provisions of this part are not intended to be exclusive. Other provisions that govern Monarch Butterflies include, but are not limited to, the following provisions:

1 (a) Chapter 4 (commencing with Section 55000) of Title 1 of Part 2 of Division
2 15.

3 **Comment.** Section 49825 is new.

4 TITLE 2. CONSERVATION

5 § 49850. Conservation Authority

6 49850. (a) The department may take feasible actions to conserve monarch
7 butterflies and the unique habitats they depend upon for successful migration.
8 These actions may include, but are not limited to, habitat restoration on
9 department lands, education programs, and voluntary agreements with private
10 landowners.

11 (b) The department may partner with federal agencies, nonprofit organizations,
12 academic programs, private landowners, and other entities that undertake actions
13 to conserve monarch butterflies and aid their successful migration, including the
14 Monarch Joint Venture.

15 (c) When undertaking actions to conserve monarch butterflies and their habitats
16 pursuant to this section, the department shall use the best available science and
17 consider, as appropriate and feasible, all of the following:

18 (1) Restoring or revegetating monarch caterpillar habitat using regionally or
19 locally appropriate native milkweed species.

20 (2) Restoring or revegetating adult monarch butterfly habitat using regionally or
21 locally appropriate native nectar plant species.

22 (3) Controlling nonnative weed species that threaten native milkweed species,
23 and controlling pests and disease, using current best management practices
24 consistent with integrated pest management principles that pose low risk to
25 monarch butterflies and their habitat.

26 (4) Incorporating diverse tree species, structures, and arrangements when
27 restoring or establishing winter habitat sites to match monarch butterfly
28 preferences for temperature, light, moisture, wind, and other microclimate
29 characteristics.

30 (5) Increasing the number of partnerships and making the most of partnerships
31 to use residential and institutional landscaped areas, agricultural noncropped lands,
32 transportation corridors, and conservation easements to create, restore, or enhance
33 monarch butterfly habitat.

34 (d) The fact that a project applicant or landowner does not enter into a voluntary
35 agreement to protect monarch butterflies shall not be grounds for denying a permit
36 or agreement or requiring additional mitigation beyond what would be required to
37 mitigate project impacts under other applicable laws, including, but not limited to,
38 the California Environmental Quality Act (Division 13 (commencing with Section
39 21000) of the Public Resources Code).

40 **Comment.** Section 49850 continues former Fish and Game Code Section 1021 without
41 substantive change.

PART 11. MUSSELS

TITLE 1. MUSSELS GENERALLY

§ 49900. Mollusk

49900. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a mussel is a mollusk.

Comment. Section 49900 is new. It is added for drafting convenience.

§ 49905. Provisions not exclusive

49905. The provisions of this part are not intended to be exclusive. Other provisions that govern mussels include, but are not limited to, Section 20710.

Comment. Section 49905 is new. It is added for drafting convenience.

TITLE 2. DREISSENID MUSSELS

CHAPTER 1. MANAGEMENT BY DEPARTMENT

§ 49950. General prohibition

49950. Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

Comment. Section 49950 continues former Fish and Game Code Section 2301(a)(1) without substantive change.

See also Section 5860 (enforcement).

§ 49955. Report of discovery by any entity

49955. Any entity that discovers dreissenid mussels within this state shall immediately report the discovery to the department.

Comment. Section 49955 continues former Fish and Game Code Section 2301(e) without substantive change.

§ 49960. Authority of department to inspect

49960. The director or his or her designee may do all of the following:

(a) Conduct inspections of conveyances, including vehicles, boats and other watercraft, containers, and trailers, that may carry or contain adult or larval dreissenid mussels.

(b) Temporarily stop conveyances that may carry or contain adult or larval dreissenid mussels on any roadway or waterway, in order to conduct inspections.

(c) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department. An action undertaken pursuant to this subdivision involving the use of chemicals other than

1 salt or hot water to decontaminate a conveyance or a facility is subject to Division
2 13 (commencing with Section 21000) of the Public Resources Code.

3 (d) Impound or quarantine conveyances in locations designated by the
4 department for up to five days or the period of time necessary to ensure that
5 dreissenid mussels can no longer live on or in the conveyance.

6 (e) Conduct inspections of waters of the state and facilities located within waters
7 of the state that may contain dreissenid mussels. If dreissenid mussels are detected
8 or may be present, the director or his or her designee may order the affected waters
9 or facilities closed to conveyances or otherwise restrict access to the affected
10 waters or facilities, and shall order that conveyances removed from, or introduced
11 to, the affected waters or facilities be inspected, quarantined, or disinfected in a
12 manner and for a duration necessary to detect and prevent the spread of dreissenid
13 mussels within the state.

14 **Comment.** Section 49960 combines and continues former Fish and Game Code Section
15 2301(a)(2)(A) through (D)(i), and (c)(2), without substantive change.

16 **§ 49965. Restricted access to designated areas**

17 49965. (a) For the purpose of implementing subdivision (e) of Section 49660,
18 the director or his or her designee shall order the closure or quarantine of, or
19 restrict access to, these waters, areas, or facilities in a manner and duration
20 necessary to detect and prevent the spread of dreissenid mussels within the state.

21 (b) No closure, quarantine, or restriction shall be authorized by the director or
22 his or her designee without the concurrence of the Secretary of the Natural
23 Resources Agency.

24 (c) If a closure lasts longer than seven days, the department shall update the
25 operator of the affected facility every 10 days on efforts to address the dreissenid
26 infestation. The department shall provide these updates in writing and also post
27 these updates on the department's Internet Web site in an easily accessible
28 manner.

29 (d) The department shall develop procedures to ensure proper notification of
30 affected local and federal agencies, and, as appropriate, the Department of Water
31 Resources, the Department of Parks and Recreation, and the State Lands
32 Commission in the event of a decision to close, quarantine, or restrict a facility
33 pursuant to this paragraph. These procedures shall include the reasons for the
34 closure, quarantine, or restriction, and methods for providing updated information
35 to those affected. These procedures shall also include protocols for the posting of
36 the notifications on the department's Internet Web site required by subdivision (c).

37 (e) When deciding the scope, duration, level, and type of restrictions, and
38 specific location of a closure or quarantine, the director shall consult with the
39 agency, entity, owner, or operator with jurisdiction, control, or management
40 responsibility over the marina, boat launch facility, or other facility, in order to
41 focus the closure or quarantine to specific areas and facilities so as to avoid or
42 minimize disruption of economic or recreational activity in the vicinity.

1 **Comment.** Section 49965 continues former Fish and Game Code Section 2301(a)(2)(D)(ii)-
2 (iv) without substantive change.

3 **§ 49970. Involvement of other agencies**

4 49970. (a) Upon a determination by the director that it would further the
5 purposes of this section, other state agencies, including, but not limited to, the
6 Department of Parks and Recreation, the Department of Water Resources, the
7 Department of Food and Agriculture, and the State Lands Commission, may
8 exercise the authority granted to the department in Sections 49660 and 49665.

9 (b) A determination made pursuant to paragraph (1) shall be in writing and shall
10 remain in effect until withdrawn, in writing, by the director.

11 **Comment.** Section 49970 continues former Fish and Game Code Section 2301(b) without
12 substantive change.

13 **§ 49975. Inapplicability of division of Public Resources Code**

14 49975. Except as provided in subdivision (c) of Section 49660, Division 13
15 (commencing with Section 21000) of the Public Resources Code does not apply to
16 the implementation of this section.

17 **Comment.** Section 49975 continues former Fish and Game Code Section 2301(c)(1) without
18 substantive change.

19 **§ 49980. Water supply agency cooperation**

20 49980. (a) A public or private agency that operates a water supply system shall
21 cooperate with the department to implement measures to avoid infestation by
22 dreissenid mussels, and to control or eradicate any infestation that may occur in a
23 water supply system.

24 (b) If dreissenid mussels are detected, the operator of the water supply system,
25 in cooperation with the department, shall prepare and implement a plan to control
26 or eradicate dreissenid mussels within the system. The approved plan shall contain
27 the following minimum elements:

28 (1) Methods for delineation of infestation, including both adult mussels and
29 veligers.

30 (2) Methods for control or eradication of adult mussels and decontamination of
31 water containing larval mussels.

32 (3) A systematic monitoring program to determine any changes in conditions.

33 (4) A requirement that the operator of the water supply system permit
34 inspections by the department, as well as cooperate with the department, to update
35 or revise control or eradication measures in the approved plan to address scientific
36 advances in the methods of controlling or eradicating mussels and veligers.

37 (c) If the operator of water delivery and storage facilities for public water supply
38 purposes has prepared, initiated, and is in compliance with all the elements of an
39 approved plan to control or eradicate dreissenid mussels in accordance with
40 subdivision (b), the requirements of Sections 49660 and 49665 do not apply to the
41 operation of those water delivery and storage facilities, and the operator is not

1 subject to any civil or criminal liability for the introduction of dreissenid mussel
2 species as a result of those operations.

3 (d) The department may require the operator of a facility to update its plan, and
4 if the plan is not updated or revised as described in paragraph (4) of subdivision
5 (b), Sections 49660 and 49665 shall apply to the operation of the water delivery
6 and storage facilities covered by the plan until the operator updates or revises the
7 plan and initiates and complies with all of the elements of the updated or revised
8 plan.

9 **Comment.** Section 49980 continues former Fish and Game Code Section 2301(d) without
10 substantive change.

11 **§ 49985. Department authority to adopt regulations**

12 49985. The department may adopt regulations to carry out this chapter and
13 Section 5860.

14 **Comment.** Section 49985 continues former Fish and Game Code Section 2301(g) without
15 substantive change.

16 **§ 49990. Immunity from liability**

17 49990. Pursuant to Section 818.4 of the Government Code, the department and
18 any other state agency exercising authority under this section shall not be liable
19 with regard to any determination or authorization made pursuant to this chapter.

20 **Comment.** Section 49990 continues former Fish and Game Code Section 2301(h) without
21 substantive change.

22 **§ 50000. Inoperative date**

23 50000. This chapter shall remain in effect only until January 1, 2020, and as of
24 that date is repealed, unless a later enacted statute, that is enacted before January
25 1, 2020, deletes or extends that date.

26 **Comment.** Section 50000 continues former Fish and Game Code Section 2301(i) without
27 substantive change.

28 **CHAPTER 2. RESERVOIR OWNERS OR MANAGERS**

29 **§ 50100. Inapplicability of chapter**

30 50100. This chapter does not apply to a reservoir in which nonnative dreissenid
31 mussels have been detected.

32 **Comment.** Section 50100 continues former Fish and Game Code Section 2302(g) without
33 substantive change.

34 **§ 50105. Duties where water activities are permitted**

35 50105. Any person, or federal, state, or local agency, district, or authority that
36 owns or manages a reservoir, as defined in Section 6004.5 of the Water Code,
37 where recreational, boating, or fishing activities are permitted, except a privately
38 owned reservoir that is not open to the public, shall do both of the following:

1 (a) Assess the vulnerability of the reservoir for the introduction of nonnative
2 dreissenid mussel species.

3 (b) Develop and implement a program designed to prevent the introduction of
4 nonnative dreissenid mussel species, which shall include, at a minimum, all of the
5 following:

6 (1) Public education.

7 (2) Monitoring.

8 (3) Management of those recreational, boating, or fishing activities that are
9 permitted.

10 **Comment.** Section 50105 continues former Fish and Game Code Section 2302(a)-(b) without
11 substantive change.

12 **§ 50110. Duties where water activities are not permitted**

13 50110. Any person, or federal, state, or local agency, district, or authority, that
14 owns or manages a reservoir as defined in Section 6004.5 of the Water Code
15 where recreational, boating, or fishing activities of any kind are not permitted,
16 except a privately owned reservoir that is not open to the public, shall, based on its
17 available resources and staffing, include visual monitoring for the presence of
18 mussels as part of its routine field activities.

19 **Comment.** Section 50110 continues former Fish and Game Code Section 2302(c) without
20 substantive change.

21 **§ 50115. Duties where reservoir not open to public**

22 50115. Any entity that owns or manages a reservoir as defined in Section 6004.5
23 of the Water Code, except a privately owned reservoir, that is not open to the
24 public for recreational, boating, or fishing activities, may refuse the planting of
25 fish in that reservoir by the department, unless the department can demonstrate
26 that the fish are not known to be infected with nonnative dreissenid mussels.

27 **Comment.** Section 50115 continues former Fish and Game Code Section 2302(d) without
28 substantive change.

29 **§ 50120. Applicability of chapter to governmental entities**

30 50120. Except as specifically set forth in this chapter, this chapter applies both
31 to reservoirs that are owned or managed by governmental entities, and reservoirs
32 that are owned or managed by private persons or entities.

33 **Comment.** Section 50120 continues former Fish and Game Code Section 2302(e) without
34 substantive change.

35 **§ 50125. Adoption of regulations by department**

36 50125. To the extent that sufficient funds and personnel are available to do so,
37 the department may adopt regulations establishing procedures to implement this
38 section and Section 5862, and to enforce this chapter.

39 **Comment.** Section 50125 continues the third sentence of former Fish and Game Code Section
40 2302(f) without substantive change.

1 See also Section 5862 (enforcement).

2 **TITLE 3. COMMERCIAL PROVISIONS**

3 **§ 50250. Application of title**

4 50250. For purposes of Section 45005, the provisions in this title are commercial
5 provisions.

6 **Comment.** Section 50250 is new. It is added for drafting convenience.

7 **§ 50255. Take**

8 50255. Mussels (*Mytilus californianus*) may be taken only in accordance with
9 regulations that the commission may adopt.

10 **Comment.** Section 50255 continues former Fish and Game Code Section 8344 without
11 substantive change.

12 **PART 12. SCALLOPS**

13 **TITLE 1. SCALLOPS GENERALLY**

14 **§ 50350. Mollusk**

15 50350. For the purposes of Title 2 (commencing with Section 45400) of Part 3, a
16 scallop is a mollusk.

17 **Comment.** Section 50350 is new. It is added for drafting convenience.

18 **TITLE 2. COMMERCIAL PROVISIONS**

19 **§ 50400. Application of title**

20 50400. For purposes of Section 45005, the provisions in this title are commercial
21 provisions.

22 **Comment.** Section 50400 is new. It is added for drafting convenience.

23 **§ 50405. Sale or purchase**

24 50405. It is unlawful for a person to sell or purchase rock scallops (*Hinnites*
25 *multirugosus*) or scallops (*Pecten circularis*), except that scallops cultivated
26 pursuant to Part 1 (commencing with Section 23300) of Division 7 may be sold or
27 purchased subject to regulations of the commission.

28 **Comment.** Section 50405 continues former Fish and Game Code Section 8345 without
29 substantive change.

PART 13. SEA CUCUMBERS

TITLE 1. SEA CUCUMBERS GENERALLY

§ 50450. Provisions not exclusive

50450. The provisions of this part are not intended to be exclusive. Other provisions that govern sea cucumbers include, but are not limited to, the following provisions:

(a) Section 16110.

(b) Section 40115.

Comment. Section 50450 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

§ 50500. Application of title

50500. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 50500 is new. It is added for drafting convenience.

§ 50505. Take, possession, or landing

50505. (a) A sea cucumber shall not be taken, possessed aboard a boat, or landed by a person, for a commercial purpose, except under a valid sea cucumber permit issued to that person that has not been suspended or revoked.

(b) When taking a sea cucumber by diving, every diver shall have a sea cucumber diving permit issued to that person that has not been suspended or revoked.

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

Comment. Section 50505 continues former Fish and Game Code Section 8405 without substantive change.

§ 50510. Permit

50510. (a) An applicant for a sea cucumber permit shall specify by gear type, either trawl or dive, the method by which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.

(b) The fee for a sea cucumber permit shall be two hundred fifty dollars (\$250).

(c) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(d) In order to renew a sea cucumber permit for any permit year, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit

1 year. Applications for renewal of a sea cucumber permit shall be received by the
2 department or, postmarked if mailed, by April 30 of the permit year.

3 **Comment.** Section 50510 continues former Fish and Game Code Section 8405.1 without
4 substantive change.

5 **§ 50515. Transfer of permit**

6 50515. (a) A valid sea cucumber permit may be transferred by the permittee if
7 the permittee has previously held a valid sea cucumber permit for any four permit
8 years and landed at least 100 pounds of sea cucumbers in each of those permit
9 years, as documented by landing receipts with the name of the permittee shown on
10 the receipts.

11 (b) A valid sea cucumber permit that has not been suspended or revoked may be
12 transferred only to a person who has a valid commercial fishing license issued
13 pursuant to Section 14550 that has not been suspended or revoked. A sea
14 cucumber permit shall not be transferred to a person who has had a sea cucumber
15 permit suspended or revoked, while the suspension or revocation is in effect.

16 (c) An application for transfer of a permit shall be in the form of a notarized
17 letter, and shall be submitted to the department, with reasonable proof that the
18 department may require to establish the qualifications of the permitholder and the
19 transferee, accompanied by payment to the department of a nonrefundable transfer
20 fee of two hundred dollars (\$200).

21 (d) The transfer shall take effect on the date notice of approval of the application
22 is given to the transferee by the department.

23 (e) The transferred sea cucumber permit shall be valid for the remainder of the
24 permit year, and may be renewed in subsequent years.

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

32 (g) Upon the death of a sea cucumber permitholder, the deceased person's sea
33 cucumber dive or trawl permit may be transferred by his or her heirs, assignees, or
34 estate to a qualified person as provided in subdivision (b), upon payment of the fee
35 described in subdivision (c), and in accordance with subdivisions (a) and (f). The
36 estate of the decedent may transfer the permit pursuant to this title no later than
37 two years from the date of death of the permitholder, as listed on the death
38 certificate.

39 (h) For purposes of a transfer under subdivision (g), the heirs, assignees, or
40 estate shall renew the permit as specified in Section 50510 to keep the permit valid
41 until transferred.

1 **Comment.** Section 50515 continues former Fish and Game Code Section 8405.2 without
2 substantive change.

3 **§ 50520. Commission regulation**

4 50520. (a) The commission, upon recommendation of the department or upon its
5 own motion and in consultation with the sea cucumber fishing industry, may adopt
6 regulations, including provisions governing seasons, gear restrictions, hours of
7 operation, and any other measures that it determines may reasonably be necessary
8 to protect the sea cucumber resource and to assure a sustainable sea cucumber
9 fishery or to enhance enforcement activities.

10 (b) The number of sea cucumber permits issued for the April 1, 1997, to March
11 31, 1998, inclusive, permit year shall constitute the maximum number of permits
12 available for all subsequent permit years for the sea cucumber fishery. The
13 department may establish by regulation a method, if necessary, to reissue any sea
14 cucumber permit not renewed or transferred. The permit type of a sea cucumber
15 permit, either trawl or dive, that is reissued shall not be transferable.

16 (c) The department, using existing funds, may determine the actual costs to the
17 department of enforcing this chapter. The commission, upon recommendation of
18 the department, may adjust the fee for the issuance or transfer of a permit to an
19 amount not to exceed three hundred fifty dollars (\$350), to reflect the actual cost
20 of enforcing this chapter.

21 **Comment.** Section 50520 continues former Fish and Game Code Section 8405.3(a)-(b), & (d)
22 without substantive change.

23 **§ 50525. Inoperative date of chapter**

24 50525. This chapter shall become inoperative on April 1, 2020, and, as of
25 January 1, 2021, is repealed, unless a later enacted statute that is enacted before
26 January 1, 2021, deletes or extends the date on which this chapter becomes
27 inoperative or is repealed.

28 **Comment.** Section 50525 continues former Fish and Game Code Section 8405.4 without
29 substantive change.

30 **PART 14. SEA URCHINS**

31 **TITLE 1. SEA URCHINS GENERALLY**

32 **§ 50650. Provisions not exclusive**

33 50650. The provisions of this part are not intended to be exclusive. Other
34 provisions that govern sea urchins include, but are not limited to, the following
35 provisions:

36 (a) Section 12165.

37 (b) Section 25125.

38 **Comment.** Section 50650 is new. It is added for drafting convenience.

1 **§ 50655. Department grant**

2 50655. (a) Commencing November 1, 1991, the director shall make a grant in
3 installments to a nonprofit organization of sea urchin divers in an amount not to
4 exceed four hundred thousand dollars (\$400,000), for the organization to
5 accomplish the following purposes:

6 (1) To establish a communications network among sea urchin divers, through a
7 newsletter and such other means as are deemed necessary and appropriate by the
8 organization, providing divers with information on policies, procedures, statutes,
9 and regulations affecting the sea urchin fishery, meeting announcements, and for
10 other information the department reasonably requests to be transmitted to sea
11 urchin divers.

12 (2) To establish an education program on the conservation and utilization of sea
13 urchins.

14 (3) To convene statewide conferences for members of the industry to meet for
15 purposes of strengthening the industry and benefiting industry goals.

16 (b) The grant shall be paid, upon submission and approval of an annual budget,
17 in quarterly installments, in amounts deemed appropriate by the department, upon
18 the submission to the department of progress reports which demonstrate the
19 continued achievements of the organization toward the intended goals.

20 (c) Prior to making the grant, the director shall verify from the nonprofit
21 organization's bylaws that it is established for, among other purposes, the
22 protection, conservation, enhancement, and promotion of the sea urchin fishery,
23 and that its membership, including its board of directors, is composed solely of
24 licensed commercial sea urchin divers.

25 (d) The grant shall be funded from revenues received pursuant to former
26 subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995.
27 If the department determines that the revenue received from former subdivision
28 (b) of Section 8051.1, as that subdivision read on December 31, 1995, is not
29 sufficient to fund the amount of the grant, including departmental overhead
30 charges which shall be recovered from the revenues received pursuant to that
31 former subdivision (b) of Section 8051.1, the department shall reduce the amount
32 of the grant accordingly. The revenue received pursuant to that former subdivision
33 (b) of Section 8051.1 shall remain available for funding of the grant program
34 pursuant to this subdivision until that revenue is fully encumbered, or the
35 authorized amount of the grant program is expended, whichever event is later.

36 (e) The revenue received pursuant to former subdivision (b) of Section 8051.1 as
37 it read on December 31, 1995, shall first be used to reimburse the department for
38 departmental overhead charges incurred in administering the grant.

39 **Comment.** Section 50655 continues former Fish and Game Code Section 1068 without
40 substantive change.

41 **Note.** Existing Section 1068 (which would be continued by proposed Section 50655) requires
42 the director of the Department of Fish and Wildlife to make a specified grant, with the grant

1 funded from revenue received pursuant to former Fish and Game Code Section 8051.1(b). Former
2 Section 8051.1 became inoperative in 2001, and was repealed in 2002.

3 **The Commission invites comment on whether, based on the elimination of the specified**
4 **funding provision in 2001, Section 1068 is now obsolete and need not be continued in the**
5 **proposed law.**

6 TITLE 2. COMMERCIAL PROVISIONS

7 § 50700. Application of title

8 50700. For purposes of Section 45005, the provisions in this title are commercial
9 provisions.

10 **Comment.** Section 50700 is new. It is added for drafting convenience.

11 § 50705. Permit required

12 50705. (a) Sea urchins shall not be taken for a commercial purpose except under
13 a valid sea urchin diving permit issued to that person that has not been suspended
14 or revoked, subject to regulations adopted by the commission.

15 (b) The fee for a sea urchin diving permit is three hundred thirty dollars (\$330).

16 (c) The commission may, whenever necessary to prevent overutilization, or to
17 ensure efficient and economic operation of the fishery, limit the number of permits
18 that may be issued.

19 (d) The commission, as it determines appropriate to protect the resource, may
20 limit the number of permits, either on a statewide basis or within selected
21 geographical areas.

22 **Comment.** Subdivision (a) of Section 50705 continues the first sentence of former Fish and
23 Game Code Section 9054 without substantive change.

24 Subdivision (b) continues former Fish and Game Code Section 9055 without substantive
25 change.

26 Subdivision (c) continues the third sentence of former Fish and Game Code Section 9054
27 without substantive change.

28 Subdivision (d) continues the fourth sentence of former Fish and Game Code Section 9054
29 without substantive change.

30 § 50710. Allowed appliances

31 50710. Rakes, airlifts, or other handheld appliances may be used to take sea
32 urchins.

33 **Comment.** Section 50710 continues the second sentence of former Fish and Game Code
34 Section 9054 without substantive change.

PART 15. SHRIMP AND PRAWNS

TITLE 1. SHRIMP AND PRAWNS GENERALLY

§ 50850. Crustacean

50850. For the purposes of Title 2 (commencing with Section 45400) of Part 3, shrimp and prawns are crustaceans.

Comment. Section 50850 is new. It is added for drafting convenience.

§ 50855. Provisions not exclusive

50855. The provisions of this part are not intended to be exclusive. Other provisions that govern shrimp or prawns include, but are not limited to, the following provisions:

- (a) Section 12165.
- (b) Section 16110.
- (c) Section 19805.
- (d) Section 20710.
- (e) Section 23355.

Comment. Section 50855 is new. It is added for drafting convenience.

TITLE 2. COMMERCIAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 50950. Application of title

50950. For purposes of Section 45005, the provisions in this title are commercial provisions.

Comment. Section 50950 is new. It is added for drafting convenience.

§ 50955. “Shrimp” or “prawns”

50955. For the purposes of this title, “shrimp” or “prawns,” or both, include all of the following species:

- (1) Spot prawn (*Pandalus platyceros*).
- (2) Ridgeback prawn (*Sicyonia ingentis*).
- (3) Coonstrip prawn (*Pandalus danae*).
- (4) Pacific ocean shrimp (*Pandalus jordani*).
- (5) Bay shrimp (*Crangon franciscorum* and *Crango* sp.).
- (6) Red rock shrimp (*Lysemata californica*).

Comment. Section 50955 continues former Fish and Game Code Section 8590 without substantive change.

1 CHAPTER 2. TAKE

2 Article 1. General Provisions

3 **§ 51000. Take generally allowed**

4 51000. Except as provided in this chapter, prawns or shrimp may be taken in any
5 waters of the state.

6 **Comment.** Section 51000 continues former Fish and Game Code Section 8593 without
7 substantive change.

8 **§ 51005. Take for commercial purpose**

9 51005. Prawns or shrimp may be taken for a commercial purpose under the
10 regulations of the commission.

11 **Comment.** Section 51005 continues former Fish and Game Code Section 8591 without
12 substantive change.

13 **§ 51010. Required bycatch reduction device**

14 51010. (a) Commencing April 1, 2006, it is unlawful to fish commercially for
15 prawns or pink shrimp, unless an approved bycatch reduction device is used with
16 each net.

17 (b) On or before April 1, 2006, the commission shall approve one or more
18 bycatch reduction devices for use in the bottom trawl fishery. For purposes of this
19 subdivision, a rigid grate fish excluder device is the approved type of bycatch
20 reduction device unless the commission, the Pacific Marine Fishery Management
21 Council, or the National Marine Fisheries Service determines that a different type
22 of fish excluder device has an equal or greater effectiveness at reducing bycatch. If
23 the commission does not approve a bycatch reduction device prior to April 1,
24 2006, then a device that is approved by the Pacific Marine Fishery Management
25 Council or the National Marine Fisheries Service shall be deemed approved by the
26 commission.

27 (c) This section does not apply to the use of trawl nets pursuant to a scientific
28 research permit.

29 **Comment.** Subdivisions (a) and (b) of Section 51010 continue former Fish and Game Code
30 Section 8841(g) without substantive change.

31 In combination with Sections 16110(g), 16160(b), 16165(b), and 16170(b), subdivision (c) of
32 Section 51010 continues former Fish and Game Code Section 8841(i) without substantive
33 change.

34 See also Section 4900 (enforcement).

35 **§ 51015. Use of traps**

36 51015. (a) Except as otherwise provided in this chapter, prawns or shrimp may
37 be taken with a prawn trap or shrimp trap under a general trap permit issued
38 pursuant to Section 19205.

(b) Prawns or shrimp may be taken for a commercial purpose in either a prawn trap or a shrimp trap, subject to Title 6 (commencing with Section 19200) of Part 4 of Division 6.

(c) A prawn trap or a shrimp trap shall be six feet or less in its greatest dimension. Every opening from the exterior to the interior of a prawn trap or a shrimp trap shall be five inches or less in any dimension.

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

Comment. Subdivision (a) of Section 51015 continues former Fish and Game Code Section 9015(a) without substantive change.

Subdivision (b) continues the second part of former Fish and Game Code Section 8595(a) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 9015(b) without substantive change.

Subdivision (d) continues former Fish and Game Code Section 8595(b) without substantive change.

See also Section 4900 (enforcement).

Article 2. Geographic Restrictions

§ 51050. Take south of Point Concepcion

51050. From Point Concepcion south to the Mexican border, shrimp may be taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

Comment. Section 51050 continues former Fish and Game Code Section 8594 without substantive change.

Article 3. Use of Trawl Nets

§ 51100. Permit

51100. Subject to Chapter 8 (commencing with Section 16100) of Title 3 of Part 6 of Division 6, and Section 51010, prawns or shrimp may be taken for a commercial purpose with a trawl net of a design prescribed by the commission, pursuant to a permit issued by the department and under regulations adopted by the commission.

(b) Section 16150, and Article 3 (commencing with Section 16250) of Chapter 8 of Title 3 of Part 6 of Division 6 do not apply to trawl nets used or possessed under a permit issued pursuant to this section.

Comment. Subdivision (a) of Section 51100 combines and restates the first part of former Fish and Game Code Section 8595(a) and the first paragraph of former Fish and Game Code Section 8842(a) without substantive change.

Subdivision (b) continues the second paragraph of former Fish and Game Code Section 8842(a) without substantive change.

Note. Proposed Section 51100(a) is intended to combine and restate the first part of former Fish and Game Code Section 8595(a) and the first paragraph of former Fish and Game Code

Section 8842(a) to clarify the meaning of those provisions, without changing their substantive effect. The existing provisions read as follows:

8595. (a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3,....

8842. (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.

The Commission invites comment on whether the combining and restatement of these two provisions would cause any substantive change in the meaning of either.

§ 51105. Geographic restrictions

51105. (a) Trawling for prawns or shrimp shall be authorized only in those waters of Districts 2570, 2575, 2590, 2615, 2620, and 2625 that lie not less than three nautical miles from the nearest point of land on the mainland shore, and all offshore islands and the boundary line of District 2630.

(b) The commission shall permit the taking of pink shrimp not less than two nautical miles from shore in waters that lie between a line extending due west from False Cape and a line extending due west from Point Reyes from the nearest point of land on the mainland shore, if the commission finds that, upon review of information from the federal groundfish observer program and other available research and monitoring information that it determines relevant, the use of trawl gear minimizes bycatch, will not damage seafloor habitat, will not adversely affect ecosystem health, and will not impede reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

Comment. Subdivision (a) of Section 51105 continues former Fish and Game Code Section 8842(b) without substantive change. A stated exception to the provision, expressly expiring on January 1, 2008, is discontinued.

Subdivision (b) continues former Fish and Game Code Section 8842(d) without substantive change.

§ 51110. Incidental take while fishing for pink shrimp

51110. When fishing for pink shrimp (*Pandalus jordani*) under a permit issued pursuant to Section 51100, 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.

Comment. Section 51110 continues the first sentence of former Fish and Game Code Section 8842(c) without substantive change.

1

2

5

7

8

9

10

12

13

14

- 17

22

23

24

25

26

28

29

30

31

32

Comment. Section 51400 continues former Fish and Game Code Section 8399 without substantive change.

§ 51405. Unlawful activities in District 2590

51405. (a) In District 2590, it is unlawful to engage in the following activities:

(1) Attract squid by a light displayed from any vessel, except a vessel deploying nets for the take, possession, and landing of squid or from the seine skiff of the vessel deploying nets for the take, possession, and landing of squid.

(2) Attract squid by a light displayed from any vessel whose primary purpose is not the deployment, or assisting in the deployment, of nets for the take, possession, and landing of squid.

(3) To encircle any vessel, other than by the seine skiff of a vessel deploying nets for the take, possession, and landing of squid, while that vessel is engaged in the taking of squid.

(b) For purposes of this section, “seine skiff” means a vessel that meets all of the following requirements:

(1) It is not licensed by the federal government or registered by the Department of Motor Vehicles.

(2) It is used to assist a larger federally-licensed or state-registered fishing vessel by assisting in the deployment and retrieval of nets and the landing of fish.

(3) It travels with that larger fishing vessel at all times.

(4) It is used solely at the direction of the operator of the larger fishing vessel.

(5) It is owned by the owner of the larger fishing vessel.

Comment. Section 51405 continues former Fish and Game Code Section 8399.1 without substantive change.

Note. The Commission notes the following ambiguities in the language of existing Section 8399.1(a):

(1) Under Section 8399.1(a)(1), may light be displayed to attract squid from the *seine skiff* of a vessel deploying squid nets? If so, does the seine skiff have to itself be concurrently deploying nets?

(2) In Section 8399.1(a)(3), which “vessel” is the object of the reference “while that vessel is engaged in the taking of squid” at the end of the provision – the vessel deploying squid nets with a seine skiff, or the vessel that is being encircled?

The Commission invites comment on these questions.

CHAPTER 3. MARKET SQUID

§ 51450. Legislative declaration

51450. (a) The Legislature finds and declares that the fishery for market squid (*Loligo opalescens*) is the state’s largest fishery by volume, generating millions of dollars of income to the state annually from domestic and foreign sales. In addition to supporting an important commercial fishery, the market squid resource is important to the recreational fishery and is forage for other fish taken for commercial and recreational purposes, as well as for marine mammals, birds, and

1 other marine life. The growing international market for squid and declining squid
2 production from other parts of the world has resulted in an increased demand for
3 California market squid, which, in turn, has led to newer, larger, and more
4 efficient vessels entering the fishery and increased processing capacity.

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

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

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

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

27 **Comment.** Section 51450 continues former Fish and Game Code Section 8420 without
28 substantive change.

29 **§ 51455. Purchase of squid from vessel**

30 51455. (a) No person shall purchase squid from a vessel or vessels unless that
31 person holds a license issued pursuant to subdivision (a) of Section 20205 or
32 pursuant to Section 20450, employs a certified weighmaster, and the facilities
33 operated by the person are located on a permanent, fixed location.

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

37 **Comment.** Section 51455 continues former Fish and Game Code Section 8424 without
38 substantive change.

39 **§ 51460. Adoption of fishery management plan and regulations**

40 51460. The commission, after consideration of the report and recommendations
41 prepared by the department pursuant to subdivision (c) of former Section 8426,

1 and, after public hearings, shall adopt a market squid fishery management plan and
2 regulations to protect the squid resource and manage the squid fishery at a level
3 that sustains healthy squid populations, taking into account the level of fishing
4 effort and ecological factors, including, but not limited to, the species' role in the
5 marine ecosystem and oceanic conditions. The management plan shall be
6 consistent with the requirements of Title 3 (commencing with Section 12100) of
7 Part 4 of Division 6. Development of the plan shall be coordinated with the federal
8 Coastal Pelagic Species Fishery Management Plan.

9 **Comment.** Section 51460 continues former Fish and Game Code Section 8425(a) without
10 substantive change.

11 **§ 51465. Management of fishery**

12 51465. The commission shall manage the squid fishery in accordance with the
13 requirements of Title 3 (commencing with Section 12100) of Part 4 of Division 6.

14 **Comment.** Section 51465 continues former Fish and Game Code Section 8425(b) without
15 substantive change.

16 **§ 51470. Permit fee**

17 51470. (a) The fee for a commercial market squid vessel permit and for a
18 commercial squid light boat owner's permit shall be established annually by the
19 commission.

20 (b) The total amount of fees collected pursuant to this section, including any
21 revenue derived from any other appropriate source, as determined and allocated by
22 the commission, shall not exceed the department's and the commission's costs for
23 managing the market squid fishery pursuant to Sections 51460 and 51465.

24 (c) The fees collected pursuant to this chapter shall be used only for the
25 management of the market squid fishery pursuant to Sections 51460 and 51465.

26 **Comment.** Section 51470 continues former Fish and Game Code Section 8428 without
27 substantive change.

28 See also Section 5880 (enforcement).

29 **§ 51475. Statements relating to permit**

30 51475. Any statement made to the department, orally or in writing, relating to a
31 permit issued under this chapter, shall be made under penalty of perjury.

32 **Comment.** Section 51475 continues the first sentence of former Fish and Game Code Section
33 8429 without substantive change.

34 **§ 51485. No limit on authority of director or commission**

35 51485. Notwithstanding any other provision of law, nothing in this chapter shall
36 prohibit or otherwise limit the authority of the director or the commission under
37 any other law.

38 **Comment.** Section 51485 continues former Fish and Game Code Section 8429.5 without
39 substantive change.

DIVISION 12. AMPHIBIANS

PART 1. GENERAL PROVISIONS

§ 51900. Governance by other provisions

51900. Animals governed by this division are also governed by other provisions of this code, including but not limited to Divisions 6 (commencing with Section 8000) and 7 (commencing with Section 23300).

Comment. Section 51900 is new. It is added for drafting convenience.

§ 51905. Use as bait

51905. An amphibian may be used for bait, or released in the same waters from which it was taken.

Comment. Section 51905 continues the part of former Fish and Game Code Section 5505 applicable to amphibians without substantive change.

PART 2. DISEASE CONTROL

§ 52000. Application of title

52000. (a) This part applies to all amphibians, including, but not limited to, amphibians being imported or transported.

(b) This part does not apply to activities governed by Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 52000 continues the part of former Fish and Game Code Section 6300 applicable to amphibians without substantive change.

§ 52005. Authorized entry by department

52005. The department may enter at any time any vehicle, container, warehouse, depot, ship, or growing area where any amphibians are held, transported, or stored, for the purpose of making a regulatory inspection to ascertain whether those amphibians are infected, diseased, or parasitized, or to determine if aquaculture products are being or have been legally imported, transported, or possessed.

Comment. Section 52005 continues the part of former Fish and Game Code Section 6301 applicable to amphibians without substantive change.

§ 52010. Public nuisance

52010. Except as otherwise provided in Part 1 (commencing with Section 23300) of Division 7, all amphibians found to be infected, diseased, or parasitized are a public nuisance and shall be summarily destroyed by the department.

Comment. Section 52010 continues the part of former Fish and Game Code Section 6302 applicable to amphibians without substantive change.

1 **§ 52015. Conditional destruction**

2 52015. All amphibians that the department determines are merely deleterious to
3 fish amphibians, aquatic plants, or aquatic animal life, shall be destroyed by the
4 department, unless the owner or person in charge of the amphibians ships them out
5 of the state within a period of time to be specified by the department.

6 **Comment.** Section 52015 continues the part of former Fish and Game Code Section 6303
7 applicable to amphibians without substantive change.

8 **§ 52020. Posting of notices**

9 52020. (a) If the department finds any infected, diseased, or parasitized
10 amphibians within this state, the department shall post notices describing, as
11 nearly as possible, the boundaries of the area within which the amphibians are
12 found, and shall state the period during which the taking, carrying, and
13 transportation of the amphibians from the area shall be unlawful.

14 (b) The fact of posting the notices shall be published once a week for four
15 successive weeks in some newspaper of general circulation in the county in which
16 the infected area is situated, and, if there is no newspaper of general circulation in
17 that county, then in a newspaper of general circulation published in an adjoining
18 county.

19 **Comment.** Section 52020 continues the part of former Fish and Game Code Section 6304
20 applicable to amphibians without substantive change.

21 **§ 52025. Prohibited transportation within state**

22 52025. It is unlawful to carry or cause to be carried from one point in this state
23 which has been posted according to the provisions of this article, to any other
24 point in this state, any infected, diseased, or parasitized amphibian.

25 **Comment.** Section 52025 continues the part of former Fish and Game Code Section 6305
26 applicable to amphibians without substantive change.

27 **§ 52030. Expense of examination**

28 52030. The expense of any examination of any amphibian made necessary by
29 the provisions of this code shall be borne by the owner of the amphibian, or the
30 person or persons importing the amphibian into this state.

31 **Comment.** Section 52030 continues the part of former Fish and Game Code Section 6306
32 applicable to amphibians without substantive change.

33 **PART 3. CLASSES OF AMPHIBIANS**

34 **TITLE 1. FULLY PROTECTED AMPHIBIANS**

35 **§ 52200. Prohibition on take and possession**

36 52200. (a) Except as provided in this section, Section 63500 or 64605, or
37 Article 1 (commencing with Section 63300) of Chapter 4 of Title 3 of Part 1 of

1 Division 17, a fully protected amphibian may not be taken or possessed at any
2 time.

3 (b) No provision of this code or any other law shall be construed to authorize the
4 issuance of a permit or license to take a fully protected amphibian, and no permit
5 or license previously issued shall have any force or effect for that purpose.
6 However, the department may authorize the taking of a fully protected amphibian
7 for necessary scientific research, including efforts to recover fully protected,
8 threatened, or endangered species.


9 (c) Before authorizing the take of a fully protected amphibian, the department
10 shall make an effort to notify all affected and interested parties to solicit
11 information and comments on the proposed authorization. The notification shall be
12 published in the California Regulatory Notice Register and be made available to
13 each person who has notified the department, in writing, of his or her interest in
14 fully protected species and who has provided an email address, if available, or
15 postal address to the department. Affected and interested parties shall have 30
16 days after notification is published in the California Regulatory Notice Register to
17 provide relevant information and comments on the proposed authorization.

18 (d) A legally imported fully protected amphibian may be possessed under a
19 permit issued by the department.

20 (e) As used in this section, “scientific research” does not include an action taken
21 as part of specified mitigation for a project, as defined in Section 21065 of the
22 Public Resources Code.

23 **Comment.** Section 52200 continues the part of former Fish and Game Code Section 5050(a)
24 applicable to amphibians without substantive change.

25 See also Section 5900 (enforcement).

26  **Note.** Proposed Section 52200 would continue Section 5050(a), as it applies to amphibians.
27 That provision was amended by 2018 Cal. Stat. ch. 224 as an urgency measure.

28 TITLE 2. NATIVE AMPHIBIANS

29 § 52300. “Native amphibian”

30 52300. “Native amphibian” as used in this title means a salamander, toad, or any
31 other member of the class amphibia native to California.

32 **Comment.** Section 52300 continues former Fish and Game Code Section 6895 without
33 substantive change.

34 § 52305. Commission to establish rules

35 52305. Except as otherwise provided in this title and Part 4 (commencing with
36 Section 52400), the commission shall establish rules for the commercial take, sale,
37 transport, export, or import of native amphibians.

38 **Comment.** Section 52305 continues former Fish and Game Code Section 6896 without
39 substantive change.

PART 4. SPECIFIC TYPES OF AMPHIBIANS

TITLE 1. FROGS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 52400. “Frog”

52400. As used in this title, “frog” means all species of frog.

Comment. Section 52400 continues former Fish and Game Code Section 6850 without substantive change.

§ 52405. Provisions not exclusive

52405. The provisions of this title are not intended to be exclusive. Other provisions that govern frogs include, but are not limited to, the following provisions:

(a) Section 8115.

(b) Section 23355.

Comment. Section 52405 is new. It is added for drafting convenience.

CHAPTER 2. TAKE OR POSSESSION

§ 52450. General prohibition on take or possession

52450. (a) Except as otherwise provided in this code or in regulations adopted by the commission, it is unlawful to take or possess any frog for a commercial purpose.

(b) This chapter does not apply to frogs grown pursuant to Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 52450 continues former Fish and Game Code Section 6851 without substantive change.

§ 52455. Prohibited take by firearm

52455. It is unlawful to take frogs by the use of firearms of any caliber or type.

Comment. Section 52455 continues former Fish and Game Code Section 6854 without substantive change.

§ 52460. Lawful possession limited to authorized number of frogs

52460. Any person who conducts a place of business where frogs are sold to the public for food, or who takes or possesses frogs for sale to or for use by educational or scientific institutions for scientific purposes, may possess at the place of business only the number of frogs that have been legally obtained pursuant to this code or regulations adopted by the commission.

Comment. Section 52460 continues former Fish and Game Code Section 6852 without substantive change.

1 **§ 52465. Disposal permit**

2 52465. The department may issue a permit to take and dispose of frogs under
3 any limitations the commission may prescribe, when in the judgment of the
4 department, frogs are polluting the water supply in any area, or otherwise
5 constitute a nuisance.

6 **Comment.** Section 52465 continues former Fish and Game Code Section 6855 without
7 substantive change.

8 CHAPTER 3. FROG JUMPING CONTESTS

9 **§ 52500. “Frog-jumping contest”**

10 52500. As used in this chapter, “frog-jumping contest” means a contest
11 generally and popularly known as a frog-jumping contest, which is open to the
12 public and is advertised or announced in a newspaper.

13 **Comment.** Section 52500 continues former Fish and Game Code Section 6880 without
14 substantive change.

15 **§ 52505. Applicability of chapter**


16 52505. The provisions of this chapter apply only to a frog that satisfies all the
17 following requirements:

18 (a) The frog is taken by a means and in a manner that normally would not
19 seriously injure the frog.

20 (b) The frog is to be used in a frog-jumping contest.

21 (c) The frog is kept in a manner that will reasonably preserve its life.

22 **Comment.** Section 52505 combines and restates the first sentence of former Fish and Game
23 Code Section 6881, Section 6882, and Section 6884, without substantive change.

24  **Note.** Proposed Section 52505 is intended to combine and restate the first sentence of former
25 Fish and Game Code Section 6881, Section 6882, and Section 6884, to clarify the meaning of
26 those provisions without changing their substantive effect. The existing provisions read as
27 follows:

28 6881. Frogs to be used in frog-jumping contests shall be governed by this article only.

29 6882. If the means used for taking such frogs can, as normally used, seriously injure the frog, it
30 shall be conclusively presumed the taking is not for the purposes of a frog-jumping contest.

31 6884. A frog which is not kept in a manner which is reasonable to preserve its life is not within
32 the coverage of this article.

33 **The Commission invites comment on whether the proposed combination and restatement**
34 **of these provisions would cause any substantive change in their meaning.**

35 **§ 52510. Exemption from other law**

36 52510. A frog that is governed by this chapter may be taken at any time, without
37 a license or permit.

38 **Comment.** Section 52510 continues the second sentence of former Fish and Game Code
39 Section 6881 without substantive change.

1 **§ 52515. Disposition of dead frog**

2 52515. A person may possess any number of live frogs to use in frog-jumping
3 contests, but if a frog possessed for that purpose dies or is killed, it must be
4 destroyed as soon as possible, and may not be eaten or otherwise used for any
5 purpose.

6 **Comment.** Section 52515 continues former Fish and Game Code Section 6883 without
7 substantive change.

8 **§ 52520. No modification of provision by commission**

9 52520. The commission has no power to modify a provision of this chapter by
10 any order, rule, or regulation.

11 **Comment.** Section 52520 continues former Fish and Game Code Section 6885 without
12 substantive change.

13 DIVISION 13. REPTILES

14 PART 1. GENERAL PROVISIONS

15 **§ 52800. Governance by other provisions**

16 52800. Animals governed by this division are also governed by other provisions
17 of this code, including but not limited to Divisions 6 (commencing with Section
18 8000) and 7 (commencing with Section 23300).

19 **Comment.** Section 52800 is new. It is added for drafting convenience.

20 PART 2. DISEASE CONTROL *[RESERVED]*

21 PART 3. CLASSES OF REPTILES

22 TITLE 1. FULLY PROTECTED REPTILES

23 **§ 53000. Prohibition on take and possession**

24 53000. (a) Except as provided in this section, Article 1 (commencing with
25 Section 63300) of Chapter 4 of Title 3 of Part 1 of Division 17, Section 63475, or
26 Section 64605, a fully protected reptile may not be taken or possessed at any time.

27 (b) No provision of this code or any other law shall be construed to authorize the
28 issuance of a permit or license to take a fully protected reptile, and no permit or
29 license previously issued shall have any force or effect for that purpose. However,
30 the department may authorize the taking of a fully protected reptile for necessary
31 scientific research, including efforts to recover fully protected, threatened, or
32 endangered species.


(c) Before authorizing the take of a fully protected reptile, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(d) A legally imported fully protected reptile may be possessed under a permit issued by the department.

(e) As used in this section, “scientific research” does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

Comment. Section 53000 continues the part of former Fish and Game Code Section 5050(a) applicable to reptiles without substantive change.

See also Section 5950 (enforcement).

 **Note.** Proposed Section 53000 would continue Section 5050(a), as it applies to reptiles. That provision was amended by 2018 Cal. Stat. ch. 224 as an urgency measure.

TITLE 2. NATIVE REPTILES

§ 53100. “Native reptiles”

53100. For purposes of this title, “native reptiles” means snakes, lizards, turtles, or any other members of the class reptilia native to California.

Comment. Section 53100 continues former Fish and Game Code Section 5060 without substantive change.

§ 53105. Commission to establish rules and regulations

53105. The commission shall establish rules and regulations for the commercial take, sale, transport, export, or import of native reptiles.

Comment. Section 53105 continues former Fish and Game Code Section 5061 without substantive change.

1 PART 4. SPECIFIC TYPES OF REPTILES

2 TITLE 1. ALLIGATORS AND RELATED
3 ANIMALS

4 § 53200. Use or sale of meat or hides

5 53200. Notwithstanding any other provision of law, no permit shall be issued or
6 renewed for the operation of a farm for alligators or any species of the family
7 crocodilidae, if the animals are kept for the use and sale of the meat or hides.

8 **Comment.** Section 53200 continues former Fish and Game Code Section 5062 without
9 substantive change.

10 TITLE 2. RATTLESNAKES

11 § 53250. Take

12 53250. Notwithstanding Section 12900, a sport fishing license is not required for
13 a resident to take a rattlesnake (genus *Crotalus* or *Sistrurus*).

14 **Comment.** Section 53250 continues former Fish and Game Code Section 7149.3 without
15 substantive change.

16 TITLE 3. TORTOISES AND TURTLES

17 § 53300. Provisions not exclusive

18 53300. The provisions of this title are not intended to be exclusive. Other
19 provisions that govern tortoises include, but are not limited to, Section 55725.

20 **Comment.** Section 53300 is new. It is added for drafting convenience.

21 § 53305. General prohibitions

22 53305. It is unlawful to sell, purchase, harm, take, possess, transport, or shoot a
23 projectile at, a tortoise (*Gopherus*). This section does not apply to the taking of a
24 tortoise when authorized by the department.

25 **Comment.** Section 53305 continues former Fish and Game Code Section 5000 without
26 substantive change.

27 § 53310. Possession by institutions

28 53310. The department may issue permits, subject to any terms and conditions
29 prescribed by the commission, authorizing the possession of a tortoise (*Gopherus*),
30 or product of a tortoise, by an educational or scientific institution or a public
31 zoological garden.

32 **Comment.** Section 53310 continues former Fish and Game Code Section 5002 without
33 substantive change.

1 **§ 53315. Tortoises acquired before 1973**

2 53315. (a) The provisions of Section 53305 do not prohibit the possession of any
3 tortoise (Gopherus) whose owner can demonstrate that the tortoise was legally
4 acquired and possessed before January 1, 1973.

5 (b) The owner of a tortoise whose possession is authorized by this section shall
6 mark or otherwise identify the tortoise to the satisfaction of the department, and
7 shall not transfer the tortoise to any other person without prior approval of the
8 department.

9 **Comment.** Section 53315 continues former Fish and Game Code Section 5001 without
10 substantive change.

11 **DIVISION 14. PLANTS**

12 **PART 1. GENERAL PROVISIONS**

13 **§ 53500. Governance by other provisions**

14 53500. Plants governed by this division are also governed by other provisions of
15 this code, including but not limited to Division 7 (commencing with Section
16 23300).

17 **Comment.** Section 53500 is new. It makes clear that this division does not contain the only
18 provisions of the code governing plants, and that plants governed by this division are also
19 governed by other law.

20 **PART 2. DISEASE CONTROL**

21 **TITLE 1. AQUATIC PLANTS**

22 **§ 53600. Application of title**

23 53600. This title does not apply to activities governed by Part 1 (commencing
24 with Section 23300) of Division 7.

25 **Comment.** Section 53600 continues the part of former Fish and Game Code Section 6300
26 applicable to plants without substantive change.

27 **§ 53605. Inspection**

28 53605. The department may enter at any time any vehicle, container, warehouse,
29 depot, ship, or growing area where any aquatic plants are held, transported, or
30 stored, for the purpose of making a regulatory inspection to ascertain whether
31 those aquatic plants are infected, diseased, or parasitized, or to determine if
32 aquaculture products are being or have been legally imported, transported, or
33 possessed.

34 **Comment.** Section 53605 continues the part of former Fish and Game Code Section 6301
35 applicable to plants, without substantive change.

1 **§ 53610. Public nuisance**

2 53610. Except as otherwise provided in Part 1 (commencing with Section
3 23300) of Division 7, all aquatic plants found to be infected, diseased, or
4 parasitized are a public nuisance and shall be summarily destroyed by the
5 department.

6 **Comment.** Section 53610 continues the part of former Fish and Game Code Section 6302
7 applicable to plants, without substantive change.

8 **§ 53615. Deleterious plants**

9 53615. All aquatic plants that the department determines are merely deleterious
10 to fish, amphibia, aquatic plants, or aquatic animal life, shall be destroyed by the
11 department, unless the owner or person in charge of the aquatic plants ships them
12 out of the State within a period of time to be specified by the department.

13 **Comment.** Section 53615 continues the part of former Fish and Game Code Section 6303
14 applicable to plants, without substantive change.

15 **§ 53620. Notices**

16 53620. (a) If the department finds any infected, diseased, or parasitized aquatic
17 plants within this state, the department shall post notices describing, as nearly as
18 possible, the boundaries of the area within which the aquatic plants are found, and
19 shall state the period during which the taking, carrying, and transportation of the
20 aquatic plants from the area shall be unlawful.

21 (b) The fact of posting the notices shall be published once a week for four
22 successive weeks in some newspaper of general circulation in the county in which
23 the infected area is situated, and, if there is no newspaper of general circulation in
24 that county, then in a newspaper of general circulation published in an adjoining
25 county.

26 **Comment.** Section 53620 continues the part of former Fish and Game Code Section 6304
27 applicable to plants, without substantive change.

28 **§ 53625. Transportation within state**

29 53625. It is unlawful to carry or cause to be carried from one point in this state
30 which has been posted according to the provisions of this title, to any other point
31 in this state, any infected, diseased, or parasitized aquatic plant.

32 **Comment.** Section 53625 continues the part of former Fish and Game Code Section 6305
33 applicable to plants, without substantive change.

34 **§ 53630. Expense of examination**

35 53630. The expense of any examination made necessary by the provisions of
36 this code, shall be borne by the owner of the aquatic plants, or the person or
37 persons importing them into this state.

38 **Comment.** Section 53630 continues the part of former Fish and Game Code Section 6306
39 applicable to plants, without substantive change.

PART 3. CLASSES OF PLANTS

TITLE 1. NATIVE PLANT PROTECTION ACT

§ 53800. Legislative intent

53800. (a) The intent of the Legislature and the purpose of this title is to preserve, protect, and enhance endangered or rare native plants of this state.


(b) The Legislature finds that many species and subspecies of native plants are endangered because their habitats are threatened with destruction, drastic modification, or severe curtailment, or because of commercial exploitation or by other means, or because of disease or other factors.

Comment. Section 53800 continues former Fish and Game Code Section 1900 without substantive change.

§ 53803. “Native plant”

53803. As used in this title, “native plant” means a plant growing in a wild uncultivated state, which is normally found native to the plantlife of this state.

Comment. Section 53803 continues the second sentence of former Fish and Game Code Section 1901 without substantive change.

 **Note.** Proposed Section 53803 would continue the existing limited application of the definition of “native plant.” There are other provisions of the Fish and Game Code that currently use the term “native plant” without definition (Sections 1580, 1755, 1756, 1760-1763, 1771, 1801, 1925, 2781, 4180, 10667, and 13014).

The Commission invites comment on whether applying the application of the definition should be broadened to include some or all of those provisions.

§ 53805. Criteria

53805. (a) The department shall establish criteria for determining if a species, subspecies, or variety of native plant is endangered or rare.

(b) A species, subspecies, or variety is endangered when its prospects of survival and reproduction are in immediate jeopardy from one or more causes.

(c) A species, subspecies, or variety is rare when, although not presently threatened with extinction, it is in such small numbers throughout its range that it may become endangered if its present environment worsens.

Comment. Section 53805 continues former Fish and Game Code Section 1901 without substantive change, except that the second sentence of former Section 1901 is continued in Section 53803 (“native plant” defined).

§ 53810. Designation

53810. The commission may, after public hearing, designate endangered and rare native plants.

Comment. Section 53810 continues the first sentence of former Fish and Game Code Section 1904 without substantive change.

1 **§ 53815. Notice to affected land owner**

2 53815. To the extent that the location of endangered or rare native plants is
3 known, the department shall notify the owners of affected land that an endangered
4 or rare native plant is growing on that land and shall provide any information
5 about the protection of the plants that may be appropriate.

6 **Comment.** Section 53815 continues the second sentence of former Fish and Game Code
7 Section 1904 without substantive change.

8 **§ 53820. Prohibited activities**

9 53820. No person shall import into this state, or take, possess, or sell within this
10 state, except as incident to the possession or sale of the real property on which the
11 plant is growing, any native plant, or any part or product thereof, that the
12 commission determines to be an endangered native plant or rare native plant,
13 except as otherwise provided in this title.

14 **Comment.** Section 53820 continues former Fish and Game Code Section 1908 without
15 substantive change.

16 **§ 53825. Regulation**

17 53825. (a) The commission may adopt regulations governing the taking,
18 possession, propagation, transportation, exportation, importation, or sale of any
19 endangered or rare native plants. The regulations may include, but shall not be
20 limited to, requirements for persons who perform any of the foregoing activities to
21 maintain written records and to obtain permits that may be issued by the
22 department.

23 (b) Persons engaged in the production, storage, sale, delivery, or transportation
24 of nursery stock pursuant to the provisions of Part 3 (commencing with Section
25 6701) of Division 4 of the Food and Agricultural Code shall not be required to
26 obtain a permit pursuant to this chapter unless those activities involve the
27 collection of rare or endangered plants or parts or products thereof, growing in a
28 wild, uncultivated state.

29 (c) Persons who purchase nursery grown stock shall not be required to obtain a
30 permit pursuant to this title.

31 **Comment.** Section 53825 continues former Fish and Game Code Section 1907 without
32 substantive change.

33 **§ 53830. Enforcement authority**

34 53830. (a) When any power or authority is given by any provision of this title to
35 any person, it may be exercised by any deputy, inspector, or agent duly authorized
36 by that person.

37 (b) Any person in whom the enforcement of any provision of this title is vested
38 has the power of a peace officer as to the enforcement of this title. This
39 subdivision applies to any state or federal agencies, the State of Nevada, the State

1 of Oregon, or the State of Arizona, with which cooperative agreements have been
2 made by the department to enforce any provisions of this title.

3 **Comment.** Section 53830 restates former Fish and Game Code Section 1909 without
4 substantive change.

5 **Note.** Proposed Section 53830(b) would restate the second sentence of existing Section
6 6656 to improve its clarity, without changing its substantive effect. The existing provision reads
7 as follows:

8 Any person in whom the enforcement of any provision of this chapter is vested has the power
9 of a peace officer as to such enforcement, which shall include state and federal agencies, and the
10 State of Nevada, State of Oregon, or State of Arizona with which cooperative agreements have
11 been made by the department to enforce any provisions of this chapter.

12 **The Commission invites comment on whether that restatement would cause any**
13 **problems.**

14 **§ 53835. Arrest**

15 53835. A peace officer or an employee or agent of the department may, in the
16 enforcement of this title, make arrests without warrant for a violation of this title
17 that the officer, employee, or agent may witness, and may confiscate plants or
18 parts of plants when unlawfully taken, transported, possessed, sold, or otherwise,
19 in violation of this title.

20 **Comment.** Section 53835 continues the first sentence of former Fish and Game Code Section
21 1910 without substantive change.

22 **§ 53840. Application of Penal Code Section 384a**

23 53840. The provisions of this title are in addition to the provisions of Section
24 384a of the Penal Code.

25 **Comment.** Section 53840 continues the second sentence of former Fish and Game Code
26 Section 1910 without substantive change.

27 **§ 53845. State agency programs**

28 53845. All state departments and agencies shall, in consultation with the
29 department, utilize their authority in furtherance of the purposes of this title by
30 carrying out programs for the conservation of endangered or rare native plants.
31 Those programs include, but are not limited to, the identification, delineation, and
32 protection of habitat critical to the continued survival of endangered or rare native
33 plants.

34 **Comment.** Section 53845 continues former Fish and Game Code Section 1911 without
35 substantive change.

36 **§ 53850. Department activities**

37 53850. (a) The department may undertake botanical research and field
38 investigations and may collect and diffuse any statistics and information that
39 pertain to the conservation, protection, and perpetuation of native plants.

(b) Nothing in this code or any other law shall prohibit the department from taking, for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants.

Comment. Subdivision (a) of Section 53850 continues former Fish and Game Code Section 1905 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 1906 without substantive change.

§ 53855. Exemptions

53855. (a) The provisions of this title shall not be applicable to emergency work necessary to protect life or property. However, the person or agency performing the emergency work shall notify the department within 14 days of the commencement of the work.

(b) The provisions of this title are not intended and shall not be construed as authorizing any public agency to mandate, prescribe, or otherwise regulate agricultural operations or management practices, including the clearing of land for agricultural practices or fire control measures.

(c) Notwithstanding the provisions of Section 53845, timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code), or required mining assessment work pursuant to federal or state mining laws, or the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right-of-way by the owner of the land or the owner's agent, or the performance by a public agency or a publicly or privately owned public utility of its obligation to provide service to the public, shall not be restricted by this title because of the presence of rare or endangered plants, except as provided in subdivision (d).

(d) Notwithstanding the provisions of subdivisions (b) and (c), where the owner of land has been notified by the department pursuant to Section 53815 that a rare or endangered native plant is growing on the owner's land, the owner shall notify the department at least 10 days in advance of changing the land use to allow for salvage of the plant. The failure by the department to salvage the plant within 10 days of notification shall entitle the owner of the land to proceed without regard to this title. Submission of a timber harvesting plan pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code) shall constitute notice under this section. Converting from one type of agricultural use, as defined in Section 51201 of the Government Code, to another type of agricultural use shall not constitute a change in land use.

Comment. Subdivision (a) of Section 53855 continues former Fish and Game Code Section 1912 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 1913(a) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 1913(b) without substantive change.

1 Subdivision (d) continues former Fish and Game Code Section 1913(c) without substantive
2 change.

3 **Note.** Existing Section 1913(c) refers to landowner notice given pursuant to Section 1903.5.
4 That section does not exist. In proposed Section 53855(d), the reference has been revised to refer
5 to proposed Section 53815, which continues the second sentence of existing Section 1904. That
6 provision requires notice to landowners when rare or endangered native plants are found on their
7 land.

8 **The Commission invites comment on whether that is the correct resolution of the**
9 **erroneous cross-reference.**

10 TITLE 2. CALIFORNIA DESERT 11 NATIVE PLANTS

12 § 53900. Department enforcement of Act

13 53900. The department shall enforce the provisions of the California Desert
14 Native Plants Act, Division 23 (commencing with Section 80001) of the Food and
15 Agricultural Code, except that permits, tags, seals, and wood receipts shall be
16 issued pursuant to Chapter 4 (commencing with Section 80101) of Division 23 of
17 the Food and Agricultural Code, by the county agricultural commissioner or the
18 sheriff.

19 **Comment.** Section 53900 continues the first sentence of former Fish and Game Code Section
20 1925 without substantive change.

21 § 53905. Cooperation with Department of Food and Agriculture

22 53905. In carrying out the provisions of this title, the department shall cooperate
23 fully with the Department of Food and Agriculture.

24 **Comment.** Section 53905 continues former Fish and Game Code Section 1926 without
25 substantive change.

26 § 53910. Effect of Act on department activities

27 53910. Nothing in the California Desert Native Plants Act, or any other law,
28 prohibits the department from taking, for scientific or propagation purposes, any
29 species of native plants. The department may import, propagate, and distribute
30 native plants, and the California Desert Native Plants Act does not apply to those
31 activities.

32 **Comment.** Section 53910 continues the second and third sentences of former Fish and Game
33 Code Section 1925 without substantive change.

PART 4. SPECIFIC TYPES OF PLANTS

TITLE 1. KELP AND OTHER AQUATIC PLANTS

CHAPTER 1. GENERAL PROVISIONS

§ 54000. Provisions not exclusive

54000. The provisions of this title are not intended to be exclusive. Other provisions may govern kelp and other aquatic plants.

Comment. Section 54000 is new.

§ 54005. Commission rulemaking

54005. The commission may make any regulations that may be necessary to insure the proper harvesting of kelp and other aquatic plants.

Comment. Section 54005 continues former Fish and Game Code Section 6653 without substantive change.

§ 54010. Application of title

54010. This title does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Part 1 (commencing with Section 23300) of Division 7.

Comment. Section 54010 continues former Fish and Game Code Section 6651(c) without substantive change.

CHAPTER 2. COMMERCIAL PROVISIONS

Article 1. Kelp Harvest License

§ 54025. License requirement

54025. Every person engaged in harvesting kelp or other aquatic plants for profit in the waters of this state shall have a license for that purpose.

Comment. Section 54025 continues former Fish and Game Code Section 6650 without substantive change.

§ 54030. Issuance of license

54030. (a) A license granting the privilege to harvest kelp or other aquatic plants shall be issued upon application and the payment of a fee of one hundred dollars (\$100) to the department. The license shall be valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder of that term.

(b) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative


1 and implementation costs of the department and the commission relating to those
2 licenses.

3 **Comment.** Section 54030 continues former Fish and Game Code Section 6651(a)-(b) without
4 substantive change.

5 **§ 54040. Scientific and educational permits**

6 54040. The commission may, subject to any regulations that it deems proper,
7 grant permits to any department of the United States Government or to any
8 scientific or any educational institution, to harvest kelp at any time for scientific or
9 experimental purposes without the payment of the kelp license or royalty imposed
10 by this title.

11 **Comment.** Section 54040 continues former Fish and Game Code Section 6657 without
12 substantive change.

13  **Note.** Existing Section 6657 refers to a “privilege tax imposed by this chapter.” There is no
14 other provision of the chapter that uses the term “privilege tax.” It seems likely that the term is
15 meant to refer to the “royalties” imposed by existing Section 6680 (proposed Section 54050).
16 That would be consistent with the use of the term “privilege tax” to refer to weight-based fees
17 imposed on a commercial fisherman when landing fish. See existing Section 8040(b). To avoid
18 any confusion, proposed Section 54040 would replace the term “privilege tax” with “royalty.”

19 **The Commission invites comment on whether that substitution would cause any**
20 **problems.**

21 **Article 2. Kelp Harvest Royalties**

22 **§ 54050. Royalty**

23 54050. (a) In addition to the license fee provided for in this chapter, every
24 person harvesting kelp or other aquatic plants shall pay a royalty, as the
25 commission may prescribe, of not less than five cents (\$0.05) per ton of wet kelp
26 or wet aquatic plants harvested.

27 (b) Any revenues derived from those royalties shall not be available for
28 expenditures until appropriated.

29 **Comment.** Section 54050 continues former Fish and Game Code Section 6680 without
30 substantive change.

31 **§ 54055. Weight records**

32 54055. (a) Every person engaged in harvesting kelp shall determine the weight
33 of all wet kelp, immediately after it is delivered to the licensee’s place of business
34 or elsewhere. The weight shall be entered in a book to be kept by the licensee. The
35 book shall be open at all times to the inspection of the department.

36 (b) The weight shall be determined by any method approved by the department,
37 including the displacement method.

38 (c) Every person engaged in harvesting kelp shall, on or before 10 days after
39 each month of the term of the license, deliver to the department a statement of the
40 weight of all wet kelp harvested during the preceding month.

Comment. Section 54055 restates former Fish and Game Code Section 6652 without substantive change.

Notes. (1) Proposed Section 54055(a)-(b) would restate the first paragraph of existing Section 6652 to improve its clarity, without changing its substantive effect. The restated paragraph reads as follows:

Every person engaged in harvesting kelp shall determine the weight by any method, including the displacement method, approved by the department of all wet kelp immediately after it is delivered to the licensee's place of business or elsewhere, and the weight shall be entered in a book to be kept by the licensee. The book shall be open at all times to the inspection of the department.

The Commission invites comment on whether that restatement would cause any substantive change in the meaning of the provision.

(2) The second paragraph of existing Section 6652 requires that a commercial kelp harvester "render a statement" each month, without specifying where the statement must be "rendered." A Fish and Game Commission regulation addresses that point, requiring that a kelp landing record be "delivered to the department." 14 Cal. Code Regs. § 165(b)(3)(G). In the interests of clarity, proposed Section 54055(c) would codify that element of the regulation, replacing "render" with "deliver to the department."

The Commission invites comment on whether that revision would cause any problems.

Article 3. Kelp Bed Leases

§ 54075. Description and regulation of kelp beds

54075. The commission shall describe the kelp beds of the state and adopt regulations for the leasing of the beds.

Comment. Section 54075 continues the second sentence of former Fish and Game Code Section 6700 without substantive change.

§ 54080. Exclusive lease of kelp bed

54080. The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed, or part thereof, if the commission determines that the lease is in the public interest.

Comment. Section 54080 continues the first sentence of former Fish and Game Code Section 6700 without substantive change.

§ 54085. Application

54085. A person wishing to lease the exclusive privilege to harvest kelp shall submit a written application to the commission. The application shall include all of the following, and any other information that the commission may prescribe:

(a) The number of the kelp bed or beds to be leased.

(b) The designated number of square miles in each bed.

Comment. Section 54085 continues former Fish and Game Code Section 6701 without substantive change.

1 **§ 54090. Deposit**

2 54090. A deposit of not less than forty dollars (\$40) for each square mile, or
3 fraction thereof, of the total area of the kelp bed or beds which are designated in
4 the application shall be submitted with the application. The deposit shall be
5 refunded to the person making the application unless a lease is executed.

6 **Comment.** Section 54090 continues former Fish and Game Code Section 6701.5 without
7 substantive change.

8 **§ 54095. Commission action on application**

9 54095. (a) If the commission finds that the kelp beds included in the application
10 are available for lease and that the lease would be in the public interest, the
11 commission shall publish a notice that the area is being considered for leasing.

12 (b) The commission shall have legal notices published in a newspaper of general
13 circulation in each county where the kelp bed, or any part thereof, is located,
14 describing the area to be leased and the type of operation to be conducted. Except
15 as provided in this subdivision, the publication shall be made pursuant to Section
16 6066 of the Government Code.

17 (c) If the commission receives more than one application for the lease of a kelp
18 bed or beds, it shall advertise for bids on the area being considered for leasing.
19 The commission shall award the lease of that area to the highest qualified bidder.

20 **Comment.** Section 54095 continues former Fish and Game Code Section 6702 without
21 substantive change.

22 **§ 54100. Terms of lease**

23 54100. (a) The initial term of a lease for the exclusive privilege of harvesting
24 kelp shall not exceed 20 years.

25 (b) No lessee shall have an exclusive lease, excluding subleases, to an area in
26 excess of 25 square miles or 50 percent of the total area of the kelp resource as
27 shown on the maps of the resource prepared by the commission, whichever is
28 greater.

29 **Comment.** Section 54100 continues former Fish and Game Code Section 6703 without
30 substantive change.

31 **§ 54105. Renewal**

32 54105. (a) Each kelp bed lease entered into or renewed, on and after January 1,
33 1985, shall specify a period prior to expiration when renewal of the lease may be
34 requested by the lessee. If the commission determines that the lessee has complied
35 with the terms of the lease, the lessee shall have a prior right to renew the lease on
36 terms agreed upon between the commission and the lessee.

37 (b) If terms for a renewal of the lease are not agreed upon, or the commission
38 determines that the lessee has not complied with the terms of the lease, the
39 commission shall advertise for bids on the individual kelp beds comprising the
40 lease.

(c) If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(d) The duration of the term of any renewal of a lease shall not exceed 20 years.

Comment. Section 54105 continues former Fish and Game Code Section 6704 without substantive change.

Note. Given that the maximum term of a kelp bed lease is 20 years, the Commission invites comment on whether the reference, in existing Section 6704, to a lease “entered into or renewed, on and after January 1, 1985” is obsolete. **Could the quoted phrase be deleted without substantive effect?**

§ 54110. Renewal of leases in effect on specified dates

54110. (a) Notwithstanding Section 54105, with respect to any kelp bed lease in effect on January 1, 1983, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee.

(b) If the lessee does not renew the lease, or if terms are not agreed upon, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(c) The term of any renewal of a lease shall not exceed 20 years.

(d) Any lease in effect on January 1, 1985, may be performed pursuant to its terms, notwithstanding this article, but any renewal of that lease is subject to this article.

Comment. Section 54110 continues former Fish and Game Code Section 6705 without substantive change.

Note. Existing Section 6705 provides special rules for kelp bed leases that were in effect in 1983 and 1985. Considering that kelp bed leases are limited to 20-year terms, it is not clear that any such leases continue to exist. On the other hand, if renewal is considered to be an *extension* of a lease, rather than *replacement* of a lease, it is possible that leases in effect in 1983 and 1985 still exist.

The Commission invites comment on whether Section 6705 is obsolete or continues to serve a purpose.

§ 54115. Renegotiated terms

54115. Notwithstanding Sections 54100 and 54105, at any time during the term of a lease, the commission and the lessee may negotiate and enter into a new lease on terms agreed upon between the two parties, if the commission determines that a new lease would be in the best interest of the state. The initial term of the new lease shall not exceed 20 years.

Comment. Section 54115 continues former Fish and Game Code Section 6706 without substantive change.

§ 54120. Royalty payment

54120. Each lease entered into, or renewed, on or after January 1, 1985, shall require, in addition to the license fee required by this chapter, a payment by the

lessee or any sublessee of not less than the minimum royalty established under Article 2 (commencing with Section 54050), for all kelp harvested from the lease area, and shall provide for an annual advance payment of not less than forty dollars (\$40) per square mile per year for the kelp bed leased, to be credited against the amount payable by the lessee, or sublessee, as the case may be, for each ton of kelp harvested during the ensuing year. The lease shall, in addition, include provisions for forfeiture of the lease if the annual payment is not made in advance.

Comment. Section 54120 continues former Fish and Game Code Section 6707 without substantive change.

Note. Given that the maximum term of a kelp bed lease is 20 years, the Commission invites comment on whether the reference, in existing Section 6707, to a lease “entered into or renewed, on and after January 1, 1985” is obsolete.

Could the quoted phrase be deleted without substantive effect?

§ 54125. Assignment

54125. (a) A lease may not be assigned, in whole or in part, by the lessee, either voluntarily or by operation of law, and no subleases or other rights may be granted thereunder by the lessee without the prior approval of the commission, subject to the conditions that the commission prescribes.

(b) The lease shall be forfeited in the event of a violation of this section.

(c) Each lease shall contain a statement of the contents of this section.

Comment. Section 54125 continues former Fish and Game Code Section 6708 without substantive change.

§ 54130. DGS approval

54130. A lease, or any renewal thereof, shall be submitted to, and approved by, the Department of General Services.

Comment. Section 54130 continues former Fish and Game Code Section 6709 without substantive change.

§ 54135. Official record of lease

54135. When an exclusive privilege to harvest kelp has been granted by lease by the commission, the commission shall furnish a true copy thereof to the department. The department shall file a notice for record in the recorder’s office of the county in which the kelp bed or beds, or part thereof, are located, setting forth the name of the person having the privilege, the description of the kelp bed or beds, or part thereof, and the time for which the privilege has been granted. The notice required to be filed for record under this section may be a copy of the executed lease.

Comment. Section 54135 continues former Fish and Game Code Section 6710 without substantive change.

1 **§ 54140. State Lands Commission**

2 54140. The department shall inform the State Lands Commission of all kelp bed
3 leases executed pursuant to this title, and shall furnish the State Lands
4 Commission with the information concerning these leases that it may require.

5 **Comment.** Section 54140 continues former Fish and Game Code Section 6711 without
6 substantive change.

7 Article 4. Closure of Kelp Beds

8 **§ 54175. Notice of proposed closure**

9 54175. If, at any time, the commission finds that the harvesting of kelp will tend
10 to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or
11 destroy the supply of any food for fish, the department shall serve on every person
12 licensed to harvest kelp a written notice that the kelp bed or beds, or parts thereof,
13 shall be closed to the harvesting of kelp for a period not to exceed one year.

14 **Comment.** Section 54175 continues former Fish and Game Code Section 6654 without
15 substantive change.

16 **§ 54180. Hearing**

17 54180. (a) Within 10 days after the service of a notice pursuant to Section
18 54175, the person upon whom notice is served may demand a hearing upon the
19 necessity for the closing of the kelp bed or beds, or parts thereof.

20 (b) Upon a demand for a hearing, the commission shall fix a time and place for
21 the taking of evidence upon the necessity for the closing, which time shall be not
22 less than 10 days nor more than 30 days from the date of the demand.

23 (c) The department shall serve written notice of the time and place of the hearing
24 upon the person demanding the hearing, at least 10 days before the day set for the
25 hearing.

26 (d) If no demand is made for a hearing within the time prescribed, the kelp bed
27 or beds, or parts thereof, shall remain closed to the harvesting of kelp for the time
28 specified in the order.

29 **Comment.** Section 54180 continues former Fish and Game Code Section 6655 without
30 substantive change.

31 CHAPTER 3. NONCOMMERCIAL USE OF KELP

32 **§ 54200. Commission regulation**

33 54200. The commission may regulate the taking, collecting, harvesting,
34 gathering, or possession of kelp for purposes other than profit.

35 **Comment.** Section 54200 continues former Fish and Game Code Section 6750 without
36 substantive change.

1 **§ 54205. Governance by other provisions**

2 54205. The provisions of Chapter 1 (commencing with Section 54000) and
3 Chapter 2 (commencing with Section 54025) of this chapter do not apply to the
4 taking, collecting, harvesting, gathering, or possession of kelp under this article.

5 **Comment.** Section 54205 continues former Fish and Game Code Section 6751 without
6 substantive change.

7 CHAPTER 4. AGAR-BEARING MARINE PLANTS

8 Article 1. General Provisions

9 **§ 54300. Provisions not exclusive**

10 54300. The provisions of this title are not intended to be exclusive. Other
11 provisions that may govern agar-bearing marine plants include, but are not limited
12 to, Section 54005.

13 **Comment.** Section 54300 is new.

14 **§ 54305. Application of title**

15 54305. This title does not apply to aquatic plants grown on private land or on
16 state water bottoms leased pursuant to Part 1 (commencing with Section 23300) of
17 Division 7.

18 **Comment.** Section 54305 continues former Fish and Game Code Section 6651(c) without
19 substantive change.

20 Article 2. Drying

21 **§ 54325. Permit requirement**

22 54325. No person shall dry agar-bearing marine plants for profit unless the
23 person has a permit issued under this chapter.

24 **Comment.** Section 54325 continues former Fish and Game Code Section 6653.5(b) without
25 substantive change.

26 **§ 54330. Permit issuance**

27 54330. The department may issue permits for the drying of agar-bearing marine
28 plants subject to the regulations the commission may prescribe to provide for
29 proper utilization of that resource.

30 **Comment.** Section 54330 continues former Fish and Game Code Section 6653.5(a) without
31 substantive change.

32 DIVISION 15. HABITAT CONSERVATION AND ENHANCEMENT

33 PART 1. GENERAL PROVISIONS

1 TITLE 1. CONSERVATION OF WILDLIFE
2 RESOURCES

3 § 54500. “Wildlife” defined

4 54500. As used in this title “wildlife” means birds, mammals, and reptiles not
5 raised in captivity.

6 **Comment.** Section 54500 continues former Fish and Game Code Section 1800 without
7 substantive change.

8 § 54505. Policy

9 54505. It is hereby declared to be the policy of the state to encourage the
10 preservation, conservation, and maintenance of wildlife resources under the
11 jurisdiction and influence of the state. This policy shall include the following
12 objectives:

13 (a) To maintain sufficient populations of all species of wildlife and the habitat
14 necessary to achieve the objectives stated in subdivisions (b), (c), and (d).

15 (b) To provide for the beneficial use and enjoyment of wildlife by all citizens of
16 the state.

17 (c) To perpetuate all species of wildlife for their intrinsic and ecological values,
18 as well as for their direct benefits to all persons.

19 (d) To provide for aesthetic, educational, and nonappropriative uses of the
20 various wildlife species.

21 (e) To maintain diversified recreational uses of wildlife, including the sport of
22 hunting, as proper uses of certain designated species of wildlife, subject to
23 regulations consistent with the maintenance of healthy, viable wildlife resources,
24 the public safety, and a quality outdoor experience.

25 (f) To provide for economic contributions to the citizens of the state, through the
26 recognition that wildlife is a renewable resource of the land by which economic
27 return can accrue to the citizens of the state, individually and collectively, through
28 regulated management. That management shall be consistent with the maintenance
29 of healthy and thriving wildlife resources and the public ownership status of the
30 wildlife resources.

31 (g) To alleviate economic losses or public health or safety problems caused by
32 wildlife to the people of the state either individually or collectively. That
33 resolution shall be in a manner designed to bring the problem within tolerable
34 limits consistent with economic and public health considerations and the
35 objectives stated in subdivisions (a), (b), and (c).

36 (h) It is not intended that this policy shall provide any power to regulate natural
37 resources or commercial or other activities connected therewith, except as
38 specifically provided by the Legislature.

39 **Comment.** Section 54505 continues former Fish and Game Code Section 1801 without
40 substantive change.

1 **§ 54510. Department jurisdiction**

2 54510. The department has jurisdiction over the conservation, protection, and
3 management of fish, wildlife, native plants, and habitat necessary for biologically
4 sustainable populations of those species. The department, as trustee for fish and
5 wildlife resources, shall consult with lead and responsible agencies and shall
6 provide, as available, the requisite biological expertise to review and comment
7 upon environmental documents and impacts arising from project activities, as
8 those terms are used in the California Environmental Protection Act (Division 13
9 (commencing with Section 21000) of the Public Resources Code).

10 **Comment.** Section 54510 continues former Fish and Game Code Section 1802 without
11 substantive change.

12 **TITLE 2. CONSERVATION OF AQUATIC**
13 **RESOURCES**

14 **§ 54525. Policy**

15 54525. It is hereby declared to be the policy of the state to encourage the
16 conservation, maintenance, and utilization of the living resources of the ocean and
17 other waters under the jurisdiction and influence of the state for the benefit of all
18 the citizens of the state and to promote the development of local fisheries and
19 distant-water fisheries based in California in harmony with international law
20 respecting fishing and the conservation of the living resources of the oceans and
21 other waters under the jurisdiction and influence of the state. This policy shall
22 include all of the following objectives:

23 (a) The maintenance of sufficient populations of all species of aquatic organisms
24 to insure their continued existence.

25 (b) The recognition of the importance of the aesthetic, educational, scientific,
26 and nonextractive recreational uses of the living resources of the California
27 Current.

28 (c) The maintenance of a sufficient resource to support a reasonable sport use,
29 where a species is the object of sport fishing, taking into consideration the
30 necessity of regulating individual sport fishery bag limits to the quantity that is
31 sufficient to provide a satisfying sport.

32 (d) The growth of local commercial fisheries, consistent with aesthetic,
33 educational, scientific, and recreational uses of living resources, the utilization of
34 unused resources, taking into consideration the necessity of regulating the catch
35 within the limits of maximum sustainable yields, and the development of distant-
36 water and overseas fishery enterprises.

37 (e) The management, on a basis of adequate scientific information promptly
38 promulgated for public scrutiny, of the fisheries under the state's jurisdiction, and
39 the participation in the management of other fisheries in which California
40 fishermen are engaged, with the objective of maximizing the sustained harvest.

1 (f) The development of commercial aquaculture.

2 **Comment.** Section 54525 continues former Fish and Game Code Section 1700 without
3 substantive change.

4 TITLE 3. DEPARTMENT AUTHORITY

5 § 54550. Habitat improvement

6 54550. (a) The department may expend any funds that may be necessary for the
7 improvement of property, including nonnavigable lakes and streams, riparian
8 zones, and upland, in order to restore, rehabilitate, and improve fish and wildlife
9 habitat. The improvement activities may include, but are not limited to, the
10 removal of barriers to migration of fish and wildlife and the improvement of
11 hatching, feeding, resting, and breeding places for wildlife.

12 (b) The department may undertake the services and habitat improvement work
13 on private, public, and public trust lands without the state acquiring an interest in
14 the property.

15 **Comment.** Section 54550 continues former Fish and Game Code Section 1501 without
16 substantive change.

17 § 54555. Contracts for habitat improvement

18 54555. (a) The department may enter into contracts for fish and wildlife habitat
19 preservation, restoration, and enhancement with public and private entities
20 whenever the department finds that the contracts will assist in meeting the
21 department's duty to preserve, protect, and restore fish and wildlife.

22 (b) The department may grant funds for fish and wildlife habitat preservation,
23 restoration, and enhancement to public agencies, Indian tribes, and nonprofit
24 entities whenever the department finds that the grants will assist it in meeting its
25 duty to preserve, protect, and restore fish and wildlife.

26 (c) Contracts authorized under this section are contracts for services and are
27 governed by Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of
28 Division 2 of the Public Contract Code. No work under this section is public work
29 or a public improvement, and is not subject to Chapter 1 (commencing with
30 Section 1720) of Part 7 of Division 2 of the Labor Code.

31 (d) This section does not apply to contracts for any of the following:

32 (1) Construction of office, storage, garage, or maintenance buildings.

33 (2) Drilling wells and installation of pumping equipment.

34 (3) Construction of permanent hatchery facilities, including raceways, water
35 systems, and bird enclosures.

36 (4) Construction of permanent surfaced roadways and bridges.

37 (5) Any project requiring engineered design or certification by a registered
38 engineer.

39 (6) Any contract, except contracts with public agencies, nonprofit organizations,
40 or Indian tribes that exceed fifty thousand dollars (\$50,000) in cost, excluding the

1 cost for gravel, for fish and wildlife habitat preservation, restoration, and
2 enhancement for any one of the following:

3 (A) Fish screens, weirs, and ladders.

4 (B) Drainage or other watershed improvements.

5 (C) Gravel and rock removal or placement.

6 (D) Irrigation and water distribution systems.

7 (E) Earthwork and grading.

8 (F) Fencing.

9 (G) Planting trees or other habitat vegetation.

10 (H) Construction of temporary storage buildings.

11 **Comment.** Section 54555 continues former Fish and Game Code Section 1501.5 without
12 substantive change.

13 TITLE 4. SIGNIFICANT NATURAL AREAS

14 § 54570. Findings and declarations

15 54570. The Legislature finds and declares that:

16 (a) Areas containing diverse ecological and geological characteristics are vital to
17 the continual health and well-being of the state's natural resources and of its
18 citizens.

19 (b) Many habitats and ecosystems that constitute the state's natural diversity are
20 in danger of being lost.

21 (c) Connectivity between wildlife habitats is important to the long-term viability
22 of the state's biodiversity.

23 (d) Preserving and connecting high-quality habitat for wildlife can create habitat
24 strongholds.

25 (e) Increasingly fragmented habitats threaten the state's wildlife species.

26 (f) There is an opportunity to provide incentive for private landowners to
27 maintain and perpetuate significant local natural areas in their natural state.

28 (g) Efforts to preserve natural areas have been fragmented between federal,
29 state, local, and private sectors.

30 (h) Analysis of the state's habitat connectivity benefits from the consideration of
31 all relevant data, including information from private and public landowners.

32 (i) The department's existing mapping activities and products should be
33 developed and sustained.

34 (j) The importance of wildlife corridors to assist in adapting to climate change
35 has been recognized by such groups as the Western Governors' Association,
36 which unanimously approved a policy to protect wildlife migration corridors and
37 crucial wildlife habitat in 2007. Individual local, state, and federal agencies have
38 also adopted policies aimed at protecting wildlife corridors and habitat
39 connectivity, in order to protect ecosystem health and biodiversity and to improve
40 the resiliency of wildlife and their habitats to climate change. However, these

efforts could be enhanced through establishment of a statewide policy to protect important wildlife corridors and habitat linkages where feasible and practicable.

Comment. Section 54570 continues former Fish and Game Code Section 1930 without substantive change.

§ 54575. Definitions

54575. For the purposes of Sections 54580 and 54600, the following terms have the following meanings:

(1) “Habitat stronghold” means high-quality habitat that supports wildlife in being more resilient to increasing pressures on species due to climate change and land development.

(2) “Wildlife corridor” means a habitat linkage that joins two or more areas of wildlife habitat, allowing for fish passage or the movement of wildlife from one area to another.

Comment. Section 54575 continues former Fish and Game Code Section 1930.5(f) without substantive change.

Note. Proposed Section 54575 continues the existing application of the definitions of “habitat stronghold” and “wildlife corridor” provided in Fish and Game Code Section 1930.5(f). Those terms are also used in other provisions of this title that are *not* governed by the definitions (proposed Sections 54570, 54585, 54595). **The Commission invites comment on whether the definitions should be generalized to apply to the entire title.**

§ 54580. Identification of wildlife corridors

54580. (a) Contingent upon funding being provided by the Wildlife Conservation Board from moneys available pursuant to Section 75055 of the Public Resources Code, or from other appropriate bond funds, upon appropriation by the Legislature, the department shall investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages, as well as the impacts to those wildlife corridors from climate change, and shall prioritize vegetative data development in these areas.

(b) It is the intent of the Legislature that the Wildlife Conservation Board use various funds to work with the department to complete a statewide analysis of wildlife corridors and connectivity to support conservation planning and climate change adaptation activities.

Comment. Section 54580 continues former Fish and Game Code Section 1930.5(a)-(b) without substantive change.

§ 54585. Significant Natural Areas Program

54585. There is hereby established the Significant Natural Areas Program, which shall be administered by the department. The department, in administering this program, shall do all of the following:

(a) Obtain access to the most recent information with respect to natural resources. In order to accomplish this, the department shall maintain, expand, and keep current a data management system, designated the California Natural

Diversity Data Base, designed to document information on these resources. That data shall be made available to interested parties on request.

(b) Develop and maintain a spatial data system that identifies those areas in the state that are most essential for maintaining habitat connectivity, including wildlife corridors and habitat linkages. This data should include information essential for evaluating the needs of wildlife species that require habitat connectivity for their long-term conservation, including distribution and movement patterns.

(c) As appropriate, develop and maintain the database by incorporating mapping products and data developed by other state agencies.

(d) Make all of the data sets, and associated analytical products, available to the public and other government entities.

(e) Ensure cost sharing by all who use the data management system and develop an appropriate schedule of compensation to be paid by individuals using the data management system, not to exceed the actual costs for use of the data management system.

(f) Ensure recognition of the state's most significant natural areas, including those affected by climate change. The department shall, after consultation with federal, state, and local agencies, education institutions, civic and public interest organizations, private organizations, landowners, and other private individuals, identify by means of periodic reports those natural areas deemed to be most significant.

(g) Seek the maintenance and perpetuation of the state's most significant natural areas for present and future generations in the most feasible manner. The department shall consider alternative approaches for that maintenance, including alternatives to fee acquisition such as incentives, leasing, and dedication.

(h) Reduce unnecessary duplication of effort. The department shall provide coordinating services to federal, state, local, and private interests wishing to aid in the maintenance and perpetuation of significant natural areas.

(i) Actively pursue grants and cost-sharing opportunities with local, state, or federal agencies, or private entities that use the data sets and benefit from their creation and maintenance.

Comment. Section 54585 continues former Fish and Game Code Section 1932 without substantive change.

Note. Existing Section 1932(b) incorporates the definition of "wildlife" provided in Section 89.5. That language is not continued here, because the Commission is proposing to generalize Section 89.5 so that its definition of "wildlife" applies to the entire code.

§ 54590. Vegetation mapping standard

54590. (a) The department shall undertake the development of a vegetation mapping standard for the state.

(b) The development of a state vegetation mapping standard by the department shall be done in consultation with interested stakeholders, including, but not limited to, government agencies, nongovernmental conservation organizations,

landowners, agriculture, recreation, scientific entities, and industry. Components of the standard shall include the following:

(1) A published classification system for all natural and seminatural vegetation communities present in California with sufficient detail to meet the analytical needs of government and nongovernment entities. The classification shall be consistent with national standards adopted by the Federal Geographic Data Committee.

(2) Methods for field data collection, image interpretation, and digital map production and attribution.

(3) Manuals, training materials, tools, and database structures for use by parties interested in performing vegetation mapping according to the standard.

(4) Documented methods for performing postproject accuracy assessments to quantify the validity of the work. Private and public landowners shall be given reasonable opportunity to review, and comment on the accuracy of, the data collected on their lands.

(5) Mechanisms for integrating new map products that meet the standard into a cohesive database with the intent of eventually completing statewide coverage.

(c) The department shall submit a report to the budget committee of each house of the Legislature no later than January 10, 2008, providing its mapping standard and advising how the department will ensure that its standard will be updated to reflect changing technology and serve as the state's center of expertise on vegetation mapping.

(d) The department may adopt regulations to implement this section.

Comment. Section 54590 continues former Fish and Game Code Section 1940 without substantive change.

§ 54595. Cooperation with public and private entities

54595. (a) The Legislature further finds and declares that it is the policy of this state to encourage the cooperation of federal, state, local, and private sectors, including private organizations and individuals, in efforts to maintain the state's most significant natural areas.

(b) In carrying out its responsibilities pursuant to this title, the department shall solicit and utilize all relevant results of existing studies and information from local government, state, and federal agencies, academic institutions, nonprofit organizations, certified environmental documents, private and public landowners, and agricultural and rangeland information developed by the Department of Conservation and agriculture associations.

(c) The department shall seek input from representatives of other state agencies, local government, federal agencies, nongovernmental conservation organizations, landowners, agriculture, recreation, scientific entities, and industry in determining essential wildlife corridors and habitat linkages.

(d) Private and public landowners shall be given a reasonable opportunity to review and comment on the wildlife characteristics of their land if it is identified

1 pursuant to this title. The department shall utilize all relevant information when
2 developing data sets and associated analytical products pursuant to this title.

3 **Comment.** Subdivision (a) of Section 54595 continues former Fish and Game Code Section
4 1931 without substantive change.

5 Subdivisions (b)-(d) continue former Fish and Game Code Section 1932.5(a)-(b) without
6 substantive change.

7 **§ 54600. Voluntary protections**

8 54600. (a) It is the policy of the state to promote the voluntary protection of
9 wildlife corridors and habitat strongholds in order to enhance the resiliency of
10 wildlife and their habitats to climate change, protect biodiversity, and allow for the
11 migration and movement of species by providing connectivity between habitat
12 lands. In order to further these goals, it is the policy of the state to encourage,
13 wherever feasible and practicable, voluntary steps to protect the functioning of
14 wildlife corridors through various means, as applicable and to the extent feasible
15 and practicable, those means may include, but are not limited to:

16 (1) Acquisition or protection of wildlife corridors as open space through
17 conservation easements.

18 (2) Installing of wildlife-friendly or directional fencing.

19 (3) Siting of mitigation and conservation banks in areas that provide habitat
20 connectivity for affected fish and wildlife resources.

21 (4) Provision of roadway undercrossings, overpasses, oversized culverts, or
22 bridges to allow for fish passage and the movement of wildlife between habitat
23 areas.

24 (b) The fact that a project applicant does not take voluntary steps to protect the
25 functioning of a wildlife corridor prior to initiating the application process for a
26 project shall not be grounds for denying a permit or requiring additional mitigation
27 beyond what would be required to mitigate project impacts under other applicable
28 laws, including, but not limited to, the California Endangered Species Act
29 (Chapter 1.5 (commencing with Section 2050) of Division 3) and the California
30 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
31 Public Resources Code).

32 (c) The Legislature finds and declares that there are a number of existing efforts,
33 including, but not limited to, efforts involving working landscapes, that are already
34 working to achieve the policy described in subdivisions (a) and (b).

35 (d) Subdivisions (a) and (b) shall not be construed to create new regulatory
36 requirements or modify the requirements of paragraphs (2) and (5) of subdivision
37 (d) of Section 64580 or the California Environmental Quality Act (Division 13
38 (commencing with Section 21000) of the Public Resources Code).

39 **Comment.** Section 54600 continues former Fish and Game Code Section 1930.5(c)-(e)
40 without substantive change.

1 **§ 54605. Disclaimers**

2 54605. (a) This title does not require, mandate, or authorize, under state or
3 federal law, any state or local planning, zoning, or other land use action or
4 decision.

5 (b) This title does not alter any legal rights and privileges, under state or federal
6 law, of ownership or use of privately or publicly owned property.

7 (c) The Legislature finds and declares that the data sets and associated analytical
8 products required pursuant to this title are for inventory and planning purposes and
9 may not be suitable to support regulatory actions without additional specificity or
10 information.

11 (d) No authority or responsibility provided for in this title shall, of itself, change
12 or prevent the change of the use of any area identified pursuant to the Significant
13 Natural Areas Program.

14 **Comment.** Subdivisions (a) through (c) of Section 54605 continue former Fish and Game
15 Code Section 1932.5(c)-(e) without substantive change.

16 Subdivision (d) continues former Fish and Game Code Section 1933 without substantive
17 change.

18 **PART 2. HABITAT CONSERVATION AND ENHANCEMENT**
19 **PROGRAMS**

20 **TITLE 1. WILDLIFE CONSERVATION LAW**
21 **OF 1947**

22 **CHAPTER 1. GENERAL PROVISIONS**

23 **§ 54700. Short title**

24 54700. This title is known and may be cited as the Wildlife Conservation Law of
25 1947.

26 **Comment.** Section 54700 continues former Fish and Game Code Section 1300 without
27 substantive change.

28 **§ 54705. Definitions**

29 54705. For the purposes of this title, “board” means the Wildlife Conservation
30 Board.

31 **Comment.** Section 54705 is new. It is comparable to former Fish and Game Code Sections
32 1320 and 1361(a).

33 **§ 54710. Policy**

34 54710. The preservation, protection and restoration of wildlife within the state is
35 an inseparable part of providing adequate recreation for our people in the interest
36 of public welfare; and it is the policy of the state to acquire and restore to the
37 highest possible level, and maintain in a state of high productivity, those areas that

1 can be most successfully used to sustain wildlife and which will provide adequate
2 and suitable recreation. To carry out these purposes, a single and coordinated
3 program for the acquisition of lands and facilities suitable for recreational
4 purposes, and adaptable for conservation, propagation, and utilization of the fish
5 and game resources of the state, is established.

6 **Comment.** Section 54710 continues former Fish and Game Code Section 1301 without
7 substantive change.

8 CHAPTER 2. WILDLIFE CONSERVATION BOARD

9 Article 1. Administration

10 § 54750. Establishment and composition of board

11 54750. (a) There is in the department the Wildlife Conservation Board.

12 (b) The board consists of the president of the commission, the director, the
13 Director of Finance, and four public members appointed pursuant to subdivisions
14 (b) through (e), inclusive.

15 (c) The Speaker of the Assembly and the Senate Committee on Rules shall each
16 appoint a public member to serve on the board and the Governor shall appoint two
17 public members to serve on the board.

18 (d) The public members shall each serve a term of four years. If a vacancy
19 occurs during the term of a public member, the appointing authority shall appoint
20 a person to fill the vacancy for a term of four years.

21 (e) Each public member shall have demonstrated interest and expertise in land
22 acquisition for conservation purposes, including, but not limited to, any of the
23 following:

24 (1) Experience with activities that benefit disadvantaged communities identified
25 pursuant to Section 39711 of the Health and Safety Code.

26 (2) Experience with a land conservation nonprofit organization, a public agency
27 focused on land conservation, or public land management.

28 (3) Experience as a professional with expertise in one or more functions of the
29 board, including conservation easements or other interests in real estate designed
30 to further the mission of the board.

31 **Comment.** Section 54750 continues former Fish and Game Code Section 1320 without
32 substantive change.

33 § 54755. Board chair

34 54755. The board's chair shall be elected by the members of the board.

35 **Comment.** Section 54755 continues former Fish and Game Code Section 1321 without
36 substantive change.

1 **§ 54760. Travel expenses**

2 54760. The members of the board shall receive their actual and necessary
3 traveling expenses, which shall be paid from the Wildlife Restoration Fund.

4 **Comment.** Section 54760 continues former Fish and Game Code Section 1322 without
5 substantive change.

6 **§ 54765. Participation of legislators**

7 54765. Three Members of the Senate, appointed by the Committee on Rules
8 thereof, and three Members of the Assembly, appointed by the Speaker thereof,
9 shall meet with the board and participate in its activities to the extent that
10 participation is not incompatible with their respective positions as Members of the
11 Legislature.

12 **Comment.** Section 54765 continues former Fish and Game Code Section 1323 without
13 substantive change.

14 **§ 54770. Interim investigating committee**

15 54770. For the purposes of this title, the Members of the Legislature shall
16 constitute an interim investigating committee on the subject of this title and as
17 such shall have the powers and duties imposed upon an interim investigating
18 committee by the Joint Rules of the Senate and the Assembly.

19 **Comment.** Section 54770 continues former Fish and Game Code Section 1324 without
20 substantive change.

21 Article 2. Powers and Purposes

22 **§ 54800. Studies**

23 54800. (a) The board shall investigate, study, and determine what areas within
24 the state are most essential and suitable for wildlife production and preservation,
25 and will provide suitable recreation.

26 (b) The board shall ascertain and determine what lands within the state are
27 suitable for game propagation, game refuges, bird refuges, waterfowl refuges,
28 game farms, fish hatcheries, game management areas, and what streams and lakes
29 are suitable for, or can be made suitable for, fishing and hunting.

30 (c) In determining which areas are suitable for fishing and hunting, the board, in
31 consultation with the department, shall take into consideration areas of the state
32 where public access and opportunity for fishing and hunting are most needed.

33 (d) The board shall ascertain what lands are suitable for providing cover for the
34 propagation and rearing in a wild state of waterfowl, shore birds, and upland birds,
35 and the possibilities of acquiring easements on those lands to provide that cover.

36 **Comment.** Subdivisions (a) through (c) of Section 54800 continue former Fish and Game
37 Code Section 1345 without substantive change.

38 Subdivision (d) continues former Fish and Game Code Section 1346 without substantive
39 change.

1 **§ 54805. Determination**

2 54805. As a result of its studies, the board shall determine what areas, lands, or
3 rights in lands or waters should be acquired by the state in order to effectuate a
4 coordinated and balanced program resulting in the maximum restoration of
5 wildlife in the state and in the maximum recreational advantages to the people of
6 the state.

7 **Comment.** Section 54805 continues former Fish and Game Code Section 1347 without
8 substantive change.

9 **§ 54810. Consideration of greenhouse gas emissions**

10 54810. The board, when it prioritizes the use of available funds for proposed
11 acquisitions, with regard to the priority of a proposal to acquire forestland, may
12 consider and take into account the potential of that proposed acquisition to
13 beneficially reduce or sequester greenhouse gas emissions. The board may use
14 policies, protocols, or other relevant information developed by the California
15 Climate Action Registry as a basis for determining a project's potential to reduce
16 or sequester greenhouse gas emissions.

17 **Comment.** Section 54810 continues former Fish and Game Code Section 1356 without
18 substantive change.

19 **§ 54815. Acquisition of property rights**

20 54815. (a)(1) The board shall authorize the acquisition of real property, rights in
21 real property, water, or water rights as may be necessary to carry out the purposes
22 of this title.

23 (2) The board may authorize acquisition by the department, but the department
24 shall not acquire any property pursuant to this subdivision by eminent domain
25 proceedings except that property as may be necessary to provide access roads or
26 rights-of-way to areas to be used for fishing the coastal waters of the Pacific
27 Ocean, and then only if the board of supervisors of the affected county has agreed
28 by resolution to those proceedings for each parcel of land, and has further agreed
29 by resolution to maintain the road or right-of-way.

30 (3) The board may authorize acquisition by the State Public Works Board,
31 which may effect acquisitions pursuant to the Property Acquisition Law, Part 11
32 (commencing with Section 15850) of Division 3 of Title 2 of the Government
33 Code.

34 (b) For the purposes of this title and Title 12 (commencing with Section 57700),
35 the board may authorize the acquisition of interests in real property and water
36 rights by means of gifts, purchases, leases, easements, the transfer or exchange of
37 property for other property of like value, transfers of development rights or credits,
38 and purchases of development rights, conservation easements, and other interests.

39 (c) To further implement this title and Title 12 (commencing with Section
40 57700), the board may authorize the department to do any of the following:

1 (1) Accept federal grants and receive gifts, donations, subventions, rents,
2 royalties, and other financial support from public or private sources. Proceeds
3 received from any of these sources shall be deposited in the Wildlife Restoration
4 Fund.

5 (2) Notwithstanding any other provision of law, lease, sell, exchange, or
6 otherwise transfer any real property, interest in real property, or option acquired by
7 or held under the jurisdiction of the board or the department. Except as provided in
8 Section 54870, proceeds from transactions entered into pursuant to this paragraph
9 shall be deposited in the Wildlife Restoration Fund.

10 (3) Lease degraded potential wildlife habitat real property to nonprofit
11 organizations, local governmental agencies, or state and federal agencies if the
12 lessee agrees to restore the real property to its highest possible wildlife habitat
13 value and maintain the real property at that highest possible wildlife habitat value.
14 If feasible, during the period of lease, the board may require that the real property
15 be open to the public for compatible recreational opportunities. Proceeds from any
16 lease or rental and interest thereon shall be deposited in the Wildlife Restoration
17 Fund.

18 (4) Acquire former wildlife habitat real property, including riparian habitat real
19 property, restore and sell the real property, or any interest therein, to private
20 owners, local governmental agencies, or state departments and agencies, or
21 exchange the property for other real property, if a written and recorded agreement
22 is first secured to keep and maintain the real property as wildlife habitat in
23 perpetuity. The agreement shall contain a reversion if the real property sold or
24 exchanged is not maintained as wildlife habitat. The agreement containing the
25 reversion shall be set forth in any conveyance transferring any real property,
26 interest in real property, or option subject to this section. Proceeds from the sales
27 shall be deposited in the Wildlife Restoration Fund.

28 **Comment.** Section 54815 continues former Fish and Game Code Section 1348 without
29 substantive change.

30 **§ 54820. Acquisition of property for public access**

31 54820. The board may authorize the acquisition of any lands or rights in land
32 that may be necessary for the purpose of furnishing public access to lands or
33 waters open to the public for fishing, hunting and shooting. The board may
34 authorize that acquisition by the department.

35 **Comment.** Section 54820 continues former Fish and Game Code Section 1354 without
36 substantive change.

37 **§ 54825. Notice of intent to acquire property**

38 54825. Before the board authorizes the purchase of any land, or any interest
39 therein, the board shall notify all owners of record of adjacent parcels of land of
40 the intent of the board to purchase the land. The notice to the adjacent owners of

1 land and the public notice shall include an explanation of the proposed use of the
2 land by the department.

3 **Comment.** Section 54825 continues former Fish and Game Code Section 1348.1 without
4 substantive change.

5 **§ 54830. Purchase price of acquired property**

6 54830. When the board acquires real property, other than by eminent domain,
7 the purchase price for the real property shall not exceed the fair market value of
8 the property, as defined in Section 1263.320 of the Code of Civil Procedure. The
9 fair market value shall be set forth in an appraisal that is (a) prepared by a licensed
10 real estate appraiser, and (b) approved by the Department of General Services.

11 **Comment.** Section 54830 continues former Fish and Game Code Section 1348.2 without
12 substantive change.

13 **§ 54835. Condemnation of wildlife conservation easement**

14 54835. (a) No governmental entity may condemn any wildlife conservation
15 easement acquired by a state agency, except as provided in subdivision (b). As
16 used in this section, the following terms have the following meanings:

17 (1) “Public use” as used in Article 6 (commencing with Section 1240.510) and
18 Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of
19 the Code of Civil Procedure means privately owned lands managed for habitat in
20 public trust.

21 (2) “Wildlife conservation easement” means a recorded conservation easement,
22 as defined in Section 815.1 of the Civil Code, that exists or will exist for at least
23 10 years and that is acquired and held by a state agency and administered
24 primarily for the benefit of wildlife.

25 (b) Prior to the initiation by a governmental entity of condemnation proceedings
26 against a wildlife conservation easement acquired by a state agency, the
27 governmental entity shall give notice to the holder of the easement, provide an
28 opportunity for the holder of the easement to consult with the governmental
29 agency, provide the holder of the easement the opportunity to state its objections
30 to the condemnation, and provide a response to the objections. Article 6
31 (commencing with Section 1240.510) and Article 7 (commencing with Section
32 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure shall
33 apply to condemnation proceedings initiated by a governmental entity against a
34 wildlife conservation easement acquired by a state agency. In those proceedings,
35 the condemning governmental entity shall be required to prove by clear and
36 convincing evidence that its proposed use satisfies the requirements of Article 6
37 (commencing with Section 1240.510) or Article 7 (commencing with Section
38 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure.

39 **Comment.** Section 54835 continues former Fish and Game Code Section 1348.3(a)(1), (a)(3),
40 and (b) without substantive change.

Note. Existing Section 1348.3(a)(2) incorporates the definition of “wildlife” provided in Section 89.5. That provision is not continued here, because the Commission is proposing to generalize Section 89.5 so that its definition of “wildlife” applies to the entire code.

§ 54840. Farm lands

54840. No farm lands may be acquired under the provisions of this title by proceedings in eminent domain except by specific authorization of the Legislature, notwithstanding any provision of Section 54815. Nothing in this section shall apply to any proceedings to acquire farm lands when the owner thereof has consented to, or requested the institution of, the proceedings.

Comment. Section 54840 continues former Fish and Game Code Section 1349 without substantive change.

§ 54845. Receipt of grants, gifts, donations, and other financial support

54845. The department, when authorized by the board, may apply for and accept federal grants, and receive gifts, donations, and other financial support from public or private sources to be used for fish and wildlife habitat enhancement, including riparian habitat restoration projects on real property or waters for which the state obtains an interest. Funds received from any of those sources shall be deposited in the Wildlife Restoration Fund.

Comment. Section 54845 continues former Fish and Game Code Section 1350(b) without substantive change.

§ 54850. Award of grant or loan

54850. (a) The board may award grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for the purposes of fish and wildlife habitat restoration, enhancement, management, protection and improvement of riparian resources, and for development of compatible public access facilities in the same manner and subject to the same terms and conditions as prescribed in Section 31116 of the Public Resources Code.

(b) Proceeds from repayment of any loans and the interest thereon shall be deposited in the Wildlife Restoration Fund.

Comment. Section 54850 continues former Fish and Game Code Section 1350(c) without substantive change.

§ 54855. Construction of facilities

54855. (a) The department shall, when authorized by the board, construct in accordance with law any facilities that are suitable for the purpose for which the real property or rights in real property or water, or water rights were acquired. Each completed project shall be managed and maintained by the department.

(b) The department, with the approval of the board, may enter into agreements with any other department or agency of this state, any local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the board, and the other department or agency of this state,

1 local agency, or nonprofit organization, and each of them may construct, manage,
2 or maintain those facilities pursuant to the agreement.

3 (c) Work performed by a local agency or nonprofit organization under those
4 agreements is exempt from Chapter 3 (commencing with Section 14250), of Part 5
5 of Division 3 of Title 2 of the Government Code. However, nothing in this section,
6 Section 54845, or Section 54850 shall be construed to exempt any work from Part
7 7 (commencing with Section 1720) of Division 2 of the Labor Code.

8 **Comment.** Section 54855 continues former Fish and Game Code Section 1350(a) without
9 substantive change.

10 **Note:** Existing Section 1350(a) includes a reference to “Chapter 3 (commencing with Section
11 14250), of Part 5 of Division 3 of Title 2 of the Government Code.” The specified chapter does
12 not commence with Section 14250. It commences with Section 14200. The subject of that chapter
13 is state employee telecommuting, which seems inapt. **The Commission invites comment on**
14 **how to correct the apparently erroneous cross-reference.**

15 **§ 54860. Purchase of equipment**

16 54860. The board may purchase any boats, aircraft, or equipment that it deems
17 necessary for the use of the department for the improvement and protection of
18 marine fisheries.

19 **Comment.** Section 54860 continues former Fish and Game Code Section 1353 without
20 substantive change.

21 **§ 54865. Public access to recreational areas**

22 54865. Each recreational area shall be so managed and controlled that the public
23 shall have access to and use of the area for all recreational purposes.

24 **Comment.** Section 54865 continues former Fish and Game Code Section 1351 without
25 substantive change.

26 **§ 54870. Proceeds from sale or disposition of fish hatchery**

27 54870. The net proceeds of the sale or other disposition of real property used as
28 a fish hatchery that has been acquired by or is under the jurisdiction of the board
29 or the department, either in easement or in fee, shall be deposited in the Wildlife
30 Restoration Fund or the Fish and Game Preservation Fund, as determined by the
31 board, and shall be available for acquisition, enhancement, restoration, or
32 construction projects for the benefit of wildlife.

33 **Comment.** Section 54870 continues former Fish and Game Code Section 1355 without
34 substantive change.

35 **§ 54875. Wildlife Restoration Fund**


36 54875. (a) The money in the Wildlife Restoration Fund, as provided for by
37 Section 19632 of the Business and Professions Code, is available for expenditure
38 under any provision of this title.

39 (b) All federal moneys made available for projects authorized by the board shall
40 be deposited in the Wildlife Restoration Fund. Any unexpended balances of the

1 federal moneys remaining on or after June 30, 1979, in any other fund shall be
2 transferred to the Wildlife Restoration Fund.

3 (c) Any moneys received in the Wildlife Restoration Fund from leases
4 authorized pursuant to paragraph (2) or (3) of subdivision (c) of Section 54815
5 shall be expended, upon appropriation, by the department for the purposes of
6 managing, maintaining, restoring, or operating lands owned and managed by the
7 department.

8 **Comment.** Section 54875 continues former Fish and Game Code Section 1352 without
9 substantive change.

10  **Note.** Existing Section 1352(b) provides:

11 “All federal moneys made available for projects authorized by the board shall be deposited in the
12 Wildlife Restoration Fund. Any unexpended balances of the federal moneys remaining on or after
13 June 30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund.”

14 The second sentence of that subdivision required action in 1979. **The Commission invites**
15 **comment on whether it can be repealed as obsolete.**

16 **§ 54880. San Francisco Baylands Restoration Program**

17 54880. (a) The San Francisco Baylands Restoration Program Account is hereby
18 established within the Wildlife Restoration Fund, as provided for by Section
19 19632 of the Business and Professions Code, for the purpose of acquiring and
20 restoring wetlands and lands that may be enhanced to support wetlands in the San
21 Francisco Bay area in order to achieve the objectives of the Baylands Ecosystem
22 Habitat Goals Report (Goals Report).

23 (b) Funds in the account may be expended by the board to acquire any lands
24 identified in the Goals Report that are available for acquisition subject to the
25 following conditions:

26 (1) The purchase price shall not exceed the fair market value of the property, as
27 determined by an appraisal conducted pursuant to Section 54830. The appraisal
28 shall also consider and describe all the specific requirements and restrictions of
29 relevant state and federal laws, including, but not limited to, the McAteer-Petris
30 Act (Title 7.2 (commencing with Section 66600) of the Government Code),
31 related to the property value and development potential of lands considered for
32 acquisition in the shoreline band of the San Francisco Bay area.

33 (2) The board has determined any of the following:

34 (A) Funds are available to implement the recommendations and objectives of the
35 Goals Report for a significant portion of the property to be acquired by the board.

36 (B) Sufficient funding and authority exists for the long-term maintenance of all
37 levees and dikes and all other land-use management requirements necessary to
38 avoid environmental degradation for the property proposed to be acquired by the
39 board.

40 (C) The property to be acquired by the board has no unique long-term
41 maintenance requirements or has no land-use management requirements necessary
42 to avoid environmental degradation.

1 (3) If the board determines to acquire all or a portion of the Cargill property, a
2 matching federal appropriation for the acquisition of the Cargill property shall be
3 deposited into an account solely for the acquisition of the Cargill property or a
4 portion thereof.

5 (4) The board has consulted with the State Coastal Conservancy and determined
6 that the proposed acquisition is consistent with most of the goals of the San
7 Francisco Bay Area Conservancy Program, as described in Section 31162 of the
8 Public Resources Code.

9 (5) The acquisition of the property will not result in any liability to the state for
10 the cleanup of hazardous materials.

11 (c) “Cargill property,” for purposes of this section, means all property owned by
12 the Cargill Salt Division that Cargill proposes to sell to the state and federal
13 governments.

14 **Comment.** Section 54880 continues former Fish and Game Code Section 1352.5 without
15 substantive change.

16 **§ 54885. Cooperation with federal agencies**

17 54885. The board may act either independently or may cooperate with the
18 United States Fish and Wildlife Service, Department of Interior, or any other
19 federal agency in determining any of the questions referred to in this title, or in the
20 acquisition and construction of any of the projects mentioned in this title.

21 **Comment.** Section 54885 continues former Fish and Game Code Section 1375 without
22 substantive change.

23 **CHAPTER 3. OAK WOODLANDS CONSERVATION ACT**

24 **Article 1. General Provisions**

25 **§ 54900. Short title**

26 54900. This chapter shall be known, and may be cited, as the Oak Woodlands
27 Conservation Act.

28 **Comment.** Section 54900 continues former Fish and Game Code Section 1360 without
29 substantive change.

30 **§ 54905. Definitions**

31 54905. For purposes of this chapter, the following terms have the following
32 meanings:

33 (a) “Conservation easement” means a conservation easement, as defined in
34 Section 815.1 of the Civil Code.

35 (b) “Fund” means the Oak Woodlands Conservation Fund.

36 (c) “Land improvement” means restoration or enhancement of biologically
37 functional oak woodlands habitat.

(d) “Local government entity” means any city, county, city and county, district, or other local government entity, if the entity is otherwise authorized to acquire and hold title to real property.

(e) “Nonprofit organization” means a tax-exempt nonprofit organization that meets the requirements of subdivision (a) of Section 815.3 of the Civil Code.

(f) “Oak” means any species in the genus *Quercus*.

(g) “Oak woodlands” means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover.

(h) “Oak woodlands management plan” means a plan that provides protection for oak woodlands over time and compensates private landowners for conserving oak woodlands.

(i) “Special oak woodlands habitat elements” means multi- and single-layered canopy, riparian zones, cavity trees, snags, and downed woody debris.

Comment. Section 54905 continues former Fish and Game Code Section 1361(b)-(j) without substantive change. See Section 54705 (“board” defined for purposes of chapter).

§ 54910. Legislative intent

54910. It is the intent of the Legislature that this chapter accomplish all of the following:

(a) Support and encourage voluntary, long-term private stewardship and conservation of California’s oak woodlands by offering landowners financial incentives to protect and promote biologically functional oak woodlands over time.

(b) Provide incentives to protect and encourage farming and ranching operations that are operated in a manner that protects and promotes healthy oak woodlands.

(c) Provide incentives for the protection of oak trees providing superior wildlife values on private lands.

(d) Encourage local land use planning that is consistent with the preservation of oak woodlands, particularly special oak woodlands habitat elements.

(e) Provide guidelines for spending the funds allocated for oak woodlands pursuant to the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code)).

(f) Establish a fund for oak woodlands conservation, to which future appropriations for oak woodlands protection may be made, and specify grant making guidelines.

Comment. Section 54910 continues former Fish and Game Code Section 1362 without substantive change.

1 **§ 54915. Authority to affect local policy or land use decisionmaking**

2 54915. Nothing in this chapter grants any new authority to the board or any
3 other agency, office, or department to affect local policy or land use
4 decisionmaking.

5 **Comment.** Section 54915 continues former Fish and Game Code Section 1372 without
6 substantive change.

7 Article 2. Oak Woodlands Conservation Fund

8 **§ 54925. Fund established**

9 54925. The Oak Woodlands Conservation Fund is hereby created in the State
10 Treasury. The fund shall be administered by the board. Moneys in the fund may be
11 expended, upon appropriation by the Legislature, for the purposes of this chapter.

12 **Comment.** Section 54925 continues former Fish and Game Code Section 1363(a) without
13 substantive change.

14 **§ 54930. Deposits**

15 54930. Money may be deposited into the Oak Woodlands Conservation Fund
16 from gifts, donations, funds appropriated by the Legislature for the purposes of
17 this chapter, or from federal grants or loans or other sources, and shall be used for
18 the purpose of implementing this chapter, including administrative costs. Funds
19 from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal
20 Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692
21 (commencing with Section 5096.300) of Division 5 of the Public Resources
22 Code)), but not including funds dedicated as matching funds for the federal Forest
23 Legacy Program, shall be deposited in the fund.

24 **Comment.** Section 54930 continues former Fish and Game Code Section 1363(b) without
25 substantive change.

26 **§ 54935. Minimum deposit requirement**

27 54935. No money may be expended from the fund to adopt guidelines or to
28 administer the fund until at least one million dollars (\$1,000,000) is deposited in
29 the fund.

30 **Comment.** Section 54935 continues former Fish and Game Code Section 1370 without
31 substantive change.

32 **§ 54940. Use of funds**

33 54940. (a) The purposes for which moneys in the fund may be used include all
34 of the following:

35 (1) Grants for the purchase of oak woodlands conservation easements. Any
36 entity authorized to hold a conservation easement under Section 815.3 of the Civil
37 Code may hold a conservation easement pursuant to this chapter. The holder of the

1 conservation easement shall ensure, on an annual basis, that the conservation
2 easement conditions have been met for that year.

3 (2) Grants for land improvement.

4 (3) Cost-sharing incentive payments to private landowners who enter into long-
5 term conservation agreements. An agreement shall include management practices
6 that benefit oak woodlands and promote the economic sustainability of farming
7 and ranching operations.

8 (4) Public education and outreach by local government entities, park and open-
9 space districts, resource conservation districts, and nonprofit organizations. The
10 public education and outreach shall identify and communicate the social,
11 economic, agricultural, and biological benefits of strategies to conserve oak
12 woodlands habitat values, including watershed protection benefits that reduce soil
13 erosion, increase streamflows, and increase water retention and sustainable
14 agricultural operations.

15 (5) Assistance to local government entities, park and open-space districts,
16 resource conservation districts, and nonprofit organizations for the development
17 and implementation of oak conservation elements in local general plans.

18 (6) Technical assistance consistent with the purpose of preserving oak
19 woodlands.

20 (b) Not more than 20 percent of all grants made by the board pursuant to this
21 chapter may be used for the purposes described in paragraphs (4), (5), and (6) of
22 subdivision (a). Not less than 80 percent of funds available for grants pursuant to
23 this chapter shall be expended for the purposes described in paragraphs (1), (2),
24 and (3) of subdivision (a).

25 (c) Moneys in the fund shall be available to local government entities, park and
26 open-space districts, resource conservation districts, private landowners, and
27 nonprofit organizations for the purposes set forth in subdivision (a).

28 **Comment.** Subdivisions (a) and (b) of Section 54940 continue former Fish and Game Code
29 Section 1363(d)-(e) without substantive change.

30 Subdivision (c) continues former Fish and Game Code Section 1364 without substantive
31 change.

32 **§ 54945. California Forest Legacy Program**

33 54945. To the extent consistent with the Safe Neighborhood Parks, Clean Water,
34 Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act
35 (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public
36 Resources Code)), the board may use money designated for the preservation and
37 restoration of oak woodlands in the Oak Woodlands Conservation Fund for
38 projects in conjunction with the California Forest Legacy Program (Division 10.5
39 (commencing with Sec. 12200) of the Public Resources Code)), but only for the
40 purposes specified in this chapter and only if the following requirements are met:

41 (a) The Department of Forestry and Fire Protection shall make an initial
42 recommendation to the board.

(b) The board may deny any initial recommendation to the Department of Forestry and Fire Protection. Subsequently, if the department alters an initial proposal, in a manner that the board determines to be significant, the board may withdraw its initial approval of the recommendation at any time during the process.

Comment. Section 54945 continues former Fish and Game Code Section 1363(c) without substantive change.

§ 54950. Memorandum of understanding with Department of Forestry and Fire Protection

54950. On or before April 1, 2002, the board and the Department of Forestry and Fire Protection shall develop a memorandum of understanding regarding the protection of oak woodlands that does all of the following:

(a) If necessary, creates a specific process for working together to use money from the fund in conjunction with the California Forest Legacy Program Act of 2000 (Division 10.5 (commencing with Section 12200) of the Public Resources Code).

(b) Lists elements a county or city shall include in its oak woodlands management plan. Items included in the plan shall assist a county or a city to specify conservation priorities and prevent oak woodlands habitat fragmentation while minimizing the cost and administrative burden associated with developing the plan. The elements may include any or all of the following:

(1) Tree inventory mapping.

(2) Oak canopy retention standards.

(3) Oak habitat mitigation measures.

(4) A procedure to monitor the effectiveness of the plan and to modify the plan as necessary.

(c) Designates an online repository for oak woodlands management plans that will be easily accessible to the public and any other state agency involved in oak woodlands conservation efforts.

(d) Discusses the relationship between oak woodlands conservation efforts under this chapter and efforts by other state agencies to protect oak woodlands, including efforts to combat sudden oak death, and outlines a plan, as necessary, for coordinating with these agencies.

Comment. Section 54950 continues former Fish and Game Code Section 1367 without substantive change.

§ 54955. Expenditure pursuant to Public Resources Code Section 5096.350(a)(4)

54955. Notwithstanding any other provision of law, this chapter governs the expenditure of funds for the preservation of oak woodlands pursuant to paragraph (4) of subdivision (a) of Section 5096.350 of the Public Resources Code.

Comment. Section 54955 continues former Fish and Game Code Section 1363(f) without substantive change.

1 **§ 54960. Grant criteria**

2 54960. The board shall develop and adopt guidelines and criteria for awarding
3 grants that achieve the greatest lasting conservation of oak woodlands. The board
4 shall develop these guidelines in consultation with the Department of Forestry and
5 Fire Protection, the Department of Food and Agriculture, the University of
6 California's Integrated Hardwood Range Management Program, conservation
7 groups, and farming and ranching associations. As it applies to the award of grants
8 for the implementation of this chapter, the board criteria shall specify that
9 easement acquisitions that are the most cost-effective in comparison to the actual
10 resource value of the easement shall be given priority.

11 **Comment.** Section 54960 continues former Fish and Game Code Section 1365 without
12 substantive change.

13 **§ 54965. Qualification for grant**

14 54965. (a) To qualify for a grant pursuant to this chapter, the county or city in
15 which the grant money would be spent shall prepare, or demonstrate that it has
16 already prepared, an oak woodlands management plan that includes a description
17 of all native oak species located within the county's or city's jurisdiction.

18 (b) To qualify for a grant pursuant to this chapter, the board shall certify that any
19 proposed easement was not, and is not, required to satisfy a condition imposed
20 upon the landowner by any lease, permit, license, certificate, or other entitlement
21 for use issued by one or more public agencies, including, but not limited to, the
22 mitigation of significant effects on the environment of a project pursuant to an
23 approved environmental impact report or to mitigate a negative declaration
24 required pursuant to the California Environmental Quality Act (Division 13
25 (commencing with Section 21000)) of the Public Resources Code.

26 (c) To qualify for a grant under this chapter, the applicant shall demonstrate that
27 its proposal provides protection of oak woodlands that is more protective than the
28 applicable provisions of law in existence on the date of the proposal.

29 (d) A county or city may develop an oak woodlands management plan. A
30 nonprofit corporation, park and open-space district, resource conservation district,
31 or other local government entity may apply to the board for funds to develop an
32 oak woodlands management plan for a county or city, but the county or city shall
33 maintain ultimate authority to approve the oak woodlands management plan.

34 (e) The process for developing an initial oak woodlands management plan, and
35 the adoption of significant amendments to a plan, as determined by the county or
36 city, are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section
37 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

38 (f) A proposal by a local government entity, nonprofit corporation, park and
39 open-space district, private landowner, or resource conservation district for a grant
40 to be expended for the purposes of this chapter shall be certified by the county or
41 city as being consistent with the oak woodlands management plan of the county or
42 city. If the land covered by the proposal is in the jurisdiction of more than one

1 county or city, each county or city shall certify that the proposal is consistent with
2 the oak woodlands management plan of each county or city.

3 (g) If two or more entities seek grant funding from the board pursuant to this
4 chapter for the same jurisdiction, the county or city shall designate which entity
5 shall lead the efforts to manage oak woodlands habitat in the area.

6 **Comment.** Section 54965 continues former Fish and Game Code Section 1366 without
7 substantive change.

8 **§ 54970. Use of eminent domain**

9 54970. The board may not approve a grant to a local government entity, park
10 and open-space district, resource conservation district, or nonprofit organization if
11 the entity requesting the grant has acquired, or proposes to acquire, an oak
12 woodlands conservation easement through the use of eminent domain, unless the
13 owner of the affected lands requests the owner to do so.

14 **Comment.** Section 54970 continues former Fish and Game Code Section 1368 without
15 substantive change.

16 **§ 54975. Use of grant funds by city or county planning department**

17 54975. (a) A city or county planning department may utilize a grant awarded for
18 the purposes of this chapter to consult with a citizen advisory committee and
19 appropriate natural resource specialists in order to report publicly to the city
20 council or the board of supervisors on the status of the city's or county's oak
21 woodlands.

22 (b) Each city or county planning department that receives a grant for the
23 purposes of this chapter shall report to the city council or to the board of
24 supervisors of the county, as appropriate, on the use of those grant funds within
25 one year from the date the grant is received.

26 **Comment.** Section 54975 continues former Fish and Game Code Section 1369 without
27 substantive change.

28 **CHAPTER 4. MONARCH BUTTERFLY AND POLLINATOR RESCUE**
29 **PROGRAM**

30 **55000. Program established**

31 55000. (a) The Monarch Butterfly and Pollinator Rescue Program is hereby
32 established and shall be administered by the Wildlife Conservation Board.

33 (b) The purpose of the program is to recover and sustain populations of monarch
34 butterflies and other pollinators.

35 (c) To achieve the purposes of the program, the Wildlife Conservation Board
36 may do all of the following:

37 (1) Provide grants for the restoration or enhancement of California prairie and
38 other appropriate breeding habitat for monarch butterflies and pollinators on
39 private and public lands.

1 (2) Provide grants for the restoration or enhancement of overwintering monarch
2 butterfly habitat on private and public lands.

3 (3) Provide technical assistance to grant recipients, including farmers and
4 ranchers, regarding restoration and enhancement of breeding, overwintering, and
5 other appropriate monarch butterfly habitat.


6 (4) Award grants pursuant to this title.

7 (5) Provide grants for seasonal or temporary habitat improvements.

8 (6) Provide block grants in which suballocations are made by the grant recipient,
9 with the approval of the Wildlife Conservation Board.

10 (d) Eligible recipients for grants under the program include private landowners,
11 nonprofit organizations, resource conservation districts, or public agencies.

12 **Comment.** Section 55000 continues former Fish and Game Code Section 1374(a)-(d) without
13 substantive change.


14  **Note.** Proposed Section 55000 would continue Section 1374(a)-(d), which were added by
15 2018 Cal. Stat. ch. 760. Although that bill will not take effect until 2019, it is included here in
16 anticipation of its effect.

17 **55005. Guidelines**

18 55005 (a) Before disbursing a grant pursuant to this chapter, the Wildlife
19 Conservation Board shall develop and adopt project selection and evaluation
20 guidelines. The guidelines shall include monitoring and reporting requirements to
21 help assess grant outcomes.

22 (b) The Wildlife Conservation Board shall coordinate with the Department of
23 Food and Agriculture in developing program guidelines.

24 **Comment.** Section 55005 continues former Fish and Game Code Section 1374(e) without
25 substantive change.

26  **Note.** Proposed Section 55005 would continue Section 1374(e), which was added by 2018
27 Cal. Stat. ch. 760. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **55010. Monarch Butterfly and Pollinator Rescue Fund Account**

30 55010. (a) The Monarch Butterfly and Pollinator Rescue Fund Account is
31 hereby created in the State Treasury. The account shall be administered by the
32 Wildlife Conservation Board. Moneys in the account may be expended, upon
33 appropriation by the Legislature, for the purposes of this article.

34 (b) Moneys may be deposited into the account from gifts, donations, funds
35 appropriated by the Legislature for the purposes of this chapter, or from federal
36 grants or other sources, and shall be used for the purpose of implementing this
37 chapter, including administrative costs.

38 **Comment.** Section 55010 continues former Fish and Game Code Section 1374.1 without
39 substantive change.

Note. Proposed Section 55010 would continue Section 1374.1, which was added by 2018 Cal. Stat. ch. 760. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

TITLE 2. HABITAT RESTORATION AND ENHANCEMENT ACT

CHAPTER 1. GENERAL PROVISIONS

§ 55100. Short title

55100. This title shall be known, and may be cited, as the Habitat Restoration and Enhancement Act.

Comment. Section 55100 continues former Fish and Game Code Section 1650 without substantive change.

§ 55105. Definitions

55105. As used in this title:

(a) “Fish passage guidelines” means those guidelines specified in the department’s California Salmonid Stream Habitat Restoration Manual and the National Marine Fisheries Service, Southwest Region, Guidelines for Salmonid Passage at Stream Crossings, and subsequent amendments or updates to either document.

(b) “Habitat restoration or enhancement project” means a project with the primary purpose of improving fish and wildlife habitat. A habitat restoration or enhancement project shall meet the eligibility requirements for the State Water Resources Control Board’s Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits a written request pursuant to Article 1 (commencing with Section 55200) or Article 3 (commencing with Section 55300) of Chapter 3. The order or current equivalent may include programmatic waivers or waste discharge requirements for small habitat restoration projects.

(c) “Project proponent” means a person, public agency, or nonprofit organization seeking to implement a habitat restoration or enhancement project.

(d) “Species recovery plan” means a guidance document prepared by a government agency that identifies recovery actions, based upon the best scientific and commercial data available, necessary for the protection and recovery of listed species.

Comment. Section 55105 continues former Fish and Game Code Section 1651 without substantive change.

1 **§ 55110. Effect of title**

2 55110. This title shall not be construed as expanding the scope of projects
3 requiring a permit, agreement, license, or other approval issued by the department.

4 **Comment.** Section 55110 continues former Fish and Game Code Section 1654(b) without
5 substantive change.

6 **§ 55115. Report**

7 55115. (a) The department shall submit a report on the implementation of this
8 title to the Legislature no later than December 31, 2020, which shall include, but
9 not be limited to, the number, type, and geographical distribution of approved
10 projects, funding adequacy, and recommendations for changes and improvements
11 in the program.

12 (b) A report to be submitted pursuant to subdivision (a) shall be submitted in
13 compliance with Section 9795 of the Government Code.

14 **Comment.** Section 55115 continues former Fish and Game Code Section 1656 without
15 substantive change.

16 **§ 55120. Sunset**

17 55120. This title shall remain in effect only until January 1, 2022, and as of that
18 date is repealed, unless a later enacted statute, that is enacted before January 1,
19 2022, deletes or extends that date.

20 **Comment.** Section 55120 continues former Fish and Game Code Section 1657 without
21 substantive change.

22 **CHAPTER 2. HABITAT RESTORATION AND ENHANCEMENT ACCOUNT**

23 **§ 55150. Creation**

24 55150. The Habitat Restoration and Enhancement Account is hereby created in
25 the Fish and Game Preservation Fund.

26 **Comment.** Section 55150 continues former Fish and Game Code Section 1655(a) without
27 substantive change.

28 **§ 55155. Receipt of funds**

29 55155. The department may enter into an agreement to accept funds from any
30 public agency, person, business entity, or organization to achieve the purposes of
31 this title. The department shall deposit any funds so received in the account. The
32 funds received shall supplement existing resources for department administration
33 and permitting of projects and programs included in this title.

34 **Comment.** Section 55155 continues former Fish and Game Code Section 1655(b) without
35 substantive change.

1 **§ 55160. Availability**

2 55160. Moneys in the account shall be available to the department, upon
3 appropriation by the Legislature, for the purposes of administering and
4 implementing this title.

5 **Comment.** Section 55160 continues former Fish and Game Code Section 1655(d) without
6 substantive change.

7 **CHAPTER 3. PROJECT APPROVAL**

8 **Article 1. Project Not Certified by Water Board**

9 **§ 55200. Request to approve project**

10 55200. A project proponent may submit a written request to approve a habitat
11 restoration or enhancement project to the director pursuant to this article if the
12 project has not received certification pursuant to the State Water Resources
13 Control Board's Order for Clean Water Act Section 401 General Water Quality
14 Certification for Small Habitat Restoration Projects, or its current equivalent at the
15 time the project proponent submits the written request.

16 **Comment.** Section 55200 continues the first sentence of former Fish and Game Code Section
17 1652(a) without substantive change.

18 **§ 55205. Content of request**

19 55205. A written request to approve a habitat restoration or enhancement project
20 pursuant to this article shall contain all of the following:

21 (a) The name, address, title, organization, telephone number, and email address
22 of the natural person or persons who will be the main point of contact for the
23 project proponent.

24 (b) A full description of the habitat restoration or enhancement project that
25 includes the designs and techniques to be used for the project, restoration or
26 enhancement methods, an estimate of temporary restoration- or enhancement-
27 related disturbance, project schedule, anticipated activities, and how the project is
28 expected to result in a net benefit to any affected habitat and species, consistent
29 with subdivision (d) of Section 55215.

30 (c) An assessment of the project area that provides a description of the existing
31 flora and fauna and the potential presence of sensitive species or habitat. The
32 assessment shall include preproject photographs of the project area that include a
33 descriptive title, date taken, the photographic monitoring point, and photographic
34 orientation.

35 (d) A geographic description of the project site including maps, land ownership
36 information, and other relevant location information.

37 (e) A description of the environmental protection measures incorporated into the
38 project design, so that no potentially significant adverse effects on the
39 environment, as defined in Section 15382 of Title 14 of the California Code of

1 Regulations, are likely to occur with application of the specified environmental
2 protection measures. Environmental protection measures may include, but are not
3 limited to, appropriate seasonal work limitations, measures to avoid and minimize
4 impacts to water quality and potentially present species protected by state and
5 federal law, and the use of qualified professionals for standard preconstruction
6 surveys where protected species are potentially present.

7 (f) Substantial evidence to support a conclusion that the project meets the
8 requirements set forth in this article. Substantial evidence shall include references
9 to relevant design criteria and environmental protection measures found in the
10 documents specified in subdivision (d) of Section 55215.

11 (g) A certifying statement that the project will comply with the California
12 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
13 Public Resources Code), which may include, but not be limited to, the
14 requirements of Section 15333 of Title 14 of the California Code of Regulations.

15 **Comment.** Section 55205 continues former Fish and Game Code Section 1652(b) without
16 substantive change.

17 **§ 55210. Application fee**

18 55210. The department shall assess an application fee for a project submitted to
19 the department pursuant to this article consistent with the fees adopted by the
20 department pursuant to Title 3 (commencing with Section 69700) of Part 4 of
21 Division 17, but the application fee shall not exceed the reasonable administrative
22 and implementation costs of the department relating to the project.

23 **Comment.** Section 55210 continues former Fish and Game Code Section 1655(c), as it relates
24 to this article, without substantive change.

25 **§ 55215. Approval**

26 55215. Notwithstanding any other law, within 60 days after receiving a written
27 request to approve a habitat restoration or enhancement project, the director shall
28 approve a habitat restoration or enhancement project if the director determines that
29 the written request includes all of the required information set forth in Section
30 55205, and the project meets all of the following requirements:

31 (a) The project purpose is voluntary habitat restoration and the project is not
32 required as mitigation.

33 (b) The project is not part of a regulatory permit for a nonhabitat restoration or
34 enhancement construction activity, a regulatory settlement, a regulatory
35 enforcement action, or a court order.

36 (c) The project meets the eligibility requirements of the State Water Resources
37 Control Board's Order for Clean Water Act Section 401 General Water Quality
38 Certification for Small Habitat Restoration Projects, or its current equivalent at the
39 time the project proponent submits the written request, but has not received
40 certification pursuant to that order or its equivalent.

1 (d) The project is consistent with, or identified in, sources that describe best
2 available restoration and enhancement methodologies, including one or more of
3 the following:

4 (1) Federal- and state-listed species recovery plans or published protection
5 measures, or previously approved department agreements and permits issued for
6 voluntary habitat restoration or enhancement projects.

7 (2) Department and National Marine Fisheries Service fish screening criteria or
8 fish passage guidelines.

9 (3) The department's California Salmonid Stream Habitat Restoration Manual.

10 (4) Guidance documents and practice manuals that describe best available
11 habitat restoration or enhancement methodologies that are utilized or approved by
12 the department.

13 (e) The project will not result in cumulative adverse environmental impacts that
14 are significant when viewed in connection with the effects of past, current, or
15 probable future projects.

16 **Comment.** Section 55215 continues former Fish and Game Code Section 1652(c) without
17 substantive change.

18 **§ 55220. Denial**

19 55220. If the director determines that the written request does not contain all of
20 the information required by Section 55205, or fails to meet the requirements set
21 forth in Section 55215, or both, the director shall deny the written request and
22 inform the project proponent of the reason or reasons for the denial.

23 **Comment.** Section 55220 continues former Fish and Game Code Section 1652(d) without
24 substantive change.

25 **§ 55225. Notice of completion**

26 55225. The project proponent shall submit a notice of completion to the
27 department no later than 30 days after the project approved pursuant to this article
28 is completed. The notice of completion shall demonstrate that the project has been
29 carried out in accordance with the project's description. The notice of completion
30 shall include a map of the project location, including the final boundaries of the
31 restoration area or areas and postproject photographs. Each photograph shall
32 include a descriptive title, date taken, photographic monitoring point, and
33 photographic orientation.

34 **Comment.** Section 55225 continues former Fish and Game Code Section 1652(e) without
35 substantive change.

36 **§ 55230. Monitoring report**

37 55230. The project proponent shall submit a monitoring report describing
38 whether the restoration project is meeting each of the restoration goals stated in
39 the project application. Each report shall include photographs with a descriptive
40 title, date taken, photographic monitoring point, and photographic orientation. The

1 monitoring reports for Section 401 Water Quality Certification or waste discharge
2 requirements of the State Water Resources Control Board or a regional water
3 quality control board, or for department or federal voluntary habitat restoration
4 programs, including, but not limited to, the Fisheries Restoration Grant Program,
5 may be submitted in lieu of this requirement.

6 **Comment.** Section 55230 continues former Fish and Game Code Section 1652(f) without
7 substantive change.

8 Article 2. Project Certified by Water Board

9 § 55300. Request to approve project

10 55300. A project proponent may submit a written request to approve a habitat
11 restoration or enhancement project to the director pursuant to this article if the
12 project has received certification pursuant to the State Water Resources Control
13 Board's Order for Clean Water Act Section 401 General Water Quality
14 Certification for Small Habitat Restoration Projects, or its current equivalent at the
15 time the project proponent submits the written request.

16 **Comment.** Section 55300 continues former Fish and Game Code Section 1653(a) without
17 substantive change.

18 § 55305. Content of request

19 55305. A written request to approve a habitat restoration or enhancement project
20 pursuant to this article shall include all of the following:

21 (a) Notice that the project proponent has received a notice of applicability that
22 indicates that the project is authorized pursuant to the State Water Resources
23 Control Board's Order for Clean Water Act Section 401 General Water Quality
24 Certification for Small Habitat Restoration Projects, or its equivalent at the time
25 the project proponent submits the written request.

26 (b) A copy of the notice of applicability.

27 (c) A copy of the notice of intent provided to the State Water Resources Control
28 Board or a regional water quality control board.

29 (d) A description of species protection measures incorporated into the project
30 design, but not already included in the notice of intent, to avoid and minimize
31 impacts to potentially present species protected by state and federal law, such as
32 appropriate seasonal work limitations and the use of qualified professionals for
33 standard preconstruction surveys where protected species are potentially present.

34 (e) The fees required pursuant to Section 55310.

35 **Comment.** Section 55305 continues former Fish and Game Code Section 1653(b) without
36 substantive change.

37 § 55310. Application fee

38 55310. The department shall assess an application fee for a project submitted to
39 the department pursuant to this article consistent with the fees adopted by the

1 department pursuant to Title 3 (commencing with Section 69700) of Part 4 of
2 Division 17, but the application fee shall not exceed the reasonable administrative
3 and implementation costs of the department relating to the project.

4 **Comment.** Section 55310 continues former Fish and Game Code Section 1655(c), as it relates
5 to this article, without substantive change.

6 **§ 55315. Publication of notice**

7 55315. Upon receipt of the notice specified in subdivision (a) of Section 55305,
8 the director shall immediately have published in the General Public Interest
9 Section of the California Regulatory Notice Register the receipt of that notice.

10 **Comment.** Section 55315 continues former Fish and Game Code Section 1653(c) without
11 substantive change.

12 **§ 55320. Determination of completeness**

13 55320. (a) Within 30 days after the director has received the notice of
14 applicability described in Section 55305, the director shall determine whether the
15 written request accompanying the notice of applicability is complete.

16 (b) If the director determines within that 30-day period, based upon substantial
17 evidence, that the written request is not complete, then the project may be
18 authorized under Article 1 (commencing with Section 55200).

19 (c) The director shall immediately publish the determination pursuant to
20 subdivision (a) in the General Public Interest Section of the California Regulatory
21 Notice Register.

22 **Comment.** Section 55320 continues former Fish and Game Code Section 1653(d)-(f) without
23 substantive change.

24 **§ 55325. Reporting requirements**

25 55325. The project proponent shall submit the monitoring plan, monitoring
26 report, and notice of completion to the department as required by the State Water
27 Resources Control Board's Order for Clean Water Act Section 401 General Water
28 Quality Certification for Small Habitat Restoration Projects, or its current
29 equivalent at the time the project proponent submits the written request. The order
30 or its current equivalent may include programmatic waivers or waste discharge
31 requirements for small scale restoration projects.

32 **Comment.** Section 55325 continues former Fish and Game Code Section 1653(g) without
33 substantive change.

34 **Article 3. Approval and Suspension**

35 **§ 55350. Director's approval**

36 55350. The director's approval of a habitat restoration or enhancement project
37 pursuant to Article 1 (commencing with Section 55200) or Article 2 (commencing
38 with Section 55300) shall be in lieu of any other permit, agreement, license, or

1 other approval issued by the department, including, but not limited to, those issued
2 pursuant to Title 1 (commencing with Section 53800) of Part 3 of Division 14, and
3 Part 1 (commencing with Section 62000) of Division 17, and Title 3 (commencing
4 with Section 69700) of Part 4 of Division 17.

5 **Comment.** Section 55350 continues former Fish and Game Code Section 1654(a) without
6 substantive change.

7 **§ 55355. Notice of suspension**

8 55355. (a) If the director determines at any time that a project is no longer
9 consistent with Section 55215 or Section 55305, as applicable, due to a material
10 change between the project as submitted and the project being implemented or a
11 change in the environmental circumstances in the area of implementation, the
12 director shall notify the project proponent in writing and project implementation
13 shall be suspended.

14 (b) Written notice from the director shall be delivered in person, by certified
15 mail, or by electronic communication to the project proponent and shall specify
16 the reasons why approval of the project was suspended. The approval for a project
17 shall not be revoked pursuant to this article unless it has first been suspended
18 pursuant to this article.

19 **Comment.** Section 55355 continues former Fish and Game Code Section 1654(c)(1) without
20 substantive change.

21 **§ 55360. Objection**

22 55360. Within 30 days of receipt of a notice of suspension, the project
23 proponent may file an objection with the director. Any objection shall be in
24 writing and state the reasons why the project proponent objects to the suspension.
25 The project proponent may provide additional environmental protection measures,
26 design modifications, or other evidence that the project is consistent with Section
27 55215 or Section 55305, as applicable, and request that the notice of suspension be
28 lifted and approval granted.

29 **Comment.** Section 55360 continues former Fish and Game Code Section 1654(c)(2) without
30 substantive change.

31 **§ 55365. Final decision**

32 55365. The director shall revoke approval or lift the suspension of project
33 approval within 30 days after receiving the project proponent's objection pursuant
34 to Section 55360.

35 **Comment.** Section 55365 continues former Fish and Game Code Section 1654(c)(3) without
36 substantive change.

37 **§ 55370. Liability**

38 55370. Pursuant to Section 818.4 of the Government Code, the department and
39 any other state agency exercising authority under this article shall not be liable
40 with regard to any determination or authorization made pursuant to this article.

Comment. Section 55370 continues former Fish and Game Code Section 1654(d) without substantive change.

TITLE 3. FISH AND WILDLIFE HABITAT ENHANCEMENT ACT OF 1984

Note. The Fish and Wildlife Habitat Enhancement Act (existing Sections 2600-2651) was added by Proposition 19 (1984). The Commission has generally adopted a very deferential approach to the recodification of provisions added by initiative. Consistent with that approach, the Commission has made very minimal changes to the language of this part, mostly relating to section numbering. The Commission believes that the nonsubstantive continuation of that act in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

CHAPTER 1. GENERAL PROVISIONS

§ 55500. Short title

55500. This title shall be known and may be cited as the Fish and Wildlife Habitat Enhancement Act of 1984.

Comment. Section 55500 continues former Fish and Game Code Section 2600 without substantive change.

§ 55505. Declaration of purpose

55505. (a) The fundamental requirement for healthy, vigorous populations of fish and wildlife is habitat. Without adequate habitat, efforts to conserve and manage fish and wildlife resources will have limited success.

(b) Assuring adequate habitat, with the resulting increase in the abundance of fish and wildlife, confers substantial benefits on the people of California through the opportunities afforded for the use, enjoyment, and appreciation of fish and wildlife resources, the perpetuation of species of fish and wildlife for their intrinsic and ecological values, and the enhancement of economic activities based on these resources.

(c) Accordingly, the purpose of this title is to provide the financial means to correct the most severe deficiencies in fish and wildlife habitat currently found in California through a program of acquisition, enhancement, and development of habitat areas that are most in need of proper conservation and management.

Comment. Section 55505 continues former Fish and Game Code Section 2601 without substantive change.

§ 55510. Definitions

55510. As used in this title, the following terms have the following meanings:

(a) “Acquisition” means the acquisition of any interest in real property.

(b) “Coastal zone” means the coastal zone as defined and mapped pursuant to Section 30103 of the Public Resources Code.

1 (c) “Local public agency” means a city, county, city and county, regional park or
2 open-space district, recreation and park district, resource conservation district,
3 association of governments, or joint powers agency whose jurisdiction is wholly or
4 partially within the coastal zone or in the San Francisco Bay region.

5 **Comment.** Section 55510 continues former Fish and Game Code Section 2602 without
6 substantive change.

7 CHAPTER 2. HABITAT ENHANCEMENT PROGRAM

8 § 55525. Appropriation of funds

9 55525. All money deposited in the Fish and Wildlife Habitat Enhancement Fund
10 shall be available for appropriation by the Legislature for the following purposes:

11 (a) Forty million dollars (\$40,000,000) for expenditure by the Wildlife
12 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
13 acquisition, enhancement, or development, or any combination thereof, of lands
14 located outside the coastal zone for the preservation of resources and the
15 management of wildlife and fisheries, in accordance with the following schedule:

16 (1) Thirty million dollars (\$30,000,000) for the acquisition, enhancement, or
17 development, or any combination thereof, of lands for habitat for wildfowl and
18 other wildlife benefitted by a marsh or aquatic environment.

19 (2) Ten million dollars (\$10,000,000) for the restoration of waterways for the
20 management of fisheries and the enhancement or development, or both, of habitat
21 for other wildlife.

22 (b) Five million dollars (\$5,000,000) for expenditure by the Wildlife
23 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
24 acquisition, enhancement, or development, or any combination thereof, of lands
25 for habitat for rare, endangered, and fully protected species.

26 (c) Thirty million dollars (\$30,000,000) for expenditure by the State Coastal
27 Conservancy for the acquisition, enhancement, or development, or any
28 combination thereof, of marshlands and associated and adjacent lands and the
29 development of associated facilities and for grants to local public agencies for
30 those purposes, in accordance with the following schedule:

31 (1) Twenty million dollars (\$20,000,000) for grants by the conservancy to local
32 public agencies in the coastal zone and in the San Francisco Bay region for the
33 acquisition, enhancement, or development, or any combination thereof, of
34 marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or
35 aquatic environment and the improvement of drainage into wetlands to control or
36 retard erosion and sedimentation, and biologically and hydrologically associated
37 upland habitat areas. Of the amount made available pursuant to this paragraph, not
38 less than five million dollars (\$5,000,000) shall be available for grants for projects
39 in the San Francisco Bay region.

40 (2) Ten million dollars (\$10,000,000) for expenditure by the conservancy for the
41 purposes authorized in this subdivision.

(d) Ten million dollars (\$10,000,000) for expenditure by the Wildlife Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the acquisition, enhancement, or development, or any combination thereof, inside the coastal zone of marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or aquatic environment.

Comment. Section 55525 continues former Fish and Game Code Section 2620 without substantive change.

§ 55530. Administrative costs of Wildlife Conservation Board

55530. An annual amount, not to exceed one hundred thousand dollars (\$100,000), may be appropriated from the funds available pursuant to subdivisions (a) and (d) of Section 55525 in the 1984–85 through 1989–90 fiscal years, in a particular amount to be determined in each annual appropriation, to the Wildlife Conservation Board for expenditure for costs incurred by the board in administering this title, as provided in this section. The board shall augment, as needed, any amount appropriated pursuant to this title with an appropriation from any other funds available to it. This title is not intended, nor shall it be construed, to authorize the Wildlife Conservation Board or the department to establish any additional personnel positions.

Comment. Section 55530 continues former Fish and Game Code Section 2621 without substantive change.

§ 55535. Administrative costs of State Coastal Conservancy

55535. An annual amount, not to exceed two hundred fifty thousand dollars (\$250,000), may be appropriated from the funds available pursuant to subdivision (c) of Section 55525 in the 1984–85 through 1989–90 fiscal years, in a particular amount to be determined in each annual appropriation, to the State Coastal Conservancy for expenditure for costs incurred by the conservancy in administering this title.

Comment. Section 55535 continues former Fish and Game Code Section 2622 without substantive change.

§ 55540. Limitations

55540. (a) None of the funds appropriated pursuant to this title may be encumbered for any purpose described in Section 54860.

(b) Notwithstanding Sections 31105 and 31106 of the Public Resources Code, the State Coastal Conservancy and the State Public Works Board may not make any acquisition pursuant to the power of eminent domain with any funds appropriated pursuant to this title.

Comment. Section 55540 continues former Fish and Game Code Section 2623 without substantive change.

1 **§ 55545. Use of funds for specified lands**

2 55545. Funds available pursuant to subdivision (b) of Section 55525 may be
3 encumbered only for lands constituting habitat that is subject to destruction,
4 drastic modification, or severe curtailment of habitat values.

5 **Comment.** Section 55545 continues former Fish and Game Code Section 2624 without
6 substantive change.

7 **§ 55550. Limitations on acquisition of title**

8 55550. No acquisition shall be undertaken with funds appropriated pursuant to
9 Section 55525 and no grant of funds appropriated pursuant to subdivision (c) of
10 Section 55525 shall be encumbered until all practical alternatives to direct
11 purchase of the full fee title have been considered. The Wildlife Conservation
12 Board and the State Coastal Conservancy shall establish a procedure to assure
13 consideration of alternatives to direct purchase. These alternatives shall include,
14 but not be limited to, the following:

15 (a) Opportunities for obtaining the land through exchanges of other publicly
16 held lands.

17 (b) Tax considerations that may pertain to the contemplated transaction.

18 (c) Utilization of transfers of densities and density bonuses and other available
19 land use controls.

20 (d) Purchase of less than full fee title.

21 **Comment.** Section 55550 continues former Fish and Game Code Section 2625 without
22 substantive change.

23 **§ 55555. Further limitations on use of funds**

24 55555. (a) All restoration projects that involve the expenditure of funds
25 available pursuant to subdivision (c) of Section 55525 shall be reviewed in
26 accordance with Section 31208, 31208.5, 31258, or 31258.5 of the Public
27 Resources Code, as applicable.

28 (b) Funds available pursuant to subdivision (d) of Section 55525 shall be
29 encumbered in accordance with priorities of the California Coastal Commission.

30 (c) Of the total amount available pursuant to subdivision (d) of Section 55525,
31 not more than four million dollars (\$4,000,000) may be encumbered for any single
32 acquisition project.

33 **Comment.** Section 55555 continues former Fish and Game Code Section 2626 without
34 substantive change.

35 **§ 55560. Additional limitations on use of funds**

36 55560. (a) Funds granted pursuant to subdivision (c) of Section 55525 for any
37 purpose, other than acquisition, shall not be encumbered by the recipient until the
38 conservancy has entered into an agreement sufficient to protect the public interest
39 in any improvements constructed pursuant to this title with the entity that exercises
40 legal control of the real property on which the improvement is constructed.

(b) The conservancy shall not disburse any grant until the applicant, or any other appropriate managing or operating entity, has entered into an agreement with the conservancy or its designee, or both, sufficient to assure that the property acquired, enhanced, or developed, and any improvements thereon, shall be managed and operated for the purpose for which the grant was requested. No use of the property that is incompatible with that purpose shall ever be permitted.

(c) The minimum amount for which an application for an individual project may be made is fifteen thousand dollars (\$15,000).

(d) Every application for a grant shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(e) Notwithstanding Sections 31207 and 31257 of the Public Resources Code, funds granted pursuant to subdivision (c) of Section 55525 may be encumbered only for the acquisition, enhancement, or development, or any combination thereof, and the costs incurred by the recipient in planning, preparation of construction documents, fiscal management and accounting, and supervision of construction in connection with the project for which the grant was made. All expenditures made by a recipient of a grant shall be subject to being audited.

(f) Funds granted pursuant to subdivision (c) of Section 55525 shall be available for encumbrance by the recipient for a period of three years after the date when the grant became effective.

Comment. Section 55560 continues former Fish and Game Code Section 2627 without substantive change.

CHAPTER 3. FISCAL PROVISIONS

§ 55600. Issuance of bonds

55600. Bonds in the total amount of eighty-five million dollars (\$85,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this title and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest on the bonds as the principal and interest become due and payable.

Comment. Section 55600 continues former Fish and Game Code Section 2640 without substantive change.

§ 55605. Collection of revenue to pay principle and interest on bonds

55605. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, the sum that is required to pay the principal and interest on the bonds

1 maturing each year, and it is hereby made the duty of all officers charged by law
2 with any duty in regard to the collection of the revenue to do and perform each and
3 every act that shall be necessary to collect that additional sum.

4 **Comment.** Section 55605 continues former Fish and Game Code Section 2641 without
5 substantive change.

6 **§ 55610. Appropriation from General Fund**

7 55610. There is hereby appropriated from the General Fund in the State
8 Treasury for the purpose of this title, an amount equal to the following:

9 (a) The sum, annually, that is necessary to pay the principal and interest on
10 bonds issued and sold pursuant to the provisions of this title, as principal and
11 interest become due and payable.

12 (b) The sum that is necessary to carry out the provisions of Section 55620,
13 which sum is appropriated without regard to fiscal years.

14 **Comment.** Section 55610 continues former Fish and Game Code Section 2642 without
15 substantive change.

16 **§ 55615. Fish and Wildlife Habitat Enhancement Fund**

17 55615. The proceeds of bonds issued and sold pursuant to this title shall be
18 deposited in the Fish and Wildlife Habitat Enhancement Fund, which is hereby
19 created. The money in the fund may be expended only for the purposes specified
20 in this title and only pursuant to appropriation by the Legislature in the manner
21 prescribed in this title.

22 **Comment.** Section 55615 continues former Fish and Game Code Section 2643 without
23 substantive change.

24 **§ 55620. Loan from General Fund**

25 55620. For the purposes of carrying out the provisions of this chapter, the
26 Director of Finance may, pursuant to appropriate authority in each annual Budget
27 Act, authorize the withdrawal from the General Fund of an amount or amounts not
28 to exceed the amount of the unsold bonds that have been authorized to be sold for
29 the purpose of carrying out this title. Any amounts withdrawn shall be deposited in
30 the fund. Any moneys made available under this section shall be returned to the
31 General Fund from moneys received from the sale of bonds for the purpose of
32 carrying out the provisions of this title. The withdrawals from the General Fund
33 shall be returned to the General Fund with interest at the rate that would otherwise
34 have been earned by those sums in the Pooled Money Investment Fund.

35 **Comment.** Section 55620 continues former Fish and Game Code Section 2644 without
36 substantive change.

37 **§ 55625. Special treatment of specified bond proceeds**

38 55625. Notwithstanding any other provision of this bond act, or of the State
39 General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of
40 Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells

1 bonds pursuant to this bond act that include a bond counsel opinion to the effect
2 that the interest on the bonds is excluded from gross income for federal tax
3 purposes under designated conditions, the Treasurer may maintain separate
4 accounts for the bond proceeds invested and the investment earnings on those
5 proceeds, and may use or direct the use of those proceeds or earnings to pay any
6 rebate, penalty, or other payment required under federal law, or take any other
7 action with respect to the investment and use of those bond proceeds, as may be
8 required or desirable under federal law in order to maintain the tax-exempt status
9 of those bonds and to obtain any other advantage under federal law on behalf of
10 the funds of this state.

11 **Comment.** Section 55625 continues former Fish and Game Code Section 2644.5 without
12 substantive change.

13 **§ 55630. Budget bill**

14 55630. (a) All proposed appropriations for the program shall be included in a
15 section in the Budget Bill for the 1984–85 fiscal year and each succeeding fiscal
16 year for consideration by the Legislature and shall bear the caption “Fish and
17 Wildlife Habitat Enhancement Program.” The section shall contain separate items
18 for each project, each class of projects, or each element of the program for which
19 an appropriation is made.

20 (b) All appropriations shall be subject to all limitations enacted in the Budget
21 Act and to all fiscal procedures prescribed by law with respect to the expenditure
22 of state funds unless expressly exempted from those laws by a statute enacted by
23 the Legislature. The section in the Budget Act shall contain proposed
24 appropriations only for the program elements and classes of projects contemplated
25 by this title, and no funds derived from the bonds authorized by this title may be
26 expended pursuant to an appropriation not contained in that section of the Budget
27 Act.

28 **Comment.** Section 55630 continues former Fish and Game Code Section 2645 without
29 substantive change.

30 **§ 55635. State General Obligation Bond Law**

31 55635. The bonds authorized by this title shall be prepared, executed, issued,
32 sold, paid, and redeemed as provided in the State General Obligation Bond Law
33 (Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the
34 Government Code), and all of the provisions of that law are applicable to the
35 bonds and to this title and are hereby incorporated in this title as though set forth
36 in full herein.

37 **Comment.** Section 55635 continues former Fish and Game Code Section 2646 without
38 substantive change.

1 **§ 55640. Wildlife Habitat Enhancement Program Finance Committee**

2 55640. Solely for the purpose of authorizing the issuance and sale, pursuant to
3 the State General Obligation Bond Law (Chapter 4 (commencing with Section
4 16720) of Part 1 of Division 4 of Title 2 of the Government Code), of the bonds
5 authorized by this title, the Wildlife Habitat Enhancement Program Finance
6 Committee is hereby created. The committee consists of the Controller, the
7 Director of Finance, and the Treasurer. For purposes of this title, this committee is
8 “the committee” as that term is used in the State General Obligation Bond Law,
9 and the Treasurer shall serve as chair of the committee.

10 **Comment.** Section 55640 continues former Fish and Game Code Section 2647 without
11 substantive change.

12 **§ 55645. Deposit of premiums and accrued interest**

13 55645. All money deposited in the fund that is derived from premium and
14 accrued interest on bonds sold shall be reserved in the fund and shall be available
15 for transfer to the General Fund as a credit to expenditures for bond interest.

16 **Comment.** Section 55645 continues former Fish and Game Code Section 2648 without
17 substantive change.

18 **§ 55650. Budget appropriation**

19 55650. Commencing with the Budget Bill for the 1995-96 fiscal year, the
20 balance remaining in the fund may be appropriated by the Legislature for
21 expenditure, without regard to the maximum amounts allocated to each element of
22 the program, for any or all elements of the program specified in Section 55525, or
23 any class or classes of projects within those elements that the Legislature deems to
24 be of the highest priority.

25 **Comment.** Section 55650 continues former Fish and Game Code Section 2649 without
26 substantive change.

27 **§ 55655. Proceeds of bonds not proceeds of taxes**

28 55655. The Legislature hereby finds and declares that, inasmuch as the proceeds
29 from the sale of bonds authorized by this title are not “proceeds of taxes” as that
30 term is used in Article XIII B of the California Constitution, the disbursement of
31 these proceeds is not subject to the limitations imposed by that article.


32 **Comment.** Section 55655 continues former Fish and Game Code Section 2650 without
33 substantive change.

34 **§ 55660. Severability**

35 55660. If any provision of this title or the application thereof to any person or
36 circumstances is held invalid, that invalidity shall not affect other provisions or
37 applications of the title that can be given effect without the invalid provision or
38 application, and to this end, the provisions of this title are severable.

39 **Comment.** Section 55660 continues former Fish and Game Code Section 2651 without
40 substantive change.

1 TITLE 4. WILDLIFE AND NATURAL AREAS
2 CONSERVATION PROGRAM

3  **Note.** The Wildlife and Natural Areas Conservation Program (existing Sections 2700-2729)
4 was added by Proposition 70 (1988). The Commission has generally adopted a very deferential
5 approach to the recodification of provisions added by initiative. Consistent with that approach,
6 the Commission has made very minimal changes to the language of this part, mostly relating to
7 section numbering. The Commission believes that the nonsubstantive continuation of that act in
8 the proposed law would not be an impermissible amendment. See discussion of initiative statutes
9 *supra* at notes 20-22 and associated text.

10 CHAPTER 1. GENERAL PROVISIONS

11 § 55700. Short title

12 55700. This title shall be known and may be cited as the Wildlife and Natural
13 Areas Conservation Act.

14 **Comment.** Section 55700 continues former Fish and Game Code Section 2700 without
15 substantive change.

16 § 55705. Declaration of purpose

17 55705. (a) The fundamental requirement for healthy, vigorous populations of
18 fish and wildlife is habitat. Without adequate habitat, efforts to conserve and
19 manage fish and wildlife resources will have limited success. Further, California
20 contains the greatest diversity of wildlife and plant species of virtually any state in
21 the nation. This rich natural heritage enables Californians to enjoy a great variety
22 of recreational, aesthetic, ecological, and other uses and benefits of these
23 biological resources. The public interest is served only by ensuring that these
24 resources are preserved, protected, and propagated for this and future generations.

25 (b) Many of California's wildlife, fish, and plant species and biological
26 communities are found nowhere else on earth. Without adequate protection and
27 management, rare native species and communities could easily become extinct. In
28 that event, the benefits they provide to the people of California, whether presently
29 realized or which remain to be discovered, will be lost forever, and California will
30 be significantly poorer as a result.

31 (c) The people of California have vested in the department the principal
32 responsibility for protecting, conserving, and perpetuating native fish, plants, and
33 wildlife, including endangered species and game animals, for their aesthetic,
34 intrinsic, ecological, educational, and economic values. To help accomplish this
35 goal, the people of California have further established a significant natural areas
36 program and a natural diversity database in the department, which is charged with
37 maintaining and perpetuating California's most significant natural areas for
38 present and future generations. To ensure the perpetuation of areas containing
39 uncommon elements of natural diversity and to ensure the continued abundance of

1 habitat for more common species, especially examples of those that are presently
2 threatened with destruction, the purchase of land is often necessary.

3 (d) Accordingly, the purpose of this title is to provide the Wildlife Conservation
4 Board and the department the financial means to correct the most severe
5 deficiencies in wildlife habitat and in the statewide system of areas designated for
6 the preservation of California's natural diversity through a program of acquisition,
7 enhancement, restoration, and protection of areas that are most in need of proper
8 conservation.

9 **Comment.** Section 55705 continues former Fish and Game Code Section 2701 without
10 substantive change.

11 **§ 55710. Definitions**

12 55710. As used in this title, the following terms have the following meanings:

13 (a) "Acquisition" means the acquiring of any interest in real property.

14 (b) "Fund" means the Wildlife and Natural Areas Conservation Fund created
15 pursuant to Section 55725.

16 (c) "Highly rare" means a worldwide rarity in which any species or natural
17 community occurs in 50 or fewer locations, irrespective of whether the species or
18 any species in the community is listed as threatened or endangered or was
19 previously listed as rare.

20 (d) "Natural community" means a distinct, identifiable, and recurring
21 association of plants and animals that are ecologically interrelated.

22 (e) "Species" means the fundamental biological unit of plant and animal
23 classification that comprises a subdivision of a genus, but for the purposes of this
24 title, "species" also includes the unit of a subspecies.

25 **Comment.** Section 55710 continues former Fish and Game Code Section 2702 without
26 substantive change.

27 **CHAPTER 2. HABITAT CONSERVATION PROGRAM**

28 **§ 55725. Deposits**

29 55725. Moneys available for the purposes of this title pursuant to Chapter 4
30 (commencing with Section 5930) of Division 5.8 of the Public Resources Code
31 shall be deposited in the Wildlife and Natural Areas Conservation Fund, which is
32 hereby created. Money deposited in the fund shall be available for appropriation
33 by the Legislature to the Wildlife Conservation Board, for expenditure pursuant to
34 the Wildlife Conservation Law of 1947, for the following programs:

35 (a) Forty-one million dollars (\$41,000,000) for the preservation of highly rare
36 examples of the state's natural diversity through the acquisition, enhancement,
37 restoration, or protection, or a combination thereof, of lands supporting
38 California's unique, fragile, threatened, or endangered plants, animals, and natural
39 communities.

(b) Six million dollars (\$6,000,000) for the acquisition, enhancement, restoration, or protection, or a combination thereof, of critical habitat areas for fish, game mammals, and game birds, including, but not limited to, the following types:

- (1) Winter deer ranges.
- (2) Wild trout or steelhead nursery and spawning areas.
- (3) Significant routes of migration for wildlife.
- (4) Breeding, nesting, and forage areas for sage grouse and other upland game birds.

For purposes of this subdivision, “enhancement” includes the construction or development of facilities for furnishing public access to lands or waters open to the public for fishing, hunting, or shooting.

(c) Three million dollars (\$3,000,000) for the acquisition, enhancement, restoration, or protection, or any combination thereof, of lands providing habitat for threatened, endangered, or fully protected species, such as the bald eagle, San Joaquin kit fox, desert tortoise, bighorn sheep, peregrine falcon, and California condor.

Comment. Section 55725 continues former Fish and Game Code Section 2720 without substantive change.

§ 55730. Expenditures

55730. Funds available pursuant to subdivision (a) of Section 55725 shall be expended to acquire, enhance, restore, or protect lands in California on which any of the following naturally exists:

(a) A unique species or natural community, whose existence at a single location in California is the only known occurrence in the world of that particular species or natural community.

(b) A species that occurs in only 20 or fewer locations in the world, at least one of which is in California.

(c) A natural community that occurs in only 50 or fewer locations in the world, at least one of which is in California.

(d) An assemblage of three or more highly rare species or natural communities, or any combination thereof, of which at least one of the species or natural communities is found only in 20 or fewer locations in the world.

Comment. Section 55730 continues former Fish and Game Code Section 2721 without substantive change.

§ 55735. Priorities

55735. (a) Whenever the application of the criteria specified in Section 55730 results in the identification of two or more parcels of land that are essentially indistinguishable as to their quality, preference shall be given to the parcel on which exists the species that is more threatened or more endangered.

(b) Whenever the application of the criteria specified in Section 55730 results in the identification of two or more parcels of land that are essentially indistinguishable as to their quality and the degree of threat to, or endangerment of, the species existing on them, preference shall be given to the parcel on which exists the best example of the species. As used in this subdivision, “best example” means the parcel of land and the wildlife inhabiting it that, in balancing all the factors present, represents, as determined by the board, the stronger combination of all of the following: the better condition, higher quality, easier defensibility, greater likelihood of long-term viability, and the lesser costs to be incurred by the department in operating and maintaining the parcel.

Comment. Section 55735 continues former Fish and Game Code Section 2722 without substantive change.

§ 55740. Limitations on use of funds

55740. (a) Of the total amount available pursuant to subdivision (a) of Section 55725, not more than five million dollars (\$5,000,000) may be encumbered for any single acquisition project. In enacting this limitation, the people of California recognize that there are a number of important projects meeting the criteria of this title but whose acquisition cost would most likely exceed this limitation. Therefore, in these instances any acquisition cost in excess of this limitation may be met by a donation by the owner, donations of funds from private sources, or other funds from state or nonstate sources.

(b) The qualification for or allocation of a grant or grants to a local agency under Section 55725 shall not preclude eligibility for an additional allocation of grant funds to the same local agency pursuant to Section 55725 of this code or Section 5907 of the Public Resources Code.

Comment. Section 55740 continues former Fish and Game Code Section 2723 without substantive change.

§ 55745. Priorities

55745. (a) In choosing among two or more parcels of land to be acquired, enhanced, restored, or protected with funds available pursuant to subdivision (b) or (c) of Section 55725, preference shall be given to acquiring, enhancing, restoring, or protecting the parcel that will result in the least cost to the department for operating and maintaining the land.

(b) Funds available pursuant to subdivisions (b) and (c) of Section 55725 may be encumbered only for lands that constitute habitat that is subject to destruction, drastic modification, or significant curtailment of habitat values.

Comment. Section 55745 continues former Fish and Game Code Section 2724 without substantive change.

1 **§ 55750. Limitation on use of funds**

2 55750. No funds available pursuant to this title shall be encumbered for any
3 lands that, due to their degraded character, will not sustain plants or wildlife or
4 will not afford protection to a natural community on a long-term basis.

5 **Comment.** Section 55750 continues former Fish and Game Code Section 2725 without
6 substantive change.

7 **§ 55755. Further limitation on use of funds**

8 55755. With respect to any lands that may be acquired, enhanced, restored, or
9 protected with funds under this title and that could also be eligible for funds under
10 Title 3 (commencing with Section 55500), funds under this title shall not be
11 encumbered for those lands until it is determined by the Wildlife Conservation
12 Board that funds are not likely to be available for those lands under Title 3
13 (commencing with Section 55500).

14 **Comment.** Section 55755 continues former Fish and Game Code Section 2726 without
15 substantive change.

16 **§ 55760. Additional limitation on use of funds**

17 55760. No funds available for appropriation under this title may be encumbered
18 for any purpose described in Section 54860.

19 **Comment.** Section 55760 continues former Fish and Game Code Section 2727 without
20 substantive change.

21 **§ 55765. Administrative costs of Wildlife Conservation Board**

22 55765. An annual amount, not to exceed three hundred fifty thousand dollars
23 (\$350,000) may be appropriated from the fund in the 1988–89 through 1998–99
24 fiscal years, in an amount to be determined in each annual appropriation, to the
25 Wildlife Conservation Board for expenditure for costs incurred by the board and
26 the department in administering this title, including, but not limited to,
27 preacquisition studies, planning, appraisals, surveys, and closing costs. The
28 Wildlife Conservation Board and the department may augment, as needed, any
29 amount thus appropriated with any funds appropriated to it from any other source.

30 **Comment.** Section 55765 continues former Fish and Game Code Section 2728 without
31 substantive change.

32 **§ 55770. Staffing**

33 55770. (a) For the purpose of administering this title, the Wildlife Conservation
34 Board and the department shall augment its existing staff, whenever possible, by
35 contracting for those services necessary for the administration of this title. Any
36 contract shall, however, be entered into only pursuant to Sections 19130 to 19132,
37 inclusive, of the Government Code and shall be only for the minimum period
38 necessary for completion of the particular project or projects for which the
39 contract was entered into.

(b) Due to the limited duration of the program authorized by this title, in the event some services cannot be provided by contract, any personnel directly hired by the Wildlife Conservation Board for the administration of this title shall be hired, to the extent permitted by Article 2 (commencing with Section 19080) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, as limited-term appointments.

Comment. Section 55770 continues former Fish and Game Code Section 2729 without substantive change.

TITLE 5. CALIFORNIA WILDLIFE PROTECTION ACT OF 1990

Note. The California Wildlife Protection Act of 1990 (existing Sections 2780-2799.6) was added by Proposition 117 (1990). The Commission has generally adopted a very deferential approach to the recodification of provisions added by initiative. Consistent with that approach, the Commission has made very minimal changes to the language of this part, mostly relating to section numbering.

The Commission believes that the nonsubstantive continuation of those provisions in the proposed law would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 20-22 and associated text.

CHAPTER 1. GENERAL PROVISIONS

§ 55800. Findings and declarations

55800. The people of California find and declare all of the following:

(a) Protection, enhancement, and restoration of wildlife habitat and fisheries are vital to maintaining the quality of life in California. As the state's human population increases, there is an urgent need to protect the rapidly disappearing wildlife habitats that support California's unique and varied wildlife resources.

(b) Much of the state's most important deer winter ranges have been destroyed in the last 20 years.

(c) Critical winter ranges of migratory deer in the Sierra Nevada and Cascade mountain ranges are increasingly subject to incompatible land uses. In some counties, over 80 percent of the critical winter ranges fall on these lands. The potential for incompatible land uses on these lands is a major threat to the survival of many migratory deer herds.

(d) Deer, mountain lion, and other wildlife habitat within the Sierra Nevada, Cascade, Coast Range (including the Santa Lucia Mountains in Monterey County along the Central Coast), Siskiyou and Klamath Mountains; and the Santa Susana, Simi Hills, Santa Monica, San Gabriel, San Bernardino, San Jacinto, Santa Ana and other mountains and foothill areas within southern California, is disappearing rapidly. Small and often isolated wildlife populations are forced to depend upon these shrinking habitat areas within the heavily urbanizing areas of this state.

1 Corridors of natural habitat must be preserved to maintain the genetic integrity of
2 California's wildlife.

3 (e) This title shall be implemented in the most expeditious manner. All state
4 officials shall implement this title to the fullest extent of their authority in order to
5 preserve, maintain, and enhance California's diverse wildlife heritage and the
6 habitats upon which it depends.

7 **Comment.** Section 55800 continues former Fish and Game Code Section 2780 without
8 substantive change.

9 **§ 55805. Further findings and declarations**

10 55805. (a) The people of California find and declare that wildlife and fisheries
11 conservation is in the public interest and that it is necessary to keep certain lands
12 in open space and natural condition to protect significant environmental values of
13 wildlife and native plant habitat, riparian and wetland areas, native oak woodlands,
14 and other open-space lands, and to provide opportunities for the people of
15 California to appreciate and visit natural environments and enjoy California's
16 unique and varied fish and wildlife resources.

17 (b) It is the intent of the people, in enacting this title, that additional funds are
18 needed to protect fish, wildlife, and native plant resources and that the Legislature
19 should provide those funds through bond acts and other appropriate sources.

20 **Comment.** Section 55805 continues former Fish and Game Code Section 2781 without
21 substantive change.

22 **CHAPTER 2. CALIFORNIA WILDLIFE PROTECTION**

23 **§ 55825. Definitions**

24 55825. The following definitions govern the construction of this title:

25 (a) "Acquisition" includes but is not limited to, gifts, purchases, leases,
26 easements, the exercise of eminent domain if expressly authorized, the transfer or
27 exchange of property for other property of like value, transfers of development
28 rights or credits, and purchases of development rights and other interests.

29 (b) "Board" means the Wildlife Conservation Board.

30 (c) "Fund" means the Habitat Conservation Fund created by Section 55830.

31 (d) "Local agency" means a city, county, city and county, or a district as defined
32 in subdivision (b) of Section 5902 of the Public Resources Code.

33 (e) "Riparian habitat" means lands that contain habitat that grows close to and
34 which depends upon soil moisture from a nearby freshwater source.

35 (f) "Southern California" means the Counties of Imperial, Los Angeles, Orange,
36 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

37 (g) "Wetlands" means lands that may be covered periodically or permanently
38 with shallow water and that include saltwater marshes, freshwater marshes, open
39 or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

Comment. Section 55825 continues former Fish and Game Code Section 2785 without substantive change.

§ 55830. Habitat Conservation Fund

55830. Except as otherwise expressly provided in paragraph (3) of subdivision (a) of Section 55835, the money in the Habitat Conservation Fund, which is hereby created, shall be used for the following purposes:

(a) The acquisition of habitat, including native oak woodlands, necessary to protect deer and mountain lions.

(b) The acquisition of habitat to protect rare, endangered, threatened, or fully protected species.

(c) The acquisition of habitat to further implement the Habitat Conservation Program pursuant to Chapter 2 (commencing with Section 55725) of Title 4, excepting Section 55735 and subdivision (a) of Section 55740, and Sections 55745 and 55770.

(d) The acquisition, enhancement, or restoration of wetlands.

(e) The acquisition, restoration, or enhancement of aquatic habitat for spawning and rearing of anadromous salmonids and trout resources.

(f) The acquisition, restoration, or enhancement of riparian habitat.

Comment. Section 55830 continues former Fish and Game Code Section 2786 without substantive change.

Note. Existing Section 2786(c) contains an erroneous cross-reference to “Article 2 (commencing with Section 2721).” The reference is erroneous in two ways: (1) The referenced article begins with Section 2720, not Section 2721. (2) The reference is incomplete. It should continue with the words “of Chapter 7.5.” Proposed Section 55830 would correct those errors. **The Commission invites comment on whether those corrections would cause any problems.**

§ 55835. Continuous appropriations

55835. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, as follows:

(a) To the Department of Parks and Recreation, four million five hundred thousand dollars (\$4,500,000) annually for allocation as follows:

(1) One million five hundred thousand dollars (\$1,500,000) for projects that are located in the Santa Lucia Mountain Range in Monterey County for expenditure by the Department of Parks and Recreation and for grants to the Monterey Peninsula Regional Park District.

(2) One million dollars (\$1,000,000) for acquisitions in, and adjacent to, units of the state park system.

(3) Two million dollars (\$2,000,000) for 50 percent matching grants to local agencies for projects meeting the purposes specified in Section 55830 and, additionally, for the acquisition of wildlife corridors and urban trails, nature interpretation programs, and other programs that bring urban residents into park and wildlife areas. The grants made pursuant to this subdivision are subject to the

1 conditions of subdivision (d) of Section 5910, and Sections 5917 and 5919, of the
2 Public Resources Code, as nearly as may be practicable.

3 (b) To the State Coastal Conservancy, four million dollars (\$4,000,000)
4 annually.

5 (c) To the Santa Monica Mountains Conservancy, five million dollars
6 (\$5,000,000) annually for the next 10 fiscal years, commencing with the 1990–91
7 fiscal year. The money shall be used for the purposes specified in Section 55830
8 for wildlife habitat, and for related open-space projects, within the Santa Monica
9 Mountains Zone, the Rim of the Valley Corridor, and the Santa Clarita
10 Woodlands. Of the total amount appropriated pursuant to this subdivision, not less
11 than a total of ten million dollars (\$10,000,000) shall be spent within the Santa
12 Susana Mountains and the Simi Hills, and not less than a total of ten million
13 dollars (\$10,000,000) shall be spent within the Santa Clarita Woodlands. These
14 funds shall be expended in accordance with Division 23 (commencing with
15 Section 33000) of the Public Resources Code during the operative period of this
16 section as specified in subdivision (f) and in Section 55885. The Legislature may,
17 by statute, extend the period for expenditure of the funds provided by this
18 paragraph.

19 (d) To the California Tahoe Conservancy, five hundred thousand dollars
20 (\$500,000) annually.

21 (e) To the board, the balance of the fund.

22 (f) This section shall become operative on July 1, 1990, and, as of July 1, 2020,
23 is repealed, unless a later enacted statute, which becomes effective on or before
24 July 1, 2020, deletes or extends that date.

25 **Comment.** Section 55835 continues former Fish and Game Code Section 2787 without
26 substantive change.

27 **§ 55840. Continuous appropriations (contingent operation)**

28 55840. (a) Notwithstanding Section 13340 of the Government Code, the money
29 in the fund is continuously appropriated, without regard to fiscal years, to the
30 board.

31 (b) This section shall become operative only if, and on the date that, Section
32 55835 is repealed.

33 **Comment.** Section 55840 continues former Fish and Game Code Section 2788 without
34 substantive change.

35 **§ 55845. Priorities**

36 55845. In areas where habitats are or may become isolated or fragmented,
37 preference shall be given by the agencies expending money from the fund to
38 projects that will serve as corridors linking otherwise separated habitat so that the
39 genetic integrity of wildlife populations will be maintained.

40 **Comment.** Section 55845 continues former Fish and Game Code Section 2789 without
41 substantive change.

1 **§ 55850. Expenditure reporting**

2 55850. Each agency receiving money from the fund pursuant to Section 55835
3 shall report to the board on or before July 1 of each year the amount of money that
4 was expended and the purposes for which the money was expended. The board
5 shall prescribe the information in the agencies reports that it determines is
6 necessary to carry out the requirements of Section 55855.

7 **Comment.** Section 55850 continues former Fish and Game Code Section 2790 without
8 substantive change.

9 **§ 55855. Expenditure conditions**

10 55855. The board shall expend the money appropriated to it from the fund
11 subject to the following conditions:

12 (a) Not more than one and one-half (1½) percent shall be expended for
13 administration of this title.

14 (b) The board shall, to the extent practicable, expend the money in a manner and
15 for projects so that, within each 24-month period, approximately one-third of the
16 total expenditures of the money in the fund, including, until July 1, 2020, the
17 expenditures by the agencies receiving money from the fund pursuant to
18 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes
19 specified in subdivision (a) of Section 55830 and approximately two-thirds of the
20 total expenditures of the money in the fund, including, until July 1, 2020, the
21 expenditures by the agencies receiving money from the fund pursuant to
22 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes
23 specified in subdivisions (b) and (c) of Section 55830.

24 (c) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and
25 (c) of Section 55830, the board shall, to the extent practicable, expend the money
26 in the fund in a manner and for projects so that, within each 24-month period,
27 approximately six million dollars (\$6,000,000) of the money, including, until July
28 1, 2020, the expenditures by the agencies receiving money from the fund pursuant
29 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the
30 purposes specified in subdivision (d) of Section 55830.

31 (d) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and
32 (c) of Section 55830, the board shall, to the extent practicable, expend the money
33 in the fund in a manner and for projects so that, within each 24-month period,
34 approximately six million dollars (\$6,000,000) of the money, including, until July
35 1, 2020, the expenditures by the agencies receiving money from the fund pursuant
36 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the
37 purposes specified in subdivision (e) and (f) of Section 55830.

38 (e) To the extent practicable, the board shall expend the money appropriated to it
39 from the fund in a manner and for projects so that, within each 24-month period,
40 approximately one-half of the total expenditures of the money in the fund,
41 including, until July 1, 2020, the expenditures by the agencies receiving money
42 from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 55835, are

1 expended in northern California and approximately one-half in southern
2 California.

3 (f) Subject to the other requirements of this section, the board may allocate not
4 more than two million dollars (\$2,000,000) annually for the purposes of this title
5 to one or more state agencies created by the Legislature or the people that are
6 authorized by other provisions of law to expend funds for the purposes of this title.

7 **Comment.** Section 55855 continues former Fish and Game Code Section 2791 without
8 substantive change.

9 **§ 55860. Inability to make specified expenditures**

10 55860. If any agency designated in Section 55835 ceases to exist, or is otherwise
11 unable to expend the funds appropriated by Section 55835 to that agency for the
12 period specified, the board or its successor agency shall expend the same funds for
13 the same purpose.

14 **Comment.** Section 55860 continues former Fish and Game Code Section 2792 without
15 substantive change.

16 **§ 55865. Use of conservation corps**

17 55865. The board and any other state or local agency that expends any funds
18 appropriated from the fund on environmental enhancement, restoration, or
19 improvement projects shall utilize the services of the California Conservation
20 Corps and local community conservation corps to the extent practicable.

21 **Comment.** Section 55865 continues former Fish and Game Code Section 2793 without
22 substantive change.

23 **§ 55870. Management plan**

24 55870. In implementing this title, the state or local agency that manages lands
25 acquired with funds appropriated from the fund shall prepare, with full public
26 participation, a management plan for lands that have been acquired, which plan
27 shall reasonably reduce possible conflicts with neighboring land use and
28 landowners, including agriculturists. The plans shall comply with the California
29 Environmental Quality Act (Division 21 (commencing with Section 21000) of the
30 Public Resources Code).

31 **Comment.** Section 55870 continues former Fish and Game Code Section 2794 without
32 substantive change.

33 **§ 55875. Unallocated Account in the Cigarette and Tobacco Products Surtax Fund**

34 55875. (a) The Controller shall annually transfer 10 percent of the funds in the
35 Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the
36 Habitat Conservation Fund.

37 (b) No additional allocation of funds from that account shall be made by the
38 Legislature for purposes of this title or for any other natural resource or
39 environmental protection program.

1 **Comment.** Section 55875 continues former Fish and Game Code Section 2795 without
2 substantive change.

3 **§ 55880. Fund transfers**

4 55880. (a) The Controller shall annually transfer the sum of thirty million
5 dollars (\$30,000,000) from the General Fund to the Habitat Conservation Fund,
6 less any amount transferred to the Habitat Conservation Fund from, but not limited
7 to, the following accounts and funds:

8 (1) The Public Resources Account in the Cigarette and Tobacco Products Surtax
9 Fund to the extent authorized by the Tobacco Tax and Health Protection Act of
10 1988.

11 (2) The Unallocated Account in the Cigarette and Tobacco Products Surtax
12 Fund pursuant to subdivision (a) of Section 55875.

13 (3) The California Environmental License Plate Fund.

14 (4) The Endangered and Rare Fish, Wildlife, and Plant Species Conservation
15 and Enhancement Account in the Fish and Game Preservation Fund.

16 (5) Any other non-General Fund accounts and funds created by the Legislature
17 or the people for purposes that are consistent with the purposes of this act.

18 (6) Any bond funds that are authorized by the people after July 1, 1990, which
19 may be used for purposes that are identical to the purposes specified in Section
20 55830.

21 (7) The Wildlife Restoration Fund.

22 (b) Except for transfers from the Endangered and Rare Fish, Wildlife, and Plant
23 Species Conservation and Enhancement Account, transfers from the Fish and
24 Game Preservation Fund are not transfers for purposes of subdivision (a) and shall
25 not be made to the fund. Transfers of federal, local, or privately donated funds or
26 transfers from the State Coastal Conservancy Fund pursuant to Section 31011 of
27 the Public Resources Code to the fund are not transfers for purposes of subdivision
28 (a).

29 (c) This section does not limit the amount of funds that may be transferred to the
30 fund or that may be expended for fish and wildlife habitat protection either from
31 the fund or from any other sources.

32 (d) This section shall become operative on July 1, 1990, shall become
33 inoperative on June 30, 2020, and, as of January 1, 2021, is repealed, unless a later
34 enacted statute, which becomes effective before January 1, 2021, deletes or
35 extends the dates on which it becomes inoperative and is repealed.

36 **Comment.** Section 55880 continues former Fish and Game Code Section 2796 without
37 substantive change.

38 **§ 55885. Effect of specified provisions**

39 55885. (a) The people find it necessary to acquire, restore, and improve the
40 rapidly disappearing wildlife habitat of southern California in the quickest and
41 most efficient manner possible using existing governmental resources. Therefore,

notwithstanding Section 33216 of the Public Resources Code, Division 23 (commencing with Section 33000) of the Public Resources Code shall continue in effect for the period that funds may be expended pursuant to subdivision (c) of Section 55835.

This subdivision shall not become operative if, prior to June 6, 1990, Section 33216 of the Public Resources Code has been amended to extend the operative effect of that Division 23 to at least July 1, 1995.

(b) If subdivision (a) of this section does not become operative, the controller shall increase the annual transfer of funds pursuant to subdivision (c) of Section 55835 on a pro rata basis so that the total amount available to the Santa Monica Mountains Conservancy for purposes of this title pursuant to that subdivision (c) is fifty million dollars (\$50,000,000). Nothing in this section precludes the Legislature from extending the time for expenditure of funds pursuant to subdivision (c) of Section 55835.

Comment. Section 55885 continues former Fish and Game Code Section 2797 without substantive change.

Note. The second paragraph of existing Section 2797(a) establishes an operation contingency based on whether “prior to June 6, 1990, Section 33216 of the Public Resources Code has been amended to extend the operative effect of that Division 23 to at least July 1, 1995.” That contingency appears to have been satisfied. In 1990, Section 33216 was amended to extend the specified sunset date to July 1, 1995. See 1990 Cal. Stat. ch. 216, § 95. Despite the apparent obsolescence of the operation contingency provision, it has been continued in proposed Section 55885. This avoids any possibility of deleting substantive language that was added by citizen initiative. Section 2797(b) also appears to be obsolete, but is retained for the same reason. **The Commission invites comment on whether this approach would cause any problems.**

§ 55890. Land acquisition law

55890. Acquisitions of real property made pursuant to this title shall be done in compliance with the land acquisition law as existing or as hereafter amended and as it applies to the agencies designated in Section 55835, and in compliance with subdivision (a) of Section 5929 of the Public Resources Code.

Comment. Section 55890 continues former Fish and Game Code Section 2798 without substantive change.

§ 55895. Application of CEQA

55895. Every expenditure made pursuant to this title shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

Comment. Section 55895 continues former Fish and Game Code Section 2799 without substantive change.

§ 55900. Public access to acquired lands

55900. Reasonable public access to lands acquired in fee with funds made available pursuant to this title shall be provided except when that access may interfere with habitat protection.

1 **Comment.** Section 55900 continues former Fish and Game Code Section 2799.5 without
2 substantive change.

3 **§ 55905. Reappropriation of transferred funds**

4 55905. Only those amounts of money that are transferred to the fund from the
5 General Fund pursuant to Section 55880 may be reappropriated for purposes of
6 this title by a two-thirds vote of the Legislature.

7 **Comment.** Section 55905 continues former Fish and Game Code Section 2799.6 without
8 substantive change.

9 **TITLE 6. NATIVE SPECIES CONSERVATION**
10 **AND ENHANCEMENT**

11 **CHAPTER 1. GENERAL PROVISIONS**

12 **§ 56000. Short title**

13 56000. This title shall be known and may be cited as the Native Species
14 Conservation and Enhancement Act.

15 **Comment.** Section 56000 continues former Fish and Game Code Section 1750 without
16 substantive change.

17 **§ 56005. Findings and declarations**

18 56005. The Legislature finds and declares all of the following:

19 (a) That it is the policy of this state:

20 (1) To maintain sufficient populations of all species of wildlife and native plants
21 and the habitat necessary to insure their continued existence at the optimum levels
22 possible to insure the policies stated in paragraphs (2), (3), and (4).

23 (2) To provide for the beneficial use and enjoyment of wildlife and native plants
24 by all citizens of the state.

25 (3) To perpetuate native plants and all species of wildlife for their intrinsic and
26 ecological values, as well as for their direct benefits to humans.

27 (4) To provide for aesthetic, educational, and nonappropriative uses of the
28 various wildlife and native plant species.

29 (b) That the conservation and enhancement of wildlife species that are not the
30 object of hunting and native plant species is in the general public interest and it is
31 appropriate that the cost of programs to achieve that conservation and
32 enhancement, including the biological and botanical research necessary thereto,
33 and the diffusion of the information resulting therefrom to the public, be borne to
34 the extent necessary by general public funds.

35 **Comment.** Section 56005 continues former Fish and Game Code Section 1755 without
36 substantive change.

1 **§ 56010. General policy**

2 56010. (a) The policy set forth in this title is in the public interest without regard
3 to the economic value or the lack of economic value of wildlife or native plants.

4 (b) It is the policy of the state to require the recreational users of the state's
5 wildlife resources to support the management of lands managed by the department
6 and the management of wildlife consistent with Section 3465.

7 **Comment.** Section 56010 continues former Fish and Game Code Section 1756 without
8 substantive change.

9 CHAPTER 2. WILDLIFE AREAS

10 **§ 56025. Comment by licensed hunters**

11 56025. (a) The department shall annually provide an opportunity for licensed
12 hunters to comment and make recommendations on the public hunting programs,
13 including anticipated habitat conditions in the hunting areas on Type A and Type
14 B Wildlife Areas, as defined under the commission's regulations, through public
15 meetings or other public outreach.

16 (b) In complying with this section, the department may hold regional meetings
17 on its hunting programs for several different wildlife areas.

18 **Comment.** Section 56025 continues former Fish and Game Code Section 1758 without
19 substantive change.

20 **§ 56030. Areas requiring wildlife area pass or license**

21 56030. (a) The director shall designate those particular areas of land managed by
22 the department at which possession of a valid annual wildlife pass or day use pass
23 shall be required.

24 (b) No designation shall be effective until a management plan for the area has
25 been presented at a public meeting and the plan has been approved by the director.

26 (c) No person shall enter the designated area unless that person possesses an
27 annual wildlife area pass or a day use pass issued pursuant to Section 56080, a
28 valid hunting license issued pursuant to Section 10210, a valid trapping license
29 issued pursuant to Section 11215, or a valid sport fishing license issued pursuant
30 to Section 13100, 13150, or Sections 13200 through 13215, inclusive, or that
31 person is a member of a tour by an organized youth or school group that has been
32 issued a day use pass.

33 (d) Notwithstanding subdivision (b), possession of a license or pass shall not be
34 required of any person who:

35 (1) Is passing through the area on a public right-of-way.

36 (2) Possesses authorization by the commission or the department to conduct
37 scientific or educational research.

38 (3) Is discharging duties in the course of employment, as specified by the
39 department.

1 (4) Possesses written authorization from the department to enter the area for a
2 specific purpose.

3 **Comment.** Section 56030 continues former Fish and Game Code Section 1764 without
4 substantive change.

5 See also Section 6050 (enforcement).

6 CHAPTER 3. NATIVE SPECIES CONSERVATION AND ENHANCEMENT
7 ACCOUNT

8 **§ 56050. Creation of account**

9 56050. The department shall maintain within the Fish and Game Preservation
10 Fund a Native Species Conservation and Enhancement Account, which is hereby
11 created, to permit separate accountability for the receipt and expenditure of
12 moneys derived through donation from persons or organizations for the support of
13 nongame and native plant species conservation and enhancement programs.

14 **Comment.** Section 56050 continues former Fish and Game Code Section 1760 without
15 substantive change.

16 **§ 56055. Deposit of funds**

17 56055. Whenever the department receives funds from persons or organizations
18 for the support of nongame and native plant species conservation and
19 enhancement programs, those funds shall be deposited in the Fish and Game
20 Preservation Fund and credited to the Native Species Conservation and
21 Enhancement Account.

22 **Comment.** Section 56055 continues former Fish and Game Code Section 1761 without
23 substantive change.

24 **§ 56060. Donor appreciation**

25 56060. (a) The department shall provide each person or organization making a
26 contribution of five dollars (\$5) or more for the support of nongame and native
27 plant species conservation and enhancement programs a suitably prepared
28 certificate, decal, medallion, or other object of public appreciation signifying the
29 interest of the person or organization in the conservation and enhancement of
30 native plant and wildlife species.

31 (b) The commission shall approve the form, nature, and content of any
32 certificate, decal, medallion or other object proposed for use by the department
33 pursuant to this section.

34 **Comment.** Section 56060 continues former Fish and Game Code Section 1762 without
35 substantive change.

36 **§ 56065. Encouraging donations**

37 56065. (a) The department may take all appropriate measures to encourage
38 donations by individuals, organizations, and public agencies to the Native Species
39 Conservation and Enhancement Account, including, but not limited to, public

1 information concerning the status of native plant and wildlife species threatened
2 by the activities of man.

3 (b) The cost to the department to carry out the provisions of this section may be
4 charged to the Native Species Conservation and Enhancement Account.

5 **Comment.** Section 56065 continues former Fish and Game Code Section 1763 without
6 substantive change.

7 **§ 56070. Deposit of fee revenue**

8 56070. (a) The revenues from fees and sales under this chapter and Section 3210
9 shall be deposited in the Native Species Conservation and Enhancement Account
10 in the Fish and Game Preservation Fund, and shall be available for appropriation
11 for expenditure in the 1988–89 and subsequent fiscal years in the following order
12 of priority:

13 (1) Repayment of any loan to the account from the Fish and Game Preservation
14 Fund. The amounts repaid annually shall be prorated to complete the repayment
15 with interest on or before July 1, 1993. Interest shall be calculated at the rate
16 earned by the Surplus Money Investment Fund from the date funds for the loan
17 were advanced to the date of repayment.

18 (2) The costs of ongoing wildlife management programs incurred at any lands
19 managed by the department alone or cooperatively with other governmental
20 agencies, irrespective of their designation pursuant to Section 56030, that are not
21 adequately funded under Section 58000 or 58010.

22 (3) The costs of natural history education and recreational programs and
23 improvements at areas designated pursuant to Section 56030.

24 (4) Augmentation of wildlife management programs and acquisition of
25 additional lands at areas designated pursuant to Section 56030.

26 (b) Revenues from fees and sales under this chapter and Section 3210 shall be
27 used to augment and not to replace money appropriated from existing funds
28 available to the department for the purposes specified in subdivision (a).

29 **Comment.** Section 56070 continues former Fish and Game Code Section 1767.5 without
30 substantive change.

31 **§ 56075. Legislative finding and declaration**

32 56075. The Legislature finds and declares that the revenues from fees and sales
33 under this chapter are related to the protection and propagation of fish and game
34 within the meaning of Section 9 of Article XVI of the California Constitution.

35 **Comment.** Section 56075 continues former Fish and Game Code Section 1768 without
36 substantive change.

37 **§ 56080. Wildlife area pass**

38 56080. (a) The department may issue an annual wildlife area pass or a day use
39 pass that authorizes the bearer to enter and use facilities and programs on the

1 department managed lands subject to Section 56030 for the period of a calendar
2 year or, if issued after the beginning of the year, for the remainder thereof.

3 (b) The fee for the annual wildlife area pass is ten dollars (\$10). The fee for the
4 day use pass is two dollars (\$2).

5 (c) The fees shall be adjusted in the calendar years following 1989 in accordance
6 with Section 3755.

7 (d) The following persons are exempt from the payment of fees under this
8 section for an annual wildlife area pass or a day use pass:

9 (1) A person under the age of 16 years.

10 (2) A tour by an organized youth or school group.

11 (e) Any person eligible for a reduced fee or free sportfishing license pursuant to
12 Section 13150 or Sections 13200 through 13215, inclusive, shall be issued an
13 annual wildlife area pass upon application therefor and under the same conditions
14 and for the same fee as provided in those sections.

15 (f) There shall be appropriated in the annual Budget Act from the General Fund,
16 for transfer to the Native Species Conservation and Enhancement Account, a sum
17 equal to two dollars (\$2) for each free annual wildlife area pass issued pursuant to
18 subdivision (e) during the preceding calendar year.

19 **Comment.** Section 56080 continues former Fish and Game Code Section 1765 without
20 substantive change.

21 **§ 56085. Native species stamp**

22 56085. The department may also offer for sale a native species stamp,
23 promotional materials, and nature study aids. The fee for a native species stamp is
24 seven dollars and fifty cents (\$7.50), as adjusted in the calendar years following
25 1989 in accordance with Section 3755.

26 **Comment.** Section 56085 continues former Fish and Game Code Section 1766 without
27 substantive change.

28 **§ 56090. Promotional activity**

29 56090. (a) The department may take all appropriate measures to encourage
30 persons to obtain annual wildlife area passes and day use passes issued pursuant to
31 Section 56080, and to promote the sale of native species stamps, promotional
32 materials, and nature study aids to provide revenue for the support of the
33 department.

34 (b) The measures may include, but are not limited to, the dissemination of public
35 information concerning the status of wildlife, fish, and plant species, conservation
36 activities of the department, and programs and facilities provided by the
37 department for the enjoyment of the lands managed by the department.

38 **Comment.** Section 56090 continues former Fish and Game Code Section 1769 without
39 substantive change.

CHAPTER 4. ENDANGERED AND RARE FISH, WILDLIFE, AND PLANT
SPECIES CONSERVATION AND ENHANCEMENT ACCOUNT

§ 56100. Creation of account

56100. The department shall maintain within the Fish and Game Preservation Fund an Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account which is hereby created.

Comment. Section 56100 continues former Fish and Game Code Section 1770 without substantive change.

§ 56105. Deposit of funds

56105. (a) Whenever the department receives funds from the Treasurer under Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code for the support of this chapter, the funds shall be deposited in the Fish and Game Preservation Fund and credited to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account.

(b) These funds are for the support of programs for endangered and rare animals and native plant species as determined by the commission, related conservation and enhancement programs, and programs for those species that may be candidates for determination as endangered or rare under the criteria developed by the commission.

(c) The administrative overhead assessment on that portion of funds deposited in the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account expended through contracts shall not exceed 15 percent.

Comment. Section 56105 continues former Fish and Game Code Section 1771 without substantive change.

Note. Existing Section 1771 refers to “Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2.” There is no such article, chapter, or section. **The Commission invites comment on how to correct this erroneous cross-reference.**

§ 56110. Encouraging donations

56110. (a) The department may take all appropriate measures to encourage donations to this account through the tax return checkoff system provided for in Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code.

(b) The department may also disseminate information to the public concerning the status of endangered and rare species. The cost to the department to carry out the provisions of this section may be charged to this account.

Comment. Section 56110 continues former Fish and Game Code Section 1772 without substantive change.

Note. Existing Section 1772 refers to “Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2.” There is no such article, chapter, or section. **The Commission invites comment on how to correct this erroneous cross-reference.**

CHAPTER 5. NATIVE CALIFORNIA WILDLIFE REHABILITATION

VOLUNTARY TAX CONTRIBUTION FUND

§ 56150. Maintenance of fund

56150. The department shall maintain the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund established pursuant to Section 18749.1 of the Revenue and Taxation Code.

Comment. Section 56150 continues former Fish and Game Code Section 1773 without substantive change.

§ 56155. Competitive grant program

56155. (a) The funds deposited in the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund pursuant to Article 5.2 (commencing with Section 18749) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code are for the support of a competitive grant program to be established by the department for the purposes of the recovery and rehabilitation of injured, sick, or orphaned wildlife, and conservation education.

(b) A maximum of 5 percent of the funds allocated to the department may be used to defray the administrative expenses associated with administering the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.

Comment. Section 56155 continues former Fish and Game Code Section 1773.1 without substantive change.

§ 56160. Grant requirements

56160. To be eligible for grant funding from the competitive grant program established pursuant to Section 56155, an applicant shall meet all of the following criteria:

(a) The applicant shall provide proof that it is a nonprofit organization that operates a wildlife rehabilitation facility permitted pursuant to Section 679 of Title 14 of the California Code of Regulations.

(b) The applicant shall be in compliance with all conditions of its Wildlife Rehabilitation Memorandum of Understanding.

(c) The applicant shall maintain active participation in the wildlife rehabilitation medical database.

Comment. Section 56160 continues former Fish and Game Code Section 1773.2 without substantive change.

1 TITLE 7. SHARED HABITAT ALLIANCE FOR
2 RECREATIONAL ENHANCEMENT PROGRAM

3 CHAPTER 1. GENERAL PROVISIONS

4 § 56200. Legislative intent

5 56200. (a) In establishing the Shared Habitat Alliance for Recreational
6 Enhancement (“SHARE”) program, it is the intent of the Legislature to encourage
7 private landowners to voluntarily make their land available to the public for
8 wildlife-dependent recreational activities.

9 (b) The Legislature further encourages private landowners to use any funds
10 received from the SHARE program for wildlife conservation purposes on their
11 property.

12 (c) The SHARE program shall be a collaborative effort by all participants to
13 facilitate wildlife-dependent recreational activities on private land at minimal
14 expense to the state.

15 (d) The Legislature declares that interested nongovernmental organizations are
16 the key to developing, planning, and implementing the SHARE program.

17 **Comment.** Section 56200 continues former Fish and Game Code Section 1570 without
18 substantive change.

19 § 56205. Definitions

20 56205. For purposes of this title, the following definitions apply:

21 (a) “Agreement” includes, but is not limited to, a contract, license, easement,
22 memorandum of understanding, or lease.

23 (b) “Partnership” means a collaborative effort involving financial or in-kind
24 contributions by nongovernmental organizations, the department, and other
25 interested parties working in concert to achieve the goals of the program.

26 (c) “Private landowner” means an owner of any possessory interest in real
27 property that is suitable for use for wildlife-dependent recreational activities.

28 (d) “Program” means the SHARE program established under this title.

29 (e) “Wildlife-dependent recreational activities” means hunting, fishing, wildlife
30 observation, conservation education, and related outdoor activities through means
31 that are consistent with applicable law.

32 **Comment.** Section 56205 continues former Fish and Game Code Section 1571 without
33 substantive change.

34 CHAPTER 2. PROGRAM ADMINISTRATION

35 § 56225. Program established

36 56225. There is hereby established the Shared Habitat Alliance for Recreational
37 Enhancement (SHARE) program.

1 **Comment.** Section 56225 continues the first sentence of former Fish and Game Code Section
2 1572(a) without substantive change.

3 **§ 56230. Implementation**

4 56230. The department, in partnership with nonprofit conservation groups and
5 other interested nongovernmental organizations that seek to increase and enhance
6 wildlife-dependent recreational opportunities, shall work cooperatively to
7 implement the program in order to facilitate public access to private lands in a
8 voluntary and incentive-based manner.

9 **Comment.** Section 56230 continues the second sentence of former Fish and Game Code
10 Section 1572(a) without substantive change.

11 **§ 56235. Priorities**

12 56235. In determining which lands may be included in the program, the
13 department shall give priority to those lands with the greatest wildlife habitat
14 value. To the extent possible, the department shall also include in the program
15 private lands that permit multiple wildlife-dependent recreational activities, in
16 order to take into consideration the participation of the general public in the
17 program.

18 **Comment.** Section 56235 continues former Fish and Game Code Section 1573(g) without
19 substantive change.

20 **§ 56240. Grants and agreements**

21 56240. The department may make grants to, or enter into agreements with,
22 nonprofit organizations, governmental entities, or any other entities for the use of
23 the funds described in Section 56255 when the department finds that the
24 agreements are necessary for carrying out the purposes of this title.

25 **Comment.** Section 56240 continues former Fish and Game Code Section 1572(d) without
26 substantive change.

27 **§ 56245. Landowner agreements**

28 56245. (a) The department may enter into a voluntary agreement with a private
29 landowner, including an agreement under which the private landowner is
30 compensated by the department for public use of the land, to provide public access
31 for wildlife-dependent recreational activities. Any financial compensation offered
32 to a private landowner pursuant to this subdivision shall not exceed thirty dollars
33 (\$30) per acre, or fifty dollars (\$50) per public participant per day, and shall be
34 commensurate with the quality of the wildlife-dependent recreational opportunities
35 that are to be provided on the property.

36 (b) The department also may enter into a voluntary agreement with a private
37 landowner to facilitate access to adjacent public lands or waters, upon approval of
38 the governmental entity that holds title to the land. This title does not authorize a
39 private landowner to exclude persons not participating in the SHARE program
40 from using public land for wildlife-dependent recreational activities.

1 (c) The department may enter into a voluntary agreement with a governmental
2 entity to provide wildlife-dependent recreational opportunities to the public on
3 public lands or waters.

4 **Comment.** Section 56245 continues former Fish and Game Code Section 1573(a) without
5 substantive change.

6 **§ 56250. Limitations on agreements**

7 56250. An agreement executed pursuant to the program shall not authorize the
8 take of nongame species by public participants in the program. An agreement may
9 not authorize a private landowner to transfer a hunting or fishing license, stamp, or
10 tag to another person, unless otherwise authorized by law.

11 **Comment.** Section 56250 continues former Fish and Game Code Section 1573(f) without
12 substantive change.

13 **§ 56255. Modification or cancellation of agreement**

14 56255. Either the department or a private landowner may, in writing, modify or
15 cancel an agreement executed under the program, at any time. Upon cancellation
16 or modification of the agreement by either party, the other party shall be
17 reimbursed for any lost revenues or expenses incurred pursuant to the terms of the
18 original agreement.

19 **Comment.** Section 56255 continues former Fish and Game Code Section 1573(c) without
20 substantive change.

21 **§ 56260. Landowner protections and remedies**

22 56260. In addition to any other protection or remedy under law, the protections
23 and remedies afforded to an owner of an estate or any other interest in real
24 property under Section 846 of the Civil Code shall apply to a private landowner,
25 nonprofit organization, or other entity participating in the program.

26 **Comment.** Section 56260 continues former Fish and Game Code Section 1573(d) without
27 substantive change.

28 **§ 56265. Waiver of liability**

29 56265. The department shall require every person who wants to use land that is
30 subject to an agreement pursuant to Section 56245, prior to using that land, to sign
31 a waiver that releases the department or any private group, nonprofit organization,
32 governmental entity, or other organization involved in administering the program,
33 and the private landowner, from liability for any injury or damage that arises from,
34 or is connected with that person's use of the land. Upon request, the department
35 shall provide a copy of the waiver to any of the parties to the waiver.

36 **Comment.** Section 56265 continues former Fish and Game Code Section 1573(e) without
37 substantive change.

1 **§ 56270. Regulations**

2 56270. The department shall adopt regulations for the management and control
3 of wildlife-dependent recreational activities on land that is subject to the program.

4 **Comment.** Section 56270 continues the first sentence of former Fish and Game Code Section
5 1572(b) without substantive change.

6 **§ 56275. Enforcement of regulations**

7 56275. The department shall enforce all applicable regulations established by
8 the commission or the department on property that is subject to an agreement
9 executed under the program.

10 **Comment.** Section 56275 continues former Fish and Game Code Section 1574(b) without
11 substantive change.

12 See also Section 6054 (enforcement).

13 **§ 56280. Personal information of landowner**

14 56280. Notwithstanding any other provision of law, the department shall keep
15 confidential and not release to the public any personal identifying information
16 received from a private landowner participating in the program, unless the director
17 determines that release of that information is necessary for the administration of
18 the program.

19 **Comment.** Section 56280 continues former Fish and Game Code Section 1573(b) without
20 substantive change.

21 **§ 56285. Annual reports**

22 56285. The department shall report to the commission annually on the status of
23 the program and maintain data on the types of wildlife-dependent recreational
24 activities preferred by landowners and participants in the program.

25 **Comment.** Section 56285 continues the second sentence of former Fish and Game Code
26 Section 1572(b) without substantive change.

27 **§ 56290. Application of other law**

28 56290. The program is not subject to Part 2 (commencing with Section 10100)
29 of Division 2 of the Public Contract Code, or Article 6 (commencing with Section
30 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

31 **Comment.** Section 56290 continues former Fish and Game Code Section 1572(e) without
32 substantive change.

33 CHAPTER 3. FINANCES

34 **§ 56325. SHARE Account established**

35 56325. The SHARE Account is hereby established in the Fish and Game
36 Preservation Fund. Money deposited in the account from the sources cited in this
37 chapter shall only be used for the purposes set forth in this title.

1 **Comment.** Section 56325 continues former Fish and Game Code Section 1572(c)(1) without
2 substantive change.

3 **§ 56330. Funding**

4 56330. Consistent with existing law, the department may establish and impose
5 user fees, use existing hunting and fishing license stamp or tag fees from the Fish
6 and Game Preservation Fund, or apply for grants, federal funds, or other
7 contributions from other sources to fund the program. General Fund moneys shall
8 not be used for the program.

9 **Comment.** Section 56330 continues former Fish and Game Code Section 1572(c)(2) without
10 substantive change.

11 **§ 56335. Deposit and expenditure**

12 56335. (a) All funding generated pursuant to Section 56330 from grants, federal
13 funds, or other sources, where the person or entity providing the funds specifically
14 designates in writing prior to the time of transmittal of the funds to the department
15 that the funds are intended solely for the purposes of the program, and any user
16 fees assessed by the department specifically for the program, shall be deposited in
17 the SHARE Account in the Fish and Game Preservation Fund.

18 (b) The moneys in the SHARE account, upon appropriation by the Legislature,
19 shall be available for expenditure by the department solely for programs and
20 projects to benefit the program and for the direct costs and administrative
21 overhead incurred solely in carrying out the department's program activities.

22 (c) Funds may also be used for wildlife conservation purposes on lands subject
23 to an agreement under the program.

24 (d) Administrative overhead shall be limited to the reasonable costs associated
25 with the direct administration of the program.

26 (e) The department shall maintain internal accountability necessary to ensure
27 that all restrictions on the expenditure of these funds are met.

28 **Comment.** Section 56335 continues former Fish and Game Code Section 1572(c)(3) without
29 substantive change.

30 **§ 56340. Reimbursement of other persons and entities**

31 56340. The department may reimburse a nonprofit organization, a private
32 landowner, or other entity for its costs related to the implementation of the
33 program.

34 **Comment.** Section 56340 continues former Fish and Game Code Section 1572(f) without
35 substantive change.

1 TITLE 8. ENHANCEMENT AND MANAGEMENT
2 OF FISH AND WILDLIFE AND THEIR HABITAT
3 ON PRIVATE LANDS

4 CHAPTER 1. GENERAL PROVISIONS

5 **§ 56500. Policy**

6 56500. It is the policy of the state actively to ensure the improvement of wildlife
7 habitat on private land in order to encourage the propagation, utilization, and
8 conservation of fish and wildlife resources on those lands now and for the future in
9 cooperation with private landowners. The commission and the department may
10 develop a private wildlife habitat enhancement and management program for the
11 implementation of this title.

12 **Comment.** Section 56500 continues former Fish and Game Code Section 3400 without
13 substantive change.

14 CHAPTER 2. ESTABLISHMENT AND REGULATION

15 **§ 56525. License to operate wildlife habitat enhancement and management area**

16 56525. The commission may authorize the department to issue revocable,
17 nontransferable licenses for the operation of wildlife habitat enhancement and
18 management areas on any private lands it determines are suitable for habitat
19 enhancement, management, utilization, propagation, and conservation of fish and
20 wildlife resources of those lands.

21 **Comment.** Section 56525 continues the first sentence of former Fish and Game Code Section
22 3401(a) without substantive change.

23 See also Section 6052 (revocation for violation of code or regulation).

24 **§ 56530. License application**

25 56530. (a) A license for a wildlife habitat enhancement and management area
26 may be issued to any landholder or combination of landholders upon approval by
27 the commission of an application submitted by the landholder. As used in this title,
28 “landholder” means any person who owns, leases, or has a possessory interest in
29 land.

30 (b) Each license application shall be accompanied by a nonrefundable fee in an
31 amount established by the commission which, in conjunction with the fees
32 collected pursuant to Section 56585, is calculated to meet the department’s actual
33 costs in administering all aspects of the habitat enhancement and management
34 program. The application shall be accompanied by a wildlife habitat enhancement
35 and management plan and any other information about the proposed wildlife
36 habitat enhancement and management area that may be required by the
37 commission.

(c) An application for a license may be submitted by any number of landholders if all parcels to be included in the wildlife habitat enhancement and management area are contiguous and, in combination, are of a size suitable for the management of the species included in the wildlife habitat enhancement and management plan. The landholders shall designate one landholder who shall represent them in all dealings with the commission and the department. The designated landholder shall be responsible for the operation of the wildlife habitat enhancement and management area.

(d) A landholder who does not own the fee to the land may apply for a license pursuant to this title only if the owner signs the application.


Comment. Section 56530 continues former Fish and Game Code Section 3402 without substantive change.

§ 56535. Plan and license

56535. (a) Upon approval of the wildlife habitat enhancement and management plan, the department shall issue a license, which shall be valid for five calendar years, authorizing the taking of those species of fish, game birds, and game mammals designated in the wildlife habitat enhancement and management plan, pursuant to the plan and regulations of the commission for the operation of the wildlife habitat enhancement and management area.

(b) Regulations adopted pursuant to this section may supersede any provision of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation.

Comment. Section 56535 continues former Fish and Game Code Section 3406(a) without substantive change.

 **Note.** Existing Section 3406(a) refers to “regulations adopted pursuant to this section.” That reference to “this section” has been preserved in proposed Section 56535, even though Section 56535 would not continue the entirety of Section 3406. This appears to be appropriate, because subdivision (a) of Section 3406 is the only part of that section that seems to authorize rulemaking. **The Commission invites comment on whether the scope of the reference proposed in Section 56535 would cause any problems.**

§ 56545. Boundary posting

56545. The commission shall require the landowners of a wildlife habitat enhancement and management area to post all or part of its boundaries with public land. The commission may require the owners of a wildlife habitat enhancement and management area to post all or part of its boundaries with private land.

Comment. Section 56545 continues former Fish and Game Code Section 3403 without substantive change.

§ 56550. Review and reporting

56550. (a) The activities conducted pursuant to each wildlife habitat enhancement and management plan shall be reviewed annually by the department and reviewed by the commission at a public hearing.

1 (b) Each licensee shall annually submit information to the department about past
2 activities and the activities intended to be conducted in the succeeding year. Any
3 change to the wildlife habitat enhancement and management plan or the
4 regulations applicable to the wildlife habitat enhancement and management area
5 shall be proposed to the commission by the department or the licensee at the
6 license review hearing.

7 **Comment.** Section 56550 continues former Fish and Game Code Section 3406(c) without
8 substantive change.

9 **§ 56555. Regulations**

10 56555. The commission may adopt regulations necessary for the administration
11 of this title.

12 **Comment.** Section 56555 continues former Fish and Game Code Section 3404(a) without
13 substantive change.

14 **§ 56560. Application of other license and fee requirements**

15 56560. (a) Any landholder who has paid the fee required by this title, has a valid
16 license issued pursuant to this title, and who is conducting activities pursuant to an
17 approved wildlife habitat enhancement and management plan that could be
18 licensed or permitted pursuant to another provision of this code shall be exempt
19 from any requirement to obtain that other license or permit or to pay any other fee.

20 (b) This section shall not be construed to exempt anyone from any requirement
21 pertaining to hunting and sport fishing licenses and stamps.

22 **Comment.** Section 56560 continues former Fish and Game Code Section 3408 without
23 substantive change.

24 **CHAPTER 3. EFFECT**

25 **§ 56575. Public access**

26 56575. Any private lands affected by a habitat enhancement and management
27 plan licensed pursuant to this title shall not be available for use by the general
28 public without the consent of the landholders.

29 **Comment.** Section 56575 continues the second sentence of former Fish and Game Code
30 Section 3401(a) without substantive change.

31 **§ 56580. Public access roads**

32 56580. No public access road shall be closed to the public under this title as a
33 result of licensing a wildlife habitat enhancement and management area or
34 implementing the wildlife habitat enhancement and management plan.

35 **Comment.** Section 56580 continues the third sentence of former Fish and Game Code Section
36 3401(a) without substantive change.


1 **§ 56585. Animal taken in area**

2 56585. (a) The commission may require that any fish, bird, or mammal taken in
3 a wildlife habitat enhancement and management area licensed pursuant to this title
4 be marked for identification with a distinctive tag or seal issued by the department
5 prior to being removed from the area. A deer tag shall be countersigned by a
6 person who is authorized to countersign deer tags pursuant to Section 372 of Title
7 14 of the California Code of Regulations.

8 (b) Any fish, bird, or mammal so identified may be possessed and transported at
9 any time during the period for which the tag or seal is valid.

10 (c) The fees for tags and seals shall be established by the commission in
11 amounts which, in conjunction with fees collected pursuant to Section 56530, are
12 calculated to meet the actual costs incurred by the department in administering all
13 aspects of the habitat enhancement and management program.

14 **Comment.** Section 56585 continues former Fish and Game Code Section 3407 without
15 substantive change.

16  **Note.** Existing Section 3407 refers to “Section 372 of Title 14 of the California Code of
17 Regulations.” There is no such regulation. **The Commission invites comment on how to correct**
18 **this erroneous reference.**

19 **§ 56590. Take of deer**

20 56590. During the first year of operation of a wildlife habitat enhancement and
21 management area under a wildlife habitat enhancement and management plan and,
22 thereafter, until the operator demonstrates habitat enhancement in the area
23 acceptable to the department, no person shall take, and the plan shall not authorize
24 the taking, of deer except during the general open season and consistent with the
25 bag and possession limits for the fish and game district or the zone in which the
26 wildlife habitat enhancement and management area is located.

27 **Comment.** Section 56590 continues former Fish and Game Code Section 3406(b) without
28 substantive change.

29 **§ 56595. Hunting during the rut**

30 56595. The commission shall authorize hunting during the rut only in a wildlife
31 habitat enhancement and management area when that hunting is consistent with
32 the management plans prepared for that area or herd and does not result in an
33 overall negative effect on the deer herd population in that area.

34 **Comment.** Section 56595 continues former Fish and Game Code Section 3401(b) without
35 substantive change.

1 TITLE 9. THE CALIFORNIA WATERFOWL
2 HABITAT PROGRAM

3 § 56700. Contract for conservation of waterfowl and habitat

4 56700. (a) Subject to appropriation pursuant to Section 56740, the director may
5 enter into contracts with nonpublic entities that are owners of record, or with
6 lessees, who have the owners of record execute the contract, of land determined by
7 the director to be important for the conservation of waterfowl.

8 (b) The contract shall enforceably restrict the use of the land for the
9 conservation of waterfowl and their habitat consistent with Section 8 of Article
10 XIII of the California Constitution.

11 **Comment.** Section 56700 continues former Fish and Game Code Section 3460(a) without
12 substantive change.

13 § 56705. Contract term and contents

14 56705. Each contract shall be for an initial term of 10 years and shall include all
15 of the following:

16 (a) The designation of the owner of record and any lessee, and the legal
17 description and the assessor's parcel number of the land subject to the contract.

18 (b) An agreement by the owner and any lessee to restore, enhance, and protect
19 the waterfowl habitat character of the described land and to carry out a waterfowl
20 habitat management plan developed with the department.

21 (c) Specification of the amount and date in each year that the payment is to be
22 made by the department to the owner or lessee, which shall be calculated at the
23 rate or rates that the director determines to be fair and reasonable in consideration
24 of the obligations undertaken by the owner or lessee.

25 (d) A requirement that the owner or lessee do either of the following:

26 (1) Refund to the state all payments received under the contract plus interest at
27 the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or
28 lessee's violation of the contract, or any extension thereof, if the director
29 determines that the violation warrants termination of the contract and the director
30 terminates the contract.

31 (2) Make refunds or accept payment adjustments that the director determines are
32 appropriate, not to exceed the total amount paid by the state to the owner or lessee
33 in the preceding calendar year plus interest at the legal rate, as specified in Section
34 3289 of the Civil Code, if the director determines that the violation by the owner
35 or lessee does not warrant termination of the contract.

36 (e) A requirement that the department reduce the amount of any payment to the
37 owner or lessee under subdivision (c) by an amount equal to the portion of any
38 payment under the Federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) that
39 the department determines to be in compensation for the same obligation
40 undertaken by the owner under the water bank program.

(f) A requirement that the department monitor compliance with the management plan or contract with the United States Soil Conservation Service or other appropriate agency, entity, or person to monitor compliance with the management plan, and that the owner or lessee allows access for the monitoring.

(g) Any additional provisions that the director determines are desirable to effectuate the purposes of the program or to facilitate its administration.

Comment. Section 56705 continues former Fish and Game Code Section 3461 without substantive change.

§ 56710. Recordation of contract

56710. (a) Not later than 20 days after the director has entered into a contract pursuant to this division, a copy of the contract particularly describing the subject habitat as required by subdivision (a) of Section 56705 shall be recorded by the department in the office of the county recorder in each county in which any portion of the areas subject to the contract is located. The contract shall be indexed by the recorder in the grantor-grantee index to the name of the owner of record as grantor and to the department as grantee.

(b) Notwithstanding Section 27383 of the Government Code, the department shall pay the fees for recording and indexing the contract, and the department shall deduct the amount paid from the amounts due to the owner under the contract.

Comment. Section 56710 continues former Fish and Game Code Section 3462 without substantive change.

Note. Existing Section 3462 refers to any contract entered into by the director pursuant to “this division.” The division that contains Section 3462 addresses a broad range of subjects relating to “Birds and Mammals.” Because of the breadth of that reference, the Commission wonders if it is erroneously overbroad. In addition to the contracts authorized under the California Waterfowl Habitat Program, the following provisions of the division authorize contracting: Sections 3684, 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The Commission invites comment on whether Section 3462 should apply to all of those sections, this title only, or some other combination of sections?**

§ 56715. Renewal of contract

56715. (a) The contract shall be automatically renewed in the same manner as contracts are renewed and extended, or noticed for nonrenewal, under the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code).

(b) Upon the request of the owner or lessee, the director shall reexamine the payment rate for the contract at five-year intervals, considering the then current management costs and, with the concurrence of the owner or lessee, make any needed adjustments in rates for the remainder of the contract term.

Comment. Section 56715 continues former Fish and Game Code Section 3464 without substantive change.

1 **§ 56720. Modification of terms**

2 56720. The director and the owner or lessee may mutually agree to modify the
3 terms and conditions of a contract under this division as the director may
4 determine to be desirable to carry out the purposes of, or to facilitate
5 administration of, the program.

6 **Comment.** Section 56720 continues former Fish and Game Code Section 3466 without
7 substantive change.

8 **Note.** Existing Section 3466 refers to any contract entered into by the director pursuant to
9 “this division.” The division that contains Section 3466 addresses a broad range of subjects
10 relating to “Birds and Mammals.” Because of the breadth of that reference, the Commission
11 wonders if it is erroneously overbroad. In addition to the contracts authorized under the California
12 Waterfowl Habitat Program, the following provisions of the division authorize contracting:
13 Sections 3684, 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The Commission invites**
14 **comment on whether Section 3462 should apply to all of those sections, this title only, or**
15 **some other combination of sections?**

16 **§ 56725. Change in ownership**

17 56725. (a) If during the contract period the owner or lessee is divested of the use
18 of the waterfowl habitat subject to the contract, the owner or lessee shall notify the
19 department concurrent with that divestment. Any unearned payment shall
20 immediately be refunded by the owner or lessee to the department.

21 (b) If the owner or lessee divests himself or herself of the use of the area subject
22 to a contract by sale or otherwise, the person succeeding to that use is subject to all
23 of the terms and conditions of the contract.

24 **Comment.** Section 56725 continues former Fish and Game Code Section 3465 without
25 substantive change.

26 **§ 56730. Priorities**

27 56730. The director shall give priority to contracts that have the greatest
28 potential for restoring, enhancing, and protecting high quality waterfowl habitat,
29 especially that which is subject to destruction, drastic modification, or significant
30 curtailment of habitat values.

31 **Comment.** Section 56730 continues former Fish and Game Code Section 3460(b) without
32 substantive change.

33 **§ 56735. Application of Public Contract Code**

34 56735. Contracts entered into pursuant to Section 56700 are not subject to Part 2
35 (commencing with Section 10100) of Division 2 of the Public Contract Code.

36 **Comment.** Section 56735 continues former Fish and Game Code Section 3460(c) without
37 substantive change.

38 **§ 56740. California Waterfowl Habitat Preservation Account**

39 56740. (a) The California Waterfowl Habitat Preservation Account is hereby
40 created in the Fish and Game Preservation Fund, and the money in the account
41 shall be transferred to the Surplus Money Investment Fund for investment

1 pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Division 4
2 of Title 2 of the Government Code.

3 (b) The proceeds of the investment deposited in the account shall be available,
4 upon appropriation by the Legislature, for expenditure pursuant to this title.

5 (c) Not more than 7 percent of the money appropriated from the account for
6 expenditure in any fiscal year shall be expended in that fiscal year for
7 administrative costs of the department.

8 **Comment.** Section 56740 continues former Fish and Game Code Section 3467 without
9 substantive change.

10 TITLE 10. SALTON SEA RESTORATION

11 CHAPTER 1. GENERAL PROVISIONS

12 § 56800. Short title

13 56800. (a) This title shall be known and may be cited as the Salton Sea
14 Restoration Act.

15 (b) The state's comprehensive management plan for the Salton Sea, established
16 pursuant to the Governor's directive of May 2015, shall be known, and may be
17 cited, as the John J. Benoit Salton Sea Restoration Plan.

18 **Comment.** Section 56800 continues former Fish and Game Code Section 2930 without
19 substantive change.

20 § 56805. Legislative intent

21 56805. It is the intent of the Legislature that the State of California undertake the
22 restoration of the Salton Sea ecosystem and the permanent protection of the
23 wildlife dependent on that ecosystem.

24 **Comment.** Section 56805 continues former Fish and Game Code Section 2931(a) without
25 substantive change.

26 § 56810. Findings and declarations

27 56810. The Legislature finds and declares all of the following:

28 (a) The Salton Sea is California's largest inland water body with beneficial uses
29 that include fisheries and wildlife habitat and preservation of endangered species,
30 and is a repository for agricultural drainage.

31 (b) The Salton Sea ecosystem is a critical link on the international Pacific
32 Flyway and supports over 400 species of birds.

33 (c) The Salton Sea is threatened by increasing salinity and reduced inflows.
34 Mitigation water inflows ordered by the State Water Resources Control Board in
35 2002 will expire at the end of 2017. Combined, these changes increasingly
36 threaten the unparalleled wildlife resources at the sea, as well as air quality in the
37 region.

1 (d) In cooperation with local governments, nonprofit organizations, private
2 businesses, and the public, the State of California can help protect wildlife habitats
3 and endangered species, improve water and air quality, and enhance recreational
4 opportunities in the region.

5 (e) The State of California and the United States Department of the Interior
6 committed through a memorandum of understanding signed on August 31, 2016,
7 to protect the ecological values of the Salton Sea and to prevent dust emissions
8 from at least 25,000 acres of lakebed exposed by reduced agricultural inflows
9 resulting from the implementation of the Quantification Settlement Agreement.

10 (f) In restoring the Salton Sea, it is the intent of the Legislature to do all of the
11 following:

12 (1) Protect and provide long-term conservation of fish and wildlife that are
13 dependent on the Salton Sea ecosystem.

14 (2) Restore the long-term stable aquatic and shoreline habitat for fish and
15 wildlife that depend on the Salton Sea.

16 (3) Mitigate air quality impacts from restoration projects using the best available
17 technology or best available control measures, as determined by the South Coast
18 Air Quality Management District and the Imperial County Air Pollution Control
19 District.

20 (4) Protect water quality.

21 (5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

22 (6) Preserve local tribal heritage and cultural values associated with the Salton
23 Sea.

24 (7) Minimize noxious odors and other water and air quality problems.

25 (8) Coordinate with local, state, and federal agencies that are responsible for air
26 quality, endangered species, and other environmental mitigation implementation
27 requirements of the Quantification Settlement Agreement.

28 (9) Enhance economic development opportunities that will provide sustainable
29 financial improvements benefiting the local environment and the economic quality
30 of life for communities around the Salton Sea.

31 **Comment.** Section 56810 continues former Fish and Game Code Section 2940 without
32 substantive change.

33 **§ 56815. Definitions**

34 56815. Unless the context requires otherwise, the definitions set forth in this
35 section govern the construction of this title.

36 (a) “Agency” means the Natural Resources Agency.

37 (b) “Habitat mosaics” means two or more proximate habitat types, such as
38 saltwater shoreline abutting riverine deltas and irrigated farmland.

39 (c) “Quantification Settlement Agreement” has the same meaning as defined in
40 subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.

41 (d) “Salton Sea Authority” or “authority” means the joint powers authority
42 comprised of the County of Imperial, the County of Riverside, the Imperial

Irrigation District, the Coachella Valley Water District, and the Torres Martinez Desert Cahuilla Indian Tribe.

(e) “Secretary” means the Secretary of the Natural Resources Agency.

(f) “Vector management” means services that eliminate or reduce the risk of illness caused by any organism transporting a pathogen.

Comment. Section 56815 generalizes former Fish and Game Code Section 2941 without substantive change.

Note. Existing Section 2941 applies, by its terms, to Article 2 (commencing with Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56815 would generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The Commission invites comment on whether that change would cause any problems.**

§ 56820. Effect of article

56820. (a) Nothing in this title interferes with or prevents the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) Nothing in this title affects requirements imposed under any other provision of law.

Comment. Section 56820 generalizes former Fish and Game Code Section 2945 without substantive change.

Note. Existing Section 2945 applies, by its terms, to Article 2 (commencing with Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56820 would generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The Commission invites comment on whether that change would cause any problems.**

§ 56825. Quantification Settlement Agreement

56825. Nothing in this title shall alter any state responsibility under the Quantification Settlement Agreement or the state’s authority to carry out any responsibility under the Quantification Settlement Agreement.

Comment. Section 56825 generalizes former Fish and Game Code Section 2942(a)(2) without substantive change.

Note. Existing Section 2942 applies, by its terms, to Article 2 (commencing with Section 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56825 would generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The Commission invites comment on whether that change would cause any problems.**

CHAPTER 2. FINANCES

§ 56850. Creation and use of Salton Sea Restoration Fund

56850. (a) There is hereby established the Salton Sea Restoration Fund, which shall be administered by the director.

(b) Money deposited in the fund shall be expended, upon appropriation by the Legislature, for the following purposes:

(1) Environmental and engineering studies related to the restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea.

(2) Implementation of conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, including adaptive management measurements pursuant to Article 1 (commencing with Section 63300) of Chapter 4 of Title 3 of Division 17. These conservation measures shall be limited to the Salton Sea and lower Colorado River ecosystems, including the Colorado River Delta.

(3) Implementation of the preferred Salton Sea restoration alternative.

(4) Administrative, technical, and public outreach costs related to the development and selection of the preferred Salton Sea restoration alternative.

Comment. Section 56850 continues former Fish and Game Code Section 2932 without substantive change.

§ 56855. Funds appropriated pursuant to Water Code § 79565

56855. Of the funds appropriated pursuant to Section 79565 of the Water Code, not less than eight million five hundred thousand dollars (\$8,500,000) shall be made available for transfer or direct expenditure for acquisition, grants, or other activities that directly restore the Salton Sea and its transboundary watersheds, consistent with Section 56850.

Comment. Section 56855 continues former Fish and Game Code Section 2932.2 without substantive change.

§ 56860. Deposited funds

56860. (a) Any moneys made available by paragraph (3) of subdivision (b) of Section 75050 of the Public Resources Code and deposited in the Salton Sea Restoration Fund shall be expended, upon appropriation by the Legislature in the annual Budget Act, for a restoration project at the Salton Sea that is consistent with subdivision (b) of Section 56900.

(b)(1) The activities and expenditures authorized by this section shall be limited to funding those activities identified in the Resources Agency report entitled “Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan,” and dated May 2007, for completion in the first five years of implementation identified in the report as “Period I.”

(2) The activities specified for completion in Period I include, but are not limited to, a demonstration project, early start habitat, and additional biological, inflow, sediment quality, water quality, and air quality investigations.

(3) For purposes of carrying out these activities and expending the funds made available, the Resources Agency shall act as the lead agency and work cooperatively with designated staff from the Department of Water Resources, the State Air Resources Board, the State Water Resources Control Board, and the department.

(4) The Resources Agency shall remain the lead agency for implementation, in partnership with one or more of its departments, unless and until legislation is

1 enacted on or after January 1, 2009, establishing a new governance structure for
2 restoration of the Salton Sea.

3 (c) This section is not legislative approval or denial of the preferred alternative
4 identified in the Secretary of the Resources Agency's recommendations contained
5 in the "Salton Sea Ecosystem Restoration Program Preferred Alternative Report
6 and Funding Plan," dated May 2007 and submitted to the Legislature.

7 **Comment.** Section 56860 continues former Fish and Game Code Section 2932.3 without
8 substantive change.

9 **§ 56865. Limitation on use of funds**

10 56865. Moneys deposited in the fund created pursuant to Section 56850 shall
11 not be expended for mitigation except for mitigation undertaken by the State of
12 California.

13 **Comment.** Section 56865 continues former Fish and Game Code Section 2932.5 without
14 substantive change.

15 **CHAPTER 3. SALTON SEA RESTORATION**

16 **§ 56900. Preferred alternative**

17 56900. (a) The restoration of the Salton Sea ecosystem shall be based on the
18 preferred alternative developed as a result of the restoration study and alternative
19 selection process described in Article 1 (commencing with Section 63300) of
20 Chapter 4 of Title 3 of Division 17 and using the funds made available in
21 accordance with that section to be deposited in the Salton Sea Restoration Fund
22 and other funds made available by the Legislature and the federal government.

23 (b) The preferred alternative shall provide the maximum feasible attainment of
24 the following objectives:

25 (1) Restoration of long-term stable aquatic and shoreline habitat for the historic
26 levels and diversity of fish and wildlife that depend on the Salton Sea.

27 (2) Elimination of air quality impacts from the restoration projects.

28 (3) Protection of water quality.

29 **Comment.** Section 56900 continues former Fish and Game Code Section 2931(b)-(c) without
30 substantive change.

31 **§ 56905. Salton Sea Species Conservation Habitat Project**

32 56905. The department and the Department of Water Resources shall do all of
33 the following for the Salton Sea Species Conservation Habitat Project:

34 (a) Immediately make available relevant information relating to the factors that
35 influence the cost and size of the alternatives discussed in the environmental
36 impact report or environmental impact statement for the species habitat
37 conservation program.

38 (b) Release all available detail on a final project design immediately, or upon
39 final determination of a least environmentally damaging preferred alternative by

1 the United States Army Corps of Engineers. Details of a final project design shall
2 include location, configuration, size, and cost.

3 (c) Immediately make available project evaluation protocols that include the
4 following principles of adaptive management:

5 (1) Goals and objectives of the project.

6 (2) The project design and an operations plan.

7 (3) A monitoring plan that will include metrics that identify benefits to the
8 species.

9 (4) A performance evaluation based on species population identified through
10 monitoring.

11 (5) A decisionmaking framework to evaluate project performance and guide
12 operations and management changes.

13 **Comment.** Section 56905 continues former Fish and Game Code Section 2942(a)(3)(B)
14 without substantive change.

15 **§ 56910. Secretary responsibilities**

16 56910. The secretary, in consultation and coordination with the authority, shall
17 lead the Salton Sea restoration efforts that shall include all of the following:

18 (a) Early start habitat demonstration projects.

19 (b) Biological investigations relating to the restoration of the Salton Sea.

20 (c) Investigations of water quality, sedimentation, and inflows relating to the
21 restoration of the Salton Sea.

22 (d) Air quality investigations, in consultation and coordination with local and
23 regional air quality agencies, relating to the restoration of the Salton Sea.

24 (e) Geotechnical investigations relating to the restoration of the Salton Sea.

25 (f) Financial assistance grant programs to support restoration activities of local
26 stakeholders.

27 **Comment.** Section 56910 continues former Fish and Game Code Section 2942(a)(1) without
28 substantive change.

29 **§ 56915. Department of Water Resources restoration efforts**

30 56915. To the extent that funding is appropriated to the department for Salton
31 Sea restoration activities, the Department of Water Resources, in coordination and
32 under agreement with the department, may undertake restoration efforts identified
33 in Sections 56905 and 56910.

34 **Comment.** Section 56915 continues former Fish and Game Code Section 2942(a)(3)(A)
35 without substantive change.

36 **§ 56920. Department of Water Resources contracts**

37 56920. The Department of Water Resources may contract with water suppliers
38 to purchase and sell water made available pursuant to Section 1745.02 of the
39 Water Code to achieve the goals of this title.

40 **Comment.** Section 56920 continues former Fish and Game Code Section 2933 without
41 substantive change.

1 **§ 56925. Department of Water Resources design-build procurement authority**

2 56925. Notwithstanding any other law, the Department of Water Resources is
3 authorized to use design-build procurement authority for projects constructed at
4 the Salton Sea in accordance with Article 6 (commencing with Section 10187) of
5 Chapter 1 of Part 2 of Division 2 of the Public Contract Code.

6 **Comment.** Section 56925 continues former Fish and Game Code Section 2942(c) without
7 substantive change.

8 **§ 56930. Feasibility study**

9 56930. The authority may lead a feasibility study, in coordination and under
10 contract with the secretary, to do the following:

11 (a) Investigate access and utility agreements that may contribute to the future
12 funding of restoration activities at the Salton Sea.

13 (b) Analyze all feasible funding sources for restoration program components and
14 activities.

15 (c) Analyze economic development opportunities, including, but not limited to,
16 renewable energy, biofuels, mineral development, and algae production for the
17 purposes of identifying new revenue sources for the Salton Sea restoration efforts.

18 (d) Identify state procurement and royalty sharing opportunities.

19 (e) Review existing long-term plans for restoration of the Salton Sea and
20 recommend to the secretary changes to existing restoration plans. In any review
21 pursuant to this subparagraph, the authority shall consider the impacts of the
22 restoration plan on air quality, fish and wildlife habitat, water quality, and the
23 technical and financial feasibility of the restoration plan and shall consider the
24 impacts on other agencies responsible for air quality, endangered species, and
25 other environmental mitigation requirements for implementation of the
26 Quantification Settlement Agreement.

27 **Comment.** Section 56930 continues former Fish and Game Code Section 2942(b)(1) without
28 substantive change.

29 **§ 56935. Local, publicly derived input**

30 56935. For the purposes of considering local, publicly derived input concerning
31 habitat objectives and actions, types and levels of public access, and integration of
32 air quality management and habitat restoration, the secretary shall seek input from
33 the authority with regard to the following components of restoration of the Salton
34 Sea:

35 (a) Design opportunities and constraints, including the integration of the habitat,
36 public access, and air quality management objectives.

37 (b) Public access and recreational components.

38 (c) Opportunities for economic development.

39 (d) Habitat mosaics and location.

40 (e) Vector management and predator control.

(f) Feasible financial resources to fund all recommended restoration program components.

Comment. Section 56935 continues former Fish and Game Code Section 2943 without substantive change.

§ 56940. Delay prohibited

56940. No evaluation, study, review, or other activity pursuant to this chapter shall delay the planning and implementation of ongoing and planned restoration or mitigation projects, including, but not limited to, the Salton Sea Species Conservation Habitat Project or other measures pursuant to existing state and federal programs and agreements.

Comment. Section 56940 continues former Fish and Game Code Section 2942(b)(2) without substantive change.

§ 56945. Salton Sea ecosystem

56945. For the purpose of the restoration plan, the Salton Sea ecosystem shall include, but is not limited to, the Salton Sea, the agricultural lands surrounding the Salton Sea, and the tributaries and drains within the Imperial and Coachella Valleys that deliver water to the Salton Sea.

Comment. Section 56945 continues former Fish and Game Code Section 2931(d) without substantive change.

§ 56950. Facilities

56950. (a) The construction of facilities to separate fresh water from highly saline water for the purposes of implementing restoration activities pursuant to this title shall not be subject to review, approval, inspection, or any fees associated with implementing Division 3 (commencing with Section 6000) of the Water Code.

(b) No barrier in the Salton Sea within or below the minus 220 foot contour based on the North American Vertical Datum of 1988 shall be considered a dam.

Comment. Section 56950 continues former Fish and Game Code Section 2931.5 without substantive change.

**TITLE 11. INLAND WETLANDS
CONSERVATION PROGRAM**

CHAPTER 1. DEFINITIONS

§ 57000. Application

57000. Unless the context otherwise requires, the definitions in this chapter govern the construction of this title.

Comment. Section 57000 continues former Fish and Game Code Section 1400 without substantive change.

1 **§ 57005. “Fund”**

2 57005. “Fund” means the Inland Wetlands Conservation Fund, created in the
3 Wildlife Restoration Fund by Section 57635.

4 **Comment.** Section 57005 continues former Fish and Game Code Section 1401 without
5 substantive change.

6 **§ 57510. “Board”**

7 57510. “Board” means the Wildlife Conservation Board created by Section
8 54750.

9 **Comment.** Section 57510 continues former Fish and Game Code Section 1402 without
10 substantive change.

11 **§ 57515. “Inland area”**

12 57515. “Inland areas” means the entire area of California except lands under the
13 jurisdiction of the State Coastal Conservancy, lands within the Santa Monica
14 Mountains Zone, as defined in Section 33105 of the Public Resources Code, and
15 lands under the jurisdiction of the California Tahoe Conservancy Agency in the
16 Lake Tahoe region, as defined in Section 66905.5 of the Government Code.

17 **Comment.** Section 57515 continues former Fish and Game Code Section 1403 without
18 substantive change.

19 **§ 57520. “Program”**

20 57520. “Program” means the Inland Wetlands Conservation Program, as
21 provided in this title.

22 **Comment.** Section 57520 continues former Fish and Game Code Section 1404 without
23 substantive change.

24 **§ 57525. “Nonprofit organization”**

25 57525. “Nonprofit organization” means an organization described in subsection
26 (c) of Section 501 of the Internal Revenue Code of the United States (26 U.S.C.
27 501(c)).

28 **Comment.** Section 57525 continues former Fish and Game Code Section 1405 without
29 substantive change.

30 **CHAPTER 2. THE INLAND WETLANDS CONSERVATION PROGRAM**

31 **§ 57550. Creation**

32 57550. The Inland Wetlands Conservation Program is hereby created in the
33 board.

34 **Comment.** Section 57550 continues former Fish and Game Code Section 1410 without
35 substantive change.

36 **§ 57555. Administration**

37 57555. The board shall administer the program.

1 **Comment.** Section 57555 continues the second sentence of former Fish and Game Code
2 Section 1411(a) without substantive change.

3 **§ 57560. Purpose and goal of program**

4 57560. The purpose and goal of the program is to carry out the programs of the
5 Central Valley Habitat Joint Venture.

6 **Comment.** Section 57560 continues former Fish and Game Code Section 1411(c) without
7 substantive change.

8 **§ 57565. Acquisition of interest in land**

9 57565. The board may acquire or accept the gift or dedication of fee title,
10 easements, leases, development rights, or other interests in lands in inland areas
11 necessary to carry out the purposes of this title.

12 **Comment.** Section 57565 continues former Fish and Game Code Section 1413 without
13 substantive change.

14 **§ 57570. Federal surplus land sales**

15 57570. The board shall coordinate its activities in the program with federal
16 surplus land sales in inland areas.

17 **Comment.** Section 57570 continues former Fish and Game Code Section 1414 without
18 substantive change.

19 **§ 57575. Land transactions**

20 57575. (a) Notwithstanding any other provision of law, the board may lease,
21 rent, sell, exchange, or otherwise transfer any land, interest in land, or option
22 acquired pursuant to this title for the purposes of carrying out the program.

23 (b) The proceeds from any lease, rental, sale, exchange, or transfer of land, or
24 any interest therein, or option thereon, shall be deposited in the fund.

25 **Comment.** Section 57575 continues former Fish and Game Code Section 1415 without
26 substantive change.

27 **§ 57580. Grants and loans**

28 57580. (a) The board may make grants or loans to nonprofit organizations, local
29 governmental agencies, and state departments and agencies for the purpose of
30 wetland and associated upland habitat acquisition, restoration, or enhancement in
31 the same manner and subject to the same provisions as prescribed in Section
32 31116 of the Public Resources Code.

33 (b) Proceeds from repayment of any loans and the interest thereon shall be
34 deposited in the fund.

35 **Comment.** Section 57580 continues former Fish and Game Code Section 1416 without
36 substantive change.

1 **§ 57585. Lease of nonwetlands habitat for restoration**

2 57585. (a) The board may lease nonwetlands habitat in need of restoration to
3 nonprofit organizations, local governmental agencies, and state departments and
4 agencies under agreements in which the lessee agrees to restore the wetlands to
5 their highest possible wetland value and maintain the wetlands at that highest
6 possible wetland value.

7 (b) Proceeds from any lease or rental and interest thereon shall be deposited in
8 the fund.

9 **Comment.** Section 57585 continues former Fish and Game Code Section 1417 without
10 substantive change.

11 **§ 57590. Sale of restored habitat**

12 57590. (a) The board may acquire former wetlands and associated upland
13 habitat, restore those areas, and sell the lands, or any interest therein, to private
14 owners, local governmental agencies, and state departments and agencies or
15 exchange them for other land, if an agreement is secured to keep and maintain the
16 lands as wetlands in perpetuity.

17 (b) The agreement shall contain a reversion if the lands sold or exchanged are
18 not maintained as wetlands.

19 (c) The agreement containing the reversion shall be set forth in any conveyance
20 transferring any land, interest in land, or option subject to this section.

21 (d) Proceeds from the sales or exchanges shall be deposited in the fund.

22 **Comment.** Section 57590 continues former Fish and Game Code Section 1418 without
23 substantive change.

24 **§ 57595. Grant and loan preferences**

25 57595. (a) In reviewing any grant or loan application, preference shall be given
26 to projects on wetlands that have a secure source of water or are adjacent to
27 existing wetlands that are protected by public ownership or conservation
28 easements, or both.

29 (b) The board shall give preference to wintering habitat in the central valley.

30 **Comment.** Section 57595 continues former Fish and Game Code Section 1420 without
31 substantive change.

32 **§ 57600. Wetland creation preferences**

33 57600. When creating new wetlands, the board shall give preference to lands
34 most suitable for this purpose due to elevations, existence of levees, proximity to
35 existing wetlands that are protected, and potential sources of water. These
36 potential sources of water are limited to all of the following:

37 (a) Water rights that are attached to the land to be restored including
38 groundwater associated with the property.

39 (b) Water willingly made available for a wetlands conservation project through
40 water conservation.

- 1 (c) Recycled water.
- 2 (d) Undeveloped water supplies of the state.
- 3 (e) Water marketed for wetlands purposes by a willing seller.
- 4 (f) Water otherwise made available for wetlands purposes by private, nonprofit,
- 5 local, and regional entities.

6 **Comment.** Section 57600 continues former Fish and Game Code Section 1421 without
7 substantive change.

8 **§ 57605. Report**

9 57605. On or before January 1, 1992, and every third year thereafter, the board
10 shall prepare and submit a report to the Governor and the Legislature on activities
11 of the board under this title and other activities relating to wetland acquisition by
12 the board. The report shall include, but is not limited to, the following:

13 (a) The status of wetland acquisition, restoration, and enhancement projects in
14 inland areas.

15 (b) The net increase of wetland habitat as a result of projects of the board,
16 including the activities carried out pursuant to the program.

17 **Comment.** Section 57605 continues former Fish and Game Code Section 1422 without
18 substantive change.

19 **CHAPTER 3. FINANCES**

20 **§ 57625. Inland Wetlands Conservation Fund created**

21 57625. The Inland Wetlands Conservation Fund is hereby created in the Wildlife
22 Restoration Fund.

23 **Comment.** Section 57625 continues the first sentence of former Fish and Game Code Section
24 1430 without substantive change.

25 **§ 57630. Deposits**

26 57630. The board shall deposit in the fund all allocations made pursuant to
27 subdivision (f) of Section 55855.

28 **Comment.** Section 57630 continues the first sentence of former Fish and Game Code Section
29 1431 without substantive change.

30 **§ 57635. Use of funds**

31 57635. The money in the Inland Wetlands Conservation Fund shall be solely
32 used to carry out the Inland Wetlands Conservation Program, including the
33 administrative costs of the program.

34 **Comment.** Section 57635 continues the second sentence of former Fish and Game Code
35 Section 1430 without substantive change.

36 **§ 57640. Continuous appropriation**

37 57640. Notwithstanding Section 13340 of the Government Code, the money in
38 the fund is continuously appropriated to the board to carry out this title.

1 **Comment.** Section 57640 continues the second sentence of former Fish and Game Code
2 Section 1431 without substantive change.

3 **§ 57645. Funding**

4 57645. (a) The Inland Wetlands Conservation Program is the program
5 designated for use of the funds allocated pursuant to subdivision (f) of Section
6 55855, as enacted by the California Wildlife Protection Act of 1990.

7 (b) The board is the agency designated for receipt of the funds allocated
8 pursuant to subdivision (f) of Section 55855, as enacted by the California Wildlife
9 Protection Act of 1990.

10 **Comment.** Subdivision (a) of Section 57645 continues the first sentence of former Fish and
11 Game Code Section 1411(a) without substantive change.

12 Subdivision (b) continues former Fish and Game Code Section 1411(b).

13 **§ 57650. Acceptance of financial support**

14 57650. The board may apply for and accept federal grants and receive gifts,
15 donations, subventions, rent, royalties, and other financial support from public and
16 private sources for the purposes of the program.

17 **Comment.** Section 57650 continues former Fish and Game Code Section 1412 without
18 substantive change.

19 **§ 57655. Surplus funds**

20 57655. Any funds remaining after an eligible acquisition, restoration, or
21 enhancement of any project under Chapter 2 (commencing with Section 57550)
22 shall be returned to the board and shall be deposited in the fund.

23 **Comment.** Section 57655 continues former Fish and Game Code Section 1419 without
24 substantive change.

25 **TITLE 12. CALIFORNIA RIPARIAN HABITAT**
26 **CONSERVATION PROGRAM**

27 **CHAPTER 1. GENERAL PROVISIONS**

28 **§ 57700. Short title**

29 57700. This title shall be known and may be cited as the California Riparian
30 Habitat Conservation Act.

31 **Comment.** Section 57700 continues former Fish and Game Code Section 1385 without
32 substantive change.

33 **§ 57705. Findings and declarations**

34 57705. The Legislature finds and declares all of the following:

35 (a) California's rivers, wetlands, and waterways, and the fisheries and wildlife
36 habitat they provide, are valuable and finite resources that benefit the people of the

1 state and are threatened with deterioration or degeneration that may endanger the
2 natural beauty and productivity of these valuable resources.

3 (b) The public interest requires the coordinated protection of rivers and riparian
4 resources in order to maintain an equilibrium between the natural endowment of,
5 and manmade alterations to, California's river environment, and in order to
6 preserve the scenic beauty of these natural resources and the recreational and
7 economic benefits they provide.

8 (c) By virtue of the special conditions and circumstances of the natural ecology,
9 the increasing human populations and needs in the state, and the numerous
10 governmental agencies with an interest in coordinating activities that affect rivers
11 and riparian habitat resources, there is a need for a coordinated state rivers and
12 riparian habitat protection program.

13 **Comment.** Section 57705 continues former Fish and Game Code Section 1386 without
14 substantive change.

15 **§ 57710. Primary concern**

16 57710. The preservation and enhancement of riparian habitat shall be a primary
17 concern of the board and the department, and of all state agencies whose activities
18 impact riparian habitat, including the Department of Conservation, the Department
19 of Parks and Recreation, the Department of Water Resources, the Department of
20 Forestry and Fire Protection, the State Coastal Conservancy, the California
21 Conservation Corps, the California Tahoe Conservancy, the Santa Monica
22 Mountains Conservancy, the California Coastal Commission, the San Francisco
23 Bay Conservation and Development Commission, and the State Lands
24 Commission.

25 **Comment.** Section 57710 continues former Fish and Game Code Section 1389 without
26 substantive change.

27 **CHAPTER 2. ADMINISTRATION**

28 **§ 57725. California Riparian Habitat Conservation Program**

29 57725. (a) The board shall establish and administer, through the department, the
30 California Riparian Habitat Conservation Program pursuant to this title and Title 1
31 (commencing with Section 54700).

32 (b) The purpose and goal of the program is to protect, preserve, and restore
33 riparian habitats throughout the state by the acquisition of interests and rights in
34 real property and waters to the extent deemed necessary to carry out the purposes
35 of the program.

36 **Comment.** Section 57725 continues former Fish and Game Code Section 1387 without
37 substantive change.

1 **§ 57730. Activities**

2 57730. The board, pursuant to this title, shall approve projects to acquire,
3 preserve, restore, and enhance riparian habitat throughout the state, and coordinate
4 its activities undertaken pursuant to this program with other resources protection
5 activities of the board and other state agencies.

6 **Comment.** Section 57730 continues former Fish and Game Code Section 1388 without
7 substantive change.

8 **§ 57735. Department authority**

9 57735. In order to accomplish the objectives of this title, the board may
10 authorize the department to do all of the following:

11 (a) Acquire interests in real property and water rights through gift, purchase,
12 lease, easement, and transfer or exchange of easements, development rights or
13 credits, and other interests in real property.

14 (b) Coordinate its activities under the program with any governmental program
15 for surplus real property sales in the state.

16 (c) Award grants and loans to local public agencies, state agencies, federal
17 agencies, and nonprofit organizations for the purposes of this program.

18 (d) For the purposes of this title, “nonprofit organization” means any private,
19 nonprofit organization that qualifies for exempt status under Section 501(c)(3) of
20 the United States Internal Revenue Code of 1986, and has among its principal
21 charitable purposes the preservation of real property for scientific, historic,
22 educational, recreational, scenic or open-space values, the protection of the natural
23 environment, or the preservation and enhancement of fisheries and wildlife or their
24 habitat.

25 (e) Exercise any authority and comply with requirements contained in Sections
26 54815 and 54845 through 54855, inclusive, as appropriate, to preserve and
27 enhance riparian habitat for purposes of this title.

28 **Comment.** Section 57735 continues former Fish and Game Code Section 1390 without
29 substantive change.

30 **§ 57740. Grants**

31 57740. Grants to nonprofit organizations pursuant to Section 57735 for the
32 acquisition of real property or interests therein shall be subject to all of the
33 following conditions:

34 (a) The purchase price of any interest in real property acquired by the nonprofit
35 organization may not exceed fair market value as established by an appraisal
36 approved by the board.

37 (b) The board approves the terms under which the interest in real property is
38 acquired.

39 (c) The interest in real property acquired pursuant to a grant from the board may
40 not be used as security for any debt to be incurred by the nonprofit organization
41 unless the board approves the transaction.

1 (d) The transfer of real property acquired pursuant to a grant shall be subject to
2 the approval of the board and the execution of an agreement between the board
3 and the transferee sufficient to protect the interest of the State of California.

4 (e) The state shall have a right of entry and power of termination in and over all
5 interests in real property acquired with state funds, which may be exercised if any
6 essential term or condition of the grant is violated.

7 (f) If the existence of the nonprofit organization is terminated for any reason,
8 title to all interest in real property acquired with state funds shall immediately vest
9 in the state. However, prior to that termination, upon approval of the board,
10 another public agency or nonprofit organization may receive title to all or a
11 portion of that interest in real property by recording its acceptance of title in
12 writing. Any deed or other instrument of conveyance whereby real property is
13 being acquired by a nonprofit organization pursuant to this section shall be
14 recorded and shall set forth the executory interest or right of entry on the part of
15 the state.

16 **Comment.** Section 57740 continues former Fish and Game Code Section 1391 without
17 substantive change.

18 TITLE 13. ADOPT A LAKE

19 § 57775. Findings and declarations

20 57775. (a) The Legislature finds and declares that the fish of this state are a
21 vital, renewable resource that provides recreation, outdoor experiences, and food
22 for many of this state's citizens. Therefore, it is in the state's best interests to
23 promote volunteer private rehabilitation and improvement of fisheries, fish habitat,
24 and resources.

25 (b) The Legislature declares it is the policy of this state to encourage
26 cooperation by local, regional, state, and federal governmental agencies with
27 jurisdiction over inland waters with private groups and associations in order to do
28 fish habitat and restoration work. This policy shall be pursued through the
29 implementation of a program known as the "Adopt a Lake Program."

30 **Comment.** Section 57775 continues former Fish and Game Code Section 2003.5 without
31 substantive change.

32 § 57780. Implementation

33 57780. The department may implement the "Adopt a Lake Program" to facilitate
34 private groups' and associations' undertaking volunteer efforts to rehabilitate and
35 improve fisheries, fish habitat, and resources. In implementing this program, the
36 department shall prepare and periodically update a plan for the volunteer efforts to
37 be undertaken. The plan shall be prepared cooperatively by the department, the
38 private group or association, and the public agency with jurisdiction over the
39 inland water to be affected by the plan. The plan shall be consistent with the

management plan and management objectives of the department and the public agency with jurisdiction over the inland water.

Comment. Section 57780 continues former Fish and Game Code Section 2003.6 without substantive change.

TITLE 14. CALIFORNIA WINTER RICE HABITAT INCENTIVE PROGRAM

§ 57790. Definitions

57790. For purposes of this title, “productive agricultural rice lands that are winter-flooded” means a field that has been farmed to rice at least two of the last three growing seasons and is intentionally maintained in a flooded state for at least 70 days between October 15 and March 15, inclusive, of the following year.

Comment. Section 57790 continues former Fish and Game Code Section 3469(f) without substantive change.

Note. Proposed Section 57790 would continue Section 3469(f), which was added by 2018 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57795. Establishment of program

57795. There is established the California Winter Rice Habitat Incentive Program subject to the requirements of this title.

Comment. Section 57795 continues former Fish and Game Code Section 3469(a) without substantive change.

Note. Proposed Section 57795 would continue Section 3469(a), which was added by 2018 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57800. Contracts

57800. (a) Subject to appropriation for purposes of this title, the director may enter into contracts with nonpublic entities that are owners of record, or with lessees who have the owners of record execute the contract, of productive agricultural rice lands that are winter-flooded and that are determined by the director to be important for the conservation of waterfowl. The contract shall enforceably restrict the use of the land for the conservation of waterfowl and their habitat in a manner that allows for the use of the land for rice farming consistent with Section 8 of Article XIII of the California Constitution.

(b) The director shall give priority to contracts that have the greatest potential for restoring, enhancing, and protecting high-quality waterfowl habitat, especially that subject to destruction, drastic modification, or significant curtailment of habitat values. The director may give priority to contracts that provide additional environmental cobenefits, including cobenefits to species such as fish or snakes.

1 **Comment.** Section 57800 continues former Fish and Game Code Section 3469(b)-(c) without
2 substantive change.

3 **Note.** Proposed Section 57800 would continue Section 3469(b)-(c), which was added by
4 2018 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
5 anticipation of its effect.

6 **§ 57805. Land near military runway or international airport**

7 57805. (a) Before entering into a contract pursuant to this title, if the land
8 proposed to be subject to the contract is located within five miles of a runway on a
9 military base or international airport, the director shall consult with the applicable
10 branch of the United States military or the operator of the international airport, as
11 applicable.

12 (b) The department shall develop guidance and protocols regarding consultation
13 conducted pursuant to subdivision (a) that addresses, at a minimum, notification,
14 participation, and a procedure to request the director to reconsider a decision to
15 enter into a contract pursuant to this title.

16 **Comment.** Section 57805 continues former Fish and Game Code Section 3469(d) without
17 substantive change.

18 **Note.** Proposed Section 57805 would continue Section 3469(d), which was added by 2018
19 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
20 anticipation of its effect.

21 **§ 57810. Application of Public Contract Code**

22 57810. Contracts entered into pursuant to this title are not subject to Part 2
23 (commencing with Section 10100) of Division 2 of the Public Contract Code.

24 **Comment.** Section 57810 continues former Fish and Game Code Section 3469(e) without
25 substantive change.

26 **Note.** Proposed Section 57810 would continue Section 3469(e), which was added by 2018
27 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
28 anticipation of its effect.

29 **§ 57820. Term and content of contract**

30 57820. Each contract shall be for an initial term of three years and shall include
31 the following:

32 (a) The designation of the owner of record and any lessee, and the legal
33 description and the assessor's parcel number of the land subject to the contract.

34 (b) An agreement by the owner and any lessee to restore, enhance, and protect
35 the waterfowl habitat character of the described land.

36 (c) Specification of the amount and date in each year that the payment is to be
37 made by the department to the owner or lessee, which shall be calculated at the
38 rate or rates that the director determines to be fair and reasonable in consideration
39 of the obligations undertaken by the owner or lessee.

40 (d) A requirement that the owner or lessee do either of the following:

(1) Refund to the state all payments received under the contract plus interest at the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or lessee's violation of the contract, or any extension thereof, if the director determines that the violation warrants termination of the contract and the director terminates the contract.

(2) Make refunds or accept payment adjustments that the director determines are appropriate, not to exceed the total amount paid by the state to the owner or lessee in the preceding calendar year plus interest at the legal rate, as specified in Section 3289 of the Civil Code, if the director determines that the violation by the owner or lessee does not warrant termination of the contract.


(e) A requirement that the department reduce the amount of any payment to the owner or lessee under subdivision (c) by an amount equal to the portion of any payment under the federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) that the department determines to be in compensation for the same obligation undertaken by the owner under the water bank program.

(f) In addition to subdivision (e), a requirement that the department reduce the amount of any payment to the owner or lessee under subdivision (c) by an amount equal to the portion of any payment that the department determines to be in compensation for the same obligation undertaken by the owner under any other governmental program.

(g) An authorization for the department to monitor compliance with the contract with the federal Natural Resources Conservation Service, a county agricultural commissioner, or other appropriate agency, entity, or person to monitor compliance with the contract, and a requirement that the owner or lessee allow access for the monitoring.

(h) Any additional provisions that the director determines are desirable to effectuate the purposes of the program or to facilitate its administration.


Comment. Section 57820 continues former Fish and Game Code Section 3469.2 without substantive change.

 **Note.** Proposed Section 57820 would continue Section 3469.2, which was added by 2018 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

57825. Loss of property use

57825. If during the contract period the owner or lessee is divested of the use of the waterfowl habitat subject to the contract, the owner or lessee shall notify the department concurrent with that divestment. Any unearned payment shall immediately be refunded by the owner or lessee to the department.

Comment. Section 57825 continues former Fish and Game Code Section 3469.4 without substantive change.

 **Note.** Proposed Section 57825 would continue Section 3469.4, which was added by 2018 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

1 **§ 57830. Modification of contract**

2 57830. The director and the owner or lessee may mutually agree to modify the
3 terms and conditions of a contract under this title as the director may determine to
4 be desirable to carry out the purposes of, or to facilitate administration of, the
5 program.

6 **Comment.** Section 57830 continues former Fish and Game Code Section 3469.6 without
7 substantive change.

8 **Note.** Proposed Section 57830 would continue Section 3469.6, which was added by 2018
9 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
10 anticipation of its effect.

11 **§ 57835. California Winter Rice Habitat Incentive Program Account**

12 57835. (a) The California Winter Rice Habitat Incentive Program Account is
13 hereby created in the Fish and Game Preservation Fund.

14 (b) Funds deposited in the California Winter Rice Habitat Incentive Program
15 Account shall be made available for expenditure, upon appropriation by the
16 Legislature, to the department. These funds shall be expended solely for the
17 purposes set forth in this title.

18 (c) An amount that equals not more than 5 percent of the funds allocated for this
19 program may be used to pay the administrative costs of the program and up to 10
20 percent of funds allocated may be used for planning and monitoring necessary to
21 ensure the success of the program.

22 **Comment.** Section 57835 continues former Fish and Game Code Section 3469.8 without
23 substantive change.

24 **Note.** Proposed Section 57835 would continue Section 3469.8, which was added by 2018
25 Cal. Stat. ch. 649. Although that bill will not take effect until 2019, it is included here in
26 anticipation of its effect.

27 **TITLE 15. NESTING BIRD HABITAT**
28 **INCENTIVE PROGRAM**

29 **§ 57850. Definition**

30 57850. As used in this title, “program” means the Nesting Bird Habitat Incentive
31 Program.

32 **Comment.** Section 57850 is new. It is added for drafting convenience.

33 **§ 57855. Establishment of program**

34 57855. (a) The department shall establish the Nesting Bird Habitat Incentive
35 Program, which may include direct payments or other incentives, to encourage
36 landowners to voluntarily cultivate or retain upland cover crops or other upland
37 vegetation on idled lands to provide waterfowl, upland game bird, and other
38 wildlife habitat cover, including, but not limited to, for the purposes described in
39 Section 1018 of the Water Code.

(b) The program may also include agricultural lands not subject to water transfers or lands fallowed for any other legal purpose.

(c) Landowners who take voluntary action to cultivate or retain irrigated or nonirrigated cover crops, natural vegetation, or other wildlife habitat on lands fallowed pursuant to the goals of the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code) shall also be eligible to participate in the program described in subdivision (a).

Comment. Subdivision (a) of Section 57855 continues former Fish and Game Code Section 3480(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 3480(e) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 3480(g) without substantive change.

Note. Proposed Section 57855 would continue Section 3480(a), (e) & (g), which was added by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57860. Purpose of program

57860. The program is established for waterfowl and other game bird breeding purposes and shall not be used to provide waterfowl wintering habitat, including managed wetland habitat, as defined in paragraph (1) of subdivision (a) of Section 60685.

Comment. Section 57860 continues former Fish and Game Code Section 3480(h) without substantive change.

Note. Proposed Section 57860 would continue Section 3480(h), which was added by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57865. Requirements

57865. This title shall be implemented only if either of the following occur:

(1) The Water Supply and Water Quality Act of 2018 (Division 38 (commencing with Section 86000) of the Water Code) is approved by the voters at the November 6, 2018, statewide general election.

(2) A sufficient amount of federal grants or other funds are secured, as determined by the department, for the purposes of this title.

Comment. Section 57865 continues former Fish and Game Code Section 3580(i) without substantive change.

Note. Proposed Section 57865 would continue Section 3480(i), which was added by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57870. Program guidelines and criteria

57870. The department may develop guidelines and criteria for the program established under subdivision (a) of Section 57855 as it deems appropriate, but

shall ensure that it is flexible enough to meet landowner needs. The program shall do all of the following:

(a) Prohibit a landowner who participates in the program and has committed to leaving the established upland cover crops or other upland vegetation in place after April 1 from engaging in practices such as disking, spraying of herbicides, mowing, chipping, or rolling any vegetation on those idled lands until after July 1, or as late as possible each year, to address waterfowl nesting, upland game bird habitat, and other wildlife needs.

(b) Give priority to contracts with landowners that do both of the following:

(1) Include lands adjacent to, or in proximity to, waterfowl brood habitat, including, but not limited to, areas flooded during the spring or summer for the cultivation of rice.

(2) Establish upland nesting cover over multiple years.

(c) Be consistent with waterfowl habitat breeding goals and objectives of the Central Valley Joint Venture Implementation Plan as it may be amended.

(d) Allow for one year or multiyear contracts with landowners.

(e) Allow for the rotation of fallowed fields to different areas of a landowner's property on an annual basis.

(f) Prohibit, in connection with the approval of a transfer, a landowner who participates in the program from diverting or using any water under any basis of right to irrigate land idled in order to provide water for transfer, unless the transfer is approved by the State Water Resources Control Board pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code, or by the Department of Water Resources pursuant to Article 4 (commencing with Section 1810) of Chapter 11 of Part 2 of Division 2 of the Water Code, and the irrigation of the idled land is expressly authorized under that approval.

(h) Allow for activities undertaken or requested by mosquito control agencies to address mosquito production.

Comment. Section 57870 continues former Fish and Game Code Section 3480(b) without substantive change.

Note. Proposed Section 57870 would continue Section 3480(b), which was added by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57875. Funding

57875. The program may be supported with state or federal grants, state bond moneys, and private grants and donations. Funds may also be used as a state match for related federal conservation programs that provide waterfowl and upland game bird breeding habitat benefits.

Comment. Section 57875 continues former Fish and Game Code Section 3480(c) without substantive change.

Note. Proposed Section 57875 would continue Section 3480(c), which was added by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57880. Relation to California Waterfowl Habitat Program

57880. The department may utilize the assistance of the California Waterfowl Habitat Program in implementing the Nesting Bird Habitat Incentive Program, including, but not limited to, establishing program priorities, contract requirements, and monitoring and compliance activities. Nonprofit conservation organizations may also assist in the implementation and delivery of the program to the extent that the department deems appropriate.

Comment. Section 57880 continues former Fish and Game Code Section 3480(d) without substantive change.

Note. Proposed Section 57880 would continue Section 3480(d), which was added by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 57885. Consultation with other entities

57885. The department may consult with the Wildlife Conservation Board, the United States Fish and Wildlife Service, the Natural Resources Conservation Service, and nonprofit waterfowl and upland game bird organizations before implementing this section to determine the optimal ways to increase and enhance waterfowl and upland game bird breeding habitat on idled lands.

Comment. Section 57885 continues former Fish and Game Code Section 3480(f) without substantive change.

Note. Proposed Section 57885 would continue Section 3480(f), which was added by 2018 Cal. Stat. ch. 588. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

PART 3. FINANCES

**TITLE 1. FEDERAL AID IN WILDLIFE
RESTORATION ACT**

§ 58000. Expenditures

58000. The expenditure of all federal grant moneys made available to the state pursuant to the Federal Aid in Wildlife Restoration Act (16 U.S.C. Sec. 669 et seq.) shall be consistent with that act.

Comment. Section 58000 continues former Fish and Game Code Section 711.1(a) without substantive change.

1 **§ 58005. Application for grant money**

2 58005. In applying for federal grant moneys available pursuant to the Federal
3 Aid in Wildlife Restoration Act, the department shall give priority to projects that
4 fulfill one or more of the following purposes:

5 (a) Management of the department's wildlife areas or other lands open to the
6 public for hunting and other public priority uses listed in subdivision (b) of
7 Section 2015.

8 (b) Conservation of, or scientific research concerning, wildlife or wildlife
9 habitat.

10 (c) Support of the department's hunting-related programs, including hunter
11 education, public access, and target shooting.

12 **Comment.** Section 58005 continues former Fish and Game Code Section 711.1(b) without
13 substantive change.

14 **§ 58010. Description of funded projects and programs**


15 58010. The department shall post a brief description of projects or programs
16 funded by moneys received pursuant to the Federal Aid in Wildlife Restoration
17 Act on its Internet Web site. The description shall include information about the
18 budget of each project or program.

19 **Comment.** Section 58010 continues former Fish and Game Code Section 711.1(c) without
20 substantive change.

21 **§ 58015. Consultation with advisory committees**

22 58015. The department shall consult with any of the advisory committees
23 established pursuant to Sections 29540, 30565, and 31915 regarding all projects
24 funded by the Federal Aid in Wildlife Restoration Act that are relevant to the
25 committee or committees.

26 **Comment.** Section 58015 continues former Fish and Game Code Section 711.1(d) without
27 substantive change.

28  **Note.** Existing Section 711.1(d) refers to “advisory committees established pursuant to
29 Sections 3684, 3702.1, and 3953.” Proposed Section 58015 would narrow that reference to refer
30 only to the parts of those sections that authorize the establishment of advisory committees. **The**
31 **Commission invites Comment on whether that revision would cause any problems.**

32 **TITLE 2. FISH AND GAME MITIGATION AND**
33 **PROTECTION ACCOUNTS**

34 **§ 58050. Establishment of Accounts**

35 58050. There are hereby established, initially in the Special Deposit Fund,
36 continued in existence by Section 16370 of the Government Code, both of the
37 following accounts:

38 (a) The Fish and Game Mitigation and Protection Endowment Principal
39 Account. The department shall deposit in this account the endowment funds

1 received by the department pursuant to an agreement described in Section 58055
2 and all earnings generated thereon. The earnings shall be available to the
3 department, upon appropriation by the Legislature, to fund long-term
4 management, enhancement, monitoring, and enforcement activities on habitat
5 lands in a manner consistent with the terms of the underlying agreement.

6 (b) The Fish and Game Mitigation and Protection Expendable Funds Account.
7 The department shall deposit in this account moneys received pursuant to an
8 agreement described in Section 58055 that are not endowment funds and that are
9 designated for expenditure for the purposes described in subdivision (b) of that
10 section. Notwithstanding Section 13340 of the Government Code, the moneys in
11 the account established by this subdivision are hereby continuously appropriated
12 to the department for expenditure without regard to fiscal year, for the purposes
13 described in this title.

14 **Comment.** Section 58050 continues former Fish and Game Code Section 13014(a) without
15 substantive change.

16 **§ 58055. Deposits**

17 58055. (a) The department may deposit moneys into the accounts established
18 pursuant to Section 58050 that it receives pursuant to any of the following, if those
19 moneys are received for the purposes described in subdivision (b):

20 (1) Agreements or permits pursuant to the Natural Communities Conservation
21 Planning Act (Title 2 (commencing with Section 64500) of Part 2 of Division 17).

22 (2) Conservation bank agreements.

23 (3) Habitat conservation implementation agreements.

24 (4) Incidental take permits.

25 (5) Legal or other written settlements.

26 (6) Mitigation agreements.

27 (7) Streambed or lakebed alteration agreements.

28 (8) Trust agreements.

29 (b) The department may deposit the moneys received pursuant to an agreement
30 described in subdivision (a) in an account established by this title only if it
31 receives those moneys for at least one of the following purposes:

32 (1) Mitigating the adverse biological impacts of a specific project, activity, spill,
33 or release.

34 (2) Protecting, conserving, restoring, enhancing, managing, and maintaining
35 fish, wildlife, native plants, or their habitats.

36 **Comment.** Section 58055 continues former Fish and Game Code Section 13014(b) without
37 substantive change.

38 **§ 58060. Transfer to another account**

39 58060. (a) While the Fish and Game Mitigation and Protection Endowment
40 Principal Account and the Fish and Game Mitigation and Protection Expendable
41 Funds Account are initially established in the Special Deposit Fund within the

1 Pooled Money Investment Account, the Treasurer's office shall, at the
2 department's request, transfer these funds from the Pooled Money Investment
3 Account to another account within the State Treasury system to increase earnings
4 over time while providing adequate liquidity. If either or both of these accounts
5 are transferred from the Pooled Money Investment Account, assets in the
6 transferred account or accounts may be held and invested in any of the
7 investments identified in Section 16430 of the Government Code, except that the
8 maturity date of commercial paper may exceed the limits set forth in Section
9 16430 of the Government Code. These investments shall be made as determined
10 and directed by the department.

11 (b) To develop and maintain the investment strategy for these accounts, the
12 department may retain investment advisers deemed acceptable to the Treasurer.

13 **Comment.** Section 58060 continues former Fish and Game Code Section 13014(c)-(d) without
14 substantive change.

15 TITLE 3. HABITAT MAINTENANCE 16 ASSESSMENT DISTRICTS

17 § 58075. Short title

18 58075. This title shall be known and may be cited as the Habitat Maintenance
19 Funding Act.

20 **Comment.** Section 58075 continues former Fish and Game Code Section 2900 without
21 substantive change.

22 § 58080. Assessment districts

23 58080. (a) A local agency may establish an assessment district pursuant to
24 Article 3.1 (commencing with Section 50060) of Chapter 1 of Part 1 of Division 1
25 of Title 5 of the Government Code for the improvement or maintenance of natural
26 habitat, in a manner consistent with the policies and procedures of this code.
27 Funds generated pursuant to this title may not be allocated to implement a plan
28 without the approval of the owner of the land to be improved.

29 (b) A local agency may provide for the long-term maintenance of natural habitat
30 pursuant to Section 50060.5 of the Government Code only pursuant to a plan for
31 the conservation of natural habitat approved by the department.

32 **Comment.** Section 58080 continues former Fish and Game Code Section 2901 without
33 substantive change.

34 DIVISION 16. PROTECTED AND MANAGED AREAS

35 PART 1. REFUGES

TITLE 1. REFUGES GENERALLY

§ 58500. Commission regulation of refuges

58500. The commission may:

(a) Authorize the department to issue, under any restrictions it deems best, permits that authorize the person named therein to carry, use, and possess, within a refuge, firearms, traps, or other contrivances for taking birds, mammals, fish, amphibians, or reptiles.

(b) Except as provided in subdivision (c) of Section 59865, Sections 59705 and 59715, and subdivisions (a) and (b) of Section 59865, authorize the department to issue permits that authorize the person named therein to take birds, mammals, fish, amphibians, or reptiles within a refuge.

(c) Adopt regulations not in conflict with any law for the protection of birds, mammals, fish, amphibians, reptiles, or marine life within a refuge.

Comment. Section 58500 continues former Fish and Game Code Section 10502(b)-(d) without substantive change.

§ 58505. Commission powers


58505. For the purposes of propagating, feeding, and protecting birds, mammals, fish, amphibians, and reptiles, the commission may do all of the following:

(a) Accept, on behalf of the state, donations of an interest in land within a refuge.

(b) Accept, on behalf of the state, from a person owning and in possession of patented land, other than land covered and uncovered by the ordinary daily tide of the Pacific Ocean, the right to preserve and protect all birds, mammals, fish, amphibians, and reptiles on the patented land.

(c) Accept, on behalf of the state, donations of birds, mammals, fish, amphibians, and reptiles, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

Comment. Section 58505 continues former Fish and Game Code Section 10503(a)-(c) without substantive change.

 **Note.** Existing Section 10503(b) and (c) are not expressly limited to refuge-related activities. Should they be? Or are those provisions best understood as expressing general powers of the commission?

§ 58515. Enforcement

58515. The department and the district attorney, sheriff, and all peace officers of the county in which any refuge or part thereof is situated, shall enforce all of the provisions of this code relating to the refuge, and institute and assist in prosecutions for violations thereof.

1 **Comment.** Section 58515 continues former Fish and Game Code Section 10508 without
2 substantive change.

3 **§ 58520. Take in refuge**

4 58520. No specification of an open season in any area authorizes the taking of a
5 bird, mammal, fish, amphibian, or reptile from a refuge within that area from
6 which the taking is prohibited by this code.

7 **Comment.** Section 58520 continues former Fish and Game Code Section 10510 without
8 substantive change.

9 **§ 58525. Application of provisions governing Fish and Wildlife District**

10 58525. Except as they may conflict with refuge provisions, the provisions of this
11 code relating to a particular fish and wildlife district shall apply to each refuge
12 lying wholly, or in major part, within the boundaries of the district.

13 **Comment.** Section 58525 continues former Fish and Game Code Section 10511 without
14 substantive change.

15 **§ 58530. Flight restrictions**

16 58530. (a) It is unlawful to fly any aircraft, including any airplane or helicopter,
17 less than 3,000 feet above water or land over the Sespe Condor Sanctuary, and less
18 than 1,000 feet above water or land over the Año Nuevo State Reserve, the
19 Farallon Islands Game Refuge, the Point Lobos State Reserve, the California Sea
20 Otter Game Refuge, and Anacapa, San Miguel, Santa Barbara, and San Nicolas
21 Islands, except for rescue operations, in case of any emergency, or for scientific or
22 filmmaking purposes under a permit issued by the department after a review of
23 potential biological impacts.

24 (b) This section does not apply to the landing of any aircraft, including any
25 airplane or helicopter, on Anacapa, San Miguel, Santa Barbara, San Nicolas, and
26 Farallon Islands for administrative or operational purposes of the National Park
27 Service, the United States Navy, or the United States Coast Guard.

28 **Comment.** Section 58530 continues former Fish and Game Code Section 10501.5 without
29 substantive change.

30 **TITLE 2. FISH REFUGES**

31 **CHAPTER 1. FISH REFUGES GENERALLY**

32 **§ 58550. Prohibitions**

33 58550. Except under a permit or specific authorization, it is unlawful to take or
34 possess a fish or amphibian in a fish refuge, or to use or have in possession in that
35 refuge a contrivance designed to be used for catching fish.

36 **Comment.** Section 58550 continues the part of former Fish and Game Code Section 10500(c)
37 without substantive change.

38 See also Section 6102 (enforcement).

1 **§ 58555. Commission control of fish**

2 58555. The commission may exercise control over all fish in a fish refuge.

3 **Comment.** Section 58555 continues the part of former Fish and Game Code Section 10502(a)
4 that applies to a fish refuge, without substantive change.

5 CHAPTER 2. SPECIFIC FISH REFUGES

6 Article 1. General Provisions

7 **§ 58600. Described areas**

8 58600. The areas described in this chapter are fish and game refuges.

9 **Comment.** Section 58600 is new. It is comparable to former Fish and Game Code Section
10 10770.

11 Article 2. Pacific Grove Marine Gardens Fish Refuge

12 **§ 58625. Description**

13 58625. The following constitutes the Pacific Grove Marine Gardens Fish
14 Refuge:

15 All that area within the following boundaries as they existed April 1, 1963, not
16 within the Hopkins Marine Life Refuge: Beginning at the point of intersection of
17 the southeasterly corporate limit line of the City of Pacific Grove prolonged, and
18 the line of mean high tide of the Bay of Monterey; thence northwesterly along said
19 line of mean high tide to Point Pinos and continuing around said point in a
20 westerly direction and continuing southwesterly along said line of mean high tide
21 to the intersection with the southwesterly corporate limit line prolonged of said
22 city; thence N. 70° 45' 00" W. along said southwesterly corporate limit line
23 prolongated to a point in the Pacific Ocean where the depth of water in said ocean
24 is sixty (60) feet measured from the level of mean low tide; thence northwesterly
25 along the line in said ocean which line is at a constant depth of sixty (60) feet
26 measured from the level of mean low tide to Point Pinos and continuing around
27 said point in an easterly direction and continuing southeasterly along the line in
28 said bay which line is at a constant depth of sixty (60) feet measured from the
29 level of mean low tide, to the intersection with the southeasterly corporate limit
30 line of said city prolonged; thence S. 58° 57' 45" W. along said southeasterly
31 corporate limit line prolonged, to the point of beginning.

32 **Comment.** Section 58625 continues former Fish and Game Code Section 10801 without
33 substantive change.

34 **§ 58630. Take of fish within refuge**

35 58630. (a) In the Pacific Grove Marine Gardens Fish Refuge, fish, other than
36 mollusks and crustaceans, may be taken under the authority of a sport fishing
37 license as authorized by this code.

(b) Notwithstanding any other provision of this section, holders of scientific collectors' permits issued by the commission, or students working under their direction, may take marine life for scientific purposes in this refuge.

(c) In this refuge, sardines, mackerel, anchovies, squid and herring may be taken by ring net, lampara net or bait net as authorized by this code.

Comment. Section 58630 continues former Fish and Game Code Section 10660 without substantive change.

TITLE 3. GAME REFUGES

CHAPTER 1. GAME REFUGES GENERALLY

§ 58700. Prohibitions

58700. Except under a permit or specific authorization, it is unlawful to do any of the following:

(a) To take or possess a bird or mammal in a game refuge.

(b) To use or have in possession in a game refuge, a firearm, BB device as defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or a trap or other contrivance designed to be, or capable of being, used to take birds or mammals, or to discharge a firearm or BB device or to release an arrow or crossbow bolt into a game refuge.

Comment. Section 58700 continues former Fish and Game Code Section 10500(a)-(b) without substantive change.

See also Section 6102 (enforcement).

§ 58705. Take from navigable waters

58705. Nothing in this title shall be construed as prohibiting or preventing a person from taking a bird, mammal, fish, amphibian, or reptile from or on navigable water in a game refuge.

Comment. Section 58705 continues former Fish and Game Code Section 10513 without substantive change.

§ 58710. Commission control of mammals and birds

58710. The commission may exercise control over all mammals and birds in a game refuge.

Comment. Section 58710 continues the part of former Fish and Game Code Section 10502(a) that applies to a game refuge without substantive change.

§ 58715. Acquisition of land for game refuge

58715. (a) For the purposes of propagating, feeding, and protecting birds, mammals, fish, amphibians, and reptiles, the commission may acquire, by purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and

1 administer land, or land and nonmarine water, or land and nonmarine water rights,
2 suitable for state game farms or game refuges.

3 (b) Any property acquired for game refuges shall be acquired in the name of the
4 state, and shall, at all times, be subject to any regulations that may be prescribed
5 from time to time by the commission for the occupation, use, operation,
6 protection, and administration of game refuges.

7 (c) The department shall do all things necessary to secure a valid title in the state
8 to property acquired for a game refuge, but no payment shall be made for the
9 property until the title is satisfactory to the Attorney General and is vested in the
10 state. The acquisition of the property by the state is not prohibited by reason of
11 rights of way, easements, or reservations, which, from their nature, in the opinion
12 of the department, will in no manner interfere with the use of the property for the
13 purpose for which it is acquired.

14 **Comment.** Subdivision (a) of Section 58715 continues former Fish and Game Code Section
15 10503(d) without substantive change.

16 Subdivision (b) continues former Fish and Game Code Section 10504 without substantive
17 change.

18 Subdivision (c) continues former Fish and Game Code Section 10505 without substantive
19 change.

20 **§ 58720. Possession of weapon in game refuge**

21 58720. (a) Nothing in this code prohibits the possession of firearms, BB devices
22 as defined in Section 16250 of the Penal Code, crossbows and bolts, or bows and
23 arrows by persons when traveling through a game refuge when the firearms are
24 taken apart or encased and unloaded and the bows are unstrung or stored
25 separately from any arrow or bolt.

26 (b) When the traveling is done on a route other than a public highway or other
27 public thoroughfare or right of way, notice shall be given to the department at least
28 24 hours before that traveling. The notice shall give the name and address of the
29 person intending to travel through the refuge, the name of the refuge, the
30 approximate route, and the approximate time when that person intends to travel
31 through the refuge.

32 **Comment.** Section 58720 continues former Fish and Game Code Section 10506 without
33 substantive change.

34 **§ 58725. Possession of bird or mammal in game refuge**

35 58725. It is lawful for a person who has given the notice provided for in Section
36 58720 to transport a bird or mammal through a game refuge, if lawfully taken
37 outside the refuge, and if the bird or mammal is carried openly and during the time
38 between one hour before sunrise and one hour after sunset.

39 **Comment.** Section 58725 continues former Fish and Game Code Section 10507 without
40 substantive change.

1 **§ 58730. Posted notices**

2 58730. The department shall cause to be prepared suitable notices to be posted
3 under its direction on each game refuge, containing a warning to all persons to
4 refrain for the period named therein from violations of the provisions of this title
5 relating to game refuges.

6 **Comment.** Section 58730 continues former Fish and Game Code Section 10512 without
7 substantive change.

8 **§ 58735. Management and control**

9 58735. All game refuges shall, for all purposes of protecting birds, mammals,
10 fish, amphibians, or reptiles thereon, be under the control and management of the
11 department, and the officers and employees of the department, all game wardens,
12 and law enforcement officers may at all times enter in and upon game refuges in
13 the performance of their duties.


14 **Comment.** Section 58735 continues former Fish and Game Code Section 10514 without
15 substantive change.

16 **§ 58740. Education and outreach**

17 58740. (a) The department shall undertake appropriate education and outreach
18 regarding the current location of existing game refuges, agency contacts for
19 statutory notices in Sections 58720 and 58725, and the potential closure of all state
20 game refuges, except the California Sea Otter Game Refuge and the Farallon
21 Islands Game Refuge. The department shall provide an opportunity for public
22 comment concerning the potential elimination of game refuges. The department
23 shall provide information about game refuge boundaries, including, but not limited
24 to, maps available both on the department's Internet Web site and in hardcopy
25 format. The department shall also provide Internet Web site contact information
26 for the public to contact the department in accordance with state law. The
27 department may conduct regional workshops as it determines to be necessary to
28 provide public information about the proposed elimination of game refuges.

29 (b) The department, on or before January 1, 2011, shall prepare and submit to
30 the Legislature a description of the public education and outreach effort
31 undertaken pursuant to subdivision (a), and a summary of any information
32 provided by the public that is relevant to the potential closure of all state game
33 refuges except the California Sea Otter Game Refuge and the Farallon Islands
34 Game Refuge.

35 **Comment.** Section 58740 continues former Fish and Game Code Section 10844 without
36 substantive change.

37  **Note.** Existing Section 10844 requires the submission of a report by January 1, 2011. **Can**
38 **that provision be discontinued as obsolete?**

CHAPTER 2. SPECIFIC GAME REFUGES

Article 1. General Provisions

§ 58800. Described areas

58800. (a) The areas described in this chapter are game refuges.

(b) An existing reference to a “Fish and Game District” that is a game refuge shall be construed to refer to the “Game Refuge” that continues the former district.

Comment. Subdivision (a) of Section 58800 continues former Fish and Game Code Section 10820 without substantive change.

Subdivision (b) is new.

Notes. (1) In existing law, most of the described game refuges are referred to as “Fish and Game Districts.” That is the same term that is used to name the districts that subdivide the state for the purposes of administration and special regulation. See existing Sections 11000-11039. This dual use of the term “Fish and Game Districts” is potentially confusing.

To complicate matters further, the term “fish and game refuge” is specially defined as being both a fish refuge and a game refuge. Use of the term “*Fish and Game District*” to refer only to game refuges is another potential source of confusion.

To avoid this confusion, this draft does not use the term “Fish and Game District” to refer to the game refuges described below. Instead, they are referred to as “Game Refuges.”

That change should be unproblematic. The Commission found only one statute and no regulations that use the term “Fish and Game District” to refer to game refuges. See existing Section 10662. That section can easily be revised to use the naming convention established in this draft.

As a final check against confusion, proposed Section 58800(b) expressly provides that an existing reference to a “Fish and Game District” that constitutes a game refuge should be construed as a reference to the “Game Refuge” that continues the referenced **district**.

The Commission invites comment on whether any of the changes noted above would be problematic.

(2) If it would be beneficial to give the game refuges descriptive names, rather than the bare alphanumeric designators that they currently have, now would be a convenient time to do so. **The Commission invites comment on that point.**

Article 2. Game Refuge 1C

§ 58825. Description

58825. The following constitutes Game Refuge 1C: All that area within the County of Modoc within the following boundaries:

Beginning at the boundary of the Modoc National Forest on the east side of Sec. 28, T. 42 N., R. 14 E., where Parker Creek crosses the national forest boundary and following thence Parker Creek and the South Fork of Parker Creek to the summit of the Warner Mountains; thence southerly along the summit of the Warner Mountains to the headwaters of Mill Creek; thence following course of Mill Creek to Mill Creek Ranger Station and Mill Creek stock corrals in approximately Sec. 15, T. 40 N., R. 15 E. (unsurveyed); thence along road from Mill Creek Ranger Station and stock corrals running north of Cantrell’s sawmill to

1 Bowman Ranch, thence along same road to the Modoc National Forest boundary
2 on the center line of Sec. 33, T. 41 N., R. 14 E.; thence north along said national
3 forest boundary to Parker Creek, the point of beginning.

4 **Comment.** Section 58825 continues former Fish and Game Code Section 10821 without
5 substantive change. The refuge described in this section was formerly known as “Fish and Game
6 District 1C.”

7 Article 3. Game Refuge 1F

8 § 58850. Description

9 58850. The following constitutes Game Refuge 1F: All that area within the
10 County of Lassen within the following boundaries:

11 Beginning at the fork of the Puls Camp Road and the Poison Lake-Harvey
12 Valley Road near the quarter section corner between Secs. 33 and 34, T. 33 N., R.
13 8 E.; thence northerly following the westerly side of said road by Dixie Springs
14 and Puls Camp in Sec. 33, T. 34 N., R. 8 E., to Shroder Lake in Sec. 19, T. 34 N.,
15 R. 8 E.; thence southwesterly about one mile to the junction of said Puls Camp
16 Road and the Little Valley Road in Sec. 24, T. 34 N., R. 7 E.; thence northwesterly
17 following the southerly side of said Little Valley Road to its junction with the
18 Blacks Lake Road; thence westerly following the southerly side of said Blacks
19 Lake Road to the Eldridge place in Sec. 13, T. 34 N., R. 6 E.; thence southerly
20 following the easterly side of said road to Jelly Camp in Sec. 25, T. 34 N., R. 6 E.;
21 thence southeasterly following the easterly side of the Susanville-Pittville Road to
22 junction of the Poison Lake-Harvey Valley Road; thence easterly following the
23 northerly side of said Poison Lake-Harvey Valley Road to the point of beginning.

24 **Comment.** Section 58850 continues former Fish and Game Code Section 10822 without
25 substantive change. The refuge described in this section was formerly known as “Fish and Game
26 District 1F.”

27 Article 4. Game Refuge 1G

28 § 58875. Description

29 58875. The following constitutes Game Refuge 1G: All that area within the
30 County of Tehama within the following boundaries:

31 Beginning at a point where Deer Creek crosses the west township line of T. 25
32 N., R. 2 E.; thence north along said township line and along the west township line
33 of T. 26 N., R. 2 E. to its intersection with Boatgunwale Creek; thence down
34 Boatgunwale Creek to Mill Creek; thence up Mill Creek to the Ponderosa Truck
35 Trail; thence following the Ponderosa Truck Trail to its intersection with South
36 Antelope Creek; thence up South Antelope Creek to mouth of the North Fork of
37 South Antelope Creek; thence up the North Fork to its source; thence following
38 Manzanita Cut Trail to the South Fork of Rock Gulch Creek; thence down Rock
39 Gulch Creek to its intersection with the Old Butte Meadows-Round Valley Trail;

1 thence following the Old Butte Meadows-Round Valley Trail to its intersection
2 with the Deer Creek Highway, thence down the Deer Creek Highway to its
3 westerly crossing of Deer Creek, thence down Deer Creek to point of beginning.

4 **Comment.** Section 58875 continues former Fish and Game Code Section 10823 without
5 substantive change. The refuge described in this section was formerly known as “Fish and Game
6 District 1G.”

7 Article 5. Game Refuge 1H

8 **§ 58900. Description**

58900. The following constitutes Game Refuge 1H: All that area within the
County of Plumas within the following boundaries:

Beginning at a point on the Western Pacific Railway known as Quincy Junction; thence following northerly the westerly side of the Old Road to Taylorsville, thence westerly along the southerly side of the County Road 207 to its intersection with the Western Pacific Railway from Crescent Mills to Keddie; thence southwesterly and southerly along these tracks to Keddie; thence southerly and southeasterly along main Western Pacific tracks from Keddie to Quincy Junction to the point of beginning.

18 **Comment.** Section 58900 continues former Fish and Game Code Section 10824 without
19 substantive change. The refuge described in this section was formerly known as “Fish and Game
20 District 1H.”

21 Article 6. Game Refuge 1I

22 **§ 58925. Description**

58925. The following constitutes Game Refuge 1I: All that area within the
County of Placer within the following boundaries:

Beginning at a point in Sec. 17, T. 14 N., R. 14 E., M.D.M., where the French House-Big Meadows Road intersects the South Fork of Long Canyon Creek; thence following southwesterly along said road to its intersection with the French Meadows-Georgetown Road near the section line between Secs. 22 and 23, T. 14 N., R. 13 E., thence southwesterly along the French Meadows-Georgetown Road where it intersects an unnamed tributary to the North Fork of Long Canyon Creek near the section line between Secs. 22 and 27, T. 14 N., R. 13 E.; thence northwesterly along said tributary to French House Site (near the center of Sec. 22, T. 14 N., R. 13 E.); thence northwesterly along the French House-Red Star Mine Jeep Road in Secs. 22 and 15, T. 14 N., R. 13 E., to its intersection with the Middle Fork of the American River, in Sec. 15, T. 14 N., R. 13 E.; thence northeasterly along the Middle Fork of the American River, to its intersection with the southern boundary of Sec. 35, T. 15 N., R. 13 E., thence due north on a line through the center of Sec. 35 to an intersection with the summit of Red Star Ridge in Sec. 26, T. 15 N., R. 13 E. (this being the divide between Duncan Creek and the

1 Middle Fork of the American River); thence northeasterly following the summit of
2 Red Star Ridge to a point in Sec. 4, T. 15 N., R. 14 E. where said ridge intersects
3 the main Foresthill Divide between the North Fork of the American River and the
4 Middle Fork of the American River; thence easterly along the summit of said
5 divide to Needle Peak; thence southerly following the summit of the divide to Mt.
6 Mildred; thence southwesterly following the summit of the divide between Gray
7 Horse Creek and the Middle Fork of the American River to its intersection with
8 the Big Meadows-Gray Horse Valley Trail (near the middle of Sec. 5, T. 14 N., R.
9 14 E.); thence following said trail to the South Fork of Long Canyon Creek (near
10 the middle of Sec. 9, T. 14 N., R. 14 E.); thence southwesterly down the South
11 Fork Long Canyon Creek to the point of beginning.

12 **Comment.** Section 58925 continues former Fish and Game Code Section 10825 without
13 substantive change. The refuge described in this section was formerly known as “Fish and Game
14 District 1I.”

15 Article 7. Game Refuge 1J

16 § 58950. Description

17 58950. The following constitutes Game Refuge 1J: All that area within the
18 County of Amador within the following boundaries:

19 Beginning at a point between Secs. 13 and 18, T. 8 N., R. 14 and 15 E., where
20 the Carson Pass Highway (State Sign Route 88) enters Sec. 18, T. 8 N., R. 15 E.;
21 thence northeasterly along the south side of State Highway 88 right of way to the
22 Bear River Road in Section 12, T. 8 N., R. 15 E.; thence southeasterly along the
23 westerly side of said road to the junction of the Ham’s Spring and Cole Creek
24 Roads in Section 20, T. 8 N., R. 16 E.; thence southeasterly along the westerly
25 side of the Cole Creek Road to its termination at the P. G. & E. penstock in
26 Section 33, T. 8 N., R. 16 E.; thence southerly along the westerly side of said
27 penstock to its intersection with the Mokelumne River; thence down the north
28 bank of the Mokelumne River in a southwesterly direction to the intersection of
29 range line between T. 7 N., R. 14 and 15 E.; thence north along range line between
30 T. 8 N., R. 14 and 15 E., to the intersection of State Sign Route 88 to the place of
31 beginning.

32 **Comment.** Section 58950 continues former Fish and Game Code Section 10826 without
33 substantive change. The refuge described in this section was formerly known as “Fish and Game
34 District 1J.”

35 Article 8. Game Refuge 1N

36 § 58975. Description

37 58975. The following constitutes Game Refuge 1N: All that area within the
38 Counties of Siskiyou and Modoc within the following boundaries:

1 Beginning at the junction of the Lava Ranger Station Road and the Egg Lake-
2 Quaking Asp Road, thence following westerly and northerly the northerly and
3 easterly side of said Lava Ranger Station Road to its junction with the Medicine
4 Lake-Quaking Asp Road near the northwest corner of Sec. 18, T. 42 N., R. 5 E.,
5 thence easterly and southerly following the southerly and westerly side of the
6 Medicine Lake-Quaking Asp-Egg Lake Road to the point of beginning.

7 **Comment.** Section 58975 continues former Fish and Game Code Section 10827 without
8 substantive change. The refuge described in this section was formerly known as “Fish and Game
9 District 1N.”

10 Article 9. Game Refuge 1P

11 § 59000. Description

12 59000. The following constitutes Game Refuge 1P: All that area within the
13 County of Plumas, within the following boundaries:

14 Beginning at the junction of the Milford-Beckwourth Road and the Last Chance-
15 Doyle Road, thence following the easterly side of said Milford-Beckwourth Road
16 to its junction with the Dixie Valley-Frenchman’s Cove Road; thence following
17 the easterly side of the Dixie Valley-Frenchman’s Cove Road to its junction with
18 the Little Last Chance Road; thence following the westerly side of the Little Last
19 Chance Road to its junction with the Last Chance-Doyle Road; thence following
20 the westerly side of the Last Chance-Doyle Road to the place of beginning.

21 **Comment.** Section 59000 continues former Fish and Game Code Section 10828 without
22 substantive change. The refuge described in this section was formerly known as “Fish and Game
23 District 1P.”

24 Article 10. Game Refuge 1R

25 § 59025. Description

26 59025. The following constitutes Game Refuge 1R: All that area within the
27 County of Tuolumne within the following boundaries:

28 Beginning at the junction of the North Fork of the Stanislaus River and the
29 Middle Fork of the Stanislaus River; thence easterly following the northerly bank
30 of said Middle Fork of the Stanislaus River to the mouth of the Shu-fly Creek,
31 approximately in Sec. 9, T. 5 N., R. 18 E.; thence northerly following the westerly
32 bank of said creek to its junction with Whit’s Basin Creek; thence westerly
33 following the southerly and westerly bank of said Whit’s Basin Creek to its
34 junction with the Sands Meadow Trail in Sec. 36, T. 6 N., R. 17 E.; thence
35 northwesterly following said Sands Meadow Trail to its junction with the
36 Government Truck Trail in Sec. 23, T. 6 N., R. 17 E.; thence westerly following
37 said Truck Trail to Liberty Hill; thence following said Government Truck Trail
38 westerly and southerly to its junction with the Boards Crossing-Beaver Creek
39 Camp Road; thence northerly following said Boards Crossing-Beaver Creek Camp

1 Road to Boards Crossing on the North Fork of the Stanislaus River; thence
2 downstream following the easterly bank of said North Fork of the Stanislaus River
3 to the point of beginning.

4 **Comment.** Section 59025 continues former Fish and Game Code Section 10829 without
5 substantive change. The refuge described in this section was formerly known as “Fish and Game
6 District 1R.”

7 Article 11. Game Refuge 1S

8 § 59050. Description

9 59050. The following constitutes Game Refuge 1S: All that area lying within the
10 County of Lassen within the following boundaries:

11 Beginning at the old Haydenhill Post Office in the approximate center of Sec.
12 36, T. 37 N., R. 9 E.; thence following westerly along the old Juniper Road
13 through Windmill Flat to the junction of the Summit Spring Road near Meyers
14 Spring; thence south through Lost Valley along the Lost Valley-Dixie Valley
15 Road to the junction of the Dixie Valley-Grasshopper Road; thence east to the
16 junction of the old Haydenhill-Slate Creek Road located approximately in Sec. 24,
17 T. 35 N., R. 9 E.; thence north along the Haydenhill-Slate Creek Road to the place
18 of beginning.

19 **Comment.** Section 59050 continues former Fish and Game Code Section 10830 without
20 substantive change. The refuge described in this section was formerly known as “Fish and Game
21 District 1S.”

22 Article 12. Game Refuge 1V

23 § 59075. Description

24 59075. The following constitutes Game Refuge 1V: all that area within the
25 County of Plumas within the following boundaries:

26 Beginning at the intersection of U. S. Alternate 40 Highway and U. S. Forest
27 Service Road 24N12; thence following northerly the easterly side of U. S. Forest
28 Service Road 24N12 to its intersection with U. S. Forest Service Road 24N10;
29 thence easterly following the southerly side of U. S. Forest Service Road 24N10 to
30 its intersection with U. S. Forest Service Road 24N07 (Relocated); thence easterly
31 following the southerly side of U. S. Forest Service Road 24N07 (Relocated) to its
32 intersection with U. S. Forest Service Road 25N08; thence southerly on the
33 westerly side of U. S. Forest Service Road 25N08 to its intersection with U. S.
34 Alternate 40 Highway; thence westerly along the northerly side of U. S. Alternate
35 40 Highway to the point of beginning.

36 **Comment.** Section 59075 continues former Fish and Game Code Section 10831 without
37 substantive change. The refuge described in this section was formerly known as “Fish and Game
38 District 1V.”

Article 13. Game Refuge 2A

§ 59100. Description

59100. The following constitutes Game Refuge 2A: All that area within the Counties of Mendocino, Lake, and Glenn within the following boundaries:

Beginning at the summit of Hull Mountain in Mendocino County, in the southwest corner of Sec. 2, T. 19 N., R. 10 W.; thence in a northeasterly direction down Hull Creek (sometimes known as Red Rock Creek) to its junction with Sand Creek; thence southeasterly down Sand Creek to its junction with Corbin Creek, thence in an easterly direction up Corbin Creek to Sec. 36, T. 20 N., R. 8 W.; thence in a southerly direction up a ravine to the Pacific Crest Road (24N02) on the summit of the Coast Range Mountains in Sec. 12, T. 19 N., R. 8 W.; thence southwesterly along the Pacific Crest Road (24N02) to Low Gap, where the Bloody Rock trail crosses the summit in Sec. 27, T. 19 N., R. 8 W.; thence in a westerly direction down the Bloody Rock trail and Cold Creek to South Eel River in Sec. 26, T. 19 N., R. 9 W.; thence down the river to the mouth of a ravine in the SE $\frac{1}{4}$ of Sec. 27, T. 19 N., R. 9 W.; thence in a northwesterly direction up the ravine through Secs. 27 and 28 to the summit of Boardman Ridge; thence in a northwesterly direction up Boardman Ridge to the summit of Hull Mountain to the point of beginning.

Comment. Section 59100 continues former Fish and Game Code Section 10832 without substantive change. The refuge described in this section was formerly known as “Fish and Game District 2A.”

Article 14. Game Refuge 3F

§ 59125. Description

59125. The following constitutes Game Refuge 3F: All that area within the County of Contra Costa described as follows:

All of Secs. 29, 30, 31 and 32, T. 1 N., R. 1 E.; all of Secs. 5, 6, 7 and 8, T. 1 S., R. 1 E.; all of Secs. 25, 26, 35 and 36 of T. 1 N., R. 1 W.; all of Secs. 1, 2, 11 and 12 of T. 1 S., R. 1 W.

Comment. Section 59125 continues former Fish and Game Code Section 10835 without substantive change. The refuge described in this section was formerly known as “Fish and Game District 3F.”

Article 15. Game Refuge 3G

§ 59150. Description

59150. The following constitutes Game Refuge 3G:

All those lands of the Leland Stanford Junior University within the Counties of San Mateo and Santa Clara, and consisting of lots numbers 1 to 33, inclusive; that portion of lots 35 and 42 lying outside of the town limits of the town of Mayfield;

lots 36, 43, 46 to 75, inclusive; 80 to 86, inclusive; 89 to 98, inclusive, as shown on the map entitled “map of the lands of the Leland Stanford Junior University at or near the site of the university in the Counties of Santa Clara and San Mateo, by A. T. and F. A. Herrmann of Herrmann Bros.,” dated November, 1908, recorded in the Office of the County Recorder of the County of Santa Clara.

Comment. Section 59150 continues former Fish and Game Code Section 10836 without substantive change. The refuge described in this section was formerly known as “Fish and Game District 3G.”

Article 16. Game Refuge 4D

§ 59175. Description

59175. The following constitutes Game Refuge 4D: All that area within the County of Riverside described as follows:

Beginning at the intersection of State Highway 74 and Highway 111 in Section 20, T. 5 S., R. 6 E., S.B.B. & M.;

Thence northwesterly on State Highway 111 to its intersection with the south bank of the Palm Canyon wash and the east boundary of Section 25, T. 4 S., R. 4 E., S.B.B. & M.;

Thence southwesterly and southerly along east bank of Palm Canyon wash through said Section 25, Sections 36 and 35, T. 4 S., R. 4 E., S.B.B. & M. and Sections 2, 11, 14, 23, 25 and 36, T. 5 S., R. 4 E., S.B.B. & M.;

Thence continuing along the east bank of said Palm Canyon wash through Sections 1, 12, 13, T. 6 S., R. 4 E., and continuing through Sections 18, 19, 30 and 31, T. 6 S., R. 5 E., to a point of intersection with Omstott Creek;

Thence along the north bank Omstott Creek through Section 31, T. 6 S., R. 5 E., and continuing through Sections 5, 4, 9, 10, T. 7 S., R. 5 E., to the north line of said State Highway 74;

Thence easterly along north line of said Highway 74 to a point of intersection with the north line Section 12, T. 7 S., R. 5 E.;

Thence east along north line of said Section 12 to the northeast corner of said Section 12;

Thence south along the easterly boundary of Sections 12, 13, 24, 25 and 36, T. 7 S., R. 5 E.; and the easterly boundary of Section 1, T. 8 S., R. 5 E., to the point of intersection with the southwesterly corner of Section 31, T. 7 S., R. 6 E.;

Thence east and along the southerly boundary of said Section 31 and Sections 32, 33, 34 and 35, to the southeast corner of Section 36, T. 7 S., R. 6 E.;

Thence north along the easterly boundary of Sections 36, 25, 24, 13 and 12 to the northeast corner of Section 1, T. 7 S., R. 6 E.;

Thence west along the north line of said Section 1 to the southeast corner of Section 36, T. 6 S., R. 6 E.;

Thence north along the east line of said Section 36, Sections 25, 24 and 13 to the southwest corner of Section 7, T. 6 S., R. 7 E.;

1 Thence east along the south line of said Section 7 to the southeast corner
2 thereof;

3 Thence north along the east line of said Section 7 and Section 6 of said T. 6 S.,
4 R. 7 E., to the northeast corner of said Section 6;

5 Thence west along the north line of said Section 6 of said T. 6 S., R. 7 E. to
6 Marshall Street;

7 Thence north along Marshall Street and on the $\frac{1}{4}$ Section line of Sections 31 and
8 30, T. 5 S., R. 7 E. to Highway 111;

9 Thence westerly along Highway 111 to the point of beginning.

10 **Comment.** Section 59175 continues former Fish and Game Code Section 10837 without
11 substantive change. The refuge described in this section was formerly known as “Fish and Game
12 District 4D.”

13 **§ 59180. Firearm prohibition**

14 59180. (a) Notwithstanding any other provision in this code, it shall be unlawful
15 for any person to fire a firearm, but it shall not be unlawful to possess a firearm in
16 the following areas: All of T. 5 S., R. 5 E., except Sections 1, 2, 11, 12, and 13, of
17 Game Refuge 4D.

18 (b) In Game Refuge 4D the lawful occupant of privately owned lands or the
19 employees of those occupants may possess firearms without a permit.

20 **Comment.** Subdivision (a) of Section 59180 continues former Fish and Game Code Section
21 10662 without substantive change.

22 Subdivision (b) continues former Fish and Game Code Section 10663 without substantive
23 change.

24 **Article 17. Game Refuge 4G**

25 **§ 59200. Description**

26 59200. The following constitutes Game Refuge 4G:

27 Beginning at the northeast corner of T. 4 S., R. 3 E., S. B. B. & M.;

28 Thence on section lines, west one mile, north one mile, west two miles, north
29 one mile and west three miles to the northwest corner of Sec. 30, T. 3. S., R. 3 E.,
30 S. B. B. & M.;

31 Thence south on the range line between R. 2 and 3 E., about $7\frac{3}{4}$ miles to the
32 crest of the divide forming the northwesterly boundary of Strawberry Creek
33 watershed;

34 Thence southwesterly along said divide to a point on the northerly boundary of
35 Sec. 28 in T. 5 S., R. 2 E., S. B. B. & M.;

36 Thence southwesterly in a straight line to the junction of Strawberry Creek and
37 the south fork of the San Jacinto River;

38 Thence southeasterly and northeasterly along the crest of the divide between the
39 waters of Dry Creek, a tributary of Strawberry Creek, and the waters of the south
40 fork of the San Jacinto River and its tributaries to the northeasterly side of the
41 right of way of the Pines to Palms Highway;

1 Thence southeasterly along the said northeasterly side of the right of way of the
2 Pines to Palms Highway to the right bank of Hurkey Creek;

3 Thence northerly along the right bank of Hurkey Creek through Secs. 9 and 4 in
4 T. 6 S., R. 3 E., and through Secs. 33, 28, 21, the southeast quarter of Sec. 16, the
5 west one-half of Sec. 15, the east half of Sec. 10 and the northwest quarter of Sec.
6 11 to the crest of the divide between the waters of Hurkey Creek and Murray
7 Canyon;

8 Thence southeasterly along the crest of the divide between the waters flowing
9 west into the San Jacinto River and the waters flowing east into Coachella Valley
10 to a point on the south boundary of Sec. 24 in T. 5 S., R. 3 E., S. B. B. & M.;

11 Thence east on said south line of Sec. 24 to the southeast corner thereof. Thence
12 north on the range line to the point of beginning.

13 **Comment.** Section 59200 continues former Fish and Game Code Section 10838 without
14 substantive change. The refuge described in this section was formerly known as “Fish and Game
15 District 4G.”

16 Article 18. California Sea Otter Game Refuge

17 § 59225. Description

18 59225. The California Sea Otter Game Refuge consists of and includes the
19 following:

20 All that portion of Monterey and San Luis Obispo Counties between Carmel
21 River on the north and Santa Rosa Creek on the south, lying west of the Monterey-
22 Cambria Pines Highway, also known as California Highway No. 1.

23 **Comment.** Section 59225 continues former Fish and Game Code Section 10840 without
24 substantive change.

25 § 59230. Privately owned land

26 59230. In the California Sea Otter Game Refuge, the lawful occupant of
27 privately owned land, or the employees of a lawful occupant, may possess
28 firearms and traps and may take on the privately owned land any nonprotected
29 bird or mammal, and no permit is required for that taking.

30 **Comment.** Section 59230 continues former Fish and Game Code Section 10659 without
31 substantive change.

32 Article 19. Farallon Islands Game Refuge

33 § 59250. Description

34 59250. The following constitutes the Farallon Islands Game Refuge: the
35 Southeast Farallons, including Maintop Island, Middle Farallon, the North
36 Farallons, Noonday Rock, and the waters lying around each island within one
37 nautical mile from the coastline of each island.

Comment. Section 59250 continues the first paragraph of former Fish and Game Code Section 10843 without substantive change.

§ 59255. Regulated activity

59255. (a) Section 58705 shall have no application in the Farrallon Islands Game Refuge. Fishermen, however, may not take any seal or sea lion while in this refuge, notwithstanding the provisions of Section 32500.

(b) Notwithstanding the provisions of Section 58700, persons on commercial vessels may possess unloaded firearms when traveling through the navigable waters of this refuge.

Comment. Section 59255 continues the second paragraph of former Fish and Game Code Section 10843 without substantive change.

Note. Existing Section 10843 refers to Section 4500.5, a provision that was repealed in 1975. See 1975 Cal. stat. ch. 786. That apparently obsolete reference is not continued in proposed Section 59255. **The Commission invites comment on whether that revision would cause any problem.**

Article 20. Johnsville Game Refuge

§ 59275. Description

59275. The following constitutes the Johnsville Game Refuge: All that area within the County of Plumas within the following boundaries:

Beginning at the North $\frac{1}{4}$ corner of Section 24, T. 22 N., R. 11 E., M. D. M.; thence North 89° 39' 25" East 334.93 feet; thence South 0° 08' 47" East 418.08 feet; thence South 89° 48' 44" West 167.37 feet; thence South 0° 09' 33" East 668.15 feet; thence South 89° 59' 48" West 496.21 feet; thence South 0° 09' 15" East 83.34 feet; thence South 89° 58' 24" West 164.51 feet; thence South 0° 08' 41" East 83.31 feet; thence South 89° 59' 14" West 82.26 feet; thence South 0° 08' 24" East 83.29 feet; thence North 89° 59' 55" West 82.26 feet; thence South 0° 03' 55" East 83.09 feet; thence North 89° 51' 34" West 82.43 feet; thence South 0° 03' 58" East 83.05 feet; thence North 89° 50' 14" West 82.42 feet; thence South 0° 03' 30" East 331.95 feet; thence North 89° 46' 07" West 329.53 feet; thence North 0° 03' 37" West 331.59 feet; thence South 89° 49' 39" East 164.68 feet; thence North 0° 04' 08" West 165.91 feet; thence North 0° 04' 47" West 498.64 feet; thence South 89° 57' 00" West 164.57 feet; thence North 0° 04' 11" West 184.90 feet; thence North 69° 21' 49" East 175.25 feet; thence North 0° 05' 22" West 584.25 feet; thence North 89° 43' 00" East 985.90 feet to the point of beginning.

Comment. Section 59275 continues former Fish and Game Code Section 10842 without substantive change. The refuge described in this section was formerly known as "Fish and Game District 1K."

1 **§ 59280. Firearms and other devices**

2 59280. (a) Notwithstanding any provision of law to the contrary, in the
3 Johnsville Game Refuge it shall be unlawful for any person to discharge a firearm
4 or other device capable of killing or injuring any animal.

5 (b) However, it shall not be unlawful for the lawful occupants of privately
6 owned lands or the employees of those occupants to possess firearms or other
7 devices capable of killing or injuring an animal without a permit.

8 **Comment.** Section 59280 continues the first paragraph of former Fish and Game Code Section
9 10665 without substantive change.

10 **§ 59285. Possession**

11 59285. Birds and animals lawfully taken and possessed outside of the
12 boundaries of the Johnsville Game Refuge may be possessed within the refuge.

13 **Comment.** Section 59285 continues the second paragraph of former Fish and Game Code
14 Section 10665 without substantive change.

15 Article 21. Mount Tamalpais Game Refuge

16 **§ 59300. Description**

17 59300. The following constitutes the Mount Tamalpais Game Refuge: All that
18 area within the County of Marin within the following boundaries:

19 Beginning at the intersection of the easterly shore of inner Bolinas Bay with the
20 northwesterly boundary line extended, of the Stinson ranch conveyed to A. H.
21 Stinson et al., by decree of distribution dated the 28th of July, 1911; thence
22 northwesterly along the said northwesterly boundary line to the southwesterly
23 boundary line of the lands of the Marin municipal water district on the crest of
24 Bollinas Ridge; thence northeasterly, northwesterly, and easterly along the westerly
25 and northerly boundary line of the watershed lands of the said water district to its
26 intersection with the southwesterly corner of the Rancho Canada de Herrera;
27 thence north 14 degrees west along the westerly line of said Rancho Canada de
28 Herrera to the southwesterly corner of the Bothin real estate property; thence in an
29 easterly direction along the southerly line of the said Bothin property to its
30 intersection with the westerly boundary line of the town of Fairfax; thence in a
31 general southerly direction along the westerly boundary of the said town of Fairfax
32 to its intersection with the southerly boundary line of the said Rancho Canada de
33 Herrera; thence northerly 83 degrees 15 minutes east along said southerly line
34 3,200 feet, more or less, to its intersection with the southeasterly line of the county
35 road leading from Fairfax to Bolinas; thence northerly along said road and along
36 the Fairfax-Bollinas County Road to a point in the southerly line of the right of
37 way of the Northwestern Pacific Railroad Company near Fairfax station; thence
38 along the said last-mentioned line in a southerly direction following the westerly
39 line of said railroad right of way to its intersection with the southerly line of the
40 road or highway immediately south of Alto station; thence following the southerly

1 side of said Alto-Belvedere Road and state highway easterly to its intersection
2 with the northwesterly line of the Town of Belvedere; thence following the
3 northwesterly line of the Town of Belvedere southwesterly to its extreme westerly
4 corner; thence in a direct line to the extreme northerly corner of the Town of
5 Sausalito; thence southwesterly along the northwesterly line of the Town of
6 Sausalito to its intersection with the Northwestern Pacific Railroad; thence
7 following the westerly line of the right of way of the Northwestern Pacific railroad
8 to Manzanita Station; thence southwesterly in a direct line to the Mill Valley State
9 Highway; thence westerly along the said highway to its intersection with
10 Tennessee Avenue; thence following the southerly and easterly line of Tennessee
11 Avenue, westerly and southerly, to the corner common to ranches E, F, and A, as
12 said ranches are delineated on the Tamalpais Land and Water Company's map No.
13 3; thence southwesterly along the southeasterly boundary lines of ranches E, L,
14 and K, as shown on the said last-mentioned map, to the shore of the Pacific Ocean;
15 thence northwesterly along the shore of the Pacific Ocean and across the easterly
16 end of the Bolinas sandspit, and along the easterly shore of inner Bolinas Bay, to
17 the point of beginning, excepting from the area of said Mount Tamalpais Game
18 Refuge all lands lying within incorporated areas.

19 **Comment.** Section 59300 continues former Fish and Game Code Section 10833 without
20 substantive change. The refuge described in this section was formerly known as "Fish and Game
21 District 2B."

22 **§ 59305. Take by private land owner**

23 59305. In Mt. Tamalpais Game Refuge, the lawful occupant of privately owned
24 land, or the employees of that occupant, may take on those lands, predatory, or
25 destructive birds and mammals that are not protected or fostered by any of the
26 laws of this state, and are not required to obtain permits for that taking.

27 **Comment.** Section 59305 continues former Fish and Game Code Section 10650 without
28 substantive change.

29 **§ 59310. Firearm use by high school militia**

30 59310. In the Mt. Tamalpais Game Refuge firearms may be possessed and used
31 by members of any high school militia while on the grounds of the high school at
32 which time they may be enrolled.

33 **Comment.** Section 59310 continues former Fish and Game Code Section 10651 without
34 substantive change.

35 **§ 59315. Special rules on take**

36 59315. (a) In the Mt. Tamalpais Game Refuge, no threatened, endangered, or
37 fully-protected birds or mammals may be taken under any permit issued by the
38 department.

39 (b) Except for wild pigs, it is unlawful to take any bird or mammal under a
40 permit issued by the department unless the person possessing the permit is

1 accompanied by a member of the commission, a deputy of the department, or a
2 sheriff or deputy sheriff of Marin County.

3 **Comment.** Section 59315 continues former Fish and Game Code Section 10652 without
4 substantive change.

5 Article 22. Preston School of Industry Game Refuge

6 § 59350. Description

7 59350. The Preston School of Industry Game Refuge consists of and includes
8 the following:

9 The Preston School of Industry Reservoir, which is situated on land occupied by
10 the Preston School of Industry, Ione, Amador County.

11 **Comment.** Section 59350 continues former Fish and Game Code Section 10841 without
12 substantive change.

13 TITLE 4. FISH AND GAME REFUGES

14 CHAPTER 1. FISH AND GAME REFUGES GENERALLY

15 § 59400. Fish and game refuge is both a fish refuge and game refuge

16 59400. Any refuge designated as a “fish and game refuge” shall be considered,
17 for the purposes of this part, as both a game refuge and a fish refuge.

18 **Comment.** Section 59400 continues former Fish and Game Code Section 10509 without
19 substantive change.

20 CHAPTER 2. SPECIFIC FISH AND GAME REFUGES

21 Article 1. General Provisions

22 § 59425. Described areas

23 59425. The areas described in this chapter are fish and game refuges.

24 **Comment.** Section 59425 continues former Fish and Game Code Section 10770 without
25 substantive change.

26 Article 2. San Francisco Fish and Game Refuge

27 § 59450. Description

28 59450. The following constitutes and shall be designated the San Francisco Fish
29 and Game Refuge: All that area within the County of San Mateo, within the
30 following boundaries:

31 Beginning at a point on the westerly side of the Skyline Boulevard where said
32 line crosses the fence line between the properties of the San Francisco Water
33 Department and the Jersey farm, thence following southerly the westerly line of

the Skyline Boulevard to the northerly line of the property of the Panama Realty Company, thence following in a generally southerly direction the easterly line of the property of the San Francisco Water Department to the center of the Canada Road, thence due west to the westerly line of said Canada Road, thence southerly along the westerly line of said road to the southerly line of the property of the San Francisco Water Department, thence westerly following the southerly line of the San Francisco Water Department to the Skyline Boulevard, thence northerly following the easterly line of the Skyline Boulevard to its intersection with the easterly line of the Carry E. Bridge property, thence following northerly the easterly line of the said Carry E. Bridge property to its intersection with the easterly line of the Skyline Boulevard, thence northerly following the easterly line of the said Skyline Boulevard to the Half Moon Bay Road, thence crossing the said Skyline Boulevard and said Half Moon Bay Road to the westerly line of the property of the San Francisco Water Department on the northerly side of said Half Moon Bay Road, thence following the westerly line of the San Francisco Water Department in a generally northwesterly direction to the point of beginning.

Comment. Section 59450 continues former Fish and Game Code Section 10771 without substantive change.

§ 59455. Transport of animals

59455. In the San Francisco Fish and Game Refuge, birds, mammals, fish, amphibians, and reptiles legally possessed may be carried openly by persons traveling through the refuge on public roads, between one-half hour before sunrise and one-half hour after sunset.

Comment. Section 59455 continues former Fish and Game Code Section 10653 without substantive change.

Note. Existing Section 10653 refers to the “San Francisco Game Refuge.” There is no game refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which, by law, is treated as both a fish refuge and game refuge). It seems probable that Section 10653 was intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59455, the provision is revised and located accordingly. **The Commission invites comment on whether that would cause any problems.**

§ 59460. Use of land for water supply purposes

59460. Nothing in this part prevents the full use of the land included in the San Francisco Fish and Game Refuge for water supply purposes, nor prohibits any authorized employee of the San Francisco water department from carrying out any reasonable measures that may be necessary for the protection of the water supply or the prevention of pollution of the streams or reservoirs.

Comment. Section 59460 continues former Fish and Game Code Section 10654 without substantive

Note. Existing Section 10654 refers to the “San Francisco Game Refuge.” There is no game refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which, by law, is treated as both a fish refuge and game refuge). It seems probable that Section 10654 was

intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59460, the provision is revised and located accordingly. **The Commission invites comment on whether that would cause any problems.**

TITLE 5. WATERFOWL REFUGES

CHAPTER 1. WATERFOWL REFUGES GENERALLY

§ 59500. Prohibition

59500. Except under a permit or specific authorization, it is unlawful to take or possess a bird, discharge a firearm or BB device, or release an arrow or crossbow bolt, within or into a waterfowl refuge.

Comment. Section 59500 continues former Fish and Game Code Section 10500(d) without substantive change.

See also Section 6102 (enforcement).

CHAPTER 2. SPECIFIC WATERFOWL REFUGES

Article 1. General Provisions

§ 59525. Described areas

59525. The areas described in this chapter are waterfowl refuges.

Comment. Section 59525 continues former Fish and Game Code Section 10860 without substantive change.

Article 2. San Leandro Waterfowl Refuge

§ 59550. Description

59550. The following constitutes a waterfowl refuge and shall be designated the San Leandro Waterfowl Refuge: All the area within the County of Alameda, within the following boundaries:

Beginning at the Bay Farm Island Bridge, in Alameda, thence in a southerly direction, following the levee on westerly side of San Leandro Bay to the Hagenburger Road, thence in a northeasterly direction along said Hagenburger Road to a point where the Pacific Gas and Electric tower line crosses said Hagenburger Road, thence following said Pacific Gas and Electric tower line to the Pacific Gas and Electric substation at the foot of Fiftieth Avenue in Oakland, thence in a westerly direction along the high tide line of San Leandro Bay to the point of beginning.

Comment. Section 59550 continues former Fish and Game Code Section 10861 without substantive change.

1 TITLE 6. MARINE LIFE REFUGES

2 CHAPTER 1. MARINE LIFE REFUGES GENERALLY

3 § 59600. Prohibition

4 59600. Except under a permit or specific authorization, it is unlawful to take or
5 possess an invertebrate or specimen of marine plant life in a marine life refuge.

6 **Comment.** Section 59600 continues former Fish and Game Code Section 10500(f) without
7 substantive change.

8 See also Section 6102 (enforcement).

9 CHAPTER 2. SPECIFIC MARINE LIFE REFUGES

10 Article 1. General Provisions

11 § 59625. Described areas

12 59625. The areas described in this chapter are marine life refuges.

13 **Comment.** Section 59625 continues former Fish and Game Code Section 10900 without
14 substantive change.

15 Article 2. Bodega Marine Life Refuge

16 § 59650. Description

17 59650. The following constitutes a marine life refuge and shall be designated the
18 Bodega Marine Life Refuge:

19 That portion of District 2590 consisting of that certain parcel of land bounded by
20 the line of Mean High Tide of the Pacific Ocean lying between the northern
21 boundary extended northwesterly and the southern boundary extended
22 southwesterly of the lands of the Regents of the University of California according
23 to the final order of condemnation in Case No. 47,617 in the Superior Court of the
24 State of California in and for the County of Sonoma, recorded in Book 1930, at
25 pages 656 and 659, inclusive, Official Records, Sonoma County, California, and
26 extending into and including the state waters of the State of California for a
27 distance of a thousand feet into the Pacific Ocean from the line of Mean High
28 Tide.

29 **Comment.** Section 59650 continues former Fish and Game Code Section 10903 without
30 substantive change.

31 § 59655. Director

32 59655. (a) The director may appoint the Director of the Bodega Marine Life
33 Refuge.

34 (b) The Director of the Bodega Marine Life Refuge may authorize any person to
35 enter the Bodega Marine Life Refuge for the purpose of taking fish, invertebrates,

1 or marine plants for scientific study and to take or possess fish, invertebrates, or
2 marine plants for scientific study.

3 (c) The Director of the Bodega Marine Life Refuge may authorize any person to
4 anchor a vessel in the Bodega Marine Life Refuge for the purpose of scientific
5 study.

6 **Comment.** Section 59655 continues former Fish and Game Code Section 10502.7 without
7 substantive change.

8 **§ 59670. Prohibitions**

9 59670. (a) Except as expressly provided in this part, it is unlawful to enter the
10 Bodega Marine Life Refuge for the purpose of taking or possessing any fish,
11 marine invertebrate, or marine plant, or to take or possess any fish, marine
12 invertebrate, or marine plant in the Bodega Marine Life Refuge.

13 (b) Except as permitted by federal law or emergency caused by hazardous
14 weather, it is unlawful to anchor or moor a vessel in the Bodega Marine Life
15 Refuge without authorization by the Director of the Bodega Marine Life Refuge
16 pursuant to Section 59655.

17 (c) This section does not prohibit or restrict navigation in the Bodega Marine
18 Life Refuge pursuant to federal law.

19 **Comment.** Section 59670 continues former Fish and Game Code Section 10656 without
20 substantive change.

21 **§ 59675. University of California**

22 59675. In the Bodega Marine Life Refuge, licensees of the Regents of the
23 University of California and all officers, employees, and students of that university
24 may take, for scientific purposes, any invertebrate or specimen of marine plant life
25 without a permit from the department.

26 **Comment.** Section 59675 continues former Fish and Game Code Section 10661 without
27 substantive change.

28 **Article 3. Catalina Marine Science Center Marine Life Refuge**

29 **§ 59700. Description**

30 59700. The following constitutes a marine life refuge and shall be designated the
31 Catalina Marine Science Center Marine Life Refuge:

32 All that area bounded on the south and southeast by the mean high tide line and
33 by the present seaward boundary of the lease to tide and submerged lands now
34 held by the University of Southern California from the State Lands Commission
35 (No. 3692.1 Public Resources Code Series) and extending from a point on the
36 mean high tide line at 33° 26' 39" North Latitude 118° 29' 19" West Longitude,
37 thence to 33° 26' 50" North Latitude 118° 29' 08" West Longitude, thence to 33°
38 26' 57.5" North Latitude 118° 28' 33.5" West Longitude, thence to 33° 26' 55"

1 North Latitude 118° 28' 32" West Longitude, and thence to a point on the mean
2 high tide line at 33° 26' 53.5" North Latitude 118° 28' 35" West Longitude.

3 **Comment.** Section 59700 continues former Fish and Game Code Section 10932 without
4 substantive change.

5 **§ 59705. Director**

6 59705. (a) The director may appoint the Director of the Catalina Marine Science
7 Center Marine Life Refuge.

8 (b) The Director of the Catalina Marine Science Center Marine Life Refuge may
9 authorize any person to enter the Catalina Marine Science Center Marine Life
10 Refuge for the purpose of taking fish or marine plants under the conditions that the
11 department determines necessary for the protection and propagation of fish and
12 wildlife and related scientific purposes in that refuge.

13 (c) The Director of the Catalina Marine Science Center Marine Life Refuge,
14 upon recommendation of the Director of the Catalina Marine Science Center, may
15 authorize any person involved in oceanographic and scientific research in and
16 around Santa Catalina Island to anchor or moor a vessel in the Catalina Marine
17 Science Center Marine Life Refuge.

18 **Comment.** Section 59705 continues former Fish and Game Code Section 10502.8 without
19 substantive change.

20 **§ 59710. Prohibitions**

21 59710. (a) Except as expressly provided in this part, it is unlawful to enter the
22 Catalina Marine Science Center Marine Life Refuge for the purpose of taking or
23 possessing any fish or marine plants or to take or possess any fish or marine plants
24 in the Catalina Marine Science Center Marine Life Refuge.

25 (b) Except as permitted by federal law or emergency caused by hazardous
26 weather, it is unlawful to anchor or moor a vessel in the Catalina Marine Science
27 Center Marine Life Refuge without authorization by the Director of the Catalina
28 Marine Science Center Marine Life Refuge pursuant to Section 59705.

29 (c) Section 59715 and this section do not prohibit or restrict navigation in the
30 Catalina Marine Science Center Marine Life Refuge pursuant to federal law.

31 **Comment.** Section 59710 continues former Fish and Game Code Section 10655.5 without
32 substantive change.

33 **§ 59715. Exceptions to prohibitions**

34 59715. (a) A person involved in oceanographic and scientific research in and
35 around Santa Catalina Island may be authorized by the Director of the Catalina
36 Marine Science Center Marine Life Refuge to enter the Catalina Marine Science
37 Center Marine Life Refuge and to anchor or moor a vessel therein.

38 (b) The Director of the Catalina Marine Science Center Marine Life Refuge, or
39 any person that the Director of the Catalina Marine Science Center Marine Life
40 Refuge has authorized under Section 59705, may take, for scientific purposes, any

1 fish or specimen of marine plant life under the conditions prescribed by the
2 department under Section 59705.

3 **Comment.** Section 59715 continues former Fish and Game Code Section 10655 without
4 substantive change.

5 Article 4. City of Encinitas Marine Life Refuge

6 § 59750. Description

7 59750. The land and ocean waters within the following boundaries constitute the
8 City of Encinitas Marine Life Refuge:

9 All those submerged lands lying between the mean high tide line in the City of
10 Encinitas, County of San Diego, State of California, and a line which is 600 feet
11 westerly of and parallel and concentric with that mean high tide line and lying
12 southerly of the westerly prolongation of the northerly right-of-way line of “D”
13 Street as shown on Map No. 148, in the City of Encinitas, County of San Diego,
14 State of California, filed in the office of the County Recorder of San Diego
15 County, and lying northerly of the following described line:

16 Beginning at the southeasterly corner of Lot N in Block 3 of Resubdivision of
17 Sea Cliff Villa, in the City of Encinitas, County of San Diego, State of California,
18 filed in the San Diego County Recorder’s office, December 10, 1914; thence
19 southwesterly along the southwesterly prolongation of the southeasterly line of
20 said Lot N, South 36°36’30” west, to a point on that line which is 600 feet
21 westerly of and parallel and concentric with the mean high tide line.

22 **Comment.** Section 59750 continues former Fish and Game Code Section 10913 without
23 substantive change.

24 Article 5. Dana Point Marine Life Refuge

25 § 59775. Description

26 59775. The following constitutes a marine life refuge and shall be designated as
27 the Dana Point Marine Life Refuge:

28 That portion of District 2625 consisting of land and ocean waters bounded by a
29 line commencing at Station 70 of the mean high tide line as shown on Document
30 Number 25208 recorded in Book 7651, page 69 of Official Records on file in the
31 Office of County Recorder of Orange County; thence along the mean high tide
32 line westerly and northerly 3500 feet more or less to intersection with a line which
33 is 2440 feet south of and parallel to the north line of Fractional Section 21, R. 8
34 W., T. 8 S., S.B.M.’; thence west 1200 feet; thence southerly and easterly 1200
35 feet from and parallel to the shore line to an intersection with a line which bears S
36 40° 00’ E. from said Station 70; thence N 40° 00’ W. 1200 feet more or less to the
37 point of beginning.

38 **Comment.** Section 59775 continues former Fish and Game Code Section 10907 without
39 substantive change.

1 **§ 59780. Director**

2 59780. (a) The director may appoint a Director of the Dana Point Marine Life
3 Refuge.

4 (b) Except as otherwise provided in this section, no state funds, including, but
5 not limited to, the Fish and Game Preservation Fund, shall be used to pay the
6 compensation or expenses of the Director of the Dana Point Marine Life Refuge.
7 A city, county, or special district may use any funds, including state funds
8 appropriated to the city, county, or special district, to pay the compensation and
9 expenses of the director and a public postsecondary educational institution may
10 use private or state funds to pay the compensation and expenses of the director.

11 (c) The Director of the Dana Point Marine Life Refuge may issue a permit
12 authorizing any person to enter the Dana Point Marine Life Refuge for the purpose
13 of taking fish or marine plants under the conditions that the department determines
14 to be necessary for the protection and propagation of fish and wildlife and related
15 scientific purposes in that refuge.

16 (d) The Director of the Dana Point Marine Life Refuge shall erect and maintain
17 signs identifying the boundaries of the Dana Point Marine Life Refuge. The signs
18 shall contain notification regarding the permit requirements of the refuge. The
19 signs shall specify that an access permit shall be obtained from the Director of the
20 Dana Point Marine Life Refuge and a scientific collector's permit from the
21 department in order to take any fish or specimen of marine plant life.

22 **Comment.** Section 59780 continues former Fish and Game Code Section 10502.6 without
23 substantive change.

24 **§ 59785. Take**

25 59785. (a) In the Dana Point Marine Life Refuge below the intertidal zone, the
26 following fish, mollusks, and crustaceans may be taken under the authority of a
27 sportfishing license as authorized by this code: abalone (subject to the moratorium
28 imposed under Section 45800), lobster, rockfish (Scorpaenidae), greenling, ling
29 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
30 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
31 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
32 California halibut, sole, turbot, and sanddab.

33 (b) All other fish and forms of aquatic life are protected and may not be taken
34 without a written permit from the department.

35 (c) Fin fish shall be taken only by hook and line or by spearfishing gear.

36 **Comment.** Section 59785 continues former Fish and Game Code Section 10667(a) without
37 substantive change.

38 **§ 59790. Entry prohibition**

39 59790. Except as expressly provided in this article, it is unlawful to enter the
40 intertidal zone in the Dana Point Marine Life Refuge for the purpose of taking or
41 possessing, or to take or possess, any species of fish, plant, or invertebrate, or part

thereof, to use or have in possession any contrivance designed to be used for catching fish, to disturb any native plant, fish, wildlife, aquatic organism, or to take or disturb any natural geological feature.

Comment. Section 59790 generalizes the first sentence of former Fish and Game Code Section 10667(b) without substantive change.

Note. Existing Section 10667(b) refers to “this section.” Proposed Section 59790 would broaden that provision to refer to “this article.” This would include Section 10502.6 within the scope of the reference. **The Commission invites comment on whether that change would cause any problem.**

§ 59795. Exceptions to prohibitions

59795. (a) Section 59790 does not prohibit persons from entering the intertidal zone for the purpose of entertainment, recreation, and education while having a minimum impact on the intertidal environment and the living organisms therein. For this purpose, minimum impact includes foot traffic, general observation of organisms in their environment with immediate replacement of any unattached organisms to their natural location after temporary lifting for examination, and photography. Minimum impact does not include removal of attached organisms from their environment, gathering of fishing bait, littering, collecting rocks and shells, or turning rocks or other acts destructive to the environment.

(b) Notwithstanding Sections 59785 and 59790, the Director of the Dana Point Marine Life Refuge, or any person, who has a scientific collector’s permit from the department, to whom the Director of the Dana Point Marine Life Refuge has issued a permit pursuant to Section 59780, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department pursuant to Section 59780.

(c) This article does not prohibit the entry of state and local law enforcement officers, fire suppression agencies, and employees of the department in the performance of their official duties.

(d) This article does not prohibit or restrict navigation in the Dana Point Marine Life Refuge pursuant to federal law.

Comment. Subdivision (a) of Section 59795 continues the second through fourth sentences of former Fish and Game Code Section 10667(b) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 10667(d).

Subdivision (c) continues the first sentence of former Fish and Game Code Section 10667(e).

Subdivision (d) continues the second sentence of former Fish and Game Code Section 10667(e).

Note. Existing Section 10667(e) refers twice to “this section.” Proposed Section 59795(c) and (d) would broaden that language to refer to “this article.” This would include Section 10502.6 within the scope of the references. **The Commission invites comment on whether that change would cause any problem.**

1 **§ 59800. “Intertidal zone” defined**

2 59800. For the purposes of this article, “intertidal zone” means the area of the
3 refuge between the mean lower low-water mark and the mean high-tide line
4 described in Section 59775.

5 **Comment.** Section 59800 continues former Fish and Game Code Section 10667(c) without
6 substantive change.

7 Article 6. Doheny Beach Marine Life Refuge

8 **§ 59825. Description**

9 59825. The following constitutes a marine life refuge and shall be designated as
10 the Doheny Beach Marine Life Refuge:

11 All that area lying 600 feet seaward of and below the mean high tide line of the
12 Pacific Ocean between the prolongation of the line common to Blocks A and B of
13 Tract No. 797, Capistrano Beach #3, in the County of Orange, State of California,
14 as per map recorded in Book 25, pages 10 to 15, inclusive, of Miscellaneous Maps
15 in the office of the County Recorder of such county, such line also being the
16 prolongation of the easterly line of Doheny State Beach, a unit of the State Park
17 System acquired by deed dated April 29, 1957, from the Union Oil Company of
18 California, recorded on October 9, 1957, in Book 4063 of Official Records at page
19 88, Orange County, California, and the east breakwater of the Dana Point Harbor,
20 a project of the Orange County Harbor District, a political subdivision of the State
21 of California.

22 **Comment.** Section 59825 continues former Fish and Game Code Section 10908 without
23 substantive change.

24 **§ 59830. Take of fish in refuge**

25 59830. (a) In the Doheny Beach Marine Life Refuge, the following fish,
26 mollusks, and crustaceans may be taken under the authority of a sportfishing
27 license as authorized by this code: abalone, lobster, rockfish (Scorpaenidae),
28 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted
29 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,
30 opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead,
31 bonito, California halibut, sole, turbot, and sanddab.

32 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

33 (c) All other fish and forms of aquatic life are protected and may not be taken
34 without a written permit from the department.

35 **Comment.** Section 59830 continues former Fish and Game Code Section 10664, as it relates to
36 the Doheny Beach Marine Refuge without substantive change.

Article 7. Hopkins Marine Life Refuge

§ 59850. Description

59850. That portion of District 2610 consisting of the land and ocean waters within the following boundaries constitutes a marine life refuge and shall be designated the Hopkins Marine Life Refuge:

Beginning at the point of intersection of the southeasterly corporate limit line of the City of Pacific Grove prolonged, and the line of highest tide of the Bay of Monterey; thence northwesterly along said line of highest tide to the intersection with the northerly extension of the west side of Third Street in said city; thence northerly to a point in said bay where the depth of water is 60 feet measured from the level of mean low tide; thence southeasterly along the line in said bay which line is at a constant depth of 60 feet measured from the level of mean low tide to the intersection with the southeasterly corporate limit line of said city prolonged; thence S. 58° 57' 45" W. along said southeasterly corporate limit line prolonged to the point of beginning.

Comment. Section 59850 continues former Fish and Game Code Section 10901 without substantive change.

§ 59855. Director

59855. The director may appoint the Director of the Hopkins Marine Life Refuge.

Comment. Section 59855 continues the first sentence of former Fish and Game Code Section 10502.5 without substantive change.

§ 59860. Special prohibition

59860. Except as expressly provided in this part, it is unlawful to enter the Hopkins Marine Life Refuge for the purpose of taking or possessing any fish or marine plants or to take or possess any fish or marine plants in the Hopkins Marine Life Refuge.

Comment. Section 59860 continues the first paragraph of former Fish and Game Code Section 10657.5 without substantive change.

§ 59865. Exceptions to prohibition

59865. (a) A person may be permitted by the Director of the Hopkins Marine Life Refuge to enter the Hopkins Marine Life Refuge under a permit.

(b) The Director of the Hopkins Marine Life Refuge, or any person to whom the Director of the Hopkins Marine Life Refuge has issued a permit under subdivision (c) of Section 59865, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department under subdivision (c) of Section 59865.

(c) The Director of the Hopkins Marine Life Refuge may issue a permit to any person under which the person may enter the Hopkins Marine Life Refuge for the

1 purpose of taking fish or marine plants under the conditions that the department
2 determines necessary for the protection and propagation of fish and wildlife and
3 related scientific purposes in that refuge.

4 (d) This section and Section 59860 do not prohibit or restrict navigation in the
5 Hopkins Marine Life Refuge pursuant to federal law.

6 **Comment.** Subdivisions (a) and (b) of Section 59865 continues former Fish and Game Code
7 Section 10657 without substantive change.

8 Subdivision (c) continues the second sentence of former Fish and Game Code Section 10502.5
9 without substantive change.

10 Subdivision (d) continues the second paragraph of former Fish and Game Code Section
11 10657.5 without substantive change.

12 Article 8. Irvine Coast Marine Life Refuge

13 § 59900. Description

14 59900. The following constitutes a marine life refuge and shall be designated as
15 the Irvine Coast Marine Life Refuge:

16 That portion of California state tide and submerged lands adjoining the Newport
17 Beach Marine Life Refuge as described in Section 59975 and bounded by a line
18 beginning at the intersection of the southwesterly extension of lot 141, Tract No.
19 3357 as shown on a map recorded in Book 107, Page 1 of Miscellaneous Maps on
20 file in the office of the County Recorder, Orange County and the Line of Ordinary
21 High Tide; thence, southeasterly along the Line of Ordinary High Tide
22 approximately 20,000 feet to its intersection with the southwesterly extension of
23 the northwesterly boundary line of the City of Laguna Beach; thence,
24 southwesterly along such southwesterly extension 600 feet; thence, northwesterly
25 along a line parallel to and 600 feet southwesterly of the Line of Ordinary High
26 Tide to the southwesterly extension of said lot 141; thence, northeasterly 600 feet
27 along such southwesterly extension to the point of beginning.

28 **Comment.** Section 59900 continues former Fish and Game Code Section 10912 without
29 substantive change.

30 § 59905. Take of fish in refuge

31 59905. (a) In the Irvine Coast Marine Life Refuge, the following fish, mollusks,
32 and crustaceans may be taken under the authority of a sportfishing license as
33 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling
34 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
35 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
36 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
37 California halibut, sole, turbot, and sanddab.

38 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

39 (c) All other fish and forms of aquatic life are protected and may not be taken
40 without a written permit from the department.

1 **Comment.** Section 59905 continues former Fish and Game Code Section 10664, as it relates to
2 the Irvine Coast Marine Refuge without substantive change.

3 Article 9. James V. Fitzgerald Marine Reserve

4 **§ 59925. Description**

5 59925. The following constitutes a marine life refuge and shall be designated the
6 James V. Fitzgerald Marine Reserve:

7 That portion of District 2590 consisting of that certain parcel of land bounded by
8 a line commencing at the mean high tide of the Pacific Ocean lying on a line
9 beginning at the northeasterly corner of Lot 8, Block 42 as said Lot and Block are
10 shown on “Map of Moss Beach Heights San Mateo County Cal”, recorded May 4,
11 1908, in Volume 6 of Maps at page 8, records of San Mateo County; thence North
12 88° 49′ West along the northerly line of said Lot 8 and its Northwesterly
13 prolongation to the intersection thereof with the Westerly line of that certain tract
14 of land (Parcel No. 1) conveyed to the County of San Mateo for a marine reserve,
15 recorded August 8, 1967, in Volume 5346 Official Records of San Mateo County
16 at page 62 (70483-AA) last mentioned intersection being the shoreline of the
17 Pacific Ocean (ordinary high water) and the true Point of Beginning along the
18 prolongation of the Northerly Line of said Lot 8, North 88° 49′ West, 1000 feet,
19 into the Pacific Ocean and thence generally Southerly and generally parallel to the
20 shoreline for a distance of approximately three statute miles to the extension of a
21 line beginning at the most Southerly terminus of Course No. 15 of the survey of
22 the Rancho Corral de Tierra as shown on a Plat thereof on file in the Office of the
23 Bureau of Land Management, U. S. Department of the Interior; said most
24 Southerly terminus also being distant on said Course No. 15, South 28° 30′ East
25 269.91 feet from the most Southerly corner of that certain 10.380 acre tract of land
26 conveyed to the United States of America by Deed dated June 18, 1940, recorded
27 October 28, 1940 in Book 918 of Official Records at page 373; running thence
28 from said point of beginning along a line that is the Southwesterly prolongation of
29 Course No. 14 of said survey, South 74° 45′ West to the shoreline of the Pacific
30 Ocean (ordinary high water) and the true point of beginning of the least area
31 herein described; thence from said true point of beginning along the prolongation
32 of said Course No. 14, South 74° 45′ West, 1000 feet into the Pacific Ocean,
33 thence Easterly along said line to the mean high tide line, thence generally
34 Northerly along the line of the mean high tide to the point of beginning.

35 **Comment.** Section 59925 continues former Fish and Game Code Section 10909 without
36 substantive change.

37 **§ 59930. Take of fish in refuge**

38 59930. (a) In the James V. Fitzgerald Marine Reserve, the following fish and
39 mollusks may be taken under the authority of a sport fishing license as authorized
40 by this code: abalone, rockfish (Sebastes), lingcod, surfperch (Embiotocidae),

1 monkeyface eel, rock eel, white croaker, halibut, cabezon (*Scorpaenichthys*
2 *marmoratus*), kelp greenling (*Hexagrammos decagrammus*), and smelt (*Osmeridae*
3 and *Antherinidae*).

4 (b) No fish listed in subdivision (a) that has fins may be taken except by hook
5 and line or by spearfishing.

6 (c) All other fish and forms of aquatic life are protected and may not be taken
7 without a written permit from the department.

8 **Comment.** Section 59930 continues former Fish and Game Code Section 10666 without
9 substantive change.

10 Article 10. Laguna Beach Marine Life Refuge

11 § 59950. Description

12 59950. The following constitutes a marine life refuge and shall be designated as
13 the Laguna Beach Marine Life Refuge:

14 That portion of District 2625 consisting of that certain parcel of land bounded by
15 a line commencing at the mean high tide of the Pacific Ocean lying on the
16 northern boundary of the City of Laguna Beach and running for a distance of 600
17 feet into the Pacific Ocean along that boundary, and thence generally
18 southeastward and generally parallel to the shoreline at a distance of
19 approximately 600 feet to the northern boundary of the South Laguna Beach
20 Marine Life Refuge, and thence generally northeastward for a distance of
21 approximately 700 feet to the mean high tide, and thence generally northwestward
22 along the line of mean high tide to the point of beginning.

23 **Comment.** Section 59950 continues former Fish and Game Code Section 10904 without
24 substantive change.

25 § 59955. Take of fish in refuge

26 59955. (a) In the Laguna Beach Marine Life Refuge, the following fish,
27 mollusks, and crustaceans may be taken under the authority of a sportfishing
28 license as authorized by this code: abalone, lobster, rockfish (*Scorpaenidae*),
29 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted
30 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,
31 opaleye, halfmoon, surfperch (*Embiotocidae*), blacksmith, barracuda, sheephead,
32 bonito, California halibut, sole, turbot, and sanddab.

33 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

34 (c) All other fish and forms of aquatic life are protected and may not be taken
35 without a written permit from the department.

36 **Comment.** Section 59955 continues former Fish and Game Code Section 10664, as it relates to
37 the Laguna Beach Marine Refuge without substantive change.

Article 11. Newport Beach Marine Life Refuge

§ 59975. Description

59975. The following constitutes a marine life refuge and shall be designated as the Newport Beach Marine Life Refuge:

That portion of District 2625 consisting of that certain parcel of land bounded by the line of Mean High Tide of the Pacific Ocean between the eastern boundary of the City of Newport Beach and Poppy Avenue in the City of Newport Beach, and extending into and including the state waters of the State of California for a distance of two hundred feet into the Pacific Ocean from the line of Mean High Tide.

Comment. Section 59975 continues former Fish and Game Code Section 10905 without substantive change.

§ 59980. Take of fish in refuge

59980. (a) In the Newport Beach Marine Life Refuge, the following fish, mollusks, and crustaceans may be taken under the authority of a sportfishing license as authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito, California halibut, sole, turbot, and sanddab.

(b) Fin fish shall be taken only by hook and line or by spearfishing gear.

(c) All other fish and forms of aquatic life are protected and may not be taken without a written permit from the department.

Comment. Section 59980 continues former Fish and Game Code Section 10664, as it relates to the Newport Beach Marine Refuge without substantive change.

Article 12. Niguel Marine Life Refuge

§ 60000. Description

60000. The following constitutes a marine life refuge and shall be designated as the Niguel Marine Life Refuge: That portion of California state tide and submerged lands bounded by a line commencing at a point which is the intersection of the line of mean high tide and a line which is 2,440 feet south of and parallel to the north line of Fractional Section 21, R.8W., T.8S., S.B.M., such point also being on the north boundary of the Dana Point Marine Life Refuge, thence along the mean high tide line northerly and westerly 12,000 feet more or less to its intersection with the westerly prolongation of the most northerly boundary line of lot 101 of "Three Arches Palisades No. 1" as shown on a map filed in book 3, page 3, Records of Surveys in the Office of the County Recorder, Orange County; thence, S. 89° 54' W. 1,200 feet from such point of intersection along the westerly prolongation of such northerly boundary line; thence, south and

1 west, and east parallel to and 1,200 feet from the line of mean high tide to a point
2 on the north line of Dana Point Marine Life Refuge and also being 1,200 feet west
3 of the point of beginning; thence, east 1,200 feet along the northerly boundary of
4 Dana Point Marine Life Refuge to the point of beginning.

5 **Comment.** Section 60000 continues former Fish and Game Code Section 10911 without
6 substantive change.

7 **§ 60005. Take of fish in refuge**

8 60005. (a) In the Niguel Marine Life Refuge, the following fish, mollusks, and
9 crustaceans may be taken under the authority of a sportfishing license as
10 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling
11 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
12 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
13 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
14 California halibut, sole, turbot, and sanddab.

15 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

16 (c) All other fish and forms of aquatic life are protected and may not be taken
17 without a written permit from the department.

18 **Comment.** Section 60005 continues former Fish and Game Code Section 10664, as it relates to
19 the Niguel Marine Refuge without substantive change.

20 **Article 13. Point Fermin Marine Life Refuge**

21 **§ 60025. Description**

22 60025. The following constitutes a marine life refuge and shall be designated as
23 the Point Fermin Marine Life Refuge:

24 That portion of District 2625 consisting of land and ocean waters bounded by
25 the line of mean high tide of the Pacific Ocean extending into and including the
26 state waters of the State of California for a distance of 600 feet below low-tide
27 mark, in the San Pedro area of the City of Los Angeles in an area generally
28 parallel to the shoreline lying between the easterly extension of 40th Street,
29 westerly to the southerly extension of Gaffey Street at Point Fermin.

30 **Comment.** Section 60025 continues former Fish and Game Code Section 10910 without
31 substantive change.

32 **§ 60030. Take of fish in refuge**

33 60030. (a) In the Point Fermin Marine Life Refuge, the following fish, mollusks,
34 and crustaceans may be taken under the authority of a sportfishing license as
35 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling
36 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
37 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
38 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
39 California halibut, sole, turbot, and sanddab.

- 1 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.
2 (c) All other fish and forms of aquatic life are protected and may not be taken
3 without a written permit from the department.
4 **Comment.** Section 60030 continues former Fish and Game Code Section 10664, as it relates to
5 the Point Fermin Marine Refuge without substantive change.

6 Article 14. San Diego Marine Life Refuge

7 **§ 60050. Description**

8 60050. The following constitutes a marine life refuge and shall be designated the
9 San Diego Marine Life Refuge:

10 That portion of District 2625 consisting of that certain strip of land lying
11 between the westerly edge of Pueblo Lot No. 1298 of the pueblo lands of the City
12 of San Diego, according to the official map of said pueblo lands as made by James
13 Pascoe, and filed in the Office of the County Recorder of said County of San
14 Diego, and the lowest tide line opposite to and west of said pueblo lot, which said
15 strip of land is bounded on the north by the northerly boundary line of said pueblo
16 lot extended westerly and on the south by the southerly boundary line of said
17 pueblo lot extended westerly; together with the state waters of the State of
18 California adjacent thereto, being those state waters which lie between said
19 extended northerly and southerly boundaries of said pueblo lot and extend
20 westerly from said lowest low tide line for a distance of 1,000 feet.

21 **Comment.** Section 60050 continues former Fish and Game Code Section 10902 without
22 substantive change.

23 **§ 60055. University of California**

24 60055. In the San Diego Marine Life Refuge, licensees of the Regents of the
25 University of California and all officers, employees, and students of such
26 university may take, for scientific purposes, any invertebrate or specimen of
27 marine plant life without a permit from the department.

28 **Comment.** Section 60055 continues former Fish and Game Code Section 10658 without
29 substantive change.

30 Article 15. South Laguna Beach Marine Life Refuge

31 **§ 60075. Description**

32 60075. The following constitutes a marine life refuge and shall be designated as
33 the South Laguna Beach Marine Life Refuge:

34 That portion of District 2625 consisting of land and ocean waters bounded by a
35 line commencing at the intersection of the line of mean high tide of the Pacific
36 Ocean and a line which bears South 48° 50' 00" West from the most westerly
37 point of Lot 75 of Tract No. 702, as that tract is shown on a map recorded in Book
38 21, pages 1 to 3, Miscellaneous Maps, on file in the Office of the County Recorder

1 of Orange County; thence running South 48° 50′ 00″ West approximately 600 feet
2 to the minus 20 foot mean lower low water contour; thence southeasterly and
3 generally parallel to the shoreline to the northerly boundary of the Niguel Marine
4 Life Refuge; thence North 35° 57′ 06″ East to the line of mean high tide of the
5 Pacific Ocean; thence northwesterly along the line of mean high tide of the Pacific
6 Ocean to the point of beginning.

7 **Comment.** Section 60075 continues former Fish and Game Code Section 10906 without
8 substantive change.

9 **§ 60080. Take of fish in refuge**

10 60080. (a) In the South Laguna Beach Marine Life Refuge, the following fish,
11 mollusks, and crustaceans may be taken under the authority of a sportfishing
12 license as authorized by this code: abalone, lobster, rockfish (Scorpaenidae),
13 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted
14 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,
15 opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead,
16 bonito, California halibut, sole, turbot, and sanddab.

17 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

18 (c) All other fish and forms of aquatic life are protected and may not be taken
19 without a written permit from the department.

20 **Comment.** Section 60080 continues former Fish and Game Code Section 10664, as it relates to
21 the South Laguna Beach Marine Refuge without substantive change.

22 **TITLE 7. QUAIL REFUGES**

23 **CHAPTER 1. QUAIL REFUGES GENERALLY**

24 **§ 60200. Prohibition**

25 60200. Except under a permit or specific authorization, it is unlawful to take or
26 possess a quail in a quail refuge.

27 **Comment.** Section 60200 continues former Fish and Game Code Section 10500(e) without
28 substantive change.

29 See also Section 6102 (enforcement).

30 **CHAPTER 2. SPECIFIC QUAIL REFUGES**

31 **Article 1. General Provisions**

32 **§ 60225. Described areas**

33 60225. The areas described in this chapter are quail refuges.

34 **Comment.** Section 60225 continues former Fish and Game Code Section 10880 without
35 substantive change.

Article 2. Bolinas Quail Refuge

§ 60250. Description

60250. The following constitutes a quail refuge and shall be designated the Bolinas Quail Refuge: All that area within the County of Marin, within the following boundaries:

Beginning at a point on the southeasterly line of the lands of Ludwig B. Freudenthal, as the same is described in Book 158 of official records on page 261, of Marin County records, and at a point which is 20 feet above mean high tide of the Pacific Ocean, and running thence northeasterly and northwesterly along the southeasterly line of said Ludwig B. Freudenthal tract to a point on the southerly line of the “Mesa Road,” thence northeasterly and along the southerly line of Mesa Road to the westerly line of the road leading from the Town of Bolinas to Sausalito, thence southeasterly and along the southerly line of the county road leading through the Town of Bolinas to the landing wharf at the entrance of Bolinas Bay, and 20 feet above mean high tide, thence southwesterly, westerly and northwesterly along a line which is 20 feet above mean high tide to the point of beginning.

Comment. Section 60250 continues former Fish and Game Code Section 10881 without substantive change.

TITLE 8. CLAM REFUGES

CHAPTER 1. CLAM REFUGES GENERALLY

§ 60300. Prohibition

60300. Except under a permit or specific authorization, it is unlawful to take or possess a clam or an instrument or apparatus capable of being used to dig clams in a clam refuge.

Comment. Section 60300 continues former Fish and Game Code Section 10500(g) without substantive change.

See also Section 6102 (enforcement).

CHAPTER 2. SPECIFIC CLAM REFUGES

§ 60325. Pismo clam bearing beaches

60325. (a) The commission may close for the taking of clams not less than eight land miles of pismo clam bearing beaches within San Luis Obispo County as a clam refuge, but not more than 50 percent of any individual pismo clam bearing beach or beaches may be so closed at any time. The commission may from time to time vary the location of the closed and open portions of those beaches.

(b) Before the commission closes, opens, or varies the location of the closed and open portions of pismo clam bearing beaches, one or more members of the

1 commission shall hold a public hearing in the county to be affected, notice of
2 which has been published at least once in a newspaper of general circulation,
3 printed, and published in that county. The commission may determine which
4 newspaper will be most likely to give notice to the inhabitants of the county, and
5 its determination shall be final and conclusive. The commission may authorize any
6 employee of the department in its place to hold the hearings, in which event a copy
7 of a transcript of all proceedings taken or had at the hearing shall be furnished to
8 each commissioner at least five days before any regulation is made by the
9 commission.

10 **Comment.** Section 60325 continues former Fish and Game Code Section 10711 without
11 substantive change.

12 PART 2. MARINE LIFE PROTECTION ACT

13 TITLE 1. GENERAL PROVISIONS

14 § 60400. Short title

15 60400. This part shall be known and may be cited as the Marine Life Protection
16 Act.

17 **Comment.** Section 60400 continues former Fish and Game Code Section 2850 without
18 substantive change.

19 § 60405. Legislative findings and declarations

20 60405. The Legislature finds and declares all of the following:

21 (a) California's marine protected areas (MPAs) were established on a piecemeal
22 basis rather than according to a coherent plan and sound scientific guidelines.
23 Many of these MPAs lack clearly defined purposes, effective management
24 measures and enforcement. As a result, the array of MPAs creates the illusion of
25 protection while falling far short of its potential to protect and conserve living
26 marine life and habitat.

27 (b) California's extraordinary marine biological diversity is a vital asset to the
28 state and nation. The diversity of species and ecosystems found in the state's
29 ocean waters is important to public health and well-being, ecological health, and
30 ocean-dependent industry.

31 (c) Coastal development, water pollution, and other human activities threaten the
32 health of marine habitat and the biological diversity found in California's ocean
33 waters. New technologies and demands have encouraged the expansion of fishing
34 and other activities to formerly inaccessible marine areas that once recharged
35 nearby fisheries. As a result, ecosystems throughout the state's ocean waters are
36 being altered, often at a rapid rate.

1 (d) Fish and other sea life are a sustainable resource, and fishing is an important
2 community asset. MPAs and sound fishery management are complementary
3 components of a comprehensive effort to sustain marine habitats and fisheries.

4 (e) Understanding of the impacts of human activities and the processes required
5 to sustain the abundance and diversity of marine life is limited. The designation of
6 certain areas as sea life reserves can help expand our knowledge by providing
7 baseline information and improving our understanding of ecosystems where
8 minimal disturbance occurs.

9 (f) Marine life reserves are an essential element of an MPA system because they
10 protect habitat and ecosystems, conserve biological diversity, provide a sanctuary
11 for fish and other sea life, enhance recreational and educational opportunities,
12 provide a reference point against which scientists can measure changes elsewhere
13 in the marine environment, and may help rebuild depleted fisheries.

14 (g) Despite the demonstrated value of marine life reserves, only 14 of the
15 220,000 square miles of combined state and federal ocean water off California, or
16 six-thousandths of 1 percent, are set aside as genuine no take areas.

17 (h) For all of the above reasons, it is necessary to modify the existing collection
18 of MPAs to ensure that they are designed and managed according to clear,
19 conservation-based goals and guidelines that take full advantage of the multiple
20 benefits that can be derived from the establishment of marine life reserves.

21 **Comment.** Section 60405 continues former Fish and Game Code Section 2851 without
22 substantive change.

23 **§ 60410. Definitions**

24 60410. The following definitions govern the construction of this part:

25 (a) “Adaptive management,” with regard to marine protected areas, means a
26 management policy that seeks to improve management of biological resources,
27 particularly in areas of scientific uncertainty, by viewing program actions as tools
28 for learning. Actions shall be designed so that, even if they fail, they will provide
29 useful information for future actions, and monitoring and evaluation shall be
30 emphasized so that the interaction of different elements within marine systems
31 may be better understood.

32 (b) “Biogeographical regions” refers to the following oceanic or near shore
33 areas, seaward from the mean high tide line or the mouth of coastal rivers, with
34 distinctive biological characteristics, unless the team establishes an alternative set
35 of boundaries:

36 (1) The area extending south from Point Conception.

37 (2) The area between Point Conception and Point Arena.

38 (3) The area extending north from Point Arena.

39 (c) “Marine protected area” or “MPA” means a named, discrete geographic
40 marine or estuarine area seaward of the mean high tide line or the mouth of a
41 coastal river, including any area of intertidal or subtidal terrain, together with its
42 overlying water and associated flora and fauna that has been designated by law,

1 administrative action, or voter initiative to protect or conserve marine life and
2 habitat. An MPA includes marine life reserves and other areas that allow for
3 specified commercial and recreational activities, including fishing for certain
4 species but not others, fishing with certain practices but not others, and kelp
5 harvesting, provided that these activities are consistent with the objectives of the
6 area and the goals and guidelines of this part. MPAs are primarily intended to
7 protect or conserve marine life and habitat, and are therefore a subset of marine
8 managed areas (MMAs), which are broader groups of named, discrete geographic
9 areas along the coast that protect, conserve, or otherwise manage a variety of
10 resources and uses, including living marine resources, cultural and historical
11 resources, and recreational opportunities.

12 (d) “Marine life reserve,” for the purposes of this part, means a marine protected
13 area in which all extractive activities, including the taking of marine species, and,
14 at the discretion of the commission and within the authority of the commission,
15 other activities that upset the natural ecological functions of the area, are
16 prohibited. While, to the extent feasible, the area shall be open to the public for
17 managed enjoyment and study, the area shall be maintained to the extent
18 practicable in an undisturbed and unpolluted state.

19 (e) “Team” means the master plan team convened pursuant to subdivision (b) of
20 Section 2855.

21 **Comment.** Subdivisions (a) through (d) of Section 60410 continue former Fish and Game
22 Code Section 2852 without substantive change.

23 Subdivision (e) is new.

24 **§ 60415. Ocean Protection Council authority**

25 60415. Notwithstanding any other law and consistent with the authority granted
26 under Section 60450, commencing on July 1, 2013, the Ocean Protection Council
27 shall assume responsibility for the direction of policy of marine protected areas
28 (MPAs).

29 **Comment.** Section 60415 continues former Fish and Game Code Section 2850.5 without
30 substantive change.

31 **§ 60420. Consultation with United States Navy**

32 60420. The department shall confer as necessary with the United States Navy
33 regarding issues related to its activities.

34 **Comment.** Section 60420 continues former Fish and Game Code Section 2863 without
35 substantive change.

36 **TITLE 2. PROTECTIONS**

37 **§ 60450. Take of fish in MPA or marine life reserve**

38 60450. (a) The commission may regulate commercial and recreational fishing
39 and any other taking of marine species in MPAs.

(b) Notwithstanding any other provision of this code, the taking of a marine species in a marine life reserve is prohibited for any purpose, including recreational and commercial fishing, except that the commission may authorize the taking of a marine species for scientific purposes, consistent with the purposes of this part, under a scientific collecting permit issued by the department.

Comment. Section 60450 continues former Fish and Game Code Section 2860 without substantive change.

§ 60455. Impact analysis

60455. The department, in evaluating proposed projects with potential adverse impacts on marine life and habitat in MPAs, shall highlight those impacts in its analysis and comments related to the project and shall recommend measures to avoid or fully mitigate any impacts that are inconsistent with the goals and guidelines of this part or the objectives of the MPA.

Comment. Section 60455 continues former Fish and Game Code Section 2862 without substantive change.

TITLE 3. MARINE LIFE PROTECTION PROGRAM

§ 60475. Marine Life Protection Program

60475. (a) The Legislature finds and declares that there is a need to reexamine and redesign California's MPA system to increase its coherence and its effectiveness at protecting the state's marine life, habitat, and ecosystems.

(b) To improve the design and management of that system, the commission, pursuant to Section 60520, shall adopt a Marine Life Protection Program, which shall have all of the following goals:

(1) To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.

(2) To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.

(3) To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.

(4) To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.

(5) To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.

(6) To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

Comment. Section 60475 continues former Fish and Game Code Section 2853(a)-(b) without substantive change.

1 **§ 60480. Program elements**

2 60480. The Marine Life Protection Program may include areas with various
3 levels of protection, and shall include all of the following elements:

4 (a) An improved marine life reserve component consistent with the guidelines in
5 subdivision (c) of Section 60525.

6 (b) Specific identified objectives, and management and enforcement measures,
7 for all MPAs in the system.

8 (c) Provisions for monitoring, research, and evaluation at selected sites to
9 facilitate adaptive management of MPAs and ensure that the system meets the
10 goals stated in this part.

11 (d) Provisions for educating the public about MPAs, and for administering and
12 enforcing MPAs in a manner that encourages public participation.

13 (e) A process for the establishment, modification, or abolishment of existing
14 MPAs or new MPAs established pursuant to this program, that involves interested
15 parties, consistent with paragraph (7) of subdivision (b) of Section 12100, and that
16 facilitates the designation of MPAs consistent with the master plan adopted
17 pursuant to Section 60500.

18 **Comment.** Section 60480 continues former Fish and Game Code Section 2853(c) without
19 substantive change.

20 **TITLE 4. MASTER PLAN**

21 **§ 60500. Master plan**

22 60500. (a) The commission shall adopt a master plan that guides the adoption
23 and implementation of the Marine Life Protection Program adopted pursuant to
24 Title 3 (commencing with Section 60475) and decisions regarding the siting of
25 new MPAs and major modifications of existing MPAs. The plan shall be based on
26 the best readily available science.

27 (b)(1) The department shall prepare, or by contract shall cause to be prepared, a
28 master plan in accordance with this subdivision. In order to take full advantage of
29 scientific expertise on MPAs, the department shall convene a master plan team to
30 advise and assist in the preparation of the master plan, or hire a contractor with
31 relevant expertise to assist in convening the team.

32 (2) The team members convened pursuant to this subdivision shall have
33 expertise in marine life protection and shall be knowledgeable about the use of
34 protected areas as a marine ecosystem management tool. The members shall also
35 be familiar with underwater ecosystems found in California waters, with the
36 biology and habitat requirements of major species groups in the state's marine
37 waters, and with water quality and related issues.

38 (3) The team shall be composed of the following individuals:

39 (A) Staff from the department, the Department of Parks and Recreation, and the
40 State Water Resources Control Board, to be designated by each of those
41 departments.

1 (B) Five to seven members who shall be scientists, one of whom may have
2 expertise in the economics and culture of California coastal communities.

3 (C) One member, appointed from a list prepared by Sea Grant marine advisers,
4 who shall have direct expertise with ocean habitat and sea life in California marine
5 waters.

6 (4) The master plan shall be prepared with the advice, assistance, and
7 involvement of participants in the various fisheries and their representatives,
8 marine conservationists, marine scientists, and other interested persons. In
9 preparing the master plan, the department shall confer, to the extent feasible, with
10 the commission, the Pacific Fishery Management Council, the National Marine
11 Fisheries Service, the United States Navy, the United States Geological Survey's
12 national biological survey, staff from national marine sanctuaries off California,
13 Sea Grant researchers, marine advisers, and national parks personnel.

14 (5) The department may engage other experts to contribute to the master plan,
15 including scientists, geographic information system (GIS) experts, and commercial
16 and recreational fishermen, divers, and other individuals knowledgeable about the
17 state's underwater ecosystems, the history of fishing effort or MPA management,
18 or other relevant subjects.

19 (c) The department and team, in carrying out this part, shall take into account
20 relevant information from local communities, and shall solicit comments and
21 advice for the master plan from interested parties on issues including, but not
22 necessarily limited to, each of the following:

23 (1) Practical information on the marine environment and the relevant history of
24 fishing and other resources use, areas where fishing is currently prohibited, and
25 water pollution in the state's coastal waters.

26 (2) Socioeconomic and environmental impacts of various alternatives.

27 (3) Design of monitoring and evaluation activities.

28 (4) Methods to encourage public participation in the stewardship of the state's
29 MPAs.

30 **Comment.** Section 60500 continues former Fish and Game Code Section 2855 without
31 substantive change.

32 **§ 60505. Content of master plan**

33 60505. (a) The department and team shall use the best readily available
34 scientific information in preparing the master plan adopted pursuant to Section
35 60500, and shall organize the location-specific contents, where feasible, by
36 biogeographical region. In preparing the plan, the department and team shall use
37 and build upon the findings of the Sea Grant survey of protected areas in
38 California waters, which is entitled "California's Marine Protected Areas," the
39 report of the State Interagency Marine Managed Areas Workgroup, the
40 Department of Parks and Recreation's planning information and documents
41 regarding existing and potential underwater parks and reserves, maps and other

1 information from the department's marine nearshore ecosystem mapping project,
2 and other relevant planning and scientific materials.

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

4 (1) Recommendations for the extent and types of habitat that should be
5 represented in the MPA system and in marine life reserves. Habitat types
6 described on maps shall include, to the extent possible using existing information,
7 rocky reefs, intertidal zones, sandy or soft ocean bottoms, underwater pinnacles,
8 sea mounts, kelp forests, submarine canyons, and seagrass beds.

9 (2) An identification of select species or groups of species likely to benefit from
10 MPAs, and the extent of their marine habitat, with special attention to marine
11 breeding and spawning grounds, and available information on oceanographic
12 features, including current patterns, upwelling zones, and other factors that
13 significantly affect the distribution of those fish or shellfish and their larvae.

14 (3) Recommendations to augment or modify the guidelines in subdivision (c) of
15 Section 60525, if necessary to ensure that the guidelines reflect the most up-to-
16 date science, including, for example, recommendations regarding the minimum
17 size of individual marine life reserves needed to accomplish the various goals set
18 forth in Sections 60475 and 60480.

19 (4) Recommended alternative networks of MPAs, including marine life reserves
20 in each biogeographical region that are capable of achieving the goals in Sections
21 60475 and 60480 and designed according to the guidelines in subdivision (c) of
22 Section 2857.

23 (5) A simplified classification system, which shall be consistent with the goals
24 of Sections 60475 and 60480 and the guidelines in subdivision (c) of Section
25 60525, and which may include protections for specific habitats or species, if no
26 system that meets these specifications has already been developed.

27 (6) Recommendations for a preferred siting alternative for a network of MPAs
28 that is consistent with the goals in Sections 60475 and 60480 and the guidelines in
29 subdivision (c) of Section 60525.

30 (7) An analysis of the state's current MPAs, based on the preferred siting
31 alternative, and recommendations as to whether any specific MPAs should be
32 consolidated, expanded, abolished, reclassified, or managed differently so that,
33 taken as a group, the MPAs best achieve the goals of Sections 60475 and 60480
34 and conform to the guidelines in subdivision (c) of Section 60525.

35 (8) Recommendations for monitoring, research, and evaluation in selected areas
36 of the preferred alternative, including existing and long-established MPAs, to
37 assist in adaptive management of the MPA network, taking into account existing
38 and planned research and evaluation efforts.

39 (9) Recommendations for management and enforcement measures for the
40 preferred alternative that apply systemwide or to specific types of sites and that
41 would achieve the goals of this part.

(10) Recommendations for improving the effectiveness of enforcement practices, including, to the extent practicable, the increased use of advanced technology surveillance systems.

(11) Recommendations for funding sources to ensure all MPA management activities are carried out and the Marine Life Protection Program is implemented.


(c) The team shall, as necessary, identify and define additional appropriate components of the master plan as soon as possible after enactment of this section.

Comment. Section 60505 continues former Fish and Game Code Section 2856 without substantive change.

§ 60510. Workgroup actions

60510. The workgroup shall, after appropriate consultation with members of the public, determine future actions for implementing the recommendations of its final report.

Comment. Section 60510 continues former Fish and Game Code Section 2854 without substantive change.

 **Note.** Existing Section 2854 uses the term “workgroup” without any prior use of the term in nearby provisions. Consequently, its meaning is not clear. Does the provision refer to the “State Interagency Marine Managed Areas Workgroup” that is mentioned in Section 2856?

The Commission invites Comment on how to clarify the meaning of Section 2854.

§ 60515. Peer review

60515. The department shall establish a process for external peer review of the scientific basis for the master plan prepared pursuant to Section 60500. The peer review process may be based, to the extent practicable, on the peer review process described in Section 12205.

Comment. Section 60515 continues former Fish and Game Code Section 2858 without substantive change.

§ 60520. Adoption of master plan

60520. (a) On or before January 1, 2005, the department shall submit to the commission a draft of the master plan prepared pursuant to this part.

(b) On or before April 1, 2005, after public review, not less than three public meetings, and appropriate modifications of the draft plan, the department shall submit a proposed final master plan to the commission.

(c) On or before December 1, 2005, the commission shall adopt a final master plan and a Marine Life Protection Program with regulations based on the plan and shall implement the program, to the extent funds are available. The commission’s adoption of the plan and a program based on the plan shall not trigger an additional review under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) The commission shall hold at least two public hearings on the master plan and the Marine Life Protection Program prior to adopting the plan and program.

1 The commission may adopt the plan and the program immediately following the
2 second public hearing or at any duly noticed subsequent meeting.

3 (e) Upon the commission's adoption of the program, the commission shall
4 submit the master plan and program description, including marine life reserve and
5 other MPA designations, to the Joint Committee on Fisheries and Aquaculture for
6 review and comment.

7 (f) Upon receipt of the plan, the joint committee shall have 60 days to review the
8 plan and to submit written recommendations to the commission regarding the plan
9 and program. The joint committee shall only submit a recommendation to the
10 commission if a majority of the members agree to that recommendation. The
11 commission shall consider all recommendations submitted by the joint committee,
12 and may amend the program to incorporate the recommendations. If the
13 commission does not incorporate any recommendations submitted by the joint
14 committee, the commission shall set forth, in writing, its reasons for not
15 incorporating that recommendation.

16 **Comment.** Section 60520 continues former Fish and Game Code Section 2859 without
17 substantive change.

18 **Note.** Existing Section 2859 sets deadlines for the preparation and adoption of a master plan
19 that are more than 10 years in the past. **The Commission invites comment on whether any part**
20 **of Section 2859 should be repealed as obsolete.**

21 **§ 60525. MPA siting**

22 60525. (a) On or before July 1, 2001, the department shall convene, in each
23 biogeographical region and to the extent practicable near major working harbors,
24 siting workshops, composed of interested parties, to review the alternatives for
25 MPA networks and to provide advice on a preferred siting alternative. The
26 department and team shall develop a preferred siting alternative that incorporates
27 information and views provided by people who live in the area and other
28 interested parties, including economic information, to the extent possible while
29 maintaining consistency with the goals of Sections 60475 and 60480 and
30 guidelines in subdivision (c) of this section.

31 (b) The preferred alternative may include MPAs that will achieve either or both
32 of the following objectives:

33 (1) Protection of habitat by prohibiting potentially damaging fishing practices or
34 other activities that upset the natural ecological functions of the area.

35 (2) Enhancement of a particular species or group of species, by prohibiting or
36 restricting fishing for that species or group within the MPA boundary.

37 (c) The preferred siting alternative shall include MPA networks with an
38 improved marine life reserve component, and shall be designed according to each
39 of the following guidelines:

40 (1) Each MPA shall have identified goals and objectives. Individual MPAs may
41 serve varied primary purposes while collectively achieving the overall goals and
42 guidelines of this part.

(2) Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.

(3) Similar types of marine habitats and communities shall be replicated, to the extent possible, in more than one marine life reserve in each biogeographical region.

(4) Marine life reserves shall be designed, to the extent practicable, to ensure that activities that upset the natural ecological functions of the area are avoided.

(5) The MPA network and individual MPAs shall be of adequate size, number, type of protection, and location to ensure that each MPA meets its objectives and that the network as a whole meets the goals and guidelines of this part.

(d) The department and team, in developing the preferred siting alternative, shall take into account the existence and location of commercial kelp beds.

(e) The department and team may provide recommendations for phasing in the new MPAs in the preferred siting alternative.

Comment. Section 60525 continues former Fish and Game Code Section 2857 without substantive change.

Note. Existing Section 2857(a) sets a deadline for certain actions that is more than 15 years in the past. **The Commission invites comment on whether any part of Section 2857 should be repealed as obsolete.**

§ 60530. Petitions of interested persons

60530. The commission shall, annually until the master plan is adopted and thereafter at least every three years, receive, consider, and promptly act upon petitions from any interested party, to add, delete, or modify MPAs, favoring those petitions that are compatible with the goals and guidelines of this part.

Comment. Section 60530 continues former Fish and Game Code Section 2861(a) without substantive change.

§ 60535. Other authority

60535. (a) Nothing in this part restricts any existing authority of the department or the commission to make changes to improve the management or design of existing MPAs or designate new MPAs prior to the completion of the master plan.

(b) The commission may abbreviate the master plan process to account for equivalent activities that have taken place before enactment of this part, providing that those activities are consistent with this part.

Comment. Section 60535 continues former Fish and Game Code Section 2861(b) without substantive change.

PART 3. MARINE MANAGED AREAS

1 **§ 60550. Designation, deletion, or modification of marine recreational management areas**

2 60550. (a) The commission may designate, delete, or modify state marine
3 recreational management areas established by the commission for hunting
4 purposes, state marine reserves, and state marine conservation areas, as delineated
5 in subdivision (a) of Section 36725 of the Public Resources Code.

6 (b) The commission shall consult with, and secure concurrence from, the State
7 Park and Recreation Commission prior to modifying or deleting marine reserves
8 and marine conservation areas designated by the State Park and Recreation
9 Commission. The commission shall not delete or modify state marine recreational
10 management areas designated by the State Park and Recreation Commission.

11 **Comment.** Section 60550 continues former Fish and Game Code Section 1590 without
12 substantive change.

13 **§ 60555. Marine Managed Areas Improvement Act**

14 60555. (a) The Marine Managed Areas Improvement Act (Chapter 7
15 (commencing with Section 36600) of Division 27 of the Public Resources Code)
16 establishes a uniform classification system for state marine managed areas and is
17 incorporated herein by reference. Any proposals for marine protected areas made
18 after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to
19 Section 36750 of the Public Resources Code, all marine protected areas in
20 existence and not reclassified in accordance with the Marine Life Protection Act
21 (Part 2 (commencing with Section 60400)) on January 1, 2002, shall be
22 reclassified by the State Interagency Coordinating Committee established pursuant
23 to Section 36800 of the Public Resources Code into one of the following
24 classifications:

25 (1) State marine reserve.

26 (2) State marine park.

27 (3) State marine conservation area.

28 (b) State marine recreational management areas established by the commission
29 for hunting purposes, state marine reserves, and state marine conservation areas
30 shall be designated, deleted, or modified by the commission pursuant to that act.
31 The restrictions and allowable uses applicable to those areas are as set forth in that
32 act.

33 **Comment.** Section 60555 continues former Fish and Game Code Section 1591 without
34 substantive change.

1 **PART 4. WILDLIFE MANAGEMENT AREAS, GAME FARMS, AND**
2 **PUBLIC SHOOTING GROUNDS**

3 **TITLE 1. GENERAL PROVISIONS**

4 **§ 60600. Department powers**

5 60600. For the purposes of propagating, feeding and protecting birds, mammals,
6 and fish, and establishing wildlife management areas or public shooting grounds
7 the department, with the approval of the commission, may do all of the following:

8 (a) Accept, on behalf of the state, donations of birds, mammals, and fish, and of
9 money given or appropriated. Those donations shall be used for the purposes for
10 which they are accepted, and, as nearly as may be, for any purpose indicated by
11 the donor.

12 (b) Acquire, by purchase, lease, rental or otherwise, and occupy, develop,
13 maintain, use and administer, land, or land and nonmarine water, or land and
14 nonmarine water rights, suitable for state game farms, wildlife management areas,
15 or public shooting grounds.

16 **Comment.** Section 60600 continues former Fish and Game Code Section 1525 without
17 substantive change.

18 **§ 60605. State ownership and regulation**

19 60605. Any property acquired for wildlife management areas or public shooting
20 grounds shall be acquired in the name of the state, and shall, at all times, be
21 subject to any rules and regulations that may be prescribed from time to time by
22 the commission for the occupation, use, operation, protection, and administration
23 of the property as wildlife management areas or public shooting grounds.

24 **Comment.** Section 60605 continues former Fish and Game Code Section 1526 without
25 substantive change.

26 **§ 60610. Acquired property**

27 60610. (a) The department shall do all things necessary to secure a valid title in
28 the state to the property acquired for wildlife management areas or public shooting
29 grounds but no payment shall be made therefor until the title is satisfactory to the
30 Attorney General, and is vested in the state.

31 (b) The acquisition of the property by the state is not prohibited by reason of
32 rights of way, easements, or reservations that, from their nature, in the opinion of
33 the department, will in no manner interfere with the use of the property for the
34 purpose for which it is acquired.

35 **Comment.** Section 60610 continues former Fish and Game Code Section 1527 without
36 substantive change.

TITLE 2. PROTECTIONS

§ 60625. Unlawful entry upon wildlife management area or public shooting ground

60625. Except in accordance with the regulations of the commission, it is unlawful to enter upon any wildlife management areas or public shooting grounds established under the provisions of this part, or to take therein any bird or the nest or eggs thereof, or any mammal.

Comment. Section 60625 continues the first paragraph of former Fish and Game Code Section 1530 without substantive change.

§ 60630. Regulation of take in public shooting ground

60630. (a) The taking of birds and mammals on public shooting grounds shall be regulated by the commission by regulation as provided in this section.

(b) Prior to a regulation pursuant to this section, the commission shall, at an open meeting of the commission, publicly announce the contents of the regulation it proposes to make and at the same time specify a subsequent open meeting to be held not less than 30 days thereafter at which it will take final action on the proposed regulation.

Comment. Section 60630 continues the second paragraph of former Fish and Game Code Section 1530 without substantive change.

TITLE 3. OPERATION

§ 60650. Acquired lands to operate on nonprofit basis

60650. Lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas shall be operated on a nonprofit basis by the department.

Comment. Section 60650 continues the first sentence of former Fish and Game Code Section 1528 without substantive change.

§ 60655. Multiple recreational use

60655. Multiple recreational use of wildlife management areas is desirable and that use shall be encouraged by the commission.

Comment. Section 60655 continues the second sentence of former Fish and Game Code Section 1528 without substantive change.

§ 60660. Facilities

60660. Except for hunting and fishing purposes, only minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided.

Comment. Section 60660 continues the third sentence of former Fish and Game Code Section 1528 without substantive change.

1 **§ 60665. Fees for use privileges**

2 60665. Except as provided in Section 56080, and to defray the costs associated
3 with multiple use, the commission may determine and fix the amount of, and the
4 department shall collect, fees for any use privileges. However, tours by organized
5 youth and school groups are exempt from the payment of those fees.

6 **Comment.** Section 60665 continues the fourth and fifth sentences of former Fish and Game
7 Code Section 1528 without substantive change.

8 **§ 60670. Shooting permits**

9 60670. Only persons holding valid hunting licenses may apply for or obtain
10 shooting permits for public shooting grounds, state marine (estuarine) recreational
11 management areas, or wildlife management areas.

12 **Comment.** Section 60670 continues the sixth sentence of former Fish and Game Code Section
13 1528 without substantive change.

14 **§ 60675. Output of state game farm**

15 60675. The output of any state game farm shall be distributed on public lands or
16 where the department determines that the output will receive adequate protection
17 and be most likely to thrive and multiply.

18 **Comment.** Section 60675 continues former Fish and Game Code Section 1529 without
19 substantive change.

20 **§ 60680. Payments to offset local taxes and assessments**

21 60680. (a) When income is derived directly from real property acquired and
22 operated by the state as a wildlife management area, and regardless of whether
23 income is derived from property acquired after October 1, 1949, the department
24 may pay annually to the county in which the property is located an amount equal
25 to the county taxes levied upon the property at the time title to the property was
26 transferred to the state. The department may also pay the assessments levied upon
27 the property by any irrigation, drainage, or reclamation district.

28 (b) Any delinquent penalties or interest applicable to any of those assessments
29 made before September 9, 1953, are hereby canceled and shall be waived.

30 (c) Payments provided by this section shall only be made from funds that are
31 appropriated to the department for the purposes of this section.

32 (d) As used in this section, the term “wildlife management area” includes
33 waterfowl management areas, deer ranges, upland game bird management areas,
34 and public shooting grounds.

35 (e) Any payment made under this section shall be made on or before December
36 10 of each year, with the exception of newly acquired property for which
37 payments shall be made pursuant to subdivision (f).

38 (f) Any payments made for the purposes of this section shall be made within one
39 year of the date title to the property was transferred to the state, or within 90 days
40 from the date of designation as a wildlife management area, whichever occurs

1 first, prorated for the balance of the year from the date of designation as a wildlife
2 management area to the 30th day of June following the date of designation as a
3 wildlife management area, and, thereafter, payments shall be made on or before
4 December 10 of each year.

5 (g) Notwithstanding any other law, payments provided under this section shall
6 not be allocated to a school district, a community college district, or a county
7 superintendent of schools.

8 **Comment.** Section 60680 continues former Fish and Game Code Section 1504 without
9 substantive change.

10 **§ 60685. Mosquitos**

11 60685. (a) For purposes of this section, the following definitions apply:

12 (1) “Managed wetland habitat” means artificially irrigated and intensively
13 managed wetland habitat administered primarily for the benefit of waterfowl and
14 other wetland-dependent species.

15 (2) “Best management practices” means management strategies jointly
16 developed by the department, the State Department of Public Health, and
17 mosquito abatement and vector control districts, in consultation with the Central
18 Valley Joint Venture, for the ecological control of mosquitoes on managed
19 wetland habitat.

20 (3) “Mosquito abatement and vector control district” has the same meaning as
21 set forth in subdivision (f) of Section 2002 of the Health and Safety Code.

22 (4) “Wildlife management area” has the same meaning as set forth in
23 subdivision (d) of Section 60680.

24 (b) (1) A mosquito abatement and vector control district whose district
25 boundaries include one or more wildlife management areas or a mosquito
26 abatement and vector control district in which vectors and vectorborne diseases
27 from a wildlife management area may enter the district shall periodically, or at
28 least semiannually, notify the department of those areas that are of concern due to
29 the potential for high mosquito populations that may incur associated mosquito
30 control costs.

31 (2) (A) To reduce mosquito production at those wildlife management areas
32 described in paragraph (1), the department shall consult with local mosquito
33 abatement and vector control districts to identify those areas within wildlife
34 management areas having the highest need for additional mosquito reduction
35 through the implementation of best management practices.

36 (B) If the wetland occupies land outside the jurisdictional boundaries of a
37 mosquito abatement and vector control district, the department may consult with
38 the State Department of Public Health to determine which best management
39 practices can be implemented in the absence of an organized local mosquito
40 control program.

41 (c) This section does not affect existing authority of a mosquito abatement and
42 vector control district under Section 2040 of the Health and Safety Code.

(d) (1) A private landowner whose property includes managed wetland habitat located within the boundaries of a mosquito abatement and vector control district may initiate the opportunity to enter into a memorandum of understanding with the district if all of the following criteria are met:

(A) The managed wetland habitat is encumbered by a state or federal conservation easement or similar state or federal voluntary habitat agreement or is protected in perpetuity by state or federal law.

(B) The managed wetland habitat is within the boundaries of the Central Valley Joint Venture, as those boundaries are identified in the Central Valley Joint Venture Implementation Plan.

(2) The goal of a memorandum of understanding entered into pursuant to paragraph (1) is to establish a process to implement best management practices for the purposes of decreasing mosquito production, providing net cost savings to the landowner, decreasing the application of pesticides, and maintaining or enhancing the waterfowl habitat values on the property.

(3) Notwithstanding paragraph (2) of subdivision (a), the Central Valley Joint Venture, in consultation with mosquito abatement and vector control districts, the department, and the State Department of Public Health, may periodically modify the best management practices in order to best fulfill the purposes described in paragraph (2) of this subdivision.

(4) A memorandum of understanding entered into pursuant to paragraph (1) shall not conflict with the provisions of any applicable conservation easement or other state or federal habitat agreement. The participating private landowner shall ensure that the memorandum of understanding is in compliance with the requirements of this paragraph. Compliance with the requirements of this paragraph is the sole responsibility of the private landowner and subject to enforcement pursuant to the terms contained in any applicable conservation easement or habitat agreement.

Comment. Section 60685 continues former Fish and Game Code Section 1506 without substantive change, except that Section 1506(a)(3) is continued in Section 810.

PART 5. WILDLIFE AREAS, RANGES, AND RESERVES

§ 60700. Exchange or sale of property within specified areas

60700. (a) The department may, with the approval of the commission and the Department of General Services, take any of the following actions with regard to the areas listed in subdivision (d):

(1) Exchange any property lying within the boundaries of a listed area for property that is within or contiguous to that area.

(2) Sell any property within the boundaries of a listed area and use the proceeds to acquire property that is within or contiguous to that area.

(b) No exchange or sale of property authorized in subdivision (a) shall materially reduce the total area of any area listed in subdivision (d).

(c) A copy of each deed of conveyance executed and delivered by the department, and of each deed conveying lands to the state, pursuant to this section shall be delivered to the State Lands Commission.

(d) The provisions of this section apply to all of the following areas:

(1) The Doyle Deer Winter Range, located in Lassen County.

(2) The Tehama Deer Winter Range, located in Tehama County.

(3) The Honey Lake Waterfowl Management Area, located in Lassen County.

(4) The Imperial Waterfowl Management Area, located in Imperial County.

(5) The Mendota Waterfowl Management Area, located in Fresno County.

(6) The San Jacinto Wildlife Area, located in Riverside County.

(7) The Lakes Earl/Talawa Wildlife Area, located in Del Norte County.

(8) The Santa Rosa Mountains Bighorn Sheep Reserve, located in Riverside County.

(9) The Camp Cady Wildlife Area, located in San Bernardino County.

(10) The Butte Valley Wildlife Area, located in Siskiyou County.

(11) The Ash Creek Wildlife Area, located in Lassen and Modoc Counties.

(12) The Moss Landing Wildlife Area, located in Monterey County.

Comment. Section 60700 restates former Fish and Game Code Section 1500 without substantive change.

Note. Proposed Section 60700(a)-(c) would restate the first paragraph of existing Section 1500 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“The department may, with the approval of the commission and the Department of General Services, exchange any portion of the property lying within the boundaries of any area or range referred to in this section for any property within or contiguous to such area or range or may sell any portion of the property within such boundaries and with the proceeds thereof acquire any property within or contiguous to such area or range; provided, that no exchange or sale of property authorized in this section shall materially reduce the total area of any range or area referred to in this section. A copy of each deed of conveyance executed and delivered by the department, and of each deed conveying lands to the state, pursuant to this section shall be delivered to the State Lands Commission.”

The Commission invites comment on whether that restatement would cause any problems.

§ 60705. Mineral rights

60705. (a) The following rules govern an exchange or sale of property pursuant to Section 60700:

(1) If a parcel contains 15 acres or less, the director shall except and reserve to the state all mineral deposits below a depth of 500 feet, without surface rights of entry.

(2) If a parcel contains more than 15 acres, the director shall except and reserve to the state all mineral deposits together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove shall be limited to those areas of the property conveyed that the director, after consultation with

1 the State Lands Commission, determines to be reasonably necessary for the
2 removal of the resources and deposits.

3 (b) For the purposes of this section, the mineral deposits reserved to the state are
4 those described in Section 6407 of the Public Resources Code.

5 **Comment.** Section 60705 restates former Fish and Game Code Section 1500.5 without
6 substantive change.

7 **Note.** Proposed Section 60705 would restate existing Section 1500.5 to improve its clarity,
8 without changing its substantive effect. The existing provision reads as follows:

9 “With respect to exchanging or selling any property pursuant to Section 1500, the director, with
10 respect to any parcel containing 15 acres or less, shall except and reserve to the state all mineral
11 deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet,
12 without surface rights of entry. As to any parcel containing more than 15 acres, the director shall
13 except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public
14 Resources Code, together with the right to prospect for, mine, and remove the deposits.”

15 **The Commission invites comment on whether that restatement would cause any problems.**

16 **§ 60710. Apiculture in wildlife area**

17 60710. (a) The department shall do both of the following:

18 (1) Consider authorizing apiculture on department-managed wildlife areas,
19 where deemed appropriate by the department.

20 (2) Determine, when developing or amending its land management plans, the
21 following:

22 (A) If the department-managed wildlife areas, or any portion of the those areas,
23 are suitable for apiculture and whether apiculture is consistent with the
24 management goals and objectives for those areas on a temporary, seasonal, or
25 long-term basis.

26 (B) If the administration of apiculture on department-managed wildlife areas,
27 where deemed appropriate by the department, is meeting the management goals
28 and objectives for those areas.

29 (C) The appropriate fee and lease rent to be assessed for conducting apiculture
30 on department-managed wildlife areas. The amount of the fee shall be sufficient to
31 recover, but not exceed, all reasonable administrative and implementation costs of
32 the department. The lease rent shall take into account whether the lease is a
33 nonexclusive use of the land.

34 (b) The department, in implementing this section, may consult with apiculture
35 experts, including, but not limited to, the Department of Food and Agriculture, the
36 University of California, other academic or professional experts, and interested
37 stakeholders, when considering authorizing apiculture on department-managed
38 wildlife areas consistent with the respective management goals and objectives for
39 those areas.

40 (c) Moneys collected for conducting apiculture on department-managed wildlife
41 areas pursuant to subparagraph (C) of paragraph (2) of subdivision (a) shall be
42 deposited by the department into the Wildlife Restoration Fund and, upon

1 appropriation by the Legislature, be used to support the management,
2 maintenance, restoration, and operation of department-managed wildlife areas.

3 (d) The department may authorize the temporary placement of beehives on
4 department-managed wildlife areas through simple lease or permit agreements
5 specifying appropriate conditions. These agreements are not subject to competitive
6 bidding requirements.

7 (e) The department may continue any authorization for apiculture on
8 department-managed areas that it granted before January 1, 2015, without taking
9 further action.

10 **Comment.** Section 60710 continues former Fish and Game Code Section 1745.2 without
11 substantive change.

12 **§ 60715. Lower Sherman Island**

13 60715. (a) The department, upon request of the leaseholder, shall extend any
14 existing lease for a recreational homesite on Lower Sherman Island to the holder
15 of any lease of lands under the control of the department, under the following
16 conditions:

17 (1) The existing lease is between the department and an individual person,
18 partnership, or any affiliated group of two or more persons.

19 (2) Subject to subdivision (e), the lease may be extended for the natural life of
20 the person who is the leaseholder on January 1, 1991. With respect to any lease to
21 an affiliated group or an association of persons, the lease shall expire upon the
22 death of the last individual who is a leaseholder on January 1, 1991.

23 (3) The lease, or any interest therein, may not be transferred, bequeathed,
24 hypothecated, encumbered, sublet, assigned, sold, alienated, exchanged, or
25 otherwise changed to the benefit of another party. The leaseholder shall annually
26 certify to the department that he or she has not transferred, bequeathed,
27 hypothecated, encumbered, sublet, assigned, sold, alienated, or exchanged the
28 lease for consideration or by gift, or otherwise.

29 (4) If a lease is violated or breached by the leaseholder at any time during the
30 life of the leaseholder, the lease may be terminated by the department within 30
31 days of the receipt by the department of actual or constructive notice of the breach.

32 (b) All leases entered into pursuant to this section shall include the following:

33 (1) A requirement for public access to navigable waters adjacent to the lease
34 properties.

35 (2) A provision prohibiting the introduction and cultivation of exotic plant
36 species and requiring existing exotic plant species to be removed according to a
37 plan developed by the department.

38 (3) A provision establishing the right of the department and county employees to
39 inspect the property for the purposes of monitoring and enforcing the conditions of
40 the lease.

41 (4) A provision requiring the lessee, within 60 days after the lease is extended,
42 and annually thereafter, to provide the department with proof that (A) the lessee

1 will remove the buildings and all ancillary structures and facilities necessary to
2 return the area to a natural condition, or (B) the lessee has made arrangements for
3 the removal of the buildings and all ancillary structures and facilities necessary to
4 return the area to a natural condition, upon termination of the lease.

5 (c) The department shall develop a plan for the removal of nonnative plants
6 from the island. The plan shall include, at a minimum, the following:

7 (1) The type and location of nonnative plants.

8 (2) The relative threat that these plants pose to the natural environment of the
9 island.

10 (3) A time schedule for the leaseholders to remove the nonnative plants within
11 200 yards of the leaseholders' structures.

12 (d) Proceeds from the leases of lands under the control of the department on
13 Lower Sherman Island shall be deposited in the Fish and Game Preservation Fund
14 and used for the purpose of enforcing and monitoring those lease terms and
15 managing the Lower Sherman Island Wildlife area.

16 (e) The department shall, on or before July 31, 1991, and annually thereafter,
17 review all leases of land subject to subdivision (a) under the control of the
18 department and, as soon as possible, charge the fair market rate on those leases of
19 land.

20 **Comment.** Section 60715 continues former Fish and Game Code Section 1526.4 without
21 substantive change.

22 **§ 60720. Fish and wildlife enhancement facilities**

23 60720. If the Department of Parks and Recreation contracts with the federal
24 government pursuant to Public Law 89-161 for the administration of recreation
25 development or fish and wildlife enhancement facilities, as authorized by Section
26 5006.6 of the Public Resources Code, the Department of Fish and Wildlife is
27 authorized to operate, maintain, and replace those facilities designated as fish and
28 wildlife enhancement facilities and to assume all costs of that operation,
29 maintenance, and replacement, subject to appropriation of funds by the
30 Legislature.

31 **Comment.** Section 60720 continues former Fish and Game Code Section 1014 without
32 substantive change.

33 **PART 6. ECOLOGICAL RESERVES**

34 **TITLE 1. ECOLOGICAL RESERVES**

35 **GENERALLY**

36 **§ 60750. Legislative declaration**

37 60750. The Legislature hereby declares that the policy of the state is to protect
38 threatened or endangered native plants, wildlife, or aquatic organisms or

1 specialized habitat types, both terrestrial and nonmarine aquatic, or large
2 heterogeneous natural gene pools for the future use of mankind through the
3 establishment of ecological reserves.

4 **Comment.** Section 60750 continues the first sentence of former Fish and Game Code Section
5 1580 without substantive change.

6 **§ 60755. “Ecological reserve” defined**

7 60755. As used in this part, “ecological reserve” means land or land and water
8 areas that are designated as an ecological reserve by the commission pursuant to
9 Section 60760 and that are to be preserved in a natural condition, or which are to
10 be provided some level of protection as determined by the commission, for the
11 benefit of the general public to observe native flora and fauna and for scientific
12 study or research.

13 **Comment.** Section 60755 continues former Fish and Game Code Section 1584 without
14 substantive change.

15 **§ 60760. Acquisition of property**

16 60760. (a) For the purpose of establishing ecological reserves, the department,
17 with the approval of the commission, may obtain, accept on behalf of the state,
18 acquire, or control, by purchase, lease, easement, gift, rental, memorandum of
19 understanding, or otherwise, and occupy, develop, maintain, use, and administer
20 land, or land and nonmarine water, or land and nonmarine water rights, suitable
21 for the purpose of establishing ecological reserves.

22 (b) Any property obtained, accepted, acquired, or controlled by the department
23 pursuant to this part may be designated by the commission as an ecological
24 reserve.

25 **Comment.** Section 60760 continues the second and third sentences of former Fish and Game
26 Code Section 1580 without substantive change.

27 **§ 60765. Regulation of ecological reserves**

28 60765. The commission may adopt regulations for the occupation, utilization,
29 operation, protection, enhancement, maintenance, and administration of ecological
30 reserves.

31 **Comment.** Section 60765 continues the fourth sentence of former Fish and Game Code
32 Section 1580 without substantive change.

33 **§ 60770. Ownership and regulation of property**

34 60770. Any property acquired in fee for ecological reserves shall be acquired in
35 the name of the state, and shall, at all times, be subject to any rules and regulations
36 that may be prescribed from time to time by the commission for the occupation,
37 use, operation, protection, and administration of the property as ecological
38 reserves.

39 **Comment.** Section 60770 continues former Fish and Game Code Section 1581 without
40 substantive change.

1 **§ 60775. Valid title to acquired property**

2 60775. The department shall do all things necessary to secure a valid title in the
3 state to the property acquired in fee for ecological reserves but no payment shall
4 be made therefor until the title is vested in and satisfactory to the state. No such
5 land will be acquired by eminent domain.

6 **Comment.** Section 60775 continues former Fish and Game Code Section 1582 without
7 substantive change.

8 **§ 60780. Prohibited entry**

9 60780. Except in accordance with the regulations of the commission it is
10 unlawful to enter upon any ecological reserves established under the provisions of
11 this part, or to take therein any bird or the nest or eggs thereof, or any mammal,
12 fish, mollusk, crustacean, amphibian, reptile or any other form of plant or animal
13 life.

14 **Comment.** Section 60780 continues former Fish and Game Code Section 1583 without
15 substantive change.

16 **§ 60785. Facilities and programs**

17 60785. (a) Notwithstanding Section 60750, which sets forth the primary
18 purposes of ecological reserves, the department may construct facilities and
19 conduct programs in ecological reserves it selects to provide natural history
20 education and recreation if those facilities and programs are compatible with the
21 protection of the biological resources of the reserve.

22 (b) As provided in Sections 56030 and 56080, the department may control
23 access, use, and collect fees for selected ecological reserves.

24 **Comment.** Section 60785 continues former Fish and Game Code Section 1585 without
25 substantive change.

26 **§ 60790. Ecological reserves not wildlife management areas**

27 60790. The ecological reserves shall not be classified as wildlife management
28 areas pursuant to Section 60680 and shall be exempt from Section 60680.

29 **Comment.** Section 60790 continues the fifth sentence of former Fish and Game Code Section
30 1580 without substantive change.

31 **TITLE 2. SPECIFIC ECOLOGICAL RESERVES**

32 **§ 60850. Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund**

33 60850. (a) The Upper Newport Bay Ecological Reserve Maintenance and
34 Preservation Fund is hereby created in the State Treasury.

35 (b) Notwithstanding Section 13340 of the Government Code, the money in the
36 fund is continuously appropriated, without regard to fiscal years, to the department
37 for purposes related to the maintenance and preservation of the Upper Newport
38 Bay Ecological Reserve.

1 **Comment.** Section 60850 continues former Fish and Game Code Section 1586 without
2 substantive change.

3 **§ 60855. Magnesia Spring Ecological Reserve**

4 60855. The Mirage Trail within the Magnesia Spring Ecological Reserve shall
5 be open nine months of the year during the months of May to January, inclusive,
6 and closed for three months during the months of February to April, inclusive, to
7 recreational hiking if the commission determines that all of the following
8 conditions are met:

9 (a) Local public agencies or other nonstate entities will assume complete
10 financial responsibility for the following as determined to be necessary by the
11 commission:

12 (1) Fencing to dissuade hikers from traversing beyond the trail and into sensitive
13 Peninsular bighorn sheep habitat.

14 (2) Signage and educational materials to educate hikers about Peninsular
15 bighorn sheep.

16 (b) A single entity has been designated to fulfill the financial arrangements and
17 other terms and conditions determined by the commission to be necessary
18 pursuant to subdivision (a).

19 (c) The entity designated pursuant to subdivision (b) has committed to expend at
20 least one hundred thousand dollars (\$100,000) by January 1, 2018, to monitor the
21 Peninsular bighorn sheep, consistent with the Coachella Valley Multiple Species
22 Habitat Conservation Plan.

23 (d) The commission shall, beginning January 1, 2020, and by January 1 every
24 two years thereafter, at a public hearing, assess compliance with the requirements
25 of this section and post its findings and any recommendations on its Internet Web
26 site.

27 (e) This section shall remain in effect only until January 1, 2028, and as of that
28 date is repealed, unless a later enacted statute that is enacted before January 1,
29 2028, deletes or extends that date.

30 **Comment.** Section 60855 continues former Fish and Game Code Section 1587 without
31 substantive change.

32 **PART 7. PROTECTED SPAWNING AREAS**

33 **§ 60900. Protected spawning areas**

34 60900. (a) The department may manage, control, and protect the portions of the
35 following spawning areas that occupy state-owned lands, to the extent necessary to
36 protect fishlife in these areas:

37 (1) The Sacramento River between Keswick and Squaw Hill Bridge, near Vina.

38 (2) The Feather River between Oroville and the mouth of Honcut Creek.

39 (3) The Yuba River between Englebright Dam and a point approximately four
40 miles east of Marysville.

1 (4) The American River between Nimbus Dam and a point one mile downstream
2 from Arden Way.

3 (5) The Mokelumne River between Pardee Dam and Lockeford.

4 (6) The Stanislaus River between Goodwin Dam and Riverbank.

5 (7) The Tuolumne River between La Grange Dam and the Geer Road (J14)
6 Bridge.

7 (8) The Merced River between Crocker Huffman Dam and Cressey.

8 (9) The Trinity River between Lewiston Dam and the confluence of the North
9 Fork Trinity, near Helena.

10 (10) The Eel River, from Fort Seward to Lake Pillsbury.

11 (11) The South Fork Eel River.

12 (12) The Middle Fork Smith River, from its mouth to Knopki Creek.

13 (13) The South Fork Smith River, from its mouth to Harrington Creek.

14 (14) The Salmon River, from its mouth to Rush Creek on the South Fork
15 Salmon River, to Carter Meadow on the east fork of the South Fork Salmon River,
16 and to Finley Camp on the North Fork Salmon River.

17 (15) Battle Creek, from its mouth to Coleman Powerhouse.

18 (16) The Cosumnes River, from Meiss Road Bridge to Latrobe Road Bridge.

19 (17) The Van Duzen River, from Yager Creek to the falls 1½ miles above
20 Bloody Run Creek.

21 (18) The Mad River, from Blue Lake Bridge to Bug Creek.

22 (19) The Middle Fork Eel River.

23 (20) The Mattole River.

24 (21) The Noyo River.

25 (22) The Big River, Mendocino County.

26 (23) The Gualala River.

27 (24) The Garcia River, Mendocino County.

28 (b) In the event of a conflict between an action of the department pursuant to
29 this section and the action of another department or agency of the state or another
30 public agency, the action of the Department of Fish and Wildlife taken pursuant to
31 this section shall prevail, except in the event of conflict with the following actions:

32 (1) An action of the state or regional water quality control boards in establishing
33 waste discharge requirements.

34 (2) An action required for commerce and navigation.

35 (3) An action by a public agency that is reasonably necessary for bridge
36 crossings, water conservation or utilization, or flood protection projects, including
37 the construction, maintenance, and operation thereof. This paragraph shall not
38 apply to the depositing of materials, other than necessary structural materials, in,
39 or the removing of materials from the streambeds in the areas designated in this
40 section, other than as necessary for the installation of structures.

41 (c) The director shall disapprove a stream alteration of a prime salmon or
42 steelhead spawning area on land of which ownership has not been legally

determined, when in the director's opinion the alteration would prove deleterious to fishlife.

Comment. Section 60900 continues former Fish and Game Code Section 1505 without substantive change.

PART 8. WILDERNESS AREAS

§ 60950. Vehicle prohibition

60950. It is unlawful for any person other than a legally constituted peace officer or officer or employee of the Forest Service of the United States Department of Agriculture, the department, or of the Department of Forestry and Fire Protection, or county fish and game wardens or their duly authorized representatives, to travel by motor boat, automobile, motorcycle, or other type of motorized vehicle, or, except for emergencies and for rescue and aerial search for rescue purposes, to land an airplane, helicopter, or similar equipment, within the boundaries of a primitive, wilderness, or wild area closed to the above modes of travel as established by a duly authorized officer of the Forest Service of the United States Department of Agriculture and recorded in the office of the Regional Headquarters of the Pacific-Southwest Region of the Forest Service of the United States Department of Agriculture and with the department.

Comment. Section 60950 continues former Fish and Game Code Section 10740 without substantive change.

§ 60955. Exception to vehicle prohibition

60955. (a) Except as provided in subdivision (b), nothing in this part prohibits access to a road or trail, in an area described in Section 60950, by a person who is accessing the road or trail in order to reach land that the person lawfully possesses. A person who may lawfully access a road or trail pursuant to this subdivision may authorize another person to do the same.

(b) Notwithstanding subdivision (a), none of the motorized vehicles or aircraft mentioned in Section 60950 may be used by any person as a means of gaining access to the wilderness areas for the purpose of hunting or fishing. Nor shall anyone who lawfully enters a wilderness area with a motorized vehicle or aircraft fish or hunt while within that area after having entered with a motorized vehicle or aircraft.

Comment. Section 60955 restates former Fish and Game Code Section 10741 without substantive change.

Note. Proposed Section 60955 would restate Existing Section 10741 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“ Nothing in this article shall be construed as prohibiting access over any road or trail in any such area to any land to which any person is entitled to possession by such person or any person authorized by him to use such road or trail as a means of access to the land; provided, that none of the motorized vehicles or aircraft mentioned in Section 10740 shall be used by any person as a means of gaining access to the wilderness areas for the purpose of hunting or fishing. Nor shall

1 anyone having a lawful right to enter a wilderness area with a motorized vehicle or aircraft fish or
2 hunt while within the area after having entered the area with a motorized vehicle or aircraft.”

3 **The Commission invites comment on whether the proposed restatement would cause any**
4 **problems.**

5 DIVISION 17. ACTIVITIES THAT AFFECT WILDLIFE

6 PART 1. CALIFORNIA ENDANGERED SPECIES ACT

7 TITLE 1. GENERAL PROVISIONS

8 CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS

9 § 62000. Short title

10 62000. This part shall be known and may be cited as the California Endangered
11 Species Act.

12 **Comment.** Section 62000 continues former Fish and Game Code Section 2050 without
13 substantive change.

14 § 62005. Need for conservation

15 62005. The Legislature hereby finds and declares all of the following:

16 (a) Certain species of fish, wildlife, and plants have been rendered extinct as a
17 consequence of human activities, untempered by adequate concern and
18 conservation.

19 (b) Other species of fish, wildlife, and plants are in danger of, or threatened
20 with, extinction because their habitats are threatened with destruction, adverse
21 modification, or severe curtailment, or because of overexploitation, disease,
22 predation, or other factors.

23 (c) These species of fish, wildlife, and plants are of ecological, educational,
24 historical, recreational, esthetic, economic, and scientific value to the people of
25 this state, and the conservation, protection, and enhancement of these species and
26 their habitat is of statewide concern.

27 **Comment.** Section 62005 continues former Fish and Game Code Section 2051 without
28 substantive change.

29 § 62010. General policy

30 62010. The Legislature further finds and declares that it is the policy of the state
31 to conserve, protect, restore, and enhance any endangered species or any
32 threatened species and its habitat and that it is the intent of the Legislature,
33 consistent with conserving the species, to acquire lands for habitat for these
34 species.

1 **Comment.** Section 62010 continues former Fish and Game Code Section 2052 without
2 substantive change.

3 **§ 62015. Scope of required mitigation**

4 62015. The Legislature further finds and declares that if any provision of this
5 part requires a person to provide mitigation measures or alternatives to address a
6 particular impact on a candidate species, threatened species, or endangered
7 species, the measures or alternatives required shall be roughly proportional in
8 extent to any impact on those species that is caused by that person. Where various
9 measures or alternatives are available to meet this obligation, the measures or
10 alternatives required shall maintain the person's objectives to the greatest extent
11 possible consistent with this section. All required measures or alternatives shall be
12 capable of successful implementation. This section governs the full extent of
13 mitigation measures or alternatives that may be imposed on a person pursuant to
14 this part. This section shall not affect the state's obligations set forth in Section
15 62010.

16 **Comment.** Section 62015 continues former Fish and Game Code Section 2052.1 without
17 substantive change.

18 **§ 62020. Project approval and alternatives**

19 62020. (a) The Legislature further finds and declares that it is the policy of the
20 state that public agencies should not approve projects as proposed that would
21 jeopardize the continued existence of any endangered species or threatened species
22 or result in the destruction or adverse modification of habitat essential to the
23 continued existence of those species, if there are reasonable and prudent
24 alternatives available consistent with conserving the species or its habitat that
25 would prevent jeopardy.

26 (b) Furthermore, it is the policy of this state and the intent of the Legislature that
27 reasonable and prudent alternatives shall be developed by the department, together
28 with the project proponent and the state lead agency, consistent with conserving
29 the species, while at the same time maintaining the project purpose to the greatest
30 extent possible.

31 **Comment.** Section 62020 continues former Fish and Game Code Section 2053 without
32 substantive change.

33 **Note.** Proposed Section 62020 would continue Section 2053, which was amended by 2018
34 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

36 **§ 62025. Mitigation and enhancement in lieu of infeasible alternatives**

37 62025. The Legislature further finds and declares that, in the event specific
38 economic, social, or other conditions make alternatives infeasible, individual
39 projects may be approved if appropriate mitigation and enhancement measures are
40 provided.

1 **Comment.** Section 62025 continues former Fish and Game Code Section 2054 without
2 substantive change.

3 **§ 62030. Duty of state entities**

4 62030. The Legislature further finds and declares that it is the policy of this state
5 that all state agencies, boards, and commissions shall seek to conserve endangered
6 species and threatened species and shall utilize their authority in furtherance of the
7 purposes of this part.

8 **Comment.** Section 62030 continues former Fish and Game Code Section 2055 without
9 substantive change.

10 **§ 62035. Cooperation of landowners**

11 62035. The Legislature further finds and declares that the cooperation of the
12 owners of land that is identified as habitat for endangered species and threatened
13 species is essential for the conservation of those species and that it is the policy of
14 this state to foster and encourage that cooperation in furtherance of the purposes of
15 this part. Therefore, a landowner of property on which an endangered, threatened,
16 or candidate species lives shall not be liable for civil damages for injury to
17 employees of, or persons under contract with, the department if the injury occurs
18 while those persons are conducting survey, management, or recovery efforts with
19 respect to those species.

20 **Comment.** Section 62035 continues former Fish and Game Code Section 2056 without
21 substantive change.

22 **CHAPTER 2. DEFINITIONS**

23 **§ 62100. Application**

24 62100. The definitions in this chapter govern the construction of this part.

25 **Comment.** Section 62100 continues former Fish and Game Code Section 2060 without
26 substantive change.

27 **§ 62105. Candidate species**

28 62105. “Candidate species” means a native species or subspecies of a bird,
29 mammal, fish, amphibian, reptile, or plant that the commission has formally
30 noticed as being under review by the department for addition to either the list of
31 endangered species or the list of threatened species, or a species for which the
32 commission has published a notice of proposed regulation to add the species to
33 either list.

34 **Comment.** Section 62105 continues former Fish and Game Code Section 2068 without
35 substantive change.

36 **§ 62110. Conserve, conserving, and conservation**

37 62110. “Conserve,” “conserving,” and “conservation” mean to use, and the use
38 of, all methods and procedures that are necessary to bring any endangered species

1 or threatened species to the point at which the measures provided pursuant to this
2 part are no longer necessary. These methods and procedures include, but are not
3 limited to, all activities associated with scientific resources management, such as
4 research, census, law enforcement, habitat acquisition, restoration and
5 maintenance, propagation, live trapping, and transplantation, and, in the
6 extraordinary case where population pressures within a given ecosystem cannot be
7 otherwise relieved, may include regulated taking.

8 **Comment.** Section 62110 continues former Fish and Game Code Section 2061 without
9 substantive change.

10 **§ 62115. Endangered species**

11 62115. (a) “Endangered species” means a native species or subspecies of a bird,
12 mammal, fish, amphibian, reptile, or plant that is in serious danger of becoming
13 extinct throughout all, or a significant portion, of its range due to one or more
14 causes, including loss of habitat, change in habitat, overexploitation, predation,
15 competition, or disease.

16 (b) Any species determined by the commission as “endangered” on or before
17 January 1, 1985, is an “endangered species.”

18 **Comment.** Section 62115 continues former Fish and Game Code Section 2062 without
19 substantive change.

20 **§ 62120. Feasible**

21 62120. “Feasible” means feasible as defined in Section 21061.1 of the Public
22 Resources Code.

23 **Comment.** Section 62120 continues former Fish and Game Code Section 2063 without
24 substantive change.

25 **§ 62125. Project**


26 62125. “Project” means project as defined in Section 21065 of the Public
27 Resources Code.

28 **Comment.** Section 62125 continues former Fish and Game Code Section 2064 without
29 substantive change.

30 **§ 62128. Recover and recovery**

31 62128. “Recover” and “recovery” mean to improve, and improvement in, the
32 status of a species to the point at which listing is no longer appropriate under the
33 criteria set out in this part and any regulations adopted thereunder, and, if the
34 department has approved a recovery plan, satisfaction of the conditions of that
35 plan.

36 **Comment.** Section 62128 continues former Fish and Game Code Section 2064.5 without
37 substantive change.

38  **Note:** Proposed Section 62128 would continue Section 2064.5, which was added by 2018 Cal.
39 Stat. ch. 473.

1 **§ 62130. State lead agency**

2 62130. “State lead agency” means the state agency, board, or commission that is
3 a lead agency under the California Environmental Quality Act (Division 13
4 (commencing with Sec. 21000) of the Public Resources Code).

5 **Comment.** Section 62130 continues former Fish and Game Code Section 2065 without
6 substantive change.

7 **§ 62135. Threatened species**

8 62135. (a) “Threatened species” means a native species or subspecies of a bird,
9 mammal, fish, amphibian, reptile, or plant that, although not presently threatened
10 with extinction, is likely to become an endangered species in the foreseeable
11 future in the absence of the special protection and management efforts required by
12 this part.

13 (b) Any animal determined by the commission as “rare” on or before January 1,
14 1985, is a “threatened species.”

15 **Comment.** Section 62135 continues former Fish and Game Code Section 2067 without
16 substantive change.

17 **TITLE 2. LISTING OF ENDANGERED AND**
18 **THREATENED SPECIES**


19 **CHAPTER 1. GENERAL PROVISIONS**

20 **§ 62200. Establishment and maintenance of lists**

21 62200. (a) The commission shall establish a list of endangered species and a list
22 of threatened species.

23 (b) The commission shall add or remove species from either list if it finds, upon
24 the receipt of sufficient scientific information pursuant to this title, and based
25 solely upon the best available scientific information, that the action is warranted.

26 **Comment.** Section 62200 continues former Fish and Game Code Section 2070 without
27 substantive change.

28  **Note.** Proposed Section 62200 would continue Section 2070, which was amended by 2018
29 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
30 anticipation of its effect.

31 **§ 62205. Criteria**

32 62205. The department shall recommend, and the commission shall adopt,
33 criteria for determining if a species is endangered or threatened.

34 **Comment.** Section 62205 continues former Fish and Game Code Section 2071.5 without
35 substantive change.

1 **§ 62210. Notice of pending actions**

2 62210. (a) To provide all interested persons access to information and
3 notification of pending listing or delisting actions, the commission shall distribute
4 the related agenda of pending actions and those portions of its minutes of actions
5 taken under this title to any individuals who have notified the commission, in
6 writing with their address, of their interest. This notification shall be published in
7 the California Regulatory Notice Register and shall meet the requirements of
8 public notice as required for commission action under Section 62270, 62350,
9 62375, 62450, or 62500.

10 (b) The commission may impose an annual fee on those persons who request
11 inclusion on the list to be notified in order to offset the cost of establishing and
12 maintaining the list, and preparing and mailing the notices. Fees received pursuant
13 to this section shall be deposited in the Fish and Game Preservation Fund.

14 **Comment.** Section 62210 continues former Fish and Game Code Section 2078 without
15 substantive change.

16 CHAPTER 2. LISTING PROCESS

17 Article 1. Petition

18 **§ 62250. Guidelines**

19 62250. The commission shall adopt guidelines by which an interested person
20 may petition the commission to add a species to, or to remove a species from
21 either the list of endangered or the list of threatened species.

22 **Comment.** Section 62250 continues former Fish and Game Code Section 2071 without
23 substantive change.

24 **§ 62255. General content requirements**

25 62255. A petition shall be written, shall be clearly identified as a petition, and
26 shall clearly indicate the administrative measure recommended.

27 **Comment.** Section 62255 continues former Fish and Game Code Section 2072 without
28 substantive change.

29 **§ 62260. Specific content requirements**

30 62260. (a) To be accepted, a petition shall, at a minimum, include sufficient
31 scientific information that a petitioned action may be warranted.

32 (b) Petitions shall include information regarding the population trend, range,
33 distribution, abundance, and life history of a species, the factors affecting the
34 ability of the population to survive and reproduce, the degree and immediacy of
35 the threat, the impact of existing management efforts, suggestions for future
36 management, and the availability and sources of information.

1 (c) The petition shall also include information regarding the kind of habitat
2 necessary for species survival, a detailed distribution map, and any other factors
3 that the petitioner deems relevant.

4 **Comment.** Section 62260 continues former Fish and Game Code Section 2072.3 without
5 substantive change.

6 **§ 62265. Referral of petition to department**

7 62265. Within 10 days of the receipt of a petition from an interested person
8 under Section 62260, the commission shall refer the petition to the department.

9 **Comment.** Section 62265 continues former Fish and Game Code Section 2073 without
10 substantive change.

11 **§ 62270. Publication of notice of petition**

12 62270. (a) The commission shall publish a notice in the California Regulatory
13 Notice Register of the receipt of a petition prepared pursuant to Section 62260 by
14 the department, or by an interested party and referred to the department, pursuant
15 to Section 62265, or the commencement of an evaluation, to add a species to,
16 remove a species from, or change the status of a species on, the list of endangered
17 species or the list of threatened species pursuant to Section 62275.

18 (b) At a minimum, the notice shall include all of the following:

19 (1) The scientific and common name of the species.

20 (2) Habitat type, if that information is available in the petition.

21 (3) The location where interested persons can submit information to the
22 department relating to the petitioned species.

23 (c) The commission shall notify interested persons pursuant to Section 62210,
24 by mail, of the notices prepared pursuant to subdivision (a), and shall mail a copy
25 of the notice to those persons.

26 **Comment.** Section 62270 continues former Fish and Game Code Section 2073.3 without
27 substantive change.

28 **§ 62275. Department-initiated petition**

29 62275. (a) The department may, in the absence of a petition from an interested
30 party, recommend to the commission that it add a species to, or remove a species
31 from, either the list of endangered species or the list of threatened species.

32 (b) If it makes a recommendation under this section, the department shall
33 include the information specified in Section 62260.

34 (c) A department recommendation under this section shall be considered by the
35 commission as a petition with a departmental recommendation to accept and
36 consider as described in subdivision (b) of Section 62280, and is subject to
37 Sections 62350 to 62525, inclusive.

38 **Comment.** Section 62275 continues former Fish and Game Code Section 2072.7 without
39 substantive change.

1 **§ 62280. Department evaluation and recommendation**

2 62280. (a) Within 90 days of receipt of a petition, the department shall evaluate
3 the petition on its face and in relation to other relevant information the department
4 possesses or receives, and submit to the commission its written evaluation report
5 with one of the following recommendations to the commission:

6 (1) Based upon the information contained in the petition, there is not sufficient
7 information to indicate that the petitioned action may be warranted, and the
8 petition should be rejected.

9 (2) Based upon the information contained in the petition, there is sufficient
10 information to indicate that the petitioned action may be warranted, and the
11 petition should be accepted and considered.

12 (b) Upon the request of the director, the commission may grant the department
13 an extension of time, not to exceed 30 days, to allow the department additional
14 time to further analyze and evaluate the petition and complete its evaluation
15 report.

16 (c) The department's evaluation report shall include copies of, or a list of, all
17 information submitted to the department pursuant to subdivision (a) of Section
18 62285 during its evaluation of the petition. If copies are not included, the report
19 shall state where the listed information is available for review.

20 **Comment.** Section 62280 continues former Fish and Game Code Section 2073.5 without
21 substantive change.

22 **§ 62285. Public input during evaluation**

23 62285. (a) A person may submit information to the department relating to the
24 petitioned species during the evaluation of the petition pursuant to Section 62280.
25 The information shall relate to the matters identified in Section 62260.

26 (b) Within 30 days after receiving information pursuant to subdivision (a), the
27 department shall notify the petitioner regarding its content.

28 **Comment.** Section 62285 continues former Fish and Game Code Section 2073.4 without
29 substantive change.

30 **Note.** Proposed Section 62285 would continue Section 2073.4, which was amended by 2018
31 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
32 anticipation of its effect.

33 **§ 62290. Amendment of petition**

34 62290. (a) A petitioner may amend a petition at any time prior to the beginning
35 of the meeting held by the commission pursuant to Section 62350.

36 (b) If the commission determines that an amendment is substantive, the
37 commission shall resubmit the petition to the department for review pursuant to
38 Section 62280, publish notice of the amendment pursuant to Section 62270, and
39 renotify or continue any hearing scheduled pursuant to Section 62350 in order to
40 provide adequate opportunity for public comment.

1 **Comment.** Section 62290 continues former Fish and Game Code Section 2073.7 without
2 substantive change.

3 Article 2. Public Hearing and Meeting

4 **§ 62350. Scheduling**

5 62350. The commission shall schedule a petition for consideration at its next
6 available meeting, but not sooner than 30 days after receipt of the petition and
7 public release of the evaluation report, and distribute its pending agenda to
8 interested persons pursuant to Section 62210. The commission also shall make the
9 petition, evaluation report, and other materials received available for review.

10 **Comment.** Section 62350 continues former Fish and Game Code Section 2074 without
11 substantive change.

12 **§ 62355. Public hearing**

13 62355. At the meeting scheduled pursuant to Section 62350, the commission
14 shall hold a public hearing on the petition and shall receive information, written or
15 otherwise, and oral testimony.

16 **Comment.** Section 62355 continues the first sentence of former Fish and Game Code Section
17 2074.2(a) without substantive change.

18 **§ 62360. Closure of public hearing and record**

19 62360. (a) After the conclusion of oral testimony from the commission and
20 department staff, the petitioner, or any other persons, the commission may close
21 the public hearing and administrative record for the commission's decision
22 pursuant to this section.

23 (b) After the commission closes the public hearing, the administrative record for
24 the commission's decision is closed and it shall not be reopened except as
25 provided in Section 62365.

26 (c) Once the public hearing is closed, no person shall submit further information
27 to the commission for consideration on that petition and the commission shall not
28 accept any further information for consideration on that petition except as
29 provided in Section 62365.

30 **Comment.** Subdivision (a) of Section 62360 continues the second sentence of former Fish and
31 Game Code Section 2074.2(a) without substantive change.

32 Subdivisions (b) and (c) continue former Fish and Game Code Section 2074.2(b) without
33 substantive change.

34 **§ 62365. Reopening administrative record**

35 62365. The administrative record for the commission's decision pursuant to
36 Section 62360 shall not be reopened once the commission closes the public
37 hearing unless one of the following occurs prior to the commission's decision:

38 (a) There is a change in state or federal law or regulation that has a direct and
39 significant impact on the commission's determination as to whether the petition

provides sufficient information to indicate that the petitioned action may be warranted.

(b) The commission determines that it requires further information to evaluate whether the petition provides sufficient information to indicate that the petitioned action may be warranted. If the commission makes that determination during its deliberation, the commission may request, on the record at the scheduled meeting or at a continued meeting, further information on any issue relevant to making its determination as to whether the petition provides sufficient information to indicate that the petitioned action may be warranted. Any request by the commission pursuant to this subdivision shall specify a date by which the information must be submitted to the commission and shall serve to reopen the administrative record for the limited purpose of receiving further information relating to the issues specified by the commission in the request. Commission and department staff, the petitioner, or any other person may submit information in response to a request pursuant to this subdivision. If the commission reopens the record pursuant to this section, it shall provide an opportunity for public comment on the submitted information prior to the issuance of its decision.

Comment. Section 62365 continues former Fish and Game Code Section 2074.2(c) without substantive change.

§ 62370. Continuation of meeting

62370. (a) In its discretion, the commission may continue a meeting on a petition to a later date, which shall be no later than 90 days after the meeting scheduled pursuant to Section 62350, and subject to applicable notice and agenda requirements.

(b) If the public hearing has not yet closed, the meeting shall be continued for further public hearing and then deliberations.

(c) If the public hearing has been closed, the meeting will be continued for the purpose of deliberation, without further public hearing. In this case, a person shall not submit, and the commission shall not receive, further information relating to the petition except as provided in Section 62365.

Comment. Section 62370 continues former Fish and Game Code Section 2074.2(d) without substantive change.

Note. Proposed Section 62370 would restate existing Section 2074.2(d) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“In its discretion, the commission may either close the public hearing and continue the meeting on the petition for the purpose of deliberation or continue both the public hearing and the meeting on the petition to a subsequent date, which shall be no later than 90 days after the meeting scheduled pursuant to Section 2074, and subject to applicable notice and agenda requirements.

If the commission closes the public hearing but continues the meeting for the purpose of deliberation, a person shall not submit, and the commission shall not receive, further information relating to the petition except as provided in subdivision (c).”

The Commission invites comment on whether that restatement would cause any problems.

1 **§ 62375. Commission findings**

2 62375. (a) At the meeting scheduled pursuant to Section 62350 or at a continued
3 meeting scheduled pursuant to Section 62370, the commission shall consider the
4 petition, the department's written report, written comments received, and oral
5 testimony provided during the public hearing, and the commission shall make and
6 enter in its record one of the following findings:

7 (1) If the commission finds that the petition does not provide sufficient
8 information to indicate that the petitioned action may be warranted, the
9 commission shall publish a notice of finding that the petition is rejected, including
10 the reasons why the petition is not sufficient.

11 (2) If the commission finds that the petition provides sufficient information to
12 indicate that the petitioned action may be warranted, the commission shall publish
13 a notice of finding that the petition is accepted for consideration. If the accepted
14 petition recommends the addition of a species to either the list of endangered
15 species or the list of threatened species, the commission shall include in the notice
16 that the petitioned species is a candidate species. The commission shall maintain a
17 list of species that are candidate species.

18 (b) The commission shall publish and distribute the findings relating to the
19 petition pursuant to Section 62210.

20 **Comment.** Section 62375 continues former Fish and Game Code Section 2074.2(e)-(f) without
21 substantive change.

22 **§ 62380. Notice of acceptance**

23 62380. If a petition is accepted by the commission for consideration, all
24 reasonable attempts shall be made to notify affected and interested parties and to
25 solicit data and comments on the petitioned action from as many persons as is
26 practicable. In addition to commission efforts to provide notification through
27 distribution of the commission agenda and minutes pursuant to Section 62210, the
28 department shall immediately undertake efforts to notify affected and interested
29 parties. Methods of notification may include, but are not limited to,
30 correspondence, newspaper notices, and press releases, and notification shall
31 include notice to owners of that land that may provide habitat essential to the
32 continued existence of the species, unless the director determines that ownership is
33 so widespread, fragmented, or complex as to make individual notice impractical.


34 **Comment.** Section 62380 continues former Fish and Game Code Section 2074.4 without
35 substantive change.

36 Article 3. Department Review

37 **§ 62400. Review**

38 62400. If the Commission accepts a petition for consideration, the department
39 shall promptly commence a review of the status of the species concerned in the
40 petition.

1 **Comment.** Section 62400 restates the first sentence of former Fish and Game Code Section
2 2074.6 without substantive change.

3  **Note.** The first clause of proposed Section 62400 was added to clarify the application of the
4 provision. **The Commission invites comment on whether that addition would cause any**
5 **problems.**

6 **§ 62405. Timing**

7 62405. (a) Within 12 months of the date of publication of a notice of acceptance
8 of a petition for consideration pursuant to paragraph (2) of subdivision (a) of
9 Section 62375, the department shall produce and make publicly available on the
10 department's Internet Web site a final written report.

11 (b) The revised report shall be posted on the department's Internet Web site for a
12 minimum of 30 days for public review prior to the hearing scheduled pursuant to
13 Section 62450.

14 (c) The commission may grant an extension of up to six months if the director
15 determines an extension is necessary to complete independent peer review of the
16 report, and to provide a minimum of 30 days for public review of the peer
17 reviewed report prior to the public hearing specified in Section 62450.

18 **Comment.** Subdivision (a) of Section 62405 continues the first part of the second sentence of
19 former Fish and Game Code Section 2074.6 without substantive change. A reference to the report
20 being "peer reviewed" is omitted as redundant. See Section 62410.

21 Subdivision (b) continues the fourth sentence of former Fish and Game Code Section 2074.6
22 without substantive change.

23 Subdivision (c) continues the fifth sentence of former Fish and Game Code Section 2074.6
24 without substantive change.

25 **§ 62410. Draft status review report**

26 62410. Prior to releasing a final written report, the department shall have a draft
27 status review report prepared and independently peer reviewed. Upon receiving
28 the peer reviewers' input, the department shall evaluate and respond in writing to
29 the independent peer review and shall amend the draft status review report as
30 appropriate.

31 **Comment.** Section 62410 continues the third sentence of former Fish and Game Code Section
32 2074.6 without substantive change.

33 **§ 62415. Final report**

34 62415. The final report, which shall be based on the best scientific information
35 available to the department, shall indicate whether the petitioned action is
36 warranted, make a preliminary identification of the habitat that may be essential to
37 the continued existence of the species, recommend management activities, and
38 make other recommendations for recovery of the species.

39 **Comment.** Section 62415 restates the second part of the second sentence of former Fish and
40 Game Code Section 2074.6 without substantive change.

§ 62420. Scope of inquiry

62420. This title does not impose any duty or obligation for, or otherwise require, the commission or the department to undertake independent studies or other assessments of any species when reviewing a petition and its attendant documents and comments. However, the department shall seek independent scientific peer review of the department’s draft status review report. The director may approve an extension of time for completion of the status report if necessary for the purposes of obtaining independent peer review pursuant to this article.

Comment. Section 62420 continues former Fish and Game Code Section 2074.8 without substantive change.

Notes. (1) The second sentence of existing Section 2074.8 requires that the department’s “status report” be peer reviewed. Presumably, this refers to the “draft status review report” required by existing Section 2074.6 (proposed Section 62410). If so, that language is redundant, as Section 2074.6 already requires that the draft status review report be peer reviewed. **The Commission invites comment on whether that language can be deleted without causing problems.**

(2) The second sentence of existing Section 2074.8 provides that the *director* may extend the time for completion of the “status report.” Presumably, this refers to the *final* report required by existing Section 2074.6 (proposed Section 62405), because there is no deadline specified for completion of the *draft* status review report. That rule seems to be at odds with the last sentence of existing Section 2074.6 (proposed Section 62405(c)), which authorizes the *Commission* to grant an extension to the deadline for completion of the final report. **The Commission invites comment on whether both the director and the Commission are authorized to extend the time for completion of the final report.**

Article 4. Commission Decision

§ 62450. Meeting

62450. The commission shall schedule the petition for final consideration at its next available meeting after receipt of the departmental report provided pursuant to Section 62405 and shall distribute the pending agenda for that meeting pursuant to Section 62210. The commission shall make the department’s report, or copies thereof, which was provided, pursuant to Section 62405, available for review upon request.

Comment. Section 62450 continues former Fish and Game Code Section 2075 without substantive change.

§ 62455. Public hearing

62455. At the meeting scheduled pursuant to Section 62450, the commission shall hold a public hearing on the petition and shall receive information, written or otherwise, and oral testimony.

Comment. Section 62455 continues the first sentence of former Fish and Game Code Section 2075.5(a) without substantive change.

1 **§ 62460. Closure of public hearing and record**

2 62460. (a) After the conclusion of oral testimony from the commission and
3 department staff, the petitioner, or any other person, the commission may close the
4 public hearing and the administrative record for the commission's decision
5 pursuant to this section.

6 (b) After the commission closes the public hearing, the administrative record for
7 the commission's decision is closed and it shall not be reopened except as
8 provided in Section 62465.

9 (c) Once the public hearing is closed, a person shall not submit further
10 information to the commission for consideration on that petition and the
11 commission shall not accept any further information for consideration on that
12 petition except as provided in Section 62465.

13 **Comment.** Subdivision (a) of Section 62460 continues the second sentence of former Fish and
14 Game Code Section 2075.5(a) without substantive change.

15 Subdivisions (b) and (c) continue former Fish and Game Code Section 2075.5(b) without
16 substantive change.

17 **§ 62465. Reopening administrative record**

18 62465. The administrative record for the commission's decision pursuant to
19 Section 62475 shall not be reopened once the commission closes the public
20 hearing unless one of the following occurs before the commission's decision:

21 (a) There is a change in state or federal law or regulation that has a direct and
22 significant impact on the commission's determination as to whether the petitioned
23 action is warranted.

24 (b) The commission determines that it requires further information to evaluate
25 whether the petitioned action is warranted. If the commission makes that
26 determination during its deliberation, the commission may request, on the record
27 at the scheduled meeting or at a continued meeting, further information on any
28 issue relevant to making its determination as to whether the petitioned action is
29 warranted. Any request by the commission pursuant to this subdivision shall
30 specify a date by which the information must be submitted to the commission and
31 shall serve to reopen the administrative record for the limited purpose of receiving
32 further information relating to the issues specified by the commission in the
33 request. Commission and department staff, the petitioner, or any other person may
34 submit information in response to a request pursuant to this subdivision.

35 **Comment.** Section 62465 continues former Fish and Game Code Section 2075.5(c) without
36 substantive change.

37 **§ 62470. Continuation of meeting**

38 62470. (a) In its discretion, the commission may continue a meeting on a
39 petition to a later date, which shall be no later than 90 days after the meeting
40 scheduled pursuant to Section 62450, and subject to applicable notice and agenda
41 requirements.

(b) If the public hearing has not yet closed, the meeting shall be continued for further public hearing and then deliberations.

(c) If the public hearing has been closed, the meeting will be continued for the purpose of deliberation, without further public hearing. In this case, a person shall not submit, and the commission shall not receive, further information relating to the petition except as provided in Section 62465.

Comment. Section 62470 continues former Fish and Game Code Section 2075.5(d) without substantive change.

Note. Proposed Section 62470 would restate existing Section 2075.5(d) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“The commission, in its discretion, may either close the public hearing and continue the meeting on the petition for the purpose of deliberation or continue both the public hearing and the meeting on the petition to a subsequent date which is no later than 90 days after the meeting scheduled pursuant to Section 2075, and subject to applicable notice and agenda requirements. If the commission closes the public hearing but continues the meeting for the purpose of deliberation, a person shall not submit, and the commission shall not receive, further information relating to the petition except as provided in subdivision (c).”

The Commission invites comment on whether that restatement would cause any problems.

§ 62475. Commission findings

62475. (a) At the meeting scheduled pursuant to Section 62450, or at a continued meeting scheduled pursuant to Section 62470, the commission shall make one of the following findings based on the best available scientific information:

(1) The petitioned action is not warranted, in which case the finding shall be entered in the public records of the commission and the petitioned species shall be removed from the list of candidate species maintained pursuant to Section 62375.

(2) The petitioned action is warranted, or the petitioned action is not warranted but listing the petitioned species at a different status than that requested by the petitioner is warranted, in which case the commission shall, within 30 days of adopting written findings, publish a notice of that finding and shall add the species to, or remove the species from, the list of endangered species or the list of threatened species.

(b) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the change in status of a species pursuant to this title. The commission shall submit the change in status to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations. The commission shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations to reflect the change in status.

Comment. Section 62475 continues former Fish and Game Code Section 2075.5(e) without substantive change.

Note. Proposed Section 62020 would continue Section 2075.5(e), which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 62480. Writ of mandate

62480. A finding made pursuant to Section 62475 is subject to judicial review under Section 1094.5 of the Code of Civil Procedure.

Comment. Section 62480 continues former Fish and Game Code Section 2076 without substantive change.

Note. Existing Section 2076 provides for mandamus review of “any finding pursuant to this section.” That reference to “this section” appears to be an error, as Section 2076 does not provide for any findings. The Commission believes that Section 2076 was intended to refer to the preceding provision, Section 2075.5. That would make sense, as Section 2075.5(e) provides for a final commission decision on whether to list a species as endangered or threatened. Proposed Section 62480 has been revised to refer to proposed Section 62475, which would continue existing Section 2075.5(e). **The Commission invites comment on whether that revision correctly captures the intended meaning of Section 2076.**

§ 62485. Emergency regulation

62485. (a) Notwithstanding Sections 62250 to 62475, inclusive, the commission may adopt a regulation that adds a species to the list of endangered species or to the list of threatened species as an emergency regulation pursuant to Section 1250 if the commission finds that there is any emergency posing a significant threat to the continued existence of the species.

(b) The commission shall notify affected or interested persons of the adoption of the emergency regulation pursuant to the methods described in Section 62380.

Comment. Section 62485 continues former Fish and Game Code Section 2076.5 without substantive change.

Article 5. Ongoing Review

§ 62500. Five-year review of listed species

62500. (a) Upon a specific appropriation of funds by the Legislature, the department shall, or if other funding is available, in the absence of a specific appropriation, may, review species listed as an endangered species or as a threatened species every five years to determine if the conditions that led to the original listing are still present.

(b) The review shall be conducted based on information that is consistent with the information specified in Section 62260 and that is the best scientific information available to the department.

(c) The review shall include a review of the identification of the habitat that may be essential to the continued existence of the species and the department’s recommendations for management activities and other recommendations for recovery of the species.

1 (d) The department shall notify any person who has notified the commission, in
2 writing with their address, of their interest, and the department may notify any
3 other person.

4 **Comment.** Section 62500 continues former Fish and Game Code Section 2077(a) without
5 substantive change.

6 **Note.** Proposed Section 62500 would continue Section 2077(a), which was amended by 2018
7 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
8 anticipation of its effect.

9 **§ 62505. Five-year review of species listed by both Commission and US Department of**
10 **Interior**

11 62505. Review pursuant to section 62500 of species that are listed by both the
12 commission and the United States Department of Interior shall be conducted in
13 conjunction with the five-year review process of the United States Department of
14 the Interior.

15 **Comment.** Section 62505 continues former Fish and Game Code Section 2077(b) without
16 substantive change.

17 **Note.** Proposed Section 62505 would continue Section 2077(b), which was amended by 2018
18 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
19 anticipation of its effect.

20 **§ 62510. Timing of initial five-year review**

21 62510. (a) Initial review of those species listed by the commission before
22 January 1, 1982, that are not listed by the federal government shall be undertaken
23 and completed by July 1, 1987.

24 (b) Initial review of those species listed by the commission after January 1,
25 1982, that are not listed by the federal government shall be undertaken and
26 completed within five years of the date the species was originally listed by the
27 commission.

28 **Comment.** Section 62510 continues former Fish and Game Code Section 2077(c) without
29 substantive change.

30 **§ 62515. Written report of five-year review results**

31 62515. (a) The department shall report in writing to the commission the results
32 of its five-year review for each listed species.

33 (b) The commission shall treat any report of the department under this section
34 that contains a recommendation to add a species to, or remove a species from, the
35 list of endangered species or the list of threatened species as a department
36 recommendation submitted pursuant to Section 62275.

37 **Comment.** Section 62515 continues former Fish and Game Code Section 2077(e) without
38 substantive change.

1 **§ 62520. Discretionary review**

2 62520. Notwithstanding any other provision of this article, the commission or
3 the department may review a species at any time based upon a petition or upon
4 other data available to the department and the commission.

5 **Comment.** Section 62520 continues former Fish and Game Code Section 2077(d) without
6 substantive change.

7 **§ 62525. Triennial report**

8 62525. (a) The department shall, by January 30 of every third year, beginning
9 January 30, 1986, prepare a report summarizing the status of all state listed
10 endangered, threatened, and candidate species, and shall post the report on the
11 commission's Internet Web site.

12 (b) The report shall include, but not be limited to, a listing of those species
13 designated as endangered, threatened, and candidate species, a discussion of the
14 current status of endangered, threatened, or candidate species, and the timeframes
15 for the review of listed species pursuant to this title.

16 **Comment.** Section 62525 continues former Fish and Game Code Section 2079 without
17 substantive change.

18 **TITLE 3. TAKE, IMPORTATION,**
19 **EXPORTATION, OR SALE**


20 **CHAPTER 1. PROHIBITION**

21 **§ 62600. Take, possession, purchase, or sale**

22 62600. No person or public agency shall import into this state, export out of this
23 state, or take, possess, purchase, or sell within this state, any species, or any part or
24 product thereof, that the commission determines to be an endangered species or a
25 threatened species, or attempt any of those acts, except as otherwise provided in
26 this part, the Native Plant Protection Act (Title 1 (commencing with Section
27 53800) of Part 3 of Division 14), or the California Desert Native Plants Act
28 (Division 23 (commencing with Section 80001) of the Food and Agricultural
29 Code).

30 **Comment.** Section 62600 continues former Fish and Game Code Section 2080 without
31 substantive change.

32 See also Sections 4482, 4570, 6202, 6204, 6206 (enforcement).

33  **Note.** Proposed Section 62600 would continue Section 2080), which was amended by 2018
34 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
35 anticipation of its effect.

1 **§ 62605. Candidate species**

2 62605. The provisions of this title shall apply to any species designated as a
3 candidate species under Section 62375 if notice has been given pursuant to Section
4 62380.

5 **Comment.** Section 62605 continues former Fish and Game Code Section 2085 without
6 substantive change.

7 **CHAPTER 2. GENERAL EXCEPTIONS**

8 **§ 62650. Take for scientific, educational, or management purposes**

9 62650. The department may authorize acts that are otherwise prohibited
10 pursuant to Section 62600, through permits or memorandums of understanding,
11 the department may authorize individuals, public agencies, universities, zoological
12 gardens, and scientific or educational institutions, to import, export, take, or
13 possess any endangered species, threatened species, or candidate species for
14 scientific, educational, or management purposes.

15 **Comment.** Section 62650 continues former Fish and Game Code Section 2081(a) without
16 substantive change.

17 **§ 62655. Take of fish authorized by specified provisions**

18 62655. This part does not apply to the taking of fish otherwise authorized
19 pursuant to Part 6 (commencing with Section 14200) of Division 6 or pursuant to
20 the provisions described in Sections 37805 and 45005.


21 **Comment.** Section 62655 continues the first clause of former Fish and Game Code Section
22 2083 without substantive change.

23 **§ 62665. Take of fish authorized by Commission**

24 62665. (a) The commission may authorize, subject to terms and conditions it
25 prescribes, and based on the best available scientific information, (1) the taking of
26 any candidate species, or (2) the taking of any fish by hook and line for sport that
27 is listed as an endangered, threatened, or candidate species, provided that in either
28 case the take is consistent with this part.

29 (b) The department may recommend to the commission that the commission
30 authorize, or not authorize, the taking of an endangered, threatened, or candidate
31 species pursuant to this section.

32 **Comment.** Section 62665 continues former Fish and Game Code Section 2084 without
33 substantive change.

34  **Note.** Proposed Section 62665 would continue Section 2084, which was amended by 2018
35 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
36 anticipation of its effect.

37 **§ 62670. Take authorized by department**

38 62670. (a) Nothing in this part or in any other provision of law prohibits the
39 taking or the incidental taking of any endangered, threatened, or candidate species

1 if the taking was authorized by the department through a permit or memorandum
2 of understanding, or in a natural communities conservation plan, habitat
3 conservation plan, habitat management plan, or other plan or agreement approved
4 by or entered into by the department, or in an amendment to a permit,
5 memorandum of understanding, plan, or agreement and all of the following
6 conditions are met:

7 (1) The application process commenced on or before April 10, 1997.

8 (2) The department approved the permit, memorandum of understanding, plan,
9 agreement, or amendment thereto within either of the following timeframes:

10 (A) On or before April 10, 1997.

11 (B) Between April 10, 1997, and January 1, 1998, and the department also
12 certifies that the permit, memorandum of understanding, plan, agreement, or
13 amendment thereto meets the substantive criteria of subdivision (a) of Section
14 62700.

15 (b) The permits, memoranda of understanding, plan, agreements, and
16 amendments thereto described in this section are deemed to be in full force and
17 effect, as of the date approved or entered into by the parties insofar as they
18 authorize the take of species.

19 (c) This section does not apply to the “Emergency Management Measures
20 Permit” issued by the department on March 15, 1995.

21 **Comment.** Section 62670 continues former Fish and Game Code Section 2081.1 without
22 substantive change.

23 **§ 62675. Sale of organism by person who possessed it before it was listed**

24 62675. This part does not prohibit the sale of any endangered species or
25 threatened species, or any part or product thereof, when the owner can
26 demonstrate that the species, or part or product thereof, was in the person’s
27 possession before the date upon which the commission listed the species as an
28 endangered species or threatened species or as an endangered animal or rare
29 animal prior to January 1, 1985, and shall not prohibit the sale of that part or
30 product by an individual not normally engaged in that sale if it was originally
31 possessed by the seller for the seller’s own use and so used by that seller.
32 However, it shall be unlawful to sell any species, or part or product thereof, if that
33 sale would have been unlawful prior to the date upon which the commission added
34 the species to the listing of endangered species or threatened species or to the
35 listing of endangered animals or rare animals prior to January 1, 1985.

36 **Comment.** Section 62675 continues former Fish and Game Code Section 2082 without
37 substantive change.

38 **§ 62680. Possession of animal possessed before it was listed**

39 62680. This part does not apply to the possession of individual animals that were
40 lawfully possessed before the commission listed the species as an endangered

1 species or as a threatened species or as an endangered animal or rare animal prior
2 to January 1, 1985.

3 **Comment.** Section 62680 continues the second clause of former Fish and Game Code Section
4 2083 without substantive change.

5 CHAPTER 3. INCIDENTAL TAKE

6 § 62700. Incidental take

7 62700. (a) The department may authorize acts that are otherwise prohibited
8 pursuant to Section 62600, by a permit for the take of endangered species,
9 threatened species, and candidate species if all of the following conditions are met:

10 (1) The take is incidental to an otherwise lawful activity.

11 (2) The impacts of the authorized take shall be minimized and fully mitigated.
12 The measures required to meet this obligation shall be roughly proportional in
13 extent to the impact of the authorized taking on the species. Where various
14 measures are available to meet this obligation, the measures required shall
15 maintain the applicant's objectives to the greatest extent possible. All required
16 measures shall be capable of successful implementation. For purposes of this
17 section only, impacts of taking include all impacts on the species that result from
18 any act that would cause the proposed taking.


19 (3) The applicant shall ensure adequate funding to implement the measures
20 required by paragraph (2), and for monitoring compliance with, and effectiveness
21 of, those measures.

22 (b) No permit may be issued pursuant to subdivision (a) if issuance of the permit
23 would jeopardize the continued existence of the species. The department shall
24 make this determination based on the best scientific and other information that is
25 reasonably available, and shall include consideration of the species' capability to
26 survive and reproduce, and any adverse impacts of the taking on those abilities in
27 light of (1) known population trends; (2) known threats to the species; and (3)
28 reasonably foreseeable impacts on the species from other related projects and
29 activities.

30 (c) The department shall adopt regulations to aid in the implementation of
31 subdivision (a) and the requirements of Division 13 (commencing with Section
32 21000) of the Public Resources Code, with respect to authorization of take. The
33 department may seek certification pursuant to Section 21080.5 of the Public
34 Resources Code to implement subdivision (a).

35 (e) Commencing January 1, 2019, the department shall post each new permit
36 issued pursuant to subdivision (a) on its Internet Web site within 15 days of the
37 effective date of the permit.

38 **Comment.** Section 62700 continues former Fish and Game Code Section 2081(b)-(e) without
39 substantive change.

 **Note.** Proposed Section 62700 would continue Section 2081(b)-(e), which was amended by 2018 Cal. Stat. ch. 329, § 11.5. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 62705. Incidental take authorized by federal entity

62705. (a) Notwithstanding any other provision of this part, Title 1 (commencing with Section 53800) of, or Title 2 (commencing with Section 53900) of Part 3 of Division 14, but subject to subdivision (c), if any person obtains from the United States Secretary of the Interior or the United States Secretary of Commerce an incidental take statement pursuant to Section 7 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1536) or an incidental take permit pursuant to Section 10 of that federal act (16 U.S.C. Sec. 1539) that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 4 of that federal act (16 U.S.C. Sec. 1533) and that is an endangered species, threatened species, or a candidate species pursuant to this chapter, no further authorization or approval is necessary under this chapter for that person to take that endangered species, threatened species, or candidate species identified in, and in accordance with, the incidental take statement or incidental take permit, if that person does all of the following:

(1) Notifies the director in writing that the person has received an incidental take statement or an incidental take permit issued pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

(2) Includes in the notice to the director a copy of the incidental take statement or incidental take permit.

(3) Includes with the notice payment of the permit application fee required pursuant to Chapter 6 (commencing with Section 63600).

(b) Upon receipt of the notice specified in paragraph (1) of subdivision (a), the director shall immediately have published in the General Public Interest section of the California Regulatory Notice Register the receipt of that notice.

(c) Within 30 days after the director has received the notice described in subdivision (a) that an incidental take statement or an incidental take permit has been issued pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the director shall determine whether the incidental take statement or incidental take permit is consistent with this chapter. If the director determines within that 30-day period, based upon substantial evidence, that the incidental take statement or incidental take permit is not consistent with this chapter, then the taking of that species may only be authorized pursuant to this chapter.

(d) The director shall immediately publish the determination pursuant to subdivision (c) in the General Public Interest section of the California Regulatory Notice Register.

(e) Unless deleted or extended by a later enacted statute that is chaptered before the date this section is repealed, this section shall remain in effect only until, and is

1 repealed on, the effective date of an amendment to Section 7 or 10 of the federal
2 Endangered Species Act of 1973 (16 U.S.C. Secs. 1536 and 1539) that alters the
3 requirements for issuing an incidental take statement or an incidental take permit,
4 as applicable.

5 **Comment.** Section 62705 continues former Fish and Game Code Section 2080.1 without
6 substantive change.

7 **Note.** Proposed Section 62705 would continue Section 2080.1, which was amended by 2018
8 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
9 anticipation of its effect.

10 CHAPTER 4. SPECIFIC EXCEPTIONS

11 Article 1. Quantification Settlement Agreement

12 § 63300. Take from specified effects of implementation of agreement

13 63300. Notwithstanding Title 5 (commencing with Section 30200) of Part 3 of
14 Division 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, and
15 Sections 38200, 52200, and 53000, and contingent upon the fulfillment of the
16 conditions listed in Section 63305, the department may authorize, under this part
17 or Title 1 (commencing with Section 64500) of Part 2, the take of species resulting
18 from impacts attributable to the implementation of the Quantification Settlement
19 Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the
20 Statutes of 2002, on all of the following:

21 (a) The salinity, elevation, shoreline habitat, or water quality of the Salton Sea.

22 (b) The quantity and quality of water flowing in the All American Canal, the
23 Coachella Canal, the Imperial Valley and Coachella Valley drains, the New and
24 Alamo Rivers, the Coachella Valley Stormwater Channel, and the habitat
25 sustained by those flows.

26 (c) Agricultural lands in the Imperial Valley.

27 (d) The quantity and quality of water flowing in the Colorado River, the habitat
28 sustained by those flows, and the collection of that water for delivery to authorized
29 users.

30 **Comment.** Section 63300 restates former Fish and Game Code Section 2081.7(a) without
31 substantive change.

32 § 63305. Application of Section 63300

33 63305. Section 63300 only applies if all of the following conditions are fulfilled:

34 (a) The Quantification Settlement Agreement is executed by the appropriate
35 parties on or before October 12, 2003.

36 (b) The department has determined that the appropriate agreements have been
37 executed to address environmental impacts at the Salton Sea that include
38 enforceable commitments requiring all of the following:

1 (1) Imperial Irrigation District to transfer 800,000 acre-feet of conserved water,
2 by conservation methods selected by the Imperial Irrigation District, to the
3 Department of Water Resources on a mutually agreed-upon schedule in exchange
4 for payment of one hundred seventy-five dollars (\$175) per acre-foot. The price
5 shall be adjusted for inflation on an annual basis.

6 (2) Imperial Irrigation District to transfer up to 800,000 additional acre-feet of
7 conserved water, by conservation methods selected by the Imperial Irrigation
8 District, to the Department of Water Resources during the first 15 years of the
9 Quantification Settlement Agreement on the schedule established for the
10 mitigation water that was previously to be transferred to the San Diego Water
11 Authority, or on a mutually agreed-upon schedule, at no cost for the water in
12 addition to the payment for the water from the mitigation fund described in
13 paragraph (1) of subdivision (b) of Section 3 of Chapter 613 of the Statutes of
14 2003.

15 (3) As a condition to acquisition of the water described in paragraph (1), the
16 Department of Water Resources shall be responsible for any environmental
17 impacts, including Salton Sea salinity, related to use or transfer of that water. As a
18 condition to acquisition of the water described in paragraph (2), the Department of
19 Water Resources shall be responsible for environmental impacts related to Salton
20 Sea salinity that are related to the use or transfer of that water.

21 (4) The Metropolitan Water District of Southern California (MWD) to purchase
22 up to 1.6 million acre-feet of the water provided in accordance with paragraphs (1)
23 and (2) from the Department of Water Resources at a price of not less than two
24 hundred fifty dollars (\$250) per acre-foot on a mutually agreed-upon schedule.
25 The price shall be adjusted for inflation on an annual basis. The Department of
26 Water Resources shall deposit all proceeds from the sale of water pursuant to this
27 paragraph, after deducting costs and reasonable administrative expenses, into the
28 Salton Sea Restoration Fund established in Section 56850.

29 (5) The Metropolitan Water District of Southern California to pay not less than
30 twenty dollars (\$20) per acre-foot for all special surplus water received by MWD
31 as a result of reinstatement of access to that water under the Interim Surplus
32 Guidelines by the United States Department of Interior subtracting any water
33 delivered to Arizona as a result of a shortage. The money shall be paid into the
34 Salton Sea Restoration Fund. The price shall be adjusted for inflation on an annual
35 basis. Metropolitan Water District of Southern California shall receive a credit
36 against future mitigation obligations under the Lower Colorado River Multi-
37 Species Conservation Plan for any funds provided under this paragraph to the
38 extent that those funds are spent on projects that contribute to the conservation or
39 mitigation for species identified in the Lower Colorado River Multi-Species
40 Conservation Plan and that are consistent with the preferred alternative for Salton
41 Sea restoration.

42 (6) Coachella Valley Water District, Imperial Irrigation District, and San Diego
43 County Water Authority to pay a total of thirty million dollars (\$30,000,000) to

1 the Salton Sea Restoration Fund as provided in paragraph (2) of subdivision (b) of
2 Section 3 of Chapter 613 of the Statutes of 2003.


3 (c) The requirements of subdivision (a) and (b) of Section 62700 are satisfied as
4 to the species for which take is authorized.

5 (d) The take authorization provides for the development and implementation, in
6 cooperation with federal and state agencies, of an adaptive management process
7 for monitoring the effectiveness of, and adjusting as necessary, the measures to
8 minimize and fully mitigate the impacts of the authorized take. The adjusted
9 measures are subject to Section 62015.

10 (e) The take authorization provides for the development and implementation in
11 cooperation with state and federal agencies of an adaptive management process
12 that substantially contributes to the long-term conservation of the species for
13 which take is authorized. Preparation of the adaptive management program and
14 implementation of the program is the responsibility of the department. The
15 department's obligation to prepare and implement the adaptive management
16 program is conditioned upon the availability of funds pursuant to the Water
17 Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, if it is
18 approved by the voters at the statewide general election to be held November 5,
19 2002 (Proposition 50), or other funds that may be appropriated by the Legislature
20 or approved by the voters for that purpose. The failure to appropriate funds does
21 not relieve the applicant of the obligations of subdivisions (c) and (d). However,
22 the applicant shall not be required to fund any program pursuant to this
23 subdivision.

24 (f) The requirements of subdivision (c) may be satisfied if the take is authorized
25 under this title.

26 **Comment.** Section 63305 restates former Fish and Game Code Section 2081.7(b)-(d) without
27 substantive change.

28  **Note.** Existing Section 2081.7(d)(4) (proposed Section 63305(f)) refers to "Chapter 10
29 (commencing with Section 2080)." The reference to "Chapter 10" appears to be erroneous.
30 Section 2080 is the first section of Article 3 of Chapter 1.5 (which would be continued as Title 3
31 of Part 1). Proposed Section 63305(f) corrects the error. **The Commission invites comment on
32 whether the proposed correction would cause any problem.**

33 § 63310. Restoration study

34 63310. (a) The Secretary of the Resources Agency, in consultation with the
35 department, the Department of Water Resources, the Salton Sea Authority,
36 appropriate air quality districts, and the Salton Sea Advisory Committee, shall
37 undertake a restoration study to determine a preferred alternative for the
38 restoration of the Salton Sea ecosystem and the protection of wildlife dependent
39 on that ecosystem.

40 (b) The Secretary of the Resources Agency shall extend an invitation to the
41 United States Geological Survey Salton Sea Science Office to also participate in
42 the restoration study, and the office may participate if it accepts the invitation.

1 (c) The restoration study shall be conducted pursuant to a process with deadlines
2 for release of the report and programmatic environmental documents established
3 by the secretary, in consultation with the department, the Department of Water
4 Resources, the Salton Sea Authority, and the Salton Sea Advisory Committee, and
5 the United States Geological Survey Salton Sea Science Office, if it is a
6 participant. The secretary shall use all available authority to enter into a
7 memorandum of understanding (MOU) with the Secretary of the Interior, as
8 provided in Section 101(b)(1)(B)(i) of the Salton Sea Reclamation Act of 1998
9 (P.L. 105-372) for the purpose of obtaining federal participation in the restoration
10 of the Salton Sea.

11 (d) The restoration study shall establish all of the following:

12 (1) An evaluation of alternatives for the restoration of the Salton Sea that
13 includes consideration of strategies for salinity control, habitation creation and
14 restoration, and different shoreline elevations and surface area configurations. The
15 alternatives shall consider the range of possible inflow conditions. The evaluation
16 established pursuant to this paragraph shall also include suggested criteria for
17 selecting and evaluating alternatives consistent with Title 10 (commencing with
18 Section 56800) of Part 2 of Division 15, including, but not limited to, at least one
19 most cost-effective, technically feasible, alternative.

20 (2) An evaluation of the magnitude and practicability of costs of construction,
21 operation, and maintenance of each alternative evaluated.

22 (3) A recommended plan for the use or transfer of water provided by paragraph
23 (2) of subdivision (b) of Section 63305. No water may be transferred pursuant to
24 that subdivision unless the secretary finds that transfer is consistent with the
25 preferred alternative for Salton Sea restoration.

26 (4) The selection of a preferred alternative consistent with Section 56900,
27 including a proposed funding plan to implement the preferred alternative. The
28 proposed funding plan shall include a determination of the moneys that are, or
29 may be, available to construct and operate the preferred project, including, but not
30 limited to, all of the following moneys:

31 (A) Moneys in the Salton Sea Restoration Fund established by Section 56850.

32 (B) State water and environmental bond moneys.

33 (C) Federal authorizations and appropriations.

34 (D) Moneys available through a Salton Sea Infrastructure Financing District
35 established pursuant to Section 53395.9 of the Government Code and local
36 assessments by the Salton Sea Authority or its member agencies.

37 (E) Moneys derived from user or other fees.

38 (e) The study identifying the preferred alternative shall be submitted to the
39 Legislature on or before December 31, 2006.

40 **Comment.** Section 63310 continues former Fish and Game Code Section 2081.7(e)(1)-(3)
41 without substantive change.

42 **Note.** The Commission invites comment on whether proposed Section 63310(e) can be
43 omitted as obsolete.

1 **§ 63315. Advisory committee**

2 63315. The Secretary of the Resources Agency shall establish an advisory
3 committee for purposes of Section 63310 as follows:

4 (a) The advisory committee shall be selected to provide balanced representation
5 of the following interests:

- 6 (1) Agriculture.
- 7 (2) Local governments.
- 8 (3) Conservation groups.
- 9 (4) Tribal governments.
- 10 (5) Recreational users.
- 11 (6) Water agencies.
- 12 (7) Air pollution control districts.
- 13 (8) Geothermal energy development.

14 (b) Appropriate federal agency representatives may be asked to serve in an ex
15 officio capacity.

16 (c) The Resources Agency shall consult with the advisory committee throughout
17 all stages of the alternative selection process.

18 (d) The advisory committee shall meet no fewer than six times annually.

19 (e) The secretary shall appoint a vice chair of the advisory committee from the
20 committee membership. The vice chair shall work with the secretary to develop
21 advisory committee agendas and to schedule meetings of the committee. The
22 secretary and vice chair shall appoint an agenda subcommittee to assist in the
23 preparation of advisory committee agendas.

24 (f) The advisory committee shall submit to the Resources Agency
25 recommendations to assist the agency in preparation of its restoration plan. The
26 Resources Agency shall develop a schedule for the completion of these
27 recommendations to ensure that these recommendations will be considered by the
28 agency in a timely and meaningful manner as the restoration plan is developed.
29 These recommendations may include, but are not limited to:

- 30 (1) The specific goals and objectives of the restoration plan.
- 31 (2) The range of alternative restoration actions that must be developed and
32 analyzed.
- 33 (3) The no action alternative.
- 34 (4) The criteria for determining economic and technical feasibility of the
35 alternatives.
- 36 (5) The range of options for funding the restoration plan.
- 37 (6) The selection of a preferred alternative for a restoration plan.

38 (g) The Resources Agency shall periodically provide an update to the advisory
39 committee of the current work plan and schedule for the development of the
40 restoration plan.

41 **Comment.** Section 63315 continues former Fish and Game Code Section 2081.7(e)(4) without
42 substantive change.

1 **§ 63320. No exemption from other laws**

2 63320. This article shall not be construed to exempt from any other provision of
3 law the Quantification Settlement Agreement and the Agreement for Transfer of
4 Conserved Water by and between the Imperial Irrigation District and the San
5 Diego County Water Authority, dated April 29, 1998.

6 **Comment.** Section 63320 continues former Fish and Game Code Section 2081.7(f) without
7 substantive change.

8 **§ 63325. Related assessment by Resources Agency**

63325. (a) The Resources Agency shall undertake the necessary activities to
assess the protection of recreational opportunities, including, but not limited to,
hunting, fishing, boating, and birdwatching, and the creation of opportunities for
improved local economic conditions, surrounding the Salton Sea.

(b) The Resources Agency shall not undertake any of those activities if the agency determines they would constitute a project purpose for environmental documentation that is prepared pursuant to Sections 63300 to 63320, inclusive.

16 **Comment.** Section 63325 continues former Fish and Game Code Section 2081.8 without
17 substantive change.

Article 2. Chinook Salmon

19 **§ 63350. Findings and declarations**

20 63350. The Legislature finds and declares the following:

(a) The historic settlement approved by Congress in the San Joaquin River Restoration Settlement Act (Part I of Subtitle A of Title X of Public Law 111-11) directs the federal government to reintroduce spring run Chinook salmon to the San Joaquin River. In approving the settlement and the new statutory provisions governing the reintroduction of California central valley spring run Chinook salmon, Congress found that the implementation of the settlement, to resolve 18 years of contentious litigation regarding restoration of the San Joaquin River and the reintroduction of the salmon, was a unique and unprecedented circumstance. The settlement also provides that nothing in the settlement diminishes the statutory or regulatory protections under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) nor does it establish a precedent with respect to any other application of the federal act.

(b) Central valley spring run Chinook salmon have been listed since 1999 as a threatened species under this part and were still listed as of January 1, 2011.

(c) Restoring spring run Chinook salmon to the San Joaquin River is intended to further the conservation and recovery of the species.

(d) Consistent with the unique and historic circumstances that led to the settlement, nothing in this article is intended to create any precedent as to future application of this part, nor does this article otherwise modify other existing statutes or legal obligations.

Comment. Section 63350 continues former Fish and Game Code Section 2080.2 without substantive change.

§ 63355. Enhancement of survival permit

63355. (a) Notwithstanding any other provision of this part, if any person obtains from the Secretary of Commerce an enhancement of survival permit pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 1539 of Title 16 of the United States Code that authorizes the taking of spring run Chinook salmon (*Oncorhynchus tshawytscha*) in order to establish or maintain an experimental population in the San Joaquin River pursuant to subsection (j) of that section and the San Joaquin River Restoration Settlement Act (Part I of Subtitle A of Title X of Public Law 111-11), no further authorization or approval is necessary under this part for that person to take that species as identified in, and in accordance with, the enhancement of survival permit, if all of the following requirements are met:

(1) That person shall notify the director in writing that the person has received an enhancement of survival permit and include in the notification a copy of the permit.

(2) Upon receipt of the notice specified in paragraph (1), the director shall immediately have the notice published in the General Public Interest Section of the California Regulatory Notice Register.

(3) Within 30 days after the director has received the notice specified in paragraph (1), the director shall determine whether the enhancement of survival permit will further the conservation of the species. As used in this paragraph, “conservation” has the same meaning as defined in Section 62110.

(4) The director shall immediately have the determination pursuant to paragraph (3) published in the General Public Interest Section of the California Regulatory Notice Register.

(b) The timing and extent of a take authorization under this section shall be limited to the terms in the federal enhancement of survival permit and shall expire upon the expiration of the federal permit.

(c) This section shall remain in effect only until the effective date of an amendment to Section 1539 of Title 16 of the United States Code that alters the requirements for issuing an enhancement of survival permit, as applicable, and as of that date is repealed, unless a later enacted statute, that is chaptered before the date this section is repealed, deletes or extends that date.

Comment. Section 63355 continues former Fish and Game Code Section 2080.3 without substantive change.

Note. Existing Section 2080.3(a)(2) refers to “paragraph (1) of subdivision (c).” That reference is erroneous, as subdivision (c) is not divided into paragraphs. In context, it appears that the reference should have been to Section 2080.3(a)(1). That change has been made in proposed Section 63355. **The Commission invites comment on whether the change would cause any problems.**

1 Spring Creek Bridge in the County of Shasta, if all of the following conditions are
2 satisfied:

3 (1) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
4 for the take of the rough sculpin.

5 (2) The department ensures that all further measures necessary to satisfy the
6 conservation standard of subdivision (d) of Section 64515 are incorporated into
7 the project.

8 (3) The take authorization provides for the development and implementation, in
9 cooperation with federal and state agencies, of a monitoring program and an
10 adaptive management process until the department determines that any impacts
11 resulting from the replacement of the Spring Creek Bridge have been fully
12 mitigated.

13 (b) This section shall not be construed to exempt the project described in
14 subdivision (a) from any other law.

15 **Comment.** Section 63400 continues former Fish and Game Code Section 2081.4 without
16 substantive change.

17 Article 4. Threespine Stickleback

18 § 63450. Bouquet Creek

19 63450. (a) The department may authorize, under this part, the take of the
20 unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) resulting
21 from impacts attributable to the habitat restoration project to restore, maintain, and
22 improve riparian habitat on public lands in the geographic area defined in
23 paragraph (1) and projects to restore the flow capacity to Bouquet Creek in
24 Bouquet Canyon on public lands, undertaken by the Los Angeles County
25 Department of Public Works, the Los Angeles Department of Water and Power,
26 and the United States Department of Agriculture, Forest Service, if all of the
27 following conditions are satisfied:

28 (1) The take authorization is limited to the portion of Bouquet Creek located
29 from a position normal to mile marker 8.3 on Bouquet Canyon Road to a position
30 normal to mile marker 16.3 on Bouquet Canyon Road, inclusive.

31 (2) The department has determined that the appropriate agreements have been
32 executed to address environmental impacts at the Bouquet Canyon area, including,
33 but not limited to, Bouquet Creek.

34 (3) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
35 for the take of the unarmored threespine stickleback.

36 (4) The department ensures that all further measures necessary to satisfy the
37 conservation standard of subdivision (d) of Section 64515 are incorporated into
38 the projects.

39 (5) A biologist will be on duty whenever an activity is conducted that may affect
40 the unarmored threespine stickleback.

1 (6) The take authorization provides for the development and implementation, in
2 cooperation with federal and state agencies, of a monitoring program and an
3 adaptive management process that satisfy the conservation standard of subdivision
4 (d) of Section 64515 for monitoring the effectiveness of, and adjusting, as
5 necessary, the measures to minimize and fully mitigate the impacts of the
6 authorized take.

7 (7) The take authorization provides for the development and implementation, in
8 cooperation with state and federal agencies, of an adaptive management process
9 that substantially contributes to the long-term conservation of the unarmored
10 threespine stickleback.

11 (b) This section shall not be construed to exempt the projects described in
12 subdivision (a) from any other law.

13 (c) This section shall not be construed to affect the contractual obligations of the
14 Los Angeles Department of Water and Power to provide water from Bouquet
15 Reservoir.

16 **Comment.** Section 63450 continues former Fish and Game Code Section 2081.6 without
17 substantive change.

18 **§ 63455. Metropolitan Water District of Southern California water supply facility**

19 63455. (a) The department may authorize, under this part, the incidental take of
20 unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) attributable
21 to the periodic dewatering, inspection, maintenance, modification, or repair,
22 including emergency repair, of the Metropolitan Water District of Southern
23 California's Foothill Feeder water supply facility from Castaic Dam to the Joseph
24 Jensen Treatment Plant in the County of Los Angeles, contingent upon the
25 fulfillment of the following conditions:

26 (1) The department determines that the requirements of subdivisions (a) and (b)
27 of Section 62700 are satisfied for the take of the unarmored threespine stickleback.

28 (2) The department ensures that all further measures necessary to satisfy the
29 conservation standard of subdivision (d) of Section 64515 are incorporated into
30 the project.

31 (3) The take authorization provides for the development and implementation, in
32 cooperation with the department, of an adaptive management plan for monitoring
33 the effectiveness of, and adjusting as necessary, the measures to minimize and
34 fully mitigate the impacts of the authorized take and to satisfy the conservation
35 standard of subdivision (d) of Section 64515.

36 (4) A biologist who has substantial relevant experience evaluating impacts to
37 inland fisheries is on duty whenever an activity is conducted that may affect the
38 unarmored threespine stickleback.

39 (5) The Metropolitan Water District of Southern California consults with the
40 department to consider feasible measures to avoid and minimize incidental take of
41 unarmored threespine stickleback. For purposes of this paragraph, "feasible" has

1 the same meaning as defined in Section 15364 of Title 14 of the California Code
2 of Regulations.

3 (b) The take authorization shall cover any incidental take of unarmored
4 threespine stickleback attributable to the periodic dewatering, inspection,
5 maintenance, modification, or repair, including emergency repair, of the Foothill
6 Feeder that may occur in the following locations:

7 (1) Within the Santa Clara River, from the Bouquet Canyon Road Bridge to a
8 point located 4,000 feet downstream of where Commerce Center Drive, as of
9 January 1, 2016, dead-ends adjacent to the Santa Clara River.

10 (2) From the confluence with the Santa Clara River upstream to the following
11 locations:

12 (A) In Charlie Canyon to a point 1,000 feet upstream of the Foothill Feeder
13 facility dewatering structure.

14 (B) In San Francisquito Creek to the Copper Hill Drive bridge.

15 (C) In Placerita Creek to the Hacienda Lane crossing.

16 (D) In Bouquet Creek to the Newhall Ranch Road Bridge.

17 (c) The take authorization shall also cover any incidental take of unarmored
18 threespine stickleback that may occur in the course of implementing mitigation or
19 conservation actions required in the permit issued pursuant to subdivision (a) as
20 may be modified through an adaptive management plan adopted pursuant to
21 paragraph (3) of subdivision (a).

22 (d) The permit issued pursuant to subdivision (a) shall include conditions that
23 cover biological and scientific considerations including, but not limited to, criteria
24 for the handling of stranded fish and their relocation into suitable habitat, the
25 dewatering of the Foothill Feeder, and the reasonable and feasible mimicking of
26 streamflows. The permit conditions shall be in compliance with the project
27 description, mitigation measures, and release plan set forth in the certified
28 environmental impact report known as the “Foothill Feeder Repair and Future
29 Inspections Project Environmental Impact Report, January 2005, State
30 Clearinghouse Number 2005071082.” The permit conditions are subject to
31 amendment when required by the adaptive management plan or when modified by
32 a subsequent final environmental document pursuant to the California
33 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
34 Public Resources Code).

35 (e) This section shall not be construed to exempt from any other law the periodic
36 dewatering, inspection, maintenance, modification, or repair of the Foothill
37 Feeder.

38 (f) If the Metropolitan Water District of Southern California receives a permit
39 under this section, the permit shall require the district to report to the department
40 within six months after every dewatering of the Foothill Feeder. The report shall
41 address compliance with the permit conditions and the effectiveness of the
42 adaptive management plan in contributing to the conservation of the unarmored

1 threespine stickleback. The Metropolitan Water District of Southern California
2 shall ensure that each report is made available to the public.

3 (g) As used in this section, “modification” does not include alterations to expand
4 the maximum physical capacity of the Foothill Feeder to deliver water.

5 **Comment.** Section 63455 continues former Fish and Game Code Section 2081.10 without
6 substantive change.

7 Article 5. Lost River and Shortnose Sucker

8 § 63475. Klamath Hydroelectric Settlement Agreement

9 63475. (a) The department may authorize, under this part, the take or possession
10 of the Lost River sucker (*Deltistes luxatus* and *Catostomus luxatus*) and shortnose
11 sucker (*Chasmistes brevirostris*) resulting from impacts attributable to or
12 otherwise related to the decommissioning and removal of the Iron Gate Dam, the
13 Copco 1 Dam, the Copco 2 Dam, or the J.C. Boyle Dam, each located on the
14 Klamath River, consistent with the Klamath Hydroelectric Settlement Agreement,
15 if all of the following conditions are met:


16 (1) The department finds the authorized take will not jeopardize the continued
17 existence of the Lost River sucker or shortnose sucker.

18 (2) The impacts of the authorized take are minimized.

19 (3) The take authorization requires department approval of a sampling, salvage,
20 and relocation plan to be implemented and that describes the measures necessary
21 to minimize the take of adult Lost River sucker and shortnose sucker associated
22 with the department’s authorization. The plan shall provide for a sampling effort,
23 the results of which will provide information used to make decisions and to
24 implement the plan while utilizing the principles of adaptive management.

25 (b) This section shall not be construed to exempt the project described in
26 subdivision (a) from any other law.

27 **Comment.** Section 63475 continues former Fish and Game Code Section 2081.11 without
28 substantive change.

29  **Note.** Proposed Section 63475 would continue Section 2081.11, which was added by 2018
30 Cal. Stat. ch. 586. Although that bill will not take effect until 2019, it is included here in
31 anticipation of its effect.

32 Article 6. Limestone Salamander

33 § 63500. Ferguson Slide Permanent Restoration Project

34 63500. (a) Notwithstanding Section 52200, the department may authorize, under
35 this part, the incidental take of limestone salamander (*Hydromantes brunus*)
36 resulting from impacts attributable to the Department of Transportation’s
37 implementation of the Ferguson Slide Permanent Restoration Project on State
38 Route 140 from 8 miles east of Briceburg to 7.6 miles west of El Portal in
39 Mariposa County, contingent upon the fulfillment of the following conditions:

1 (1) The Department of Transportation begins construction of the Ferguson Slide
2 Permanent Restoration Project on or before January 1, 2016.

3 (2) The department has determined that the Department of Transportation will
4 adopt appropriate avoidance and mitigation measures to protect the limestone
5 salamander through enforceable commitments that, at a minimum, include the
6 following:

7 (A) A construction work window that prevents initial ground-disturbing
8 construction activities from occurring on the southern slope during the
9 salamander's active season of December to March, inclusive.

10 (B) Environmentally sensitive area fencing in the form of five-foot orange
11 plastic mesh, as well as salamander protection exclusionary fencing in the form of
12 24-inch sheet metal, will be erected if construction-related activities will occur
13 adjacent to limestone salamander habitat during their active season.

14 (C) A biological monitor will be onsite during active building to inspect the
15 worksite and all exclusionary fencing.

16 (D) All ground-disturbing activities within 100 feet will cease if a limestone
17 salamander is detected in an active construction site until the animal can be safely
18 removed from the area according to an agreed-upon salvage plan.

19 (3) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
20 for the take of the limestone salamander.

21 (4) The department ensures that all further measures necessary to satisfy the
22 conservation standard of subdivision (d) of Section 64515 are incorporated into
23 the project.

24 (5) The take authorization provides for the development and implementation, in
25 cooperation with the department, of an adaptive management process for
26 monitoring the effectiveness of, and adjusting as necessary, the measures to
27 minimize and fully mitigate the impacts of the authorized take. The adjusted
28 measures are subject to Section 62015.

29 (6) The failure to appropriate funds does not relieve the applicant of the
30 obligations of paragraphs (1) and (2).

31 (7) Any observations of the species in the worksite and any accidental injury or
32 mortality from vehicle strikes or other means will be reported to the department
33 immediately and the onsite biological monitor will notify the resident engineer
34 who will halt the work immediately.

35 (b) This section shall not be construed to exempt the Ferguson Slide Permanent
36 Restoration Project on State Route 140 from 8 miles east of Briceburg to 7.6 miles
37 west of El Portal in Mariposa County from any other law.

38 **Comment.** Section 63500 continues former Fish and Game Code Section 2081.9 without
39 substantive change.

Article 7. Bluntnose Leopard Lizard

§ 63510. Allensworth Community Services District

63510. (a) The department may authorize, under this title, by permit, the take or possession of the blunt-nosed leopard lizard (*Gambelia sila*) resulting from impacts attributable to or otherwise related to the Allensworth Community Services District's drilling and construction of a new water well, connection of the new water well to the existing distribution system, and construction of a new water storage tank, if both of the following conditions are met:

(1) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied for the take of the blunt-nosed leopard lizard.

(2) The take authorization provides for the development and implementation of a monitoring program and an adaptive management plan, approved by the department, for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take.

(b) The permit issued pursuant to subdivision (a) shall cover any incidental take of a blunt-nosed leopard lizard that may occur in the course of implementing mitigation or conservation actions required in the permit.

(c) The permit conditions are subject to amendment when required by the monitoring program and adaptive management plan adopted pursuant to paragraph (2) of subdivision (a).

(d) This section shall not be construed to exempt the projects described in subdivision (a) from any other law.

Comment. Section 63510 continues former Fish and Game Code Section 2081.12 without substantive change.

Note. Proposed Section 63510 would continue Section 2018.12, which was added by 2018 Cal. Stat. ch. 22 as an urgency measure.

CHAPTER 5. EXPERIMENTAL POPULATIONS

§ 63550. Enhancement of survival permit

63550. (a) Notwithstanding any other provision of this chapter, if any person obtains from the Secretary of Commerce or the Secretary of the Interior an enhancement of survival permit pursuant to Section 1539(a)(1)(A) of Title 16 of the United States Code that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 1533 of Title 16 of the United States Code and that is an endangered species, threatened species, or candidate species pursuant to this chapter in order to establish or maintain an experimental population, no further authorization or approval is necessary under this chapter for that person to take that endangered species, threatened species, or candidate species identified in, and in accordance with, the enhancement of survival permit, if all of the following requirements are met:

1 (1) That person shall notify the director in writing that the person has received
2 an enhancement of survival permit and include in the notification a copy of the
3 permit.

4 (2) Upon receipt of the notice specified in paragraph (1), the director shall
5 immediately have the notice published in the General Public Interest section of the
6 California Regulatory Notice Register.

7 (3) Within 30 days after the director has received the notice specified in
8 paragraph (1), the director determines the enhancement of survival permit will
9 further the conservation of the species. As used in this paragraph, “conservation”
10 has the same meaning as defined in Section 2061.

11 (4) The director shall immediately have the determination pursuant to paragraph
12 (3) published in the General Public Interest section of the California Regulatory
13 Notice Register.

14 (b) The timing and extent of a take authorization under this section shall be
15 limited to the terms in the federal enhancement of survival permit and shall expire
16 upon the expiration of the federal permit.

17 (c) (1) This section shall remain in effect only until the effective date of an
18 amendment to Section 1539 of Title 16 of the United States Code that alters the
19 requirements for issuing an enhancement of survival permit, as applicable, and as
20 of that date is repealed.

21 (2) If the director becomes aware that this section has been repealed pursuant to
22 this subdivision, the director shall notify the Legislature of that fact pursuant to
23 Section 9795 of the Government Code.

24 **Comment.** Section 63550 continues former Fish and Game Code Section 2080.5 without
25 substantive change.

26 **§ 63555. Experimental population**

27 63555. (a) For purposes of this chapter, “experimental population” means any
28 population nonessential to the continued existence of an endangered, threatened,
29 or candidate species, including any eggs, propagules, individuals, or offspring
30 arising solely therefrom, that the Secretary of the Interior or the Secretary of
31 Commerce designates as an experimental population pursuant to Section 1539(j)
32 of Title 16 of the United States Code.

33 (b) If a population of a species is an experimental population, no further
34 authorization or approval is necessary under this chapter for any person to
35 incidentally take members of that experimental population, if all of the following
36 requirements are met:

37 (1) The Secretary of the Interior or the Secretary of Commerce has published
38 regulations in the Federal Register for the designated experimental population as
39 required by Section 1539(j) of Title 16 of the United States Code.

40 (2) The director has determined, in writing, that the regulations specified in
41 paragraph (1) meet the requirements in subdivision (c).

1 (3) The action or activity that results in incidental take of the designated
2 experimental population is authorized by the regulations published in the Federal
3 Register.

4 (c) The director shall issue the determination described in paragraph (2) of
5 subdivision (b), if the director finds that the federal regulations described in
6 paragraph (1) of subdivision (b) meet all of the following criteria:

7 (1) The federal regulations will further the conservation of the species. As used
8 in this paragraph, “conservation” has the same meaning as defined in Section
9 2061.

10 (2) The federal regulations contain measures to avoid and minimize the impacts
11 of any taking allowed by the regulation.

12 (3) The federal regulations will not jeopardize the continued existence or
13 recovery of the species.

14 (d) If the director determines that the federal regulations described in paragraph
15 (1) of subdivision (b) are not consistent with this chapter, or if the action or
16 activity that results in incidental take is not authorized in those federal regulations,
17 the incidental take of members of the designated experimental population may
18 only be authorized pursuant to the other provisions of this chapter.

19 (e) The director shall publish the determination, pursuant to paragraph (2) of
20 subdivision (b), and subdivision (d), in the General Public Interest section of the
21 California Regulatory Notice Register.

22 **Comment.** Section 63555 continues former Fish and Game Code Section 2080.6 without
23 substantive change.

24 **§ 63560. Public outreach**

25 63560. It is the intent of the Legislature that, before the introduction of an
26 experimental population, as defined in Section 2080.6, onto land or into waters of
27 this state, the department should undertake appropriate public outreach, including
28 public meetings, in an effort to inform the public about the proposed introduction
29 of the experimental population and its potential effects, if any, on ongoing human
30 activities. To the extent practicable, this public outreach should include inviting
31 other public boards, departments, or agencies that may have a regulatory or other
32 role regarding the experimental population to collaborate with the department.
33 Nothing in this section shall be construed to modify any other law or legal
34 obligation.

35 **Comment.** Section 63560 continues former Fish and Game Code Section 2080.7 without
36 substantive change.

37 **CHAPTER 6. PERMIT APPLICATION FEE**

38 **§ 63600. Definitions**

39 63600. For purposes of this chapter, the following terms have the following
40 meanings:

(a) “Permit” means any authorization issued by the department pursuant to this title to take a species listed by this part as candidate, threatened, or endangered. The term includes a consistency determination pursuant to Section 62705 and a concurrence determination pursuant to Section 63355 or 63360.

(b) “Permit application” means an application for a permit, an amendment to a permit, or a renewal of a permit. The term includes a consistency determination request pursuant to Section 62705 and a concurrence determination request pursuant to Section 63355 or 63360.

(c) “Permittee” includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, district, city, county, city and county, town, federal agency, and the state who applies for or who has received a permit pursuant to this title.

(d) “Project” has the same meaning as defined in Section 21065 of the Public Resources Code.

(e) “Project cost” means the total direct and indirect project expenses that include, but are not limited to, labor, equipment, permanent materials and supplies, subcontracts, overhead, and miscellaneous costs. The term shall not include permit or license expenses or mitigation costs. For purposes of this paragraph, the term “permit” includes, but is not limited to, a permit as defined in subdivision (a).

(f) “Voluntary habitat restoration project” means a project that meets both of the following requirements:

(1) The project’s primary purpose is voluntary habitat restoration and the project may have other environmental benefits, and the project is not required as mitigation due to a regulatory action.

(2) The project is not part of a regulatory settlement, a regulatory enforcement action, or a court order.

Comment. Section 63600 continues former Fish and Game Code Section 2081.2(a) without substantive change.

Note. Proposed Section 63600 would continue Section 2081.2(a), which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 63605. Collection and use of fee

63605. (a) The department shall collect a permit application fee for processing a permit application submitted pursuant to this title at the time the permit application is submitted to the department.

(b) Notwithstanding Section 64100, upon appropriation to the department from the Endangered Species Permitting Account, the department shall use the permit application fee to pay for all or a portion of the department’s cost of processing permit applications, permit development, and compliance monitoring pursuant to this title.

(c) This section does not apply to any of the following:

(1) Activities or costs associated with the review of projects, inspection and oversight of projects, and permits necessary to conduct timber operations, as defined in Section 4527 of the Public Resources Code, in accordance with Article 9.5 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code.

(2) Permits or memoranda of understanding authorized by Section 62650.

(3) Permits for voluntary habitat restoration projects.

Comment. Section 63605 continues former Fish and Game Code Section 2081.2(b) without substantive change.

§ 63610. Timing

63610. (a) For a permit application submitted to the department pursuant to this title on or after September 13, 2016, the department shall collect the permit application fee at the time the permit application is submitted. The department shall not deem the permit application complete until it has collected the permit application fee. A permit application submitted or deemed complete before September 13, 2016, shall not be subject to fees established pursuant to this article.

(b) If a permit application is withdrawn within 30 days after paying the permit application fee, the department shall refund any unused portion of the fee to the permittee.

(c) If a permit application is withdrawn after 30 days of paying the permit application fee, the department shall not refund any portion of the fee to the permittee.

Comment. Section 63610 continues former Fish and Game Code Section 2081.2(e) without substantive change.

Notes. (1) Existing Section 2081.2(e)(1) twice refers to “the effective date of this section.” According to the Legislative Counsel’s website, the section became effective on September 13, 2016. Proposed Section 63610 replaces the references to the effective date of the section with that date. **The Commission invites comment on whether that change would cause any problems.**

(2) Proposed Section 63610 would continue Section 2081.2(e), which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 63615. Fee amounts

63615. The department shall assess the permit application fee as follows, subject to Sections 63620, 63630, and 63640:

(a) For a project, regardless of estimated project cost, that is subject only to Section 62705, 63355, or 63360, the department shall assess either of the following amounts:

(1) Seven thousand five hundred dollars (\$7,500).

(2) Six thousand dollars (\$6,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this title.

1 (b) For a project where the estimated project cost is less than one hundred
2 thousand dollars (\$100,000), the department shall assess either of the following
3 amounts:

4 (1) Seven thousand five hundred dollars (\$7,500).

5 (2) Six thousand dollars (\$6,000), if the project uses a department-approved
6 conservation or mitigation bank to fulfill mitigation obligations pursuant to this
7 title.

8 (c) For a project where the estimated project cost is one hundred thousand
9 dollars (\$100,000) or more but less than five hundred thousand dollars (\$500,000),
10 the department shall assess either of the following amounts:

11 (1) Fifteen thousand dollars (\$15,000).

12 (2) Twelve thousand dollars (\$12,000), if the project uses a department-
13 approved conservation or mitigation bank to fulfill mitigation obligations pursuant
14 to this title.

15 (d) For a project where the estimated project cost is five hundred thousand
16 dollars (\$500,000) or more, the department shall assess either of the following
17 amounts:

18 (1) Thirty thousand dollars (\$30,000).

19 (2) Twenty-four thousand dollars (\$24,000), if the project uses a department-
20 approved conservation or mitigation bank to fulfill mitigation obligations pursuant
21 to this title.

22 (e) The department shall collect a fee of seven thousand five hundred dollars
23 (\$7,500) for processing permit amendments that the department has determined
24 are minor as defined in regulation or fifteen thousand dollars (\$15,000) for
25 processing permit amendments that the department has determined are major as
26 defined in regulation.

27 **Comment.** Section 63615 continues former Fish and Game Code Section 2081.2(c) without
28 substantive change.

29 **§ 63620. Adjustment of fee amount**

30 63620. The department shall adjust the fees in this article pursuant to Section
31 3755.

32 **Comment.** Section 63620 continues former Fish and Game Code Section 2081.2(f)(1) without
33 substantive change.

34 **§ 63625. Additional fee to cover costs**

35 63625. (a) If the permit application fee paid pursuant to Section 63615 is
36 determined by the department to be insufficient to complete permitting work due
37 to the complexity of a project or the potential effects of a project, the department
38 shall collect an additional fee of up to ten thousand dollars (\$10,000) from the
39 permittee to pay for its estimated costs. Upon its determination, the department
40 shall notify the permittee of the reasons why an additional fee is necessary and the
41 estimated amount of the additional fee.

(b) The additional fee collected pursuant to subdivision (a) shall not exceed an amount that, when added to the fee paid pursuant to Section 63615, equals thirty-five thousand dollars (\$35,000). The department shall collect the additional fee before a final decision on the application by the department.

Comment. Section 63625 continues former Fish and Game Code Section 2081.2(d) without substantive change.

Note. Proposed Section 63625 would continue Section 2081.2(d), which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 63630. Periodic review of fee amount

63630. The department, at least every five years, shall analyze permit application fees pursuant to Section 3755 to ensure the appropriate fee amounts are charged.

Comment. Section 63630 continues former Fish and Game Code Section 2081.2(f)(3) without substantive change.

Note. Proposed Section 63630 would continue Section 2081.2(f)(3), which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 63635. Endangered Species Permitting Account

63635. Fees paid to the department pursuant to this article shall be deposited in the Endangered Species Permitting Account, which is hereby established in the Fish and Game Preservation Fund. Notwithstanding Section 64100, funds in the account shall be available to the department, upon appropriation by the Legislature, for the purposes of administering and implementing this part, except that fee moneys collected pursuant to this article shall only be used for the purposes of this title.

Comment. Section 63635 continues former Fish and Game Code Section 2081.2(g) without substantive change.

§ 63640. Article XIII B of the California Constitution

63640. The Legislature finds that all revenues generated under this article and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

Comment. Section 63640 continues former Fish and Game Code Section 2081.2(f)(2) without substantive change.

1 TITLE 4. AGRICULTURE

2 CHAPTER 1. GENERAL PROVISIONS

3 § 63700. Accidental take in the course of lawful agricultural activities

4 63700. (a) Accidental take of candidate, threatened, or endangered species
5 resulting from an act that occurs on a farm or a ranch in the course of otherwise
6 lawful routine and ongoing agricultural activities is not prohibited by this part.

7 (b) For purposes of this section, “accidental” means unintended or unforeseen.

8 (c) This section shall remain in effect only until January 1, 2020, and as of that
9 date is repealed, unless a later enacted statute, that is enacted before January 1,
10 2020, deletes or extends that date.

11 Comment. Section 63700 continues former Fish and Game Code Section 2087 without
12 substantive change.

13 § 63705. Routine and ongoing agricultural activities

14 63705. Routine and ongoing agricultural activities shall be defined by the
15 department by regulation and shall not include the conversion of agricultural land
16 to a nonagricultural use.

17 Comment. Section 63705 continues former Fish and Game Code Section 2089 without
18 substantive change.

19 § 63710. Application to take of fish species

20 63710. This title does not authorize the take of fish species. “Fish species” as
21 used in this section means a member of the class Osteichthyes.

22 Comment. Section 63710 continues the first part of former Fish and Game Code Section 2088
23 without substantive change.

24 § 63715. Application to timber harvesting

25 63715. This title does not apply to timber harvesting governed by the State
26 Board of Forestry.

27 Comment. Section 63715 continues the second part of former Fish and Game Code Section
28 2088 without substantive change.

29 CHAPTER 2. VOLUNTARY PROGRAM

30 § 63750. Authorization of voluntary programs

31 63750. (a) The department, in cooperation with the Department of Food and
32 Agriculture, agricultural commissioners, extension agents, farmers, ranchers, and
33 other agricultural experts, shall adopt regulations that authorize locally designed
34 voluntary programs for routine and ongoing agricultural activities on farms or
35 ranches that encourage habitat for candidate, threatened, and endangered species,
36 and wildlife generally.

(b) Agricultural commissioners, extension agents, farmers, ranchers, or other agricultural experts, in cooperation with conservation groups, may propose those programs to the department.

(c) The department shall propose regulations for those programs not later than July 1, 1998.

Comment. Section 63750 continues former Fish and Game Code Section 2086(a) without substantive change.

Note. The Commission invites comment on whether proposed Section 63750(c) can be omitted as obsolete.

§ 63755. Program requirements

63755. Programs authorized under Section 63750 shall do all of the following:

(a) Include management practices that will, to the maximum extent practicable, avoid and minimize take of candidate, endangered, and threatened species, while encouraging the enhancement of habitat.

(b) Be supported by the best available scientific information for both agricultural and conservation practices.

(c) Be consistent with the policies and goals of this part.

(d) Be designed to provide sufficient flexibility to maximize participation and to gain the maximum wildlife benefits without compromising the economics of agricultural operations.

(e) Include terms and conditions to allow farmers or ranchers to cease participation in a program without penalty. The terms and conditions shall include reasonable measures to minimize take during withdrawal from the program.

Comment. Section 63755 continues former Fish and Game Code Section 2086(b) without substantive change.

§ 63760. Take occurring while management practices followed

63760. Any taking of candidate, threatened, or endangered species incidental to routine and ongoing agricultural activities that occurs while the management practices specified by subdivision (a) of Section 63755 are followed, is not prohibited by this part.

Comment. Section 63760 continues former Fish and Game Code Section 2086(c) without substantive change.

§ 63765. Renewal of programs

63765. The department shall automatically renew the authorization for these voluntary programs every five years, unless the Legislature amends or repeals this chapter in which case the program shall be revised to conform to this chapter.

Comment. Section 63765 continues former Fish and Game Code Section 2086(d)(1) without substantive change.

1 **§ 63770. Report on program effects**

2 63770. (a) Commencing in 2000, and every five years thereafter, the department
3 shall post a report regarding the effect of the programs on its Internet Web site.
4 The department shall consult with the Department of Food and Agriculture in
5 evaluating the programs and preparing the report.

6 (b) The report shall address factors such as the temporary and permanent
7 acreage benefiting from the programs, include an estimate of the amount of land
8 upon which routine and ongoing agricultural activities are conducted, provide
9 examples of farmer and rancher cooperation, and include recommendations to
10 improve the voluntary participation by farmers and ranchers.

11 **Comment.** Section 63770 continues former Fish and Game Code Section 2086(d)(2) without
12 substantive change.

13 **§ 63775. Nonrenewal or modification of program**

14 63775. If the authorization for these programs is not renewed or is modified
15 under Section 63765, persons participating in the program shall be allowed to
16 cease participating in the program in accordance with the terms and conditions
17 specified in subdivision (e) of Section 63755, without penalty.

18 **Comment.** Section 63775 continues former Fish and Game Code Section 2086(e) without
19 substantive change.

20 **§ 63780. Educational outreach by nonprofit entity**

21 63780. (a) The department may approve an application submitted by an
22 agricultural-based nonprofit organization or other entity registered as a California
23 nonprofit organization to initiate and undertake public education and outreach
24 activities that promote the achievement of the objectives of this part.

25 (b) An application submitted pursuant to this section shall include the following:

26 (1) The name and contact information of the participating organization.

27 (2) A brief description of the planned outreach activities.

28 (3) An end date for the outreach activities.

29 (c) The department may require a participating organization to submit, for
30 approval by the department, educational materials and outreach materials that are
31 disseminated to the public in furtherance of this section.

32 (d) A participating organization shall file an annual report with the department
33 before the end of each calendar year during the time period specified in the
34 application. The report shall include, but is not limited to, the following:

35 (1) Complete information on the activities conducted by the participating
36 organization in the prior year, including a description of all means of
37 communicating to the public and agricultural community, including personal
38 visits, electronic communications, organized meetings, or other means.

39 (2) A compilation of responses from the public and members of the agricultural
40 community that will assist the participating organization and the department to
41 modify or improve public education and outreach activities on an ongoing basis.

(3) An assessment of the existing knowledge within the agricultural community of programs and prohibitions under this part and a review of outreach activities that could be used to adapt and improve future outreach efforts.

(4) Information on a farm or ranch that has expressed interest in participating in a voluntary program pursuant to this chapter or the safe harbor agreement program contained in Title 5 (commencing with Section 63900). This provision does not require the annual report to include the identification to the department of an individual, farm, or ranch.

Comment. Section 63780 continues former Fish and Game Code Section 2086(f) without substantive change.

TITLE 5. CALIFORNIA STATE SAFE HARBOR AGREEMENT PROGRAM ACT

CHAPTER 1. GENERAL PROVISIONS

§ 63900. Short title

63900. This title shall be known and may be cited as the California State Safe Harbor Agreement Program Act.

Comment. Section 63900 continues former Fish and Game Code Section 2089.2(a) without substantive change.

§ 63905. Findings

63905. The Legislature finds that a key to the goals set forth in this title of conserving, protecting, restoring, and enhancing endangered, threatened, and candidate species, is their habitat. A significant portion of the state's current and potential habitat for these species exists on property owned by private citizens, municipalities, tribes, and other nonfederal entities. Conservation efforts on these lands and waters are critical to help these declining species. Using a collaborative stewardship approach to these lands and waters will help ensure the success of these efforts.

Comment. Section 63905 continues former Fish and Game Code Section 2089.2(b) without substantive change.

§ 63910. Definitions

63910. As used in this title, the following definitions apply:

(a) "Agreement" means a state safe harbor agreement approved by the department pursuant to this title. "Agreement" includes an agreement with an individual landowner and a programmatic agreement.

(b) "Baseline conditions" means the existing estimated population size, the extent and quality of habitat, or both population size and the extent and quality of habitat, for the species on the land to be enrolled in the agreement that sustain seasonal or permanent use by the covered species. Baseline conditions shall be

1 determined by the department, in consultation with the applicant, and shall be
2 based on the best available science and objective scientific methodologies. For
3 purposes of establishing baseline conditions, a qualified person that is not
4 employed by the department may conduct habitat surveys, if that person has
5 appropriate species expertise and has been approved by the department.

6 (c) "Declining or vulnerable species" include candidate species, species
7 proposed for listing as an endangered or threatened species pursuant to this
8 chapter, or species that the department determines may, in the near future, be
9 candidate species or proposed for listing as an endangered or threatened species
10 pursuant to this part.

11 (d) "Department" means the Department of Fish and Wildlife, acting through its
12 director or his or her designee.

13 (e) "Landowner" means any person or nonstate or federal entity or entities that
14 lawfully hold any interest in land or water to which they are committing to
15 implement the requirements of this title.

16 (f) "Management actions" means activities on the enrolled land or water that are
17 reasonably expected by the department to provide a net benefit to the species or
18 their habitat, or both.

19 (g) "Monitoring program" means a program established or approved by the
20 department in accordance with paragraph (6) of subdivision (a) of Section 63950.

21 (h) "Net conservation benefit" means the cumulative benefits of the
22 management activities identified in the agreement that provide for an increase in a
23 species' population or the enhancement, restoration, or maintenance of covered
24 species' suitable habitats within the enrolled property. Net conservation benefit
25 shall take into account the length of the agreement, any offsetting adverse effects
26 attributable to the incidental taking allowed by the agreement, and other mutually
27 agreed upon factors. Net conservation benefits shall be sufficient to contribute
28 either directly or indirectly to the recovery of the covered species. These benefits
29 include, but are not limited to, reducing fragmentation and increasing the
30 connectivity of habitats, maintaining or increasing populations, enhancing and
31 restoring habitats, and buffering protected areas.

32 (i) "Programmatic agreement" means a state safe harbor agreement issued to a
33 governmental or nongovernmental program administrator. The program
34 administrator for a programmatic agreement shall work with landowners and the
35 department to implement the agreement. The program administrator and the
36 department shall be responsible for ensuring compliance with the terms of the
37 agreement.

38 (j) "Qualified person" means a person with species expertise who has been
39 approved by the department.

40 (k) "Return to baseline" means, at the termination of an agreement, activities
41 undertaken by the landowner to return the species population or extent or quality
42 of habitat to baseline, excluding catastrophic events such as floods, unplanned

fires, or earthquakes, and other factors mutually agreed upon prior to permit issuance and that are beyond the control of the landowner.

Comment. Section 63910 continues former Fish and Game Code Section 2089.4 without substantive change.

Note. Proposed Section 63910 would continue Section 2089.4, which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 63915. Purpose and effect

63915. (a) The purpose of this title is to establish a program that will encourage landowners to manage their lands voluntarily to benefit endangered, threatened, or candidate species, or declining or vulnerable species, and not be subject to additional regulatory restrictions as a result of their conservation efforts.

(b) This title does not relieve landowners of any legal obligation with respect to endangered, threatened, or candidate species existing on their land. The program established by this title is designed to increase species populations, create new habitats, and enhance existing habitats. Although this increase may be temporary or long term, California state safe harbor agreements shall not reduce the existing populations of species present at the time the baseline is established by the department.

Comment. Section 63915 continues former Fish and Game Code Section 2089.2(c)-(d) without substantive change.

Note. Proposed Section 63915 would continue Section 2089.2(c)-(d), which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 63920. Regulations

63920. The department may promulgate regulations to implement this title.

Comment. Section 63920 continues former Fish and Game Code Section 2089.25 without substantive change.

§ 63925. List of qualified persons and program administrators

63925. The department, for informational purposes, shall maintain a list of qualified persons who have worked with the department on an approved agreement, and persons, entities, and organizations serving as program administrators for approved agreements.

Comment. Section 63925 continues former Fish and Game Code Section 2089.24 without substantive change.


§ 63930. Federal safe harbor agreement

63930. (a) If a federal safe harbor agreement, or a federal candidate conservation agreement with assurances, has been approved pursuant to applicable provisions of federal law and the federal agreement contains species that are endangered, threatened, candidate, or declining or vulnerable species pursuant to this chapter,

1 no further authorization or approval is necessary under this article for any person
2 authorized by that federal agreement to take the species identified in and in
3 accordance with the federal agreement, if that person and the department follow
4 all of the procedures specified in Section 62705, except that the determination of
5 consistency shall be made by the department based only on the issuance criteria
6 contained in this title.

7 (b) Any authority pursuant to subdivision (a) to take species identified in a
8 federal agreement shall terminate immediately upon the expiration or termination
9 of the federal agreement.

10 **Comment.** Section 63930 continues former Fish and Game Code Section 2089.22 without
11 substantive change.

12  **Note.** Proposed Section 63930 would continue Section 2089.22, which was amended by 2018
13 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
14 anticipation of its effect.

15 **§ 63935. Sunset date**

16 63935. This title shall remain in effect only until January 1, 2020, and as of that
17 date is repealed, unless a later enacted statute, that is enacted before January 1,
18 2020, deletes or extends that date.

19 **Comment.** Section 63935 continues former Fish and Game Code Section 2089.26 without
20 substantive change.

21 **CHAPTER 2. SAFE HARBOR AGREEMENT**

22 **Article 1. Permissible take**

23 **§ 63950. Department authorization of otherwise prohibited take**

24 63950. (a) In addition to the other provisions of this title, the department may
25 authorize acts that are or may become otherwise prohibited pursuant to Section
26 8000, 62600, or 62605 through an agreement, including a programmatic
27 agreement, if all the following conditions are met:

28 (1) The department receives a complete application containing all of the
29 information described in Section 64000.

30 (2) The take is incidental to an otherwise lawful activity.

31 (3) The department finds that the implementation of the agreement is reasonably
32 expected to provide a net conservation benefit to the species listed in the
33 application. This finding shall be based, at a minimum, upon the determination
34 that the agreement is of sufficient duration and has appropriate assurances to
35 realize these benefits.

36 (4) The take authorized by the agreement will not jeopardize the continued
37 existence of the species. This determination shall be made based on the provisions
38 of subdivision (b) of Section 62700.

(5) The department finds that the landowner has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized in the agreement, including returning to baseline.

(6) The department has established or approved a monitoring program, based upon objective scientific methodologies, to provide information for the department to evaluate the effectiveness and efficiency of the agreement program, including whether the net conservation benefits set forth in the agreement are being achieved and whether the participating landowner is implementing the provisions of the agreement.

(7) The department has determined that sufficient funding is ensured, for it or its contractors or agents, to determine baseline conditions on the property, and that there is sufficient funding for the landowner to carry out management actions and for monitoring for the duration of the agreement.

(8) Implementation of the agreement will not be in conflict with any existing department-approved conservation or recovery programs for the species covered by the agreement.

(b) If the species covered by an agreement is a declining or vulnerable species, and the species is subsequently listed as an endangered, threatened, or candidate species pursuant to this chapter, no further authorization or approval shall be required for take of the species in accordance with the agreement, regardless of the species' change in status.

Comment. Section 63950 continues former Fish and Game Code Section 2089.6 without substantive change.

Note. Proposed Section 63950 would continue Section 2089.6, which was amended by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 63955. Owens pupfish

63955. The department may authorize the taking of the Owens pupfish in the Owens River watershed if the take is authorized under an agreement pursuant to this title.

Comment. Section 63955 continues former Fish and Game Code Section 2089.7 without substantive change.

Article 2. Agreement

§ 64000. Information to be submitted by landowner

64000. The landowner shall submit all of the following:

(a) A detailed map depicting the land proposed to be enrolled in the agreement.

(b) The common and scientific names of the species for which the landowner requests incidental take authorization.

1 (c) A detailed description of the landowner's current land and water use and
2 management practices that affect the covered species, and the habitat of the
3 covered species, for which the landowner requests incidental take authorization.

4 (d) A detailed description of the landowner's future land and water use and
5 management practices that may affect the covered species, and the habitat of the
6 covered species, for which the landowner requests incidental take authorization.
7 This description shall be used only for informational and planning purposes.

8 (e) The proposed duration of the agreement that is sufficient to provide a net
9 conservation benefit to the species covered in the permit and an explanation of the
10 basis for this conclusion.

11 (f) A detailed description of the proposed management actions and the
12 timeframe for implementing them.

13 (g) A description of the possible incidental take that may be caused by the
14 management actions and of the anticipated species populations and habitat
15 changes over the duration of the permit.

16 (h) A detailed description of the proposed monitoring program.

17 (i) Any other information that the department may reasonably require in order to
18 evaluate the application.

19 **Comment.** Section 64000 continues former Fish and Game Code Section 2089.8 without
20 substantive change.

21 **§ 64005. Treatment of proprietary information**

22 64005. (a) As used in this section, "proprietary information" means information
23 that is all of the following:

24 (1) Related to an agricultural operation or land that is a part of an agricultural
25 operation.

26 (2) A trade secret, or commercial or financial information, that is privileged or
27 confidential, and is identified as such by the person providing the information to
28 the department.

29 (3) Not required to be disclosed under any other provision of law or any
30 regulation affecting the land or the agricultural operation on the land.

31 (b) Proprietary information received by the department pursuant to Section
32 64000 is not public information, and the department shall not release or disclose
33 the proprietary information to any person, including any federal, state, or local
34 governmental agency, outside of the department.

35 (c) Notwithstanding subdivision (b), the department may release or disclose
36 proprietary information received pursuant to Section 64000 to the following
37 entities under the following circumstances:

38 (1) Any person or federal, state, or local governmental agency, to enforce this
39 title.

40 (2) Any person or federal, state, or local governmental agency working in
41 cooperation with the department to provide technical or financial assistance for the
42 purposes of implementing the program established by this title.

1 (3) Any entity, to the extent that the owner, operator, or producer has consented
2 to the release or disclosure.

3 (4) The general public, if the information has been transformed into a statistical
4 or aggregate form without identifying any individual owner, operator, or producer,
5 or the specific location from which the information was gathered.

6 **Comment.** Section 64005 continues former Fish and Game Code Section 2089.9 without
7 substantive change.

8 **§ 64010. Department access to land or water proposed for enrollment**

9 64010. (a) Neither this section nor Section 64045 provide the public a right of
10 entry onto the enrolled land or water. The landowner shall provide the department,
11 its contractors, or agents with access to the land or water proposed to be enrolled
12 in the agreement to develop the agreement, determine the baseline conditions,
13 monitor the effectiveness of management actions, or safely remove or salvage
14 species proposed to be taken.

15 (b) The department shall provide notice to the landowner at least seven days
16 before accessing the land or water for the purposes of subdivision (a). The notice
17 shall identify each person selected by the department, its contractors, or agents to
18 access the land or water.

19 (c) Notwithstanding subdivision (a), during the seven-day notice period, a
20 landowner may object, in writing, to a person selected to access the land or water.
21 If a landowner objects, another person shall be selected by the department, its
22 contractors, or agents, and notification shall be provided to the landowner pursuant
23 to subdivision (b). However, if a landowner objects to a selection on two
24 successive occasions, the landowner shall be deemed to consent to access to the
25 land or water by a person selected by the department, its contractors, or agents.
26 Failure by a landowner to object to the selection within the seven-day notice
27 period shall be deemed consent to access the land or water by a person selected by
28 the department, its contractors, or agents.

29 **Comment.** Section 64010 continues former Fish and Game Code Section 2089.20(a)-(c)
30 without substantive change.

31 **§ 64015. Alteration or modification of enrolled property**

32 64015. If an agreement has been approved and the department finds that the
33 agreement is being properly implemented, the department shall allow the
34 landowner to alter or modify the enrolled property, even if that alteration or
35 modification will result in the incidental take of a listed species, to the extent that
36 the alteration or modification returns the species to baseline conditions.

37 **Comment.** Section 64015 continues former Fish and Game Code Section 2089.10 without
38 substantive change.

1 **§ 64020. Advance notice of specified matters**

2 64020. Unless the department determines that it is inappropriate to do so based
3 on the nature of the management actions being proposed, the species listed in the
4 permit, or other factors, the agreement shall require that the landowner provide the
5 department with at least 60 days' advance notice of any of the following:

6 (a) Any incidental take that is anticipated to occur under the agreement.

7 (b) The landowner's plan to return to baseline at the end of the agreement.

8 (c) Any plan to transfer or alienate the landowner's interest in the land or water.

9 **Comment.** Section 64020 continues former Fish and Game Code Section 2089.12(a) without
10 substantive change.

11 **§ 64025. Department access to land after receiving notice**

12 64025. (a) If the department receives any notice described in Section 64020, the
13 landowner shall provide the department, its contractors, or agents with access to
14 the land or water for purposes of safely removing or salvaging the species.

15 (b) The department shall provide notice to the landowner at least seven days
16 prior to accessing the land or water for the purposes of subdivision (a). The notice
17 shall identify each person selected by the department, its contractors, or agents to
18 access the land or water.

19 (c) Notwithstanding subdivision (a), during the seven-day notice period, a
20 landowner may object, in writing, to a person selected to access the land or water.
21 If a landowner objects, another person shall be selected by the department, its
22 contractors, or agents, and notification shall be provided to the landowner pursuant
23 to subdivision (b). However, if a landowner objects to a selection on two
24 successive occasions, the landowner shall be deemed to consent to access to the
25 land or water by a person selected by the department, its contractors, or agents.
26 Failure by a landowner to object to the selection within the seven-day notice
27 period shall be deemed consent to access the land or water by a person selected by
28 the department, its contractors, or agents.

29 (d) If the landowner objects to a person selected to access the land or water
30 pursuant to subdivision (c), the 60-day notice period described in Section 64020
31 shall be tolled for the period between the landowner's objection to a person
32 selected for access to the land or water and the landowner's consent to a person
33 selected for access to the land or water.

34 **Comment.** Section 64025 continues former Fish and Game Code Section 2089.12(b) without
35 substantive change.

36 **§ 64030. Conveyance of enrolled land or water**

37 64030. If a landowner seeks to sell, transfer, or otherwise alienate the land or
38 water enrolled in the agreement during the term of the agreement, the person or
39 entity assuming that interest in the property shall (a) assume the existing
40 landowner's duties under the agreement, (b) enter into a new agreement with the

1 department, or (c) withdraw from an existing agreement under the terms provided
2 in the agreement, as approved by the department.

3 **Comment.** Section 64030 continues former Fish and Game Code Section 2089.16 without
4 substantive change.

5 **§ 64035. Agreement amendment**

6 64035. An agreement may be amended with the mutual consent of the
7 landowner and the department.

8 **Comment.** Section 64035 continues former Fish and Game Code Section 2089.14 without
9 substantive change.

10 **§ 64040. Suspension or revocation of agreement**

11 64040. The suspension and revocation of the agreement shall be governed by
12 suspension and revocation regulations adopted by the department.

13 **Comment.** Section 64040 continues former Fish and Game Code Section 2089.18 without
14 substantive change.

15 **§ 64045. Liability**

16 64045. (a) Nothing in this section or Section 64010 creates a duty of care or a
17 ground of liability for injury to person or property.

18 (b) Notwithstanding any other law, the landowner is not required to do either of
19 the following:

20 (1) Maintain enrolled land or water, or land or water proposed to be enrolled in
21 an agreement, in a condition that is safe for access, entry, or use by the
22 department, its contractors, or agents for purposes of providing access pursuant to
23 subdivision (a) of Section 64010.

24 (2) Provide to the department, its contractors, or agents, any warning of a
25 hazardous condition, use, structure, or activity on enrolled land or water, or land or
26 water proposed to be enrolled in an agreement, for purposes of providing access
27 pursuant to subdivision (a) of Section 64010.

28 (c) Notwithstanding any other law, the landowner shall not be liable for any
29 injury, and does not owe a duty of care, to the department, its contractors, or
30 agents resulting from any act or omission described in paragraph (1) or (2) of
31 subdivision (b).

32 (d) The provision of access to land pursuant to subdivision (a) of Section 64010
33 shall not be construed as any of the following:

34 (1) An assurance that the land or water is safe.

35 (2) A grant to the person accessing the land or water of a legal status for which
36 the landowner would owe a duty of care.

37 (3) An assumption of responsibility or liability for any injury to a person or
38 property caused by any act of the person to whom access to the land or water is
39 provided.

1 (e) Notwithstanding subdivisions (b), (c), and (d), this section shall not be
2 construed to limit a landowner's liability for an injury under either of the
3 following circumstances:

4 (1) Willful or malicious failure to guard or warn against a dangerous condition,
5 use, structure, or activity on the land or water.

6 (2) Express invitation to a person by the landowner to access the land or water,
7 in a manner that is beyond the access required to be provided pursuant to
8 subdivision (a) of Section 64010.

9 **Comment.** Section 64045 continues former Fish and Game Code Section 2089.20(d)-(e)
10 without substantive change.

11 **§ 64050. Neighboring landowner**

12 64050. (a) A landowner that owns land that abuts a property enrolled in a state
13 safe harbor agreement shall not be required, for purposes of an incidental take
14 permit, to undertake the management activities set forth in the state safe harbor
15 agreement, if all of the following conditions are met:

16 (1) The neighboring landowner allows the department to determine baseline
17 conditions on the property.

18 (2) The neighboring landowner agrees to maintain the baseline conditions for
19 the duration specified in the safe harbor agreement.

20 (3) The department determines that allowing the neighboring landowner to
21 receive an incidental take permit for the abutting property does not undermine the
22 net conservation benefit determination made by the department in the approval of
23 the safe harbor agreement.

24 (4) The take authorized by the department will not jeopardize the continued
25 existence of the species. This determination shall be made in accordance with
26 subdivision (b) of Section 62700.

27 (b) Unless the department determines that it is inappropriate to do so based on
28 the species listed in the permit, or any other factors, the neighboring landowner
29 shall provide the department with at least 60 days' advance notice of any of the
30 following:

31 (1) Any incidental take that is anticipated to occur under the permit.

32 (2) The neighboring landowner's plan to return to baseline conditions.

33 (3) Any plan to transfer or alienate the neighboring landowner's interest in the
34 land or water.

35 (c) If the department receives any notice described in subdivision (b), the
36 neighboring landowner shall provide the department, its contractors, or agents
37 with access to the land or water for purposes of safely removing or salvaging the
38 species.

39 (d) The department shall provide notice to the neighboring landowner at least
40 seven days before accessing the land or water for the purposes of subdivision (c).
41 The notice shall identify each person selected by the department, its contractors, or
42 agents to access the land or water.

(e) Notwithstanding subdivision (d), during the seven-day notice period, the neighboring landowner may object, in writing, to a person selected to access the land or water. If the neighboring landowner objects, another person shall be selected by the department, its contractors, or agents, and notification shall be provided to the neighboring landowner pursuant to subdivision (d). However, if the neighboring landowner objects to a selection on two successive occasions, the neighboring landowner shall be deemed to consent to access to the land or water by a person selected by the department, its contractors, or agents. Failure by the neighboring landowner to object to the selection within the seven-day notice period shall be deemed consent to access the land or water by the person selected by the department, its contractors, or agents.

Comment. Section 64050 continues former Fish and Game Code Section 2089.23 without substantive change.

Article 3. Special Circumstances

§ 64075. Forest land subject to conservation easement

64075. (a) The department shall, to the maximum extent practicable, prioritize the review of, and decision to approve, an agreement if the property proposed to be enrolled in the agreement is encumbered by a conservation easement that requires a permanent commitment to protect, restore, and maintain habitat conditions, provided that the department finds that practices consistent with the conservation easement can reasonably be expected to provide a net conservation benefit to the species listed in the application.

(b) If the property proposed to be enrolled in an agreement is subject to a conservation easement, the department, to the maximum extent practicable, shall rely on the conservation easement to fulfill the requirements of Section 64000.

(c) This section only applies to agreements where a majority of the property is forestland.

Comment. Section 64075 continues former Fish and Game Code Section 2089.5 without substantive change.

<p>Note. Proposed Section 64075 would continue Section 2089.5, which was added by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.</p>

TITLE 6. RECOVERY PLAN

§ 64100. Development of nonregulatory recovery plan

64100. (a) Upon a specific appropriation of funds by the Legislature, or if funding is otherwise available, the department may develop and implement nonregulatory recovery plans for the conservation and survival of species listed as an endangered species or as a threatened species, unless the department finds that the recovery plan will not promote the conservation of the species.

(b) The department, in developing and implementing recovery plans, shall, to the extent practicable, give priority to those endangered or threatened species, without regard to taxonomic classification, that are most likely to benefit from a recovery plan, particularly those species populations that are, or may be, significantly affected by anticipated land use changes, climate change, or changes in aquatic conditions.

Comment. Section 64100 continues former Fish and Game Code Section 2079.1(a)-(b) without substantive change.

Note. Proposed Section 64100 would continue Section 2079.1(a)-(b), which was added by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.

§ 64105. Plan content

64105. (a) Each recovery plan shall be based on the best available scientific information and shall, at a minimum, include all of the following:

(1) A description of site-specific management actions necessary to achieve the recovery plan's goal for the conservation of the species.

(2) Objective, measurable criteria that, when achieved, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list of endangered species or the list of threatened species, as applicable.

(3) Estimates of the time required and the cost to carry out those measures needed to achieve the goal of the recovery plan and to achieve intermediate steps toward that goal.

(b) The department, in developing and implementing a recovery plan, may consider data and appropriate information from public and private agencies and institutions, and other qualified persons, in addition to data and appropriate information derived from the public process required pursuant to subdivision (b) of Section 64110.

(c) The department may, in its discretion, adopt, or may adopt with revisions, an existing federal recovery plan for a species described in subdivision (a) of Section 64100 that is also listed as an endangered species or a threatened species pursuant to Section 4 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1533) if the department finds that the recovery plan is consistent with the provisions of this title.

Comment. Section 64105 continues former Fish and Game Code Section 2079.1(c)-(e) without substantive change.

Note. Proposed Section 64105 would continue Section 2079.1(c)-(e), which was added by 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in anticipation of its effect.


1 **§ 64110. Guidelines and criteria**

2 64110. (a) Subject to subdivision (a) of Section 64100, and pursuant to
3 subdivision (b), the department shall adopt guidelines and criteria to aid in the
4 implementation of this title. Upon adoption, the department shall post the
5 guidelines and criteria on its Internet Web site.

6 (b) Development of a recovery plan pursuant to subdivision (a) of Section
7 64100, and adoption of guidelines and criteria pursuant to subdivision (a), shall be
8 through a public process including at least one public meeting at which the
9 department provides landowners, local governments, and interested members of
10 the public the opportunity for input. The public meeting may be in conjunction
11 with a meeting of the commission. In the case of a recovery plan, the public
12 meeting shall be held in the recovery planning area.

13 (c) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
14 Title 2 of the Government Code does not apply to the development, adoption, or
15 amendment of guidelines, criteria, or recovery plans pursuant to this title.

16 **Comment.** Section 64110 continues former Fish and Game Code Section 2079.1(f)-(h) without
17 substantive change.

18  **Note.** Proposed Section 64110 would continue Section 2079.1(f)-(h), which was added by
19 2018 Cal. Stat. ch. 329. Although that bill will not take effect until 2019, it is included here in
20 anticipation of its effect.

21 **PART 2. PLANNING AND MITIGATION**

22 **TITLE 1. GENERAL PROVISIONS**

23 **§ 64400. Planning and environmental compliance division**

24 64400. (a) The department shall establish an internal division with the primary
25 purpose of performing comprehensive planning and environmental compliance
26 services with priority given to projects involving the building of eligible
27 renewable energy resources.

28 (b) The internal division shall ensure the timely completion of plans pursuant to
29 the Natural Community Conservation Planning Act (Title 2 (commencing with
30 Section 64500)).

31 (c) For purposes of this section, “eligible renewable energy resources” has the
32 same meaning as in the California Renewables Portfolio Standard Program
33 (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division
34 1 of the Public Utilities Code).

35 **Comment.** Section 64400 continues former Fish and Game Code Section 705 without
36 substantive change.

1 TITLE 2. NATURAL COMMUNITY
2 CONSERVATION PLANNING ACT

3 CHAPTER 1. GENERAL PROVISIONS

4 § 64500. Short title

5 64500. This title shall be known, and may be cited, as the Natural Community
6 Conservation Planning Act.

7 **Comment.** Section 64500 continues former Fish and Game Code Section 2800 without
8 substantive change.

9 § 64505. Findings and declarations

10 64505. The Legislature finds and declares all of the following:

11 (a) The continuing population growth in California will result in increasing
12 demands for dwindling natural resources and result in the continuing decline of the
13 state's wildlife.

14 (b) There is a need for broad-based planning to provide for effective protection
15 and conservation of the state's wildlife heritage while continuing to allow
16 appropriate development and growth.

17 (c) Natural community conservation planning is an effective tool in protecting
18 California's natural diversity while reducing conflicts between protection of the
19 state's wildlife heritage and reasonable use of natural resources for economic
20 development.

21 (d) Natural community conservation planning promotes coordination and
22 cooperation among public agencies, landowners, and other private interests,
23 provides a mechanism by which landowners and development proponents can
24 effectively address cumulative impact concerns, promotes conservation of
25 unfragmented habitat areas, promotes multispecies and multihabitat management
26 and conservation, provides one option for identifying and ensuring appropriate
27 mitigation that is roughly proportional to impacts on fish and wildlife, and
28 promotes the conservation of broad-based natural communities and species
29 diversity.

30 (e) Natural community conservation planning can provide for efficient use and
31 protection of natural and economic resources while promoting greater sensitivity
32 to important elements of the state's critical natural diversity.

33 (f) Natural community conservation planning is a voluntary and effective
34 planning process that can facilitate early coordination to protect the interests of the
35 state, the federal government, and local public agencies, landowners, and other
36 private parties.

37 (g) Natural community conservation planning is a mechanism that can provide
38 an early planning framework for proposed development projects within the
39 planning area in order to avoid, minimize, and compensate for project impacts to
40 wildlife.

1 (h) Natural community conservation planning is consistent with, and will
2 support, the fish and wildlife management activities of the department in its role as
3 the trustee for fish and wildlife within the state.

4 (i) The purpose of natural community conservation planning is to sustain and
5 restore those species and their habitat identified by the department that are
6 necessary to maintain the continued viability of those biological communities
7 impacted by human changes to the landscape.

8 (j) Natural community conservation planning is a cooperative process that often
9 involves local, state, and federal agencies and the public, including landowners
10 within the plan area. The process should encourage the active participation and
11 support of landowners and others in the conservation and stewardship of natural
12 resources in the plan area during plan development using appropriate measures,
13 including incentives.

14 **Comment.** Section 64505 continues former Fish and Game Code Section 2801 without
15 substantive change.

16 **§ 64510. Further findings and declarations**

17 64510. The Legislature further finds and declares that it is the policy of the state
18 to conserve, protect, restore, and enhance natural communities. It is the intent of
19 the Legislature to acquire a fee or less than fee interest in lands consistent with
20 approved natural community conservation plans and to provide assistance with the
21 implementation of those plans.

22 **Comment.** Section 64510 continues former Fish and Game Code Section 2802 without
23 substantive change.

24 **§ 64515. Definitions**

25 64515. The definitions in this section govern the construction of this title:

26 (a) “Adaptive management” means to use the results of new information
27 gathered through the monitoring program of the plan and from other sources to
28 adjust management strategies and practices to assist in providing for the
29 conservation of covered species.

30 (b) “Candidate species” has the same meaning as defined in Section 62105.

31 (c) “Changed circumstances” are reasonably foreseeable circumstances that
32 could affect a covered species or geographic area covered by the plan.

33 (d) “Conserve,” “conserving,” and “conservation” mean to use, and the use of,
34 methods and procedures within the plan area that are necessary to bring any
35 covered species to the point at which the measures provided pursuant to Part 1
36 (commencing with Section 62000) are not necessary, and for covered species that
37 are not listed pursuant to Part 1 (commencing with Section 62000), to maintain or
38 enhance the condition of a species so that listing pursuant to Part 1 (commencing
39 with Section 62000) will not become necessary.

40 (e) “Covered species” means those species, both listed pursuant to Part 1
41 (commencing with Section 62000) and nonlisted, conserved and managed under

1 an approved natural community conservation plan and that may be authorized for
2 take. Notwithstanding Title 5 (commencing with Section 30200) of Part 3 of
3 Division 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, and
4 Sections 38200, 52200, 53000, fully protected species may be covered species
5 pursuant to this subdivision, and taking of fully protected species may be
6 authorized pursuant to Section 64605 for any fully protected species conserved
7 and managed as a covered species under an approved natural community
8 conservation plan.

9 (f) “Department assurance” means the department’s commitment pursuant to
10 Section 64610.

11 (g) “Monitoring program” means a program within an approved natural
12 community conservation plan that provides periodic evaluations of monitoring
13 results to assess the adequacy of the mitigation and conservation strategies or
14 activities and to provide information to direct the adaptive management program.
15 The monitoring program shall, to the extent practicable, also be used to meet the
16 monitoring requirements of Section 21081.6 of the Public Resources Code. A
17 monitoring program includes all of the following:

18 (1) Surveys to determine the status of biological resources addressed by the
19 plan, including covered species.

20 (2) Periodic accountings and assessment of authorized take.

21 (3) Progress reports on all of the following matters:

22 (A) Establishment of habitat reserves or other measures that provide equivalent
23 conservation of covered species and providing funding where applicable.

24 (B) Compliance with the plan and the implementation agreement by the wildlife
25 agencies, local governments, and landowners who have responsibilities under the
26 plan.

27 (C) Measurements to determine if mitigation and conservation measures are
28 being implemented roughly proportional in time and extent to the impact on
29 habitat or covered species authorized under the plan.

30 (D) Evaluation of the effectiveness of the plan in meeting the conservation
31 objectives of the plan.

32 (E) Maps of land use changes in the plan area that may affect habitat values or
33 covered species.

34 (4) A schedule for conducting monitoring activities.

35 (h) “Natural community conservation plan” or “plan” means the plan prepared
36 pursuant to a planning agreement entered into in accordance with Section 64555.
37 The plan shall identify and provide for those measures necessary to conserve and
38 manage natural biological diversity within the plan area while allowing compatible
39 and appropriate economic development, growth, and other human uses.

40 (i) “Person” has the same meaning as defined in subdivision (i) of Section 9100.

41 (j) (1) “Plan participant,” prior to approval of a natural community conservation
42 plan and execution of an implementation agreement, means a signatory to the
43 planning agreement.

(2) Upon approval of a natural community conservation plan and execution of an implementation agreement, “plan participant” means the permittees and any local agency that is a signatory to the implementing agreement.

(k) “Unforeseen circumstances” means changes affecting one or more species, habitat, natural community, or the geographic area covered by a conservation plan that could not reasonably have been anticipated at the time of plan development, and that result in a substantial adverse change in the status of one or more covered species.

(l) “Wildlife” has the same meaning as defined in Section 560.

(m) “Wildlife agencies” means the department and one or both of the following:

(1) United States Fish and Wildlife Service.

(2) National Marine Fisheries Service.

Comment. Section 64515 continues former Fish and Game Code Section 2805 without substantive change.

§ 64520. Regulations

64520. The department may adopt regulations for the development and implementation of natural community conservation plans consistent with this title.

Comment. Section 64520 continues former Fish and Game Code Section 2825 without substantive change.

§ 64530. Department compensation

64530. (a) The department may be compensated for the actual costs incurred in participating in the preparation and implementation of natural community conservation plans. These costs may include consultation with other parties to agreements authorized by Section 64555, providing and compiling wildlife and wildlife habitat data, reviewing and approving the final plan, monitoring implementation of the plan, and other activities necessary to the preparation and implementation of a plan.

(b) The department may be compensated for those expenses identified in subdivision (a) according to a schedule in the agreement authorized by Section 64555.

Comment. Section 64530 continues former Fish and Game Code Section 2829 without substantive change.

CHAPTER 2. PLANNING

§ 64550. Authority to undertake planning

64550. Any person, or any local, state, or federal agency, independently, or in cooperation with other persons, may undertake natural community conservation planning.

Comment. Section 64550 continues former Fish and Game Code Section 2809 without substantive change.

1 **§ 64555. Cooperative agreement to conduct planning**

2 64555. The department may enter into an agreement with any person or public
3 entity for the purpose of preparing a natural community conservation plan, in
4 cooperation with a local agency that has land use permit authority over the
5 activities proposed to be addressed in the plan, to provide comprehensive
6 management and conservation of multiple wildlife species, including, but not
7 limited to, those species listed pursuant to Title 2 (commencing with Section
8 62200) of Part 1.

9 **Comment.** Section 64555 continues the first sentence of former Fish and Game Code Section
10 2810(a) without substantive change.

11 **§ 64560. Agreement requirements**

12 64560. A planning agreement entered into pursuant to Section 64555 shall meet
13 all of the following conditions:

14 (a) The agreement shall be binding upon the department, other participating
15 federal, state, and local agencies, and participating private landowners.

16 (b) The agreement shall define the geographic scope of the conservation
17 planning area.

18 (c) The agreement shall identify a preliminary list of those natural communities,
19 and the endangered, threatened, candidate, or other species known, or reasonably
20 expected to be found, in those communities, that are intended to be the initial
21 focus of the plan.

22 (d) The agreement shall identify preliminary conservation objectives for the
23 planning area.

24 (e) The agreement shall establish a process for the inclusion of independent
25 scientific input to assist the department and plan participants, and to do all of the
26 following:

27 (1) Recommend scientifically sound conservation strategies for species and
28 natural communities proposed to be covered by the plan.

29 (2) Recommend a set of reserve design principles that addresses the needs of
30 species, landscapes, ecosystems, and ecological processes in the planning area
31 proposed to be addressed by the plan.

32 (3) Recommend management principles and conservation goals that can be used
33 in developing a framework for the monitoring and adaptive management
34 component of the plan.

35 (4) Identify data gaps and uncertainties so that risk factors can be evaluated.

36 (f) The agreement shall require coordination with federal wildlife agencies with
37 respect to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

38 (g) The agreement shall encourage concurrent planning for wetlands and waters
39 of the United States.

40 (h) The agreement shall establish an interim process during plan development
41 for project review wherein discretionary projects within the plan area subject to
42 Division 13 (commencing with Section 21000) of the Public Resources Code that

1 potentially conflict with the preliminary conservation objectives in the planning
2 agreement are reviewed by the department prior to, or as soon as possible after the
3 project application is deemed complete pursuant to Section 65943 of the
4 Government Code and the department recommends mitigation measures or project
5 alternatives that would help achieve the preliminary conservation objectives. As
6 part of this process, information developed pursuant to subdivision (e) of Section
7 64560 shall be taken into consideration by the department and plan participants.
8 Any take of candidate, threatened, or endangered species that occurs during this
9 interim period shall be included in the analysis of take to be authorized under an
10 approved plan. Nothing in this subdivision is intended to authorize take of
11 candidate, protected, or endangered species.

12 (i) The agreement shall establish a process for public participation throughout
13 the plan development and review pursuant to Section 64570.

14 (j) The agreement shall include a provision specifying the amount of
15 compensation, if any, payable to the department pursuant to Section 64530.

16 **Comment.** Subdivisions (a) through (i) of Section 64560 continues former Fish and Game
17 Code Section 2810(b) without substantive change.

18 Subdivision (j) continues the second sentence of former Fish and Game Code Section 2810(a)
19 without substantive change.

20 **§ 64565. Implementation agreement**

21 64565. A natural community conservation plan approved pursuant to Section
22 64580 shall include an implementation agreement that contains all of the
23 following:

24 (a) Provisions defining species coverage, including any conditions of coverage.

25 (b) Provisions for establishing the long-term protection of any habitat reserve or
26 other measures that provide equivalent conservation of covered species.

27 (c) Specific terms and conditions, which, if violated, would result in the
28 suspension or revocation of the permit, in whole or in part. The department shall
29 include a provision requiring notification to the plan participant of a specified
30 period of time to cure any default prior to suspension or revocation of the permit
31 in whole or in part. These terms and conditions shall address, but are not limited
32 to, provisions specifying the actions the department shall take under all of the
33 following circumstances:

34 (1) If the plan participant fails to provide adequate funding.

35 (2) If the plan participant fails to maintain the rough proportionality between
36 impacts on habitat or covered species and conservation measures.

37 (3) If the plan participant adopts, amends, or approves any plan or project
38 without the concurrence of the wildlife agencies that is inconsistent with the
39 objectives and requirements of the approved plan.

40 (4) If the level of take exceeds that authorized by the permit.

41 (d) Provisions specifying procedures for amendment of the plan and the
42 implementation agreement.

1 (e) Provisions ensuring implementation of the monitoring program and adaptive
2 management program.

3 (f) Provisions for oversight of plan implementation for purposes of assessing
4 mitigation performance, funding, and habitat protection measures.

5 (g) Provisions for periodic reporting to the wildlife agencies and the public for
6 purposes of information and evaluation of plan progress.

7 (h) Mechanisms to ensure adequate funding to carry out the conservation actions
8 identified in the plan.

9 (i) Provisions to ensure that implementation of mitigation and conservation
10 measures on a plan basis is roughly proportional in time and extent to the impact
11 on habitat or covered species authorized under the plan. These provisions shall
12 identify the conservation measures, including assembly of reserves where
13 appropriate and implementation of monitoring and management activities, that
14 will be maintained or carried out in rough proportion to the impact on habitat or
15 covered species and the measurements that will be used to determine if this is
16 occurring.

17 **Comment.** Section 64565 continues former Fish and Game Code Section 2820(b) without
18 substantive change.

19 **§ 64570. Public participation in plan development and review**

20 64570. The department shall establish, in cooperation with the parties to the
21 planning agreement, a process for public participation throughout plan
22 development and review to ensure that interested persons, including landowners,
23 have an adequate opportunity to provide input to lead agencies, state and federal
24 wildlife agencies, and others involved in preparing the plan. The public
25 participation objectives of this section may be achieved through public working
26 groups or advisory committees, established early in the process. This process shall
27 include all of the following:

28 (a) A requirement that draft documents associated with a natural community
29 conservation plan that are being considered for adoption by the plan lead agency
30 shall be available for public review and comment for at least 60 days prior to the
31 adoption of that draft document. Preliminary public review documents shall be
32 made available by the plan lead agency at least 10 working days prior to any
33 public hearing addressing these documents. The review period specified in this
34 subdivision may run concurrently with the review period provided for any
35 document required by the California Environmental Quality Act (Division 13
36 commencing with Section 21000) of the Public Resources Code) that is
37 associated with the natural community conservation plan. This subdivision shall
38 not be construed to limit the discretion of a public agency to revise any draft
39 documents at a public hearing.

40 (b) A requirement to make available in a reasonable and timely manner all draft
41 plans, memoranda of understanding, maps, conservation guidelines, species

1 coverage lists, and other planning documents associated with a natural community
2 conservation plan that are subject to public review.

3 (c) A requirement that all public hearings held during plan preparation or review
4 for approval are complementary to, or integrated with, those hearings otherwise
5 provided by law.

6 (d) An outreach program to provide access to information for persons interested
7 in the plan, including landowners, with an emphasis on obtaining input from a
8 balanced variety of affected public and private interests, including state and local
9 governments, county agricultural commissioners, agricultural organizations,
10 landowners, conservation organizations, and the general public.

11 **Comment.** Section 64570 continues former Fish and Game Code Section 2815 without
12 substantive change.

13 **§ 64575. Public review prior to approval**

14 64575. Prior to department approval of the planning agreement, the public shall
15 have 21 calendar days to review and comment on the proposed planning
16 agreement.

17 **Comment.** Section 64575 continues former Fish and Game Code Section 2810(d) without
18 substantive change.

19 **§ 64580. Plan approval**

20 64580. The department shall approve a natural community conservation plan for
21 implementation after making the following findings, based upon substantial
22 evidence in the record:

23 (a) The plan has been developed consistent with the process identified in the
24 planning agreement entered into pursuant to Section 64555.

25 (b) The plan integrates adaptive management strategies that are periodically
26 evaluated and modified based on the information from the monitoring program
27 and other sources, which will assist in providing for the conservation of covered
28 species and ecosystems within the plan area.

29 (c) The plan provides for the protection of habitat, natural communities, and
30 species diversity on a landscape or ecosystem level through the creation and long-
31 term management of habitat reserves or other measures that provide equivalent
32 conservation of covered species appropriate for land, aquatic, and marine habitats
33 within the plan area.

34 (d) The development of reserve systems and conservation measures in the plan
35 area provides, as needed for the conservation of species, all of the following:

36 (1) Conserving, restoring, and managing representative natural and seminatural
37 landscapes to maintain the ecological integrity of large habitat blocks, ecosystem
38 function, and biological diversity.

39 (2) Establishing one or more reserves or other measures that provide equivalent
40 conservation of covered species within the plan area and linkages between them
41 and adjacent habitat areas outside of the plan area.

1 (3) Protecting and maintaining habitat areas that are large enough to support
2 sustainable populations of covered species.

3 (4) Incorporating a range of environmental gradients (such as slope, elevation,
4 aspect, and coastal or inland characteristics) and high habitat diversity to provide
5 for shifting species distributions due to changed circumstances.

6 (5) Sustaining the effective movement and interchange of organisms between
7 habitat areas in a manner that maintains the ecological integrity of the habitat areas
8 within the plan area.

9 (e) The plan identifies activities, and any restrictions on those activities, allowed
10 within reserve areas that are compatible with the conservation of species, habitats,
11 natural communities, and their associated ecological functions.

12 (f) The plan contains specific conservation measures that meet the biological
13 needs of covered species and that are based upon the best available scientific
14 information regarding the status of covered species and the impacts of permitted
15 activities on those species.

16 (g) The plan contains a monitoring program.

17 (h) The plan contains an adaptive management program.

18 (i) The plan includes the estimated timeframe and process by which the reserves
19 or other conservation measures are to be implemented, including obligations of
20 landowners and plan signatories and consequences of the failure to acquire lands
21 in a timely manner.

22 (j) The plan contains provisions that ensure adequate funding to carry out the
23 conservation actions identified in the plan.

24 **Comment.** Section 64580 continues former Fish and Game Code Section 2820(a) without
25 substantive change.

26 **§ 64585. Approval of agreement not a “project”**

27 64585. The approval of a planning agreement is not a project pursuant to
28 Division 13 (commencing with Section 21000) of the Public Resources Code.

29 **Comment.** Section 64585 continues former Fish and Game Code Section 2810(c) without
30 substantive change.

31 **CHAPTER 3. IMPLEMENTATION**

32 **§ 64600. Department actions**

33 64600. Concurrent with the approval by the department of a final natural
34 community conservation plan, the department shall do both of the following:

35 (a) Establish a list of species that are authorized for take pursuant to Section
36 64605 and the department shall make specific findings to support coverage
37 pursuant to Sections 64565 and 64580. For purposes of determining whether a
38 species should receive coverage under a plan, the department shall use, in addition
39 to the standards required for the adoption of a plan, one or more of the following
40 criteria:

(1) Coverage is warranted based upon regional or landscape level consideration, such as healthy population levels, widespread distribution throughout the plan area, and life history characteristics that respond to habitat-scale conservation and management actions.

(2) Coverage is warranted based on regional or landscape level considerations with site specific conservation and management requirements that are clearly identified in the plan for species that are generally well-distributed, but that have core habitats that must be conserved.

(3) Coverage is warranted based upon site specific considerations and the identification of specific conservation and management conditions for species within a narrowly defined habitat or limited geographic area within the plan area.

(b) Find that the mitigation measures specified in the plan and imposed by the plan participants are consistent with subdivision (d) of Section 64505.

Comment. Section 64600 continues former Fish and Game Code Section 2821 without substantive change.

Note. Existing Section 2821 requires the department to “make specific findings to support coverage pursuant to Section 2820.” Section 2820 is a long section that addresses many aspects of the approval and implementation of a natural community conservation plan. In proposed Section 64600(a), the reference is revised to refer to the provisions that seem most relevant to the purpose of the reference: proposed Sections 64565 and 64580. **The Commission invites comment on whether that change would cause any problems.**

§ 64605. Authorized take

64605. At the time of plan approval, the department may authorize by permit the taking of any covered species, including species designated as fully protected species pursuant to Title 5 (commencing with Section 30200) of Part 3 of Division 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, or Sections 38200, 52200, and 53000, whose conservation and management is provided for in a natural community conservation plan approved by the department.

Comment. Section 64605 continues former Fish and Game Code Section 2835 without substantive change.

§ 64610. Assurances

64610. The department may provide assurances for plan participants commensurate with long-term conservation assurances and associated implementation measures pursuant to the approved plan.

(a) When providing assurances pursuant to this section, the department’s determination of the level of assurances and the time limits specified in the implementation agreement for assurances may be based on localized conditions and shall consider all of the following:

(1) The level of knowledge of the status of the covered species and natural communities.

(2) The adequacy of analysis of the impact of take on covered species.

1 (3) The use of the best available science to make assessments about the impacts
2 of take, the reliability of mitigation strategies, and the appropriateness of
3 monitoring techniques.

4 (4) The appropriateness of the size and duration of the plan with respect to
5 quality and amount of data.

6 (5) The sufficiency of mechanisms for long-term funding of all components of
7 the plan and contingencies.

8 (6) The degree of coordination and accessibility of centralized data for analysis
9 and evaluation of the effectiveness of the plan.

10 (7) The degree to which a thorough range of foreseeable circumstances are
11 considered and provided for under the adaptive management program.

12 (8) The size and duration of the plan.

13 (b) If there are unforeseen circumstances, additional land, water, or financial
14 compensation or additional restrictions on the use of land, water, or other natural
15 resources shall not be required without the consent of plan participants for a period
16 of time specified in the implementation agreement, unless the department
17 determines that the plan is not being implemented consistent with the substantive
18 terms of the implementation agreement.

19 **Comment.** Section 64610 continues former Fish and Game Code Section 2820(f) without
20 substantive change.

21 **§ 64615. No effect on application of CEQA**

22 64615. Nothing in this title exempts a project proposed in a natural community
23 conservation planning area from Division 13 (commencing with Section 21000) of
24 the Public Resources Code or otherwise alters or affects the applicability of that
25 division.

26 **Comment.** Section 64615 continues former Fish and Game Code Section 2826 without
27 substantive change.

28 **§ 64620. CEQA analysis**

29 64620. To the extent provided pursuant to Division 13 (commencing with
30 Section 21000) of the Public Resources Code and any guidelines adopted pursuant
31 thereto, if the impacts on one or more covered species and its habitat are analyzed
32 and mitigated pursuant to a program environmental impact report for a plan
33 adopted pursuant to this title, a plan participant that is a lead agency or a
34 responsible agency under that division shall incorporate in the review of any
35 subsequent project in the plan area the feasible mitigation measures and
36 alternatives related to the biological impacts on covered species and their habitat
37 developed in the program environmental impact report.

38 **Comment.** Section 64620 continues former Fish and Game Code Section 2820(e) without
39 substantive change.

1 **§ 64625. Data and reports available for public review**

2 64625. Any data and reports associated with the monitoring program required by
3 Sections 64565 and 64580 shall be available for public review. The entity
4 managing the plan shall also conduct public workshops on an annual basis to
5 provide information and evaluate progress toward attaining the conservation
6 objectives of the plan.

7 **Comment.** Section 64625 continues former Fish and Game Code Section 2820(d) without
8 substantive change.

9 **§ 64630. Use of conservation corps**

10 64630. To the extent practicable, implementation of natural community
11 conservation plans shall use the services of either the California Conservation
12 Corps or local community conservation corps.

13 **Comment.** Section 64630 continues former Fish and Game Code Section 2827 without
14 substantive change.

15 **§ 64635. Injunctive relief**

16 64635. The department may seek injunctive relief against any plan participant,
17 person, or entity to enforce this title.

18 **Comment.** Section 64635 continues former Fish and Game Code Section 2822 without
19 substantive change.

20 **§ 64640. Suspension of take or revocation of permit**

21 64640. The department shall suspend or revoke any permit, in whole or in part,
22 issued for the take of a species subject to Section 64605 if the continued take of
23 the species would result in jeopardizing the continued existence of the species.

24 **Comment.** Section 64640 continues former Fish and Game Code Section 2823 without
25 substantive change.

26 **§ 64645. Breach of proportionality between take and conservation**

27 64645. If a plan participant does not maintain the proportionality between take
28 and conservation measures specified in the implementation agreement and does
29 not either cure the default within 45 days or enter into an agreement with the
30 department within 45 days to expeditiously cure the default, the department shall
31 suspend or revoke the permit, in whole or in part.

32 **Comment.** Section 64645 continues former Fish and Game Code Section 2820(c) without
33 substantive change.

34 **§ 64650. Local government authority to acquire land or water**

35 64650. Nothing in this title prohibits a local government from exercising any
36 power or authority granted to it pursuant to state law to acquire land or water to
37 implement a plan.

38 **Comment.** Section 64650 continues former Fish and Game Code Section 2828 without
39 substantive change.

1 **§ 64655. Effect on take in specified circumstances**

2 64655. Nothing in this title prohibits the taking or the incidental take of any
3 identified species if the taking is authorized by the department pursuant to any of
4 the following:

5 (a) A natural community conservation plan or amended plan approved by the
6 department prior to January 1, 2002. Any permits, plans, implementation
7 agreements, and amendments to those permits, plans, or implementation
8 agreements described in this section are deemed to be in full force and effect as of
9 the date approved or entered into by the parties insofar as they authorize the take
10 of identified species pursuant to an approved natural community conservation plan
11 and shall be governed solely by former Chapter 10 (commencing with Section
12 2800) of Division 3 of the Fish and Game Code as it read on December 31, 2001.

13 (b) Any natural community conservation plan, or subarea plan, approved, or
14 amended on or after January 1, 2002, for which a planning or enrollment
15 agreement meets any of the following criteria, which shall be solely governed in
16 accordance with former Chapter 10 (commencing with Section 2800) of Division
17 3 of the Fish and Game Code as it read on December 31, 2001:

18 (1) The natural community conservation plan was entered into between the
19 department and plan participants prior to January 1, 2001, and is carried out
20 pursuant to Rule 4(d) for the California Gnatcatcher (Federal Register Volume 58,
21 December 10, 1993), including the southern subregion of Orange County.

22 (2) The natural community conservation plan was prepared pursuant to the
23 planning agreement for the San Diego Multiple Species Conservation Plan.

24 (3) The natural community conservation plan was prepared pursuant to the
25 planning agreement for the San Diego Multiple Habitat Conservation Plan.

26 (c) Any programmatic natural community conservation plan approved by the
27 department on or before January 1, 2002.

28 (d) Any natural community conservation plan developed pursuant to a planning
29 or enrollment agreement executed on or before January 1, 2001, and for which the
30 department finds that the plan has been developed using a public participation and
31 scientific analysis process substantially in conformance with the intent of
32 subdivision (e) of Section 64560 and Section 64570.

33 (e) Any natural community conservation plan developed pursuant to a planning
34 agreement executed on or before January 1, 2002, and which the department finds
35 is in substantial compliance with Sections 64565, 64580, 64610, 64620, 64625,
36 64645.

37 (f) (1) Any natural community conservation plan or subarea plan initiated on or
38 before January 1, 2000, or amendments thereto, by Sweetwater Authority, Helix
39 Water District, Padre Dam Municipal Water District, Santa Fe Irrigation District,
40 or the San Diego County Water Authority, which the department determines is
41 consistent with the approved San Diego Multiple Habitat Conservation Program or
42 the San Diego Multiple Species Conservation Program, is exempt from Sections
43 64555, 64560, 64575, and 64585, and subdivision (a) of Section 64580, except as

provided in paragraph (2), if the department finds that the plan has been developed and is otherwise in conformance with this title.

(2) The public water agencies identified in this subdivision and the department shall include independent scientific input as described in paragraphs (1) to (4), inclusive, of subdivision (e) of Section 64560 into the proposed plans in a manner that focuses on the covered species that are proposed for take authorization and that are not otherwise covered in the San Diego Multiple Species Conservation Program or the San Diego Multiple Habitat Conservation Program.

(3) The scientific input required by paragraph (2) shall be based on the best and most current scientific data generally available, and shall assure that documentation for coverage of all species is equal or greater than the San Diego Multiple Habitat Conservation Program.

Comment. Section 64655 continues former Fish and Game Code Section 2830 without substantive change.

Notes. (1) Existing Section 2830(e) refers to a “natural community conservation plan developed pursuant to a planning agreement executed on or before January 1, 2002, and which the department finds is in substantial compliance with Section 2820.” It is not certain which parts of Section 2820 are relevant to the purpose of that reference. Out of caution, proposed Section 64655(e) refers to every provision of the proposed law that would continue part of existing Section 2820. **The Commission invites comment on whether that approach is overbroad and, if so, which provisions can be dropped from the reference.**


(2) Existing Section 2830(f)(1) provides that certain entities are “exempt from Section 2810.” It is not certain which parts of Section 2810 are relevant to the purpose of that reference. Out of caution, proposed Section 64655(f)(1) refers to every provision of the proposed law that would continue part of existing Section 2810. **The Commission invites comment on whether that approach is overbroad and, if so, which provisions can be dropped from the reference.**

§ 64660. San Diego dedication of open space

64660. (a) Notwithstanding any other provision of law, lands designated as of January 1, 2013, as open-space lands in a document entitled “Declaration of the Dedication of Land” approved by a resolution of the San Diego City Council in the same manner in which the city council processes approval of dedicated open space, reserving to the city council the authority to grant easements for utility purposes in, under, and across dedicated property, if those easements and facilities to be located thereon do not significantly interfere with the park and recreational use of the property, and filed with the Office of the City Clerk for the City of San Diego, and, if required, at the Office of the County of San Diego Assessor/Recorder/County Clerk, are dedicated land under the City Charter of the City of San Diego.

(b) Upon filing of that document in accordance with subdivision (a), the Office of the City Clerk for the City of San Diego, and, if applicable, the Office of the County of San Diego Assessor/Recorder/County Clerk shall make the document available for inspection by the public upon request.

Comment. Section 64660 continues former Fish and Game Code Section 2831 without substantive change.

 **Note.** Existing Section 2831 does not have any obvious connection to Natural Community Conservation Planning. **The Commission invites comment on whether this section would be better located elsewhere (and if so, where).**

TITLE 3. ADVANCE MITIGATION AND REGIONAL CONSERVATION INVESTMENT STRATEGIES

CHAPTER 1. GENERAL PROVISIONS

Article 1. Legislative Findings and Intent

§ 64700. Findings and declarations

64700. (a) The Legislature finds and declares that it would be beneficial to identify species and habitat conservation initiatives at a regional scale, including actions to address the impacts of climate change and other wildlife stressors, in order to guide voluntary investments in conservation, and compensatory mitigation for impacts to ecological resources, including impacts to threatened and endangered species, other sensitive species, natural communities, ecological processes, and wildlife corridors.

(b) The purpose of this title is to promote the voluntary conservation of natural resources, including biodiversity and ecological processes, and to enhance resiliency to climate change and other threats. In order to further this goal, it is the policy of the state to encourage voluntary mechanisms to conserve biological and other ecological resources and to identify conservation actions, including actions to promote resiliency to the impacts of climate change and other stressors to species and habitat.

(c) It is further the policy of the state to encourage voluntary mechanisms to identify and implement advance mitigation actions that do all of the following:

(1) Can be used to compensate for project impacts, including, but not limited to, infrastructure and renewable energy projects, more efficiently.

(2) Are effective ecologically.

(3) Will help to conserve regionally important biological and other ecological resources.

(d) In enacting this title, it is the intent of the Legislature to promote science-based conservation, including actions to promote resiliency to the impacts of climate change and other stressors. It is further the intent of the Legislature to create nonregulatory mechanisms to guide investments in conservation, infrastructure, and compensatory mitigation for impacts to natural resources, including impacts to threatened and endangered species, other sensitive species, natural communities, ecological processes, and connectivity.

1 (e) In enacting this title, it is not the intent of the Legislature to regulate the use
2 of land, establish land use designations, or to affect, limit, or restrict the land use
3 authority of any public agency.

4 (f) Further, in enacting this title, it is not the intent of the Legislature that an
5 approved regional conservation investment strategy would be binding on
6 independent public agency action within the strategy's geographic scope.

7 **Comment.** Section 64700 continues former Fish and Game Code Section 1850 without
8 substantive change.

9 **§ 64705. Legislative intent**

10 64705. It is the intent of this title to establish requirements that provide
11 sufficient flexibility to develop each regional conservation investment strategy
12 based on the best available information regarding the strategy area.

13 **Comment.** Section 64705 continues former Fish and Game Code Section 1854(b) without
14 substantive change.

15 **Article 2. Definitions**

16 **§ 64710. Application**

17 64710. The definitions in this article govern this title.

18 **Comment.** Section 64710 restates the introductory clause of former Fish and Game Code
19 Section 1851 without substantive change.

20 **§ 64715. Administrative draft natural community conservation plan**

21 64715. "Administrative draft natural community conservation plan" means a
22 substantially complete draft of a natural community conservation plan that is
23 released after January 1, 2016, to the general public, plan participants, and the
24 department.

25 **Comment.** Section 64715 continues former Fish and Game Code Section 1851(a) without
26 substantive change.

27 **§ 64720. Areas of conservation emphasis**

28 64720. "Areas of Conservation Emphasis" means the biodiversity analysis
29 completed by the department in 2010, or the latest update of that analysis.

30 **Comment.** Section 64720 continues former Fish and Game Code Section 1851(b) without
31 substantive change.

32 **§ 64725. Compensatory mitigation**

33 64725. "Compensatory mitigation" means actions taken to fulfill, in whole or in
34 part, mitigation requirements under state or federal law or a court mandate.

35 **Comment.** Section 64725 continues former Fish and Game Code Section 1851(c) without
36 substantive change.

1 **§ 64730. Conservation action**

2 64730. “Conservation action” means an action to preserve or to restore
3 ecological resources, including habitat, natural communities, ecological processes,
4 and wildlife corridors, to protect those resources permanently, and to provide for
5 their perpetual management, so as to help to achieve one or more biological goals
6 and objectives for one or more focal species. Conservation actions may include,
7 but are not limited to, actions to offset impacts to focal species.

8 **Comment.** Section 64730 continues former Fish and Game Code Section 1851(d) without
9 substantive change.

10 **§ 64735. Conservation easement**

11 64735. “Conservation easement” means a perpetual conservation easement that
12 complies with Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of
13 Division 2 of the Civil Code.

14 **Comment.** Section 64735 continues former Fish and Game Code Section 1851(e) without
15 substantive change.

16 **§ 64740. Focal species**

17 64740. “Focal species” means sensitive species within a regional conservation
18 investment strategy area that are analyzed in the strategy and will benefit from
19 conservation actions and habitat enhancement actions set forth in the strategy.

20 **Comment.** Section 64740 continues former Fish and Game Code Section 1851(f) without
21 substantive change.

22 **§ 64745. Habitat enhancement action**

23 64745. “Habitat enhancement action” means an action to improve the quality of
24 wildlife habitat, or to address risks or stressors to wildlife, that has long-term
25 durability but does not involve land acquisition or the permanent protection of
26 habitat, such as improving in-stream flows to benefit fish species, enhancing
27 habitat connectivity, or invasive species control or eradication.

28 **Comment.** Section 64745 continues former Fish and Game Code Section 1851(g) without
29 substantive change.

30 **§ 64750. Performance-based milestones**

31 64750. “Performance-based milestones” means specifically identified steps in
32 the implementation of a conservation action or habitat enhancement action, such
33 as site protection, initiating implementation, completing implementation, or
34 achieving performance standards.

35 **Comment.** Section 64750 continues former Fish and Game Code Section 1851(h) without
36 substantive change.

1 **§ 64755. Performance standards**

2 64755. “Performance standards” means observable or measurable physical or
3 biological attributes that are used to determine if a conservation action or habitat
4 enhancement action has met its objectives.

5 **Comment.** Section 64755 continues former Fish and Game Code Section 1851(i) without
6 substantive change.

7 **§ 64760. Permanently protect**

8 64760. “Permanently protect” means doing both of the following acts:

9 (a) Recording a conservation easement, in a form approved in advance in
10 writing by the department, or establishing perpetual protection of land in a manner
11 consistent with draft or approved natural community conservation plans within the
12 area of the applicable regional conservation investment strategy and approved in
13 advance in writing by the department, that prevents development, prohibits
14 inconsistent uses, and ensures that habitat for focal species is maintained.

15 (b) Providing secure, perpetual funding for management of the land, monitoring,
16 and legal enforcement.

17 **Comment.** Section 64760 continues former Fish and Game Code Section 1851(j) without
18 substantive change.

19 **§ 64765. Regional conservation assessment**

20 64765. “Regional conservation assessment” means information and analyses
21 that document the important species, ecosystems, ecosystem processes, protected
22 areas, and linkages within an ecoregion to provide the appropriate context for
23 nonbinding, voluntary conservation strategies and actions. Those assessments
24 include information for the identification of areas with greatest probability for
25 long-term ecosystem conservation success incorporating cobenefits of ecosystem
26 services, such as carbon, water, and agricultural lands. A regional conservation
27 assessment may be used to provide context at an ecoregional or subcoregional
28 scale to assist with the development of a regional conservation investment
29 strategy.

30 **Comment.** Section 64765 continues the first three sentences of former Fish and Game Code
31 Section 1851(k) without substantive change.

32 **§ 64770. Regional conservation investment strategy**

33 64770. “Regional conservation investment strategy” means information and
34 analyses prepared pursuant to this title to inform nonbinding and voluntary
35 conservation actions and habitat enhancement actions that would advance the
36 conservation of focal species, habitat, and other natural resources and to provide
37 nonbinding voluntary guidance for the identification of wildlife and habitat
38 conservation priorities, investments in ecological resource conservation, or
39 identification of locations for compensatory mitigation for impacts to species and
40 natural resources.

1 **Comment.** Section 64770 continues the first sentence of former Fish and Game Code Section
2 1851(*l*) without substantive change.

3 **§ 64775. Regional level**

4 64775. “Regional level” means the geographic scale of relevant ecologically
5 defined units such as ecoregions.

6 **Comment.** Section 64775 continues former Fish and Game Code Section 1851(*m*) without
7 substantive change.

8 **§ 64780. Sensitive species**

9 64780. “Sensitive species” means any special status species identified by a state
10 or federal agency.

11 **Comment.** Section 64780 continues former Fish and Game Code Section 1851(*n*) without
12 substantive change.

13 Article 3. Implementation and Scope

14 **§ 64800. Guidelines**

15 64800. The department may adopt guidelines and criteria to aid in the
16 implementation of this title. Chapter 3.5 (commencing with Section 11340) of Part
17 1 of Division 3 of Title 2 of the Government Code does not apply to the
18 development, adoption, or amendment of guidelines or criteria pursuant to this
19 section. These guidelines and criteria shall be posted on the department’s Internet
20 Web site.

21 **Comment.** Section 64800 continues former Fish and Game Code Section 1858 without
22 substantive change.

23 **§ 64805. Fees**

24 64805. The department shall collect fees or other compensation from a person or
25 entity that proposes to enter into a mitigation credit agreement, and from a public
26 agency that proposes a regional conservation investment strategy or a regional
27 conservation assessment, to pay for all or a portion of the department’s costs
28 relating to the mitigation credit agreement, proposed strategy, or proposed
29 assessment.

30 **Comment.** Section 64805 continues former Fish and Game Code Section 1857 without
31 substantive change.

32 **§ 64810. Limitations**

33 64810. The department shall approve no more than eight regional conservation
34 investment strategies.

35 **Comment.** Section 64810 continues former Fish and Game Code Section 1861 without
36 substantive change.

1 **§ 64815. Report to Legislature**

2 64815. (a) The department shall submit a report to the Legislature on or before
3 January 1, 2020, regarding the implementation of this title.

4 (b) The report required to be submitted pursuant to subdivision (a) shall be
5 submitted in compliance with Section 9795 of the Government Code.

6 **Comment.** Section 64815 continues former Fish and Game Code Section 1859 without
7 substantive change.

8 **§ 64820. Effect on specified statutes**

9 64820. Nothing in this title supersedes, limits, or otherwise modifies the
10 Sacramento-San Joaquin Delta Reform Act of 2009 (Division 35 (commencing
11 with Section 85000) of the Water Code) or Division 22.3 (commencing with
12 Section 32300) of the Public Resources Code.

13 **Comment.** Section 64820 continues former Fish and Game Code Section 1860 without
14 substantive change.

15 **CHAPTER 2. REGIONAL CONSERVATION ASSESSMENT**

16 **§ 64850. Voluntary**

17 64850. A regional conservation assessment is nonbinding, voluntary, and does
18 not create, modify, or impose regulatory requirements or standards, regulate the
19 use of land, establish land use designations, or affect the land use authority of, or
20 the exercise of discretion by, any public agency. The preparation and use of a
21 regional conservation assessment is voluntary.

22 **Comment.** Section 64850 continues the fourth and fifth sentences of former Fish and Game
23 Code Section 1851(k) without substantive change.

24 **§ 64855. Proposal and approval**

25 64855. (a) A regional conservation assessment may be proposed by the
26 department or any other public agency.

27 (b) A regional conservation assessment may be proposed by the department or
28 any other public agency.

29 (c) The department may approve a regional conservation assessment only for the
30 purposes of a regional conservation investment strategy pursuant to this title.

31 (d) A regional conservation assessment is not required for department approval
32 of a regional conservation investment strategy.

33 **Comment.** Section 64855 continues former Fish and Game Code Section 1853(a) without
34 substantive change.

35 **§ 64860. Requirements**

36 64860. A regional conservation assessment shall do all of the following:

37 (a) Identify and summarize relevant regional pressures and stressors, including
38 climate change vulnerability, conservation areas and habitat connectivity values,
39 included in all of the following:

1 (1) Conservation plans, such as the State Wildlife Action Plan and approved
2 natural community conservation plans.

3 (2) Analyses designed to identify areas of high biological diversity, such as the
4 Areas of Conservation Emphasis.

5 (3) Analyses designed to identify areas for habitat connectivity.

6 (b) Identify the best available scientific information and analyses, including
7 geospatial information regarding the distribution of species and natural
8 communities.

9 (c) Use spatial analysis to identify ecological relationships between existing
10 protected areas and conservation areas.

11 (d) Use standard or prevalent vegetation classifications and standard ecoregional
12 classifications for terrestrial and aquatic data to enable and promote consistency
13 among regional conservation assessments throughout California.

14 (e) Compile input and summary data in a consistent format that could be
15 uploaded for interactive use in an Internet Web portal and that would allow
16 stakeholders to generate queries of regional conservation values within the
17 strategy area.

18 (f) Be consistent with administrative draft natural community conservation
19 plans, approved natural community conservation plans, and regional habitat
20 conservation plans, and approved recovery plans within the ecoregion or
21 subecoregion included in the assessment.

22 (g) Consider existing major water, transportation, and transmission
23 infrastructure facilities in the assessment area and account for reasonably
24 foreseeable development of major infrastructure facilities, including, but not
25 limited to, renewable energy and housing.

26 (h) Include provisions ensuring that the strategy will be in compliance with all
27 applicable state and local requirements and does not preempt the authority of local
28 agencies to implement infrastructure and urban development in local general
29 plans.

30 (i) Include provisions ensuring that the assessment is consistent with and
31 complements any approved natural community conservation plan or regional
32 federal habitat conservation plan that overlaps with the assessment area.

33 (j) Include an explanation of whether, and to what extent, the assessment is
34 consistent with any previously approved assessment or amended assessment, state
35 or federal recovery plan, or other state or federal approved conservation strategy
36 that overlaps with the assessment area.

37 **Comment.** Section 64860 continues former Fish and Game Code Section 1853(c) without
38 substantive change.

1 CHAPTER 3. REGIONAL CONSERVATION INVESTMENT STRATEGY

2 Article 1. Regional Conservation Investment Strategy Generally

3 **§ 64900. Purpose**

4 64900. The purpose of a regional conservation investment strategy shall be to
5 inform science-based nonbinding and voluntary conservation actions and habitat
6 enhancement actions that would advance the conservation of focal species,
7 including the ecological processes, natural communities, and habitat connectivity
8 upon which those focal species depend, and to provide nonbinding voluntary
9 guidance for one or more of the following:

10 (a) Identification of wildlife and habitat conservation priorities, including
11 actions to address the impacts of climate change and other wildlife stressors.

12 (b) Investments in resource conservation.

13 (c) Infrastructure.

14 (d) Identification of areas for compensatory mitigation for impacts to species
15 and natural resources.

16 **Comment.** Section 64900 continues former Fish and Game Code Section 1852(b) without
17 substantive change.

18 **§ 64905. Voluntary**

19 64905. Regional conservation investment strategies are intended to provide
20 scientific information for the consideration of public agencies, are voluntary, and
21 do not create, modify, or impose regulatory requirements or standards, regulate the
22 use of land, establish land use designations, or affect the land use authority of or
23 exercise of discretion by, any public agency. The preparation and use of regional
24 conservation investment strategies for this guidance is voluntary.

25 **Comment.** Section 64905 continues the second and third sentences of former Fish and Game
26 Code Section 1851(l) without substantive change.

27 **§ 64910. Content**

28 64910. A regional conservation investment strategy shall include all of the
29 following:

30 (a) An explanation of the conservation purpose of and need for the strategy.

31 (b) The geographic area of the strategy and rationale for the selection of the
32 area, together with a description of the surrounding ecoregions and any adjacent
33 protected habitat areas or linkages that provide relevant context for the
34 development of the strategy.

35 (c) The focal species included in, and their current known or estimated status
36 within, the strategy.

37 (d) Important resource conservation elements within the strategy area, including,
38 but not limited to, important ecological resources and processes, natural
39 communities, habitat, habitat connectivity, and existing protected areas, and an

1 explanation of the criteria, data, and methods used to identify those important
2 conservation elements.

3 (e) A summary of historic, current, and projected future stressors and pressures
4 in the strategy area, including climate change vulnerability, on the focal species,
5 habitat, and other natural resources, as identified in the best available scientific
6 information, including, but not limited to, the State Wildlife Action Plan.

7 (f) Consideration of major water, transportation and transmission infrastructure
8 facilities, urban development areas, and city, county, and city and county general
9 plan designations that accounts for reasonably foreseeable development of major
10 infrastructure facilities, including, but not limited to, renewable energy and
11 housing in the strategy area.

12 (g) Provisions ensuring that the strategy will be in compliance with all
13 applicable state and local requirements and does not preempt the authority of local
14 agencies to implement infrastructure and urban development in local general
15 plans.

16 (h) Conservation goals and measurable objectives for the focal species and
17 important conservation elements identified in the strategy that address or respond
18 to the identified stressors and pressures on focal species.

19 (i) Conservation actions, including a description of the general amounts and
20 types of habitat that, if preserved or restored and permanently protected, could
21 achieve the conservation goals and objectives, and a description of how the
22 conservation actions and habitat enhancement actions were prioritized and
23 selected in relation to the conservation goals and objectives.

24 (j) Provisions ensuring that the strategy is consistent with and complements any
25 administrative draft natural community conservation plan, approved natural
26 community conservation plan, or federal habitat conservation plan that overlaps
27 with the strategy area.

28 (k) An explanation of whether and to what extent the strategy is consistent with
29 any previously approved strategy or amended strategy, state or federal recovery
30 plan, or other state or federal approved conservation strategy that overlaps with the
31 strategy area.

32 (l) A summary of mitigation banks and conservation banks approved by the
33 department or the United States Fish and Wildlife Service that are located within
34 the strategy area or whose service area overlaps with the strategy area.

35 (m) A description of how the strategy's conservation goals and objectives
36 provide for adaptation opportunities against the effects of climate change for the
37 strategy's focal species.

38 (n) Incorporation and reliance on, and citation of, the best available scientific
39 information regarding the strategy area and the surrounding ecoregion, including a
40 brief description of gaps in relevant scientific information, and use of standard or
41 prevalent vegetation classifications and standard ecoregional classifications for
42 terrestrial and aquatic data to enable and promote consistency among regional
43 conservation investment strategies throughout California.

1 **Comment.** Section 64910 continues former Fish and Game Code Section 1852(c) without
2 substantive change.

3 **§ 64915. Considerations**

4 64915. In addition to considering the potential to advance the conservation of
5 focal species, regional conservation investment strategies shall consider all of the
6 following:

7 (a) The conservation benefits of preserving working lands for agricultural uses.

8 (b) Reasonably foreseeable development of infrastructure facilities.

9 (c) Reasonably foreseeable projects in the strategy area, including, but not
10 limited to, housing.

11 (d) Reasonably foreseeable development for the production of renewable
12 energy.

13 (e) Draft natural community conservation plans within the area of the applicable
14 regional conservation investment strategy.

15 **Comment.** Section 64915 continues former Fish and Game Code Section 1852(e) without
16 substantive change.

17 **§ 64920. Incorporation of regional conservation assessment**

18 64920. If a regional conservation assessment that encompasses the area of a
19 proposed regional conservation investment strategy has already been approved by
20 the department, the strategy shall explain how and to what extent it has
21 incorporated the assessment information and analysis.

22 **Comment.** Section 64920 continues former Fish and Game Code Section 1853(b) without
23 substantive change.

24 **§ 64925. Format**

25 64925. A regional conservation investment strategy shall compile input and
26 summary priority data in a consistent format that could be uploaded for interactive
27 use in an Internet Web portal and that would allow stakeholders to generate
28 queries of regional conservation values within the strategy area.

29 **Comment.** Section 64925 continues former Fish and Game Code Section 1852(d) without
30 substantive change.

31 **§ 64930. Consistent metrics.**

32 64930. The department shall require the use of consistent metrics that
33 incorporate both the area and quality of habitat and other natural resources in
34 relation to a regional conservation investment strategy's conservation objectives to
35 measure the net change resulting from the implementation of conservation actions
36 and habitat enhancement actions.

37 **Comment.** Section 64930 continues former Fish and Game Code Section 1854(e) without
38 substantive change.

1 **§ 64935. Proposal and approval**

2 64935. (a) A regional conservation investment strategy may be proposed by the
3 department or any other public agency, and shall be developed in consultation
4 with local agencies that have land use authority within the geographic area of the
5 regional conservation investment strategy.

(b) The department may approve a regional conservation investment strategy pursuant to this title.

(c) The department may only approve a regional conservation investment strategy if one or more state agencies request approval of the regional conservation investment strategy through a letter sent to the director indicating that the proposed regional conservation investment strategy would contribute to meeting both of the following state goals:

(1) Conservation.

4 (2) Public infrastructure or forest management.

5 **Comment.** Section 64935 continues former Fish and Game Code Section 1852(a) without
6 substantive change.

Article 2. Procedure

18 **§ 64960. Notice of intent**

64960. (a) A public agency shall publish notice of its intent to create a regional conservation investment strategy.

(b) This notice shall be filed with the Governor's Office of Planning and Research and the county clerk of each county in which the regional conservation investment strategy is found in part or in whole.

(c) If preparation of a regional conservation investment strategy was initiated before January 1, 2017, this notice shall not be required.

26 **Comment.** Section 64960 continues former Fish and Game Code Section 1854(c)(1) without
27 substantive change.

§ 64965. Department review and acceptance of draft

64965. (a) After a draft regional conservation investment strategy or an
amendment to a strategy is submitted to the department for approval, the
department shall have 30 days within which to deem the draft regional
conservation investment strategy or an amended strategy complete or to explain in
writing to the public agency submitting the strategy or amended strategy what is
needed to complete the strategy or amended strategy.

(b) Within 30 days of deeming a draft regional conservation investment strategy or amended strategy complete, the department shall make the draft strategy or amended strategy available to the public on its Internet Web site for review and comment for a period of at least 30 days and shall notify any public agency, organization, or individual who has filed a written request to the department for notices regarding draft regional conservation strategies.

1 **Comment.** Section 64965 continues former Fish and Game Code Section 1854(c)(2) without
2 substantive change.

3 **§ 64970. Public meeting and comment**

4 64970. (a) A public agency proposing a strategy or amended strategy shall hold
5 a public meeting to allow interested persons and entities to receive information
6 about the draft regional conservation investment strategy or amended strategy
7 early in the process of preparing it and to have an adequate opportunity to provide
8 written and oral comments. The public meeting shall be held at a location within
9 or near the strategy area.

10 (b) In a draft regional conservation investment strategy or amended strategy
11 submitted to the department for approval, the public agency shall include
12 responses to written public comments submitted during the public comment
13 period.

14 (c) If preparation of a regional conservation investment strategy was initiated
15 before January 1, 2017, and a public meeting regarding the strategy or amended
16 strategy that is consistent with the requirements of this article was held before
17 January 1, 2017, an additional public meeting shall not be required.

18 (d) If preparation of a regional conservation investment strategy was initiated
19 before January 1, 2017, and a public meeting regarding the strategy was not held
20 before January 1, 2017, the public meeting required under this article may be held
21 after January 1, 2017, if it is held at least 30 days before the strategy is submitted
22 to the department for approval.

23 **Comment.** Section 64970 continues former Fish and Game Code Section 1854(c)(3) without
24 substantive change.

25 **§ 64975. Notice of meeting**

26 64975. At least 30 days before holding a public meeting to distribute
27 information about the development of a draft regional conservation investment
28 strategy or amended strategy, a public agency proposing a strategy shall provide
29 notice of a regional conservation investment strategy or amended strategy public
30 meeting as follows:

31 (a) On the public agency's Internet Web site and any relevant LISTSERV.

32 (b) To each city, county, and city and county within or adjacent to the regional
33 conservation investment strategy area.

34 (c) To the implementing entity for each natural community conservation plan or
35 federal regional habitat conservation plan that overlaps with the strategy area.

36 (d) To each public agency, organization, or individual who has filed a written
37 request for the notice, including any agency, organization, or individual who has
38 filed a written request to the department for notices of all regional conservation
39 investment strategy public meetings.

40 **Comment.** Section 64975 continues former Fish and Game Code Section 1854(c)(4) without
41 substantive change.

1 **§ 64980. Notice of final draft**

2 64980. At least 60 days before submitting a final regional conservation
3 investment strategy or amended strategy to the department for approval, the public
4 agency proposing the investment strategy or amended strategy shall notify the
5 board of supervisors and the city councils in each county within the geographical
6 scope of the strategy and provide the board of supervisors and the city councils
7 with an opportunity to submit written comments for a period of at least 30 days.

8 **Comment.** Section 64980 continues former Fish and Game Code Section 1854(c)(5) without
9 substantive change.

10 **§ 64985. Department review of final draft**

11 64985. After a final regional conservation investment strategy or amended
12 strategy is submitted to the department for approval, the department shall have 30
13 days within which to approve the final regional conservation investment strategy
14 or amended strategy or to explain in writing to the public agency submitting the
15 strategy or amended strategy what is needed to approve the strategy or amended
16 strategy.

17 **Comment.** Section 64985 continues former Fish and Game Code Section 1854(c)(6) without
18 substantive change.

19 **§ 64990. Limitation on department rejection**

20 64990. The department shall not reject biologically appropriate and adequate
21 compensatory mitigation proposed by a project proponent on the basis that the
22 compensatory mitigation is not a conservation action or habitat enhancement
23 identified in a regional conservation investment strategy.

24 **Comment.** Section 64990 continues former Fish and Game Code Section 1855(e) without
25 substantive change.

26 **§ 64995. Internet publication**

27 64995. The department shall make all approved regional conservation
28 investment strategies, including all updates to scientific information and analyses
29 used in a regional conservation investment strategy and any amendments to the
30 strategy available on its Internet Web site.

31 **Comment.** Section 64995 continues former Fish and Game Code Section 1854(d) without
32 substantive change.

33 **§ 65000. Duration**

34 65000. (a) The department may prepare or approve a regional conservation
35 investment strategy, or approve an amended strategy, for an initial period of up to
36 10 years after finding that the strategy meets the requirements of Article 1
37 (commencing with Section 64900).

38 (b) The department may extend the duration of an approved or amended regional
39 conservation investment strategy for additional periods of up to 10 years after

1 updating the strategy for new scientific information and finding that the strategy
2 continues to meet the requirements of Article 1 (commencing with Section 64900).

3 (c) For purposes of this article, an amended strategy means a complete regional
4 conservation investment strategy prepared by a public agency to amend
5 substantially and to replace an approved strategy submitted by the public agency.

6 **Comment.** Section 65000 continues former Fish and Game Code Section 1854(a) without
7 substantive change.

8 Article 3. Effect

9 § 65050. Effect on public agencies

10 65050. (a) Regional conservation investment strategies shall not affect the
11 authority or discretion of any public agency and shall not be binding upon public
12 agencies other than parties to a mitigation credit agreement.

13 (b) Nothing in this title increases or decreases the authority or jurisdiction of the
14 department regarding any land use, species, habitat, area, resource, plan, process,
15 or corridor.

16 (c) Regional conservation investment strategies are intended to provide
17 scientific information for the consideration of public agencies.

18 (d) Nothing in this title or any other provision of law requires any public agency,
19 other than a public agency that is party to a mitigation credit agreement, to adopt,
20 implement, or otherwise adhere to a regional conservation investment strategy or a
21 regional conservation assessment.

22 **Comment.** Section 65050 continues former Fish and Game Code Section 1855(a) without
23 substantive change.


24 § 65055. Effect on other processes

25 65055. The approval or existence of a regional conservation investment strategy,
26 mitigation credit agreement, or credit pursuant to this title does not do any of the
27 following:

28 (a) Modify in any way the standards for issuance of incidental take permits or
29 consistency determinations pursuant to Section 62700 or 62705, issuance of take
30 authorizations pursuant to Section 64605, the issuance of lake or streambed
31 alteration agreements pursuant to Section 69750, or any other provision of this
32 code or regulations adopted pursuant to this code.

33 (b) Modify in any way the standards under the California Environmental Quality
34 Act (Division 13 (commencing with Section 21000) of the Public Resources
35 Code), or in any way limit a lead agency's or responsible agency's discretion, in
36 connection with any determination of whether a proposed project may or may not
37 result in significant environmental effects or in any way establish a presumption in
38 connection with any determination of whether a proposed project may or may not
39 result in significant environmental effects or whether a proposed project's impacts
40 would be mitigated.

- 1 (c) Prohibit or authorize any project or project impacts.
- 2 (d) Create a presumption or guarantee that any proposed project will be
- 3 approved or permitted, or that any proposed impact will be authorized, by any
- 4 state or local agency.
- 5 (e) Create a presumption that any proposed project will be disapproved or
- 6 prohibited, or that any proposed impact will be prohibited, by any state or local
- 7 agency.
- 8 (f) Alter or affect, or create additional requirements for, the general plan of the
- 9 city, county, or city and county, in which it is located.
- 10 (g) Constitute any of the following, for the purposes of the California
- 11 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
- 12 Public Resources Code):
- 13 (1) A plan, policy, or regulation adopted for the purpose of avoiding or
- 14 mitigating an environmental effect.
- 15 (2) A local policy or ordinance protecting biological resources.
- 16 (3) An adopted local, regional, or state habitat conservation plan.
- 17 **Comment.** Section 65055 continues former Fish and Game Code Section 1855(b) without
- 18 substantive change.

 **Note.** Existing Section 1855(b) refers to “the issuance of lake or streambed alteration agreements pursuant to Section 1602...” In proposed Section 65055, the reference to Section 1602 has been narrowed to refer to subdivision (a) of that section, the part of the section that authorizes the issuance of such agreements (proposed Section 69750). **The Commission invites comment on whether that revision would cause a problem.**


24 § 65060. Effect on project proponent

25 65060. (a) Nothing in this title shall require a project proponent seeking to
26 provide compensatory mitigation pursuant to Section 62700, 62705, or 64605, or
27 the California Environmental Quality Act (Division 13 (commencing with Section
28 21000) of the Public Resources Code) to take any of the following actions:

- 29 (1) Undertake conservation actions or habitat enhancement actions identified in
- 30 a regional conservation investment strategy.
- 31 (2) Implement, contribute to, fund, or otherwise comply with the actions
- 32 described in a regional conservation investment strategy.
- 33 (3) Enter into a mitigation credit agreement.
- 34 (4) Use or purchase mitigation credits established pursuant to this title to satisfy
- 35 the compensatory mitigation requirements.

36 (b) Nothing in this chapter shall prevent a project proponent from proposing
37 mitigation consistent with one or more strategies approved pursuant to this title.

38 **Comment.** Section 65060 continues former Fish and Game Code Section 1855(c) without
39 substantive change.

40  **Notes.** (1) Existing Section 1855(c) (proposed Section 65060(b)) provides that “nothing in
41 this section shall prevent a project proponent from proposing mitigation consistent with one or
42 more strategies approved pursuant to this chapter.” It is not clear which provisions of “this
43 section” (i.e., Section 1855) are intended to be covered by that disclaimer. In proposed Section

65060, the disclaimer is revised to refer to “this chapter” (which would continue Section 1855(a)-(c)). **The Commission invites comment on whether the scope of that reference should be broadened or narrowed.**

(2) Existing Section 1855(c) refers to “a project proponent seeking to provide compensatory mitigation pursuant to Section 1602” and other specified sections. There is no language in Section 1602 that clearly authorizes or requires “compensatory mitigation.” The section does authorize the imposition of “measures” to protect an adversely affected fish or wildlife resource, but it is not clear that those are understood to be “compensatory mitigation.” As a tentative measure, the reference to Section 1602 has not been continued in proposed Section 65060. **The Commission invites comment on whether the reference to Section 1602 should be included and, if so, which portion of Section 1602 is relevant to the reference.**

CHAPTER 4. MITIGATION CREDITS

§ 65100. Creation

65100. (a) A conservation action or habitat enhancement action that measurably advances the conservation objectives of an approved regional conservation investment strategy may be used to create mitigation credits that can be used to compensate for impacts to focal species and other species, habitat, and other natural resources, as provided in this chapter.

(b) The requirements of this chapter apply only to the creation of mitigation credits under mitigation credit agreements pursuant to this chapter and do not establish requirements for other forms of compensatory mitigation.

Comment. Section 65100 continues former Fish and Game Code Section 1856(a) without substantive change.

§ 65105. Requirements

65105. For a conservation action or habitat enhancement action identified in a regional conservation investment strategy to be used to create mitigation credits pursuant to this chapter, the regional conservation investment strategy shall include, in addition to the requirements of Article 1 (commencing with Section 64900) of Chapter 3, all of the following:

(a) An adaptive management and monitoring strategy for conserved habitat and other conserved natural resources.

(b) A process for updating the scientific information used in the strategy, and for tracking the progress of, and evaluating the effectiveness of, conservation actions and habitat enhancement actions identified in the strategy, in offsetting identified threats to focal species and in achieving the strategy’s biological goals and objectives, at least once every 10 years, until all mitigation credits are used.

(c) Identification of a public or private entity that will be responsible for the updates and evaluation required pursuant to subdivision (b).

Comment. Section 65105 continues former Fish and Game Code Section 1856(b) without substantive change.

1 **§ 65110. Use of mitigation credits**

2 65110. A mitigation credit created in accordance with this chapter may be used
3 to fulfill, in whole or in part, compensatory mitigation requirements established
4 under any state or federal environmental law, as determined by the applicable
5 local, state, or federal regulatory agency, including, but not limited to, the
6 following:

7 (a) To compensate for take or other adverse impacts of activities authorized
8 pursuant to Part 1 (commencing with Section 62000) within the regional
9 conservation investment strategy area.

10 (b) To reduce adverse impacts to fish or wildlife resources, or both, from
11 activities authorized pursuant to Title 3 (commencing with Section 69700) of Part
12 4 within the regional conservation investment strategy area to less than substantial.

13 (c) To mitigate significant effects on the environment within the regional
14 conservation investment strategy area pursuant to the California Environmental
15 Quality Act (Division 13 (commencing with Section 21000) of the Public
16 Resources Code) and Guidelines for Implementation of the California
17 Environmental Quality Act (Chapter 3 (commencing with Section 15000) of
18 Division 6 of Title 14 of the California Code of Regulations).

19 **Comment.** Section 65110 continues former Fish and Game Code Section 1856(c) without
20 substantive change.

21 **§ 65115. Long-term durability of enhancement action**

22 65115. (a) The department shall ensure the long-term durability of a habitat
23 enhancement action.

24 (b) If a habitat enhancement action is used to create one or more mitigation
25 credits pursuant to this chapter, the habitat enhancement action shall remain in
26 effect at least until the site of the environmental impact is returned to preimpact
27 ecological conditions.

28 **Comment.** Section 65115 continues former Fish and Game Code Section 1856(d) without
29 substantive change.

30 **§ 65120. Mitigation credit agreement**

31 65120. (a) To create mitigation credits pursuant to this chapter, a person or
32 entity, including a state or local agency, shall enter into a mitigation credit
33 agreement with the department.

34 (b) The mitigation credit agreement shall identify the type and number of
35 mitigation credits proposed to be created and the terms and conditions under
36 which the mitigation credits may be used.

37 (c) Mitigation credits shall not be created on a site that has already been
38 permanently protected and has been used, or is currently in use, to fulfill
39 compensatory mitigation requirements for one or more projects.

1 (d) The person or entity may create and use, sell, or otherwise transfer the
2 mitigation credits upon department approval that the credits have been created in
3 accordance with the agreement.

4 **Comment.** Section 65120 continues former Fish and Game Code Section 1856(e) without
5 substantive change.

6 **§ 65125. Creation process**

7 65125. (a) To enter into a mitigation credit agreement with the department, a
8 person or entity shall submit a draft mitigation credit agreement to the department
9 for its review, revision, and approval or disapproval.

10 (b) Within five days of deeming a draft agreement complete, the department
11 shall publish notice of the availability of the draft agreement by filing its notice
12 with the Governor's Office of Planning and Research and the city and county
13 clerks of each county in which the agreement is applicable in part or in whole and
14 shall make the draft agreement available to the public on its Internet Web site, and
15 to any public agency, organization, or individual who has filed a written request to
16 the department for notices regarding agreements, for review and comment for a
17 period of at least 45 days.

18 (c) Following the notice period required by subdivision (b), the department shall
19 respond to written comments submitted during the public comment period and
20 may approve the agreement, approve it with revisions, or disapprove it.

21 (d) The department may enter into a mitigation credit agreement if it determines
22 that the mitigation credit agreement does all of the following:

23 (1) Provides contact information for, and establishes the qualifications of, the
24 person or entity entering into the agreement, the entity that will manage the site of
25 the conservation action or habitat enhancement action, and any contractors or
26 consultants.

27 (2) Fully describes the proposed conservation actions or habitat enhancement
28 actions and explains how, and to what extent, they will measurably advance
29 conservation objectives of the regional conservation investment strategy that have
30 not yet been achieved.

31 (3) Identifies the location of the conservation actions or habitat enhancement
32 actions, including a location map, address, and size of the site where the proposed
33 conservation action or habitat enhancement action will be implemented.

34 (4) Provides color aerial and ground-level photographs that reflect current
35 conditions on the site and surrounding properties.

36 (5) Explains how the mitigation credits will be created, including, but not
37 limited to, information regarding proposed ownership arrangements, long-term
38 management strategy, and any phases of implementation.

39 (6) Identifies mitigation banks and conservation banks approved by the
40 department as a mitigation alternative and explains how available mitigation
41 credits at those banks will be purchased or used in combination with the mitigation
42 credits created under the mitigation credit agreement or, if those available

1 mitigation credits will not be purchased or used, why they will not be purchased or
2 used.

3 (7) Includes a natural resources evaluation that documents biotic and abiotic
4 baseline conditions, including past, current, and adjacent land uses, vegetation
5 types, species information, topography, hydrology, and soil types.

6 (8) Identifies public lands and permanently protected lands in the vicinity of the
7 conservation actions or habitat enhancement actions.

8 (9) Fully describes the proposed type and quantity of mitigation credits and the
9 supporting rationale. Mitigation credits created pursuant to this chapter shall
10 directly correlate to the focal species and other species, habitat, and other natural
11 resources protected by the conservation actions or habitat enhancement actions.

12 (10) Identifies metrics or indicators by which the proposed conservation action
13 or habitat enhancement action's contribution to achieving the strategy's
14 conservation goals and objectives can feasibly be measured with existing
15 technology. The net ecological gain from the implementation of conservation
16 actions and habitat enhancement actions that include habitat restoration shall be
17 reported using consistent metrics that measure the increment of gain in the area
18 and quality of habitat or other natural resource values compared to baseline
19 conditions described in the regional conservation investment strategy, and
20 measures the increment of gain in relation to the regional conservation investment
21 strategy's conservation objectives.

22 (11) Describes the proposed landownership of the site or sites of the
23 conservation actions or habitat enhancement actions.

24 (12) Includes a template conservation easement, or other instrument providing
25 for perpetual protection of land in a manner consistent with approved natural
26 community conservation plans within the area of the applicable regional
27 conservation investment strategy, for the sites of any conservation action and an
28 explanation of how the long-term durability of the sites of any habitat
29 enhancement actions will be ensured.

30 (13) Ensures that the implementation of the conservation action or habitat
31 enhancement action will be adequately funded and that long-term protection and
32 management of the site will be funded in accordance with Chapter 4.6
33 (commencing with Section 65965) of Division 1 of Title 7 of the Government
34 Code or, if a state agency proposed to enter into a mitigation credit agreement,
35 other comparable funding mechanism approved by the department in accordance
36 with an adopted statewide policy regarding funding for long-term management
37 and operations of mitigation sites.

38 (14) Includes a template monitoring and long-term adaptive management plan.

39 (15) Explains the terms and conditions under which the proposed mitigation
40 credits may be sold or otherwise transferred and how the proposed mitigation
41 credits will be accounted for, including the specific methods proposed for
42 reporting and maintaining a record of credit creation, release, and use, sale, or
43 transfer.

1 (16) Includes enforcement provisions.

2 (17) Ensures that, for each site on which the conservation actions or habitat
3 enhancement actions will be implemented, information consistent with, pursuant
4 to this title, the information required for a mitigation bank in subdivision (c) of
5 Section 65455 and subdivisions (b) to (h), inclusive, of Section 65505 shall be
6 prepared and submitted to the department for review for adequacy and approval
7 prior to implementation.

8 (18) Includes a proposed credit ledger and credit release schedule that meets the
9 requirements of Section 65135.

10 **Comment.** Section 65125 continues former Fish and Game Code Section 1856(f) without
11 substantive change.

12 **§ 65130. Project that quantifiably exceeds compensatory mitigation requirements**

13 65130. (a) Mitigation credit agreements may be used to establish the terms and
14 conditions under which mitigation credits can be created by projects that improve
15 wildlife habitat, or that address stressors to wildlife, to an extent that quantifiably
16 exceeds compensatory mitigation requirements established by the department for
17 those projects pursuant to Title 3 (commencing with Section 69700) of Part 4 or
18 Part 1 (commencing with Section 62000).

19 (b) Those projects may include, but are not limited to:

20 (1) The construction of setback levees that result in the creation of more
21 floodplain or riparian habitat than is required to compensate for construction
22 impacts.

23 (2) The construction of transportation facility improvements that remove
24 barriers to fish or wildlife movement and thereby improve the quality of habitat or
25 address stressors to wildlife to a greater extent than is required to compensate for
26 construction impacts.

27 (c) For those projects, the project proponent may submit a draft mitigation credit
28 agreement that proposes the terms and conditions under which mitigation credits
29 may be created and used by or in conjunction with those projects to the department
30 for its review, revision, and approval. The submission may occur concurrently
31 with, or after, an application submitted pursuant to Part 1 (commencing with
32 Section 62000) or a notice submitted pursuant to Title 3 (commencing with
33 Section 69700) of Part 4 or may occur after the application or notice is submitted.
34 Where a draft mitigation agreement is submitted concurrently with the application
35 or notice, the department shall review the draft mitigation credit agreement
36 concurrently with its review of the application or notice and shall, to the maximum
37 extent practicable, complete its review of both the notice or application and the
38 draft agreement concurrently.

39 (d) Mitigation credit agreements submitted to the department pursuant to this
40 section may comply with the requirements of Section 65135 with a credit release
41 schedule related to construction of the project that will improve wildlife habitat, or
42 will address stressors to wildlife, to an extent that exceeds compensatory

1 mitigation requirements quantifiably. For those projects, construction of the
2 project may be a performance-based milestone required by subdivision (b) of
3 Section 65135.

4 **Comment.** Section 65130 continues former Fish and Game Code Section 1856(h) without
5 substantive change.

6 **§ 65135. Release of mitigation credits**

7 65135. (a) The release of mitigation credits for use, sale, or transfer under a
8 mitigation credit agreement shall require the department's approval in accordance
9 with this section.

10 (b) The release of mitigation credits shall be tied to performance-based
11 milestones and achievement of ecological performance standards. The credit
12 release schedule for each mitigation credit agreement shall reserve a substantial
13 share of the total credits for release after those ecological performance standards
14 are fully achieved.

15 (c) Performance-based milestones shall include, but are not be limited to, the
16 following:

17 (1) Recording a conservation easement consistent with approved natural
18 community conservation plans within the area of the applicable regional
19 conservation investment strategy on the site of a conservation action, or putting
20 into place measures that ensure the long-term durability of a habitat enhancement
21 action in accordance with Section 65115.

22 (2) Completing construction of a habitat restoration action.

23 (3) Achieving temporal ecological performance standards for habitat restoration,
24 such as standards established for one year, three years, or five years following the
25 initiation of habitat restoration.

26 (4) Fully achieving ecological performance standards.

27 (5) The terms of the credit release schedule shall be specified in the mitigation
28 credit agreement. When conservation actions and habitat enhancement actions are
29 implemented and meet the performance-based milestones specified in the credit
30 release schedule, credits shall be created in accordance with the credit release
31 schedule. If a conservation action or habitat enhancement action does not meet
32 performance-based milestones, the department may suspend the release of credits,
33 reduce the number of credits, or otherwise modify the credit release schedule
34 accordingly.

35 (d) In order for mitigation credits to be released, the person or entity that has
36 entered into a mitigation credit agreement shall demonstrate to the department that
37 the appropriate performance-based milestones for credit release have been met.
38 The department shall determine whether the milestones have been met and the
39 credits may be released.

40 **Comment.** Section 65135 continues former Fish and Game Code Section 1856(g) without
41 substantive change.

1 **§ 65140. Effect on conservation bank or mitigation bank**

2 65140. Nothing in this title is intended to limit or impose additional conditions
3 on the creation or sale of mitigation credits by a conservation bank or mitigation
4 bank approved by the department pursuant to Title 3 (commencing with Section
5 65300).

6 **Comment.** Section 65140 continues former Fish and Game Code Section 1856(i) without
7 substantive change.

8 **§ 65145. Application to natural community conservation plan**

9 65145. (a) The creation of mitigation credits pursuant to this chapter from a
10 conservation action or habitat enhancement action implemented within the plan
11 area of an approved natural community conservation plan shall not duplicate or
12 replace mitigation requirements set forth in the natural community conservation
13 plan and shall require the advance written approval of the plan's implementing
14 entity.

15 (b) Mitigation credits created pursuant to this chapter may be used for covered
16 activities under an approved natural community conservation plan only in
17 accordance with the requirements of the plan.

18 (c) Individuals and entities eligible for coverage as a participating special entity
19 under an approved natural community conservation plan may use mitigation
20 credits created pursuant to this chapter only if the plan's implementing entity
21 declines to extend coverage to the covered activity proposed by the eligible
22 individual or entity.

23 **Comment.** Section 65145 continues former Fish and Game Code Section 1856(j) without
24 substantive change.

25 **§ 65150. Application to Delta water conveyance facilities**

26 65150. Mitigation credits provided by this title shall not be utilized to fund or
27 offset the costs of the design, construction, or mitigation of new Delta water
28 conveyance facilities.

29 **Comment.** Section 65150 continues former Fish and Game Code Section 1855(d) without
30 substantive change.

31 **§ 65155. Internet publication**

32 65155. The department shall make project mitigation credit and release
33 information, including the demonstration submitted pursuant to subdivision (d) of
34 Section 65135, publicly available on the department's Internet Web site.

35 **Comment.** Section 65155 continues former Fish and Game Code Section 1856(k) without
36 substantive change.

1 TITLE 4. CONSERVATION BANK AND
2 MITIGATION BANK APPLICATIONS AND FEES

3 CHAPTER 1. GENERAL PROVISIONS

4 Article 1. Findings and Declarations

5 § 65300. Findings and declarations

6 65300. The Legislature finds and declares as follows:

7 (a) Mitigation banks and conservation banks provide for the conservation of
8 important habitats and habitat linkages, take advantage of economies of scale that
9 are often not available to individualized mitigation projects, and simplify the state
10 regulatory compliance process while achieving conservation goals.

11 (b) The department authorizes the establishment of private and public
12 conservation and mitigation banks that can provide viable consolidated mitigation
13 for adverse impacts caused by projects. Banks sell habitat or species credits to
14 project proponents having mitigation responsibilities that require compensation for
15 impacts to wetlands, threatened or endangered species, and other sensitive
16 resources. The state policy on conservation banks was established in 1995 by the
17 Natural Resources Agency and the California Environmental Protection Agency.

18 (c) In 2011, the department and other state and federal agencies, including the
19 United States Fish and Wildlife Service, the National Marine Fisheries Service,
20 the United States Army Corps of Engineers, and the United States Environmental
21 Protection Agency, renewed a memorandum of understanding for the purpose of
22 jointly establishing a framework for developing and using combined or
23 coordinated approaches to mitigation and conservation banking in the state. The
24 memorandum of understanding includes provisions for the development and
25 continuous improvement of standardized banking program documents and
26 guidance. Existing standardized documents identified in the memorandum of
27 understanding include bank enabling instruments, conservation easements, long-
28 term management plans, and bank proposal review checklists, among others.

29 (d) The department has properly excluded from being eligible as mitigation and
30 conservation banks those lands that are not suitable to become banks, for reasons
31 that include that the lands do not support significant biological resources or are not
32 biologically viable, are subject to potentially inconsistent uses, encumbrances, or
33 requirements, or would not meet requirements of permits or authorizations that
34 require mitigation.

35 (e) Greater transparency is desired to ensure that mitigation requirements of
36 regulatory programs, permits, and authorizations are fully met when employing
37 conservation and mitigation banks, and that the monitoring of banks to ensure
38 long-term conservation of species and habitats is scientifically valid.

1 (f) The private and public mitigation and conservation banks and the private and
2 public entities to which bank credits are sold should fully fund the administrative
3 and regulatory costs of the department in providing banking program services,
4 administration and oversight.

5 (g) The department has found that the establishment and use of conservation and
6 mitigation banks may result in added ecological benefits and reduced
7 administrative costs over the more traditional forms of smaller, single-purpose
8 mitigation projects.

9 (h) It is the intent of the Legislature that banking and all other forms of
10 mitigation for wildlife species comply with regulatory requirements, are based on
11 the best available scientific information, can be implemented successfully, and
12 have adequate funding to achieve mitigation measures and be monitored for
13 compliance and effectiveness. The Legislature recognizes that mitigation and
14 conservation banking is important to the state because banks provide regulatory
15 efficiencies, environmental benefits, and economic advantages. Properly
16 developed and monitored banks have demonstrated their value and efficacy and
17 are important tools in mitigating impacts to resources and in conserving a wide
18 range of habitat lands.

19 **Comment.** Section 65300 continues former Fish and Game Code Section 1797 without
20 substantive change.

21 Article 2. Definitions

22 § 65305. Application

23 65305. The definitions in this article govern this title.

24 **Comment.** Section 65305 restates the introductory clause of former Fish and Game Code
25 Section 1797.5 without substantive change.

26 § 65310. Bank

27 65310. “Bank” means a conservation bank, mitigation bank, or conservation and
28 mitigation bank.

29 **Comment.** Section 65310 continues former Fish and Game Code Section 1797.5(a) without
30 substantive change.

31 § 65315. Bank enabling instrument

32 65315. “Bank enabling instrument” means a written agreement with the
33 department regarding the establishment, use, operation, and maintenance of the
34 bank.

35 **Comment.** Section 65315 continues former Fish and Game Code Section 1797.5(b) without
36 substantive change.

1 **§ 65320. Bank sponsor**

2 65320. “Bank sponsor” means the person or entity responsible for establishing
3 and operating a bank.

4 **Comment.** Section 65320 continues former Fish and Game Code Section 1797.5(c) without
5 substantive change.

6 **§ 65325. Conservation bank**

7 65325. “Conservation bank” means a publicly or privately owned and operated
8 site that is to be conserved and managed in accordance with a written agreement
9 with the department that includes provisions for the issuance of credits, on which
10 important habitat, including habitat for threatened, endangered, or other special
11 status species, exists, has been, or will be created to do any of the following:

12 (a) Compensate for take or other adverse impacts of activities authorized
13 pursuant to Part 1 (commencing with Section 62000).

14 (b) Reduce adverse impacts to fish or wildlife resources from activities,
15 authorized pursuant to Title 3 (commencing with Section 69700) of Part 4, to less
16 than substantial.

17 (3) Mitigate significant effects on the environment pursuant to the California
18 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
19 Public Resources Code) and Guidelines for Implementation of the California
20 Environmental Quality Act (Chapter 3 (commencing with Section 15000) of
21 Division 6 of Title 14 of the California Code of Regulations).

22 (d) Establish mitigation in advance of any impacts or effects.

23 (e) To the extent feasible and practicable, protect habitat connectivity for fish
24 and wildlife resources for purposes of this article.

25 **Comment.** Section 65325 continues former Fish and Game Code Section 1797.5(d) without
26 substantive change.

27 **§ 65330. Conservation easement**

28 65330. “Conservation easement” means a perpetual conservation easement, as
29 defined by Section 815.1 of the Civil Code, covering the real property that
30 comprises the bank site.

31 **Comment.** Section 65330 continues former Fish and Game Code Section 1797.5(e) without
32 substantive change.

33 **§ 65335. Mitigation bank**

34 65335. “Mitigation bank” means either of the following:

35 (a) A bank site or mitigation bank site as defined by Section 65855.

36 (b) Any publicly or privately owned and operated site, other than those defined
37 by Section 65855, on which wetlands exist, have been, or will be created, and that
38 is to be conserved and managed in accordance with a written agreement with the
39 department for any of the purposes described in subdivisions (a) to (d), inclusive,
40 of Section 65325.

1 **Comment.** Section 65335 continues former Fish and Game Code Section 1797.5(f) without
2 substantive change.

3 **§ 65340. Person**

4 65340. “Person” has the meaning set forth in subdivision (i) of Section 9100.

5 **Comment.** Section 65340 continues former Fish and Game Code Section 1797.5(g) without
6 substantive change.

7 **§ 65345. Prospectus**

8 65345. “Prospectus” means a written summary of the proposed bank containing
9 a sufficient level of detail to support informed department review and comment.

10 **Comment.** Section 65345 continues former Fish and Game Code Section 1797.5(h) without
11 substantive change.

12 Article 3. Scope

13 **§ 65400. Submissions prior to January 1, 2013**

14 65400. A bank prospectus, agreement, or amendment package submitted to the
15 department, but not approved as of January 1, 2013, shall be reviewed for
16 completeness or acceptability in accordance with the timelines provided by this
17 title and only after the department has collected all appropriate fees pursuant to
18 this title.

19 **Comment.** Section 65400 continues former Fish and Game Code Section 1798.7 without
20 substantive change.

21 CHAPTER 2. APPLICATION PROCEDURE

22 Article 1. Prospectus

23 **§ 65450. Optional draft prospectus**

24 65450. (a) Any person interested in establishing any bank with the department
25 may elect to submit an optional draft prospectus for review by the department.

26 (b) Any draft prospectus shall be accompanied by a draft prospectus review fee
27 of one thousand five hundred dollars (\$1,500) to fund the reasonable cost of the
28 department’s review services.

29 (c) The draft prospectus review, while optional, is intended to identify potential
30 issues early so that the potential bank sponsor may attempt to address those issues
31 prior to initiating the formal review process.

32 (d) The draft prospectus is a brief proposal submitted when scoping the concept
33 of a bank, contemplating pursuing a bank idea, or for those new to the banking
34 process.

35 (e) No later than 30 calendar days after the department receives a draft
36 prospectus and review fee, the department shall make an initial evaluation of the

1 proposed concept and notify the person who submitted the draft prospectus of
2 potential issues identified by the department.

3 **Comment.** Section 65450 continues former Fish and Game Code Section 1798(a) without
4 substantive change.

5 **§ 65455. Submission**

6 65455. (a) Any person seeking to establish a bank with the department shall
7 submit a bank prospectus to the department together with a prospectus review fee
8 of ten thousand dollars (\$10,000) to fund the reasonable cost of the department's
9 review services.

10 (b) If a draft prospectus and the review fee have been submitted pursuant to
11 Section 65450, then the review fee for the bank prospectus shall be eight thousand
12 five hundred dollars (\$8,500) so as not to exceed a total fee of ten thousand dollars
13 (\$10,000).

14 (c) The bank prospectus shall contain at least all of the following information:

15 (1) The proposed bank name.

16 (2) Contact information, including, but not limited to, the bank sponsor, property
17 owner, and any consultants.

18 (3) A general location map, address, and the size of the proposed bank in acres.

19 (4) A 7.5-minute United States Geological Survey map showing proposed
20 boundaries of the bank.

21 (5) Color aerial photographs that reflect current conditions on the site of the
22 proposed bank and surrounding properties.

23 (6) Description of how the bank will be established and operated, including, but
24 not limited to, proposed ownership arrangements, long-term management strategy,
25 and any phases.

26 (7) Qualifications of bank sponsor.

27 (8) Preliminary natural resources surveys that document biotic and abiotic
28 baseline conditions, including past, current, and adjacent land uses, vegetation
29 types, species information, topography, hydrology, and soil types.

30 (9) Map of proposed bank service areas.

31 (10) Map depicting other conserved lands in the vicinity of the proposed bank.

32 (11) Description of bank objectives that includes how the proposed bank would
33 contribute to connectivity and ecosystem function.

34 (12) A current preliminary report covering the site of the proposed bank that
35 identifies the owner of the fee simple title and shows all liens, easements, and
36 other encumbrances and depicts all relevant property lines, easements, dedications,
37 and other features.

38 (13) A declaration of whether or not the proposed bank site has been or is being
39 used as mitigation, is designated or dedicated for park or open space use, or
40 designated for purposes that may be inconsistent with habitat preservation.

41 (14) Details of any public funding received for acquisition or restoration of, or
42 other purposes related to, the proposed bank site.

Comment. Section 65455 continues former Fish and Game Code Section 1798(b) without substantive change.

§ 65460. Review

65460. (a) No later than 30 calendar days after the department receives a bank prospectus and the prospectus review fee, the department shall determine whether or not the prospectus is complete and provide written notice of its determination to the person who submitted the prospectus.

(b) If a prospectus is not complete, it may be made complete and resubmitted.

(c) If the department determines that the prospectus is complete, then within 90 calendar days of that determination, the department shall determine whether or not the prospectus is acceptable and notify the person who submitted the prospectus of the determination.

(d) The department may request clarifying information during the prospectus review process.

Comment. Section 65460 continues former Fish and Game Code Section 1798(c)-(d) without substantive change.

§ 65465. Decision

65465. (a) If the department determines that a bank prospectus is acceptable then a bank agreement package may be submitted in accordance with Article 2 (commencing with Section 65500).

(b) If the department determines that a bank prospectus is not acceptable the department shall state the reasons for the determination. The prospectus may be resubmitted in accordance with Section 65450 if further consideration is desired. Any resubmittal must be accompanied by payment of a new prospectus review fee.

Comment. Section 65465 continues former Fish and Game Code Section 1798(e) without substantive change.

Note. Existing Section 1798(e)(2) (proposed Section 65465(b)) provides that, on disapproval of a bank prospectus, the applicant can resubmit for further consideration “in accordance with subdivision (a).” That reference seems odd. Section 1798(a) establishes an *optional* procedure for submission of a *draft* prospectus, for advisory review. By contrast, Section 1798(b) provides the procedure for submission of a *final* bank prospectus, for determinative review. It is not clear why Section 1798(e)(2) would require submission of a draft prospectus, rather than a revised version of a final prospectus. **The Commission invites comment on whether the reference to Section 1798(a) is erroneous.**

§ 65470. Guidelines

65470. The department may adopt and amend guidelines and criteria for the purposes of this article pursuant to Section 65680.

Comment. Section 65470 continues former Fish and Game Code Section 1798(f) without substantive change.

Article 2. Bank Agreement Package

§ 65500. Submission

65500. (a) If the department determines that a bank prospectus is acceptable pursuant to Article 1 (commencing with Section 65450), the person seeking to establish the bank may submit a bank agreement package to the department.

(b) Pursuant to Section 65685, the department may adopt and amend guidelines and criteria for the bank agreement package, including, but not limited to, recommended standard forms for bank enabling instruments or long-term management plan and conservation easements.

Comment. Section 65500 continues former Fish and Game Code Section 1798.5(a)(1) without substantive change.

Note. Existing Section 1798.5(a)(1) (proposed Section 65500(b)) provides that the department may adopt guidelines and criteria for a bank package agreement “pursuant to subdivision (b) of Section 1799.1.” That reference appears to be incorrect. Section 1799.1(b) has no obvious connection to the purpose of the cross-reference. It specifies a rule for the deposit of certain fees. However, Section 1799.1(c) does address the adoption of guidelines and criteria. In proposed Section 65500(b), the cross-reference has been changed to refer to the provision that continues Section 1799.1(c) (proposed Section 65685). **The Commission invites comment on whether that change would cause any problems.**

§ 65505. Content

65505. The bank agreement package shall be consistent with the prospectus and contain at least all of the following information:

(a) The draft bank enabling instrument and all exhibits.

(b) Drafts of the interim management plan, long-term management plan, bank closure plan, and, if applicable, a development or construction plan for the bank.

(c) A draft conservation easement, or if potential state ownership is contemplated by the department, a draft grant deed.

(d) A map and written description of the proposed bank service area.

(e) A proposed credit ledger and credit release schedule for the bank.

(f) A property analysis record or other comparable economic analysis of the funding necessary to support bank maintenance activities, such as monitoring and reporting, in perpetuity.

(g) Estimates of financial assurances and proposed forms of security. Proposed forms of security may be either cash or a letter of credit.

(h) A phase I environmental site assessment of the site of the proposed bank dated not more than six months prior to the date the bank agreement package is submitted to the department. This assessment shall be performed in accordance with the American Society of Testing and Materials Standard E1527-05 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process” or any successive ASTM standard active at the time of the assessment.

1 **Comment.** Section 65505 continues former Fish and Game Code Section 1798.5(a)(2) without
2 substantive change.

3 **§ 65510. Fee**

4 65510. The department shall collect a fee of twenty-five thousand dollars
5 (\$25,000) per bank agreement package to fund the cost of the department's review
6 services. The fee shall be collected at the time the bank agreement package is
7 submitted to the department.

8 **Comment.** Section 65510 continues former Fish and Game Code Section 1798.5(b) without
9 substantive change.

10 **§ 65515. Review**

11 65515. (a) Within 30 calendar days following the department's receipt of a bank
12 agreement package and fee pursuant to Section 65500, the department shall
13 determine whether or not the package is complete and give written notice of the
14 determination to the person who submitted the package.

15 (b) If the department determines that the bank agreement package is not
16 complete, it may be made complete and resubmitted.

17 (c) If the department determines that the bank agreement package is complete,
18 within 90 calendar days of that determination, the department shall determine
19 whether or not it is acceptable and notify the person who submitted the package of
20 the determination. If the department determines that the bank agreement package
21 is not acceptable, the department shall state the reasons.

22 (d) The department may request clarifying information during the bank
23 agreement review process.

24 **Comment.** Section 65515 continues former Fish and Game Code Section 1798.5(c)-(d)
25 without substantive change.

26 **§ 65520. Request for supplemental information**

27 65520. (a) If the department needs supplemental information during its review
28 of the bank agreement package in order to fully evaluate the proposed bank, the
29 regional manager or departmental equivalent, or a higher level department
30 employee, shall provide the person seeking to establish the bank a written request
31 for the needed information.

32 (b) Upon the department's receipt of the requested information, a new 90-day
33 period shall begin during which the department shall determine acceptability
34 pursuant to subdivision (c) of Section 65515.

35 (c) If the department does not receive the requested information within 60
36 calendar days of the department's request, the bank agreement package will be
37 deemed unacceptable.

38 **Comment.** Section 65520 continues former Fish and Game Code Section 1798.5(e) without
39 substantive change.

1 **§ 65525. Changes proposed by applicant during review**

2 65525. (a) If the person seeking to establish the bank proposes changes to the
3 bank agreement package that have not been solicited by the department during its
4 90-day review period, including, but not limited to, parties, number or type of
5 credits, bank size, number or type of species, credit release schedule, service area,
6 design change, or other changes as identified by the department as necessitating
7 additional review time, the department, acting through the regional manager or
8 department equivalent, or a higher level department employee, shall assess a one-
9 time fee of ten thousand dollars (\$10,000) to cover the reasonable cost of the
10 department's services in reviewing the changes.

11 (b) A new 90-day review period shall begin upon the department's receipt of the
12 proposed changes and the associated review fee, during which it will determine
13 acceptability pursuant to subdivision (c) of Section 65515.

14 **Comment.** Section 65525 continues former Fish and Game Code Section 1798.5(f) without
15 substantive change.

16 **§ 65530. Extension of time for review**

17 65530. If the department determines that 90 days is insufficient time to complete
18 its review of the bank agreement package for reasons including, but not limited to,
19 the size, location, or complexity of the bank, that the package includes a
20 development or construction plan, complexity of the bank agreement package, or
21 substantial variations from recommended standard forms, the department may
22 extend the 90-day period for reviewing the bank agreement package by an
23 additional 60 calendar days.

24 **Comment.** Section 65530 continues former Fish and Game Code Section 1798.5(g) without
25 substantive change.

26 **§ 65535. Resubmission after negative determination**

27 65535. (a) If the department determines that a bank agreement package is not
28 acceptable, the package may be resubmitted in accordance with Section 65500 if
29 further consideration is desired.

30 (b) Any resubmittal shall be accompanied by payment of a new bank agreement
31 package review fee.

32 **Comment.** Section 65535 continues former Fish and Game Code Section 1798.5(h) without
33 substantive change.

34 Article 3. Bank Amendment

35 **§ 65550. Submission**

36 65550. (a) Any person seeking to amend any bank shall submit to the
37 department a complete bank amendment package containing each of the original
38 bank agreement package documents, including any prior amendments, as well as

1 any documents proposed to be amended or that would be affected by the proposed
2 amendment.

3 (b) The department may adopt and amend guidelines and criteria for the bank
4 amendment package pursuant to Section 65685.

5 **Comment.** Section 65550 continues former Fish and Game Code Section 1798.6(a) without
6 substantive change.

7 **Note.** Existing Section 1798.6(a) (proposed Section 65550(b)) provides that the department
8 may adopt guidelines and criteria for a bank amendment package “pursuant to subdivision (b) of
9 Section 1799.1.” That reference appears to be incorrect. Section 1799.1(b) has no obvious
10 connection to the purpose of the cross-reference. It specifies a rule for the deposit of certain fees.
11 However, Section 1799.1(c) does address the adoption of guidelines and criteria. In proposed
12 Section 65550(b), the cross-reference has been changed to refer to the provision that continues
13 Section 1799.1(c) (proposed Section 65685). **The Commission invites comment on whether**
14 **that change would cause any problems.**

15 **§ 65555. Review**

16 65555. (a) Within 30 calendar days following its receipt of a draft bank
17 amendment package and any fee required by Sections 65560 and 65565, the
18 department shall determine whether or not the package is complete and give
19 written notice of that determination to the person who submitted the package.

20 (b) If the department determines that the bank amendment package is complete,
21 then within 90 calendar days of that determination, the department shall determine
22 whether or not the package is acceptable and notify the person who submitted the
23 package of that determination.

24 (c) If the bank amendment package is determined not to be acceptable, the
25 determination shall state the reasons.

26 (d) The department may request clarifying information during the bank
27 amendment review process.

28 **Comment.** Section 65555 continues the first four sentences of former Fish and Game Code
29 Section 1798.6(b) without substantive change.

30 **§ 65560. Fee amount**

31 65560. (a) The department shall collect a fee of either seven thousand five
32 hundred dollars (\$7,500) or twenty-five thousand dollars (\$25,000) per bank
33 amendment package to fund the reasonable cost of the department’s review
34 services.

35 (b) The fee of seven thousand five hundred dollars (\$7,500) is intended to cover
36 the reasonable cost of the department’s services in reviewing simple amendments,
37 such as a change in bank name, ownership change, address change, or proposed
38 decrease in the number of credits proposed.

39 (c) The fee of twenty-five thousand dollars (\$25,000) is intended to cover the
40 reasonable cost of the department’s services in reviewing all other amendments,
41 including, but not limited to, requests for increase change in service area, or
42 increase in the number of credits.

1 (d) A regional manager or department equivalent, or a higher level department
2 representative employee, shall determine which of the two fees is appropriate and
3 shall provide notification of that determination to the person who submitted the
4 request for bank amendment package pursuant to subdivisions (b) through (d),
5 inclusive, of Section 65565.

6 **Comment.** Section 65560 continues former Fish and Game Code Section 1798.6(c)(1) without
7 substantive change.

8 **§ 65565. Payment of fee**

9 65565. (a) An initial fee of seven thousand five hundred dollars (\$7,500) shall
10 be submitted to the department with the bank amendment package.

11 (b) Within 30 calendar days following the department's receipt of a bank
12 amendment package and the initial fee, pursuant to subdivision (a), the department
13 shall determine whether or not the package is complete and give written notice of
14 the determination to the person who submitted it and, if applicable, notice pursuant
15 to Section 65560 that the person shall remit an additional fee of seventeen
16 thousand five hundred dollars (\$17,500).

17 (c) If noticed by the department, the additional fee of seventeen thousand five
18 hundred dollars (\$17,500) shall be submitted to the department within 30 days of
19 the notice.

20 (d) If the additional fee is not received by this date, the review timelines in this
21 article shall be suspended until the fee is received by the department.

22 **Comment.** Section 65565 continues former Fish and Game Code Section 1798.6(c)(2)-(3)
23 without substantive change.

24 **§ 65570. Decision**

25 65570. (a) If the department determines that the bank amendment package is not
26 complete, the package may be made complete and resubmitted.

27 (b) If the department determines that the bank amendment package is complete,
28 then within 90 calendar days of that determination and the receipt of the additional
29 fee pursuant to subdivisions (b) through (d), inclusive, of Section 65565, if
30 applicable, the department shall determine whether or not the bank amendment
31 package is acceptable and notify the person who submitted the package of the
32 determination.

33 (c) If the department determines that the bank amendment package is not
34 acceptable the determination shall state the reasons.

35 (d) The department may request clarifying information during the bank
36 amendment review process.

37 **Comment.** Section 65570 continues former Fish and Game Code Section 1798.6(c)(4) & (d)
38 without substantive change.

1 **§ 65575. Request for supplemental information**

2 65575. (a) If the department needs supplemental information during its review
3 of the bank amendment package in order to fully evaluate the proposed
4 amendment, the regional manager or department equivalent, or a higher level
5 department employee, shall provide the person seeking to amend the bank, in
6 writing, a written request for the needed information.

7 (b) Upon the department's receipt of the requested information, a new 90-day
8 period shall begin during which the department will determine acceptability
9 pursuant to subdivisions (a) and (b) of Section 65570.

10 (c) If the department does not receive the requested information within 60
11 calendar days of the department's request, the bank amendment package shall be
12 deemed unacceptable.

13 **Comment.** Section 65575 continues former Fish and Game Code Section 1798.6(e) without
14 substantive change.

15 **§ 65580. Changes proposed by applicant during review**

16 65580. (a) If the person seeking to amend the bank proposes changes to the bank
17 amendment package that have not been solicited by the department during its the
18 department's 90-day review period, including, but not limited to, parties, number
19 or type of credits, bank size, number or type of species, credit release schedule,
20 service area, design change, or other changes as identified by the department to
21 require additional review time, the department, acting through the regional
22 manager or department equivalent, or a higher level department employee, shall
23 assess a one-time fee of ten thousand dollars (\$10,000) to cover the reasonable
24 cost of the department's services in reviewing the changes.

25 (b) A new 90-day review period shall begin upon receipt of the proposed
26 changes and the fee, during which the department shall determine acceptability
27 pursuant to subdivisions (a) and (b) of Section 65570.

28 **Comment.** Section 65580 continues former Fish and Game Code Section 1798.6(f) without
29 substantive change.

30 **§ 65585. Extension of time**

31 65585. The department may extend the 90-day period for reviewing the bank
32 amendment package by an additional 60 days if the department determines that 90
33 days is insufficient time to complete its review of a bank amendment package for
34 reasons that may include, but are not limited to, the size, location, or complexity of
35 the bank or bank amendment documents, that the package includes a development
36 plan, or that there are substantial variations from recommended standard forms.

37 **Comment.** Section 65585 continues the fifth sentence of former Fish and Game Code Section
38 1798.6(b) without substantive change.

39 **Note:** Existing Section 1798.6(b) (proposed Section 65585) seems to substantially duplicate
40 Section 1798.6(g) (proposed Section 65590). **The Commission invites comment on whether**
41 **one of those provisions can be deleted as redundant.**

1 **§ 65590. Extension of time**

2 65590. If the department determines that 90 days is insufficient time to complete
3 its review of the bank amendment package for reasons, including, but not limited
4 to, the size, location, or complexity of the bank or bank amendment package, that
5 the package includes a development or construction plan, or substantial variations
6 from recommended standard forms, the department may extend the 90-day period
7 for reviewing the bank amendment package by an additional 60 calendar days.

8 **Comment.** Section 65590 continues former Fish and Game Code Section 1798.6(g) without
9 substantive change.

10 **§ 65600. Resubmission after negative determination**

11 65600. (a) If the department determines that a bank amendment package is not
12 acceptable, then the package may be resubmitted in accordance with Section
13 65550 if further consideration is desired.

14 (b) Any resubmittal shall be accompanied by payment of all applicable bank
15 amendment package review fees.

16 **Comment.** Section 65600 continues former Fish and Game Code Section 1798.6(h) without
17 substantive change.

18 **CHAPTER 3. IMPLEMENTATION**

19 **§ 65650. General approval requirement**

20 65650. Until the department has approved a bank, in writing, and, if applicable,
21 a conservation easement has been recorded on the site, no bank shall be operative,
22 vested, or final, nor bank credits issued. No amendment to an approved bank shall
23 be effective without the written approval of the department.

24 **Comment.** Section 65650 continues former Fish and Game Code Section 1799(a) without
25 substantive change.

26 **§ 65655. Compliance review**

27 65655. Following approval of a final bank agreement package and
28 establishment of a bank, the department shall conduct compliance review activities
29 as provided in the approved bank enabling instrument.

30 **Comment.** Section 65655 continues former Fish and Game Code Section 1799(b) without
31 substantive change.

32 **§ 65660. Database**

33 65660. (a) The department shall establish and maintain a database that allows
34 bank sponsors to accurately update and add information about mitigation and
35 conservation banks.

36 (b) This data shall be available on the department's Internet Web site or
37 accessible by a link from the department's Internet Web site.

38 (c) The available information shall include, but is not limited to, the total
39 number of each type of bank credit, the types of credits sold or obligated, the

1 number of credits sold or obligated, the number of credits applied, the balance of
2 each type of credit remaining, the status of the species and habitat at the bank,
3 links to the bank's long-term management plans, and links to the complete annual
4 monitoring reports required by departmental policy.

5 (d) Information contained in the database created pursuant to former Title 2
6 (commencing with Section 64700) on January 1, 2011, shall be incorporated into
7 the database established pursuant to subdivision (a).

8 **Comment.** Section 65660 continues former Fish and Game Code Section 1799(c) without
9 substantive change.

10 **§ 65665. Annual report**

11 65665. (a) By January 1, 2014, and annually thereafter, the department shall
12 provide a report to the Legislature.

13 (b) The report shall include the following information based on data from the
14 previous calendar year:

15 (1) Number of new bank applications, prospectuses, bank agreement packages,
16 and amendments received.

17 (2) Number of bank applications approved, rejected because not complete,
18 rejected because not acceptable, and withdrawn.

19 (3) Name of new or existing bank, geographic location, number of acres,
20 number of credits approved for each habitat type or species, and number of credits
21 sold.

22 (4) An accounting of fees collected pursuant to this title.

23 (5) A statement of whether or not the timelines for bank review in this title were
24 met.

25 (6) Other information determined by the department to be relevant in assessing
26 the effectiveness of the department's mitigation and conservation banking
27 program.

28 **Comment.** Section 65665 continues former Fish and Game Code Section 1799(d) without
29 substantive change.

30 **§ 65670. Implementation and compliance fees**

31 65670. (a) The department shall collect fees to pay for all or a portion of the
32 department's bank implementation and compliance costs.

33 (b) The department shall collect a total payment of sixty thousand (\$60,000) per
34 bank, apportioned by an amount that equals the ratio of the number of credits
35 released to the total number of credits in the bank, and shall be identified in the
36 bank enabling instrument.

37 (c) Payments shall be due following each credit release no later than the due date
38 for the submission of the bank's annual report. The payments shall be submitted
39 following each credit release and no later than the time of the submission of the
40 bank's annual report.

1 (d) The department may require the bank to cease selling credits and may stop
2 credit releases until these fees are paid in full.

3 (e) The department shall assess a penalty of 10 percent of the amount of fees due
4 if there is a failure to remit the amount payable when due.

5 **Comment.** Section 65670 continues former Fish and Game Code Section 1799(e) without
6 substantive change.

7 **§ 65675. Fee adjustment**

8 65675. The department shall annually adjust the fees in this title pursuant to
9 Section 3755.

10 **Comment.** Section 65675 continues former Fish and Game Code Section 1799.1(a) without
11 substantive change.

12 **§ 65680. Deposit of fees**

13 65680. Moneys received pursuant to this title shall be deposited in a separate
14 dedicated account within the Fish and Game Preservation Fund and expended for
15 the purposes of this title.

16 **Comment.** Section 65680 continues former Fish and Game Code Section 1799.1(b) without
17 substantive change.

18 **§ 65685. Guidelines**

19 65685. (a) The department shall adopt and amend guidelines and criteria to
20 implement this title.

21 (b) The department shall develop these guidelines and criteria in coordination
22 with interested parties, including, but not limited to, bank sponsors, conservation
23 organizations, and federal and state bank approving agencies. The guidelines shall
24 incorporate all relevant documents and program guidance, including, but not
25 limited to, the 2011 Memorandum of Understanding approved by the United
26 States Fish and Wildlife Service, the United States Army Corps of Engineers, and
27 the United States Environmental Protection Agency, for the purpose of jointly
28 establishing a framework for developing and using combined or coordinated
29 approaches to mitigation and conservation banking in California. Chapter 3.5
30 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
31 Government Code shall not apply to the development, adoption, or amendment, of
32 guidelines or criteria pursuant to this section. The guidelines and criteria shall be
33 posted on the department's Internet Web site.

34 **Comment.** Section 65685 continues former Fish and Game Code Section 1799.1(c) without
35 substantive change.

36 **§ 65690. Reimbursement of costs**

37 65690. The costs of a conservation and mitigation banking program, including,
38 but not limited to, costs incurred by the department during its guideline adoption
39 and review, approval, establishment, monitoring, and oversight of banks, shall be

reimbursed from revenues of conservation and mitigation bank application fees imposed pursuant to this title.

Comment. Section 65690 continues former Fish and Game Code Section 1799.1(d) without substantive change.

Note. Existing Section 1799.1(d) refers to fees imposed pursuant to Sections 1798.5, 1798.6, and 1799. Proposed Section 65690 simplifies this reference, referring instead to fees imposed pursuant to “this title.” **The Commission does not believe that this would result in any substantive change, but invites comment on that point.**

TITLE 5. SACRAMENTO-SAN JOAQUIN VALLEY WETLANDS MITIGATION BANK ACT OF 1993

CHAPTER 1. GENERAL PROVISIONS

Article 1. Short Title

§ 65800. Short title

65800. This title shall be known and may be cited as the Sacramento-San Joaquin Valley Wetlands Mitigation Bank Act of 1993.

Comment. Section 65800 continues former Fish and Game Code Section 1775 without substantive change.

Article 2. Findings, Declarations, and Intent

§ 65805. Findings and declarations

65805. The Legislature finds and declares the following:

(a) Wetlands are an important natural resource of the Sacramento-San Joaquin Valley because they provide significant habitat for migratory waterfowl of the Pacific flyway, for endangered species, and for many other resident wildlife and fish populations. Wetlands provide additional public benefits, including water quality improvement, flood protection, stream bank stabilization, recreation, and scientific research.

(b) Active and voluntary involvement by private landowners is necessary for the long-term availability and productivity of wetlands in the Sacramento-San Joaquin Valley.

(c) Large wetland preserves in the Sacramento-San Joaquin Valley, under certain circumstances, can provide an environmentally preferable alternative to a number of small, isolated wetland preserves of the same type surrounded by urban development.

(d) It is the policy of the state with respect to the Sacramento-San Joaquin Valley:

1 (1) To provide for the protection, preservation, restoration, enhancement, and
2 expansion of the wetland habitat in the Sacramento-San Joaquin Valley.

3 (2) To promote the protection, preservation, restoration, enhancement, and
4 expansion of the Sacramento-San Joaquin Valley wetlands in concert with other
5 federal, state, and local programs, and interested parties.

6 (3) To improve cooperative efforts among private, nonprofit, and public entities
7 for the management and protection of wetlands.

8 (4) To assure that no net loss of either wetland acreage or habitat values results
9 from activities pursuant to this title in the Sacramento-San Joaquin Valley that
10 otherwise comply with state and federal law.

11 (5) To encourage and maintain a predictable, efficient, and timely regulatory
12 framework for environmentally acceptable development.

13 (6) To assure that the construction or maintenance of wetland mitigation banks
14 in the Sacramento-San Joaquin Valley does not reduce any local tax base, does not
15 create any uncompensated increased requirement for local services, and does not
16 create conditions that have the potential to adversely affect the public health.

17 (7) To provide an alternative for accomplishing offsite mitigation in the
18 Sacramento-San Joaquin Valley when offsite mitigation is required under a fill
19 permit issued pursuant to Section 404 of the federal Clean Water Act (33 U.S.C.
20 Sec. 1344 et seq.).

21 (e) This title constitutes a nonexclusive alternative to other lawful methods of
22 mitigating project impacts upon wetlands and maintaining and increasing wetlands
23 acreage and habitat values generally. Specifically, this title is not intended to, and
24 shall not be interpreted to:

25 (1) Condone or encourage the removal, loss, or degradation of wetlands.

26 (2) Condone or encourage the removal, loss, or degradation of habitat for any
27 rare, threatened, or endangered species.

28 (3) Abrogate any other local, state, or federal law or policy relating to wetlands,
29 nor prohibit any city or county from prohibiting the removal, filling, or other
30 destruction of particular wetlands.

31 (4) Establish maximum or minimum standards or any other requirements for
32 wetland fill or mitigation, except for mitigation banks established pursuant to this
33 title.

34 (5) Have legal or necessary precedential application to any other area of the
35 state, or to other lands, resources, situations, or circumstances.

36 (6) Preclude other forms of mitigation banking, including private or for-profit
37 programs, within the Sacramento-San Joaquin Valley.

38 (7) Be the exclusive method of providing compensation by permittees for the
39 loss of wetlands within the Sacramento-San Joaquin Valley.

40 **Comment.** Section 65805 continues former Fish and Game Code Section 1776 without
41 substantive change.

1 **§ 65810. Legislative intent**

2 65810. It is the intent of the Legislature that the funds necessary to cover the
3 costs of administering this title be provided by the purchase of credits in
4 mitigation bank sites.

5 **Comment.** Section 65810 continues former Fish and Game Code Section 1776.5 without
6 substantive change.

7 **§ 65815. Purpose**

8 65815. The purpose of this title is to ensure that no net loss of wetland acreage
9 or habitat values within the Sacramento-San Joaquin Valley occurs as a result of
10 fill permit activities pursuant to Section 404 of the federal Clean Water Act (33
11 U.S.C. Sec. 1344 et seq.).

12 **Comment.** Section 65815 continues former Fish and Game Code Section 1780 without
13 substantive change.

14 **§ 65820. Goal**

15 65820. It is the state’s goal to increase the total wetlands acreage and values
16 within the Sacramento-San Joaquin Valley.

17 **Comment.** Section 65820 continues former Fish and Game Code Section 1781 without
18 substantive change.

19 Article 3. Definitions

20 **§ 65850. Application**

21 65850. Unless the context otherwise requires, the definitions in this article
22 govern the construction of this title.

23 **Comment.** Section 65850 continues former Fish and Game Code Section 1777 without
24 substantive change.

25 **§ 65855. Bank site or mitigation bank site**

26 65855. “Bank site” or “mitigation bank site” means a publicly or privately
27 owned and operated site on which wetlands have been or will be created in
28 accordance with this title to compensate for adverse impacts caused by removal or
29 fill permit activities authorized pursuant to Section 404 of the federal Clean Water
30 Act (33 U.S.C. Sec. 1344 et seq.). “Bank site” or “mitigation bank site” may
31 include land on which rice is grown as long as those lands are managed as
32 ricelands and those lands meet the other requirements of Sections 65950 and
33 65955.

34 **Comment.** Section 65855 continues former Fish and Game Code Section 1777.2 without
35 substantive change.

36 **§ 65860. Credit**

37 65860. “Credit” means a numerical value that represents the wetland acreage
38 and habitat values of a mitigation bank site.

1 **Comment.** Section 65860 continues former Fish and Game Code Section 1777.5 without
2 substantive change.

3 **§ 65865. Operator**

4 65865. “Operator” means the department, or a public or private person or entity
5 approved by the department, to administer a wetlands mitigation bank site.

6 **Comment.** Section 65865 continues former Fish and Game Code Section 1778 without
7 substantive change.

8 **§ 65870. Permittee**

9 65870. “Permittee” means a public or private person or entity that meets all of
10 the following conditions:

11 (a) Has received a permit pursuant to Section 404 of the federal Clean Water Act
12 (33 U.S.C. Sec. 1344 et seq.) for the removal or filling of wetlands, subject to a
13 condition that allows the permittee to compensate for the wetland loss through
14 participation in a wetland mitigation bank pursuant to this title.

15 (b) Proposes to compensate for the loss of the wetlands through participation in
16 a wetlands mitigation bank pursuant to this title.

17 (c) Proposes the discharge at a site within a qualifying urban area and not more
18 than 40 miles from a bank site with sufficient acreage of the same types of
19 wetlands that will provide suitable replacement habitat for the values that may be
20 lost from the conversion of the existing wetlands.

21 **Comment.** Section 65870 continues former Fish and Game Code Section 1778.5 without
22 substantive change.

23 **§ 65875. Qualifying urban area**

24 65875. “Qualifying urban area” means any of the following when they occur
25 within the Sacramento-San Joaquin Valley:

26 (a) A geographical area having a population of 50,000 or more inhabitants
27 within the jurisdiction of a city, or a town, as defined by Sections 20 and 21 of the
28 Government Code.

29 (b) A portion of any geographical area within a town, as defined in Section 21 of
30 the Government Code, which has a population density equal to, or exceeding,
31 1,500 persons per square mile and which has a population of 50,000 or more
32 inhabitants.

33 (c) A geographical area having a population density equal to, or exceeding,
34 1,500 persons per square mile, and an adjacent city, as defined in Section 20 of the
35 Government Code, where the combined population of the geographical area and
36 the city equals 50,000 or more inhabitants.

37 (d) A geographical area within the sphere of influence of a city or community
38 services district for which the projected population of the adopted general plan
39 equals 10,000 or more inhabitants.

40 **Comment.** Section 65875 continues former Fish and Game Code Section 1779 without
41 substantive change.

1 **§ 65880. Sacramento-San Joaquin Valley**

2 65880. “Sacramento-San Joaquin Valley” means the central valley region, as
3 defined in subdivision (g) of Section 13200 of the Water Code.

4 **Comment.** Section 65880 continues former Fish and Game Code Section 1779.5 without
5 substantive change.

6 **CHAPTER 2. WETLANDS MITIGATION BANKS**

7 **§ 65950. Standards and criteria**

8 65950. (a) The department, in cooperation with those agencies specified in
9 65970, shall adopt regulations that establish standards and criteria for the bank site
10 qualification process, for the evaluation of wetland habitat acreage and values
11 created at the bank sites, and for the operation and evaluation of bank sites, and
12 any other regulations that are necessary to implement this title.

13 (b) These criteria shall require, at a minimum, that the newly created wetland
14 provide the hydrologic, vegetative, and wildlife characteristics, including the food
15 web components, of a naturally occurring wetland system that is equal to the site
16 being mitigated.

17 (c) With respect to bank site standards and operator qualifications, the
18 department shall consider, at a minimum, all of the following criteria:

19 (1) A requirement that the bank site have a reliable, adequate, and available
20 water supply necessary to provide wetland values. For wetlands dependent only on
21 rainfall, rainfall satisfies this requirement.

22 (2) The relative ease or difficulty of converting uplands into wetlands at the
23 bank site.

24 (3) The anticipated maintenance necessary to sustain the recreated and created
25 wetlands at the bank site.

26 (4) The proximity of the bank site to other established preserves or natural
27 features historically associated with abundant wildlife values.

28 (5) The proximity of the bank site to urban or populated areas that could reduce
29 the bank site’s long-term biological values.

30 (6) The demonstrated ability of the bank site operator to create, administer,
31 maintain, and protect the bank site in perpetuity in its enhanced state, including
32 financial, technical, and management ability.

33 (7) The relative abundance or scarcity of the wetland type to be created at the
34 bank site.

35 **Comment.** Section 65950 continues former Fish and Game Code Section 1784(a)-(b) without
36 substantive change.

37 **§ 65955. Ricelands**

38 65955. (a) A bank site or mitigation bank site may include any lands on which
39 rice is grown as long as those lands are managed as ricelands with the required

1 enhanced wetland values if they otherwise qualify under this title and either of the
2 following conditions exist:

3 (1) The lands are lands on which rice was grown after January 1, 1996. For
4 purposes of this paragraph, to qualify as new wetland values, rice shall not have
5 been grown on the lands for 10 years before the application is submitted pursuant
6 to Section 65960.

7 (2) The lands are lands on which rice was grown before January 1, 1996. These
8 lands shall qualify only if there is an increase in wetland habitat value that is equal
9 to the site being mitigated. For purposes of this paragraph, a wetland value shall
10 only be provided for lands on which rice was grown that are proposed for wetlands
11 mitigation for the period when that land is flooded between the harvesting of rice
12 and the planting of the next crop. This paragraph shall apply only to lands that
13 were not flooded after harvest between January 1, 1982, and January 1, 1992.

14 (b) Any mitigation site established pursuant to subdivision (a) may be replaced
15 by a new site of an equal wetland value.

16 (c) This section and Section 65950 shall not be construed to permit waters used
17 to flood rice fields in order to create wetlands mitigation to be credited as
18 beneficial to wildlife under federal law.

19 **Comment.** Section 65955 continues former Fish and Game Code Section 1784(c)-(e) without
20 substantive change.

21 **§ 65960. Application**

22 65960. If any person desires to establish a wetlands mitigation bank site under
23 this title, the person shall apply to the department for a determination that the bank
24 site and the operator qualify under the criteria established by the department
25 pursuant to this title.

26 **Comment.** Section 65960 continues the first sentence of former Fish and Game Code Section
27 1785 without substantive change.

28 **§ 65965. Determination is “project”**

29 65965. A determination that a bank site qualifies under this title is a project for
30 purposes of Section 21065 of the Public Resources Code.

31 **Comment.** Section 65965 continues the second sentence of former Fish and Game Code
32 Section 1785 without substantive change.

33 **§ 65970. Memorandum of understanding requirement**

34 65970. (a) Before any wetlands are created on the bank site qualified pursuant to
35 Section 65960, the department shall coordinate and shall be a signatory to a
36 memorandum of understanding with the operator.

37 (b) The United States Environmental Protection Agency, the United States
38 Army Corps of Engineers, the Fish and Wildlife Service of the United States
39 Department of the Interior, the Central Valley Regional Water Quality Control
40 Board, and the State Department of Health Services or its designee, or any of

1 them, may be signatories by indicating to the department their interest in
2 participating within 90 days of being notified by the department of the
3 department's intent to initiate the procedures described in this section and Section
4 69575.

5 (c) Any county located in whole or in part in the Sacramento-San Joaquin
6 Valley may, by ordinance, require that it be a signatory to any memorandum of
7 understanding for a bank site to be established within its boundary.

8 **Comment.** Section 65970 continues former Fish and Game Code Section 1786(a) without
9 substantive change.

10 **§ 65975. Content of memorandum of understanding**

11 65975. The memorandum of understanding shall include, but is not limited to,
12 all of the following items:

13 (a) Identification of the mitigation bank site, including the legal property
14 description, acreage, types, and location of existing wetlands within the
15 boundaries of the bank site.

16 (b) An agreement, by each of the governmental agencies in Section 65970, that
17 all new, successfully created wetland acreage shall qualify to be credited against
18 the approved removal or fill of wetlands located in the qualifying urban area and
19 within 40 miles of the bank site and is consistent with the procedures set out in this
20 title.

21 (c) An agreement by the operator to do both of the following:

22 (1) Maintain all wetland habitat within the bank in optimum condition in
23 perpetuity, barring an unforeseen natural catastrophe that precludes the viability of
24 wetlands.

25 (2) Establish a trust or bond in favor of the department that provides sufficient
26 funds to ensure administration, protection, operation, and maintenance in
27 perpetuity of the wetland habitat acreage and values at the mitigation bank site if
28 the operator defaults in performing the duties required pursuant to paragraph (1).

29 (d) In the case of privately owned bank sites, identification of the circumstances
30 that would constitute a major breach of the agreement and that would result in
31 either the replacement of the operator, or the passing of title from the owner to the
32 state, or both, including identification of procedures for adequate notice and
33 opportunity for the operator to be heard and to correct any breach.

34 **Comment.** Section 65975 continues former Fish and Game Code Section 1786(b) without
35 substantive change.

36 **§ 65980. Payment to county**

37 65980. (a) If the bank site owner is a public entity, that entity shall pay annually
38 to the county in which the property is located an amount equal to the county taxes
39 levied on the property at the time title to the bank site is transferred to that entity.
40 The public entity shall also pay the assessments levied upon the property by any
41 irrigation, drainage, or reclamation district.

(b) Payments under this section shall be made on or before December 10 of each year, except for newly acquired bank sites, for which payments shall be made pursuant to subdivision (c).

(c) Payments for newly acquired bank sites shall be made within one year of the date title to the property was transferred to the state, prorated for the balance of the year from the date title was transferred to the 30th day of June following the date title was transferred, and, thereafter, payments shall be made on or before December 10 of each year.

Comment. Section 65980 continues former Fish and Game Code Section 1787 without substantive change.

CHAPTER 3. WETLANDS

§ 66050. Creation of wetland or vernal pool

66050. (a) Upon the successful creation of any wetlands of at least 20 acres, or in the case of vernal pools, upon successful creation of vernal pools on a site at least 20 acres in size, the operator may request a determination by the department of the number of acres in the mitigation bank site, and the relative habitat value thereof, that qualify for credit against prospective wetland loss in the qualifying urban area.

(b) In determining the amount of mitigation bank credit, no credit shall be provided for habitat values or acreage that was in existence prior to the establishment of the bank.

Comment. Section 66050 continues former Fish and Game Code Section 1790 without substantive change.

§ 66055. Determination and classification of wetlands

66055. (a) Upon receipt of a request pursuant to Section 66050, the department shall determine the number of acres that are wetlands in the bank site based on the criteria established pursuant to Sections 65950 and 69555, and the department shall classify those wetlands according to established biological criteria.

(b) The classifications shall include, but are not limited to, the following wetland types:

- (1) Perennial freshwater marsh.
- (2) Perennial brackish marsh.
- (3) Seasonal freshwater marsh.
- (4) Wet meadow.
- (5) Vernal pool.
- (6) Riparian woodland.
- (7) Riparian scrub.

Comment. Section 66055 continues former Fish and Game Code Section 1791 without substantive change.

1 **§ 66060. Pricing and costs**

2 66060. (a) In the interest of assuring that the minimum price for wetland credit
3 is sufficient to ensure the financial integrity of the bank, the department may
4 establish a minimum price for each bank established pursuant to this title.

5 (b) The operator may set a higher price to the extent that price is consistent with
6 the terms of the memorandum of understanding executed pursuant to Section
7 65960.

8 (c) After the department determines the number of wetland acres in the bank site
9 that qualify for credit against wetland loss in a qualifying urban area, the operator
10 shall provide to the department, and the department shall verify, an accounting of
11 the average cost for each wetland acre created, by wetland type for the purpose of
12 determining credits, using the following factors:

13 (1) Land costs, including the reasonable interest cost of holding the land.

14 (2) Wetland creation costs.

15 (c) Wetland administration, maintenance, and protection costs.

16 (3) Annual taxes, including all tax increases allowed under applicable state law,
17 and in-lieu payments pursuant to Section 65980, if applicable.

18 (4) Costs incurred by the department in establishing the bank site, and the direct
19 cost of necessary ongoing monitoring and oversight.

20 (5) Any other information relevant to a determination of the cost of preserving
21 the wetlands in perpetuity.

22 **Comment.** Section 66060 continues former Fish and Game Code Section 1792 without
23 substantive change.

24 **§ 66065. Reimbursement of department expenses**

25 The department shall be reimbursed for those expenses of the department
26 identified in Section 66060 according to a schedule contained in an agreement
27 with the person establishing a wetland mitigation bank. The agreement shall be
28 approved by all parties prior to the commencement of planning activities.

29 **Comment.** Section 66065 continues former Fish and Game Code Section 1792.5 without
30 substantive change.

31 **CHAPTER 4. DISCHARGE INTO WETLANDS**

32 **§ 66100. Compensation**

33 66100. A permittee shall provide compensation pursuant to Section 404 of the
34 federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.). The department shall
35 classify the wetlands that the permittee will remove according to wetland type,
36 consistent with Chapter 3 (commencing with Section 66050).

37 **Comment.** Section 66100 continues former Fish and Game Code Section 1793 without
38 substantive change.

1 **§ 66105. Conditions on compensation**

2 66105. Compensation pursuant to Section 66100 is subject to the condition that
3 the operator establish the trust or bond required by paragraph (2) of subdivision (c)
4 of Section 65975 and, in addition, is subject to the following conditions:

5 (a) The full payment shall be used to purchase credits in the mitigation bank site.

6 (b) The payment shall provide for purchase of bank site wetland acreage
7 required by Section 66100 that has the same hydrologic, vegetative, and other
8 characteristics as the system for which it will serve as mitigation.

9 (c) A permittee shall not participate in a wetlands mitigation bank if a net loss of
10 wetland habitat values or acreage occurs.

11 **Comment.** Section 66105 continues former Fish and Game Code Section 1794 without
12 substantive change.

13 **§ 66110. Permittee obligations**

14 66110. After payment to the operator pursuant to this chapter, the permittee has
15 no further obligations with respect to the operation of the bank site to which
16 payment was made, unless the permittee has an equity involvement in the bank.

17 **Comment.** Section 66110 continues former Fish and Game Code Section 1795 without
18 substantive change.

19 **§ 66115. Last date for qualification of bank sites**

20 66115. No bank site shall be qualified under Section 65960 on or after January
21 1, 2015.

22 **Comment.** Section 66115 continues former Fish and Game Code Section 1796 without
23 substantive change.

24 **TITLE 6. PROJECT FEES**

25 **§ 66200. Fee to defray costs**

26 66200. (a) The department shall impose and collect a filing fee in the amount
27 prescribed in Section 66215 to defray the costs of managing and protecting fish
28 and wildlife trust resources, including, but not limited to, consulting with other
29 public agencies, reviewing environmental documents, recommending mitigation
30 measures, developing monitoring requirements for purposes of the California
31 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
32 Public Resources Code), consulting pursuant to Section 21104.2 of the Public
33 Resources Code, and other activities protecting those trust resources identified in
34 the review pursuant to the California Environmental Quality Act.

35 (b) The filing fees shall be proportional to the cost incurred by the department
36 and shall be annually reviewed and adjustments recommended to the Legislature
37 in an amount necessary to pay the full costs of department programs as specified.
38 The department shall annually adjust the fees pursuant to Section 3755.

Comment. Section 66200 continues former Fish and Game Code Section 711.4(a)-(b) without substantive change.

§ 66205. CEQA filing fee

66205. (a) All project applicants and public agencies subject to the California Environmental Quality Act shall pay a filing fee for each proposed project, as specified in Section 66215.

(b) Filing fees shall be paid at the time and in the amount specified in Section 66215.

(c) Notwithstanding Sections 21080.5 and 21081 of the Public Resources Code, a project shall not be operative, vested, or final, and local government permits for the project shall not be valid, until the filing fees required pursuant to this article are paid.

Comment. Section 66205 continues former Fish and Game Code Section 711.4(c)(1) & (3) without substantive change.

§ 66210. Exceptions to CEQA filing fee

66210. Notwithstanding subdivision (a) of Section 66205, a filing fee shall not be paid pursuant to this article if any of the following conditions exist:

(a) The project has no effect on fish and wildlife.

(b) The project is being undertaken by the department.

(c) The project costs are payable by the department from any of the following sources that are held by the department:

(1) The Public Resources Account in the Cigarette and Tobacco Products Surtax Fund.

(2) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

(3) The Habitat Conservation Fund.

(4) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

(5) The Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game Preservation Fund.

(6) Striped bass stamp funds collected pursuant to Section 7360.

(7) The California Ocean Resource Enhancement Account.

(d) The project is implemented by the department through a contract with either a nonprofit entity or a local government agency.

Comment. Section 66210 continues former Fish and Game Code Section 711.4(c)(2) without substantive change.

Note. Existing Section 711.4(c)(2) refers to “striped bass stamp funds collected pursuant to Section 7360.” Section 7360 was repealed in 2010. See 2009 Cal. Stat. ch. 381. The reference is continued in proposed Section 66210(c)(6). **The Commission invites comment on how to correct the erroneous reference.** Should it be repealed as obsolete? Replaced with a reference to the “former” section?

§ 66215. Fee amount

66215. The fees shall be in the following amounts:

1 (a) For a project that is statutorily or categorically exempt from the California
2 Environmental Quality Act, including those certified regulatory programs that
3 incorporate statutory and categorical exemptions, a filing fee shall not be paid.

4 (b) For a project for which a negative declaration is prepared pursuant to
5 subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is
6 one thousand eight hundred dollars (\$1,800). A local agency collecting the filing
7 fee shall remit the fee to the county clerk at the time of filing a notice of
8 determination pursuant to Section 21152 of the Public Resources Code. A state
9 agency collecting the filing fee shall remit the fee to the Office of Planning and
10 Research at the time of filing a notice of determination pursuant to Section 21108
11 of the Public Resources Code.

12 (c) For a project with an environmental impact report prepared pursuant to the
13 California Environmental Quality Act, the filing fee is two thousand five hundred
14 dollars (\$2,500). A local agency collecting the filing fee shall remit the fee to the
15 county clerk at the time of filing a notice of determination pursuant to Section
16 21152 of the Public Resources Code. A state agency collecting the filing fee shall
17 remit the fee to the Office of Planning and Research at the time of filing a notice
18 of determination pursuant to Section 21108 of the Public Resources Code.

19 (d) For a project that is subject to a certified regulatory program pursuant to
20 Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty
21 dollars (\$850). The filing fee shall be paid to the department before the filing of
22 the notice of determination pursuant to Section 21080.5 of the Public Resources
23 Code.

24 **Comment.** Section 66215 continues former Fish and Game Code Section 711.4(d) without
25 substantive change.

26 See also Section 6250 (enforcement).

27 **§ 66220. County clerk**

28 66220. (a) The county clerk may charge a documentary handling fee of fifty
29 dollars (\$50) per filing in addition to the filing fee specified in Section 66215.

30 (b) The county clerk of each county and the Office of Planning and Research
31 shall maintain a record, both electronic and in paper, of all environmental
32 documents received. The record shall include, for each environmental document
33 received, the name of each applicant or lead agency, the document filing number,
34 the project name as approved by the lead agency, and the filing date. The record
35 shall be made available for examination or audit by authorized personnel of the
36 department during normal business hours.

37 **Comment.** Section 66220 continues former Fish and Game Code Section 711.4(e)(1) without
38 substantive change.

39 **§ 66225. Remittance of fee**

40 66225. (a) The filing fee imposed and collected pursuant to Section 66215 shall
41 be remitted monthly to the department within 30 days after the end of each month.

1 The remittance shall be accompanied with the information required pursuant to
2 Section 66220. The amount of fees due shall be reported on forms prescribed and
3 provided by the department.

4 (b) The department shall assess a penalty of 10 percent of the amount of fees
5 due for a failure to remit the amount payable when due. The department may
6 pursue collection of delinquent fees through the Controller's office pursuant to
7 Section 12419.5 of the Government Code.

8 **Comment.** Section 66225 continues former Fish and Game Code Section 711.4(e)(2)-(3)
9 without substantive change.

10 **§ 66230. Nonpayment**

11 66230. All unpaid fees are a statutory assessment subject to collection under
12 procedures as provided in the Revenue and Taxation Code.

13 **Comment.** Section 66230 continues the second sentence of former Fish and Game Code
14 Section 711.4(f) without substantive change.

15 **§ 66235. Number of fees per project**

16 66235. Only one filing fee shall be paid for each project unless the project is
17 tiered or phased, or separate environmental documents are required.

18 **Comment.** Section 66235 continues former Fish and Game Code Section 711.4(g) without
19 substantive change.

20 **§ 66240. Effect on specified department duties**

21 66240. This article does not preclude or modify the duty of the department to
22 recommend, require, permit, or engage in mitigation activities pursuant to the
23 California Environmental Quality Act.

24 **Comment.** Section 66240 continues former Fish and Game Code Section 711.4(h) without
25 substantive change.

26 **§ 66245. Coastal Commission permit process**

27 66245. The permit process of the California Coastal Commission, as certified by
28 the Secretary of the Resources Agency, is exempt from the payment of the filing
29 fees prescribed by subdivision (d) of Section 66215 insofar as the permits are
30 issued under any of the following regulations:

31 (a) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5
32 of Title 14 of the California Code of Regulations.

33 (b) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing
34 with Section 13211), Subchapter 3.5 (commencing with Section 13214),
35 Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing
36 with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter
37 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section
38 13255.0) of Section 66215 14 of the California Code of Regulations.

39 **Comment.** Section 66245 continues former Fish and Game Code Section 711.4(i) without
40 substantive change.

Note. Existing Section 711.4(i) refers to “Subchapter 3 (commencing with Section 13213).” That appears to be an error. Subchapter 3 begins with Section 13211, not Section 13213. Proposed Section 66245 corrects that error. **The Commission invites comment on whether the change would cause any problems.**

§ 66250. Federal agencies

66250. (a) The fish and wildlife resources are held in trust for the people of the state by and through the department.

(b) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal land and water adjacent to or affecting state trust resources, all persons engaging in projects or activities under federal license, contract, or permit, to the extent permitted by federal law, shall be governed by this article and shall pay project filing fees unless the payment of state filing and permit fees is explicitly preempted by the authority of the federal agency permitting the use or modification of state trust resources.

(c) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal lands and waters adjacent to or affecting state trust resources, all federal agencies acting in their proprietary capacity, to the extent permitted by federal law, shall be governed by this article and Sections 10005 and 21089 of the Public Resources Code, unless the payment of state filing and permit fees is explicitly preempted by the authority of a particular federal agency.

(d) If a court of competent jurisdiction finds that any provision of this section or the application thereof to any federal agency, person, or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(e) For purposes of this section, “person” includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies of those entities.

Comment. Subdivisions (a) through (d) of Section 66250 continue former Fish and Game Code Section 711.7 without substantive change.

Subdivision (e) continues former Fish and Game Code Section 711.2 without substantive change.

Note. To the extent permitted by federal law, existing Section 711.7 provides for the application of “this article” to “all persons engaging in projects or activities under federal license, contract, or permit” and to “all federal agencies acting in their proprietary capacity.” The language of the section strongly suggests that its purpose is to require such persons and agencies to pay state filing and permit fees.

Technically, the reference to “this article” has broader application than that. Section 711.7 is included in an article that contains numerous provisions addressing different topics. However, with the exception of Section 711.4, none of those provisions appear to be relevant to the matters addressed by Section 711.7. For that reason, Section 711.7 has been located within an article containing Section 711.4; the references to “this article” have not been changed. Consequently, those references would only encompass Section 711.4. **The Commission believes that this**

would preserve the meaning of the references, without substantive change, but invites public comment on that point.

PART 3. POLLUTION

TITLE 1. WATER POLLUTION

CHAPTER 1. PROHIBITIONS

Article 1. Contaminants

§ 66500. Prohibition

66500. Except as provided in Section 66505, it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any of the following:

(a) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.

(b) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind.

(c) Any sawdust, shavings, slabs, or edgings.

(d) Any factory refuse, lime, or slag.

(e) Any cocculus indicus.

(f) Any substance or material deleterious to fish, plant life, mammals, or bird life.

Comment. Section 66500 continues former Fish and Game Code Section 5650(a) without substantive change.

See also Sections 6300, 6302, 6654 (enforcement).

§ 66505. Exception

66505. This article does not apply to a discharge or a release that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a waste discharge requirement pursuant to Section 13263 of the Water Code or a waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code issued by the State Water Resources Control Board or a regional water quality control board after a public hearing, or that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a federal permit for which the State Water Resources Control Board or a regional water quality control board has, after a public hearing, issued a water quality certification pursuant to Section 13160 of the Water Code. This article does not confer additional authority on the State Water Resources Control Board, a regional water quality control board, or any other entity.

Comment. Section 66505 continues former Fish and Game Code Section 5650(b) without substantive change.

(1) The defendant complied with all applicable state and federal laws and regulations requiring that the discharge or release be reported to a government agency.

(3) The defendant took reasonable and appropriate measures to effectively mitigate the discharge or release in a timely manner.

(c) The affirmative defense in subdivision (a) does not apply and may not be raised by any defendant who has on two prior occasions in the preceding five years, in any combination within the same county in which the case is prosecuted, either pleaded nolo contendere, been convicted of a violation of this article, or suffered a judgment for a violation of this article or Article 2 (commencing with Section 6320) of Chapter 3 of Title 10 of Part 4 of Division 3. This subdivision shall apply only to cases filed on or after January 1, 1997.

Comment. Section 66510 continues former Fish and Game Code Section 5650(c)-(f) without substantive change.

§ 66525. Prohibition

(b) The abandonment of any motor vehicle in any manner that violates this section shall constitute a rebuttable presumption affecting the burden of producing evidence that the last registered owner of record, not having complied with Section 5900 of the Vehicle Code, is responsible for that abandonment and is thereby liable for the cost of removal and disposition of the vehicle. This section prohibits the placement of a vehicle body on privately owned property along a streambank by the property owner or tenant for the purpose of preventing erosion of the streambank.

1 (c) This section does not apply to a refuse disposal site that is authorized by the
2 appropriate local agency having jurisdiction or to the depositing of those materials
3 in a container from which the materials are routinely removed to a legal point of
4 disposal.

5 (d) This section shall be enforced by all law enforcement officers of this state.

6 **Comment.** Section 66525 continues former Fish and Game Code Section 5652 without
7 substantive change.

8 See also Sections 6552, 6554 (enforcement).

9 CHAPTER 2. CLEAN-UP

10 § 66700. Continuing pollution

11 66700. Whenever it is determined by the department that a continuing and
12 chronic condition of pollution exists, the department shall report that condition to
13 the appropriate regional water quality control board, and shall cooperate with the
14 board in obtaining correction or abatement in accordance with any laws
15 administered by the board for the control of practices for sewage and industrial
16 waste disposal.

17 **Comment.** Section 66700 continues former Fish and Game Code Section 5651 without
18 substantive change.

19 § 66705. Responsible party obligations

20 66705. (a) It is the intent of the Legislature that expeditious cleanup is the
21 primary interest of the people of the State of California in order to protect the
22 people and the environment of the state.

23 (b) In addition to any other penalty, anyone responsible for polluting,
24 contaminating, or obstructing waters of this state, or depositing or discharging
25 materials threatening to pollute, contaminate, or obstruct waters of this state, to the
26 detriment of fish, plant, bird, or animal life in those waters, shall be required to
27 remove any substance placed in the waters, or to remove any material threatening
28 to pollute, contaminate, or obstruct waters of this state, which can be removed,
29 that caused the prohibited condition, or to pay the costs of the removal by the
30 department.

31 (c) Prior to taking any action committing the use of state funds pursuant to this
32 section or Section 66710, the department shall first make a reasonable effort to
33 have the person responsible, when that person is known and readily available,
34 remove, or agree to pay for the removal of, the substance causing the prohibited
35 condition, if the responsible person acts expeditiously and does not cause the
36 prohibited condition to be prolonged to the detriment of fish, plant, animal, or bird
37 life in the affected waters. When the responsible party is unknown or is not
38 providing adequate and timely cleanup, the emergency reserve account of the
39 Toxic Substances Control Account in the General Fund shall be used to provide
40 funding for the cleanup pursuant to Section 25354 of the Health and Safety Code.

1 When those or other funds are not available, moneys in the Fish and Wildlife
2 Pollution Account shall be available, in accordance with Section 67510, for
3 funding the cleanup expenses.

4 **Comment.** Section 66705 continues former Fish and Game Code Section 12015 without
5 substantive change.

6 **§ 66710. Department clean-up of petroleum products**

7 66710. (a) In addition to the responsibilities imposed pursuant to Section 66700,
8 the department may clean up or abate, or cause to be cleaned up or abated, the
9 effects of any petroleum or petroleum product deposited or discharged in the
10 waters of this state or deposited or discharged in any location onshore or offshore
11 where the petroleum or petroleum product is likely to enter the waters of this state,
12 order any person responsible for the deposit or discharge to clean up the petroleum
13 or petroleum product or abate the effects of the deposit or discharge, and recover
14 any costs incurred as a result of the cleanup or abatement from the responsible
15 party.

16 (b) An order shall not be issued pursuant to this section for the cleanup or
17 abatement of petroleum products in any sump, pond, pit, or lagoon used in
18 conjunction with crude oil production that is in compliance with all applicable
19 state and federal laws and regulations.

20 (c) The department may issue an order pursuant to this section only if there is an
21 imminent and substantial endangerment to human health or the environment and
22 the order shall remain in effect only until any cleanup and abatement order is
23 issued pursuant to Section 13304 of the Water Code. A regional water quality
24 control board shall incorporate the department's order into the cleanup and
25 abatement order issued pursuant to Section 13304 of the Water Code, unless the
26 department's order is inconsistent with any more stringent requirement established
27 in the cleanup and abatement order. Any action taken in compliance with the
28 department's order is not a violation of any subsequent regional water quality
29 control board cleanup and abatement order issued pursuant to Section 13304 of the
30 Water Code.

31 (d) The Administrator of the Office of Spill Prevention and Response has the
32 primary authority to serve as a state incident commander and direct removal,
33 abatement, response, containment, and cleanup efforts with regard to all aspects of
34 any placement of petroleum or a petroleum product in the waters of the state,
35 except as otherwise provided by law. This authority may be delegated.

36 (e) For purposes of this section, the following definitions apply:

37 (1) "Petroleum product" means oil of any kind or form, including, but not
38 limited to, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredged
39 spoil. "Petroleum product" does not include any pesticide that has been applied for
40 agricultural, commercial, or industrial purposes or that has been applied in
41 accordance with a cooperative agreement authorized by Section 116180 of the
42 Health and Safety Code, that has not been discharged accidentally or for purposes

1 of disposal, and the application of which was in compliance with all applicable
2 state and federal laws and regulations.

3 (2) “State incident commander” means a person with the overall authority for
4 managing and conducting incident operations during an oil spill response, who
5 shall manage an incident consistent with the standardized emergency management
6 system required by Section 8607 of the Government Code. Incident management
7 generally includes the development of objectives, strategies, and tactics, ordering
8 and release of resources, and coordinating with other appropriate response
9 agencies to ensure that all appropriate resources are properly utilized and that this
10 coordinating function is performed in a manner designed to minimize risk to other
11 persons and to the environment.

12 **Comment.** Section 66710 continues former Fish and Game Code Section 5655 without
13 substantive change.

14 **§ 66715. Civil liability for damages and clean-up costs**

15 66715. (a) In addition to any other provision of law, any person who discharges
16 or deposits any substance or material deleterious to fish, plant, bird, or animal life
17 or their habitat into, or which threatens to enter, the waters of this state is liable
18 civilly to the department for all actual damages to fish, plant, bird, or animal life or
19 their habitat and, in addition, for the reasonable costs incurred in cleaning up the
20 deleterious substance or material or abating its effects, or both.

21 (b) For the purposes of this section, “deleterious substance or material” does not
22 include substances or materials otherwise expressly permitted or authorized to be
23 deposited or discharged into waters of the state by law.

24 **Comment.** Section 66715 continues former Fish and Game Code Section 12016 without
25 substantive change.

26 **CHAPTER 3. FISHING CLOSURE**

27 **§ 66800. Closure**

28 66800. (a) Notwithstanding Section 11500 and except as provided in Section
29 66820, within 24 hours of a spill or discharge, the director shall close to the take of
30 fish and shellfish all affected waters where fishing, including all commercial,
31 recreational, and nonlicensed subsistence fishing, may take place, or where
32 aquaculture operations are taking place.

33 (b) For the purposes of subdivision (a), the following terms have the specified
34 meanings:

35 (1) “Affected waters” means all waters in the vicinity of the spill or discharge or
36 where the spilled or discharged material has spread, or is likely to spread.

37 (2) “Discharge” and “spill” have the meanings provided in Section 8670.3 of the
38 Government Code.

39 (c) In determining where a spill or discharge is likely to spread, the director shall
40 consult with the Administrator of the Office of Spill Prevention and Response.

(d) 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.

(e) Closure pursuant to this section 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.

Comment. Subdivisions (a) and (b) of Section 66800 restate the first sentence of former Fish and Game Code Section 5654(a)(1) without substantive change.

Subdivisions (c) and (d) continue the remaining sentences of former Fish and Game Code Section 5654(a)(1) without substantive change.

Subdivision (e) continues former Fish and Game Code Section 5654(a)(2) without substantive change.

Note. Proposed Section 66800(a)-(b) would restate the first sentence of existing Section 5654(a)(1) to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“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.”

The Commission invites comment on whether that restatement would cause any problems.

§ 66805. Assessment of closure

66805. Within 48 hours of notification of a spill or discharge subject to Section 66800, the director, in consultation with the Office of Environmental Health Hazard Assessment, shall make an assessment and determine all of the following:

(a) 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.

(b) 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.

(c) 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.

Comment. Section 66805 continues former Fish and Game Code Section 5654(b) without substantive change.

§ 66810. Immediate reopening

66810. If the director finds in his or her assessment pursuant to Section 66805 that there is no significant risk to the public or to the fisheries, the director may

1 immediately reopen the closed area and waive the testing requirements of Sections
2 66820 and 66830.

3 **Comment.** Section 66810 continues former Fish and Game Code Section 5654(d) without
4 substantive change.

5 **Note.** Existing Section 5654(d) refers to the “testing requirements” of Section 5654(e) and
6 (f). Section 5654(f) (proposed Section 66830) does not appear to impose any testing
7 requirements. **The Commission invites comment on whether the cross-reference to that**
8 **provision can be deleted as erroneous.**

9 **§ 66820. Expedited testing**

10 66820. Except under the conditions specified in Section 66810, after complying
11 with Sections 66800 and 66805, the director, in consultation with the Office of
12 Environmental Health Hazard Assessment, but in no event more than seven days
13 from the notification of the spill or discharge, shall order expedited tests of fish
14 and shellfish that would have been open for take for commercial, recreational, or
15 subsistence purposes in the closed area if not for the closure, to determine the
16 levels of contamination, if any, and whether the fish or shellfish is safe for human
17 consumption.

18 **Comment.** Section 66820 continues former Fish and Game Code Section 5654(e) without
19 substantive change.

20 **§ 66825. Assessment of fish aboard vessel in closed area**

21 66825. Within 48 hours after receiving notification of a spill or discharge
22 subject to Section 66800, or as soon as is feasible, the director, in consultation
23 with the Office of Environmental Health Hazard Assessment, shall assess and
24 determine the potential danger from consuming fish that have been contained in a
25 recirculating seawater tank onboard a vessel that may become contaminated by the
26 vessel’s movement through an area where the spill or discharge occurred or
27 spread.

28 **Comment.** Section 66825 continues former Fish and Game Code Section 5654(c) without
29 substantive change.

30 **§ 66830. Action in response to OEHHA assessment**

31 66830. (a) Within 24 hours of receiving a notification from the Office of
32 Environmental Health Hazard Assessment that no threat to human health exists
33 from the spill or discharge or that no contaminant from the spill or discharge is
34 present that could contaminate fish or shellfish, the director shall reopen the areas
35 closed pursuant to this chapter. The director may maintain a closure in any
36 remaining portion of the closed area where the Office of Environmental Health
37 Hazard Assessment finds contamination from the spill or discharge persists that
38 may adversely affect human health.

39 (b) The director, in consultation with the commission, may also maintain a
40 closure in any remaining portion of the closed area where commercial fishing or
41 aquaculture occurs and where the department determines, pursuant to this

subdivision, that contamination from the spill or discharge persists that may cause the waste of commercial fish or shellfish as regulated by Section 21610.

Comment. Section 66830 continues former Fish and Game Code Section 5654(f) without substantive change.

§ 66835. Consultation with affected groups

66835. (a) 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.

(b) 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.

Comment. Section 66835 continues former Fish and Game Code Section 5654(g) without substantive change.

§ 66840. Reimbursement of costs

66840. 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 chapter, including, but not limited to, all testing.

Comment. Section 66840 continues former Fish and Game Code Section 5654(h) without substantive change.

**TITLE 2. CALIFORNIA MARINE RESOURCES
LEGACY ACT**

CHAPTER 1. GENERAL PROVISIONS

Article 1. Preliminary Provisions

§ 67000. Short title

67000. This act shall be known, and may be cited, as the California Marine Resources Legacy Act.

Comment. Section 67000 continues former Fish and Game Code Section 6600 without substantive change.

§ 67005. Findings and declarations

67005. The Legislature finds and declares all of the following:

(a) California's extraordinary marine biological diversity is a vital asset to the state and nation. The diversity of species and ecosystems found in the ocean waters off the state is important to public health and well-being, ecological health, and ocean-dependent economic activities.

1 (b) Although the state maintains various programs to protect, restore, and
2 enhance California's marine resources, the effect of these programs is limited by
3 inadequate and unstable funding.

4 (c) There is an existing permitting process for decommissioning and fully
5 removing offshore oil platforms or production facilities. Owners and operators are
6 currently responsible for the full cost of decommissioning and remediating those
7 facilities.

8 (d) According to the United States Department of the Interior, the 23 oil and gas
9 platforms in federal waters off the California coast are expected to reach the end of
10 their useful production lifetimes and be decommissioned between 2015 and 2030.

11 (e) The California Ocean Science Trust in its June 2010 study, titled "Evaluating
12 Alternatives for Decommissioning California's Offshore Oil and Gas Platforms: A
13 Technical Analysis to Inform State Policy," analyzed a number of
14 decommissioning alternatives to full rig removal and determined that the most
15 likely alternative is to remove the upper portion of the rig and leave the remainder
16 of the structure in place.

17 (f) The California Ocean Science Trust report and other studies indicate that the
18 partial removal option can result in a net benefit to the marine environment and
19 substantial cost savings compared to full removal of an oil platform or production
20 facility.

21 (g) Provided that partial removal of an oil rig would result in a net benefit to the
22 marine environment compared to full removal, it is in the interest of the state that a
23 portion of the cost savings that result from partial removal should be shared with
24 the citizens of this state to protect and enhance the state's marine resources.

25 (h) It is also in the interest of the state that any program to allow partial removal
26 of oil platforms meet all of the following criteria:

27 (1) Partial removal shall result in a net benefit to the marine environment
28 compared to full removal.

29 (2) The determination of whether partial removal would result in a net benefit to
30 the marine environment should be made only after scientific study and evaluation.

31 (3) Because the location and depth of an oil platform, as well as other ecological
32 factors, create a unique environment, each oil platform shall be subject to
33 scientific study and evaluation before partial removal is allowed.

34 (4) The costs of the scientific study and evaluation should be borne by the
35 applicant.

36 **Comment.** Section 67005 continues former Fish and Game Code Section 6601 without
37 substantive change.

38 **§ 67010. Definitions**

39 67010. For purposes of this title, the following terms have the following
40 meanings:

41 (a) "Applicant" means the owner or operator of an offshore oil structure in state
42 or federal waters or another party responsible for decommissioning an offshore oil

1 structure in state or federal waters who applies pursuant to this title to carry out
2 partial removal of the structure.

3 (b) “Commission” means the State Lands Commission.

4 (c) “Conservancy” means the State Coastal Conservancy.

5 (d) “Cost savings” means the difference between the estimated cost to the
6 applicant of complete removal of an oil platform as required by state and federal
7 leases and the estimated costs to the applicant of partial removal of the oil
8 platform pursuant to this title.

9 (e) “Council” means the Ocean Protection Council.

10 (f) “Endowment” means the California Endowment for Marine Preservation
11 established in Division 37 (commencing with Section 71500) of the Public
12 Resources Code.

13 (g) “Exclusive economic zone (EEZ)” means the zone as measured from the
14 mean high tide line seaward to 200 nautical miles, as set forth in Presidential
15 Proclamation 5030 of March 10, 1983, in which the United States proclaimed
16 jurisdiction over the resources of the ocean within 200 miles of the coastline.

17 (h) “National Fishing Enhancement Act of 1984” means Title II of Public Law
18 98-623.

19 (i) “Offshore oil structure” means platforms, piers, and artificial islands located
20 seaward of mean lower low water, used for oil and gas exploration, development,
21 production, processing, or storage.

22 (j) “Oil” means any kind of petroleum, liquid hydrocarbons, natural gas, or
23 petroleum products or any fraction or residues therefrom.

24 (k) “Open coastal marine resources” means those marine resources that use open
25 coastal waters as their habitat.

26 (l) “Open coastal waters” means the area composed of the submerged lands of
27 the state that are below the mean lower low water, extending seaward to the
28 boundaries of the exclusive economic zone.

29 (m) “Partial removal” means an alternative to full removal of an offshore oil
30 structure, in compliance with all requirements of this title.

31 (n) “State waters” means waters within the seaward boundary of the state as
32 identified in Section 2 of Article III of the California Constitution.

33 **Comment.** Section 67010 continues former Fish and Game Code Section 6602 without
34 substantive change.

35 **§ 67015. No limitation of other authority or duties**

36 67015. Nothing in this title is intended, and it shall not be construed, to limit or
37 affect the authority or duties of any state or local agency, including, but not limited
38 to, the commission, the council, and the California Coastal Commission.

39 **Comment.** Section 67015 continues former Fish and Game Code Section 6605(a) without
40 substantive change.

Article 2. Program Generally

§ 67050. Nature of program

67050. (a) This title establishes a program through which an applicant may voluntarily apply to the department to carry out partial removal of the structure.

(b) The program established pursuant to this title shall be deemed consistent with, and part of, the California Artificial Reef Program pursuant to Title 3 (commencing with Section 25600) of Part 3 of Division 7 for purposes of compliance with federal law including the National Fishing Enhancement Act of 1984.

(c) Except as specified in Section 67065, the department shall serve as the primary authority for carrying out the program, including review and approval of applications to partially remove an offshore oil structure in state or federal waters and management and operation of decommissioned offshore oil structures in state or federal waters approved pursuant to this title.

Comment. Section 67050 continues former Fish and Game Code Section 6603(a)-(c) without substantive change.

§ 67055. Application approval

67055. Final approval of an application shall not be granted until the applicant complies with all requirements of the title, including the payment of all costs to the state to review and approve the proposed project as required by Section 67115 and the transmittal of the required portion of cost savings to the endowment and other parties as required by Section 67265.

Comment. Section 67055 continues former Fish and Game Code Section 6603(d) without substantive change.

§ 67060. Funding

67060. The department may obtain funds for the planning, development, maintenance, and operation of an offshore oil structure transferred to the department pursuant to this title and may accept gifts, subventions, grants, rebates, reimbursements, and subsidies from any lawful source.

Comment. Section 67060 continues former Fish and Game Code Section 6603(e) without substantive change.

§ 67065. Proposal for partial removal is a project

67065. (a) A proposed project to partially remove an offshore oil structure pursuant to this title is a project as defined in subdivision (c) of Section 21065 of the Public Resources Code and is therefore subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall be reviewed pursuant to the time limits established in Section 21100.2 of the Public Resources Code.

1 (b) The Natural Resources Agency shall serve as the lead agency for the
2 environmental review of any project proposed pursuant to this title.

3 **Comment.** Section 67065 continues former Fish and Game Code Section 6604 without
4 substantive change.

5 **§ 67070. No limitation on liability**

6 67070. Nothing in this title shall be construed to do any of the following:

7 (a) Relieve the applicant or prior owner or operator of an offshore oil structure
8 from any continuing liability under any of the following, if the liability is
9 associated with seepage or release of oil from an offshore oil structure that was
10 decommissioned pursuant to an order of, or any action taken by, and in accordance
11 with, any applicable rule or regulation of, any federal or state agency:

12 (1) Any state statute or regulation regarding liability for the spilling of oil.

13 (2) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701 et seq.).

14 (3) Any other provision of law.

15 (b) Establish any new liability on the part of the state.

16 (c) Require any agency with jurisdiction to approve the partial removal of an
17 offshore oil structure.

18 (d) Promote, encourage, or facilitate offshore oil exploration, development, and
19 production within California's open coastal waters.

20 (e) Require the United States Department of the Interior or the commission to
21 modify, amend, or alter an existing oil and gas lease to approve partial removal of
22 an offshore oil structure.

23 (f) Alter any existing law or applicable rule or regulation of any federal or state
24 agency that establishes liability for damages arising with respect to artificial reefs
25 or reef materials, including, but not limited to, components of decommissioned oil
26 structures.

27 (g) Alter any existing law or policy that protects natural reefs.

28 (h) Approve any particular method of abandonment.

29 **Comment.** Section 67070 continues former Fish and Game Code Section 6605(b) without
30 substantive change.

31 **§ 67075. Partial removal is not mitigation**

32 67075. Any partial removal of an offshore oil structure pursuant to this title shall
33 not be used or counted as mitigation for any environmental impacts or natural
34 resource damages.

35 **Comment.** Section 67075 continues former Fish and Game Code Section 6605(c) without
36 substantive change.

37 **§ 67080. Regulation**

38 67080. The department may adopt regulations to implement this title.

39 **Comment.** Section 67080 continues former Fish and Game Code Section 6603(f) without
40 substantive change.

1 CHAPTER 2. PARTIAL REMOVAL OF OFFSHORE OIL STRUCTURES

2 Article 1. Application

3 **§ 67100. Application generally**

4 67100. (a) An owner or operator, or other party responsible for
5 decommissioning, of an offshore oil structure may apply to the department for
6 approval to partially remove the structure pursuant to the requirements of this title.

7 (b) The department shall design and make available to potential applicants an
8 application process that will facilitate review of the application by the department
9 in a timely manner, consistent with Section 67065.

10 (c) Upon receipt of an application pursuant to this section, the department shall
11 transmit a copy of the application to the council, the commission, and the
12 endowment, which shall constitute notice to these agencies.

13 **Comment.** Section 67100 continues former Fish and Game Code Section 6610 without
14 substantive change.

15 **§ 67105. Application content**

16 67105. (a) The application for partial removal shall include, at a minimum, all of
17 the following:

18 (1) The applicant's plan and schedule for partial removal of the offshore oil
19 structure, including removal of any portion of the structure as appropriate to
20 maintain navigational safety.

21 (2) A determination of the estimated cost of partial removal and the estimated
22 cost of full removal.

23 (3) A determination of the environmental impacts and benefits to the marine
24 environment from partial removal and full removal of the structure.

25 (4) Identification of all permits, leases, and approvals required by any
26 governmental agency, including a permit issued by the United States Army Corps
27 of Engineers if required for offshore oil structures, and a lease issued by the
28 commission if the proposed project involves state tidelands and submerged lands,
29 and a proposed schedule for the applicant or the state to receive those permits,
30 leases, and approvals.

31 (b) The department may require the applicant to submit a management plan for
32 the structure following partial removal, including maintenance in a manner
33 consistent with navigational safety, enforcement, and monitoring.

34 (c) The information submitted pursuant to subdivisions (a) and (b) shall be used
35 by the department for advisory purposes only. Final determinations regarding the
36 partial removal and management of the offshore oil structure, net benefit to the
37 marine environment from partial removal, and cost savings from partial removal
38 shall be made solely by the department, council, and commission, as specified in
39 this title, based on their independent review and judgment.

1 **Comment.** Section 67105 continues former Fish and Game Code Section 6611 without
2 substantive change.

3 **§ 67110. Application completeness**

4 67110. Upon receipt of an application to partially remove an offshore oil
5 structure pursuant to this title, the department shall determine whether the
6 application is complete and includes all information needed by the department.

7 **Comment.** Section 67110 continues former Fish and Game Code Section 6612(a) without
8 substantive change.

9 **§ 67115. Financial assurances**

10 67115. (a) Upon a determination that the application is complete, the applicant
11 shall provide surety bonds executed by an admitted surety insurer, irrevocable
12 letters of credit, trust funds, or other forms of financial assurances, determined by
13 the department to be available and adequate, to ensure that the applicant will
14 provide sufficient funds to the department, council, commission, and conservancy
15 to carry out all required activities pursuant to this chapter, including all of the
16 following:

17 (1) Environmental review of the proposed project pursuant to Section 67065.

18 (2) A determination of net environmental benefit pursuant to Article 2
19 (commencing with Section 67150).

20 (3) A determination of cost savings pursuant to Article 3 (commencing with
21 Section 67200).

22 (4) Preparation of a management plan for the structure pursuant to Section
23 67250.

24 (5) Implementation of the management plan and ongoing maintenance of the
25 structure after the department takes title pursuant to Section 67275.

26 (6) Development of an advisory spending plan pursuant to Section 67280.

27 (7) Other activities undertaken to meet the requirements of this chapter,
28 including the costs of reviewing applications for completeness, and reviewing,
29 approving, and permitting the proposed project, which includes the costs of
30 determining whether the project meets the requirements of all applicable laws and
31 regulations and the costs of environmental assessment and review.

32 (b) The department shall consult with the council, commission, and conservancy
33 in determining appropriate funding for activities to be carried out by those
34 agencies.

35 (c) The funds provided pursuant to Section 67110 shall not be considered in the
36 calculation of cost savings pursuant to Article 3 (commencing with Section 67200)
37 or the apportionment of cost savings pursuant to Section 67265.

38 **Comment.** Section 67115 continues former Fish and Game Code Section 6612(b) without
39 substantive change.

1 **§ 67120. Startup costs**

2 67120. (a) The first person to file an application on and after January 1, 2011, to
3 partially remove an offshore oil structure pursuant to this title, shall pay, in
4 addition to all costs identified under Section 67115, the startup costs incurred by
5 the department or the commission to implement this title, including the costs to
6 develop and adopt regulations pursuant to this title.

7 (b) This payment of startup costs shall be reimbursed by the department as
8 provided in paragraph (3) of subdivision (c) of Section 67265.

9 **Comment.** Section 67120 continues former Fish and Game Code Section 6612(c) without
10 substantive change.

11 **§ 67125. Environmental review**

12 67125. As soon as feasible after reaching the agreement pursuant to Section
13 67115, the lead agency shall begin the environmental review of the proposed
14 project as required pursuant to Section 67065.

15 **Comment.** Section 67125 continues former Fish and Game Code Section 6612(d) without
16 substantive change.

17 Article 2. Determination of Net Benefit

18 **§ 67150. Council determination of net benefit**

19 67150. The council shall determine whether the partial removal of an offshore
20 oil structure pursuant to this title provides a net benefit to the marine environment
21 compared to the full removal of the structure.

22 **Comment.** Section 67150 continues former Fish and Game Code Section 6613(a) without
23 substantive change.

24 **§ 67155. Establishment of criteria**

25 67155. As a necessary prerequisite to determining net environmental benefit as
26 required in Section 67150, the council shall, upon receipt of its initial application
27 from the department pursuant to Section 67100, establish appropriate criteria for
28 evaluating the net environmental benefit of full removal and partial removal of
29 offshore oil structures.

30 (a) The criteria shall include, but are not limited to, the depth of the partially
31 removed structure in relation to its value as habitat and the location of the
32 structure, including its proximity to other reefs, both natural and artificial.

33 (b) The criteria shall not include any consideration of the funds to be generated
34 by the partial removal of the structure.

35 (c) In determining the criteria, the council shall consult with appropriate entities,
36 including, but not limited to, the department, the commission, the California
37 Coastal Commission, and the California Ocean Science Trust.

38 (d) The council shall establish the criteria in time to use them in making its
39 initial determination of net environmental benefit pursuant to this article.

1 **Comment.** Section 67155 continues former Fish and Game Code Section 6613(b) without
2 substantive change.

3 **§ 67160. Making the determination**

4 67160. (a) Upon certification of environmental documents pursuant to the
5 California Environmental Quality Act, the council shall, based on the criteria
6 developed pursuant to Section 67155 and other relevant information, determine
7 whether partial removal of the structure would provide a net benefit to the marine
8 environment compared to full removal of the structure.

9 (b) In making the determination, the council shall, at a minimum, take into
10 account the following:

11 (1) The contribution of the proposed structure to protection and productivity of
12 fish and other marine life.

13 (2) Any adverse impacts to biological resources or water quality, or any other
14 marine environmental impacts, from the full removal of the facility that would be
15 avoided by partial removal as proposed in the application.

16 (3) Any adverse impacts to biological resources or water quality, or any other
17 marine environmental impacts, from partial removal of the structure as proposed
18 in the application.

19 (4) Any benefits to the marine environment that would result from the full
20 removal of the structure or from partial removal as proposed in the application.

21 (5) Any identified management requirements and restrictions of the partially
22 removed structure, including, but not limited to, restrictions on fishing or other
23 activities at the site.

24 **Comment.** Section 67160 continues former Fish and Game Code Section 6613(c) without
25 substantive change.

26 **§ 67165. Specified benefits excluded from determination**

27 67165. Benefits resulting from the contribution of cost savings to the
28 endowment shall not be considered in the determination of net environmental
29 benefit.

30 **Comment.** Section 67165 continues former Fish and Game Code Section 6613(d) without
31 substantive change.

32 **§ 67170. Assistance of other entities**

33 67170. The council may contract or enter into a memorandum of understanding
34 with any other appropriate governmental or nongovernmental entity to assist in its
35 determination of net environmental benefit.

36 **Comment.** Section 67170 continues former Fish and Game Code Section 6613(e) without
37 substantive change.

1 **§ 67175. Finality of determination**

2 67175. The determination made pursuant to this article and submitted to the
3 department by the council shall constitute the final determination and shall not be
4 revised except by the council.

5 **Comment.** Section 67175 continues former Fish and Game Code Section 6613(f) without
6 substantive change.

7 **§ 67180. Timeliness**

8 67180. The council shall take all feasible steps to complete its determination in a
9 timely manner that accommodates the department's schedule for consideration of
10 the application.

11 **Comment.** Section 67180 continues former Fish and Game Code Section 6613(g) without
12 substantive change.

13 Article 3. Determination of Cost Savings

14 **§ 67200. Commission determination**

15 67200. (a) Upon certification of the appropriate environmental documents by the
16 lead agency, the commission shall determine, or cause to be determined, the cost
17 savings that will result from the partial removal of an offshore oil structure as
18 proposed in the application compared to full removal of the structure.

19 (b) The commission shall ensure that any cost savings are accurately and
20 reasonably calculated.

21 **Comment.** Subdivision (a) of Section 67200 continues former Fish and Game Code Section
22 6614(a) without substantive change.

23 Subdivision (b) continues the first sentence of former Fish and Game Code Section 6614(b)
24 without substantive change.

25 **§ 67205. Assistance of other entities**

26 67205. The commission may contract or enter into a memorandum of
27 understanding with any other appropriate governmental agency or other party,
28 including an independent expert, to ensure that cost savings are accurately and
29 reasonably calculated.

30 **Comment.** Section 67205 continues the second sentence of former Fish and Game Code
31 Section 6614(b) without substantive change.

32 **§ 67210. Consideration of government entity estimates**

33 67210. (a) The commission shall consider any estimates of cost savings made by
34 any governmental agency, including, but not limited to, the Internal Revenue
35 Service, the Franchise Tax Board, and the United States Department of the
36 Interior.

37 (b) The commission shall include in its determination a written explanation,
38 which shall be available to the public, of the differences, and the reasons for the

1 differences, between the commission's determination of cost savings and any
2 other estimates of cost savings the commission considered.

3 **Comment.** Section 67210 continues former Fish and Game Code Section 6614(c) without
4 substantive change.

5 **§ 67215. Duties of applicant**

6 67215. The applicant shall provide all necessary documentation, as determined
7 by the commission, to allow the commission to calculate the amount of cost
8 savings. Failure to provide information requested by the commission in a timely
9 manner may result in rejection of the application.

10 **Comment.** Section 67215 continues former Fish and Game Code Section 6614(d) without
11 substantive change.

12 **§ 67220. Finality of determination**

13 67220. The determination made pursuant to this article and submitted to the
14 department by the commission shall constitute the final determination and shall
15 not be revised except by the commission.

16 **Comment.** Section 67220 continues former Fish and Game Code Section 6614(e) without
17 substantive change.

18 **§ 67225. Timeliness**

19 67225. The commission shall take all feasible steps to complete its
20 determination in a timely manner that accommodates the department's schedule
21 for consideration of the application.

22 **Comment.** Section 67225 continues former Fish and Game Code Section 6614(f) without
23 substantive change.

24 **Article 4. Application Approval**

25 **§ 67250. Department responsibilities**

26 67250. Prior to granting conditional approval of an application for partial
27 removal of an offshore oil structure, the department shall do all of the following:

28 (a) Prepare a plan to manage the offshore oil structure after its partial removal.
29 The plan shall include measures to manage fishery and marine life resources at
30 and around the structure in a manner that will ensure that the net benefits to the
31 marine environment identified pursuant to Article 1 (commencing with Section
32 67150) are maintained or enhanced. Consistent with state and federal law,
33 management measures may include a buffer zone in which fishing or removal of
34 marine life is restricted or prohibited.

35 (b) Provide an opportunity for public comment on the application pursuant to the
36 California Environmental Quality Act.

37 (c) Hold a public hearing in the county nearest to the location of the offshore oil
38 structure that is the subject of the application.

1 **Comment.** Section 67250 continues former Fish and Game Code Section 6615 without
2 substantive change.

3 **§ 67255. Standards for granting conditional approval**

4 67255. The department may grant conditional approval of an application for
5 partial removal of an offshore oil structure only if all of the following criteria are
6 satisfied:

7 (a) The partial removal of the offshore oil structure and the planning,
8 development, maintenance, and operation of the structure would be consistent with
9 all applicable state, federal, and international laws, including, but not limited to,
10 all of the following:

11 (1) The federal Magnuson-Stevens Fishery Conservation and Management Act
12 (16 U.S.C. Sec. 1801 et seq.).

13 (2) The federal National Fishing Enhancement Act of 1984 (33 U.S.C. Sec. 2101
14 et seq.).

15 (3) The federal Coastal Zone Management Act (16 U.S.C. Sec. 1451 et seq.).

16 (4) The California Coastal Management Program.

17 (5) The Marine Life Management Act (Title 3 (commencing with Section
18 12100) of Part 4 of Division 6.

19 (6) The Marine Life Protection Act (Part 2 (commencing with Section 60400) of
20 Division 16).

21 (7) State and federal water quality laws.

22 (8) Navigational safety laws.

23 (b) The partial removal of the offshore oil structure provides a net benefit to the
24 marine environment compared to full removal of the structure, as determined
25 pursuant to Article 2 (commencing with Section 67150).

26 (c) The cost savings that would result from the conversion of the offshore oil
27 platform or production facility have been determined pursuant to Article 3
28 (commencing with Section 67200).

29 (d) The applicant has provided sufficient funds consistent with Section 67115.

30 (e) The department and the applicant have entered into a contractual agreement
31 whereby the applicant will provide sufficient funds for overall management of the
32 structure by the department, including, but not limited to, ongoing management,
33 operations, maintenance, monitoring, and enforcement as these relate to the
34 structure.

35 (f) The department has entered into an indemnification agreement with the
36 applicant that indemnifies the state and the department, to the extent permitted by
37 law, against any and all liability that may result, including, but not limited to,
38 active negligence, and including defending the state and the department against
39 any claims against the state for any actions the state undertakes pursuant to this
40 chapter. The agreement may be in the form of an insurance policy, cash
41 settlement, or other mechanism as determined by the department. In adopting
42 indemnification requirements for the agreement, the department shall ensure that

1 the state can defend itself against any liability claims against the state for any
2 actions the state undertakes pursuant to this chapter and pay any resulting
3 judgments. The department shall consult with and, as necessary, use the resources
4 of the office of the Attorney General in preparing and entering into the
5 indemnification agreement.

6 (g) The applicant has applied for and received all required permits, leases, and
7 approvals issued by any governmental agency, including, but not limited to, a
8 lease issued by the commission if the proposed project involves state tidelands and
9 submerged lands. For structures located in federal waters, all of the following
10 requirements shall be met:

11 (1) The department and the owner or operator of the structure reach an
12 agreement providing for the department to take title to the platform or facility as
13 provided in Section 67275.

14 (2) The department acquires the permit issued by the United States Army Corps
15 of Engineers.

16 (3) The partial removal of the structure is approved by the Bureau of Ocean
17 Energy Management, Regulation and Enforcement of the United States
18 Department of the Interior.

19 **Comment.** Section 67255 continues former Fish and Game Code Section 6616 without
20 substantive change.

21 **§ 67260. Conditional approval**

22 67260. Upon a finding that all the requirements of Sections 67250 and 67255
23 have been met, the department shall grant conditional approval to an application
24 for partial removal of an offshore oil structure.

25 **Comment.** Section 67260 continues former Fish and Game Code Section 6617 without
26 substantive change.

27 **§ 67265. Apportionment of cost savings**

28 67265. (a) The cost savings from the partial removal of an offshore oil structure,
29 as determined pursuant to Article 3 (commencing with Section 67200), shall be
30 apportioned and transmitted as described in this section.

31 (b) Upon receipt of conditional approval pursuant to Section 67260, the owner
32 or operator of the structure shall apportion and directly transmit a portion of the
33 total amount of the cost savings to the entities in subdivision (c) as follows:

34 (1) Fifty-five percent, if transmitted before January 1, 2017.

35 (2) Sixty-five percent, if transmitted on or after January 1, 2017, and before
36 January 1, 2023.

37 (3) Eighty percent, if transmitted on or after January 1, 2023.

38 (c) Of the total amount of the cost savings to be transmitted pursuant to
39 subdivision (b), the applicant shall directly transmit the following amounts to the
40 following entities:

1 (1) Eighty-five percent shall be deposited into the California Endowment for
2 Marine Preservation established pursuant to Division 37 (commencing with
3 Section 71500) of the Public Resources Code.

4 (2) Ten percent shall be deposited into the General Fund.

5 (3) Two percent shall be deposited into the Fish and Game Preservation Fund
6 for expenditure, upon appropriation by the Legislature, by the department to pay
7 any costs imposed by this title that are not otherwise provided for pursuant to
8 Section 67115 and subdivision (e) of Section 67255. Any moneys remaining in the
9 Fish and Game Preservation Fund, after providing for these costs, shall be used,
10 upon appropriation by the Legislature, first to reimburse the payment of the startup
11 costs described in Section 67120, and thereafter to conserve, protect, restore, and
12 enhance the coastal and marine resources of the state consistent with the mission
13 of the department.

14 (4) Two percent shall be deposited into the Coastal Act Services Fund,
15 established pursuant to Section 30620.1 of the Public Resources Code, and shall
16 be allocated to support state agency work involving research, planning, and
17 regulatory review associated with the application and enforcement of coastal
18 management policies in state and federal waters pursuant to state and federal
19 quasi-judicial authority over offshore oil and gas development.

20 (5) One percent shall be deposited with the board of supervisors of the county
21 immediately adjacent to the location of the facility prior to its decommissioning.
22 The amount paid to the county shall be managed pursuant to paragraph (1) of
23 subdivision (d) of Section 6817 of the Public Resources Code.

24 **Comment.** Section 67265 continues former Fish and Game Code Section 6618 without
25 substantive change.

26 **§ 67270. Final approval**

27 67270. Upon a determination by the department that the full amount of cost
28 savings has been transmitted pursuant to Section 67265, the department shall grant
29 final approval of the application for partial removal of an offshore oil structure.

30 **Comment.** Section 67270 continues former Fish and Game Code Section 6619 without
31 substantive change.

32 **§ 67275. Requirements for state to take title**

33 67275. The department shall not take title to a decommissioned offshore oil
34 structure in open coastal waters or take responsibility for management of the
35 structure pursuant to this chapter until decommissioning and partial removal of the
36 structure have been completed and both of the following requirements are met:

37 (a) The partial removal of the structure has been granted final approval by the
38 department.

39 (b) The state is indemnified, as required in subdivision (f) of Section 67255,
40 from any liability that may result from approving the partial removal of an

1 offshore oil structure or any liability that may result from the ownership of the
2 structure.

3 **Comment.** Section 67275 continues former Fish and Game Code Section 6620 without
4 substantive change.

5 **§ 67280. Advisory spending plan**

6 67280. Upon the department's final approval of the first application for partial
7 removal of an offshore oil structure pursuant to Section 67270, the conservancy
8 shall create an advisory spending plan for cost savings deposited in the
9 endowment, to provide the Board of Directors of the California Endowment for
10 Marine Preservation with guidance on spending those funds. The conservancy
11 shall update the spending plan no less than once every five years, except the
12 conservancy shall also update the spending plan when each additional application
13 for partial removal is approved. The conservancy shall submit a copy of the
14 spending plan and all updates to the plan to the Legislature, in accordance with
15 Section 9795 of the Government Code, and to the Board of Directors of the
16 California Endowment for Marine Preservation.

17 **Comment.** Section 67280 continues former Fish and Game Code Section 6621 without
18 substantive change.

19 **TITLE 3. OIL SUMPS**

20 **§ 67400. Definition of "oil sump"**

21 67400. For the purposes of this title, "oil sump" has the meaning provided in
22 Section 3780 of the Public Resources Code.

23 **Comment.** Section 67400 continues part of the first sentence of former Fish and Game Code
24 Section 1016(a) and (b) without substantive change.

25 **§ 67405. Hazard to wildlife**

26 67405. (a) Whenever the department determines that an oil sump is hazardous to
27 wildlife, but does not constitute an immediate and grave danger to wildlife, the
28 department shall forthwith notify the State Oil and Gas Supervisor of that
29 condition in order that the State Oil and Gas Supervisor may take action pursuant
30 to Section 3783 of the Public Resources Code to have that condition cleaned up or
31 abated.

32 (b) The department in making that notification shall specify the hazardous
33 conditions.

34 **Comment.** Section 67405 continues former Fish and Game Code Section 1016(a), except for
35 the part that is continued in Section 67400, without substantive change.

36 **§ 67410. Immediate and grave danger to wildlife**

37 67410. (a) Whenever the department determines that an oil sump constitutes an
38 immediate and grave danger to wildlife, the department shall forthwith notify the

1 State Oil and Gas Supervisor of that condition in order that the State Oil and Gas
2 Supervisor may take action pursuant to Section 3784 of the Public Resources Code
3 to have that condition cleaned up or abated.

4 (b) The department, in making that notification, shall specify the immediate and
5 grave danger.

6 **Comment.** Section 67410 continues former Fish and Game Code Section 1016(b), except for
7 the part that is continued in Section 67400, without substantive change.

8 **§ 67415. Regulations**

9 67415. The commission shall promulgate any rules and regulations that are
10 necessary to implement the provisions of this title, including a reasonable
11 definition of the term “hazardous” for the purposes of this title. It is the intent of
12 the Legislature that the department adopt, as a part of those rules and regulations, a
13 definition of the term “wildlife,” as herein employed, which will provide for
14 reasonable exclusions consistent with effectuating the wildlife protection purposes
15 of this title.

16 **Comment.** Section 67415 continues former Fish and Game Code Section 1016(c) without
17 substantive change.

18 **§ 67420. No limitation on other department authority or duties**

19 67420. No provision of this title shall be construed as a limitation on the
20 authority or responsibilities of the department with respect to the enforcement or
21 administration of any provision of state law that it is authorized or required to
22 enforce or administer.

23 **Comment.** Section 67420 continues former Fish and Game Code Section 1016(d) without
24 substantive change.

25 **TITLE 4. FINANCES**

26 **§ 67500. Fish and Wildlife Pollution Account**

27 67500. (a) There is a Fish and Wildlife Pollution Account in the Fish and Game
28 Preservation Fund.

29 (b) The Fish and Wildlife Pollution Account is the successor to the Fish and
30 Wildlife Pollution Cleanup and Abatement Account in the Fish and Game
31 Preservation Fund which is hereby abolished. All references in any law to the Fish
32 and Wildlife Pollution Cleanup and Abatement Account shall be deemed to refer
33 to the Fish and Wildlife Pollution Account. All money in the Fish and Wildlife
34 Pollution Cleanup and Abatement Account on January 1, 1996, shall be
35 transferred to the Fish and Wildlife Pollution Account.

36 (c) The following subaccounts are created within the Fish and Wildlife Pollution
37 Account:

38 (1) The Oil Pollution Administration Subaccount.

39 (2) The Oil Pollution Response and Restoration Subaccount.

(3) The Hazardous Materials Administration Subaccount.

(4) The Hazardous Materials Response and Restoration Subaccount.

Comment. Section 67500 continues former Fish and Game Code Section 13010 without substantive change.

§ 67505. Deposit of specified funds

67505. (a) The state portion of any recovery or settlement of money damages received pursuant to any citation or charges brought under the following sections by the people by or through any state or local public entity shall be deposited in the following subaccounts:

(1) Administrative and judicially imposed fines, penalties, or punitive damages resulting from either civil or criminal action or administrative civil liability for violations of the oil and petroleum product control and discharge provisions of this code, including, but not limited to, Sections 4470, 6302, and 66715, Article 2 (commencing with Section 4480) of Chapter 2 of Title 2 of Part 4 of Division 3, and Title 1 (commencing with Section 66500) and shall be deposited in the Oil Pollution Administration Subaccount or the Oil Pollution Response and Restoration Subaccount as determined by administrative or judicial settlement, or as provided by law.

(2) Administrative and judicially imposed fines, penalties, or punitive damages resulting from either criminal or administrative civil liability for violations of hazardous materials and other pollution laws including, but not limited to, Sections 4470, 11500, and 66715, and Article 2 (commencing with Section 4480) of Chapter 2 of Title 2 of Part 4 of Division 3, shall be deposited in the Hazardous Materials Administration Subaccount or the Hazardous Materials Response and Restoration Subaccount as determined by administrative or judicial settlement or as provided by law.

(b) Notwithstanding Section 3600, any recovery or settlement of money received pursuant to the following sections shall be deposited in the Fish and Wildlife Pollution Account:

(1) Title 1 (commencing with Section 66500) of Part 3 of Division 17.

(2) Section 66705 or 66715.

(3) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and Navigation Code.

(4) Section 13442 of the Water Code.

(5) Proceeds or recoveries from pollution and abatement actions.

(c) Any recovery or settlement of money damages, including, but not limited to, civil penalties arising out of any civil action filed and maintained by the Attorney General in the enforcement of Title 1 (commencing with Section 66500) shall be deposited in the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund.

Comment. Subdivision (a) of Section 67505 continues former Fish and Game Code Section 13011 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 12017(a)(2)-(6) without substantive change.

Subdivision (c) continues former Fish and Game Code Section 5656 without substantive change.

Notes. (1) Existing Section 13011(a) contains an erroneous cross-reference to “Chapter 2 (commencing with Section 5600) of Part 1 of Division 6.” There is no Section 5600 in existing law. In proposed Section 67505(a)(1), the reference is revised to refer to the relevant pollution-related provisions of the referenced chapter (i.e., proposed “Title 1 (commencing with Section 66500)”). **The Commission invites comment on whether that revision would cause any problems.**

(2) Existing Section 13011(b) refers to “Part 1 (commencing with Section 5500) of Division 6.” That part is a miscellaneous collection of provisions, only one of which appears to be relevant to the purpose of the reference (existing Section 5523). In proposed Section 67505, the reference is narrowed to refer to the provision that would continue Section 5523 (proposed Section 11500). **The Commission invites comment on whether that revision would cause any problems.**

(3) Existing Section 12017(a) refers to Section 13001. In proposed Section 67505(b), that reference is narrowed to refer to the part of Section 13001(a) that appears to be relevant to the purpose of the reference. **The Commission invites comment on whether that revision would cause any problems.**

§ 67510. Continuous appropriation

67510. Moneys in the Fish and Wildlife Pollution Account are continuously appropriated to the department, except as provided in Section 67530.

Comment. Section 67510 continues former Fish and Game Code Section 12017(b) without substantive change.

§ 67515. Expenditures

67515. (a) Funds in the account shall be expended for the following purposes:

(1) Abatement, cleanup, and removal of pollutants from the environment.

(2) Response coordination, planning, and program management.

(3) Resource injury determination.

(4) Resource damage assessment.

(5) Economic valuation of resources.

(6) Restoration or rehabilitation at sites damaged by pollution.

(b) Notwithstanding subdivision (a), funds in the account in excess of one million dollars (\$1,000,000) as of July 1 of each year may also be expended for the preservation of California plants, wildlife, and fisheries.

(c) Funds in the account may be expended for cleanup and abatement if a reasonable effort has been made to have the responsible party pay cleanup and abatement costs and funds are not available for disbursement from the emergency reserve account of the Toxic Substances Control Account in the General Fund pursuant to Section 25354 of the Health and Safety Code.

(d) The department may use funds in the account to pay the costs of consultant contracts for resource injury determination or damage assessment during hazardous material or oil spill emergencies. These contracts are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

1 **Comment.** Section 67515 continues former Fish and Game Code Section 12017(c)-(f) without
2 substantive change.

3 **§ 67520. Maximum funds on deposit**

4 67520. (a) Funds on deposit in the subaccounts shall not exceed the amounts
5 prescribed below, adjusted in accordance with Section 2212 of the Revenue and
6 Taxation Code to equal 1995 dollars:

7 (1) The Oil Pollution Administration Subaccount shall not exceed five million
8 dollars (\$5,000,000).

9 (2) The Oil Pollution Response and Restoration Subaccount shall not exceed ten
10 million dollars (\$10,000,000).

11 (3) The Hazardous Materials Administration Subaccount shall not exceed five
12 million dollars (\$5,000,000).

13 (4) The Hazardous Material Response and Restoration Subaccount shall not
14 exceed ten million dollars (\$10,000,000).

15 (b) All funds in the Fish and Wildlife Pollution Account in excess of the
16 amounts listed above, on June 30 of each fiscal year, shall be used by the
17 department in succeeding fiscal years for projects that preserve California plants,
18 wildlife, and fisheries.

19 **Comment.** Section 67520 continues former Fish and Game Code Section 13012 without
20 substantive change.

21 **§ 67525. Prudent reserve**

22 67525. (a) Appropriations from either the Oil Pollution Administration
23 Subaccount or the Hazardous Materials Administration Subaccount shall not
24 exceed one third of the maximum fund level established under Section 67520 in
25 order to maintain a prudent reserve for future appropriations.

26 (b) If the director or his or her designee expends funds from the prudent reserve
27 established pursuant to subdivision (a) for activities authorized under subdivision
28 (b) of Section 67530, the director or the director's designee shall ensure that there
29 are adequate funds remaining in those subaccounts to carry out their purposes.
30 Expenditures from the prudent reserve shall be repaid in part, or in full, from any
31 funds received pursuant to subdivision (a) of Section 67505 until those reserves
32 are fully reimbursed.

33 (c) The director or his or her designee, shall recover from the spiller, responsible
34 party, or, in the absence of those responsible parties, from a particular pollution
35 abatement or remediation account, all expenditures paid pursuant to subdivisions
36 (b) and (d) of Section 67530, and all costs incurred by the department arising from
37 the administration and enforcement of applicable pollution laws. The director or
38 his or her designee may request, and a district attorney, city attorney, or other
39 prosecuting agency, as part of a prosecution or negotiation, may allege a claim for,
40 these costs and expenditures and shall deposit any recoveries into the fund from
41 which they were expended.

(d) The director or his or her designee shall ensure that there are adequate funds in the accounts and subaccounts specified in this section to carry out their purposes.

Comment. Section 67525 continues former Fish and Game Code Section 13013 without substantive change.

Note. Existing Section 13013(c) refers to “expenditures paid from the accounts established pursuant to subdivisions (b) and (d) of Section 13230.” That reference is confusing. While Section 13230(b) and (d) do authorize expenditures, they do not establish any accounts. In proposed Section 67525, the language has been revised to eliminate any reference to the establishment of accounts. **The Commission invites comment on whether that revision would cause any problems.**

§ 67530. Expenditures from specified subaccounts

67530. (a) Funds deposited in the Oil Pollution Administration Subaccount created pursuant to paragraph (1) of subdivision (c) of Section 67500 shall, upon appropriation by the Legislature, only be expended by the director, his or her deputy, or designee, for the costs of administering the pollution response, abatement, and habitat restoration activities not otherwise authorized by the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

(b) Notwithstanding Section 13340 of the Government Code, funds deposited in the Oil Pollution Response and Restoration Subaccount created pursuant to paragraph (2) of subdivision (c) of Section 67500 are continuously appropriated to the department for expenditure by the director, his or her deputy, or designee, without regard to fiscal years for response and restoration activity related to oil spills not otherwise authorized by the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

(c) Funds deposited in the Hazardous Materials Administration Subaccount created pursuant to paragraph (3) of subdivision (c) of Section 67500 shall, upon appropriation by the Legislature, only be expended by the director, his or her deputy, or designee, for the reasonable cost of administering the hazardous materials response and restoration activities of the department.

(1) These activities shall include the cross training and staffing of existing department and interagency personnel necessary to achieve efficiency in the use of existing funds and resources in response to hazardous materials and restoration activities of the department.

(2) The department may appoint and contract with technical experts to assist in the response and remediation of toxic material discharges.

(d) Notwithstanding Section 13340 of the Government Code, funds deposited in the Hazardous Materials Response and Restoration Subaccount are continuously appropriated to the director, his or her deputy, or designee, for expenditure without regard to fiscal years for the response and abatement of hazardous materials that are spilled or discharged on the lands and in the waters of the state, and for the protection, preservation, and restoration of fish and wildlife impacted by discharges of hazardous materials into the environment of the state. No funds

appropriated from this subaccount shall be expended to establish personnel positions nor shall any personnel positions be created with contract funds from this subaccount.

Comment. Section 67530 continues former Fish and Game Code Section 13230 without substantive change.

§ 67535. Cost accounting system

67535. Consistent with Section 3525, the department shall maintain a cost accounting system that accounts for the costs of each activity or program engaged in pursuant to Section 67530 using funds from the subaccounts listed in that section.

Comment. Section 67535 continues former Fish and Game Code Section 13231 without substantive change.

PART 4. WATER DIVERSION, OBSTRUCTION, AND ALTERATION

TITLE 1. DAMS, CONDUITS, AND SCREENS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Definitions

§ 68000. Definitions

68000. As used in this title:

(a) “Dam” includes all artificial obstructions.

(b) “Conduit” includes pipe, millrace, ditch, flume, siphon, tunnel, canal, and any other conduit or diversion used for the purpose of taking or receiving water from any river, creek, stream, or lake.

(c) “Owner” includes the United States (except that for the purpose of Sections 68105, 68405, and 68650, “owner” does not include the United States as to any dam in the condition the dam existed on September 15, 1945), the State, a person, political subdivision, or district (other than a fish and game district) owning, controlling or operating a dam or pipe.

(d) “United States” means the United States of America, and in relation to any particular matter includes the officers, agents, employees, agencies, or instrumentalities authorized to act in relation thereto.

Comment. Section 68000 continues former Fish and Game Code Section 5900 without substantive change.

Note. Existing Section 5900 (c) provides that, in specified sections, the term “owner” does not include the United States. One of the specified sections, existing Section 5933, does not use the term “owner.” The reference to Section 5933 has not been continued in proposed Section 68000. **The Commission invites comment on whether that revision would cause any problems.**

Article 2. Application of Chapter to United States

§ 68050. Legislative intent

68050. (a) In including the United States within the scope of this title the Legislature declares that it understands that the law and policy of the United States with respect to the development of water resources, the reclamation of land from flood and overflow, and in all other respects is to comply with state laws respecting water.

(b) The provisions of this title provide a procedure for the United States to comply with the provisions and policy of state law respecting its subject matter.

Comment. Section 68050 continues former Fish and Game Code Section 5902 without substantive change.

§ 68055. Application to construct or enlarge dam

68055. The United States shall file with the commission pursuant to this title a separate application for each dam it proposes to construct or enlarge if an owner other than the United States would be required to file an application pursuant to Division 3 of the Water Code in order to construct or enlarge the same dam. The application shall be on forms provided by the department.

Comment. Section 68055 continues former Fish and Game Code Section 5903 without substantive change.

§ 68060. Application content

68060. (a) The application of the United States shall give the following information:

(1) The name and address of the owner.

(2) The location, type, size, and height of the proposed dam and appurtenant works.

(3) The storage capacity of the reservoir.

(4) Such other pertinent information as the commission requires.

(5) As accurately as may be readily obtained, the area of the drainage basin, rainfall, and stream flow records and flood flow records and estimates.

(6) The purpose for which the impounded or diverted water is to be used.

(7) Such other appropriate information as may be necessary in a given instance.

(b) If the physical conditions involved and the size of the dam render the above requirements unnecessary as to drainage areas, rainfall, stream flow, and flood flow, the commission may waive the requirements.

Comment. Section 68060 continues former Fish and Game Code Section 5904 without substantive change.

CHAPTER 2. PROHIBITED OBSTRUCTIONS

Article 1. General Prohibition

§ 68100. Obstruction generally

68100. (a) No person shall cause or having caused, permit to exist any log jam, debris accumulation or other artificial barrier in any stream in this state, which prevents the passing of fish up and down stream or which the Commission determines to be deleterious to fish.

(b) The Commission determination is subject to court review.

(c) This section does not apply to a dam for the storage or diversion of water, a public bridge and the approaches thereto, a groin, jetty, seawall, breakwater, bulkhead, wharf, or pier, that is permitted by law, or debris from mining operations,

Comment. Section 68100 restates former Fish and Game Code Section 5948 without substantive change.

Note. Proposed Section 68100 would restate existing Section 5948 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“No person shall cause or having caused, permit to exist any log jam or debris accumulation or any other artificial barrier, except a dam for the storage or diversion of water, public bridges and approaches thereto, groins, jetties, seawalls, breakwaters, bulkheads, wharves and piers permitted by law, and debris from mining operations, in any stream in this State, which will prevent the passing of fish up and down stream or which is deleterious to fish as determined by the commission, subject to review by the courts.”

The Commission invites comment on whether that restatement would cause any problems.

Article 2. Prohibition in Specified Districts

§ 68105. Obstruction in specified districts

68105. Except as otherwise provided in this code, it is unlawful to construct or maintain in any stream in Districts 2505, 2510, 2515, 2525, 2530, 2535, 2540, 2545, 2550, 2555, 2560, 2565, 2595, 2600, 2605, 2660, and 2665, any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream.

Comment. Section 68105 continues former Fish and Game Code Section 5901 without substantive change.

See also Section 6380 (enforcement).

Note. Existing Section 5901 refers to District 1 7/8 and District 2 3/4. Neither of those districts exist in the current code. The references to them are omitted from proposed Section 68104. **The Commission invites comment on whether that revision would cause any problems.**

CHAPTER 3. FISHWAYS

Article 1. General Prohibitions and Obligations

§ 68300. Damage or obstruction

68300. It is unlawful to willfully destroy, injure, or obstruct any fishway.

Comment. Section 68300 continues former Fish and Game Code Section 5936 without substantive change.

§ 68305. Maintenance

68305. The owner of any dam upon which a fishway has been provided shall keep the fishway in repair and open and free from obstructions to the passage of fish at all times.

Comment. Section 68305 continues former Fish and Game Code Section 5935 without substantive change.

§ 68310. Water flow

68310. (a) The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam.

(b) During the minimum flow of water in any river or stream, permission may be granted by the department to the owner of any dam to allow sufficient water to pass through a culvert, waste gate, or over or around the dam, to keep in good condition any fish that may be planted or exist below the dam, when, in the judgment of the department, it is impracticable or detrimental to the owner to pass the water through the fishway.

Comment. Section 68310 continues former Fish and Game Code Section 5937 without substantive change.

§ 68315. Fishing in impounded waters

68315. (a) The owner of a dam shall accord to the public for the purpose of fishing, the right of access to the waters impounded by the dam during the open season for the taking of fish in the stream or river, subject to the regulations of the commission.

(b) Subdivision (a) does not apply to any impoundment of water by a dam that is wholly located on privately owned land that is primarily agricultural or residential in nature if the impounded waters are from a stream or river that is not naturally frequented by fish and if the dam does not prevent the free passage of fish over or around the dam. The Legislature finds and declares that this subdivision is intended to be declaratory of existing law.

Comment. Section 68315 continues former Fish and Game Code Section 5943 without substantive change.

1 **§ 68320. Liability limitation**

2 68320. The owner of a dam is not liable in damages to any person exercising the
3 right to fish, who suffers any injury through coming in contact with, or tampering
4 with, any of the property of the owner of the dam.

5 **Comment.** Section 68320 continues former Fish and Game Code Section 5944 without
6 substantive change.

7 Article 2. Requirements for Existing Dams

8 **§ 68400. Department examination of dams**

9 68400. The department shall, from time to time, examine all dams in all rivers
10 and streams in this State naturally frequented by fish.

11 **Comment.** Section 68400 continues former Fish and Game Code Section 5930 without
12 substantive change.

13 **§ 68405. Required fishway**

14 68405. (a) If, in the opinion of the commission, there is not free passage for fish
15 over or around any dam, the department shall cause plans to be furnished for a
16 suitable fishway, and order in writing the owner of the dam to provide the dam,
17 within a specified time, with a durable and efficient fishway, of such form and
18 capacity and in such location as shall be determined by the department.

19 (b) The fishway shall be completed by the owner of the dam to the satisfaction
20 of the department within the time specified.

21 **Comment.** Section 68405 continues former Fish and Game Code Section 5931 without
22 substantive change.

23 **§ 68410. Additional structures**

24 68410. When all of the provisions of this chapter have been complied with, if in
25 the opinion of the commission changed conditions make additional structures
26 desirable for the free passage of fish, the department may make any additional
27 structures and may expend any sums of money that it deems necessary for the
28 additional construction, including the cost of insurance against any liability that
29 the department may incur in connection with those structures.

30 **Comment.** Section 68410 continues former Fish and Game Code Section 5932 without
31 substantive change.

32 Article 3. Requirements for New and Enlarged Dams

33 **§ 68500. Application to build or enlarge dam**

34 68500. Whenever an application for approval of plans and specifications for a
35 new dam in any stream in this state, or for the enlargement of any dam in any
36 stream in this state, is filed with the Department of Water Resources, pursuant to

1 Part 1 (commencing with Section 6000) of Division 3 of the Water Code, a copy
2 of the application shall be filed by the applicant with the commission.

3 **Comment.** Section 68500 continues the first sentence of former Fish and Game Code Section
4 5933 without substantive change.

5 **§ 68505. Initial determination of necessity**

6 68505. If the commission deems that the construction of a fishway over the dam
7 is necessary for the preservation and protection of fish, and that construction and
8 operation of a fishway is practicable, it shall set a date for a hearing to be held
9 within 90 days after filing of the application with the commission.

10 **Comment.** Section 68505 continues the second sentence of former Fish and Game Code
11 Section 5933 without substantive change.

12 **§ 68510. Hearing**

13 68510. At the hearing provided pursuant to Section 68505 the applicant shall be
14 entitled to introduce evidence to show that construction of the fishway is not
15 necessary or is not practicable, taking into consideration the height of the dam and
16 the amount of water available.

17 **Comment.** Section 68510 continues the third sentence of former Fish and Game Code Section
18 5933 without substantive change.

19 **§ 68515. Deposition of witnesses in hearing**

20 68515. The commission or any party may, in any hearing, cause the deposition
21 of witnesses to be taken in the manner prescribed by law for depositions in civil
22 actions in the superior courts of this state under Title 4 (commencing with Section
23 2016.010) of Part 4 of the Code of Civil Procedure.

24 **Comment.** Section 68515 continues former Fish and Game Code Section 5934 without
25 substantive change.

26 **§ 68520. Notice of fishway requirement**

27 68520. (a) If, after the hearing, the commission finds that the construction of the
28 fishway is necessary and practicable it shall, within five days after the hearing,
29 notify the applicant to that effect.

30 (b) After notice from the commission that a fishway is required, it shall be
31 unlawful to commence the construction of any new dam or the enlargement of any
32 dam without first obtaining the written approval of the commission of the design
33 for the fishway.

34 **Comment.** Section 68520 continues the fourth and fifth sentences of former Fish and Game
35 Code Section 5933 without substantive change.

Article 4. Requirements in District 2560

§ 68600. Dams constructed in District 2560

68600. (a) The provisions of Section 68650 shall not be applicable to dams constructed in District 2560 after September 9, 1953.

(b) Plans and specifications for the dam shall not be approved by the Department of Water Resources unless adequate provision is made for full compliance with Section 68310.

(c) No permit or license to appropriate water in District 2560 shall be issued by the State Water Rights Board after September 9, 1953, unless conditioned upon full compliance with Section 68310.

Comment. Section 68600 continues former Fish and Game Code Section 5946 without substantive change.

Note. Existing Section 5946 (last amended by 1957 Cal. Stat. ch. 1932) refers to the “State Water Rights Board.” See proposed Section 68600(c). That reference is obsolete; there is no such entity in state government. **The Commission invites comment on whether the provision should be revised to refer to the State Water Resources Control Board, the Department of Water Resources, or some other entity. Alternatively, the provision could be omitted as entirely obsolete.**

§ 68605. Release of water from dam in District 2560

68605. It is unlawful for the owner of a dam in District 2560 to release water from the dam, or any facilities for the generation of hydroelectric energy operated in connection therewith, in varying flows in such a manner as to destroy fish life below such release.

Comment. Section 68605 continues former Fish and Game Code Section 5947 without substantive change.

Article 5. Alternatives

§ 68650. Hatchery in lieu of fishway

68650. (a) Whenever in the opinion of the commission it is impracticable, because of the height of any dam, or other conditions, to construct a fishway over or around the dam, the commission may, in lieu of the fishway, order the owner of the dam completely to equip, within a specified time, on a site to be selected by the department, a hatchery, together with dwellings for help, traps for the taking of fish, and all other equipment necessary to operate a hatchery station, according to plans and specifications furnished by the department.

(b) After the hatchery has been constructed, the department shall operate it without further expense to the owner of the dam except as provided in Sections 68660 and 68665.

Comment. Section 68650 continues former Fish and Game Code Section 5938 without substantive change.

1 **§ 68655. Hatchery size and location**

2 68655. (a) The hatchery, traps, and other equipment necessary to operate a
3 hatchery station shall not be of a size greater than necessary to supply the stream
4 or river with a reasonable number of fish.

5 (b) The owner of the dam shall permit the department to locate the hatchery,
6 dwellings, traps, and other equipment upon any of the land of the owner of the
7 dam upon a site or sites to be mutually agreed upon by the department and the
8 owner of the dam.

9 **Comment.** Section 68655 continues former Fish and Game Code Section 5939 without
10 substantive change.

11 **§ 68660. Provision of electricity to hatchery**

12 68660. If the owner of the dam generates electricity at the place of the dam, the
13 owner shall furnish sufficient light, without charge, for the use of the hatchery.

14 **Comment.** Section 68660 continues former Fish and Game Code Section 5940 without
15 substantive change.

16 **§ 68665. Use of water to operate hatchery**

17 68665. The owner shall permit the use of water, without charge, to operate the
18 hatchery.

19 **Comment.** Section 68665 continues former Fish and Game Code Section 5941 without
20 substantive change.

21 **§ 68670. Fish planting in lieu of fishway or hatchery**

22 68670. The commission may, in lieu of a fishway, hatchery, dwelling, traps or
23 other equipment necessary to operate a hatchery station, order the owner of the
24 dam to plant, under the supervision of the department, the young of any fish that
25 naturally frequent the waters of the stream or river, at such times, in such places,
26 and in such numbers as the commission may order.

27 **Comment.** Section 68670 continues former Fish and Game Code Section 5942 without
28 substantive change.

29 **§ 68675. Sale of fish to be planted**

30 68675. The department may sell, at cost, to the owner of a dam, young fish
31 ordered to be planted.

32 **Comment.** Section 68675 continues former Fish and Game Code Section 5945 without
33 substantive change.

CHAPTER 4. CONDUITS AND SCREENS: DIVERSIONS OVER 250 CUBIC
FEET PER SECOND

Article 1. General provisions

§ 68800. Application of title

68800. (a) This chapter shall apply only to a conduit that meets one or both of the following criteria:

(1) The conduit is described in Section 68920.

(2) The conduit has a maximum flow capacity over 250 cubic feet per second of water.

(b) In classifying conduits it is recognized that those involving the passage of water through power devices and those of large size tend to destroy fish in a greater degree than conduits of smaller size or different type.

(c) If this section is for any reason held to be unconstitutional, that decision shall not affect the validity of the remainder of this chapter.

(d) The Legislature hereby declares that the persons owning conduits referred to in this section are subject to the provisions of this chapter.

Comment. Section 68800 restates former Fish and Game Code Section 5980 without substantive change.

Note. Existing Section 5980 provides that “this article” only applies to “conduits described in Section 5987, and conduits with a maximum flow capacity over 250 cubic feet per second of water.” The Commission has two questions about this provision:

(1) Section 5987 (proposed Section 68920) does not seem to describe a kind of conduit. That provision is a special cost-reimbursement rule applicable to persons involved in energy production and transmission. **What is the meaning of the reference to Section 5987?**

(2) It appears that the provision governs a conduit that meets *either* of the stated criteria. This can be inferred from the first sentence of existing Section 6020 (proposed Section 69000), which appears to govern conduits that are *not* governed by Section 5980 (“This article shall apply only to conduits with a maximum flow capacity of 250 cubic feet per second or less of water, other than those conduits described in Section 5987.”). Proposed Section 68800(a) has been restated to make its meaning clearer. **The Commission invites comment on whether that revision would cause any problems.**

Article 2. Screen Requirements

§ 68850. General requirement

68850. (a) The department shall examine all conduits. If, in the opinion of the department, a screen is necessary to prevent fish from passing into a conduit, the department shall order the owner of the conduit to install a screen.

(b) Except as provided in Sections 68920, 68865 and 68870, one-half of the expense of constructing or installing a screen shall be paid by the owner of a conduit and one-half by the department.

1 **Comment.** Subdivision (a) of Section 68850 restates the first sentence of former Fish and
2 Game Code Section 5981 without substantive change.

3 Subdivision (b) continues the second sentence of former Fish and Game Code Section 5981
4 without substantive change.

5 **Note.** Proposed Section 68850(a) would restate the first sentence of existing Section 5981 to
6 improve its clarity, without changing its substantive effect. The existing provision reads as
7 follows:

8 “The department shall examine all conduits; and order the owner of a conduit to install, and it is
9 the duty of such an owner to install, a screen on the conduit when, in the opinion of the
10 department, a screen is necessary to prevent fish from passing into the conduit.”

11 The language stating the owner’s duty to comply with a department order is omitted as redundant.
12 Existing Section 5990 (proposed Section 68860) expressly states an owner’s duty to comply with
13 a department order to install a screen. **The Commission invites comment on whether the**
14 **proposed restatement would cause any problems.**

15 **§ 68855. Content of order**

16 68855. An order to install a screen shall be in writing, and shall specify the type,
17 size, mesh, material and location of the screen, the time within which the screen
18 shall be installed, and an estimate of the expense of installing the screen.

19 **Comment.** Section 68855 continues former Fish and Game Code Section 5982 without
20 substantive change.

21 **§ 68860. Duty to install and maintain screen**

22 68860. It is unlawful for the owner of a conduit to refuse, fail, or neglect to
23 install a screen in compliance with an order from the department or to permit the
24 screen to be removed or taken out of place, except for repairs or cleaning while
25 water is running in the conduit.

26 **Comment.** Section 68860 continues former Fish and Game Code Section 5990 without
27 substantive change.

28 **§ 68865. Acceptance**

29 68865. (a) When a screen has been installed, the owner may, by written notice
30 within 90 days after the installation, request the department to inspect the screen
31 for the purpose of accepting it.

32 (b) It is then the duty of the department to inspect the screen, and if it has been
33 installed in accordance with the order and plans and specifications agreed upon by
34 the department and the owner as provided in Section 68925 or approved by the
35 Department of Water Resources the department shall accept and approve the
36 screen in writing.

37 (c) If, upon inspection it appears that the screen has not been constructed and
38 installed in accordance with plans and specifications, the department shall, within
39 60 days after the inspection, notify the owner of any deviation from the order.

40 (d) The deviation may be remedied within 90 days, and a further inspection
41 requested.

1 **Comment.** Section 68865 continues former Fish and Game Code Section 5988 without
2 substantive change.

3 **§ 68870. Inefficient screen**

4 68870. After acceptance, if the screen fails to function in an efficient manner, no
5 changes in conditions affecting its operation having occurred subsequent to the
6 acceptance of the screen:

7 (a) The owner shall not be required to install a new screen.

8 (b) The department may install another screen at the sole cost and expense of the
9 department of a type, size, mesh, and at a location agreed upon by the department
10 and the owner, or approved by the Department of Water Resources, as provided in
11 Section 68925.

12 **Comment.** Section 68870 continues former Fish and Game Code Section 5989 without
13 substantive change.

14 **§ 68875. Department election to install screen**

15 68875. (a) In lieu of ordering the owner to install a screen, the department may,
16 at its option, elect to construct and install the screen itself, in which event the type,
17 size, mesh, and location of the screen and the time within which it shall be
18 installed shall be determined as provided by Section 68925.

19 (b) When the department elects to construct and install a screen, one-half of the
20 cost of construction and installation shall be paid by the owner.

21 (c) The department may pay the entire cost of the construction and installation
22 of a screen from the Fish and Game Preservation Fund, in which case it shall,
23 upon completion of the screen, notify the owner of the amount of one-half of the
24 cost, and the owner shall, within 30 days thereafter, remit that amount to the
25 department.

26 **Comment.** Section 68875 continues former Fish and Game Code Section 5991 without
27 substantive change.

28 Article 3. Costs

29 **§ 68900. Department contribution**

30 68900. When an order is made to install a screen, the department shall pay the
31 owner of the conduit upon whom the order is served one-half of the estimated
32 expense of the construction or installation of the screen.

33 **Comment.** Section 68900 continues former Fish and Game Code Section 5983 without
34 substantive change.

35 **§ 68905. Additional contribution**

36 68905. If the expense of constructing or installing a screen exceeds the
37 estimated expense the department shall, upon written notification by the owner of
38 the conduit, inspect the screen, and pay to the owner one-half of the amount
39 estimated to be necessary to complete the construction or installation of the screen.

1 **Comment.** Section 68905 continues former Fish and Game Code Section 5984 without
2 substantive change.

3 **§ 68910. Return of surplus contribution**

4 68910. The owner of the conduit shall, within 10 days after completing the
5 installation of the screen, return to the department any surplus money advanced by
6 the department pursuant to this chapter.

7 **Comment.** Section 68910 continues former Fish and Game Code Section 5985 without
8 substantive change.

9 **§ 68915. Source of funds**

10 68915. All money paid by the department to the owner of a conduit pursuant to
11 this chapter shall be paid out of the Fish and Game Preservation Fund.

12 **Comment.** Section 68915 continues former Fish and Game Code Section 5986 without
13 substantive change.

14 **§ 68920. Contribution exception**

15 68920. (a) The department shall not pay one-half of the expense of the
16 construction and installation of any screen as provided in Sections 68850, 68900,
17 and 68905 to any person engaged in producing, generating, transmitting,
18 delivering, or furnishing electricity for light, heat or power.

19 (b) If this section is for any reason held to be unconstitutional, the decision shall
20 not affect the validity of Section 68850, 68900 or 68905, and the Legislature
21 hereby declares that the persons mentioned in this section shall be subject to the
22 provisions of Sections 68850, 68900 and 68905.

23 **Comment.** Section 68920 continues former Fish and Game Code Section 5987 without
24 substantive change.

25 **§ 68925. Screen standards**

26 68925. (a) Any screen installed under any of the provisions of this chapter shall
27 be reasonably adequate to prevent fish from passing into the conduit and not
28 unnecessarily impede the flow of water or prevent the owner from diverting the
29 amount of water the owner is legally entitled to divert.

30 (b) The type, size, mesh, and location of the screen and the time within which it
31 shall be installed shall be mutually agreed upon by the department and the owner
32 of the conduit. In the event the department and the owner of the conduit cannot
33 agree upon the type, size, mesh, and location of the screen and the time within
34 which it shall be installed, those matters shall be submitted for determination to
35 the Department of Water Resources whose decision thereon shall be final and
36 conclusive.

37 (c) If the owner and the department fail to agree upon the type, size, mesh,
38 location, and time of installation of the screen within 60 days from the first
39 submission of proposed plans and specifications by the department to the owner,
40 either the department or the owner may submit those matters, in writing to the

Department of Water Resources for final and conclusive decision, and it shall, within 60 days from that reference, render its decision in writing determining those matters.

(d) The department shall maintain and keep the screen in repair, and shall quarterly notify the owner in writing of the cost thereof, and the owner shall within 30 days thereafter remit to the department an amount equal to one-half of the cost.

(e) The owner shall operate and keep free from debris any screen installed, and shall quarterly notify the department in writing of the cost thereof, and the department shall within 30 days thereafter remit to the owner an amount equal to one-half of the cost.

Comment. Section 68925 continues former Fish and Game Code Section 5992 without substantive change.

§ 68930. Cost agreement

68930. Before the installation of any screen under the provisions of this chapter, the department and the owner shall enter into an agreement defining the method of determining the cost of maintenance, repairs, operation, and keeping the screen free of debris, which agreement shall provide that in the event either the department or the owner objects to the cost the matter shall be referred to the Director of General Services for a final and conclusive decision.

Comment. Section 68930 continues former Fish and Game Code Section 5993 without substantive change.

CHAPTER 5. CONDUITS AND SCREENS: DIVERSIONS OF 250 CUBIC FEET PER SECOND OR LESS

Article 1. General Provisions

§ 69000. Application of title

69000. (a) This chapter shall apply only to conduits with a maximum flow capacity of 250 cubic feet per second or less of water, other than those conduits described in Section 68920.

(b) If this section is for any reason held to be unconstitutional, that decision shall not affect the validity of Chapter 4 (commencing with Section 68800) and the Legislature hereby declares that the persons owning conduits referred to in this section shall be subject to the provisions of Chapter 4 (commencing with Section 68800).

Comment. Section 69000 continues former Fish and Game Code Section 6020 without substantive change.

Note. Existing Section 6020 refers to a conduit “described in Section 5987.” As explained in the Note following proposed Section 68800, Section 5987 does not describe a kind of conduit. **What is the meaning of the reference to Section 5987?**

Article 2. Screen or Bypass Requirements

§ 69050. General requirement

69050. (a) The department shall examine new or existing conduits, and may install, maintain, repair, and replace fish screens, bypasses, or other devices to prevent the passage of fish through a conduit, when in the opinion of the department the screen or device is practical and necessary.

(b) The owner of a conduit shall grant to the department the right of access to the conduit for the installation and maintenance of the screen, and shall provide the department with an easement for a site for the installation of the screen or device deemed suitable by the department.

(c) The owner shall supply sufficient water for a bypass to carry fish stopped by the screen or device back to the channel from which they were diverted, and an easement for the bypass channel, but the easement shall not require the acquisition or leasing of additional lands by the owner.

(d) No water for a bypass shall be required if the channel from which the water is diverted is dry or incapable of supporting fish life below the point of diversion.

Comment. Section 69050 continues former Fish and Game Code Section 6021 without substantive change.

§ 69055. Screen standards

69055. Any screen installed under this chapter shall meet both of the following requirements:

(a) The screen shall be reasonably adequate to prevent fish from passing into the conduit.

(b) The screen will not unnecessarily impede the flow of water or prevent the owner from diverting the amount of water the owner is legally entitled to divert.

Comment. Section 69055 restates former Fish and Game Code Section 6026 without substantive change.

§ 69060. Sufficient water for bypass

69060. Sufficient water for a bypass shall not exceed the following:

(a) Diversions under three cubic feet per second capacity shall not be required to bypass more than 18 gallons per minute.

(b) Diversions of three cubic feet per second or more, but under 10 cubic feet per second, shall not be required to bypass more than 30 gallons per minute.

(c) Diversions of 10 cubic feet per second or more, but under 20 cubic feet per second, shall not be required to bypass more than 40 gallons per minute.

(d) Diversions of 20 cubic feet per second or over shall not be required to bypass more than one-half of 1 percent of the capacity of the diversion.

(e) Diversions built by the Government of the United States and requiring bypasses longer than one-quarter mile shall bypass an amount of water necessary to return fish to the permanent channel satisfactorily.

Comment. Section 69060 continues former Fish and Game Code Section 6022 without substantive change.

§ 69065. Written notice and agreement

69065. (a) The department shall serve written notice upon each owner of its intention to install a fish screen.

(b) The notice shall describe the location of the screen, the access required, and the amount of water required for the bypass. The location of the screen may be described by the distance downstream from the intake or by another method.

(c) The notice shall be served upon the owner in duplicate.

(d) Once signed by the owner, the notice shall serve as an agreement to the installation of the screen or device, according to the terms set out in the notice

(e) The signed agreement shall require the owner to render any assistance, other than mechanical repair or replacement of parts, necessary to keep the screen or device in satisfactory operating condition. The hiring of additional labor shall not be required for that assistance.

Comment. Section 69065 restates former Fish and Game Code Section 6023 without substantive change.

Note. Proposed Section 69065 would restate existing Section 6023 to improve its clarity, without changing its substantive effect. The existing provision reads as follows:

“The department shall serve written notice upon each owner of its intention to install a fish screen, and shall describe therein the distance downstream from the intake or in other manner the location of the screen, the access required, and the amount of water required for the bypass. The notice shall be served upon the owner in duplicate, and in such form that the original copy upon signature by the owner shall serve as an agreement to the installation of the screen or device under the terms therein, and shall require the owner to render such assistance, other than mechanical repair or replacement of parts, necessary to keep the screen or device in satisfactory operating condition. The hiring of additional labor shall not be required for such assistance.”

The Commission invites comment on whether that restatement would cause any problems.

§ 69070. Disagreement

69070. (a) If the owner fails to sign and return the agreement granting the department the necessary rights for the installation of the screen or device within 60 days after its service on the owner, the department may install the screen as though the agreement had been signed unless a decision of the Department of Water Resources is requested.

(b) In the event the department and the owner of the conduit cannot agree upon the type, size, mesh, or location of the screen or device, the amount of water required for a bypass, or the time within which the screen or device shall be installed, the matter shall be submitted for determination to the Department of Water Resources, whose decision on those matters shall be final and conclusive.

(c) The Department of Water Resources shall render its decision within 60 days after either the department or the owner has submitted the matter in writing and requested a decision.

1 **Comment.** Section 69070 continues former Fish and Game Code Section 6024 without
2 substantive change.

3 **§ 69075. Duty to maintain screen or bypass**

4 69075. It is unlawful for the owner of a conduit to do either of the following:

5 (a) Cause or permit a screen to be removed or taken out of place, except for
6 repairs or cleaning, while water is running in the conduit.

7 (b) Operate the conduit with the bypass closed when the screen is operating as
8 provided in this chapter.

9 **Comment.** Section 69075 continues former Fish and Game Code Section 6025 without
10 substantive change.

11 **§ 69080. Temporary removal or closure**

12 69080. This chapter does not prevent the department from removing or
13 permitting an owner to remove a screen or close a bypass during any part of the
14 year when the department finds that the action will not endanger fish life.

15 **Comment.** Section 69080 continues former Fish and Game Code Section 6027 without
16 substantive change.

17 **§ 69085. Source of funds**

18 69085. All money paid by the department to the owner of a conduit pursuant to
19 this chapter shall be paid out of the Fish and Game Preservation Fund.

20 **Comment.** Section 69085 continues former Fish and Game Code Section 6028 without
21 substantive change.

22 CHAPTER 6. SPECIFIC AREAS

23 Article 1. Isabella Dam

24 **§ 69200. Isabella Dam**

25 69200. (a) The director shall use the department's resources, to the fullest extent
26 feasible, to coordinate with the federal government to promote the preservation of
27 species, including species listed as endangered species or threatened species under
28 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the
29 California Endangered Species Act, Part 1 (commencing with Section 62000) of
30 Division 17, and their habitats within the locale of Isabella Dam and Reservoir in
31 Kern County in order to facilitate the continued operation of those facilities for
32 flood control and water conservation storage as authorized by Congress and as
33 provided in an agreement, dated October 23, 1964, among the United States and
34 various local public agencies.

35 (b) Nothing in this section is intended to amend, modify, or alter in any manner
36 the intent of the California Endangered Species Act.

37 **Comment.** Section 69200 continues former Fish and Game Code Section 1018 without
38 substantive change.

Article 2. Klamath River Fish and Wildlife District (Division 2670)

§ 69250. Prohibition

69250. (a) Every person, firm, corporation, or company that constructs or maintains any dam or other artificial obstruction in any of the waters of Fish and Wildlife District 2670 is guilty of a crime.

(b) Any dam or other artificial obstruction constructed, placed, or maintained in any of the waters of Fish and Wildlife District 2670 is a public nuisance.

Comment. Section 69250 continues part of the fourth paragraph of former Fish and Game Code Section 11036 without substantive change.

See also Section 6410 (enforcement).

TITLE 2. DIVERSION OF WATER FROM
STREAMS

CHAPTER 1. DIVERSION DELETERIOUS TO SALMON OR STEELHEAD

§ 69500. Diversion deleterious to salmon or steelhead

69500. (a) Notwithstanding any provision of Chapter 4 (commencing with Section 68800) of, and Chapter 5 (commencing with Section 69000) of Title 1, on or after January 1, 1972, any new diversion of water from any stream having populations of salmon and steelhead that is determined by the department to be deleterious to salmon and steelhead shall be screened by the owner.

(b) The construction, operation, or maintenance costs of any screen required pursuant to this chapter shall be borne by the owner of the diversion.

Comment. Section 69500 continues former Fish and Game Code Section 6100(a) without substantive change.

See also Section 6552 (enforcement).


§ 69505. Notice of determination

69505. (a) If the department has determined that a diversion is deleterious to salmon and steelhead pursuant to Section 69500, it shall provide written notice of its determination to the owner.

(b) The department shall notify the owner that it shall make onsite investigation and shall make any other investigation before it shall propose any measures necessary to protect fishlife.

(c) Within 30 days of providing notice under this section, or within a time determined by mutual written agreement, the department shall submit to the owner its proposals as to measures necessary to protect the salmon and steelhead.

Comment. Section 69505 restates former Fish and Game Code Section 6100(b) without substantive change.

 **Note.** Proposed Section 69505 would restate existing Section 6100(b) to improve its clarity. The restatement would also make explicit a point that is only implicit in existing law: the

1 department must provide written notice to a property owner before taking action under Section
2 6100. The existing provision reads as follows:

3 “The department within 30 days of providing written notice to the owner that the department has
4 determined that the diversion is deleterious to salmon and steelhead pursuant to subdivision (a),
5 or within the time determined by mutual written agreement, shall submit to the owner its
6 proposals as to measures necessary to protect the salmon and steelhead. The department shall
7 notify the owner that it shall make onsite investigation and shall make any other investigation
8 before it shall propose any measures necessary to protect fishlife.”

9 **The Commission invites comment on whether that restatement would cause any problems.**

10 **§ 69510. Provision of information to owner**

11 69510. The department, or any agency of the state, shall provide the owner of
12 the diversion any available information that is required by the owner in order to
13 comply with the provisions of this chapter.

14 **Comment.** Section 69510 continues former Fish and Game Code Section 6100(c) without
15 substantive change.

16 **§ 69515. Department approval requirement**

17 69515. The diversion shall not commence until the department has determined
18 that measures necessary to protect fishlife have been incorporated into the plans
19 and construction of the diversion.

20 **Comment.** Section 69515 continues former Fish and Game Code Section 6100(d) without
21 substantive change.

22 **CHAPTER 2. ENFORCEMENT OF WATER CODE PROVISIONS**

23 **§ 69550. Violations deleterious to fish and wildlife**

24 69550. (a) The director or his or her designee may issue a complaint to any
25 person or entity in accordance with Section 1055 of the Water Code alleging a
26 violation for which liability may be imposed under Section 1052 or 1847 of the
27 Water Code that harms fish and wildlife resources.

28 (b) The complaint is subject to the substantive and procedural requirements set
29 forth in Section 1055 of the Water Code, and the department shall be designated a
30 party to any proceeding before the State Water Resources Control Board regarding
31 a complaint filed pursuant to this section.

32 **Comment.** Section 69550 continues former Fish and Game Code Section 12025.2 without
33 substantive change.

1 TITLE 3. FISH AND WILDLIFE PROTECTION
2 AND CONSERVATION

3 CHAPTER 1. GENERAL PROVISIONS

4 **§ 69700. Findings and declarations**

5 69700. The Legislature finds and declares that the protection and conservation
6 of the fish and wildlife resources of this state are of utmost public interest. Fish
7 and wildlife are the property of the people and provide a major contribution to the
8 economy of the state, as well as providing a significant part of the people's food
9 supply; therefore their conservation is a proper responsibility of the state. This title
10 is enacted to provide conservation for these resources.

11 **Comment.** Section 69700 continues former Fish and Game Code Section 1600 without
12 substantive change.

13 **§ 69705. Definitions**

14 69705. The following definitions apply to this title:

15 (a) "Agreement" means a lake or streambed alteration agreement.

16 (b) "Day" means calendar day.

17 (c) "Emergency" has the same definition as in Section 21060.3 of the Public
18 Resources Code.

19 (d) "Entity" means any person, state or local governmental agency, or public
20 utility that is subject to this title.

21 **Comment.** Section 69705 continues former Fish and Game Code Section 1601 without
22 substantive change.

23 **§ 69710. Violation of title**

24 69710. It is unlawful for any entity to violate this title.

25 **Comment.** Section 69710 continues former Fish and Game Code Section 1602(e) without
26 substantive change.

27 See also Section 6352 (enforcement).

28 **§ 69715. Extension of time**

29 69715. Any time period prescribed in this title may be extended by mutual
30 agreement.

31 **Comment.** Section 69715 continues former Fish and Game Code Section 1607 without
32 substantive change.

33 **§ 69720. Agreements governed by former law**

34 69720. (a) Any agreement or any memorandum of understanding executed by
35 the department pursuant to this title prior to January 1, 2004, shall be subject to,
36 and shall be governed by, the provisions of this title that were in existence prior to
37 that date.

(b) This section does not apply to subdivision (b) of Section 70155, requiring an entity to provide a copy or other satisfactory evidence of an agreement attained prior to January 1, 1977, upon the request of the department.

Comment. Section 69720 continues former Fish and Game Code Section 1616 without substantive change.

CHAPTER 2. PROHIBITION AND AGREEMENTS

Article 1. General Prohibition

§ 69750. General prohibition and exception

69750. An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(a) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

(1) A detailed description of the project's location and a map.

(2) The name, if any, of the river, stream, or lake affected.

(3) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

(4) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(5) A copy of any other applicable local, state, or federal permit or agreement already issued.

(6) Any other information required by the department.

(b) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

(c) The entity pays the applicable fees, pursuant to Section 69780.

(d) One of the following occurs:

(1) (A) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(B) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request

1 by any person, a regional office shall send the log to that person monthly for one
2 year. A request made pursuant to this clause may be renewed annually.

3 (2) The department determines that the activity may substantially adversely
4 affect an existing fish or wildlife resource and issues a final agreement to the
5 entity that includes reasonable measures necessary to protect the resource, and the
6 entity conducts the activity in accordance with the agreement.

7 (3) A panel of arbitrators issues a final agreement to the entity in accordance
8 with Article 4 (commencing with Section 70050), and the entity conducts the
9 activity in accordance with the agreement.

10 (4) The department does not issue a draft agreement to the entity within 60 days
11 from the date notification is complete, and the entity conducts the activity as
12 described in the notification, including any measures in the notification that are
13 intended to protect fish and wildlife resources.

14 **Comment.** Section 69750 continues former Fish and Game Code Section 1602(a) without
15 substantive change.

16 See also Sections 6350, 6352, 6552, 6554 (enforcement).

17 Article 2. Agreement Process

18 § 69775. Information provided to entity submitting notification

19 69775. The department shall provide any entity that submits a notification
20 pursuant to Section 69750 with all of the following information:

21 (a) The time period for review of the notification.

22 (b) An explanation of the entity's right to object to any measures proposed by
23 the department.

24 (c) The time period within which objections may be made in writing to the
25 department.

26 (d) The time period within which the department is required to respond, in
27 writing, to the entity's objections.

28 (e) An explanation of the right of the entity to arbitrate any measures in a draft
29 agreement.

30 (f) The procedures and statutory timelines for arbitration, including, but not
31 limited to, information about the payment requirements for arbitrator fees.

32 (g) The current schedule of fees to obtain an agreement.

33 **Comment.** Section 69775 continues former Fish and Game Code Section 1608 without
34 substantive change.

35 **Note.** Existing Section 1608 refers to the submission of "notification pursuant to Section
36 1602." Proposed Section 69775 narrows that reference to refer only to existing Section 1608(a)
37 (proposed Section 69750), the part of Section 1608 that authorizes the submission of notice. **The**
38 **Commission invites Comment on whether that revision would cause any problems.**

1 **§ 69780. Fees**

2 69780. (a) The department may establish a graduated schedule of fees to be
3 charged to any entity subject to this title.

4 (b) The fees charged shall be established in an amount necessary to pay the total
5 costs incurred by the department in administering and enforcing this title,
6 including, but not limited to, preparing and submitting agreements and conducting
7 inspections.

8 (c) (1) The fee schedule established pursuant to subdivision (a) shall not include
9 a fee that exceeds five thousand dollars (\$5,000) for any single project.

10 (2) The fee limitation described in paragraph (1) does not apply to any project
11 included in any agreement issued pursuant to Section 69875.

12 (d) The department shall annually adjust the fees pursuant to Section 3755.

13 (e) Fees received pursuant to this section shall be deposited in the Fish and
14 Game Preservation Fund.

15 **Comment.** Section 69780 continues former Fish and Game Code Section 1609 without
16 substantive change.

17 **§ 69785. Fee payment prior to processing notification**

18 69785. Notwithstanding Section 69750, the department is not required to
19 determine whether a notification is complete or otherwise process the notification
20 until the department has received the applicable fees.

21 **Comment.** Section 69785 continues former Fish and Game Code Section 1602(c) without
22 substantive change.

23 **§ 69790. Suspension of process**

24 69790. (a) If, after receiving a notification, but before the department executes a
25 final agreement, the department informs the entity, in writing, that the activity
26 described in the notification, or any activity or conduct by the entity directly
27 related thereto, violates any provision of this code or the regulations that
28 implement the code, the department may suspend processing the notification, and
29 paragraph (4) of subdivision (d) of Section 69750 and the timelines specified in
30 Sections 69795, 69805, and 69810 do not apply.

31 (b) This section ceases to apply if any of the following occurs:

32 (1) The department determines that the violation has been remedied.

33 (2) Legal action to prosecute the violation is not filed within the applicable
34 statute of limitations.

35 (3) Legal action to prosecute the violation has been terminated.

36 **Comment.** Section 69790 continues former Fish and Game Code Section 1613 without
37 substantive change.

1 **§ 69795. Draft agreement**

2 69795. (a) After the notification is complete, the department shall determine
3 whether the activity may substantially adversely affect an existing fish and
4 wildlife resource.

5 (b) If the department determines that the activity may have that effect, the
6 department shall provide a draft agreement to the entity within 60 days after the
7 notification is complete.

8 (c) The draft agreement shall describe the fish and wildlife resources that the
9 department has determined the activity may substantially adversely affect and
10 include measures to protect those resources.

11 (d) The department's description of the affected resources shall be specific and
12 detailed, and the department shall make available, upon request, the information
13 upon which its determination of substantial adverse effect is based.

14 **Comment.** Section 69795 continues the first four sentences of former Fish and Game Code
15 Section 1603(a) without substantive change.

16 **§ 69800. Prohibited conditions**

17 69800. The department shall not condition the issuance of an agreement on the
18 receipt of another local, state, or federal permit.

19 **Comment.** Section 69800 continues former Fish and Game Code Section 1606 without
20 substantive change.

21 **§ 69805. Response to draft agreement**

22 69805. (a) Within 30 days of the date of receipt of the draft agreement, the entity
23 shall notify the department whether the measures to protect fish and wildlife
24 resources in that draft agreement are acceptable.

25 (b) If the department's measures are not acceptable, the entity shall so notify the
26 department in writing and specify the measures that are not acceptable.

27 (c) Upon written request, the department shall meet with the entity within 14
28 days of the date the department receives the request for the purpose of resolving
29 any disagreement regarding those measures.

30 **Comment.** Section 69805 continues the fifth through seventh sentences of former Fish and
31 Game Code Section 1603(a) without substantive change.

32 **§ 69810. Failure to respond to draft agreement**

33 69810. If the entity fails to respond, in writing, within 90 days of receiving the
34 draft agreement, the department may withdraw that agreement, and require the
35 entity to resubmit a notification to the department before commencing the activity.

36 **Comment.** Section 69810 continues the eighth sentence of former Fish and Game Code
37 Section 1603(a) without substantive change.

38 **§ 69815. Work required by court order, administrative order, or notice**

39 69815. If the entity is required to perform work subject to this title pursuant to a
40 court or administrative order or notice, the entity shall include the measures

1 proposed by the department to protect fish and wildlife resources in the agreement.
2 Those measures are not subject to arbitration.

3 **Comment.** Section 69815 continues former Fish and Game Code Section 1614 without
4 substantive change.

5 Article 3. Duration and Extension

6 § 69850. Default maximum term

7 69850. (a) Except as otherwise provided in this article, the term of an agreement
8 shall not exceed five years.

9 (b) Notwithstanding subdivision (a), after the agreement expires, the entity shall
10 remain responsible for implementing any mitigation or other measures specified in
11 the agreement to protect fish and wildlife resources.

12 **Comment.** Section 69850 continues former Fish and Game Code Section 1605(a) without
13 substantive change.

14 See also Section 6350 (enforcement).

15 § 69855. Extension of agreement

16 69855. (a) Any entity may request one extension of a previously-approved
17 agreement, if the entity requests the extension prior to the expiration of its original
18 term.

19 (b) The department shall grant the extension unless it determines that the
20 agreement requires modification because the measures contained in the agreement
21 no longer protect the fish and wildlife resources that the activity may substantially
22 adversely affect. In the event the department makes that determination, the
23 department shall propose measures intended to protect those resources.

24 (c) If the entity disagrees with the department's determination that the
25 agreement requires modification to protect fish and wildlife resources or with the
26 measures proposed by the department, the disagreement shall be resolved pursuant
27 to the procedures described in Article 4 (commencing with Section 70050).

28 **Comment.** Section 69855 continues former Fish and Game Code Section 1605(b)-(c) without
29 substantive change.

30 § 69860. Maximum extension

31 69860. The department may not extend an agreement for more than five years.

32 **Comment.** Section 69860 continues former Fish and Game Code Section 1605(d) without
33 substantive change.

34 § 69865. Continuation pending resolution of extension request

35 69865. (a) An original agreement shall remain in effect until the department
36 grants the extension request, or new measures are imposed to protect fish and
37 wildlife resources by agreement or through the arbitration process.

38 (b) Notwithstanding subdivision (a), an original agreement may not remain in
39 effect for more than one year after its expiration date.

1 **Comment.** Section 69865 continues former Fish and Game Code Section 1605(e) without
2 substantive change.

3 **§ 69870. Failure to submit timely extension request**

4 69870. If the entity fails to submit a request to extend an agreement prior to its
5 expiration, the entity shall submit a new notification before commencing or
6 continuing the activity covered by the agreement.

7 **Comment.** Section 69870 continues former Fish and Game Code Section 1605(f) without
8 substantive change.

9 **§ 69875. Long-term agreements**

10 69875. (a) Notwithstanding subdivision (a) of Section 69850, the department
11 may issue an agreement, that otherwise meets the requirements of this title, for a
12 term longer than five years if the following conditions are satisfied:

13 (1) The information the entity provides to the department in its notification
14 meets the requirements of subdivision (a) of Section 69750.

15 (2) The entity agrees to provide a status report to the department every four
16 years. The status report shall be delivered to the department no later than 90 days
17 prior to the end of each four-year period, and shall include all of the following
18 information:

19 (A) A copy of the original agreement.

20 (B) The status of the activity covered by the agreement.

21 (C) An evaluation of the success or failure of the measures in the agreement to
22 protect the fish and wildlife resources that the activity may substantially adversely
23 affect.

24 (D) A discussion of any factors that could increase the predicted adverse impacts
25 on fish and wildlife resources, and a description of the resources that may be
26 adversely affected.

27 (b) The department shall review the four-year status report, and conduct an
28 onsite inspection to confirm that the entity is in compliance with the agreement
29 and that the measures in the agreement continue to protect the fish and wildlife
30 resources.

31 (c) If the department determines that the measures in the agreement no longer
32 protect the fish and wildlife resources that are being substantially adversely
33 affected by the activity, the department, in consultation with the entity, and within
34 45 days of receipt of the report, shall impose one or more new measures to protect
35 the fish and wildlife resources affected by the activity.

36 (d) If requested to do so by the entity, the department shall make available the
37 information upon which it determined the agreement no longer protects the
38 affected fish and wildlife resources.

39 (e) If the entity disagrees with one or more of the new measures, within seven
40 days of receiving the new measures, it shall notify the department, in writing, of
41 the disagreement.

(f) The entity and the department shall consult regarding the disagreement. The consultation shall be completed within seven days after the department receives the entity's notice of disagreement.

(g) If the department and entity fail to reach agreement, the entity may request, in writing, the appointment of a panel of arbitrators to resolve the disagreement. The panel of arbitrators shall be appointed within 14 days of the completed consultation. The panel of arbitrators shall issue a decision within 14 days of the date it is established. All other provisions of Article 4 (commencing with Section 70050) regarding the panel shall apply to any arbitration panel established in accordance with this section.

(h) If the entity fails to provide timely status reports as required by this section, the department may suspend or revoke the agreement.

(i) The agreement shall authorize department employees to conduct onsite inspections relevant to the agreement, upon reasonable notice. Nothing in this article limits the authority of department employees to inspect private or public sites.

(j) Except as provided in subdivisions (b) through (h), inclusive, paragraph (4) of subdivision (d) of Section 69750 and the time periods to process agreements specified in this title do not apply to agreements issued pursuant to this article.

Comment. Section 69875 continues former Fish and Game Code Section 1605(g) without substantive change.

§ 69880. Long-term agreement log


69880. (a) Each region of the department shall log the notifications of activities for which a long-term agreement is being considered pursuant to Section 69875.

(b) The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity.

(c) Each item shall remain on the log for one year.

(d) Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this section may be renewed annually.

Comment. Section 69880 continues former Fish and Game Code Section 1605(h) without substantive change.

 **Note.** Existing Section 1605(h) erroneously refers to “this paragraph.” That error is corrected in proposed Section 69880(d) (by referring to “this section”). **The Commission invites comment on whether that revision would cause any problems.**

§ 69885. Suspension or revocation of agreement

69885. (a) The department may suspend or revoke an agreement at any time if it determines that an entity is not in compliance with the terms of the agreement or fails to provide timely status reports as required by Section 69875.

(b) The department shall adopt regulations establishing the procedure for suspension or revocation of an agreement. The procedure shall require the

1 department to provide to the entity a written notice that explains the basis for a
2 suspension or revocation, and to provide the entity with an opportunity to correct
3 any deficiency before the department suspends or revokes the agreement.

4 **Comment.** Section 69885 continues former Fish and Game Code Section 1612 without
5 substantive change.

6 See also Section 6350 (enforcement).

7 Article 4. Arbitration Panel

8 § 70050. Appointment of panel

9 70050. (a) If mutual agreement is not reached at any meeting held pursuant to
10 Section 69805, the entity may request, in writing, the appointment of a panel of
11 arbitrators to resolve the disagreement.

12 (b) A panel of arbitrators shall be appointed within 14 days of receipt of the
13 written request.

14 **Comment.** Section 70050 continues the first and second sentences of former Fish and Game
15 Code Section 1603(b) without substantive change.

16 § 70055. Composition of panel

17 70055. (a) The panel of arbitrators shall be comprised of three persons, as
18 follows: one representative selected by the department; one representative selected
19 by the affected entity; and a third person mutually agreed upon by the department
20 and the entity, who shall serve as the panel chair.

21 (b) If the department and the entity cannot agree on the third person within that
22 14-day period, the third person shall be appointed in the manner provided by
23 Section 1281.6 of the Code of Civil Procedure.

24 (c) The third person shall have scientific expertise relevant to the fish and
25 wildlife resources that may be substantially adversely affected by the activity
26 proposed by the entity and to the measures proposed by the department to protect
27 those resources.

28 **Comment.** Section 70055 continues the third through fifth sentences of former Fish and Game
29 Code Section 1603(b) without substantive change.

30 § 70060. Authority of panel

31 70060. The authority of the panel of arbitrators is limited to resolving
32 disagreements regarding the measures specified in Sections 69795, 69805, 69855,
33 and 69875, and, in the case of an extension, whether or not the agreement needs to
34 be modified to protect fish and wildlife resources.

35 **Comment.** Section 70060 continues the sixth sentence of former Fish and Game Code Section
36 1603(b) without substantive change.

37 § 70065. Decision

38 70065. (a) Any decision by the panel of arbitrators shall be issued within 14
39 days from the date the panel was established.

- 1 (b) The decision shall be binding on the department and the affected entity.
2 (c) The decision shall be based on the best scientific information reasonably
3 available at the time of the arbitration
4 (d) Except for a decision to extend an agreement without modification, the
5 decision shall be made in the form of a final agreement. The final agreement
6 issued by the panel shall also include, without modification, all measures that were
7 not subject to arbitration.
8 **Comment.** Section 70065 restates the seventh and eighth sentences of former Fish and Game
9 Code Section 1603(b) without substantive change.

10 **§ 70070. Expenses**

- 11 70070. Each party shall pay the expenses of their selected representative and pay
12 one-half the expenses of the third person.
13 **Comment.** Section 70070 continues the ninth sentence of former Fish and Game Code Section
14 1603(b) without substantive change.

15 **§ 70075. Court review**

- 16 70075. Any party affected by a decision made by an arbitration panel pursuant
17 to this title may petition a court of competent jurisdiction for confirmation,
18 correction, or vacation of the decision in accordance with Chapter 4 (commencing
19 with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.
20 **Comment.** Section 70075 continues former Fish and Game Code Section 1604 without
21 substantive change.

22 **Article 5. Exceptions and Special Rules for Specific Activities**

23 **§ 70150. Emergency exception**

- 24 70150. (a) Except as provided in subdivision (b), this title does not apply to any
25 of the following:
26 (1) Immediate emergency work necessary to protect life or property.
27 (2) Immediate emergency repairs to public service facilities necessary to
28 maintain service as a result of a disaster in an area in which a state of emergency
29 has been proclaimed by the Governor pursuant to Chapter 7 (commencing with
30 Section 8550) of Division 1 of Title 2 of the Government Code.
31 (3) Emergency projects undertaken, carried out, or approved by a state or local
32 governmental agency to maintain, repair, or restore an existing highway, as
33 defined in Section 360 of the Vehicle Code, within the existing right-of-way of the
34 highway, that has been damaged as a result of fire, flood, storm, earthquake, land
35 subsidence, gradual earth movement, or landslide, within one year of the damage.
36 Work needed in the vicinity above and below a highway may be conducted
37 outside of the existing right-of-way if it is needed to stop ongoing or recurring
38 mudslides, landslides, or erosion that pose an immediate threat to the highway, or
39 to restore those roadways damaged by mudslides, landslides, or erosion to their

1 predamage condition and functionality. This paragraph does not exempt from this
2 title any project undertaken, carried out, or approved by a state or local
3 governmental agency to expand or widen a highway damaged by fire, flood,
4 storm, earthquake, land subsidence, gradual earth movement, or landslide. The
5 exception provided in this paragraph does not apply to a highway designated as an
6 official state scenic highway pursuant to Section 262 of the Streets and Highways
7 Code.

8 (b) The entity performing the emergency work described in subdivision (a) shall
9 notify the department of the work, in writing, within 14 days of beginning the
10 work. Any work described in the emergency notification that does not meet the
11 criteria for the emergency work described in subdivision (a) is a violation of this
12 title if the entity did not first notify the department in accordance with Section
13 69750 or 70160.

14 **Comment.** Section 70150 continues former Fish and Game Code Section 1610 without
15 substantive change.

16 **§ 70155. Water supply, drainage, flood control, water treatment**

17 70155. (a) If an activity involves the routine maintenance and operation of water
18 supply, drainage, flood control, or waste treatment and disposal facilities, notice to
19 and agreement with the department shall not be required after the initial
20 notification and agreement, unless the department determines either of the
21 following:

22 (1) The work described in the agreement has substantially changed.

23 (2) Conditions affecting fish and wildlife resources have substantially changed,
24 and those resources are adversely affected by the activity conducted under the
25 agreement.

26 (b) This section applies only if notice to, and agreement with, the department
27 was attained prior to January 1, 1977, and the department has been provided a
28 copy of the agreement or other proof of the existence of the agreement that
29 satisfies the department, if requested.

30 **Comment.** Section 70155 continues former Fish and Game Code Section 1602(b) without
31 substantive change.

32 **§ 70160. Timber harvest plan as notification**

33 70160. (a) An entity that submits a timber harvesting plan in accordance with
34 Section 4581 of the Public Resources Code or directly to the department is
35 deemed to have given the notification required by Section 69750, as long as the
36 following information is included in the plan:

37 (1) The volume, type, and equipment to be used in removing or displacing any
38 one or combination of soil, sand, gravel, or boulders.

39 (2) The volume of water, intended use, and equipment to be used in any water
40 diversion or impoundment, if applicable.

41 (3) The equipment to be used in road or bridge construction.

1 (4) The type and density of vegetation to be affected and an estimate of the area
2 involved.

3 (5) A diagram or sketch of the location of the operation that clearly indicates the
4 stream or other water and access from a named public road. Locked gates shall be
5 indicated and the compass direction shall be shown.

6 (6) A description of the period of time in which operations will be carried out.

7 (b) Notwithstanding subdivision (a), the department is not required to determine
8 whether the notification is complete or otherwise process the notification until the
9 timber harvesting plan and the proper notification fee have both been received by
10 the department.

11 (c) Nothing in this section requires the department to issue an agreement fewer
12 than 60 days from the date the notification is complete.

13 (d) The date on which the term of an agreement issued pursuant to this section
14 begins shall be the date timber operations first commence, unless the agreement
15 specifies a later beginning date.

16 **Comment.** Section 70160 continues former Fish and Game Code Section 1611 without
17 substantive change.

18 **§ 70165. Licensed cannabis cultivation**

19 70165. (a) Notwithstanding Section 69750, an entity shall not be required to
20 obtain an agreement with the department pursuant to this title for activities
21 authorized by a license or renewed license for cannabis cultivation issued by the
22 Department of Food and Agriculture for the term of the license or renewed license
23 if all of the following occur:

24 (1) The entity submits all of the following to the department:

25 (A) The written notification described in subdivision (a) of Section 69750.

26 (B) A copy of the license or renewed license for cannabis cultivation issued by
27 the Department of Food and Agriculture that includes the requirements specified
28 in Section 26060.1 of the Business and Professions Code.

29 (C) The fee specified in subdivision (c) of Section 69750.

30 (2) The department determines in its sole discretion that compliance with the
31 requirements specified in Section 26060.1 of the Business and Professions Code
32 that are included in the license will adequately protect existing fish and wildlife
33 resources that may be substantially adversely affected by the cultivation without
34 the need for additional measures that the department would include in a draft
35 streambed alteration agreement in accordance with Section 69795.

36 (3) The department notifies the entity in writing that the exemption applies to
37 the cultivation authorized by the license or renewed license.

38 (b) The department shall notify the entity in writing whether the exemption in
39 subdivision (a) applies to the cultivation authorized by the license or renewed
40 license within 60 days from the date that the notification is complete and the fee
41 has been paid.

(c) If an entity receives an exemption pursuant to this section and fails to comply with any of the requirements described in Section 26060.1 of the Business and Professions Code that are included in the license, the failure shall constitute a violation of Section 69750, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

Comment. Section 70165 continues former Fish and Game Code Section 1602(d) without substantive change.

Notes. (1) Existing Section 1602(d) refers to a “draft streambed alteration agreement in accordance with Section 1602.” Proposed Section 70165 would narrow that cross-reference to the part of Section 1602 that appears to be relevant to the purpose of the reference (i.e., proposed Section 69795). **The Commission invites comment on whether that revision would cause any problems.**

(2) Existing Section 1602(d)(3) refers to “a violation under this section.” Proposed Section 70165(c) would narrow that cross-reference to the part of Section 1602 that appears to be relevant to the purpose of the reference (i.e., proposed Section 69750). **The Commission invites comment on whether that revision would cause any problems.**

§ 70170. Area agreement regarding cannabis cultivation

70170. (a) The department may adopt general agreements for the cultivation of cannabis.

(b) Any general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in paragraph (2) of subdivision (d) of Section 69750.

(c) Paragraph (4) of subdivision (d) of Section 69750 and all other time periods to process agreements specified in this title do not apply to the issuance of a general agreement adopted by the department pursuant to this section.

(d) Any general agreement issued by the department pursuant to this section is a final agreement and is not subject to Article 4 (commencing with Section 70050) or Sections 69795, 69805, 69810, and 70075.

(e) The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 69780.

(f) If the department adopts or amends a general agreement under this section, it shall do so as an emergency regulation. An emergency regulation adopted pursuant to this section, and any amendments to it, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the department, or any amendments to it made by the department pursuant to this section, shall stay in effect until revised by the department.

(g) Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

Comment. Section 70170 continues former Fish and Game Code Section 1617 without substantive change.

PART 5. MINING

TITLE 1. VACUUM OR SUCTION DREDGING

CHAPTER 1. GENERAL PROVISIONS

§ 71000. Definitions

71000. (a) For purposes of this section and Section 71200, “river, stream, or lake” means the body of water at the current water level at the time of the dredging.

(b) For purposes of Sections 6500, 71050, 71200, and 71270, “person” does not include a partnership, corporation, or other type of association.

(c) For purposes of this title, the use of vacuum or suction dredge equipment, also known as suction dredging, is the use of a mechanized or motorized system for removing or assisting in the removal of, or the processing of, material from the bed, bank, or channel of a river, stream, or lake in order to recover minerals.

Comment. Subdivision (a) of Section 71000 continues former Fish and Game Code Section 5653.5 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 5653.8 without substantive change.

Subdivision (c) continues the first sentence of former Fish and Game Code Section 5653(g) without substantive change.

Note. Existing Section 5653(g) defines the terms “vacuum or suction dredge equipment” and “suction dredging” for the purposes of Sections 5653 and 5653.1. In proposed Section 71000(c), the application of the definition is broadened to apply to the entire title. This appears to be appropriate because (1) vacuum and suction dredging is the subject of the title, and (2) Sections 5653 and 5653.1 are the only sections in the title that use the defined terms. **The Commission invites comment on whether this revision would cause any problems.**

§ 71005. Exception for recreational mining

71005. This title does not apply to, prohibit, or otherwise restrict nonmotorized recreational mining activities, including panning for gold.

Comment. Section 71005 continues the second sentence of former Fish and Game Code Section 5653(g) without substantive change.

Note. Existing Section 5653(g) establishes an exception to the application of Sections 5653 and 5653.1. In proposed Section 71005, that rule is stated as an exception to the entire title that contains Sections 5653 and 5653.1. **The Commission believes that this revision would be nonsubstantive, but invites comment on whether it would cause any problems.**

1 **§ 71010. Regulations**

2 71010. The department shall adopt regulations to carry out Chapter 2
3 (commencing with Section 71050) and Chapter 3 (commencing with Section
4 71200) and subdivision (a) of Section 71000. The regulations shall be adopted in
5 accordance with the requirements of Division 13 (commencing with Section
6 21000) of the Public Resources Code and Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

8 **Comment.** Section 71010 continues former Fish and Game Code Section 5653.9 without
9 substantive change.

10 See also Section 6500 (enforcement).

11 **CHAPTER 2. PROHIBITIONS AND REQUIREMENTS**

12 **§ 71050. General prohibition**

13 71050. The use of vacuum or suction dredge equipment by a person in a river,
14 stream, or lake of this state is prohibited, except as authorized under a permit
15 issued to that person by the department in compliance with the regulations adopted
16 pursuant to Section 71010.

17 **Comment.** Section 71050 continues the first sentence of former Fish and Game Code Section
18 5653(a) without substantive change.

19 **§ 71055. Geographic limitations**

20 71055. Under the regulations adopted pursuant to Section 71010, the department
21 shall designate waters or areas wherein vacuum or suction dredge equipment may
22 be used pursuant to a permit, waters or areas closed to the use of that equipment,
23 the maximum size of the vacuum or suction dredge equipment that may be used,
24 and the time of year when the equipment may be used.

25 **Comment.** Section 71055 continues the first sentence of former Fish and Game Code Section
26 5653(c) without substantive change.

27 **§ 71060. Unanticipated water level change**

28 71060. In the event of an unanticipated water level change, when necessary to
29 protect fish and wildlife resources, the department may close areas that were
30 otherwise opened for dredging and for which permits were issued pursuant to
31 Section 71205.

32 **Comment.** Section 71060 continues former Fish and Game Code Section 5653.7 without
33 substantive change.

34 **Note.** Existing Section 5653.7 refers to a permit issued “pursuant to Section 5653.” Proposed
35 Section 71060 would narrow that cross-reference to the part of Section 5653 that appears to be
36 relevant to the purpose of the reference (i.e., proposed Section 71205). **The Commission invites**
37 **comment on whether that revision would cause any problems.**

1 **§ 71065. Unlawful possession of equipment**

2 71065. It is unlawful to possess a vacuum or suction dredge in areas, or in or
3 within 100 yards of waters, that are closed to the use of vacuum or suction
4 dredges.

5 **Comment.** Section 71065 continues former Fish and Game Code Section 5653(e) without
6 substantive change.

7 **§ 71075. Equipment inspection**

8 71075. Any person required to possess a permit pursuant to Section 71050 shall
9 present his or her dredging equipment for inspection upon request of a state or
10 county fish and game warden.

11 **Comment.** Section 71075 continues former Fish and Game Code Section 5653.3 without
12 substantive change.

13 🔍 **Note.** Existing Section 5653.7 refers to a “person required to possess a permit pursuant to
14 Section 5653.” Proposed Section 71075 would narrow that cross-reference to the part of Section
15 5653 that appears to be relevant to the purpose of the reference (i.e., proposed Section 71050).
16 **The Commission invites comment on whether that revision would cause any problems.**

17 CHAPTER 3. PERMITS

18 Article 1. Application and Issuance

19 **§ 71200. Permit application**

20 71200. (a) Before a person uses vacuum or suction dredge equipment in a river,
21 stream, or lake of this state, that person shall submit an application to the
22 department for a permit to use the vacuum or suction dredge equipment,
23 specifying the type and size of equipment to be used and other information as the
24 department may require pursuant to regulations adopted by the department to
25 implement this section.

26 (b) The department shall not issue a permit for the use of vacuum or suction
27 dredge equipment until the permit application is deemed complete. A complete
28 permit application shall include any other permit required by the department and
29 one of the following, as applicable:

30 (1) A copy of waste discharge requirements or a waiver of waste discharge
31 requirements issued by the State Water Resources Control Board or a regional
32 water quality control board in accordance with Division 7 (commencing with
33 Section 13000) of the Water Code.

34 (2) A copy of a certification issued by the State Water Resources Control Board
35 or a regional water quality control board and a permit issued by the United States
36 Army Corps of Engineers in accordance with Sections 401 and 404 of the Federal
37 Water Pollution Control Act (33 U.S.C. Secs. 1341 and 1344, respectively) to use
38 vacuum or suction dredge equipment.

(3) If the State Water Resources Control Board or the appropriate regional water quality control board determines that waste discharge requirements, a waiver of waste discharge requirements, or a certification in accordance with Section 1341 of Title 33 of the United States Code is not necessary for the applicant to use of vacuum or suction dredge equipment, a letter stating this determination signed by the Executive Director of the State Water Resources Control Board, the executive officer of the appropriate regional water quality control board, or their designee.

Comment. Subdivision (a) of Section 71200 continues the second sentence of former Fish and Game Code Section 5653(a) without substantive change.

Subdivision (b) continues former Fish and Game Code Section 5653(b) without substantive change.

§ 71205. Issuance of permit

71205. If the department determines, pursuant to the regulations adopted pursuant to Section 71010, that the use of vacuum or suction dredge equipment does not cause any significant effects to fish and wildlife, it shall issue a permit to the applicant.

Comment. Section 71205 continues the second sentence of former Fish and Game Code Section 5653(c) without substantive change.

§ 71255. Permit fees

71255. (a) Except as provided in subdivision (c), the department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars (\$25), as adjusted under Section 3755, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars (\$130), as adjusted under Section 3755, when the department deems that an onsite investigation is necessary.

(b) Except as provided in subdivision (c), in the case of a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under Section 3755, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars (\$220), as adjusted under Section 3755, when an onsite investigation is deemed necessary.

(c) The department may adjust the base fees for a permit described in this section to an amount sufficient to cover all reasonable costs of the department in regulating suction dredging activities.

Comment. Section 71255 continues former Fish and Game Code Section 5653(d) without substantive change.

§ 71260. Other limitations

71260. (a) A permit issued by the department under Section 71205 shall not authorize an activity in violation of other applicable requirements, conditions, or prohibitions governing the use of vacuum or suction dredge equipment, including those adopted by the State Water Resources Control Board or a regional water quality control board.

(b) The department, the State Water Resources Control Board, and the regional water quality control boards shall make reasonable efforts to share information among the agencies regarding potential violations of requirements, conditions, or prohibitions governing the use of vacuum or suction dredge equipment.

Comment. Section 71260 continues former Fish and Game Code Section 5653(f) without substantive change.

Note. Existing Section 5653(f) refers to a “permit issued by the department under this section.” Proposed Section 71260 would narrow that cross-reference to the part of Section 5653 that appears to be relevant to the purpose of the reference (i.e., proposed Section 71205). **The Commission invites comment on whether that revision would cause any problems.**

Article 2. Environmental Impact Report

§ 71280. Moratorium and regulation review

71280. (a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(b) Notwithstanding Article 1 (commencing with Section 71200) and Chapter 2 (commencing with Section 71050), the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is prohibited until the director certifies to the Secretary of State that all of the following have occurred:

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative.

(4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

(5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(c)(1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be necessary, including, but not limited to, the State Water Resources Control Board, the State Department of

Public Health, and the Native American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the Government Code.

(d) The Legislature finds and declares that this section, as added during the 2009-10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

Comment. Section 71280 continues former Fish and Game Code Section 5653.1 without substantive change.

Notes. (1) If the regulation review required by Section 5653.1(b) has been completed, that provision may be obsolete. **The Commission invites input on that issue.**

(2) Existing Section 5653.1(c) requires the preparation of a report by April 1, 2013. By its terms, that requirement became inoperative on January 1, 2017. **The Commission invites comment on whether that provision should be omitted as obsolete.**

TITLE 2. MINING MITIGATION PLANS

§ 71500. Submission of plan

71500. (a) A mine operator shall prepare a mitigation plan that shall be submitted to the department for approval.

(b) For ongoing mining operations, the mitigation plan shall, alone or in conjunction with regulations adopted by the commission, result in an overall reduction in take of avian or mammal species.

Comment. Subdivision (a) of Section 71500 continues the first sentence of former Fish and Game Code Sections 3005(b)(3) and 3800(b)(3) without substantive change.

Subdivision (b) continues the substance of the second sentence of former Fish and Game Code Sections 3005(b)(3) and 3800(b)(3) with one exception: the reference to regulations adopted by the commission was not present in former Section 3005(b)(3).

Note. Proposed Section 71500(b) combines and harmonizes the second sentence of existing Sections 3005(b)(3) and 3800(b)(3). In doing so, it includes language that is present in Section 3800 but is not present in Section 3005. That language is shown in italics below:

1 “For ongoing mining operations, the mitigation plan shall, *alone or in conjunction with*
2 *regulations adopted by the commission*, result in an overall reduction in take of avian or mammal
3 species.”

4 The Commission sees no policy reason that otherwise applicable commission regulations should
5 be taken into account in Section 3800 but disregarded in Section 3005. It seems unlikely that such
6 a distinction was intended. Thus, the proposed harmonization would likely be a clarification of
7 existing law and practice. **The Commission invites public comment on whether the proposed**
8 **revision would cause any problems.**

9 **§ 71505. Plan is site-specific**

10 71505. The mitigation plan shall be prepared on a site-specific basis and may
11 provide for offsite mitigation measures designed to reduce avian mortality.

12 **Comment.** Section 71505 continues the fourth sentence of former Fish and Game Code
13 Sections 3005(b)(3) and 3800(b)(3) without substantive change.

14 **§ 71510. Criteria for approval**

15 71510. (a) Mitigation plans relating to mining operations approved by the
16 department shall, among other criteria, require avoidance of take, where feasible,
17 and include reasonable and practicable methods of mitigating the unavoidable take
18 of birds and mammals.

19 (b) When approving mitigation plans, the department shall consider the use of
20 the best available technology on a site-specific basis.

21 (c) Mitigation plans relating to mining operations approved by the department
22 shall include provisions that address circumstances where mining operations
23 contribute to bird deaths, including ponding of process solutions on heap leach
24 pads and exposure of process solution channels, solution ponds, and tailing ponds.

25 **Comment.** Section 71510 continues former Fish and Game Code Sections 3005(b)(1)-(2) and
26 3800(b)(1)-(2) without substantive change.

27 **§ 71515. Public review and comment**

28 71515. The department shall provide an opportunity for public review and
29 comment on each mitigation plan during the department’s approval process.

30 **Comment.** Section 71515 continues the third sentence of former Fish and Game Code Sections
31 3005(b)(3) and 3800(b)(3) without substantive change.

32 **§ 71520. Monthly reports**

33 71520. The mine operator shall submit monthly monitoring reports on avian
34 mortality to the department to aid in evaluating the effectiveness of onsite
35 mitigation measures.

36 **Comment.** Section 71520 continues the fifth sentence of former Fish and Game Code Sections
37 3005(b)(3) and 3800(b)(3) without substantive change.

38 **§ 71525. Monitoring and evaluation**

39 71525. The department shall monitor and evaluate implementation of the
40 mitigation plan by the mine operator and require modification of the plan or other

1 remedial actions to be taken if the overall reduction in take of avian or mammal
2 species required pursuant to Section 71500 is not being achieved.

3 **Comment.** Section 71525 continues former Fish and Game Code Sections 3005(b)(4) and
4 3800(c) without substantive change.

5 **§ 71530. Reimbursement of department costs**

6 71530. The mining operator shall reimburse the department for its direct costs to
7 provide appropriate notice of the mitigation plan to affected local government
8 entities and other affected parties. The mine operator shall provide the department
9 a limited number of copies, as determined by the department, of the mitigation
10 plan for public review.

11 **Comment.** Section 71530 continues former Fish and Game Code Sections 3005(b)(5) and
12 3800(b)(4) without substantive change.

13 **TITLE 3. MINING IN SPECIFIC AREAS**

14 **CHAPTER 1. TRINITY AND KLAMATH RIVER FISH AND WILDLIFE**
15 **DISTRICT (DISTRICT 2675)**

16 **Article 1. General Provisions**

17 **§ 71700. No affect on other laws**

18 71700. Article 2 (commencing with Section 71750) does not affect any other
19 laws applying to the territory included in District 2675 that relate to birds,
20 mammals, and fish.

21 **Comment.** Section 71700 continues former Fish and Game Code Section 5801 without
22 substantive change.

23 **§ 71705. No limitation of authority of specified entities**

24 71705. No provision of this chapter is a limitation on the authority of the State
25 Water Resources Control Board or any California Regional Water Quality Control
26 Board to adopt and enforce additional discharge requirements or prohibitions.

27 **Comment.** Section 71705 continues former Fish and Game Code Section 5803 without
28 substantive change.

29 **§ 71710. No application to specified federal activities**

30 71710. Article 2 (commencing with Section 71750) does not apply to the
31 construction, repair, or maintenance of public works by the Federal or State
32 Government, or any political subdivision thereof.

33 **Comment.** Section 71710 continues former Fish and Game Code Section 5802 without
34 substantive change.

Article 2. Prohibitions

§ 71750. Mining operations generally

71750. It is unlawful to conduct any mining operations in Fish and Wildlife District 2675 between July 1st and November 30th except when the debris, substances, tailings or other effluent from those operations do not and cannot pass into the waters in that district.

Comment. Section 71750 continues former Fish and Game Code Section 5800(a) without substantive change.

§ 71755. Contaminants

71755. (a) It is unlawful between July 1st and November 30th to pollute, muddy, contaminate, or roil the waters of Fish and Wildlife District 2675.

(b) It is unlawful between those dates to deposit in or cause, suffer, or procure to be deposited in, permit to pass into, or place where it can pass into, those waters, any debris, substance or tailings from hydraulic, placer, milling, or other mining operation affecting the clarity of those waters.

(c) The clarity of those waters shall be deemed affected when those waters at a point a distance of one mile below the confluence of the Klamath River and the Salmon River or at a point a distance of one mile below the confluence of the South Fork of the Trinity River and the Trinity River, contain fifty (50) parts per million, by weight, of suspended matter, not including vegetable matter in suspension and suspended matter occurring in the stream or streams due to an act of God.

Comment. Section 71755 continues former Fish and Game Code Section 5800(b) without substantive change.

§ 71760. Hydraulic mining

71760. (a) It is unlawful, between July 1st and November 30th to carry on or operate any hydraulic mine of any kind on, along, or in any waters flowing into Fish and Wildlife District 2675.

(b) Notwithstanding Section 71750, this article does not prevent the operation of a hydraulic mine where the tailings, substance, or debris, or other effluent therefrom, does not or will not pass into the waters of Fish and Wildlife District 2675, between those dates

(c) Any person, firm, or corporation engaged in hydraulic mining shall have the right until the fifteenth day of July to use water for the purpose of cleaning up.

Comment. Section 71760 continues former Fish and Game Code Section 5800(c) without substantive change.

Note. The last sentence of existing Section 5800(c) (proposed Section 71760(c)) provides that specified entities may “use water for the purpose of cleaning up.” This is ambiguous as to the source of the water at issue and the nature of the clean-up. **The Commission invites public comment on whether and how the provision should be revised to make its meaning clearer.**

1 **§ 71765. Public nuisance**

2 71765. (a) Any structure or contrivance that is used to violate this article is a
3 public nuisance.

4 (b) Any person, firm, or corporation that maintains or permits a structure or
5 contrivance used in violating this article is guilty of maintaining a public nuisance

6 (c) It is the duty of the district attorney of the county where the violation occurs
7 or the acts creating the public nuisance occur, to bring an action to abate that
8 nuisance.

9 **Comment.** Section 71765 restates former Fish and Game Code Section 5800(d) without
10 substantive change.

11 **Note.** Proposed Section 71765 would restate existing Section 5800(d) to improve its clarity,
12 without changing its substantive effect. The existing provision reads as follows:

13 “Any structure or contrivance which causes or contributes, in whole or in part, to the condition,
14 the causing of which is in this section prohibited, is a public nuisance, and any person, firm, or
15 corporation maintaining or permitting it is guilty of maintaining a public nuisance, and it is the
16 duty of the district attorney of the county where the condition occurs or the acts creating the
17 public nuisance occur, to bring action to abate such nuisance.”

18 The most significant change made in the restatement is to recast references to “conditions” that
19 violate existing Section 5800, to instead refer simply to violations of that section. This seems
20 significantly clearer, because Section 5800 prohibits acts, not the “causing of conditions” (e.g.,
21 the section prohibits mining generally, depositing mining waste in waters, and hydraulic mining).

22 **The Commission invites comment on whether that restatement would cause any**
23 **problems.**

24 **PART 6. OTHER ACTIVITIES**

25 **TITLE 1. FORESTRY AND AGRICULTURE**

26 **CHAPTER 1. TIMBER HARVEST PLANS**

27 **§ 72000. Department review**

28 72000. (a) The department shall respond to requests from the Department of
29 Forestry and Fire Protection, acting as the lead agency for the review of timber
30 harvesting plans, within the time period required under Section 4582.6 of the
31 Public Resources Code, unless additional time is granted by the Department of
32 Forestry and Fire Protection.

33 (b) The department shall include specific comments or recommendations, or
34 both, on any significant environmental issues raised by the proposed timber
35 harvesting plan in its area of jurisdiction, including any proposed mitigation
36 measures.

37 (c) The department shall identify its statutory authority for any requests or
38 recommendations for mitigation that it may determine to be necessary.

(d) If the department has no comment to make on the proposed timber harvesting plan, it is not required to submit a response.

Comment. Section 72000 continues former Fish and Game Code Section 703(b) without substantive change.

CHAPTER 2. CANNABIS CULTIVATION

§ 72200. Findings and Declarations

72200. The Legislature finds and declares all of the following:

(a) The environmental impacts associated with cannabis cultivation have increased, and unlawful water diversions for cannabis irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

(b) The remediation of existing cannabis cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures.

(c) The potential for cannabis cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.

Comment. Section 72200 continues former Fish and Game Code Section 12029(a) without substantive change.

§ 72205. Watershed enforcement program

72205. In order to address unlawful water diversions and other violations of the Fish and Game Code associated with cannabis cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.

Comment. Section 72205 continues former Fish and Game Code Section 12029(b) without substantive change.

§ 72210. Multiagency task force

72210. The department, in coordination with the State Water Resources Control Board and the Department of Food and Agriculture, shall establish a permanent multiagency task force to address the environmental impacts of cannabis cultivation. The multiagency task force, to the extent feasible and subject to available resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on fish and wildlife and their habitats throughout the state.

Comment. Section 72210 continues former Fish and Game Code Section 12029(c) without substantive change.

§ 72215. Regulations

72215. (a) In order to facilitate the remediation and permitting of cannabis cultivation sites, the department may adopt regulations to enhance the fees on any

1 entity subject to Section 69750 for cannabis cultivation sites that require
2 remediation.

3 (b) The fee schedule established pursuant to this section shall not exceed the fee
4 limits in Section 69780.

5 **Comment.** Section 72215 continues former Fish and Game Code Section 12029(d) without
6 substantive change.

7 TITLE 2. ACTIVITIES THAT AFFECT 8 WATERING PLACES

9 § 72500. Prohibition of activities that affect watering places

10 72500. (a) For the preservation, protection and restoration of mountain sheep
11 and other birds and mammals in arid regions of the state, the commission, in
12 cooperation with the agency authorized to manage the land, may prohibit any
13 activity, including but not limited to camping, in the vicinity of waterholes,
14 springs, seeps, and other watering places which are on public lands.

15 (b) The department may enter into agreements with other state and federal
16 agencies controlling public lands for the purpose of posting those areas.

17 **Comment.** Section 72500 continues former Fish and Game Code Section 308.5 without
18 substantive change.

19 TITLE 3. AIRPORTS

20 CHAPTER 1. MANAGEMENT OF WILDLIFE AT PUBLIC USE AIRPORTS

21 § 72800. Statement of policy

22 72800. It is the policy of the state to actively encourage the safe and biologically
23 sound management of wildlife resources on California's public use airports as
24 regulated by the Federal Aviation Administration (FAA) and its agents. The
25 Legislature recognizes that public use airports serving in the United States are
26 operated according to regulations and policies promulgated by the FAA and
27 federal law that protect the health, safety, and welfare of the public in compliance
28 with applicable FAA regulations, standards, policies, and guidance, wildlife
29 hazard management plans, and associated permits.

30 **Comment.** Section 72800 continues former Fish and Game Code Section 3470 without
31 substantive change.

32 § 72805. Recognition of federal requirements

33 72805. (a) The Legislature recognizes that, in a public use airport's ongoing
34 efforts to protect the health, safety, and welfare of the traveling public in
35 compliance with Federal Aviation Administration (FAA) regulations, and
36 specifically Section 337 of Part 139 of Title 14 of the Code of Federal

1 Regulations, it is necessary to perform limited and authorized wildlife hazing,
2 harassment, and depredation.

3 (b) The Legislature further recognizes that FAA certificated public use airports
4 and their wildlife hazard management staff must harass, haze, or perform removal
5 of species to protect the health, safety, and welfare of the public when authorized
6 by a current, valid federal fish and wildlife depredation permit.

7 **Comment.** Section 72805 continues former Fish and Game Code Section 3471 without
8 substantive change.

9 **§ 72810. Federal actions not a violation of this code**

10 72810. The taking of birds by a public use airport certificated by the Federal
11 Aviation Administration to operate in California that has obtained, and is in
12 compliance with, a federal depredation permit that authorizes, under specified
13 conditions, the lawful taking of birds, does not violate any provision of this code
14 or regulations adopted pursuant to this code if the taking is in compliance with the
15 federal depredation permit for the purposes specified in Section 72815 and all of
16 the following conditions are met:

17 (a) The taking occurs on lands owned or leased by the airport.

18 (b) The taking does not occur on lands owned or leased by the airport that are
19 reserved for habitat mitigation or conservation purposes of the species being taken,
20 including lands in a habitat conservation plan, or a natural communities
21 conservation plan.

22 (c) There is no taking of a fully protected, candidate, threatened, or endangered
23 species.

24 **Comment.** Section 72810 continues former Fish and Game Code Section 3472 without
25 substantive change.

26 **§ 72815. Limitation of authorized take**

27 72815. Take is authorized pursuant to this chapter only to relieve or prevent
28 injurious situations affecting public safety and shall only be performed as part of
29 an integrated wildlife management program that emphasizes nonlethal
30 management techniques.

31 **Comment.** Section 72815 continues former Fish and Game Code Section 3472.1 without
32 substantive change.

33 **§ 72820. Monitoring of authority and compliance**

34 72820. A public use airport certificated by the Federal Aviation Administration
35 shall provide to the department any federal depredation permit and all federal
36 reports required pursuant to any federal depredation permit or wildlife hazard
37 management plan, or both, and shall also provide reasonable access to the
38 department for purposes of ensuring compliance with this chapter.

39 **Comment.** Section 72820 continues the first sentence of former Fish and Game Code Section
40 3472.2 without substantive change.

1 **§ 72825. Reimbursement of costs**

2 72825. The department shall seek reimbursement from the public use airport for
3 any reasonable costs associated with activities resulting from any violations of this
4 chapter.

5 **Comment.** Section 72825 continues the second sentence of former Fish and Game Code
6 Section 3472.2 without substantive change.

DISPOSITION OF EXISTING LAW

The table below shows the relationship between each provision of the existing Fish and Game Code and the corresponding provision of the proposed law (if any). In some instances, the substance of all or part of an existing provision was duplicated in more than one location. In the table, this is shown using multiple entries for the duplicated provision.

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8		56	425
1	1(a)	57	440
2	200	60	445
3, 1st sent.	10(a)	61	not cont'd
3, 2nd sent.	25	62	450
4	30	64	85
5	40	67	455
6	45	68	470
7	50	70	485
8	55	73	35(f)-(g)
9	60	75	500
9.2	520	79	80
10	65	80	95
11	70	81	505
12	3500(b)	82	510
13	75	83	525
13.5	205	86	535
14	215	88	540
15	220	89	480
16	210	89.1	530
17	225	89.1	550
18	230	89.5	560
19	460	90	600
22	235	90.1	605
24	245	90.5	610
27	250	90.7	615
29	255	91	620
30, 1st cl.	280	93	625
30, 2nd cl.	285	94	630
32	290	96	635
33	295	96.5	640
35, 1st cl.	300	97	645
35, 2nd cl.	555	97.5	650
37	305	98	655
39	310	98.2	660
41	315	98.5 ("population")	665
43	320	98.5 ("stock")	675
45	335	99	670
46	380	99.5	680
48	385	101	900
51	390	101.5	905
54	400	102	910
54.5	405	103	915
55	415	104	935

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
105.....	925	396.....	30105(a)-(b)
106.....	930	398, 1st cl.....	30105(c)
106.5.....	7605	398, 2nd cl.	not cont'd
107.....	940	399.....	1250
108.....	1200	400.....	7200
110.....	920	401.....	7205
200.....	1000	450.....	34500
201.....	1005	451.....	34530(e)
203.....	1010	452.....	34505
203.1.....	1020	453.....	34510(a)
205.....	1015	454.....	34510(b)
219.....	1025	455.....	34510(c)
250.....	1100	456, 1st sent.	34515(a)
255.....	1105	456, 2nd sent.	not cont'd
260.....	1110	456, 3rd sent.	34515(b)
265.....	1115	457.....	34520
270.....	1120	458.....	34525
275.....	1125	459.....	34525
301.....	1205	460.....	34530(a)-(d)
302.....	33400(a)	500(a)-(c), (d), 1st sent.	4504
303.....	33400(b)	500(d), 2nd sent.	4484(b)
306.....	8700	700.....	1500
307.....	8705	701.....	1515
308.....	8720	701.3.....	1520
308.5.....	72500	701.5.....	1915(a)-(b)
309(a).....	1300	702.....	1505
309(b).....	1305	702.1.....	4315
310.....	41000	703(a).....	1510
312.....	9150	703(b).....	72000
313.....	44350	703.3.....	2410
314.....	8710(a)	703.5.....	2400
315.....	8710(b)	704.....	1525
315.3.....	8715	705.....	64400
316.....	39805	706.....	1530
316.5.....	41010	707.....	1605
317.....	10310	709 (antelope).....	32965(a)
325.....	10500(a)(1)-(3)	709 (bighorn sheep).....	35820(a)
326.....	10505(a)	709 (deer).....	34245(a)
327.....	10510	709 (elk).....	34870(a)
328, 1st sent.....	10505(b)	710.....	3450
328, 2nd sent.	10515	710.5.....	3455
329.....	10500(a)(4)	710.7.....	3460
330.....	10500(b)	711.....	3465
331.....	32950	711.1(a).....	58000
332.....	34850	711.1(b).....	58005
355, 1st-2nd para.	29210	711.1(c).....	58010
355, 3rd para.	29220	711.1(d).....	58015
356, 1st para.	29200	711.2(a).....	465
356, 2nd para.	29215	711.2(b).....	66250(e)
357.....	29225	711.4(a)-(b).....	66200
375.....	7320	711.4(c)(1), (3)	66205
390.....	7300	711.4(c)(2).....	66210
391.....	7315	711.4(d).....	66215
392.....	7305	711.4(e)(1).....	66220
393.....	7310	711.4(e)(2)-(3)	66225
395.....	30100	711.4(f), 1st sent.	6250

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
711.4(f), 2nd sent.	66230	877	4205
711.4(g)	66235	878	4215
711.4(h)	66240	879	4220
711.4(i)	66245	880	4225
711.7	66250(a)-(d)	881	4230
712	3470	882	4235
712.1	1675	1000	1745
713	3755	1000.6	40955
715	1910	1001	1700
716	7325	1002(a)-(l)	9200
716.1	7330	1002(m)	4602
716.2	7335	1002.5	9205
716.3(a)	7345	1003	9210
716.3(b)	7350	1004	1705
716.3(c)	7355	1005	1750
716.3(d)	7360	1005.5	1755
716.3(e)	7365	1006	1715
716.3(f)	7370	1007	1710
716.3(g)	7375	1008	1720
716.3(h)	7380	1009	2105
716.3(i)	7385	1010	2110
716.3, intro.	7340	1011	2200
716.3(j)	7390	1012	2205
716.3(k)	7400	1013	2210
716.3(l)	7405	1014	60720
716.3(m)	7410	1015	1725
716.3(n)	7415	1016(a), def. in 1st sent.	67400
716.3(o)	7420	1016(a), except def. in 1st sent.	67405
716.3(p)	7425	1016(b), def. in 1st sent.	67400
716.3(q)	7430	1016(b), except def. in 1st sent.	67410
716.3(r)	7435	1016(c)	67415
716.3(s)	7440	1016(d)	67420
716.3(t)	7445	1017	1740
716.4	7450	1018	69200
716.5	7455	1019	2100
716.6	7460	1020	2405
716.7	7465	1021	49850
716.8	7470	1022(a)	12055
716.9	7475	1022(b)	12060
717	7480	1022(c)	12075(a)
717.1	7485	1022(d)	12065
717.2	7490	1022(e)	12075(b)
850	1600	1022(f)	12075(c)
851	4110	1022(g)	12070
853	4115	1022(h)	12050
854	4105	1050(a)	2905
855	4305	1050(b)	2800
856	4100	1050(c)	2910
856.5	4320	1050(d)	3000
857	1610	1050(e)	3750
858(a)	1615	1050(f)	3005
858(b)	4325	1050.1	2815
859	3660	1050.3	2925
860	3670	1050.5	3010
875	4200	1050.6	2915
876	4210	1050.8	3665

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1051	2810	1205	25325
1052	3050	1206	25330
1052.5	2820	1210	25135
1053.1(a)	2930	1225	3650
1053.1(b)	not cont'd	1226(a)	3655
1053.5	10205	1226(b)	1900
1054(a), (c)	2300	1227	1905
1054(b)-(c)	2920	1300	54700
1054.2	8300	1301	54710
1054.5	2900	1320	54750
1054.8	2940	1321	54755
1055.1(a)-(b)	3200	1322	54760
1055.1(c), 1st sent.	3250(a)	1323	54765
1055.1(c), 2nd sent.	3250(c)	1324	54770
1055.1(c), 3rd-4th sent.	3250(b)	1345	54800(a)-(c)
1055.1(d)-(f)	3350	1346	54800(d)
1055.1(g)	3205	1347	54805
1055.1(h)	not cont'd	1348	54815
1055.3	3210	1348.1	54825
1055.6(a)	3255(a)	1348.2	54830
1055.6(b)	3255(b)	1348.3(a)(1), (a)(3), (b)	54835
1055.6(c)	not cont'd	1348.3(a)(2)	not cont'd
1055.6(d)	3255(c)	1349	54840
1055.6(e)	not cont'd	1350(a)	54855
1056	3370	1350(b)	54845
1057	3365	1350(c)	54850
1058	3375	1351	54865
1059(a)	4450	1352	54875
1059(b)	3360	1352.5	54880
1061(a)-(e)	2935	1353	54860
1061(f)	not cont'd	1354	54820
1065	3260	1355	54870
1068	50655	1356	54810
1069	23200	1360	54900
1110	15200(a)	1361(a)	not cont'd
1120	25100	1361(b)-(j)	54905
1121	25105	1362	54910
1122	25110	1363(a)	54925
1122.5	25130	1363(b)	54930
1123	25405	1363(c)	54945
1123.5	25855	1363(d)-(e)	54940(a)-(b)
1124	11505	1363(f)	54955
1125	25420	1364	54940(c)
1126	25115	1365	54960
1150	25120	1366	54965
1170	25200	1367	54950
1171	25205	1368	54970
1172	25210	1369	54975
1173	25215	1370	54935
1174	25220	1372	54915
1175	25225	1374(a)-(d)	55000
1200	25300	1374(e)	55005
1201	25305	1374.1	55010
1202	25310	1375	54885
1203	25315	1385	57700
1204	25320	1386	57705

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1387.....	57725	1572(b), 1st sent.	56270
1388.....	57730	1572(b), 2nd sent.	56285
1389.....	57710	1572(c)(1)	56325
1390.....	57735	1572(c)(2)	56330
1391.....	57740	1572(c)(3)	56335
1400.....	57000	1572(d)	56240
1401.....	57005	1572(e).....	56290
1402.....	57510	1572(f)	56340
1403.....	57515	1573(a).....	56245
1404.....	57520	1573(b)	56280
1405.....	57525	1573(c).....	56255
1410.....	57550	1573(d)	56260
1411(a), 1st sent.	57645(a)	1573(e).....	56265
1411(a), 2nd sent.	57555	1573(f)	56250
1411(b)	57645(b)	1573(g)	56235
1411(c)	57560	1574(a).....	6054
1412.....	57650	1574(b)	56275
1413.....	57565	1575	10700
1414.....	57570	1580, 1st sent.	60750
1415.....	57575	1580, 2nd-3rd sent.	60760
1416.....	57580	1580, 4th sent.....	60765
1417.....	57585	1580, 5th sent.....	60790
1418.....	57590	1581	60770
1419.....	57655	1582	60775
1420.....	57595	1583	60780
1421.....	57600	1584	60755
1422.....	57605	1585	60785
1430, 1st sent.....	57625	1586	60850
1430, 2nd sent.	57635	1587	60855
1431, 1st sent.....	57630	1590	60550
1431, 2nd sent.	57640	1591	60555
1500.....	60700	1600	69700
1500.5.....	60705	1601	69705
1501.....	54550	1602(a).....	69750
1501.5.....	54555	1602(b)	70155
1502.....	1730	1602(c).....	69785
1503.....	34535	1602(d)	70165
1504.....	60680	1602(e).....	69710
1505.....	60900	1603(a), 1st-4th sent.	69795
1506.....	60685	1603(a), 5th-7th sent.	69805
1525.....	60600	1603(a), 8th sent.	69810
1526.....	60605	1603(b), 1st-2nd sent.	70050
1526.4.....	60715	1603(b), 3rd-5th sent.	70055
1527.....	60610	1603(b), 6th sent.	70060
1528, 1st sent.....	60650	1603(b), 7th, 8th sent.	70065
1528, 2nd sent.	60655	1603(b), 9th sent.	70070
1528, 3rd sent.	60660	1604	70075
1528, 4th-5th sent.	60665	1605(a).....	69850
1528, 6th sent.	60670	1605(b)-(c).....	69855
1529.....	60675	1605(d).....	69860
1530, 1st para.	60625	1605(e).....	69865
1530, 2nd para.	60630	1605(f)	69870
1570.....	56200	1605(g)	69875
1571.....	56205	1605(h)	69880
1572(a), 1st sent.	56225	1606	69800
1572(a), 2nd sent.	56230	1607	69715

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1608.....	69775	1745(e)-(g).....	2020
1609.....	69780	1745(h).....	4452
1610.....	70150	1745(i).....	2035
1611.....	70160	1745(j).....	2030
1612.....	69885	1745.1.....	2040
1613.....	69790	1745.2.....	60710
1614.....	69815	1750.....	56000
1615(a)-(c).....	6352	1755.....	56005
1615(d)-(e).....	6354	1756.....	56010
1615(f).....	6356	1758.....	56025
1616.....	69720	1760.....	56050
1617.....	70170	1761.....	56055
1650.....	55100	1762.....	56060
1651.....	55105	1763.....	56065
1652(a).....	55200	1764.....	56030
1652(b).....	55205	1765.....	56080
1652(c).....	55215	1766.....	56085
1652(d).....	55220	1767.5.....	56070
1652(e).....	55225	1768.....	56075
1652(f).....	55230	1769.....	56090
1653(a).....	55300	1770.....	56100
1653(b).....	55305	1771.....	56105
1653(c).....	55315	1772.....	56110
1653(d)-(f).....	55320	1773.....	56150
1653(g).....	55325	1773.1.....	56155
1654(a).....	55350	1773.2.....	56160
1654(b).....	55110	1775.....	65800
1654(c)(1).....	55355	1776.....	65805
1654(c)(2).....	55360	1776.5.....	65810
1654(c)(3).....	55365	1777.....	65850
1654(d).....	55370	1777.2.....	65855
1655(a).....	55150	1777.5.....	65860
1655(b).....	55155	1778.....	65865
1655(c).....	55210	1778.5.....	65870
1655(c).....	55310	1779.....	65875
1655(d).....	55160	1779.5.....	65880
1656.....	55115	1780.....	65815
1657.....	55120	1781.....	65820
1700.....	54525	1784(a)-(b).....	65950
1725.....	11700	1784(c)-(e).....	65955
1726.....	11705	1785, 1st sent.....	65960
1726.1.....	11710	1785, 2nd sent.....	65965
1726.4.....	11715	1786(a).....	65970
1726.5.....	11720	1786(b).....	65975
1727.....	11725	1787.....	65980
1728.....	11730	1790.....	66050
1729.....	11735	1791.....	66055
1730.....	11740	1792.....	66060
1740.....	38900	1792.5.....	66065
1741.....	38905	1793.....	66100
1742.....	38910	1794.....	66105
1743.....	38915	1795.....	66110
1745(a).....	2000	1796.....	66115
1745(b)(1).....	2005	1797.....	65300
1745(b)(2).....	2010	1797.5(a).....	65310
1745(c), (d).....	2015	1797.5(b).....	65315

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1797.5(c)	65320	1851(k), 4th-5th sent.	64850
1797.5(d)	65325	1851(l), 1st sent.	64770
1797.5(e)	65330	1851(l), 2nd-3rd sent.	64905
1797.5(f)	65335	1851(m)	64775
1797.5(g)	65340	1851(n)	64780
1797.5(h)	65345	1852(a)	64935
1797.5, intro. cl.	65305	1852(b)	64900
1798(a)	65450	1852(c)	64910
1798(b)	65455	1852(d)	64925
1798(c)-(d)	65460	1852(e)	64915
1798(e)	65465	1853(a)	64855
1798(f)	65470	1853(b)	64920
1798.5(a)(1)	65500	1853(c)	64860
1798.5(a)(2)	65505	1854(a)	65000
1798.5(b)	65510	1854(b)	64705
1798.5(c)-(d)	65515	1854(c)(1)	64960
1798.5(e)	65520	1854(c)(2)	64965
1798.5(f)	65525	1854(c)(3)	64970
1798.5(g)	65530	1854(c)(4)	64975
1798.5(h)	65535	1854(c)(5)	64980
1798.6(a)	65550	1854(c)(6)	64985
1798.6(b), 1st-4th sent.	65555	1854(d)	64995
1798.6(b), 5th sent.	65585	1854(e)	64930
1798.6(c)(1)	65560	1855(a)	65050
1798.6(c)(2)-(3)	65565	1855(b)	65055
1798.6(c)(4), (d)	65570	1855(c)	65060
1798.6(e)	65575	1855(d)	65150
1798.6(f)	65580	1855(e)	64990
1798.6(g)	65590	1856(a)	65100
1798.6(h)	65600	1856(b)	65105
1798.7	65400	1856(c)	65110
1799(a)	65650	1856(d)	65115
1799(b)	65655	1856(e)	65120
1799(c)	65660	1856(f)	65125
1799(d)	65665	1856(g)	65135
1799(e)	65670	1856(h)	65130
1799.1(a)	65675	1856(i)	65140
1799.1(b)	65680	1856(j)	65145
1799.1(c)	65685	1856(k)	65155
1799.1(d)	65690	1857	64805
1800	54500	1858	64800
1801	54505	1859	64815
1802	54510	1860	64820
1850	64700	1861	64810
1851(a)	64715	1900	53800
1851(b)	64720	1901, 2nd sent.	53803
1851(c)	64725	1901, except 2nd sent.	53805
1851(d)	64730	1904, 1st sent.	53810
1851(e)	64735	1904, 2nd sent.	53815
1851(f)	64740	1905	53850(a)
1851(g)	64745	1906	53850(b)
1851(h)	64750	1907	53825
1851(i)	64755	1908	53820
1851, intro. cl.	64710	1909	53830
1851(j)	64760	1910, 1st sent.	53835
1851(k), 1st-3rd sent.	64765	1910, 2nd sent.	53840

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1911	53845	2022(j)	5306
1912	53855(a)	2050	62000
1913(a)	53855(b)	2051	62005
1913(b)	53855(c)	2052	62010
1913(c)	53855(d)	2052.1	62015
1925, 1st sent.	53900	2053	62020
1925, 2nd-3rd sent.	53910	2054	62025
1926	53905	2055	62030
1930	54570	2056	62035
1930.5(a)-(b)	54580	2060	62100
1930.5(c)-(e)	54600	2061	62110
1930.5(f)	54575	2062	62115
1931	54595(a)	2063	62120
1932	54585	2064	62125
1932.5(a)-(b)	54595(b)-(d)	2065	62130
1932.5(c)-(e)	54605(a)-(c)	2065.4	62128
1933	54605(d)	2067	62135
1940	54590	2068	62105
2000	8000	2070	62200
2000.5	8005	2071	62250
2001	8015	2071.5	62205
2002	8010	2072	62255
2003	8115	2072.3	62260
2003.5	57775	2072.7	62275
2003.6	57780	2073	62265
2004	8120	2073.3	62270
2005	8125	2073.4	62285
2006	9715	2073.5	62280
2007	9560	2073.7	62290
2009(a), (d)-(f)	8130	2074	62350
2009(b)	4600(a)	2074.2(a), 1st sent.	62355
2009(c)	4600(b)	2074.2(a), 2nd sent.	62360(a)
2010	9555	2074.2(b)	62360(b)-(c)
2011	9735	2074.2(c)	62365
2011.5	9725	2074.2(d)	62370
2012	8305	2074.2(e)-(f)	62375
2013	90	2074.4	62380
2014(a)-(e), (g)	4470(a)-(f), (h)	2074.6, 1st sent.	62400
2014(f)	4470(g)	2074.6, 2nd sent., 1st part	62405(a)
2015	28600	2074.6, 2nd sent., 2nd part	62415
2016	9580	2074.6, 3rd sent.	62410
2018	8135	2074.6, 4th sent.	62405(b)
2019	9730	2074.6, 5th sent.	62405(c)
2020	4405	2074.8	62420
2021(a)-(d)	42610(a)-(d)	2075	62450
2021(e)	not cont'd	2075.5(a), 1st sent.	62455
2021.5(a)(1), (3)	42610(e)-(f)	2075.5(a), 2nd sent.	62460(a)
2021.5(a)(2)	not cont'd	2075.5(b)	62460(b)-(c)
2021.5(b)	42615	2075.5(c)	62465
2022(a)	28650	2075.5(d)	62470
2022(b)-(c)	28655	2075.5(e)	62475
2022(d)	28660	2076	62480
2022(e)	5300	2076.5	62485
2022(f), (i)	5308	2077(a)	62500
2022(g)	5302	2077(b)	62505
2022(h)	5304	2077(c)	62510

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2077(d)	62520	2089.2(b)	63905
2077(e)	62515	2089.2(c)-(d)	63915
2078	62210	2089.4	63910
2079	62525	2089.5	64075
2079.1(a)-(b)	64100	2089.6	63950
2079.1(c)-(e)	64105	2089.7	63955
2079.1(f)-(h)	64110	2089.8	64000
2080	62600	2089.9	64005
2080.1	62705	2089.10	64015
2080.2	63350	2089.12(a)	64020
2080.3	63355	2089.12(b)	64025
2080.4	63360	2089.14	64035
2080.5	63550	2089.16	64030
2080.6	63555	2089.18	64040
2080.7	63560	2089.20(a)-(c)	64010
2081(a)	62650	2089.20(d)-(e)	64045
2081(b)-(e)	62700	2089.22	63930
2081.1	62670	2089.23	64050
2081.2(a)	63600	2089.24	63925
2081.2(b)	63605	2089.25	63920
2081.2(c)	63615	2089.26	63935
2081.2(d)	63625	2116	26500
2081.2(e)	63610	2116.5	26510
2081.2(f)(1)	63620	2117	26505
2081.2(f)(2)	63640	2118(a)	26700
2081.2(f)(3)	63630	2118(b)	26705
2081.2(g)	63635	2118(c)	26710
2081.4	63400	2118(d)-(e), (j)	26715
2081.6	63450	2118(f)	26720
2081.7(a)	63300	2118(g)-(h)	26725
2081.7(b)-(d)	63305	2118(i)	26730
2081.7(e)(1)-(3)	63310	2118(k)	26735
2081.7(e)(4)	63315	2118.2	26865(a)-(c)
2081.7(f)	63320	2118.3	26865(d)
2081.8	63325	2118.4	5280
2081.9	63500	2118.5	26605
2081.10	63455	2119	26615
2081.11	63475	2120	26600
2081.12	63510	2121	26860
2082	62675	2122	26610
2083, 1st cl.	62655	2123	26620
2083, 2nd cl.	62680	2124	26850
2084	62665	2125(a)	5200
2085	62605	2125(b)	5204
2086(a)	63750	2125(c)	5206
2086(b)	63755	2125(d)	5208
2086(c)	63760	2126	26855
2086(d)(1)	63765	2127	27020
2086(d)(2)	63770	2128(a), (c)	26870
2086(e)	63775	2128(b)-(c)	5282
2086(f)	63780	2128(d)	not cont'd
2087	63700	2150(a)	27200
2088, 1st part	63710	2150(b) (denial)	27205
2088, 2nd part	63715	2150(b) (revocation)	5210
2089	63705	2150(c)-(f)	27210
2089.2(a)	63900	2150.1	27215(b)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2150.2.....	27215(a)	2302(g)	50100
2150.3.....	27220	2345	28400
2150.4.....	27225	2346	28405(a)
2150.5.....	27230	2347	28405(b)
2151.....	27235	2348	28410
2152.....	27240	2349	28415
2153.....	27245	2350 (deer).....	34120
2155.....	27250	2350 (game birds).....	29375
2156.....	27255	2352	28420
2157(a)	27260	2353	28425
2157(b), (d)	27265	2354	40705
2157(c)	27270	2355	34125
2185(a)	27405	2356	43850
2185(b)	27400	2358	43855
2186(a)	27410	2359	38865(a)
2186(b)	27400	2360 (black bass)	38850
2187(a)	27415	2360 (spotted bass)	38860
2187(b)	27400	2361	41050
2189(a)	27500	2362 (barracuda).....	38705
2189(b)-(c)	27505	2362 (white sea bass).....	38875(a)-(b)
2189(d)-(f).....	27510	2362 (yellowtail)	44650
2190.....	27700	2363 (shad)	42455
2192.....	27710	2363 (striped bass).....	38865(b)
2193(a)	27275	2363 (sturgeon).....	43200
2193(b)-(c)	27280	2364	46550
2195.....	27705	2365	49315
2200.....	27600	2368	46255
2201.....	27605	2369	46260
2202.....	27610	2371	45750
2203.....	27615	2400	28500
2225.....	28000	2401	28505
2250.....	35615	2535	8800
2270.....	28100	2536	8805
2270.5.....	28105	2537	8810
2271.....	28110	2538	8900
2272.....	28115	2539	8815
2300(a)-(b)	28250	2540(a)-(b), (d)-(e)	8905
2300(c)	5266	2540(c).....	8910
2301(a)(1).....	49950	2541	8915
2301(a)(2)(A)-(D)(i), (c)(2)	49960	2542	8820
2301(a)(2)(D)(ii)-(iv)	49965	2543	8825
2301(b)	49970	2544	8920
2301(c)(1).....	49975	2545	8925
2301(d)	49980	2546	4590
2301(e)	49955	2575	37455(b)
2301(f).....	5860(a)-(b)	2576	37455(a)
2301(g)	49985	2580	4480
2301(h)	49990	2581	4484(a)
2301(i)	5860(c)	2582	4482
2301(i)	50000	2583(a), 1st sent.....	4488
2302(a)-(b)	50105	2583(a), 2nd-3rd sent.....	4490
2302(c)	50110	2583(b)	4484(c)
2302(d)	50115	2584(a).....	4486
2302(e)	50120	2584(b)-(h)	4492
2302(f), 1st-2nd sent.	5862	2585	4494
2302(f), 3rd sent.	50125	2586	4300

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2586(b)	4484(b)	2788	55840
2587(a)	4496	2789	55845
2587(b)	4498	2790	55850
2588	4500	2791	55855
2589	4502	2792	55860
2600	55500	2793	55865
2601	55505	2794	55870
2602	55510	2795	55875
2620	55525	2796	55880
2621	55530	2797	55885
2622	55535	2798	55890
2623	55540	2799	55895
2624	55545	2799.5	55900
2625	55550	2799.6	55905
2626	55555	2800	64500
2627	55560	2801	64505
2640	55600	2802	64510
2641	55605	2805	64515
2642	55610	2809	64550
2643	55615	2810(a), 1st sent.....	64555
2644	55620	2810(a), 2nd sent.	64560(j)
2644.5	55625	2810(b)	64560(a)-(i)
2645	55630	2810(c)	64585
2646	55635	2810(d)	64575
2647	55640	2815	64570
2648	55645	2820(a)	64580
2649	55650	2820(b)	64565
2650	55655	2820(c)	64645
2651	55660	2820(d)	64625
2700	55700	2820(e)	64620
2701	55705	2820(f)	64610
2702	55710	2821	64600
2720	55725	2822	64635
2721	55730	2823	64640
2722	55735	2825	64520
2723	55740	2826	64615
2724	55745	2827	64630
2725	55750	2828	64650
2726	55755	2829	64530
2727	55760	2830	64655
2728	55765	2831	64660
2729	55770	2835	64605
2760	11900	2850	60400
2761	11905	2850.5	60415
2762	11910	2851	60405
2762.2	11915	2852	60410(a)-(d)
2762.5	11920	2853(a)-(b).....	60475
2762.6	11925	2853(c)	60480
2763	11930	2854	60510
2764	11935	2855	60500
2765	11940	2856	60505
2780	55800	2857	60525
2781	55805	2858	60515
2785	55825	2859	60520
2786	55830	2860	60450
2787	55835	2861(a)	60530

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2861(b)	60535	3005(c)	9565(b)
2862	60455	3005(d)	9565(c)
2863	60420	3005.5	9740
2900	58075	3006 (bear).....	33225
2901	58080	3006 (deer).....	34115
2930	56800	3006 (elk).....	34810
2931(a)	56805	3007	9500
2931(b)-(c)	56900	3008	9720
2931(d)	56945	3009	4750
2931.5	56950	3010	30910(a)
2932	56850	3011	33200
2932.2	56855	3012	9585
2932.3	56860	3031	10210
2932.5	56865	3031.2	10225
2933	56920	3031.5	10215
2940	56810	3032(a)(1)	31500
2941	56815	3032(a)(2)-(d)	31505
2942(a)(1)	56910	3033	10300
2942(a)(2)	56825	3034	31805
2942(a)(3)(A)	56915	3037	10220
2942(a)(3)(B)	56905	3038	10305
2942(b)(1)	56930	3039	28750
2942(b)(2)	56940	3040	10230
2942(c)	56925	3049	10400
2943	56935	3050	10200
2945	56820	3051	10405
3000	9590	3052	10410
3001	9710	3053	10415
3002	9550	3054	10420
3003	9575	3060	10355
3003.1(a), 1st sent., (b)-(c)	11110	3061	10350
3003.1(a), 2nd-3rd sent.	11100(a)	3062	10360
3003.1(d)	11100(b)	3063	10365
3003.2	8140	3080(a)	10800
3003.5	9570	3080(b)	10805
3004(a)	9700	3080(c)	10810
3004(b)	9705	3080(d)	10815
3004.5(a)	10000	3080(e).....	10820
3004.5(b)	10005(a)	3086	10825
3004.5(c)	10010	3087	10830(a)-(d)
3004.5(d)	10015	3200	26000
3004.5(e)	10020	3201	26005
3004.5(f)	10030	3202	26010
3004.5(g)	4714	3203	26015
3004.5(h)	10025	3204, 1st para.....	26020
3004.5(i)	10005(b)	3204, 2nd para.	26025
3004.5(j)	10005(c)	3205	26030
3005(a)	9565(a)	3206	26035
3005(b)(1)-(2)	71510	3207	26040
3005(b)(3), 1st sent.	71500(a)	3208	26045
3005(b)(3), 2nd sent.	71500(b)	3209	26050
3005(b)(3), 3rd sent.....	71515	3212	26055
3005(b)(3), 4th sent.....	71505	3213	26060
3005(b)(3), 5th sent.....	71520	3214	26065
3005(b)(4)	71525	3216	26070
3005(b)(5)	71530	3217	26075

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3218.....	5290	3467.....	56740
3219.....	26085	3469(a).....	57795
3240.5(a).....	10600	3469(b)-(c).....	57800
3240.5(b).....	10605	3469(d).....	57805
3240.5(c)-(d).....	10610	3469(e).....	57810
3241.....	10615	3469(f).....	57790
3242.....	10620	3469.2.....	57820
3243.5.....	10625	3469.4.....	57825
3245.....	10630	3469.6.....	57830
3246.....	4770	3469.8.....	57835
3270(a).....	29365	3470.....	72800
3270(b).....	not cont'd	3471.....	72805
3300, 1st para., 1st sent.	26205	3472.....	72810
3300, 1st para., 2nd sent.	26210(a)	3472.1.....	72815
3300, 2nd para.	26200	3472.2, 1st sent.	72820
3301, 1st sent.	26210(b)	3472.2, 2nd sent.	72825
3301, 2nd-3rd sent.	26215	3480(a).....	57855(a)
3302.....	26220	3480(b).....	57870
3303, 1st-2nd sent.	26225	3480(c).....	57875
3303, 3rd sent.	26230	3480(d).....	57880
3305.....	26235	3480(e).....	57855(b)
3306, 1st-2nd para.	26240	3480(f).....	57885
3306, 3rd para.	26245	3480(g).....	57855(c)
3307, 1st para., 1st sent.	26250(b)	3480(h).....	57860
3307, 1st para., 2nd sent.	26250(a)	3480(i).....	57865
3307, 2nd para.	26255	3500(a)(1)-(11).....	490
3308.....	26265	3500(a)(10).....	30900
3309.....	26260	3500(a)(11).....	31100
3310.....	26270	3500(b)(1).....	30500
3311.....	26275	3500(b)(1)-(6).....	410
3400.....	56500	3500(b)(6).....	31000
3401(a), 1st sent.	56525	3500(c).....	370
3401(a), 2nd sent.	56575	3501.....	29355
3401(a), 3rd sent.	56580	3502.....	29350
3401(b).....	56595	3503.....	28905
3402.....	56530	3503.5.....	30110
3403.....	56545	3504.....	28910
3404(a).....	56555	3505 (bird of paradise)	30300
3404(b).....	6052	3505 (egret).....	30700
3406(a).....	56535	3505 (goura).....	30750
3406(b).....	56590	3505 (numidi).....	30800
3406(c).....	56550	3505 (osprey).....	30850
3407.....	56585	3508.....	29360
3408.....	56560	3511(a)(1), 1st-2nd sent.	30200
3450.....	7210	3511(a)(1), 3rd-6th sent., (a)(2).....	30205
3451.....	7215	3511(a)(3).....	30210
3452.....	7220	3511(b)(1)-(13).....	345
3453.....	7225	3511(b)(5).....	30350
3460(a).....	56700	3513.....	29855
3460(b).....	56730	3514.....	325
3460(c).....	56735	3515.....	29705
3461.....	56705	3516, 1st para.	29700
3462.....	56710	3516, 2nd para.	29650
3464.....	56715	3660.....	30910(b)
3465.....	56725	3680.....	5332
3466.....	56720	3681.....	30510

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3682.1(a)	29500	3802	30115
3682.1(b)	29505	3803	28915
3682.1(c)	not cont'd	3806	29205
3682.2	29510	3850	30360
3683(a)-(b)	545	3851	30365
3683(a)(11)	30900	3852	30370
3683(a)(12)	31100	3853	30375
3683(b)(4)	31000	3854	30380
3684(a)	29515(a)	3855	30385
3684(b)	29515(b)	3856	30390
3684(c), 1st sent.	29515(d)	3857	30395
3684(c), 2nd sent.	29520(a)	3858	30425
3684(c), 3rd sent.	29525	3860	29050
3684(c), 4th-5th sent.	29520(b)	3861	29055
3684(d)	29530(a)	3862	29060
3684(e), 1st sent.	29540	3863	29065
3684(e), 2nd sent.	29515(e)	3950(a) (antelope)	32900
3684(f)	29545	3950(a) (bear)	33100
3684(g)	29515(c)	3950(a) (deer)	34100
3686, 1st sent.	29520(c)	3950(a) (elk)	34800
3686, 2nd sent.	29530(b)	3950(a) (rabbit & hare)	35700
3700.1(a)	30505	3950(a) (tree squirrel)	36000
3700.1(b)	30515	3950(a) (tree squirrel)	37450(a)
3700.1(c)	not cont'd	3950(a) (wild pig)	37100
3700.2(a)-(f)	30520	3950(a)-(b)	375(a)-(b)
3700.2(g)	30525(a)	3950.1(a)-(b)	375(c)-(d)
3701	30530	3951	34960
3702	30540	3952	34955
3702.1	30565	3953(a)	31900
3702.5, 1st sent.	30525(b)	3953(b), 1st sent. (antelope)	32960
3702.5, 2nd sent.	not cont'd	3953(b), 1st sent. (bear)	33305
3703	30560(a)	3953(b), 1st sent. (deer)	34240
3704, 1st para.	30535	3953(b), 1st sent. (elk)	34865
3704, 2nd para.	not cont'd	3953(b), 1st sent. (sheep)	35825
3704.5, 1st para., 1st sent.	30570	3953(b), 1st sent. (wild pig)	37220
3704.5, 1st para., 2nd sent.	30575	3953(b), 2nd sent. (antelope)	32965(b)
3704.5, 2nd para.	not cont'd	3953(b), 2nd sent. (deer)	34245(b)
3705	30560(b)	3953(b), 2nd sent. (elk)	34870(b)
3800(a), 1st sent.	430	3953(b), 2nd sent. (sheep)	35820(b)
3800(a), 2nd sent.	29850	3953(c)	31905
3800(b)(1)-(2)	71510	3953(d)	31910
3800(b)(3), 1st sent.	71500(a)	3953(e), 1st sent.	31915
3800(b)(3), 2nd sent.	71500(b)	3953(e), 2nd sent.	31920
3800(b)(3), 3rd sent.	71515	3953(f)	31925
3800(b)(3), 4th sent.	71505	3953(g)	31930
3800(b)(3), 5th sent.	71520	3960(a)	31500
3800(b)(4)	71530	3960(b)	31510(a)
3800(c)	71525	3960(c)(1)-(2), (4)	31550
3801	31050	3960(c)(3)	31510(b)
3801.5	29860	3960.2 (bear)	31500
3801.6(a) (2nd sent.)	5344(a)	3960.2 (bear)	33515
3801.6(a), 1st sent.	30000	3960.2 (bobcat)	33755
3801.6(b)(1)	30005	3960.2 (bobcat)	33905
3801.6(b)(2), 1st sent.	30015	3960.4(a)	31500
3801.6(b)(2), 2nd-4th sent.	30010(a)	3960.4(b)-(d)	33950
3801.6(c)	5344(b)	3960.4 (bear)	33600

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3960.4 (bobcat)	33755	4152 (red fox squirrel)	36010
3960.6(a)	31500	4153, 1st para.	32310(a)
3960.6(b)	33900	4153, 2nd para.	31600
3960.6 (bear)	33505	4154	32310(b)
3960.6 (bobcat)	33755	4155(a)	33805
3961	31555	4155(b)-(c)	33810
4000 (beaver)	33700	4155(d)	33800
4000 (fox)	35200	4155(e)	33815
4000 ("fur bearing mammal")	365	4155(f)	33820
4000 (muskrat)	35600	4180	32155
4002	32150(a)	4180.1, 1st para.	31605(a)
4003	32150(b)	4180.1, 2nd para.	31605(b)
4004(a)	11150	4181(a) (bear)	33520(a)-(d), (f)
4004(b)	11105	4181(a) (beaver)	33710
4004(c)	11020	4181(a) (elk)	35000(a)-(c), (f)
4004(d)	11000	4181(a) (gray squirrel)	36015
4004(e)	11155	4181(a) (wild pig)	37360(a)-(c), (e)
4004(f)	11005	4181(a) (wild turkey)	31110
4004(g)	11010	4181(b)	33520(e)
4005(a), 1st sent.	11200(a)-(b)(1)	4181(c) (wild pig)	37355(f)
4005(a), 2nd sent.	475	4181(c) (wild pig)	37360(d)
4005(b)	11210	4181(d)	35000(d)-(e)
4005(c)	11200(b)(6)	4181.1(a)	33510(a)
4005(d)	11205	4181.1(b)	37355(a)-(d)
4005(e)	11200(b)(2)-(5)	4181.1(c) (bear)	33510(b)
4005(f)	37460	4181.1(c) (wild pig)	37355(e)
4006(a)	11215(a)	4181.1(d)	33510(c)
4006(b)	11230	4181.1(e)	33510(d)
4006(c)	11215(b)	4181.2	37350
4007	11220	4181.5	34600
4008	11225	4185	33650
4009	11015	4186	35705
4009.5	11235	4188 (deer)	34605
4010	26400	4188 (wild pig)	37365
4011	31700	4188 (wild turkey)	31115
4012	35210	4190	31610
4030	11300	4301(a), 1st sent.	34400(b)-(c)
4031	11305	4301(a), 2nd-5th sent.	34405(b)-(d)
4032	11315(a)-(b)	4301(b) (deer)	34400(a)
4033	11315(c)	4301(b) (deer)	34405(a)
4034	11310	4302	34110
4035	11320	4303	34410
4036	11350	4304 (deer)	34415
4037	11325(a)	4304 (game bird)	29370
4038	11325(b)	4304 (game mammal)	31800
4040	11330	4330	34200(a)
4041	11335	4331	34220
4042	11340	4332(a)-(d)	34225
4043	4804	4332(e)	not cont'd
4150, 1st sent.	435(a)	4333	34230
4150, 2nd sent.	32300	4334	34215
4151	435(b)	4336	34205
4152 (fox)	35215	4340	5480
4152 (muskrat)	35610	4341	34210
4152 (nongame mammal)	32305	4370	34350
4152 (rabbit & hare)	35710	4371	34355

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
4500(a)-(c)	32500	5001	53315
4500(c) (sea otter)	35750(a)	5002	53310
4500(c) (whale)	37000(a)	5050(a) (fully prot. amph.)	52200
4501	35755	5050(a) (fully prot. reptile)	53000
4502.5(a), (c)-(e)	37050	5050(b)(1)-(2)	360
4502.5(b)	5522	5050(b)(3)-(5)	340
4600	34055	5060	53100
4650	37105	5061	53105
4651	37300	5062	53200
4652	37150	5500	8145
4653	37200	5501	11540
4654 (pig tag fee)	37215	5503	11525
4654 (pig tag prereqs)	37205	5505 (amphibians)	51905
4655	37210	5505 (crustaceans)	45250
4656	not cont'd	5505 (mollusks)	45400
4657	37155	5507	11510
4700(a)(1), 1st-2nd sent.	32700	5508	11515
4700(a)(1), 3rd-6th sent., (a)(2)	32705	5509	11520
4700(a)(3)	32710	5510	13710
4700(b)(1)	37450(b)	5511	24905
4700(b)(1)-(9)	355	5514 (salmon)	41005
4700(b)(2)	35800	5514 (steelhead)	43950
4700(b)(6)	37000(b)	5515(a)	38200
4700(b)(7)	37450(c)	5515(b)	350
4700(b)(8)	35750(b)	5516	11535
4750	33205	5517	42605
4751	33300	5520	46000
4752	33310	5521	45800
4753	33210	5521.5	45805
4754	5466	5521.6	45810
4755	33215	5522(a), (b)	46005
4757	33220	5522(c)	46010
4758	33455	5522(d)	46015
4759, 1st sent.	33450(a)	5522(e)	46020
4759, 2nd-3rd sent.	33450(b)	5523	11500
4760	33110	5650(a)	66500
4763	33500	5650(b)	66505
4800(a)-(b)	35350	5650(c)-(f)	66510
4800(c)	5402	5650.1(a)-(c)	6320
4800(d)	35310	5650.1(d)-(g)	6328
4801	35400	5650.1(h)	6326
4801.5	35440	5650.1(i)	6322
4802	35405	5650.1(j)	6324
4803	35410	5651	66700
4804	35415	5652	66525
4805	35420	5653(a), 1st sent.	71050
4806	35425	5653(a), 2nd sent.	71200(a)
4807	35430	5653(b)	71200(b)
4808	35315	5653(c), 1st sent.	71055
4809	35435	5653(c), 2nd sent.	71205
4810	35500	5653(c), 3rd sent.	6500
4900	35810	5653(d)	71255
4901	35815	5653(e)	71065
4902	35900	5653(f)	71260
4903	35915	5653(g), 1st sent.	71000(c)
5000	53305	5653(g), 2nd sent.	71005

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
5653.1	71280	5942	68670
5653.3	71075	5943	68315
5653.5	71000(a)	5944	68320
5653.7	71060	5945	68675
5653.8	71000(b)	5946	68600
5653.9	71010	5947	68605
5654(a)(1)	66800(a)-(d)	5948	68100
5654(a)(2)	66800(e)	5980	68800
5654(b)	66805	5981	68850
5654(c)	66825	5982	68855
5654(d)	66810	5983	68900
5654(e)	66820	5984	68905
5654(f)	66830	5985	68910
5654(g)	66835	5986	68915
5654(h)	66840	5987	68920
5655	66710	5988	68865
5656	67505(c)	5989	68870
5669	45520	5990	68860
5670	45505	5991	68875
5671	45500(a)	5992	68925
5672, 1st para.	45510(a)	5993	68930
5672, 2nd para.	45505	6020	69000
5673	45510(b)	6021	69050
5674	45515	6022	69060
5675	45500(b)	6023	69065
5700	45450	6024	69070
5701	45455	6025	69075
5701.5	45460	6026	69055
5702	45465	6027	69080
5800(a)	71750	6028	69085
5800(b)	71755	6100(a)	69500
5800(c)	71760	6100(b)	69505
5800(d)	71765	6100(c)	69510
5801	71700	6100(d)	69515
5802	71710	6300, 2nd sent.	53600
5803	71705	6300 (amphibians)	52000
5900	68000	6300 (fish)	37950
5901	68105	6301 (amphibians)	52005
5902	68050	6301 (aquatic plants)	53605
5903	68055	6301 (fish)	37955
5904	68060	6302 (amphibians)	52010
5930	68400	6302 (aquatic plants)	53610
5931	68405	6302 (fish)	37960
5932	68410	6303 (amphibians)	52015
5933, 1st sent.	68500	6303 (aquatic plants)	53615
5933, 2nd sent.	68505	6303 (fish)	37965
5933, 3rd sent.	68510	6304 (amphibians)	52020
5933, 4th-5th sent.	68520	6304 (aquatic plants)	53620
5934	68515	6304 (fish)	37970
5935	68305	6305 (amphibians)	52025
5936	68300	6305 (aquatic plants)	53625
5937	68310	6305 (fish)	37975
5938	68650	6306 (amphibians)	52030
5939	68655	6306 (aquatic plants)	53630
5940	68660	6306 (fish)	37980
5941	68665	6400	25415

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
6400.5	38870(a)	6611	67105
6401	25410	6612(a)	67110
6402	25850	6612(b)	67115
6403	25400	6612(c)	67120
6403	38870(b)	6612(d)	67125
6403	39150	6613(a)	67150
6420	25600	6613(b)	67155
6421	25605	6613(c)	67160
6422	25610	6613(d)	67165
6423	25615	6613(e)	67170
6424	25620(a)	6613(f)	67175
6425(a)	not cont'd	6613(g)	67180
6425(b)	25620(b)	6614(a)	67200(a)
6440	39205	6614(b), 1st sent.	67200(b)
6450	39210	6614(b), 2nd. sent.	67205
6451	39215	6614(c)	67210
6452	39220	6614(d)	67215
6453	39235	6614(e)	67220
6454	39230	6614(f)	67225
6455(a)-(d) & part of (e)	39225	6615	67250
6455, part of (e)	5670	6616	67255
6456	39200	6617	67260
6457	39240	6618	67265
6460	39245	6619	67270
6590	25700	6620	67275
6591	25705	6621	67280
6592	25710	6650	54025
6593, 1st, 3rd sent.	25720	6651(a)-(b)	54030
6593, 2nd sent.	25715(b)	6651(c) (agar)	54305
6594	25715(a)	6651(c) (kelp)	54010
6595	25725	6652	54055
6596.1(a), 1st, 3rd sent.	12910	6653	54005
6596.1(a), 2nd sent., (f)	13255(a)	6653.5(a)	54330
6596.1(b)	21935	6653.5(b)	54325
6596.1(c)	38875(c)	6654	54175
6596.1(d)	14620(a)	6655	54180
6596.1(e)	not cont'd	6656	6000
6596.1(f)	13255(a)	6657	54040
6596.1(f)	14620(a)	6680	54050
6596.1(g)	13255(b)	6700, 1st sent.	54080
6596.1(g)	14620(b)	6700, 2nd sent.	54075
6597	25730	6701	54085
6597.5	25735	6701.5	54090
6598	25740	6702	54095
6600	67000	6703	54100
6601	67005	6704	54105
6602	67010	6705	54110
6603(a)-(c)	67050	6706	54115
6603(d)	67055	6707	54120
6603(e)	67060	6708	54125
6603(f)	67080	6709	54130
6604	67065	6710	54135
6605(a)	67015	6711	54140
6605(b)	67070	6750	54200
6605(c)	67075	6751	54205
6610	67100	6850	52400

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
6851.....	52450	7085.....	12530
6852.....	52460	7086.....	12535
6854.....	52455	7087(a).....	12505
6855.....	52465	7087(b).....	12540(a)
6880.....	52500	7088.....	12540(b)
6881, 1st sent.....	52505	7090(a).....	12600
6881, 2nd sent.	52510	7090(b)(1), (b)(2), 1st sent.	12605
6882.....	52505	7090(b)(2), 2nd sent., (b)(2)(A)-(E)	12610
6883.....	52515	7090(c).....	12615
6884.....	52505	7090(d).....	12620
6885.....	52520	7090(e).....	12625
6895.....	52300	7090(f).....	12630
6896.....	52305	7090(g).....	12635
6900.....	11800	7090(h).....	12640
6901.....	11810	7100.....	12805
6902.....	11815	7110.....	13800
6903.....	11820	7115.....	13805
6903.5.....	25125	7120.....	13500
6910.....	11805 (intro.)	7121, 1st para.....	13600
6911.....	11805(a)	7121, 2nd para.	13605
6912.....	11805(b)	7123.....	40710
6920(a).....	11825(a)	7145(a).....	12900
6920(b).....	11830	7145(a).....	13000
6921.....	11825(b)	7145(b).....	13010
6922.....	11845	7147.....	21930
6923.....	11840	7149.05(a).....	12850
6924.....	11835	7149.05(a).....	13100(a)
6930.....	11850	7149.05(b).....	13400
7050.....	12100	7149.05(c).....	not cont'd
7051.....	12105	7149.05(d).....	13100(b)
7055.....	12150	7149.05(e).....	13100(c)
7056.....	12155	7149.2.....	13105
7058.....	12160	7149.3.....	53250
7059.....	12165	7149.45(a).....	12905
7060.....	12200	7149.45(b).....	13250
7062.....	12205	7149.45(c).....	not cont'd
7065.....	12250	7149.5.....	13110
7066.....	12255	7149.7.....	13020
7070.....	12300	7149.8.....	45700
7071(a).....	12305	7149.9(a), 1st, 2nd sent.....	45955(a)
7071(b)-(c).....	12310	7149.9(a), 3rd sent.	45950(a)
7072(a)-(c).....	12315	7149.9(a)(1), 1st sent.	45960
7072(d).....	12320	7149.9(a)(1), 2nd sent.....	45950(b)-(c)
7073.....	12325	7149.9(a)(2)-(3).....	45960
7074.....	12330	7149.9(b)-(d).....	45955(b)-(d)
7075.....	12400	7150.....	13150
7076.....	12405	7151(a)-(c).....	13200
7077.....	12410	7151(d).....	13205
7078(a)-(c).....	12415	7151(e).....	13210
7078(d).....	12420	7151(f)-(g).....	13215
7078(e)-(f).....	12425	7153.....	13005
7080.....	12500	7155.....	7650
7081.....	12510	7180.1(a).....	12950
7082.....	12515	7180.1(a).....	12955
7083.....	12520	7180.1(b).....	12955
7084.....	12525	7180.1(c), 1st sent.....	12955

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
7180.1(c), 2nd sent.	not cont'd	7701	21605
7180.1(d)	not cont'd	7702	21610
7181.1(a)	12960	7702.1	21810
7181.1(b)	not cont'd	7703	21615
7182.1(a)	13405(a)	7704(a)	14310
7182.1(b)	not cont'd	7704(b)	21800
7183.1(a)-(b)	13355	7704(c)	42750
7183.1(c)	not cont'd	7705	21750
7184.1(a)-(b)	13360	7706	21850
7184.1(c)	not cont'd	7707	21855
7185	12965	7708	14350
7185	13350(a)	7709	23150
7185	13405(b)	7710(a)-(c)	22800(a)-(e)
7186.1(a)	13365	7710, last para.	22800(f)
7186.1(b)	13350(b)	7710, last para.	22805(d)
7186.1(c)	not cont'd	7710.1	22810
7230	13700	7710.5	22805(a)-(c)
7232	13705	7712	22815
7256	49310	7850(a)	14500(a)
7260	43805	7850(b)	14500(b)
7261	420	7850(c), 1st sent.	14500(c)
7290	46250	7850(c), 2d sent.	14615
7332	46300	7850(d)	14500(d)(1)
7350	38855	7850.5	14500(d)(2)
7361	13900	7851	14550(b)
7362	13910	7852(a)-(b)	14550(a)
7363	13905	7852(a)-(d)	14600
7364	13915	7852(e)	14550(c)
7370	43150	7852.1	14610
7380	44000	7852.1	14770
7381	44005	7852.2	14605
7382	44010	7852.25 (aquaculture)	23615
7400	46050	7852.25 (commercial fishing)	14555
7600	14250	7852.25 (fish businesses)	20235
7600	37805	7852.27	14505
7600	45005	7852.27	20225
7601	14205	7852.4	14860
7601	37810	7853	4876(a)
7630	22900	7854	4876(b)
7650	22300	7855	4872
7652(a)-(c)	22405	7856(a)-(d)	14870 (a)-(g)
7652(d)	22315	7856(e)	14870(h)
7652.1	22400(a)-(d)	7856(f), 1st-3rd sent.	14875
7652.2	22450(a)-(d)	7856(f), 4th sent.	14880
7652.3(a)	22410	7857(a), (c)-(k), (m)	14560
7652.3(a)	22455	7857(b)	4870
7652.3(b)	22400(e)	7857(e)	14865
7652.3(b)	22450(e)	7857(k)	14760
7653	22415	7857(l)	14855
7654	22305	7857(m)	14850
7655	22310	7857(n)	14650
7660	42050(b)	7858	14565
7662	42050(a)	7860	41355
7690	23100	7861	41360(a)-(e)
7700(a)-(c)	21600	7861.1	41360(f)
7700(d)	14200	7861.2	41365

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
7861.3.....	41350	8033.5(b)	not cont'd
7861.4.....	41375	8034(a), 1st sent.....	20400
7861.5.....	41370	8034(a), 2nd sent.	20405(a)
7862.....	41380	8034(b)	not cont'd
7862.5.....	41385	8035(a).....	20550(a)
7863.....	41390	8035(b)	20555(a)
7880.....	14785	8035(c).....	20550(b)
7881(a)	14755	8036(a), 1st sent.....	20350
7881(a)	14780	8036(a), 2nd sent.	20355(a)
7881(b), 1st sent.	14765(a)	8036(b)	not cont'd
7881(b), 2nd sent.....	14775	8037(a), 1st sent.....	20300
7881(c), 1st sent.	14765(a)	8037(a), 2nd sent.	20220
7881(c), 2nd sent.	14775	8037(b)	not cont'd
7881(d)	14790	8038	20215
7881(e)	14750	8039 (fish importer).....	20355(b)
7881(f).....	14765(b)	8039 (fish processor)	20405(b)
7881(g).....	14765(c)	8039 (fish receiver).....	20455(b)
7891.....	15200(b)	8039 (fish retailer)	20505(b)
7892, 1st sent.....	15050	8039 (fish wholesaler)	20555(b)
7892, 2nd sent.	15055	8039 (marine aquaria receiver).....	20605(b)
7892, 3rd sent.	15060	8039 (multi-function license)	20230(c)
7920, 1st, 3rd sent.	21905	8040	20900
7920, 2nd sent.	21900	8041	20950
7921, 1st sent.....	21915	8042, 1st sent.	20955(a)
7921, 2nd sent.	21910	8042, 2nd sent.....	20955(b)
7923.....	21920	8043(a), 1st sent.....	21000(a), (c)
7924.....	4930	8043(a), 2nd sent.	21005(a)
7925.....	42100	8043(b)	21020
8010.....	22210	8043(c), 1st sent.....	21025(b)
8022.....	22205	8043(c), 2nd-3rd sent.....	21025(c)
8025(a) (fishing reports)	5170	8043(c), 4th sent.	21155
8025(a) (landing fees)	5150	8043.1(a).....	21000(b)
8025(b)	not cont'd	8043.1(b)	20905
8026(a)	22200	8043.1(c), 1st sent.....	21005(b)
8026(b)	5172(b)	8043.1(c), 2nd sent.	21005(c)
8030.....	20200	8043.1(d)	21150(a)
8031(a) (intro)	20150	8043.2(a).....	21010
8031(a)(1).....	20165	8043.2(b)	21450
8031(a)(2).....	20170	8043.2(c).....	21455
8031(a)(3).....	20160	8045	21020
8031(a)(4).....	20155	8045	21225
8031(b)	not cont'd	8046(a), 1st sent.....	21150(a)
8032(a), 1st. sent.	20205(a)	8046(a), 2d sent.	21150(b)
8032(a), 2d sent.	20230(a)	8046(a), 3d-5th sent.....	21100
8032(b)	20205(b)	8046(b)	21015
8032(c)	20230(b)	8046(c).....	21110
8032.5(a)-(b), (d)-(i)	20210	8046.1	21115
8032.5(c)	5100	8046.1	38365
8033(a)	20450	8047(a)(1), 1st sent., 1st cl.	21000(d)
8033(b)	20455(a)	8047(a)(1), 1st sent., 2nd cl.	21005(c)
8033(c)	20460	8047(a)(1), 2nd sent.....	21150(a)
8033.1(a)	20600	8047(a)(1), 3rd sent.	21105(a)
8033.1(b)	20610	8047(a)(1), 4th sent.	21110
8033.2.....	20605(a)	8047(a)(2), 1st sent.	21210(b)
8033.5(a), 1st sent.	20500	8047(a)(2), 2nd sent.....	21000(a)
8033.5(a), 2nd sent.....	20505(a)	8047(a)(2), 3rd sent.	21000(c)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8047(a)(2), 4th sent.	21215	8113	22715
8047(b), 1st sent.	21000(c)	8114	22720
8047(b), 2nd sent.	20960	8120	41600
8047(b), 3rd sent.	21025(a)	8121	41605(a)-(c)
8047(b), 4th sent.	not cont'd	8122	41605(d)
8047(b), 5th sent.	21105(a)	8123	41610
8047(b), 6th sent.	21105(b)	8125, 1st-2d sent.	22905
8047(b), 7th sent.	21110	8125, 3d sent.	22915
8047(c)(1)	21210(a)	8126	22910
8047(c)(1)	21215	8140	14260
8047(c)(2), 1st sent.	21235	8150.5	42265
8047(c)(2), 2nd sent.	21230(a)	8150.7, 1st sent.	42255
8047(c)(2), 3rd sent.	21230(b)	8150.7, 2nd sent.	42260
8047(c)(3)	21205	8154	42350
8047(c)(4)	20450(b)(3)	8180	38555(a)
8047(c)(5)	21200	8181	38555(b)
8047(d)	21225	8182	38555(c)
8047(e), 1st sent.	21220	8183	38560
8047(e), 2nd-3rd sent.	21240	8190	38550
8047(e), 4th sent.	21245	8210.2	41450
8050	21300	8213	41460
8051	20955(a)	8214	41465
8051.4(a)	46150	8215	41470
8051.4(b)	not cont'd	8217	41455
8052	21360	8218	41475
8053	21350	8219	41480
8056	21355	8226	42110
8057	21365(a)	8230	41650
8058	21365(b)	8231	41305
8059	21365(c)	8232	41665
8060	21365(d)	8232.5	41670
8061	21365(e)	8233, 1st sent.	41715
8062	21365(f)	8233, 2nd sent.	41795
8063	21365(g)	8233.3	41730
8064	21370	8233.4	41760
8065	21375(a)	8233.5	41735
8066	21375(b)	8233.8	41710
8067	21375(c)	8233.9	41680
8068	21375(d)	8234(a)	41675
8069	21375(e)	8234(b)	41800
8070	21375(f)	8235	41725
8075	21650	8236	41720
8076	21805	8237	41735
8077	21655	8238	41745(a)
8078	21660	8238.1	41745(b)
8079	21665	8239	41740(a)-(i)
8079.1	21670	8239.1	41755(a)-(c)
8080	21675	8239.2	41660(b)
8100	395	8239.6	41765
8101	22500	8239.9	41750
8102	22505	8240	41755(d)-(e)
8103	22510	8241	41740(j)
8104	22515	8242	41690
8110	22705	8243	41685
8111	22700	8244	41695
8112	22710	8245	41700

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8245.5	41705	8276.4(a)	47800
8246(a)	4916(a)	8276.4(b)-(c)	47805
8246(b)	4916(b)	8276.4(d)	47810
8246(c)	4916(c)	8276.4(e)	47815
8246(d)	4916(e)	8276.4(f)	47820
8246.2(a)	4918	8276.4(g)	47825
8246.2(b)	4916(d)	8276.4(h)	47830
8246.4	4910	8276.4(i)	47010(a)
8246.6 (revocation)	4912	8276.4(j)	47010(b)
8246.6 (transfer)	41775	8276.4(j)	47835
8246.7 (renewal or transfer)	41780	8276.5(a), 1st sent.	47610
8246.7 (revocation)	4914	8276.5(a), 2nd sent.	47615
8246.8	41660(a)	8276.5(a)(1)-(2)	47620
8247, 1st sent.	41900	8276.5(a)(3)	47625
8247, 2nd sent.	41940	8276.5(a)(4)	47630
8247, 3rd sent.	41930	8276.5(a)(5)	47635
8247.1	41915	8276.5(a)(6)	47640
8247.2, 1st sent.	41925	8276.5(a)(7)	47645
8247.2, 2nd-3rd sent.	41935	8276.5(a)(8)	47650
8247.3	not cont'd	8276.5(b)	5836
8247.4	41945	8276.5(c)-(d)	47655
8247.5(a)	41905	8276.5(e)-(f)	47660
8247.5(b)	41920	8276.5(g)	47605
8247.6	41955	8276.5(h)	47600
8247.7	41910	8276.5(i)	47665
8247.8	41950	8277	47305
8248	41655	8278	47070
8250	515	8279	47055
8250.5(a)	49700	8279.1(a)-(b), (d)	47155
8250.5(b)	49715	8279.1(c), (d)	5834
8250.5(c)	49750	8280	48500
8251	49600	8280.1(a)	47900
8252	49605	8280.1(b)	48100
8253	49755	8280.1(c)	48105
8254	49500	8280.1(d)-(e)	5832
8254.7, 1st-6th sent.	5852	8280.1(e)	47910
8254.7, 7th sent.	49615	8280.1(e)	48115
8257	49505	8280.2(a)-(e)	48110
8258	49710(a)	8280.2(f)	48115
8259	49510	8280.3(a), (k)	48355
8275	46855	8280.3(b)	48310
8276(a)-(b), (d)	47300	8280.3(c)	48315
8276(c)	47060	8280.3(d)	48320
8276.1(a)	47850	8280.3(e)	48330
8276.1(b)	47855(a)	8280.3(f)	48325
8276.1(c)	47860	8280.3(g)	48335
8276.1(d)	47865	8280.3(h)	48340
8276.1(e)	47855(b)	8280.3(i)	48345
8276.1(f)	47870	8280.3(j)	48350
8276.2(a)	47350	8280.3(l)	48360
8276.2(b)(1)	47355	8280.4	5830
8276.2(b)(2)(A)	47370	8280.6(a)	47905
8276.2(b)(2)(B)	47360	8280.6(b)	48305
8276.2(c)	47365	8280.6(c)	48300
8276.2(d)	47375	8280.6(d)	47910
8276.3	47150	8280.6(d)	48360

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8280.7	48510	8395	43555
8280.9	48505	8398	15100
8281	47015	8399	51400
8282	48650	8399.1	51405
8283	47455	8400	15105
8284(a), 1st sent.	47450(a)	8403(a)	38360
8284(a), 2nd sent.	47460(a)	8403(b), 1st sent.	19510(a)
8284(b)-(c)	48660	8403(b), 2nd sent.	19510(b)
8340	46400	8403(c)	19505
8341	46410	8405	50505
8342	46425	8405.1	50510
8343	46415	8405.2	50515
8344	50255	8405.3(a)-(b), (d)	50520
8345	50405	8405.3(c)	5870
8346	46420	8405.4	50525
8370 (salmon)	41495	8411	40610
8370 (striped bass)	39005	8412	40605
8370 (sturgeon)	43355	8420	51450
8371(a)-(b)	39010	8424	51455
8371(c)-(d)	41455	8425(a)	51460
8372	39105	8425(b)	51465
8373	39555	8428	51470
8374 (bluefin)	44455(a)	8429, 1st sent.	51475
8374 (yellowfin)	44470	8429, 2nd sent.	5880
8375	44455(b)	8429.5	51485
8376	44450	8429.7	not cont'd
8377	44460(b)	8430	44105(a)
8377.5	44460(a)	8431	44200(a)-(b)
8378	44465	8432	44200(c)
8380	39100	8433	15150(b)
8381	39655	8433	44105(b)
8382	38755(b)	8433	44200(d)
8382	44755(b)	8434	15150(a)
8383.5	39050	8435	39410
8384 (barracuda)	38755(c)	8436	20105(a)
8384 (yellowtail)	44755(c)	8436.5	20105(b)
8385	21950	8437	20100(a)
8386 (barracuda)	38755(a)	8437.1	20100(b)
8386 (yellowtail)	44755(a)	8460, 1st para.	22100(a)
8387	44760	8460, 2nd para.	4880
8388(a)	42805	8460, 2nd para.	22105
8388(b)	42800	8460, 3rd para.	22100(b)
8388(c)	42810(a)	8460, 4th para.	22130
8388(d)	42810(b)	8461	22110
8388.5	42905	8462	22120
8389(a), 1st sent.	40500	8463	22125
8389(a), 2nd sent.	40505	8475	46405
8389(b)	40510(a)	8490	49005
8389(c)	40510(b)	8491	49015
8389(d)	40515	8492	49020
8391	39900	8494(a)	39950
8392	39905	8494(b)	39955
8393(a)	40755	8494(c)(1) & part of (c)(2)	39960
8393(b)	40760	8494(d)	39970
8394	43655(a)	8494(e)	39975
8394.5	43655(b)	8494(f)	39985

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8494(g)	39980	8582(b) (2nd & 3d sent.)	18395(b)
8494 part of (c)(2)	39965	8583	18400
8495	40100	8583.5	18405
8496	40115	8585	22600
8497	40120	8585.5	22605
8500	45010	8586	22610
8510	49205	8586.1	22625
8550, 1st sent.	40350(a)	8587	22630
8550, 2nd-3rd sent.	40355	8587.1	22620
8550.5	40360	8589	22615
8552(a), 1st sent.	40350(b)	8589.5	5050
8552(a), 2nd sent.	40375	8589.7	22635
8552(a), 2nd sent.	40380	8590	50955
8552(b)-(e)	40365	8591	51005
8552.1	40400	8593	51000
8552.2	40380	8594	51050
8552.3	40385	8595(a)	51015(b)
8552.4	40395	8595(a)	51100(a)
8552.5	5692	8595(b)	51015(d)
8552.6	40375	8596	20700
8552.7	40390	8597(a)	20705
8552.8	40370	8597(b)	20710
8553	40455	8597(c)	20715
8554	40405	8598	20720
8555	40410	8598.2	20725
8556	40415	8598.3(a), (c)	20730
8557	40420	8598.3(b)	20735
8558	40425	8598.4	20740
8558.1(a), 1st-2nd sent.	40430	8598.6	5106
8558.1(a), 3rd sent.	40435(c)	8599	42950
8558.1(b)	not cont'd	8599.3	42955
8558.2	40435(a)-(b)	8599.4	42850
8558.3	40435(d)	8601 ("set line")	18710
8559	40440	8601 ("set net")	15600
8561	18300	8601.5(a)	15605(a)
8561.5	18305	8601.5(a)	18900(c)
8562	18310	8601.5(b), 1st-2nd sent.	15605(b)
8563	18315	8601.5(b), 3rd sent.	15615(b)
8564	18320	8601.5(b), 4th sent.	5000
8567	18325	8601.5(c)	15615(a)
8568	18330	8601.6(a)	15610
8568.5	18335	8601.6(b)	not cont'd
8569	18340	8602	15300
8573	18345	8603	14300
8574	18350	8604	14305
8575	18355	8605	15310
8575.5	18360	8606.1	16100
8576(a)-(d), (f)	18365	8607	38355
8576(e)	4964	8608	15305
8576.5	18370	8609	16805
8577	18375	8610.1	16850.1
8579	18380	8610.2	16850.2
8580	18385	8610.3	16850.3
8581	5104	8610.4	16850.4
8582(a)	18395(a)	8610.5	16850.5
8582(b) (1st sent.)	5700	8610.6	16850.6

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8610.9.....	16850.9	8692.5.....	18080
8610.11.....	16850.11	8693.....	18085
8610.12.....	16850.12	8694.....	18090
8610.13.....	16850.13(a)	8696.....	18095
8610.13 (refs to 8610.8).....	not cont'd	8700.....	18100
8610.14.....	16850.14	8720.....	18200
8610.15.....	16850.15	8721.....	18205
8610.16.....	16850.16	8724.....	18210
8614.....	19900	8725.....	18215
8615.....	19910	8750.....	15650
8623(a)-(b), (e).....	38760	8751.....	15700
8623(a)-(b), (e).....	39055	8751.....	15705
8623(a)-(b), (e).....	44765	8751.....	15710
8623(c)-(d).....	18500	8752.....	15715
8625(a)-(c).....	18505	8752.....	15720
8625(d).....	not cont'd	8752.....	15725
8626(a)-(c).....	18510	8752.....	15730
8626(d).....	not cont'd	8752.....	15735
8630, 1st para.	15400	8752.....	15740
8630, 2nd para.	4986	8754.....	15745
8631.....	4975	8754.....	15750
8632.....	4980	8754.....	15755
8633.....	4982	8754.....	15760(a)-(c)
8634.....	4988	8755.....	15775(a)-(b)
8635.....	4984	8755.....	15780
8660.....	15500	8755.....	15785
8661.....	15505	8756.....	39000
8663.....	15515	8756.....	41485
8664.....	15520	8756.....	42505
8664.13.....	17020	8756.....	44205
8664.5.....	17000	8757.....	15760(d)
8664.67.....	17005	8757.....	15765
8664.7.....	17010	8757.....	15770
8664.8.....	17015	8757.....	15775(c)
8665.....	15510	8780(a).....	15900
8666.....	17025	8780(b).....	15910
8667.....	15525	8780(c)-(d).....	15915
8668.....	15530	8780.1.....	15902
8669.....	15535	8800.....	16000
8670.....	15540(a)	8801.....	16010
8680.....	18000	8802.....	16015
8681.....	18005	8803.....	16025
8681.5.....	18010	8804.....	16015
8681.7.....	18015	8805.....	16010
8682.....	18020	8806.....	16020
8683.....	18025	8807.....	16030
8684.....	18030	8830, 1st sent.	16115
8685.....	18035	8830, 2nd sent.	16105(a)
8685.5.....	18040	8831.....	16150
8685.6.....	18045	8832.....	16350
8685.7.....	18050	8832.....	16650
8686.....	18055	8833.....	16250
8687.....	18060	8833.....	16280
8688.....	18065	8833.....	16285
8691.....	18070	8833.....	16290
8692.....	18075	8833.....	16295

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8833.....	16300	9002(d)	19310
8833.....	16305	9002.5	19315
8834.....	47000	9003	19210
8834.1	41490	9004	19215
8834.5	47065	9004	19220
8835.....	16255	9005	19225
8835.....	16260	9006	19230
8835.....	16265	9007	19400(a)
8836.....	16270	9008	19400(b)
8836.....	16275	9010(a).....	49700
8836.....	16310	9010(b)	49710(b)
8837.....	16155	9010(c)-(e).....	49705
8840.....	16175	9011(a)(1)	47450(a)
8841(a)-(c)	16110(a)-(c)	9011(a)(2)	47450(b)
8841(d)	16105(b)	9011(a)(3)	47460(b)
8841(e)	16110(d)	9011(b)	48655
8841(f)	16160(a)	9011(c).....	47465
8841(g)	51010(a)-(b)	9012(a).....	47005
8841(h)	16165(a)	9012(b)	47450(c)
8841(i)	16110(g)	9015(a).....	51015(a)
8841(i)	16160(b)	9015(b)	51015(c)
8841(i)	16165(b)	9020(a).....	19605
8841(i)	16170(b)	9020(b)	19610
8841(i)	51010(c)	9022(a).....	19515
8841(j)-(k)	16110(e)-(f)	9022(b)	19510(a)
8841(l)	16170(a)	9023	39305
8842(a), 1st para.....	51100(a)	9024	49010
8842(a), 2nd para.	51100(b)	9025.1	18700
8842(b)	51105(a)	9025.5(a).....	18950
8842(c), 1st sent.	51110	9025.5(a).....	19000
8842(c), 2nd sent.	40125	9025.5(a).....	19005
8842(c), 3rd sent.	51115	9025.5(a).....	19010(a)
8842(d)	51105(b)	9025.5(a).....	19015(a)
8843.....	16355	9025.5(a).....	19030
8870(a)	16450	9025.5(a).....	19035
8870(a)	16455	9025.5(a).....	19040
8870(a)	16460	9025.5(a).....	19045
8870(a)	16465	9025.5(a).....	19050
8870(a)	16470	9025.5(b)	18715
8870(b)	16475	9025.5(c).....	19010(b)
8870(c)	16480	9025.5(c).....	19015(b)
8870 (intro.)	16400	9025.5(c).....	19020
8890.....	16550	9025.5(c).....	19025
8890.....	16555	9026	18900(a)-(b)
9000(a)-(b)	19200	9027	18800(c)
9000(c)	19600	9027	18805(c)
9000.5(a), (c), (d), (f)	39755	9027	18810(c)
9000.5(b)-(c), (e)-(f)	19150	9027.5	18815(c)-(d)
9001	19205	9027.5	18820(c)-(d)
9001.6.....	39760	9027.5	18825(c)-(d)
9001.7(a)-(j)	19500	9028	18705
9001.7(k)	49610	9029	18800(a)-(b)
9001.8.....	40905	9029	18805(a)-(b)
9002(a)	19300(a)	9029	18810(a)-(b)
9002(b)	19305	9029	18815(a)-(b)
9002(c)	19300(b)	9029	18820(a)-(b)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
9029.....	18825(a)-(b)	10653.....	59455
9029.5, 1st cl. of 2nd sent.	18710	10654.....	59460
9029.5, 1st, 3rd sent.	18805(d)	10655.....	59715
9029.5, 1st, 3rd sent.	18810(d)	10655.5.....	59710
9029.5, 2nd sent.	18720	10656.....	59670
9050.....	19805	10657.....	59865(a)-(b)
9051.....	19810	10657.5, 1st para.....	59860
9052.....	19800	10657.5, 2nd para.	59865(d)
9053.....	45305	10658.....	60055
9053.....	45405	10659.....	59230
9054, 1st sent.....	50705(a)	10660.....	58630
9054, 2nd sent.	50710	10661.....	59675
9054, 3rd sent.	50705(c)	10662.....	59180(a)
9054, 4th sent.	50705(d)	10663.....	59180(b)
9055.....	50705(b)	10664 (Doheny Beach).....	59830
9100.....	15000	10664 (Irvine Coast).....	59905
9101.....	15005	10664 (Laguna Beach)	59955
10000.....	43250	10664 (Newport Beach)	59980
10001, 1st sent.....	43255	10664 (Niguel).....	60005
10001, 2nd sent.	43260	10664 (Point Fermin)	60030
10002.....	43265	10664 (South Laguna Beach)	60080
10003.....	43270(a)	10665, 1st para.....	59280
10004.....	43270(b)	10665, 2nd para.	59285
10005.....	5732	10666.....	59930
10500(a)-(b)	58700	10667(a).....	59785
10500(c)	58550	10667(b), 1st sent.	59790
10500(d)	59500	10667(b), 2nd-4th sent.....	59795(a)
10500(e)	60200	10667(c).....	59800
10500(f).....	59600	10667(d)	59795(b)
10500(g)	60300	10667(e), 1st sent.....	59795(c)
10501.....	34450	10667(e), 2nd sent.	59795(d)
10501.5.....	58530	10680.....	7230
10502(a) (fish refuge)	58555	10681.....	7235
10502(a) (game refuge).....	58710	10682.....	7240
10502(b)-(d)	58500	10683.....	7245
10502.5, 1st sent.....	59855	10684.....	7250
10502.5, 2nd sent.	59865(c)	10685.....	7255
10502.6.....	59780	10711.....	60325
10502.7.....	59655	10740.....	60950
10502.8.....	59705	10741.....	60955
10503(a)-(c)	58505	10770.....	59425
10503(d)	58715(a)	10771.....	59450
10504.....	58715(b)	10801.....	58625
10505.....	58715(c)	10820.....	58800(a)
10506.....	58720	10821.....	58825
10507.....	58725	10822.....	58850
10508.....	58515	10823.....	58875
10509.....	59400	10824.....	58900
10510.....	58520	10825.....	58925
10511.....	58525	10826.....	58950
10512.....	58730	10827.....	58975
10513.....	58705	10828.....	59000
10514.....	58735	10829.....	59025
10650.....	59305	10830.....	59050
10651.....	59310	10831.....	59075
10652.....	59315	10832.....	59100

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
10833.....	59300	11024.....	2610(a)
10835.....	59125	11025.....	2615(a)
10836.....	59150	11026.....	2620(a)
10837.....	59175	11027.....	2625(a)
10838.....	59200	11028.....	2630(a)
10840.....	59225	11029.....	2635(a)
10841.....	59350	11030.....	2640(a)
10842.....	59275	11031.....	2645(a)
10843, 1st para.	59250	11032.....	2650(a)
10843, 2nd para.	59255	11033.....	2655(a)
10844.....	58740	11034.....	2660(a)
10860.....	59525	11035.....	2665(a)
10861.....	59550	11036, 1st-3rd para.	2670(a)
10880.....	60225	11036, part of 4th para.....	6410
10881.....	60250	11036, part of 4th para.....	69250
10900.....	59625	11037.....	2675(a)
10901.....	59850	11038.....	2680(a)
10902.....	60050	11039.....	2685(a)-(b)
10903.....	59650	12000(a).....	4400(a)
10904.....	59950	12000(b)(1).....	4600(a)
10905.....	59975	12000(b)(11)-(12).....	6100
10906.....	60075	12000(b)(2).....	4864
10907.....	59775	12000(b)(3).....	5800
10908.....	59825	12000(b)(4)-(7).....	4850
10909.....	59925	12000(b)(8)-(10).....	4702
10910.....	60025	12001.....	4754(d)
10911.....	60000	12001.5.....	4704
10912.....	59900	12002(a).....	4400(b)
10913.....	59750	12002(b)(1).....	4450
10925.....	13950	12002(b)(2).....	4800
10930.....	34060	12002(b)(3) (burro).....	5540
10931, 1st sent. of 1st para., 2nd para.	34065	12002(b)(4).....	6300
10931, 2nd sent. of 1st para.	5542	12002(b)(5).....	4950(a)
10932.....	59700	12002(b)(6).....	6102
11000.....	2500	12002(b)(7).....	4462(c)
11001.....	2505(a)	12002(c) (bird nest & eggs).....	5310
11002.....	2510(a)-(b)	12002(c) (bird of prey).....	5350
11003.....	2515(a)	12002(c) (migratory nongame bird).....	5342
11004.....	2520(a)	12002(c) (nongame bird).....	5340
11005.....	2525(a)	12002(d).....	4415
11006.....	2530(a)-(c)	12002.1.....	4700
11007.....	2535(a)	12002.2.....	4862
11008.....	2540(a)	12002.2.1.....	4860
11009.....	2545(a)-(b)	12002.3.....	5108
11010.....	2550(a)	12002.4.....	4934
11011.....	2555(a)-(b)	12002.5.....	6050
11012.....	2560(a)	12002.6.....	4900
11013.....	2565(a)	12002.7.....	4932
11014.....	2570(a)	12002.8(a)-(c).....	5808
11015.....	2575(a)	12002.8(d)-(f) (anchovies).....	5650
11016.....	2580(a)	12002.8(d)-(f) (halibut).....	5680
11017.....	2585(a)	12002.8(d)-(f) (herring).....	5690
11018.....	2590(a)	12002.8(d)-(f) (rock crab).....	5820
11019.....	2595(a)	12002.8(d)-(f) (salmon).....	5710
11020.....	2600(a)	12002.8(d)-(f) (sardines).....	5720
11022.....	2605(a)	12002.9.....	5102

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
12002.10	5806	12023(a), (d)-(e)	5260
12002.11	10830(e)	12023(b)-(e)	25500
12003	4950(b)	12024	25505
12003.1	4462(a)-(b)	12025(a)	6552
12003.2 (fully prot. mammal)	5400	12025(b)	6554
12003.2 (marine mammal)	5520	12025(c)	6556(a)
12003.5	16850.13(b)-(c)	12025(d)	6556(b)
12004	4962	12025(d)	6558
12005	5462	12025(e)-(f)	6560
12005.5 (body-gripping trap)	4802	12025(g)	6556(c)
12005.5 (sodium cyanide)	4712	12025(h)	6550
12006(a)(1)	5730(a)	12025.1(a)	6380
12006(a)(2)	5850(a)	12025.1(b), 1st part	6382
12006(b) (lobster)	5850(b)-(d)	12025.1(b), 2nd part	6384
12006(b) (sturgeon)	5730(b)-(d)	12025.1(c), 1st part	6382
12006.6	5804	12025.1(c), 2nd part	6386
12007 (diseased aquatic org.)	5254	12025.1(d)	6388
12007 (diseased aquatic org.)	5262	12025.1(e), 1st part	6390
12007 (fish planting)	5250	12025.1(e), 2nd part	6392
12007 (import aquatic org.)	5258	12025.1(f), 1st part	6390
12007 (import aquatic org.)	5264	12025.1(f), 2nd part	6394
12007 (planting aquatic org.)	5252	12025.1(g)	6396
12007 (quarantined aquatic org.)	5256	12025.2	69550
12007 (streambed alteration)	6350	12026	25510
12007 (white bass)	5660	12028	4310
12008(a)	6202	12029(a)	72200
12008(b)	5320	12029(b)	72205
12008(c)	5400	12029(c)	72210
12008(d) (fully prot. amph.)	5900	12029(d)	72215
12008(d) (fully prot. reptile)	5950	12150	4754(a)-(c)
12008(e)	5600	12150.5	4756
12008.1(a)	6204	12150.6	4762
12008.1(b)	6206	12150.7	4764
12008.5	5490	12150.8	4766
12009	5802	12151	4758
12010	5350	12151.5	4752
12011	6302	12152	4760
12012	4460	12153	4874
12012.5	6104	12154	4552
12013(a)-(b), (d)-(g)	4708	12155	4706
12013(c) (1st cl. of 1st sent.)	8110(a)	12155.5	4556
12013(c) (2d cl. of 1st sent.)	4464(a)	12156	4806
12013(c) (2d sent.)	8110(b)	12156.5	4594
12013(g)	4464(b)	12157	4570
12013.3(specified mammals)	5450	12157.5	4572
12013.3(wild turkey)	5330	12158	4550
12013.5	5460	12158.5	4330
12014	4335	12159	4510
12015	66705	12159.5	6200
12016	66715	12160	4514
12017(a)(1)	4470(g)	12161	4516
12017(a)(2)-(6)	67505(b)	12162	4512
12017(b)	67510	12163	4518
12017(c)-(f)	67515	12164	4710
12020	4420	12165	4592
12021	4425	12166	4554

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
12300.....	7600	15007(f)	24955
13000.....	3500(a)	15008	23360
13001(a)	3600	15100	23365
13001(b)	3810	15101(a).....	23605(a)
13001.5.....	3505	15101(b), 1st sent., 1st cl.....	23605(b)
13002.....	3605	15101(b), 1st sent., 2d cl.	23610
13003.....	3610	15101(b), 1st sent., 3d cl.	23700(a)
13005.....	9105	15101(b), 2nd, 4th sent.....	23700(b)-(c)
13006.....	3805	15101(b), 3rd sent.....	23600
13007(a), 1st sent.	12000	15101(c).....	23605(c)
13007(a), 2nd sent., (b)-(g)	12005	15101(d)	23700(d)
13010.....	67500	15102	23805
13011.....	67505(a)	15103(a), (c)-(e)	23705
13012.....	67520	15103(b)	23720
13013.....	67525	15104	23710
13014(a)	58050	15105	23715
13014(b)	58055	15200, 1st sent.	23800(a)
13014(c)-(d)	58060	15200, 2nd sent.....	23815
13100.....	3900	15201	23810
13101.....	3905	15202	23800(b)
13102.....	3910	15300	23900
13103.....	3915	15301(a).....	23910
13104.....	3920	15301(b)	23905(a)
13200.....	3510	15301(c).....	23905(b)
13201.....	3515	15400(a).....	24000
13202.....	3520	15400(b), 1st sent.	24005
13203.....	3525	15400(b), 2nd sent.	24010
13205.....	31935	15400(c).....	24015
13220.....	3800	15400(d)	24020
13230.....	67530	15401	24100(c)
13231.....	67535	15402	24310
14000.....	7500	15403, all except last sent.....	24100(a)-(b)
14001.....	7505	15403, last sent.	24305
14002.....	7510	15404	24105
14100.....	7550	15405	24200
14101.....	7555	15406	24210
14102.....	7560	15406.5(a), 1st sent.....	24115(a)
14103.....	7565	15406.5(a), 2nd sent.	24220(a)
14104.....	7570	15406.5(a), 3rd sent.....	24115(b)
14105.....	7575	15406.5(b)	24115(c)
15000(a)	23305	15406.7	24220(b)-(d)
15000(b)-(d)	23350	15407	24300
15001.....	23915	15408	24320(a)
15002.....	24900	15409	24320(b)-(e)
15003.....	23820	15410	24205
15004(a)-(b)	23505	15411	24315
15004(c)	23500	15412	24325
15005.....	23355	15413	24400
15006.....	23300	15414	24215
15007(a), 1st sent.	24960(a)	15415	24110
15007(a), 2nd sent.....	24960(b)	15500.....	24500
15007(a), 3rd sent. & (a)(1)-(2)	24950(a)	15501	24505
15007(b)	24950(b)	15502.....	24510
15007(c)	24960(c)	15503.....	24515(a)
15007(d)	24965	15504.....	24515(b)
15007(e)	24970	15505	24520

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
15506.....	24525	16006.....	7750
15507.....	24530	16007.....	7755
15508.....	24535	16008.....	7760
15509.....	24545	16009.....	7765
15510.....	24540	16010.....	7775
15512.....	24600	16011.....	7780
15513.....	24605	16500.....	7850
15514.....	24610	16510.....	7855
15516.....	24615	16511.....	7885
15600(a).....	24705	16512.....	7900
15600(b).....	24710	16513.....	7905
15601.....	24715	16514, 1st sent.....	7910
15604.....	24720	16514, 2d sent.....	7875
15605.....	24700	16515.....	7870
15700.....	24800	16516.....	7890
15701(a).....	24805	16517.....	7860
15701(b).....	24810	16518.....	7865
15702.....	24820	16520.....	7880
15703.....	24815	16530.....	7925
16000.....	7720	16531.....	7930
16001.....	7725	16532.....	7935
16002.....	7730	16540.....	7950
16003.....	7740	16541.....	7955
16004.....	7745		
16005.....	7735		

DERIVATION OF PROPOSED LAW

The table below shows the relationship between each provision of the proposed Fish and Wildlife Code and the corresponding provision of existing law. In some instances, a single source provision is replicated in two or more of the proposed provisions. In the table, this is shown with a separate entry for each of the replicated provisions.

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
1(a)	1	315	41
1(b)	New	320	43
5	New	325	3514
10(a)	3, 1st sent.	330	New
10(b)-(d)	New	335	45
15	New	340	5050(b)(3)-(5)
20	New	345	3511(b)(1)-(13)
25	3, 2nd sent.	350	5515(b)
30	4	355	4700(b)(1)-(9)
35(a)-(e)	New	360	5050(b)(1)-(2)
35(f)-(g)	73	365	4000 ("fur bearing mammal")
40	5	370	3500(c)
45	6	375(a)-(b)	3950(a)-(b)
50	7	375(c)-(d)	3950.1(a)-(b)
55	8	380	46
60	9	385	48
65	10	390	51
70	11	395	8100
75	13	400	54
80	79	405	54.5
85	64	410	3500(b)(1)-(6)
90	2013	415	55
95	80	420	7261
100	New	425	56
200	2	430	3800(a), 1st sent.
205	13.5	435(a)	4150, 1st sent.
210	16	435(b)	4151
215	14	440	57
220	15	445	60
225	17	450	62
230	18	455	67
235	22	460	19
245	24	465	711.2(a)
250	27	470	68
255	29	475	4005(a), 2nd sent.
265	New	480	89
280	30, 1st cl.	485	70
285	30, 2nd cl.	490	3500(a)(1)-(11)
290	32	500	75
295	33	505	81
300	35, 1st cl.	510	82
305	37	515	8250
310	39	520	9.2

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
525.....	83	1525.....	704
530.....	89.1	1530.....	706
535.....	86	1600.....	850
540.....	88	1605.....	707
545.....	3683(a)-(b)	1610.....	857
550.....	89.1	1615.....	858(a)
555.....	35, 2nd cl.	1675.....	712.1
560.....	89.5	1700.....	1001
600.....	90	1705.....	1004
605.....	90.1	1710.....	1007
610.....	90.5	1715.....	1006
615.....	90.7	1720.....	1008
620.....	91	1725.....	1015
625.....	93	1730.....	1502
630.....	94	1740.....	1017
635.....	96	1745.....	1000
640.....	96.5	1750.....	1005
645.....	97	1755.....	1005.5
650.....	97.5	1900.....	1226(b)
655.....	98	1905.....	1227
660.....	98.2	1910.....	715
665.....	98.5 (“population”)	1915(a)-(b).....	701.5
670.....	99	2000.....	1745(a)
675.....	98.5 (“stock”)	2005.....	1745(b)(1)
680.....	99.5	2010.....	1745(b)(2)
900.....	101	2015.....	1745(c), (d)
905.....	101.5	2020.....	1745(e)-(g)
910.....	102	2030.....	1745(j)
915.....	103	2035.....	1745(i)
920.....	110	2040.....	1745.1
925.....	105	2100.....	1019
930.....	106	2105.....	1009
935.....	104	2110.....	1010
940.....	107	2200.....	1011
1000.....	200	2205.....	1012
1005.....	201	2210.....	1013
1010.....	203	2300.....	1054(a), (c)
1015.....	205	2400.....	703.5
1020.....	203.1	2405.....	1020
1025.....	219	2410.....	703.3
1100.....	250	2500.....	11000
1105.....	255	2505(a).....	11001
1110.....	260	2505(b).....	New
1115.....	265	2510(a)-(b).....	11002
1120.....	270	2510(c).....	New
1125.....	275	2515(a).....	11003
1200.....	108	2515(b).....	New
1205.....	301	2520(a).....	11004
1250.....	399	2520(b).....	New
1300.....	309(a)	2525(a).....	11005
1305.....	309(b)	2525(b).....	New
1500.....	700	2530(a)-(c).....	11006
1505.....	702	2530(d).....	New
1510.....	703(a)	2535(a).....	11007
1515.....	701	2535(b).....	New
1520.....	701.3	2540(a).....	11008

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
2540(b)	New	2680(b)	New
2545(a)-(b)	11009	2685(a)-(b)	11039
2545(c)	New	2685(c)	New
2550(a)	11010	2800	1050(b)
2550(b)	New	2810	1051
2555(a)-(b)	11011	2815	1050.1
2555(c)	New	2820	1052.5
2560(a)	11012	2900	1054.5
2560(b)	New	2905	1050(a)
2565(a)	11013	2910	1050(c)
2565(b)	New	2915	1050.6
2570(a)	11014	2920	1054(b)-(c)
2570(b)	New	2925	1050.3
2575(a)	11015	2930	1053.1(a)
2575(b)	New	2935	1061(a)-(e)
2580(a)	11016	2940	1054.8
2580(b)	New	3000	1050(d)
2585(a)	11017	3005	1050(f)
2585(b)	New	3010	1050.5
2590(a)	11018	3050	1052
2590(b)	New	3200	1055.1(a)-(b)
2595(a)	11019	3205	1055.1(g)
2595(b)	New	3210	1055.3
2600(a)	11020	3250(a)	1055.1(c), 1st sent.
2600(b)	New	3250(b)	1055.1(c), 3rd-4th sent.
2605(a)	11022	3250(c)	1055.1(c), 2nd sent.
2605(b)	New	3255(a)	1055.6(a)
2610(a)	11024	3255(b)	1055.6(b)
2610(b)	New	3255(c)	1055.6(d)
2615(a)	11025	3260	1065
2615(b)	New	3350	1055.1(d)-(f)
2620(a)	11026	3360	1059(b)
2620(b)	New	3365	1057
2625(a)	11027	3370	1056
2625(b)	New	3375	1058
2630(a)	11028	3450	710
2630(b)	New	3455	710.5
2635(a)	11029	3460	710.7
2635(b)	New	3465	711
2640(a)	11030	3470	712
2640(b)	New	3500(a)	13000
2645(a)	11031	3500(b)	12
2645(b)	New	3505	13001.5
2650(a)	11032	3510	13200
2650(b)	New	3515	13201
2655(a)	11033	3520	13202
2655(b)	New	3525	13203
2660(a)	11034	3600	13001(a)
2660(b)	New	3605	13002
2665(a)	11035	3610	13003
2665(b)	New	3650	1225
2670(a)	11036, 1st-3rd para.	3655	1226(a)
2670(b)	New	3660	859
2675(a)	11037	3665	1050.8
2675(b)	New	3670	860
2680(a)	11038	3750	1050(e)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
3755.....	713	4494.....	2585
3800.....	13220	4496.....	2587(a)
3805.....	13006	4498.....	2587(b)
3810.....	13001(b)	4500.....	2588
3900.....	13100	4502.....	2589
3905.....	13101	4504.....	500(a)-(c), (d), 1st sent.
3910.....	13102	4510.....	12159
3915.....	13103	4512.....	12162
3920.....	13104	4514.....	12160
4100.....	856	4516.....	12161
4105.....	854	4518.....	12163
4110.....	851	4550.....	12158
4115.....	853	4552.....	12154
4200.....	875	4554.....	12166
4205.....	877	4556.....	12155.5
4210.....	876	4570.....	12157
4215.....	878	4572.....	12157.5
4220.....	879	4590.....	2546
4225.....	880	4592.....	12165
4230.....	881	4594.....	12156.5
4235.....	882	4600(a).....	2009(b)
4300.....	2586	4600(a).....	12000(b)(1)
4305.....	855	4600(b).....	2009(c)
4310.....	12028	4602.....	1002(m)
4315.....	702.1	4700.....	12002.1
4320.....	856.5	4702.....	12000(b)(8)-(10)
4325.....	858(b)	4704.....	12001.5
4330.....	12158.5	4706.....	12155
4335.....	12014	4708.....	12013(a)-(b), (d)-(g)
4400(a).....	12000(a)	4710.....	12164
4400(b).....	12002(a)	4712.....	12005.5 (sodium cyanide)
4405.....	2020	4714.....	3004.5(g)
4415.....	12002(d)	4750.....	3009
4420.....	12020	4752.....	12151.5
4425.....	12021	4754(a)-(c).....	12150
4450.....	1059(a)	4754(d).....	12001
4450.....	12002(b)(1)	4756.....	12150.5
4452.....	1745(h)	4758.....	12151
4460.....	12012	4760.....	12152
4462(a)-(b).....	12003.1	4762.....	12150.6
4462(c).....	12002(b)(7)	4764.....	12150.7
4464(a).....	12013(c) (2d cl. of 1st sent.)	4766.....	12150.8
4464(b).....	12013(g)	4770.....	3246
4470(a)-(f), (h).....	2014(a)-(e), (g)	4800.....	12002(b)(2)
4470(g).....	2014(f)	4802.....	12005.5 (body-gripping trap)
4470(g).....	12017(a)(1)	4804.....	4043
4480.....	2580	4806.....	12156
4482.....	2582	4850.....	12000(b)(4)-(7)
4484(a).....	2581	4860.....	12002.2.1
4484(b).....	500(d), 2nd sent.	4862.....	12002.2
4484(b).....	2586(b)	4864.....	12000(b)(2)
4484(c).....	2583(b)	4870.....	7857(b)
4486.....	2584(a)	4872.....	7855
4488.....	2583(a), 1st sent.	4874.....	12153
4490.....	2583(a), 2nd-3rd sent.	4876(a).....	7853
4492.....	2584(b)-(h)	4876(b).....	7854

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
4880.....	8460, 2nd para.	5308	2022(f), (i)
4900.....	12002.6	5310	12002(c) (bird nest & eggs)
4910.....	8246.4	5320	12008(b)
4912.....	8246.6 (revocation)	5330	12013.3(wild turkey)
4914.....	8246.7 (revocation)	5332	3680
4916(a)	8246(a)	5340	12002(c) (nongame bird)
4916(b)	8246(b)	5342	12002(c) (migratory nongame bird)
4916(c)	8246(c)	5344(a).....	3801.6(a) (2nd sent.)
4916(d)	8246.2(b)	5344(b)	3801.6(c)
4916(e)	8246(d)	5350	12002(c) (bird of prey)
4918.....	8246.2(a)	5350	12010
4930.....	7924	5400	12003.2 (fully prot. mammal)
4932.....	12002.7	5400	12008(c)
4934.....	12002.4	5402	4800(c)
4950(a)	12002(b)(5)	5450	12013.3(specified mammals)
4950(b)	12003	5460	12013.5
4960.....	New	5462	12005
4962.....	12004	5466	4754
4964.....	8576(e)	5480	4340
4975.....	8631	5490	12008.5
4980.....	8632	5520	12003.2 (marine mammal)
4982.....	8633	5522	4502.5(b)
4984.....	8635	5540	12002(b)(3) (burro)
4986.....	8630, 2nd para.	5542	10931, 2nd sent. of 1st para.
4988.....	8634	5600	12008(e)
5000.....	8601.5(b), 4th sent.	5650	12002.8(d)-(f) (anchovies)
5050.....	8589.5	5660	12007 (white bass)
5100.....	8032.5(c)	5670	6455, part of (e)
5102.....	12002.9	5680	12002.8(d)-(f) (halibut)
5104.....	8581	5690	12002.8(d)-(f) (herring)
5106.....	8598.6	5692	8552.5
5108.....	12002.3	5700	8582(b) (1st sent.)
5150.....	8025(a) (landing fees)	5710	12002.8(d)-(f) (salmon)
5170.....	8025(a) (fishing reports)	5720	12002.8(d)-(f) (sardines)
5172(b)	8026(b)	5730(a)	12006(a)(1)
5200.....	2125(a)	5730(b)-(d)	12006(b) (sturgeon)
5204.....	2125(b)	5732	10005
5206.....	2125(c)	5800	12000(b)(3)
5208.....	2125(d)	5802	12009
5210.....	2150(b) (revocation)	5804	12006.6
5250.....	12007 (fish planting)	5806	12002.10
5252.....	12007 (planting aquatic org.)	5808	12002.8(a)-(c)
5254.....	12007 (diseased aquatic org.)	5820	12002.8(d)-(f) (rock crab)
5256.....	12007 (quarantined aquatic org.)	5830	8280.4
5258.....	12007 (import aquatic org.)	5832	8280.1(d)-(e)
5260.....	12023(a), (d)-(e)	5834	8279.1(c), (d)
5262.....	12007 (diseased aquatic org.)	5836	8276.5(b)
5264.....	12007 (import aquatic org.)	5850(a)	12006(a)(2)
5266.....	2300(c)	5850(b)-(d)	12006(b) (lobster)
5280.....	2118.4	5852	8254.7, 1st-6th sent.
5282.....	2128(b)-(c)	5860(a)-(b).....	2301(f)
5290.....	3218	5860(c).....	2301(i)
5300.....	2022(e)	5862	2302(f), 1st-2nd sent.
5302.....	2022(g)	5870	8405.3(c)
5304.....	2022(h)	5880	8429, 2nd sent.
5306.....	2022(j)	5900	12008(d) (fully prot. amph.)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
5950.....	12008(d) (fully prot. reptile)	7255	10685
6000.....	6656	7300	390
6050.....	12002.5	7305	392
6052.....	3404(b)	7310	393
6054.....	1574(a)	7315	391
6100.....	12000(b)(11)-(12)	7320	375
6102.....	12002(b)(6)	7325	716
6104.....	12012.5	7330	716.1
6200.....	12159.5	7335	716.2
6202.....	12008(a)	7340	716.3, intro.
6204.....	12008.1(a)	7345	716.3(a)
6206.....	12008.1(b)	7350	716.3(b)
6250.....	711.4(f), 1st sent.	7355	716.3(c)
6300.....	12002(b)(4)	7360	716.3(d)
6302.....	12011	7365	716.3(e)
6320.....	5650.1(a)-(c)	7370	716.3(f)
6322.....	5650.1(i)	7375	716.3(g)
6324.....	5650.1(j)	7380	716.3(h)
6326.....	5650.1(h)	7385	716.3(i)
6328.....	5650.1(d)-(g)	7390	716.3(j)
6350.....	12007 (streambed alteration)	7400	716.3(k)
6352.....	1615(a)-(c)	7405	716.3(l)
6354.....	1615(d)-(e)	7410	716.3(m)
6356.....	1615(f)	7415	716.3(n)
6380.....	12025.1(a)	7420	716.3(o)
6382.....	12025.1(b), 1st part	7425	716.3(p)
6382.....	12025.1(c), 1st part	7430	716.3(q)
6384.....	12025.1(b), 2nd part	7435	716.3(r)
6386.....	12025.1(c), 2nd part	7440	716.3(s)
6388.....	12025.1(d)	7445	716.3(t)
6390.....	12025.1(e), 1st part	7450	716.4
6390.....	12025.1(f), 1st part	7455	716.5
6392.....	12025.1(e), 2nd part	7460	716.6
6394.....	12025.1(f), 2nd part	7465	716.7
6396.....	12025.1(g)	7470	716.8
6410.....	11036, part of 4th para.	7475	716.9
6500.....	5653(c), 3rd sent.	7480	717
6550.....	12025(h)	7485	717.1
6552.....	12025(a)	7490	717.2
6554.....	12025(b)	7500	14000
6556(a)	12025(c)	7505	14001
6556(b)	12025(d)	7510	14002
6556(c)	12025(g)	7550	14100
6558.....	12025(d)	7555	14101
6560.....	12025(e)-(f)	7560	14102
7200.....	400	7565	14103
7205.....	401	7570	14104
7210.....	3450	7575	14105
7215.....	3451	7600	12300
7220.....	3452	7605	106.5
7225.....	3453	7650	7155
7230.....	10680	7720	16000
7235.....	10681	7725	16001
7240.....	10682	7730	16002
7245.....	10683	7735	16005
7250.....	10684	7740	16003

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
7745.....	16004	8925	2545
7750.....	16006	9105	13005
7755.....	16007	9150	312
7760.....	16008	9200	1002(a)-(l)
7765.....	16009	9205	1002.5
7775.....	16010	9210	1003
7780.....	16011	9500	3007
7850.....	16500	9550	3002
7855.....	16510	9555	2010
7860.....	16517	9560	2007
7865.....	16518	9565(a).....	3005(a)
7870.....	16515	9565(b)	3005(c)
7875.....	16514, 2d sent.	9565(c).....	3005(d)
7880.....	16520	9570	3003.5
7885.....	16511	9575	3003
7890.....	16516	9580	2016
7900.....	16512	9585	3012
7905.....	16513	9590	3000
7910.....	16514, 1st sent.	9700	3004(a)
7925.....	16530	9705	3004(b)
7930.....	16531	9710	3001
7935.....	16532	9715	2006
7950.....	16540	9720	3008
7955.....	16541	9725	2011.5
8000.....	2000	9730	2019
8005.....	2000.5	9735	2011
8010.....	2002	9740	3005.5
8015.....	2001	10000	3004.5(a)
8110(a)	12013(c) (1st cl. of 1st sent.)	10005(a).....	3004.5(b)
8110(b)	12013(c) (2d sent.)	10005(b)	3004.5(i)
8115.....	2003	10005(c).....	3004.5(j)
8120.....	2004	10010	3004.5(c)
8125.....	2005	10015	3004.5(d)
8130.....	2009(a), (d)-(f)	10020	3004.5(e)
8135.....	2018	10025	3004.5(h)
8140.....	3003.2	10030	3004.5(f)
8145.....	5500	10200	3050
8300.....	1054.2	10205	1053.5
8305.....	2012	10210	3031
8700.....	306	10215	3031.5
8705.....	307	10220	3037
8710(a)	314	10225	3031.2
8710(b)	315	10230	3040
8715.....	315.3	10300	3033
8720.....	308	10305	3038
8800.....	2535	10310	317
8805.....	2536	10350	3061
8810.....	2537	10355	3060
8815.....	2539	10360	3062
8820.....	2542	10365	3063
8825.....	2543	10400	3049
8900.....	2538	10405	3051
8905.....	2540(a)-(b), (d)-(e)	10410	3052
8910.....	2540(c)	10415	3053
8915.....	2541	10420	3054
8920.....	2544	10500(a)(1)-(3).....	325

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
10500(a)(4).....	329	11500	5523
10500(b)	330	11505	1124
10505(a)	326	11510	5507
10505(b)	328, 1st sent.	11515	5508
10510	327	11520	5509
10515	328, 2nd sent.	11525	5503
10600	3240.5(a)	11535	5516
10605	3240.5(b)	11540	5501
10610	3240.5(c)-(d)	11700	1725
10615	3241	11705	1726
10620	3242	11710	1726.1
10625	3243.5	11715	1726.4
10630	3245	11720	1726.5
10700	1575	11725	1727
10800	3080(a)	11730	1728
10805	3080(b)	11735	1729
10810	3080(c)	11740	1730
10815	3080(d)	11800	6900
10820	3080(e)	11805(a)	6911
10825	3086	11805(b)	6912
10830(a)-(d)	3087	11805 (intro.)	6910
10830(e)	12002.11	11810	6901
11000	4004(d)	11815	6902
11005	4004(f)	11820	6903
11010	4004(g)	11825(a)	6920(a)
11015	4009	11825(b)	6921
11020	4004(c)	11830	6920(b)
11100(a)	3003.1(a), 2nd-3rd sent.	11835	6924
11100(b)	3003.1(d)	11840	6923
11105	4004(b)	11845	6922
11110	3003.1(a), 1st sent., (b)-(c)	11850	6930
11150	4004(a)	11900	2760
11155	4004(e)	11905	2761
11200(a)-(b)(1)	4005(a), 1st sent.	11910	2762
11200(b)(2)-(5)	4005(e)	11915	2762.2
11200(b)(6)	4005(c)	11920	2762.5
11205	4005(d)	11925	2762.6
11210	4005(b)	11930	2763
11215(a)	4006(a)	11935	2764
11215(b)	4006(c)	11940	2765
11220	4007	12000	13007(a), 1st sent.
11225	4008	12005	13007(a), 2nd sent., (b)-(g)
11230	4006(b)	12050	1022(h)
11235	4009.5	12055	1022(a)
11300	4030	12060	1022(b)
11305	4031	12065	1022(d)
11310	4034	12070	1022(g)
11315(a)-(b)	4032	12075(a)	1022(c)
11315(c)	4033	12075(b)	1022(e)
11320	4035	12075(c)	1022(f)
11325(a)	4037	12100	7050
11325(b)	4038	12105	7051
11330	4040	12150	7055
11335	4041	12155	7056
11340	4042	12160	7058
11350	4036	12165	7059

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
12200.....	7060	13105.....	7149.2
12205.....	7062	13110.....	7149.5
12250.....	7065	13150.....	7150
12255.....	7066	13200.....	7151(a)-(c)
12300.....	7070	13205.....	7151(d)
12305.....	7071(a)	13210.....	7151(e)
12310.....	7071(b)-(c)	13215.....	7151(f)-(g)
12315.....	7072(a)-(c)	13250.....	7149.45(b)
12320.....	7072(d)	13255(a).....	6596.1(a), 2nd sent., (f)
12325.....	7073	13255(a).....	6596.1(f)
12330.....	7074	13255(b).....	6596.1(g)
12400.....	7075	13350(a).....	7185
12405.....	7076	13350(b).....	7186.1(b)
12410.....	7077	13355.....	7183.1(a)-(b)
12415.....	7078(a)-(c)	13360.....	7184.1(a)-(b)
12420.....	7078(d)	13365.....	7186.1(a)
12425.....	7078(e)-(f)	13400.....	7149.05(b)
12500.....	7080	13405(a).....	7182.1(a)
12505.....	7087(a)	13405(b).....	7185
12510.....	7081	13500.....	7120
12515.....	7082	13600.....	7121, 1st para.
12520.....	7083	13605.....	7121, 2nd para.
12525.....	7084	13700.....	7230
12530.....	7085	13705.....	7232
12535.....	7086	13710.....	5510
12540(a).....	7087(b)	13800.....	7110
12540(b).....	7088	13805.....	7115
12600.....	7090(a)	13900.....	7361
12605.....	7090(b)(1), (b)(2), 1st sent.	13905.....	7363
12610.....	7090(b)(2), 2nd sent., (b)(2)(A)-(E)	13910.....	7362
12615.....	7090(c)	13915.....	7364
12620.....	7090(d)	13950.....	10925
12625.....	7090(e)	14200.....	7700(d)
12630.....	7090(f)	14205.....	7601
12635.....	7090(g)	14250.....	7600
12640.....	7090(h)	14255.....	New
12800.....	New	14260.....	8140
12805.....	7100	14300.....	8603
12850.....	7149.05(a)	14305.....	8604
12855.....	New	14310.....	7704(a)
12900.....	7145(a)	14350.....	7708
12905.....	7149.45(a)	14500(a).....	7850(a)
12910.....	6596.1(a), 1st, 3rd sent.	14500(b).....	7850(b)
12950.....	7180.1(a)	14500(c).....	7850(c), 1st sent.
12955.....	7180.1(a)	14500(d)(1).....	7850(d)
12955.....	7180.1(b)	14500(d)(2).....	7850.5
12955.....	7180.1(c), 1st sent.	14505.....	7852.27
12960.....	7181.1(a)	14550(a).....	7852(a)-(b)
12965.....	7185	14550(b).....	7851
13000.....	7145(a)	14550(c).....	7852(e)
13005.....	7153	14555.....	7852.25 (commercial fishing)
13010.....	7145(b)	14560.....	7857(a), (c)-(k), (m)
13020.....	7149.7	14565.....	7858
13100(a).....	7149.05(a)	14600.....	7852(a)-(d)
13100(b).....	7149.05(d)	14605.....	7852.2
13100(c).....	7149.05(e)	14610.....	7852.1

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
14615	7850(c), 2d sent.	15650	8750
14620(a)	6596.1(d)	15700	8751
14620(a)	6596.1(f)	15705	8751
14620(b)	6596.1(g)	15710	8751
14650	7857(n)	15715	8752
14750	7881(e)	15720	8752
14755	7881(a)	15725	8752
14760	7857(k)	15730	8752
14765(a)	7881(b), 1st sent.	15735	8752
14765(a)	7881(c), 1st sent.	15740	8752
14765(b)	7881(f)	15745	8754
14765(c)	7881(g)	15750	8754
14770	7852.1	15755	8754
14775	7881(b), 2nd sent.	15760(a)-(c)	8754
14775	7881(c), 2nd sent.	15760(d)	8757
14780	7881(a)	15765	8757
14785	7880	15770	8757
14790	7881(d)	15775(a)-(b)	8755
14850	7857(m)	15775(c)	8757
14855	7857(l)	15780	8755
14860	7852.4	15785	8755
14865	7857(e)	15900	8780(a)
14870 (a)-(g)	7856(a)-(d)	15902	8780.1
14870(h)	7856(e)	15910	8780(b)
14875	7856(f), 1st-3rd sent.	15915	8780(c)-(d)
14880	7856(f), 4th sent.	16000	8800
15000	9100	16010	8801
15005	9101	16010	8805
15050	7892, 1st sent.	16015	8802
15055	7892, 2nd sent.	16015	8804
15060	7892, 3rd sent.	16020	8806
15100	8398	16025	8803
15105	8400	16030	8807
15150(a)	8434	16100	8606.1
15150(b)	8433	16105(a)	8830, 2nd sent.
15200(a)	1110	16105(b)	8841(d)
15200(b)	7891	16110(a)-(c)	8841(a)-(c)
15300	8602	16110(d)	8841(e)
15305	8608	16110(e)-(f)	8841(j)-(k)
15310	8605	16110(g)	8841(i)
15400	8630, 1st para.	16115	8830, 1st sent.
15500	8660	16150	8831
15505	8661	16155	8837
15510	8665	16160(a)	8841(f)
15515	8663	16160(b)	8841(i)
15520	8664	16165(a)	8841(h)
15525	8667	16165(b)	8841(i)
15530	8668	16170(a)	8841(l)
15535	8669	16170(b)	8841(i)
15540(a)	8670	16175	8840
15600	8601 ("set net")	16250	8833
15605(a)	8601.5(a)	16255	8835
15605(b)	8601.5(b), 1st-2nd sent.	16260	8835
15610	8601.6(a)	16265	8835
15615(a)	8601.5(c)	16270	8836
15615(b)	8601.5(b), 3rd sent.	16275	8836

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
16280.....	8833	18070.....	8691
16285.....	8833	18075.....	8692
16290.....	8833	18080.....	8692.5
16295.....	8833	18085.....	8693
16300.....	8833	18090.....	8694
16305.....	8833	18095.....	8696
16310.....	8836	18100.....	8700
16350.....	8832	18200.....	8720
16355.....	8843	18205.....	8721
16400.....	8870 (intro.)	18210.....	8724
16450.....	8870(a)	18215.....	8725
16455.....	8870(a)	18300.....	8561
16460.....	8870(a)	18305.....	8561.5
16465.....	8870(a)	18310.....	8562
16470.....	8870(a)	18315.....	8563
16475.....	8870(b)	18320.....	8564
16480.....	8870(c)	18325.....	8567
16550.....	8890	18330.....	8568
16555.....	8890	18335.....	8568.5
16650.....	8832	18340.....	8569
16800.....	New	18345.....	8573
16805.....	8609	18350.....	8574
16850.1.....	8610.1	18355.....	8575
16850.2.....	8610.2	18360.....	8575.5
16850.3.....	8610.3	18365.....	8576(a)-(d), (f)
16850.4.....	8610.4	18370.....	8576.5
16850.5.....	8610.5	18375.....	8577
16850.6.....	8610.6	18380.....	8579
16850.9.....	8610.9	18385.....	8580
16850.11.....	8610.11	18395(a).....	8582(a)
16850.12.....	8610.12	18395(b).....	8582(b) (2nd & 3d sent.)
16850.13(a).....	8610.13	18400.....	8583
16850.13(b)-(c).....	12003.5	18405.....	8583.5
16850.14.....	8610.14	18500.....	8623(c)-(d)
16850.15.....	8610.15	18505.....	8625(a)-(c)
16850.16.....	8610.16	18510.....	8626(a)-(c)
17000.....	8664.5	18700.....	9025.1
17005.....	8664.67	18705.....	9028
17010.....	8664.7	18710.....	8601 (“set line”)
17015.....	8664.8	18710.....	9029.5, 1st cl. of 2nd sent.
17020.....	8664.13	18715.....	9025.5(b)
17025.....	8666	18720.....	9029.5, 2nd sent.
18000.....	8680	18800(a)-(b).....	9029
18005.....	8681	18800(c).....	9027
18010.....	8681.5	18805(a)-(b).....	9029
18015.....	8681.7	18805(c).....	9027
18020.....	8682	18805(d).....	9029.5, 1st, 3rd sent.
18025.....	8683	18810(a)-(b).....	9029
18030.....	8684	18810(c).....	9027
18035.....	8685	18810(d).....	9029.5, 1st, 3rd sent.
18040.....	8685.5	18815(a)-(b).....	9029
18045.....	8685.6	18815(c)-(d).....	9027.5
18050.....	8685.7	18820(a)-(b).....	9029
18055.....	8686	18820(c)-(d).....	9027.5
18060.....	8687	18825(a)-(b).....	9029
18065.....	8688	18825(c)-(d).....	9027.5

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
18900(a)-(b)	9026	20205(b)	8032(b)
18900(c)	8601.5(a)	20210	8032.5(a)-(b), (d)-(i)
18950	9025.5(a)	20215	8038
19000	9025.5(a)	20220	8037(a), 2nd sent.
19005	9025.5(a)	20225	7852.27
19010(a)	9025.5(a)	20230(a)	8032(a), 2d sent.
19010(b)	9025.5(c)	20230(b)	8032(c)
19015(a)	9025.5(a)	20230(c)	8039 (multi-function license)
19015(b)	9025.5(c)	20235	7852.25 (fish businesses)
19020	9025.5(c)	20300	8037(a), 1st sent.
19025	9025.5(c)	20350	8036(a), 1st sent.
19030	9025.5(a)	20355(a)	8036(a), 2nd sent.
19035	9025.5(a)	20355(b)	8039 (fish importer)
19040	9025.5(a)	20400	8034(a), 1st sent.
19045	9025.5(a)	20405(a)	8034(a), 2nd sent.
19050	9025.5(a)	20405(b)	8039 (fish processor)
19150	9000.5(b)-(c), (e)-(f)	20450	8033(a)
19200	9000(a)-(b)	20450(b)(3)	8047(c)(4)
19205	9001	20455(a)	8033(b)
19210	9003	20455(b)	8039 (fish receiver)
19215	9004	20460	8033(c)
19220	9004	20500	8033.5(a), 1st sent.
19225	9005	20505(a)	8033.5(a), 2nd sent.
19230	9006	20505(b)	8039 (fish retailer)
19300(a)	9002(a)	20550(a)	8035(a)
19300(b)	9002(c)	20550(b)	8035(c)
19305	9002(b)	20555(a)	8035(b)
19310	9002(d)	20555(b)	8039 (fish wholesaler)
19315	9002.5	20600	8033.1(a)
19400(a)	9007	20605(a)	8033.2
19400(b)	9008	20605(b)	8039 (marine aquaria receiver)
19500	9001.7(a)-(j)	20610	8033.1(b)
19505	8403(c)	20700	8596
19510(a)	8403(b), 1st sent.	20705	8597(a)
19510(a)	9022(b)	20710	8597(b)
19510(b)	8403(b), 2nd sent.	20715	8597(c)
19515	9022(a)	20720	8598
19600	9000(c)	20725	8598.2
19605	9020(a)	20730	8598.3(a), (c)
19610	9020(b)	20735	8598.3(b)
19800	9052	20740	8598.4
19805	9050	20900	8040
19810	9051	20905	8043.1(b)
19900	8614	20950	8041
19910	8615	20955(a)	8042, 1st sent.
20100(a)	8437	20955(a)	8051
20100(b)	8437.1	20955(b)	8042, 2nd sent.
20105(a)	8436	20960	8047(b), 2nd sent.
20105(b)	8436.5	21000(a)	8047(a)(2), 2nd sent.
20150	8031(a) (intro)	21000(a), (c)	8043(a), 1st sent.
20155	8031(a)(4)	21000(b)	8043.1(a)
20160	8031(a)(3)	21000(c)	8047(a)(2), 3rd sent.
20165	8031(a)(1)	21000(c)	8047(b), 1st sent.
20170	8031(a)(2)	21000(d)	8047(a)(1), 1st sent., 1st cl.
20200	8030	21005(a)	8043(a), 2nd sent.
20205(a)	8032(a), 1st. sent.	21005(b)	8043.1(c), 1st sent.

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
21005(c)	8043.1(c), 2nd sent.	21600	7700(a)-(c)
21005(c)	8047(a)(1), 1st sent., 2nd cl.	21605	7701
21010	8043.2(a)	21610	7702
21015	8046(b)	21615	7703
21020	8043(b)	21650	8075
21020	8045	21655	8077
21025(a)	8047(b), 3rd sent.	21660	8078
21025(b)	8043(c), 1st sent.	21665	8079
21025(c)	8043(c), 2nd-3rd sent.	21670	8079.1
21100	8046(a), 3d-5th sent.	21675	8080
21105(a)	8047(a)(1), 3rd sent.	21750	7705
21105(a)	8047(b), 5th sent.	21800	7704(b)
21105(b)	8047(b), 6th sent.	21805	8076
21110	8046(c)	21810	7702.1
21110	8047(a)(1), 4th sent.	21850	7706
21110	8047(b), 7th sent.	21855	7707
21115	8046.1	21900	7920, 2nd sent.
21150(a)	8043.1(d)	21905	7920, 1st, 3rd sent.
21150(a)	8046(a), 1st sent.	21910	7921, 2nd sent.
21150(a)	8047(a)(1), 2nd sent.	21915	7921, 1st sent.
21150(b)	8046(a), 2d sent.	21920	7923
21155	8043(c), 4th sent.	21930	7147
21200	8047(c)(5)	21935	6596.1(b)
21205	8047(c)(3)	21950	8385
21210(a)	8047(c)(1)	22100(a)	8460, 1st para.
21210(b)	8047(a)(2), 1st sent.	22100(b)	8460, 3rd para.
21215	8047(a)(2), 4th sent.	22105	8460, 2nd para.
21215	8047(c)(1)	22110	8461
21220	8047(e), 1st sent.	22120	8462
21225	8045	22125	8463
21225	8047(d)	22130	8460, 4th para.
21230(a)	8047(c)(2), 2nd sent.	22200	8026(a)
21230(b)	8047(c)(2), 3rd sent.	22205	8022
21235	8047(c)(2), 1st sent.	22210	8010
21240	8047(e), 2nd-3rd sent.	22300	7650
21245	8047(e), 4th sent.	22305	7654
21300	8050	22310	7655
21350	8053	22315	7652(d)
21355	8056	22400(a)-(d)	7652.1
21360	8052	22400(e)	7652.3(b)
21365(a)	8057	22405	7652(a)-(c)
21365(b)	8058	22410	7652.3(a)
21365(c)	8059	22415	7653
21365(d)	8060	22450(a)-(d)	7652.2
21365(e)	8061	22450(e)	7652.3(b)
21365(f)	8062	22455	7652.3(a)
21365(g)	8063	22500	8101
21370	8064	22505	8102
21375(a)	8065	22510	8103
21375(b)	8066	22515	8104
21375(c)	8067	22600	8585
21375(d)	8068	22605	8585.5
21375(e)	8069	22610	8586
21375(f)	8070	22615	8589
21450	8043.2(b)	22620	8587.1
21455	8043.2(c)	22625	8586.1

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
22630	8587	24020	15400(d)
22635	8589.7	24100(a)-(b)	15403, all except last sent.
22700	8111	24100(c)	15401
22705	8110	24105	15404
22710	8112	24110	15415
22715	8113	24115(a)	15406.5(a), 1st sent.
22720	8114	24115(b)	15406.5(a), 3rd sent.
22800(a)-(e)	7710(a)-(c)	24115(c)	15406.5(b)
22800(f)	7710, last para.	24200	15405
22805(a)-(c)	7710.5	24205	15410
22805(d)	7710, last para.	24210	15406
22810	7710.1	24215	15414
22815	7712	24220(a)	15406.5(a), 2nd sent.
22900	7630	24220(b)-(d)	15406.7
22905	8125, 1st-2d sent.	24300	15407
22910	8126	24305	15403, last sent.
22915	8125, 3d sent.	24310	15402
23100	7690	24315	15411
23150	7709	24320(a)	15408
23200	1069	24320(b)-(e)	15409
23300	15006	24325	15412
23305	15000(a)	24400	15413
23350	15000(b)-(d)	24500	15500
23355	15005	24505	15501
23360	15008	24510	15502
23365	15100	24515(a)	15503
23500	15004(c)	24515(b)	15504
23505	15004(a)-(b)	24520	15505
23600	15101(b), 3rd sent.	24525	15506
23605(a)	15101(a)	24530	15507
23605(b)	15101(b), 1st sent., 1st cl.	24535	15508
23605(c)	15101(c)	24540	15510
23610	15101(b), 1st sent., 2d cl.	24545	15509
23615	7852.25 (aquaculture)	24600	15512
23700(a)	15101(b), 1st sent., 3d cl.	24605	15513
23700(b)-(c)	15101(b), 2nd, 4th sent.	24610	15514
23700(d)	15101(d)	24615	15516
23705	15103(a), (c)-(e)	24700	15605
23710	15104	24705	15600(a)
23715	15105	24710	15600(b)
23720	15103(b)	24715	15601
23800(a)	15200, 1st sent.	24720	15604
23800(b)	15202	24800	15700
23805	15102	24805	15701(a)
23810	15201	24810	15701(b)
23815	15200, 2nd sent.	24815	15703
23820	15003	24820	15702
23900	15300	24900	15002
23905(a)	15301(b)	24905	5511
23905(b)	15301(c)	24950(a)	15007(a), 3rd sent. & (a)(1)-(2)
23910	15301(a)	24950(b)	15007(b)
23915	15001	24955	15007(f)
24000	15400(a)	24960(a)	15007(a), 1st sent.
24005	15400(b), 1st sent.	24960(b)	15007(a), 2nd sent.
24010	15400(b), 2nd sent.	24960(c)	15007(c)
24015	15400(c)	24965	15007(d)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
24970.....	15007(e)	26040.....	3207
25100.....	1120	26045.....	3208
25105.....	1121	26050.....	3209
25110.....	1122	26055.....	3212
25115.....	1126	26060.....	3213
25120.....	1150	26065.....	3214
25125.....	6903.5	26070.....	3216
25130.....	1122.5	26075.....	3217
25135.....	1210	26085.....	3219
25200.....	1170	26200.....	3300, 2nd para.
25205.....	1171	26205.....	3300, 1st para., 1st sent.
25210.....	1172	26210(a).....	3300, 1st para., 2nd sent.
25215.....	1173	26210(b).....	3301, 1st sent.
25220.....	1174	26215.....	3301, 2nd-3rd sent.
25225.....	1175	26220.....	3302
25300.....	1200	26225.....	3303, 1st-2nd sent.
25305.....	1201	26230.....	3303, 3rd sent.
25310.....	1202	26235.....	3305
25315.....	1203	26240.....	3306, 1st-2nd para.
25320.....	1204	26245.....	3306, 3rd para.
25325.....	1205	26250(a).....	3307, 1st para., 2nd sent.
25330.....	1206	26250(b).....	3307, 1st para., 1st sent.
25400.....	6403	26255.....	3307, 2nd para.
25405.....	1123	26260.....	3309
25410.....	6401	26265.....	3308
25415.....	6400	26270.....	3310
25420.....	1125	26275.....	3311
25500.....	12023(b)-(e)	26400.....	4010
25505.....	12024	26500.....	2116
25510.....	12026	26505.....	2117
25600.....	6420	26510.....	2116.5
25605.....	6421	26600.....	2120
25610.....	6422	26605.....	2118.5
25615.....	6423	26610.....	2122
25620(a).....	6424	26615.....	2119
25620(b).....	6425(b)	26620.....	2123
25700.....	6590	26700.....	2118(a)
25705.....	6591	26705.....	2118(b)
25710.....	6592	26710.....	2118(c)
25715(a).....	6594	26715.....	2118(d)-(e), (j)
25715(b).....	6593, 2nd sent.	26720.....	2118(f)
25720.....	6593, 1st, 3rd sent.	26725.....	2118(g)-(h)
25725.....	6595	26730.....	2118(i)
25730.....	6597	26735.....	2118(k)
25735.....	6597.5	26850.....	2124
25740.....	6598	26855.....	2126
25850.....	6402	26860.....	2121
25855.....	1123.5	26865(a)-(c).....	2118.2
26000.....	3200	26865(d).....	2118.3
26005.....	3201	26870.....	2128(a), (c)
26010.....	3202	27020.....	2127
26015.....	3203	27200.....	2150(a)
26020.....	3204, 1st para.	27205.....	2150(b) (denial)
26025.....	3204, 2nd para.	27210.....	2150(c)-(f)
26030.....	3205	27215(a).....	2150.2
26035.....	3206	27215(b).....	2150.1

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
27220.....	2150.3	29065.....	3863
27225.....	2150.4	29200.....	356, 1st para.
27230.....	2150.5	29205.....	3806
27235.....	2151	29210.....	355, 1st-2nd para.
27240.....	2152	29215.....	356, 2nd para.
27245.....	2153	29220.....	355, 3rd para.
27250.....	2155	29225.....	357
27255.....	2156	29350.....	3502
27260.....	2157(a)	29355.....	3501
27265.....	2157(b), (d)	29360.....	3508
27270.....	2157(c)	29365.....	3270(a)
27275.....	2193(a)	29370.....	4304 (game bird)
27280.....	2193(b)-(c)	29375.....	2350 (game birds)
27400.....	2185(b)	29500.....	3682.1(a)
27400.....	2186(b)	29505.....	3682.1(b)
27400.....	2187(b)	29510.....	3682.2
27405.....	2185(a)	29515(a).....	3684(a)
27410.....	2186(a)	29515(b).....	3684(b)
27415.....	2187(a)	29515(c).....	3684(g)
27500.....	2189(a)	29515(d).....	3684(c), 1st sent.
27505.....	2189(b)-(c)	29515(e).....	3684(e), 2nd sent.
27510.....	2189(d)-(f)	29520(a).....	3684(c), 2nd sent.
27600.....	2200	29520(b).....	3684(c), 4th-5th sent.
27605.....	2201	29520(c).....	3686, 1st sent.
27610.....	2202	29525.....	3684(c), 3rd sent.
27615.....	2203	29530(a).....	3684(d)
27700.....	2190	29530(b).....	3686, 2nd sent.
27705.....	2195	29540.....	3684(e), 1st sent.
27710.....	2192	29545.....	3684(f)
28000.....	2225	29650.....	3516, 2nd para.
28100.....	2270	29700.....	3516, 1st para.
28105.....	2270.5	29705.....	3515
28110.....	2271	29850.....	3800(a), 2nd sent.
28115.....	2272	29855.....	3513
28250.....	2300(a)-(b)	29860.....	3801.5
28400.....	2345	30000.....	3801.6(a), 1st sent.
28405(a).....	2346	30005.....	3801.6(b)(1)
28405(b).....	2347	30010(a).....	3801.6(b)(2), 2nd-4th sent.
28410.....	2348	30015.....	3801.6(b)(2), 1st sent.
28415.....	2349	30100.....	395
28420.....	2352	30105(a)-(b).....	396
28425.....	2353	30105(c).....	398, 1st cl.
28500.....	2400	30110.....	3503.5
28505.....	2401	30115.....	3802
28600.....	2015	30200.....	3511(a)(1), 1st-2nd sent.
28650.....	2022(a)	30205.....	3511(a)(1), 3rd-6th sent., (a)(2)
28655.....	2022(b)-(c)	30210.....	3511(a)(3)
28660.....	2022(d)	30300.....	3505 (bird of paradise)
28750.....	3039	30350.....	3511(b)(5)
28900.....	New	30355.....	New
28905.....	3503	30360.....	3850
28910.....	3504	30365.....	3851
28915.....	3803	30370.....	3852
29050.....	3860	30375.....	3853
29055.....	3861	30380.....	3854
29060.....	3862	30385.....	3855

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
30390.....	3856	31915.....	3953(e), 1st sent.
30395.....	3857	31920.....	3953(e), 2nd sent.
30425.....	3858	31925.....	3953(f)
30500.....	3500(b)(1)	31930.....	3953(g)
30505.....	3700.1(a)	31935.....	13205
30510.....	3681	32150(a).....	4002
30515.....	3700.1(b)	32150(b).....	4003
30520.....	3700.2(a)-(f)	32155.....	4180
30525(a).....	3700.2(g)	32300.....	4150, 2nd sent.
30525(b).....	3702.5, 1st sent.	32305.....	4152 (nongame mammal)
30530.....	3701	32310(a).....	4153, 1st para.
30535.....	3704, 1st para.	32310(b).....	4154
30540.....	3702	32500.....	4500(a)-(c)
30560(a).....	3703	32700.....	4700(a)(1), 1st-2nd sent.
30560(b).....	3705	32705.....	4700(a)(1), 3rd-6th sent., (a)(2)
30565.....	3702.1	32710.....	4700(a)(3)
30570.....	3704.5, 1st para., 1st sent.	32900.....	3950(a) (antelope)
30575.....	3704.5, 1st para., 2nd sent.	32905.....	New
30700.....	3505 (egret)	32950.....	331
30750.....	3505 (goura)	32960.....	3953(b), 1st sent. (antelope)
30800.....	3505 (numidi)	32965(a).....	709 (antelope)
30850.....	3505 (osprey)	32965(b).....	3953(b), 2nd sent. (antelope)
30900.....	3500(a)(10)	33100.....	3950(a) (bear)
30900.....	3683(a)(11)	33105.....	New
30905.....	New	33110.....	4760
30910(a).....	3010	33200.....	3011
30910(b).....	3660	33205.....	4750
31000.....	3500(b)(6)	33210.....	4753
31000.....	3683(b)(4)	33215.....	4755
31005.....	New	33220.....	4757
31050.....	3801	33225.....	3006 (bear)
31100.....	3500(a)(11)	33300.....	4751
31100.....	3683(a)(12)	33305.....	3953(b), 1st sent. (bear)
31110.....	4181(a) (wild turkey)	33310.....	4752
31115.....	4188 (wild turkey)	33400(a).....	302
31400.....	New	33400(b).....	303
31500.....	3032(a)(1)	33450(a).....	4759, 1st sent.
31500.....	3960(a)	33450(b).....	4759, 2nd-3rd sent.
31500.....	3960.2 (bear)	33455.....	4758
31500.....	3960.4(a)	33500.....	4763
31500.....	3960.6(a)	33505.....	3960.6 (bear)
31505.....	3032(a)(2)-(d)	33510(a).....	4181.1(a)
31510(a).....	3960(b)	33510(b).....	4181.1(c) (bear)
31510(b).....	3960(c)(3)	33510(c).....	4181.1(d)
31550.....	3960(c)(1)-(2), (4)	33510(d).....	4181.1(e)
31555.....	3961	33515.....	3960.2 (bear)
31600.....	4153, 2nd para.	33520(a)-(d), (f).....	4181(a) (bear)
31605(a).....	4180.1, 1st para.	33520(e).....	4181(b)
31605(b).....	4180.1, 2nd para.	33600.....	3960.4 (bear)
31610.....	4190	33650.....	4185
31700.....	4011	33700.....	4000 (beaver)
31800.....	4304 (game mammal)	33705.....	New
31805.....	3034	33710.....	4181(a) (beaver)
31900.....	3953(a)	33750.....	New
31905.....	3953(c)	33755.....	3960.2 (bobcat)
31910.....	3953(d)	33755.....	3960.4 (bobcat)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
33755	3960.6 (bobcat)	34850	332
33800	4155(d)	34865	3953(b), 1st sent. (elk)
33805	4155(a)	34870(a)	709 (elk)
33810	4155(b)-(c)	34870(b)	3953(b), 2nd sent. (elk)
33815	4155(e)	34955	3952
33820	4155(f)	34960	3951
33900	3960.6(b)	35000(a)-(c), (f)	4181(a) (elk)
33905	3960.2 (bobcat)	35000(d)-(e)	4181(d)
33950	3960.4(b)-(d)	35200	4000 (fox)
34050	New	35205	New
34055	4600	35210	4012
34060	10930	35215	4152 (fox)
34065	10931, 1st sent. of 1st para., 2nd para.	35305	New
34100	3950(a) (deer)	35310	4800(d)
34105	New	35315	4808
34110	4302	35350	4800(a)-(b)
34115	3006 (deer)	35400	4801
34120	2350 (deer)	35405	4802
34125	2355	35410	4803
34200(a)	4330	35415	4804
34205	4336	35420	4805
34210	4341	35425	4806
34215	4334	35430	4807
34220	4331	35435	4809
34225	4332(a)-(d)	35440	4801.5
34230	4333	35500	4810
34240	3953(b), 1st sent. (deer)	35600	4000 (muskrat)
34245(a)	709 (deer)	35605	New
34245(b)	3953(b), 2nd sent. (deer)	35610	4152 (muskrat)
34350	4370	35615	2250
34355	4371	35700	3950(a) (rabbit & hare)
34400(a)	4301(b) (deer)	35705	4186
34400(b)-(c)	4301(a), 1st sent.	35710	4152 (rabbit & hare)
34405(a)	4301(b) (deer)	35750(a)	4500(c) (sea otter)
34405(b)-(d)	4301(a), 2nd-5th sent.	35750(b)	4700(b)(8)
34410	4303	35755	4501
34415	4304 (deer)	35800	4700(b)(2)
34450	10501	35805	New
34500	450	35810	4900
34505	452	35815	4901
34510(a)	453	35820(a)	709 (bighorn sheep)
34510(b)	454	35820(b)	3953(b), 2nd sent. (sheep)
34510(c)	455	35825	3953(b), 1st sent. (sheep)
34515(a)	456, 1st sent.	35900	4902
34515(b)	456, 3rd sent.	35915	4903
34520	457	36000	3950(a) (tree squirrel)
34525	458	36005	New
34525	459	36010	4152 (red fox squirrel)
34530(a)-(d)	460	36015	4181(a) (gray squirrel)
34530(e)	451	37000(a)	4500(c) (whale)
34535	1503	37000(b)	4700(b)(6)
34600	4181.5	37005	New
34605	4188 (deer)	37050	4502.5(a), (c)-(e)
34800	3950(a) (elk)	37100	3950(a) (wild pig)
34805	New	37105	4650
34810	3006 (elk)	37110	New

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
37150.....	4652	38870(a).....	6400.5
37155.....	4657	38870(b).....	6403
37200.....	4653	38875(a)-(b).....	2362 (white sea bass)
37205.....	4654 (pig tag prereqs)	38875(c).....	6596.1(c)
37210.....	4655	38900.....	1740
37215.....	4654 (pig tag fee)	38905.....	1741
37220.....	3953(b), 1st sent. (wild pig)	38910.....	1742
37300.....	4651	38915.....	1743
37350.....	4181.2	38950.....	New
37355(a)-(d).....	4181.1(b)	39000.....	8756
37355(e).....	4181.1(c) (wild pig)	39005.....	8370 (striped bass)
37355(f).....	4181(c) (wild pig)	39010.....	8371(a)-(b)
37360(a)-(c), (e).....	4181(a) (wild pig)	39050.....	8383.5
37360(d).....	4181(c) (wild pig)	39055.....	8623(a)-(b), (e)
37365.....	4188 (wild pig)	39100.....	8380
37450(a).....	3950(a) (tree squirrel)	39105.....	8372
37450(b).....	4700(b)(1)	39150.....	6403
37450(c).....	4700(b)(7)	39155.....	New
37455(a).....	2576	39200.....	6456
37455(b).....	2575	39205.....	6440
37460.....	4005(f)	39210.....	6450
37800.....	New	39215.....	6451
37805.....	7600	39220.....	6452
37810.....	7601	39225.....	6455(a)-(d) & part of (e)
37950.....	6300 (fish)	39230.....	6454
37955.....	6301 (fish)	39235.....	6453
37960.....	6302 (fish)	39240.....	6457
37965.....	6303 (fish)	39245.....	6460
37970.....	6304 (fish)	39300.....	New
37975.....	6305 (fish)	39305.....	9023
37980.....	6306 (fish)	39400.....	New
38200.....	5515(a)	39405.....	New
38350.....	New	39410.....	8435
38355.....	8607	39500.....	New
38360.....	8403(a)	39550.....	New
38365.....	8046.1	39555.....	8373
38450.....	New	39600.....	New
38500.....	New	39650.....	New
38550.....	8190	39655.....	8381
38555(a).....	8180	39700.....	New
38555(b).....	8181	39750.....	New
38555(c).....	8182	39755.....	9000.5(a), (c), (d), (f)
38560.....	8183	39760.....	9001.6
38700.....	New	39800.....	New
38705.....	2362 (barracuda)	39805.....	316
38750.....	New	39850.....	New
38755(a).....	8386 (barracuda)	39900.....	8391
38755(b).....	8382	39905.....	8392
38755(c).....	8384 (barracuda)	39950.....	8494(a)
38760.....	8623(a)-(b), (e)	39955.....	8494(b)
38800.....	New	39960.....	8494(c)(1) & part of (c)(2)
38850.....	2360 (black bass)	39965.....	8494 part of (c)(2)
38855.....	7350	39970.....	8494(d)
38860.....	2360 (spotted bass)	39975.....	8494(e)
38865(a).....	2359	39980.....	8494(g)
38865(b).....	2363 (striped bass)	39985.....	8494(f)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
40100.....	8495	41305.....	8231
40115.....	8496	41350.....	7861.3
40120.....	8497	41355.....	7860
40125.....	8842(c), 2nd sent.	41360(a)-(e).....	7861
40250.....	New	41360(f).....	7861.1
40300.....	New	41365.....	7861.2
40350(a).....	8550, 1st sent.	41370.....	7861.5
40350(b).....	8552(a), 1st sent.	41375.....	7861.4
40355.....	8550, 2nd-3rd sent.	41380.....	7862
40360.....	8550.5	41385.....	7862.5
40365.....	8552(b)-(e)	41390.....	7863
40370.....	8552.8	41450.....	8210.2
40375.....	8552(a), 2nd sent.	41455.....	8217
40375.....	8552.6	41455.....	8371(c)-(d)
40380.....	8552(a), 2nd sent.	41460.....	8213
40380.....	8552.2	41465.....	8214
40385.....	8552.3	41470.....	8215
40390.....	8552.7	41475.....	8218
40395.....	8552.4	41480.....	8219
40400.....	8552.1	41485.....	8756
40405.....	8554	41490.....	8834.1
40410.....	8555	41495.....	8370 (salmon)
40415.....	8556	41600.....	8120
40420.....	8557	41605(a)-(c).....	8121
40425.....	8558	41605(d).....	8122
40430.....	8558.1(a), 1st-2nd sent.	41610.....	8123
40435(a)-(b).....	8558.2	41650.....	8230
40435(c).....	8558.1(a), 3rd sent.	41655.....	8248
40435(d).....	8558.3	41660(a).....	8246.8
40440.....	8559	41660(b).....	8239.2
40455.....	8553	41665.....	8232
40500.....	8389(a), 1st sent.	41670.....	8232.5
40505.....	8389(a), 2nd sent.	41675.....	8234(a)
40510(a).....	8389(b)	41680.....	8233.9
40510(b).....	8389(c)	41685.....	8243
40515.....	8389(d)	41690.....	8242
40550.....	New	41695.....	8244
40600.....	New	41700.....	8245
40605.....	8412	41705.....	8245.5
40610.....	8411	41710.....	8233.8
40700.....	New	41715.....	8233, 1st sent.
40705.....	2354	41720.....	8236
40710.....	7123	41725.....	8235
40750.....	New	41730.....	8233.3
40755.....	8393(a)	41735.....	8233.5
40760.....	8393(b)	41735.....	8237
40850.....	New	41740(a)-(i).....	8239
40900.....	New	41740(j).....	8241
40905.....	9001.8	41745(a).....	8238
40950.....	New	41745(b).....	8238.1
40955.....	1000.6	41750.....	8239.9
41000.....	310	41755(a)-(c).....	8239.1
41005.....	5514 (salmon)	41755(d)-(e).....	8240
41010.....	316.5	41760.....	8233.4
41050.....	2361	41765.....	8239.6
41300.....	New	41775.....	8246.6 (transfer)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
41780	8246.7 (renewal or transfer)	43500	New
41795	8233, 2nd sent.	43550	New
41800	8234(b)	43555	8395
41900	8247, 1st sent.	43600	New
41905	8247.5(a)	43650	New
41910	8247.7	43655(a)	8394
41915	8247.1	43655(b)	8394.5
41920	8247.5(b)	43800	New
41925	8247.2, 1st sent.	43805	7260
41930	8247, 3rd sent.	43850	2356
41935	8247.2, 2nd-3rd sent.	43855	2358
41940	8247, 2nd sent.	43900	New
41945	8247.4	43950	5514 (steelhead)
41950	8247.8	44000	7380
41955	8247.6	44005	7381
42050(a)	7662	44010	7382
42050(b)	7660	44100	New
42100	7925	44105(a)	8430
42110	8226	44105(b)	8433
42200	New	44200(a)-(b)	8431
42250	New	44200(c)	8432
42255	8150.7, 1st sent.	44200(d)	8433
42260	8150.7, 2nd sent.	44205	8756
42265	8150.5	44300	New
42350	8154	44350	313
42450	New	44400	New
42455	2363 (shad)	44450	8376
42500	New	44455(a)	8374 (bluefin)
42505	8756	44455(b)	8375
42600	New	44460(a)	8377.5
42605	5517	44460(b)	8377
42610(a)-(d)	2021(a)-(d)	44465	8378
42610(e)-(f)	2021.5(a)(1), (3)	44470	8374 (yellowfin)
42615	2021.5(b)	44600	New
42700	New	44650	2362 (yellowtail)
42750	7704(c)	44750	New
42800	8388(b)	44755(a)	8386 (yellowtail)
42805	8388(a)	44755(b)	8382
42810(a)	8388(c)	44755(c)	8384 (yellowtail)
42810(b)	8388(d)	44760	8387
42850	8599.4	44765	8623(a)-(b), (e)
42900	New	45000	New
42905	8388.5	45005	7600
42950	8599	45010	8500
42955	8599.3	45250	5505 (crustaceans)
43100	New	45300	New
43150	7370	45305	9053
43200	2363 (sturgeon)	45400	5505 (mollusks)
43250	10000	45405	9053
43255	10001, 1st sent.	45450	5700
43260	10001, 2nd sent.	45455	5701
43265	10002	45460	5701.5
43270(a)	10003	45465	5702
43270(b)	10004	45500(a)	5671
43350	New	45500(b)	5675
43355	8370 (sturgeon)	45505	5670

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
45505	5672, 2nd para.	47305	8277
45510(a)	5672, 1st para.	47350	8276.2(a)
45510(b)	5673	47355	8276.2(b)(1)
45515	5674	47360	8276.2(b)(2)(B)
45520	5669	47365	8276.2(c)
45650	New	47370	8276.2(b)(2)(A)
45700	7149.8	47375	8276.2(d)
45750	2371	47450(a)	8284(a), 1st sent.
45800	5521	47450(a)	9011(a)(1)
45805	5521.5	47450(b)	9011(a)(2)
45810	5521.6	47450(c)	9012(b)
45950(a)	7149.9(a), 3rd sent.	47455	8283
45950(b)-(c)	7149.9(a)(1), 2nd sent.	47460(a)	8284(a), 2nd sent.
45955(a)	7149.9(a), 1st, 2nd sent.	47460(b)	9011(a)(3)
45955(b)-(d)	7149.9(b)-(d)	47465	9011(c)
45960	7149.9(a)(1), 1st sent.	47600	8276.5(h)
45960	7149.9(a)(2)-(3)	47605	8276.5(g)
46000	5520	47610	8276.5(a), 1st sent.
46005	5522(a), (b)	47615	8276.5(a), 2nd sent.
46010	5522(c)	47620	8276.5(a)(1)-(2)
46015	5522(d)	47625	8276.5(a)(3)
46020	5522(e)	47630	8276.5(a)(4)
46050	7400	47635	8276.5(a)(5)
46100	New	47640	8276.5(a)(6)
46150	8051.4(a)	47645	8276.5(a)(7)
46200	New	47650	8276.5(a)(8)
46205	New	47655	8276.5(c)-(d)
46250	7290	47660	8276.5(e)-(f)
46255	2368	47665	8276.5(i)
46260	2369	47800	8276.4(a)
46300	7332	47805	8276.4(b)-(c)
46350	New	47810	8276.4(d)
46400	8340	47815	8276.4(e)
46405	8475	47820	8276.4(f)
46410	8341	47825	8276.4(g)
46415	8343	47830	8276.4(h)
46420	8346	47835	8276.4(j)
46425	8342	47850	8276.1(a)
46500	New	47855(a)	8276.1(b)
46505	New	47855(b)	8276.1(e)
46550	2364	47860	8276.1(c)
46800	New	47865	8276.1(d)
46855	8275	47870	8276.1(f)
47000	8834	47900	8280.1(a)
47005	9012(a)	47905	8280.6(a)
47010(a)	8276.4(i)	47910	8280.1(e)
47010(b)	8276.4(j)	47910	8280.6(d)
47015	8281	48100	8280.1(b)
47050	New	48105	8280.1(c)
47055	8279	48110	8280.2(a)-(e)
47060	8276(c)	48115	8280.1(e)
47065	8834.5	48115	8280.2(f)
47070	8278	48300	8280.6(c)
47150	8276.3	48305	8280.6(b)
47155	8279.1(a)-(b), (d)	48310	8280.3(b)
47300	8276(a)-(b), (d)	48315	8280.3(c)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
48320	8280.3(d)	49980	2301(d)
48325	8280.3(f)	49985	2301(g)
48330	8280.3(e)	49990	2301(h)
48335	8280.3(g)	50000	2301(i)
48340	8280.3(h)	50100	2302(g)
48345	8280.3(i)	50105	2302(a)-(b)
48350	8280.3(j)	50110	2302(c)
48355	8280.3(a), (k)	50115	2302(d)
48360	8280.3(l)	50120	2302(e)
48360	8280.6(d)	50125	2302(f), 3rd sent.
48500	8280	50250	New
48505	8280.9	50255	8344
48510	8280.7	50350	New
48650	8282	50400	New
48655	9011(b)	50405	8345
48660	8284(b)-(c)	50450	New
48950	New	50500	New
48955	New	50505	8405
49000	New	50510	8405.1
49005	8490	50515	8405.2
49010	9024	50520	8405.3(a)-(b), (d)
49015	8491	50525	8405.4
49020	8492	50650	New
49150	New	50655	1068
49200	New	50700	New
49205	8510	50705(a)	9054, 1st sent.
49300	New	50705(b)	9055
49305	New	50705(c)	9054, 3rd sent.
49310	7256	50705(d)	9054, 4th sent.
49315	2365	50710	9054, 2nd sent.
49450	New	50850	New
49500	8254	50855	New
49505	8257	50950	New
49510	8259	50955	8590
49600	8251	51000	8593
49605	8252	51005	8591
49610	9001.7(k)	51010(a)-(b)	8841(g)
49615	8254.7, 7th sent.	51010(c)	8841(i)
49700	8250.5(a)	51015(a)	9015(a)
49700	9010(a)	51015(b)	8595(a)
49705	9010(c)-(e)	51015(c)	9015(b)
49710(a)	8258	51015(d)	8595(b)
49710(b)	9010(b)	51050	8594
49715	8250.5(b)	51100(a)	8595(a)
49750	8250.5(c)	51100(a)	8842(a), 1st para.
49755	8253	51100(b)	8842(a), 2nd para.
49825	New	51105(a)	8842(b)
49850	1021	51105(b)	8842(d)
49900	New	51110	8842(c), 1st sent.
49905	New	51115	8842(c), 3rd sent.
49950	2301(a)(1)	51300	New
49955	2301(e)	51305	New
49960	2301(a)(2)(A)-(D)(i), (c)(2)	51350	New
49965	2301(a)(2)(D)(ii)-(iv)	51400	8399
49970	2301(b)	51405	8399.1
49975	2301(c)(1)	51450	8420

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
51455.....	8424	53830.....	1909
51460.....	8425(a)	53835.....	1910, 1st sent.
51465.....	8425(b)	53840.....	1910, 2nd sent.
51470.....	8428	53845.....	1911
51475.....	8429, 1st sent.	53850(a).....	1905
51485.....	8429.5	53850(b).....	1906
51900.....	New	53855(a).....	1912
51905.....	5505 (amphibians)	53855(b).....	1913(a)
52000.....	6300 (amphibians)	53855(c).....	1913(b)
52005.....	6301 (amphibians)	53855(d).....	1913(c)
52010.....	6302 (amphibians)	53900.....	1925, 1st sent.
52015.....	6303 (amphibians)	53905.....	1926
52020.....	6304 (amphibians)	53910.....	1925, 2nd-3rd sent.
52025.....	6305 (amphibians)	54000.....	New
52030.....	6306 (amphibians)	54005.....	6653
52200.....	5050(a) (fully prot. amph.)	54010.....	6651(c) (kelp)
52300.....	6895	54025.....	6650
52305.....	6896	54030.....	6651(a)-(b)
52400.....	6850	54040.....	6657
52405.....	New	54050.....	6680
52450.....	6851	54055.....	6652
52455.....	6854	54075.....	6700, 2nd sent.
52460.....	6852	54080.....	6700, 1st sent.
52465.....	6855	54085.....	6701
52500.....	6880	54090.....	6701.5
52505.....	6881, 1st sent.	54095.....	6702
52505.....	6882	54100.....	6703
52505.....	6884	54105.....	6704
52510.....	6881, 2nd sent.	54110.....	6705
52515.....	6883	54115.....	6706
52520.....	6885	54120.....	6707
52800.....	New	54125.....	6708
53000.....	5050(a) (fully prot. reptile)	54130.....	6709
53100.....	5060	54135.....	6710
53105.....	5061	54140.....	6711
53200.....	5062	54175.....	6654
53250.....	7149.3	54180.....	6655
53300.....	New	54200.....	6750
53305.....	5000	54205.....	6751
53310.....	5002	54300.....	New
53315.....	5001	54305.....	6651(c) (agar)
53500.....	New	54325.....	6653.5(b)
53600.....	6300, 2nd sent.	54330.....	6653.5(a)
53605.....	6301 (aquatic plants)	54500.....	1800
53610.....	6302 (aquatic plants)	54505.....	1801
53615.....	6303 (aquatic plants)	54510.....	1802
53620.....	6304 (aquatic plants)	54525.....	1700
53625.....	6305 (aquatic plants)	54550.....	1501
53630.....	6306 (aquatic plants)	54555.....	1501.5
53800.....	1900	54570.....	1930
53803.....	1901, 2nd sent.	54575.....	1930.5(f)
53805.....	1901, except 2nd sent.	54580.....	1930.5(a)-(b)
53810.....	1904, 1st sent.	54585.....	1932
53815.....	1904, 2nd sent.	54590.....	1940
53820.....	1908	54595(a).....	1931
53825.....	1907	54595(b)-(d).....	1932.5(a)-(b)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
54600	1930.5(c)-(e)	55160	1655(d)
54605(a)-(c)	1932.5(c)-(e)	55200	1652(a)
54605(d)	1933	55205	1652(b)
54700	1300	55210	1655(c)
54705	New	55215	1652(c)
54710	1301	55220	1652(d)
54750	1320	55225	1652(e)
54755	1321	55230	1652(f)
54760	1322	55300	1653(a)
54765	1323	55305	1653(b)
54770	1324	55310	1655(c)
54800(a)-(c)	1345	55315	1653(c)
54800(d)	1346	55320	1653(d)-(f)
54805	1347	55325	1653(g)
54810	1356	55350	1654(a)
54815	1348	55355	1654(c)(1)
54820	1354	55360	1654(c)(2)
54825	1348.1	55365	1654(c)(3)
54830	1348.2	55370	1654(d)
54835	1348.3(a)(1), (a)(3), (b)	55500	2600
54840	1349	55505	2601
54845	1350(b)	55510	2602
54850	1350(c)	55525	2620
54855	1350(a)	55530	2621
54860	1353	55535	2622
54865	1351	55540	2623
54870	1355	55545	2624
54875	1352	55550	2625
54880	1352.5	55555	2626
54885	1375	55560	2627
54900	1360	55600	2640
54905	1361(b)-(j)	55605	2641
54910	1362	55610	2642
54915	1372	55615	2643
54925	1363(a)	55620	2644
54930	1363(b)	55625	2644.5
54935	1370	55630	2645
54940(a)-(b)	1363(d)-(e)	55635	2646
54940(c)	1364	55640	2647
54945	1363(c)	55645	2648
54950	1367	55650	2649
54955	1363(f)	55655	2650
54960	1365	55660	2651
54965	1366	55700	2700
54970	1368	55705	2701
54975	1369	55710	2702
55000	1374(a)-(d)	55725	2720
55005	1374(e)	55730	2721
55010	1374.1	55735	2722
55100	1650	55740	2723
55105	1651	55745	2724
55110	1654(b)	55750	2725
55115	1656	55755	2726
55120	1657	55760	2727
55150	1655(a)	55765	2728
55155	1655(b)	55770	2729

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
55800.....	2780	56330.....	1572(c)(2)
55805.....	2781	56335.....	1572(c)(3)
55825.....	2785	56340.....	1572(f)
55830.....	2786	56500.....	3400
55835.....	2787	56525.....	3401(a), 1st sent.
55840.....	2788	56530.....	3402
55845.....	2789	56535.....	3406(a)
55850.....	2790	56545.....	3403
55855.....	2791	56550.....	3406(c)
55860.....	2792	56555.....	3404(a)
55865.....	2793	56560.....	3408
55870.....	2794	56575.....	3401(a), 2nd sent.
55875.....	2795	56580.....	3401(a), 3rd sent.
55880.....	2796	56585.....	3407
55885.....	2797	56590.....	3406(b)
55890.....	2798	56595.....	3401(b)
55895.....	2799	56700.....	3460(a)
55900.....	2799.5	56705.....	3461
55905.....	2799.6	56710.....	3462
56000.....	1750	56715.....	3464
56005.....	1755	56720.....	3466
56010.....	1756	56725.....	3465
56025.....	1758	56730.....	3460(b)
56030.....	1764	56735.....	3460(c)
56050.....	1760	56740.....	3467
56055.....	1761	56800.....	2930
56060.....	1762	56805.....	2931(a)
56065.....	1763	56810.....	2940
56070.....	1767.5	56815.....	2941
56075.....	1768	56820.....	2945
56080.....	1765	56825.....	2942(a)(2)
56085.....	1766	56850.....	2932
56090.....	1769	56855.....	2932.2
56100.....	1770	56860.....	2932.3
56105.....	1771	56865.....	2932.5
56110.....	1772	56900.....	2931(b)-(c)
56150.....	1773	56905.....	2942(a)(3)(B)
56155.....	1773.1	56910.....	2942(a)(1)
56160.....	1773.2	56915.....	2942(a)(3)(A)
56200.....	1570	56920.....	2933
56205.....	1571	56925.....	2942(c)
56225.....	1572(a), 1st sent.	56930.....	2942(b)(1)
56230.....	1572(a), 2nd sent.	56935.....	2943
56235.....	1573(g)	56940.....	2942(b)(2)
56240.....	1572(d)	56945.....	2931(d)
56245.....	1573(a)	56950.....	2931.5
56250.....	1573(f)	57000.....	1400
56255.....	1573(c)	57005.....	1401
56260.....	1573(d)	57510.....	1402
56265.....	1573(e)	57515.....	1403
56270.....	1572(b), 1st sent.	57520.....	1404
56275.....	1574(b)	57525.....	1405
56280.....	1573(b)	57550.....	1410
56285.....	1572(b), 2nd sent.	57555.....	1411(a), 2nd sent.
56290.....	1572(e)	57560.....	1411(c)
56325.....	1572(c)(1)	57565.....	1413

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
57570.....	1414	58520.....	10510
57575.....	1415	58525.....	10511
57580.....	1416	58530.....	10501.5
57585.....	1417	58550.....	10500(c)
57590.....	1418	58555.....	10502(a) (fish refuge)
57595.....	1420	58600.....	New
57600.....	1421	58625.....	10801
57605.....	1422	58630.....	10660
57625.....	1430, 1st sent.	58700.....	10500(a)-(b)
57630.....	1431, 1st sent.	58705.....	10513
57635.....	1430, 2nd sent.	58710.....	10502(a) (game refuge)
57640.....	1431, 2nd sent.	58715(a).....	10503(d)
57645(a).....	1411(a), 1st sent.	58715(b).....	10504
57645(b).....	1411(b)	58715(c).....	10505
57650.....	1412	58720.....	10506
57655.....	1419	58725.....	10507
57700.....	1385	58730.....	10512
57705.....	1386	58735.....	10514
57710.....	1389	58740.....	10844
57725.....	1387	58800(a).....	10820
57730.....	1388	58800(b).....	New
57735.....	1390	58825.....	10821
57740.....	1391	58850.....	10822
57775.....	2003.5	58875.....	10823
57780.....	2003.6	58900.....	10824
57790.....	3469(f)	58925.....	10825
57795.....	3469(a)	58950.....	10826
57800.....	3469(b)-(c)	58975.....	10827
57805.....	3469(d)	59000.....	10828
57810.....	3469(e)	59025.....	10829
57820.....	3469.2	59050.....	10830
57825.....	3469.4	59075.....	10831
57830.....	3469.6	59100.....	10832
57835.....	3469.8	59125.....	10835
57850.....	New	59150.....	10836
57855(a).....	3480(a)	59175.....	10837
57855(b).....	3480(e)	59180(a).....	10662
57855(c).....	3480(g)	59180(b).....	10663
57860.....	3480(h)	59200.....	10838
57865.....	3480(i)	59225.....	10840
57870.....	3480(b)	59230.....	10659
57875.....	3480(c)	59250.....	10843, 1st para.
57880.....	3480(d)	59255.....	10843, 2nd para.
57885.....	3480(f)	59275.....	10842
58000.....	711.1(a)	59280.....	10665, 1st para.
58005.....	711.1(b)	59285.....	10665, 2nd para.
58010.....	711.1(c)	59300.....	10833
58015.....	711.1(d)	59305.....	10650
58050.....	13014(a)	59310.....	10651
58055.....	13014(b)	59315.....	10652
58060.....	13014(c)-(d)	59350.....	10841
58075.....	2900	59400.....	10509
58080.....	2901	59425.....	10770
58500.....	10502(b)-(d)	59450.....	10771
58505.....	10503(a)-(c)	59455.....	10653
58515.....	10508	59460.....	10654

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
59500.....	10500(d)	60415.....	2850.5
59525.....	10860	60420.....	2863
59550.....	10861	60450.....	2860
59600.....	10500(f)	60455.....	2862
59625.....	10900	60475.....	2853(a)-(b)
59650.....	10903	60480.....	2853(c)
59655.....	10502.7	60500.....	2855
59670.....	10656	60505.....	2856
59675.....	10661	60510.....	2854
59700.....	10932	60515.....	2858
59705.....	10502.8	60520.....	2859
59710.....	10655.5	60525.....	2857
59715.....	10655	60530.....	2861(a)
59750.....	10913	60535.....	2861(b)
59775.....	10907	60550.....	1590
59780.....	10502.6	60555.....	1591
59785.....	10667(a)	60600.....	1525
59790.....	10667(b), 1st sent.	60605.....	1526
59795(a).....	10667(b), 2nd-4th sent.	60610.....	1527
59795(b).....	10667(d)	60625.....	1530, 1st para.
59795(c).....	10667(e), 1st sent.	60630.....	1530, 2nd para.
59795(d).....	10667(e), 2nd sent.	60650.....	1528, 1st sent.
59800.....	10667(c)	60655.....	1528, 2nd sent.
59825.....	10908	60660.....	1528, 3rd sent.
59830.....	10664 (Doheny Beach)	60665.....	1528, 4th-5th sent.
59850.....	10901	60670.....	1528, 6th sent.
59855.....	10502.5, 1st sent.	60675.....	1529
59860.....	10657.5, 1st para.	60680.....	1504
59865(a)-(b).....	10657	60685.....	1506
59865(c).....	10502.5, 2nd sent.	60700.....	1500
59865(d).....	10657.5, 2nd para.	60705.....	1500.5
59900.....	10912	60710.....	1745.2
59905.....	10664 (Irvine Coast)	60715.....	1526.4
59925.....	10909	60720.....	1014
59930.....	10666	60750.....	1580, 1st sent.
59950.....	10904	60755.....	1584
59955.....	10664 (Laguna Beach)	60760.....	1580, 2nd-3rd sent.
59975.....	10905	60765.....	1580, 4th sent.
59980.....	10664 (Newport Beach)	60770.....	1581
60000.....	10911	60775.....	1582
60005.....	10664 (Niguel)	60780.....	1583
60025.....	10910	60785.....	1585
60030.....	10664 (Point Fermin)	60790.....	1580, 5th sent.
60050.....	10902	60850.....	1586
60055.....	10658	60855.....	1587
60075.....	10906	60900.....	1505
60080.....	10664 (South Laguna Beach)	60950.....	10740
60200.....	10500(e)	60955.....	10741
60225.....	10880	62000.....	2050
60250.....	10881	62005.....	2051
60300.....	10500(g)	62010.....	2052
60325.....	10711	62015.....	2052.1
60400.....	2850	62020.....	2053
60405.....	2851	62025.....	2054
60410(a)-(d).....	2852	62030.....	2055
60410(e).....	New	62035.....	2056

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
62100.....	2060	62670.....	2081.1
62105.....	2068	62675.....	2082
62110.....	2061	62680.....	2083, 2nd cl.
62115.....	2062	62700.....	2081(b)-(e)
62120.....	2063	62705.....	2080.1
62125.....	2064	63300.....	2081.7(a)
62128.....	2065.4	63305.....	2081.7(b)-(d)
62130.....	2065	63310.....	2081.7(e)(1)-(3)
62135.....	2067	63315.....	2081.7(e)(4)
62200.....	2070	63320.....	2081.7(f)
62205.....	2071.5	63325.....	2081.8
62210.....	2078	63350.....	2080.2
62250.....	2071	63355.....	2080.3
62255.....	2072	63360.....	2080.4
62260.....	2072.3	63400.....	2081.4
62265.....	2073	63450.....	2081.6
62270.....	2073.3	63455.....	2081.10
62275.....	2072.7	63475.....	2081.11
62280.....	2073.5	63500.....	2081.9
62285.....	2073.4	63510.....	2081.12
62290.....	2073.7	63550.....	2080.5
62350.....	2074	63555.....	2080.6
62355.....	2074.2(a), 1st sent.	63560.....	2080.7
62360(a).....	2074.2(a), 2nd sent.	63600.....	2081.2(a)
62360(b)-(c).....	2074.2(b)	63605.....	2081.2(b)
62365.....	2074.2(c)	63610.....	2081.2(e)
62370.....	2074.2(d)	63615.....	2081.2(c)
62375.....	2074.2(e)-(f)	63620.....	2081.2(f)(1)
62380.....	2074.4	63625.....	2081.2(d)
62400.....	2074.6, 1st sent.	63630.....	2081.2(f)(3)
62405(a).....	2074.6, 2nd sent., 1st part	63635.....	2081.2(g)
62405(b).....	2074.6, 4th sent.	63640.....	2081.2(f)(2)
62405(c).....	2074.6, 5th sent.	63700.....	2087
62410.....	2074.6, 3rd sent.	63705.....	2089
62415.....	2074.6, 2nd sent., 2nd part	63710.....	2088, 1st part
62420.....	2074.8	63715.....	2088, 2nd part
62450.....	2075	63750.....	2086(a)
62455.....	2075.5(a), 1st sent.	63755.....	2086(b)
62460(a).....	2075.5(a), 2nd sent.	63760.....	2086(c)
62460(b)-(c).....	2075.5(b)	63765.....	2086(d)(1)
62465.....	2075.5(c)	63770.....	2086(d)(2)
62470.....	2075.5(d)	63775.....	2086(e)
62475.....	2075.5(e)	63780.....	2086(f)
62480.....	2076	63900.....	2089.2(a)
62485.....	2076.5	63905.....	2089.2(b)
62500.....	2077(a)	63910.....	2089.4
62505.....	2077(b)	63915.....	2089.2(c)-(d)
62510.....	2077(c)	63920.....	2089.25
62515.....	2077(e)	63925.....	2089.24
62520.....	2077(d)	63930.....	2089.22
62525.....	2079	63935.....	2089.26
62600.....	2080	63950.....	2089.6
62605.....	2085	63955.....	2089.7
62650.....	2081(a)	64000.....	2089.8
62655.....	2083, 1st cl.	64005.....	2089.9
62665.....	2084	64010.....	2089.20(a)-(c)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
64015	2089.10	64775	1851(m)
64020	2089.12(a)	64780	1851(n)
64025	2089.12(b)	64800	1858
64030	2089.16	64805	1857
64035	2089.14	64810	1861
64040	2089.18	64815	1859
64045	2089.20(d)-(e)	64820	1860
64050	2089.23	64850	1851(k), 4th-5th sent.
64075	2089.5	64855	1853(a)
64100	2079.1(a)-(b)	64860	1853(c)
64105	2079.1(c)-(e)	64900	1852(b)
64110	2079.1(f)-(h)	64905	1851(l), 2nd-3rd sent.
64400	705	64910	1852(c)
64500	2800	64915	1852(e)
64505	2801	64920	1853(b)
64510	2802	64925	1852(d)
64515	2805	64930	1854(e)
64520	2825	64935	1852(a)
64530	2829	64960	1854(c)(1)
64550	2809	64965	1854(c)(2)
64555	2810(a), 1st sent.	64970	1854(c)(3)
64560(a)-(i)	2810(b)	64975	1854(c)(4)
64560(j)	2810(a), 2nd sent.	64980	1854(c)(5)
64565	2820(b)	64985	1854(c)(6)
64570	2815	64990	1855(e)
64575	2810(d)	64995	1854(d)
64580	2820(a)	65000	1854(a)
64585	2810(c)	65050	1855(a)
64600	2821	65055	1855(b)
64605	2835	65060	1855(c)
64610	2820(f)	65100	1856(a)
64615	2826	65105	1856(b)
64620	2820(e)	65110	1856(c)
64625	2820(d)	65115	1856(d)
64630	2827	65120	1856(e)
64635	2822	65125	1856(f)
64640	2823	65130	1856(h)
64645	2820(c)	65135	1856(g)
64650	2828	65140	1856(i)
64655	2830	65145	1856(j)
64660	2831	65150	1855(d)
64700	1850	65155	1856(k)
64705	1854(b)	65300	1797
64710	1851, intro. cl.	65305	1797.5, intro. cl.
64715	1851(a)	65310	1797.5(a)
64720	1851(b)	65315	1797.5(b)
64725	1851(c)	65320	1797.5(c)
64730	1851(d)	65325	1797.5(d)
64735	1851(e)	65330	1797.5(e)
64740	1851(f)	65335	1797.5(f)
64745	1851(g)	65340	1797.5(g)
64750	1851(h)	65345	1797.5(h)
64755	1851(i)	65400	1798.7
64760	1851(j)	65450	1798(a)
64765	1851(k), 1st-3rd sent.	65455	1798(b)
64770	1851(l), 1st sent.	65460	1798(c)-(d)

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
65465	1798(e)	66200	711.4(a)-(b)
65470	1798(f)	66205	711.4(c)(1), (3)
65500	1798.5(a)(1)	66210	711.4(c)(2)
65505	1798.5(a)(2)	66215	711.4(d)
65510	1798.5(b)	66220	711.4(e)(1)
65515	1798.5(c)-(d)	66225	711.4(e)(2)-(3)
65520	1798.5(e)	66230	711.4(f), 2nd sent.
65525	1798.5(f)	66235	711.4(g)
65530	1798.5(g)	66240	711.4(h)
65535	1798.5(h)	66245	711.4(i)
65550	1798.6(a)	66250(a)-(d)	711.7
65555	1798.6(b), 1st-4th sent.	66250(e)	711.2(b)
65560	1798.6(c)(1)	66500	5650(a)
65565	1798.6(c)(2)-(3)	66505	5650(b)
65570	1798.6(c)(4), (d)	66510	5650(c)-(f)
65575	1798.6(e)	66525	5652
65580	1798.6(f)	66700	5651
65585	1798.6(b), 5th sent.	66705	12015
65590	1798.6(g)	66710	5655
65600	1798.6(h)	66715	12016
65650	1799(a)	66800(a)-(d)	5654(a)(1)
65655	1799(b)	66800(e)	5654(a)(2)
65660	1799(c)	66805	5654(b)
65665	1799(d)	66810	5654(d)
65670	1799(e)	66820	5654(e)
65675	1799.1(a)	66825	5654(c)
65680	1799.1(b)	66830	5654(f)
65685	1799.1(c)	66835	5654(g)
65690	1799.1(d)	66840	5654(h)
65800	1775	67000	6600
65805	1776	67005	6601
65810	1776.5	67010	6602
65815	1780	67015	6605(a)
65820	1781	67050	6603(a)-(c)
65850	1777	67055	6603(d)
65855	1777.2	67060	6603(e)
65860	1777.5	67065	6604
65865	1778	67070	6605(b)
65870	1778.5	67075	6605(c)
65875	1779	67080	6603(f)
65880	1779.5	67100	6610
65950	1784(a)-(b)	67105	6611
65955	1784(c)-(e)	67110	6612(a)
65960	1785, 1st sent.	67115	6612(b)
65965	1785, 2nd sent.	67120	6612(c)
65970	1786(a)	67125	6612(d)
65975	1786(b)	67150	6613(a)
65980	1787	67155	6613(b)
66050	1790	67160	6613(c)
66055	1791	67165	6613(d)
66060	1792	67170	6613(e)
66065	1792.5	67175	6613(f)
66100	1793	67180	6613(g)
66105	1794	67200(a)	6614(a)
66110	1795	67200(b)	6614(b), 1st sent.
66115	1796	67205	6614(b), 2nd. sent.

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
67210.....	6614(c)	68855.....	5982
67215.....	6614(d)	68860.....	5990
67220.....	6614(e)	68865.....	5988
67225.....	6614(f)	68870.....	5989
67250.....	6615	68875.....	5991
67255.....	6616	68900.....	5983
67260.....	6617	68905.....	5984
67265.....	6618	68910.....	5985
67270.....	6619	68915.....	5986
67275.....	6620	68920.....	5987
67280.....	6621	68925.....	5992
67400.....	1016(a), def. in 1st sent.	68930.....	5993
67400.....	1016(b), def. in 1st sent.	69000.....	6020
67405.....	1016(a), except def. in 1st sent.	69050.....	6021
67410.....	1016(b), except def. in 1st sent.	69055.....	6026
67415.....	1016(c)	69060.....	6022
67420.....	1016(d)	69065.....	6023
67500.....	13010	69070.....	6024
67505(a).....	13011	69075.....	6025
67505(b).....	12017(a)(2)-(6)	69080.....	6027
67505(c).....	5656	69085.....	6028
67510.....	12017(b)	69200.....	1018
67515.....	12017(c)-(f)	69250.....	11036, part of 4th para.
67520.....	13012	69500.....	6100(a)
67525.....	13013	69505.....	6100(b)
67530.....	13230	69510.....	6100(c)
67535.....	13231	69515.....	6100(d)
68000.....	5900	69550.....	12025.2
68050.....	5902	69700.....	1600
68055.....	5903	69705.....	1601
68060.....	5904	69710.....	1602(e)
68100.....	5948	69715.....	1607
68105.....	5901	69720.....	1616
68300.....	5936	69750.....	1602(a)
68305.....	5935	69775.....	1608
68310.....	5937	69780.....	1609
68315.....	5943	69785.....	1602(c)
68320.....	5944	69790.....	1613
68400.....	5930	69795.....	1603(a), 1st-4th sent.
68405.....	5931	69800.....	1606
68410.....	5932	69805.....	1603(a), 5th-7th sent.
68500.....	5933, 1st sent.	69810.....	1603(a), 8th sent.
68505.....	5933, 2nd sent.	69815.....	1614
68510.....	5933, 3rd sent.	69850.....	1605(a)
68515.....	5934	69855.....	1605(b)-(c)
68520.....	5933, 4th-5th sent.	69860.....	1605(d)
68600.....	5946	69865.....	1605(e)
68605.....	5947	69870.....	1605(f)
68650.....	5938	69875.....	1605(g)
68655.....	5939	69880.....	1605(h)
68660.....	5940	69885.....	1612
68665.....	5941	70050.....	1603(b), 1st-2nd sent.
68670.....	5942	70055.....	1603(b), 3rd-5th sent.
68675.....	5945	70060.....	1603(b), 6th sent.
68800.....	5980	70065.....	1603(b), 7th, 8th sent.
68850.....	5981	70070.....	1603(b), 9th sent.

<i>Proposed Provision</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
70075	1604	71510	3800(b)(1)-(2)
70150	1610	71515	3005(b)(3), 3rd sent.
70155	1602(b)	71515	3800(b)(3), 3rd sent.
70160	1611	71520	3005(b)(3), 5th sent.
70165	1602(d)	71520	3800(b)(3), 5th sent.
70170	1617	71525	3005(b)(4)
71000(a)	5653.5	71525	3800(c)
71000(b)	5653.8	71530	3005(b)(5)
71000(c)	5653(g), 1st sent.	71530	3800(b)(4)
71005	5653(g), 2nd sent.	71700	5801
71010	5653.9	71705	5803
71050	5653(a), 1st sent.	71710	5802
71055	5653(c), 1st sent.	71750	5800(a)
71060	5653.7	71755	5800(b)
71065	5653(e)	71760	5800(c)
71075	5653.3	71765	5800(d)
71200(a)	5653(a), 2nd sent.	72000	703(b)
71200(b)	5653(b)	72200	12029(a)
71205	5653(c), 2nd sent.	72205	12029(b)
71255	5653(d)	72210	12029(c)
71260	5653(f)	72215	12029(d)
71280	5653.1	72500	308.5
71500(a)	3005(b)(3), 1st sent.	72800	3470
71500(a)	3800(b)(3), 1st sent.	72805	3471
71500(b)	3005(b)(3), 2nd sent.	72810	3472
71500(b)	3800(b)(3), 2nd sent.	72815	3472.1
71505	3005(b)(3), 4th sent.	72820	3472.2, 1st sent.
71505	3800(b)(3), 4th sent.	72825	3472.2, 2nd sent.
71510	3005(b)(1)-(2)		

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Fish and Wildlife Code: Conforming Revisions

February 2019

(corrected)

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN **January 1, 2020.**

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

California Law Revision Commission
c/o UC Davis School of Law
Davis, CA 95616
<commission@clrc.ca.gov>

SUMMARY OF TENTATIVE RECOMMENDATION

The Commission has released a tentative recommendation that proposes to repeal the Fish and Game Code and continue its provisions, without significant substantive change, in a new Fish and Wildlife Code.

Enactment of that proposal would cause nearly all of the section numbers in the Fish and Game Code to change.

Those numbering changes would require conforming revisions to be made in hundreds of provisions outside of the Fish and Game Code that cross-refer to existing provisions of the Fish and Game Code.

This tentative recommendation proposes the necessary cross-reference revisions. It was prepared pursuant to Resolution Chapter 158 of the Statutes of 2018.

FISH AND WILDLIFE CODE: CONFORMING REVISIONS

1 In 2010, the Secretary of the Natural Resources Agency was directed to convene
2 a committee to develop and submit a “strategic vision” for the Fish and Game
3 Commission and the Department of Fish and Game (now the Department of Fish
4 and Wildlife.)¹ The resulting report recommended, among other things, that the Law
5 Revision Commission be tasked with cleaning up the Fish and Game Code.²

6 In 2012, the Legislature directed the Commission to conduct the recommended
7 work:

8 [The] Legislature approves for study by the California Law Revision
9 Commission the new topic listed below:

10 Whether the Fish and Game Code and related statutory law should be revised to
11 improve its organization, clarify its meaning, resolve inconsistencies, eliminate
12 unnecessary or obsolete provisions, standardize terminology, clarify program
13 authority and funding sources, and make other minor improvements, without
14 making any significant substantive change to the effect of the law[.]³

15 In order to achieve the greatest degree of improvement to the organization and
16 expression of the Fish and Game Code, the Commission decided to prepare a
17 recommendation that would repeal the existing code and replace it with a new Fish
18 and Wildlife Code. The new code would continue the substance of the former code
19 in a more user-friendly form, without making any significant substantive change to
20 the effect of existing law.

21 A tentative recommendation setting out the proposed Fish and Wildlife Code has
22 been released for public review and comment.⁴

23 If that proposal is enacted, nearly every section number in the Fish and Game
24 Code would change. Consequently, hundreds of provisions outside of the Fish and
25 Game Code would need to be revised to update cross-references to conform to the
26 new numbering in the Fish and Wildlife Code.

27 This tentative recommendation proposes the revisions necessary to update those
28 cross-references.

1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies*, A13 (April 2012).

3. 2012 Cal. Stat. res. ch. 108 (ACR 98 (Wagner)).

4. See Tentative Recommendation on *Fish and Wildlife Code* (December 2018), available at <<http://www.clrc.ca.gov/pub/Misc-Report/TR-R100-Full.pdf>>.

1 LIMITED PURPOSE

2 The purpose of this tentative recommendation is limited. It would update cross-
3 references to the Fish and Game Code, to conform to the new numbering of the
4 proposed Fish and Wildlife Code. Some minor stylistic revisions are also proposed,
5 consistent with standard legislative drafting conventions (e.g., gendered language is
6 corrected).

7 The Commission did not consider whether any other kinds of changes should be
8 made to the provisions affected by this tentative recommendation.

9 Readers of this tentative recommendation should not infer that the Commission
10 has evaluated and approved language that would not be changed by this tentative
11 recommendation.

12 NOTES

13 While the Commission invites comment on any aspect of the proposed legislation,
14 there are some issues on which it would particularly appreciate public review and
15 comment. Those issues are set out in “Notes” that follow the sections that they
16 discuss.

17 The Notes also identify code sections that were enacted by initiative. The
18 California Constitution limits the Legislature’s ability to “amend” such statutes.⁵
19 However, the term “amend” in this context does not include technical amendments
20 of the type proposed in this tentative recommendation.⁶ The Notes are provided to
21 make clear that the Commission is aware of the constitutional constraint and does
22 not believe it would be an obstacle to the proposed legislation.

23 REQUEST FOR PUBLIC COMMENT

24 The Commission seeks public comment on its tentative recommendation.
25 Comments supporting the proposed legislation are just as important as comments
26 suggesting changes or expressing other views.

5. See Cal. Const. art. 2, § 10 (“The Legislature may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without the electors’ approval.”).

6. See *People v. Superior Court (Pearson)*, 48 Cal. 4th 564, 571; 227 P.3d 858; 107 Cal. Rptr. 3d 265 (2010) (“In deciding whether [a] particular provision amends [an initiative statute], we simply need to ask whether it prohibits what the initiative authorizes, or authorizes what the initiative prohibits.”)

Contents

BUSINESS AND PROFESSIONS CODE	1
Bus. & Prof. Code § 4826.2 (amended).....	1
Bus. & Prof. Code § 8555 (amended).....	1
Bus. & Prof. Code § 12024.7 (amended).....	2
Bus. & Prof. Code § 12713 (amended).....	2
Bus. & Prof. Code § 26036 (amended).....	3
Bus. & Prof. Code § 26057 (amended).....	3
Bus. & Prof. Code § 26060.1 (amended).....	5
CIVIL CODE	7
Civ. Code § 3482.5 (amended).....	7
Civ. Code § 3508 (amended).....	9
CODE OF CIVIL PROCEDURE.....	10
Code Civ. Proc. § 338 (amended).....	10
Code Civ. Proc. § 706.070 (amended).....	12
Code Civ. Proc. § 1021.8 (amended).....	13
Code Civ. Proc. § 1240.055 (amended).....	13
Code Civ. Proc. § 1240.680 (amended).....	16
Code Civ. Proc. § 1245.210 (amended).....	17
Code Civ. Proc. § 1822.58 (amended).....	18
EDUCATION CODE.....	18
Educ. Code § 52410 (amended).....	18
FAMILY CODE.....	18
Fam. Code § 17520 (amended).....	18
FOOD AND AGRICULTURE CODE	27
Food & Agric. Code § 23.5 (amended).....	27
Food & Agric. Code § 5262 (amended).....	28
Food & Agric. Code § 6025.4 (amended).....	29
Food & Agric. Code § 6049 (amended).....	29
Food & Agric. Code § 7270.5 (amended).....	30
Food & Agric. Code § 7700 (amended).....	30
Food & Agric. Code § 11281 (amended).....	32
Food & Agric. Code § 11283 (amended).....	32
Food & Agric. Code § 11302 (amended).....	32
Food & Agric. Code § 11303 (amended).....	32
Food & Agric. Code § 11304 (amended).....	33
Food & Agric. Code § 11531 (amended).....	33
Food & Agric. Code § 14103 (amended).....	33
Food & Agric. Code § 19314 (amended).....	34
Food & Agric. Code § 76511 (amended).....	35
Food & Agric. Code § 76530 (amended).....	35
Food & Agric. Code § 76535 (amended).....	35
Food & Agric. Code § 76550 (amended).....	36
Food & Agric. Code § 76560 (amended).....	36
Food & Agric. Code § 76580 (amended).....	36
Food & Agric. Code § 76900 (amended).....	36
Food & Agric. Code § 76901 (amended).....	37
Food & Agric. Code § 76904 (amended).....	37
Food & Agric. Code § 76950 (amended).....	37

Food & Agric. Code § 76951 (amended).....	38
Food & Agric. Code § 76953.5 (amended).....	39
Food & Agric. Code § 76961 (amended).....	39
Food & Agric. Code § 76971 (amended).....	39
Food & Agric. Code § 76981 (amended).....	40
Food & Agric. Code § 78406 (amended).....	40
Food & Agric. Code § 78408 (amended).....	41
Food & Agric. Code § 78411 (amended).....	41
Food & Agric. Code § 78412 (amended).....	41
Food & Agric. Code § 78413 (amended).....	41
Food & Agric. Code § 78486 (amended).....	42
Food & Agric. Code § 78550 (amended).....	42
Food & Agric. Code § 78552.5 (amended).....	43
Food & Agric. Code § 78554 (amended).....	44
Food & Agric. Code § 78556 (amended).....	44
Food & Agric. Code § 78564 (amended).....	44
Food & Agric. Code § 78575 (amended).....	45
Food & Agric. Code § 78576 (amended).....	45
Food & Agric. Code § 78584 (amended).....	46
Food & Agric. Code § 78588 (amended).....	46
Food & Agric. Code § 79023 (amended).....	46
Food & Agric. Code § 79024 (amended).....	47
Food & Agric. Code § 79040 (amended).....	47
Food & Agric. Code § 79100 (amended).....	48
Food & Agric. Code § 79121 (amended).....	48
Food & Agric. Code § 79132 (amended).....	49
Food & Agric. Code § 79157 (amended).....	49
Food & Agric. Code § 79157.5 (amended).....	50
Food & Agric. Code § 79180 (amended).....	50
Food & Agric. Code § 80075 (amended).....	50
GOVERNMENT CODE	51
Gov't Code § 186 (amended).....	51
Gov't Code § 998.1 (amended).....	52
Gov't Code § 1322 (amended).....	53
Gov't Code § 6276.10 (amended).....	54
Gov't Code § 6276.18 (amended).....	55
Gov't Code § 6276.34 (amended).....	56
Gov't Code § 6276.42 (amended).....	57
Gov't Code § 7000 (amended).....	59
Gov't Code § 8597 (amended).....	60
Gov't Code § 8670.4 (amended).....	60
Gov't Code § 8670.59 (amended).....	60
Gov't Code § 8670.61 (amended).....	61
Gov't Code § 11011.2 (amended).....	62
Gov't Code § 11125.6 (amended).....	63
Gov't Code § 11343.4 (amended).....	64
Gov't Code § 12805.1 (amended).....	65
Gov't Code § 12805.3 (amended).....	65
Gov't Code § 14012 (amended).....	67
Gov't Code § 14659 (amended).....	67
Gov't Code § 15855 (amended).....	68
Gov't Code § 20399 (amended).....	69
Gov't Code § 22013.1 (amended).....	69

Gov't Code § 50060 (amended).....	69
Gov't Code § 50060.5 (amended).....	71
Gov't Code § 51201 (amended).....	71
Gov't Code § 65303.4 (amended).....	74
Gov't Code § 65913.4 (amended).....	74
Gov't Code § 65966 (amended).....	85
Gov't Code § 65968 (amended).....	88
Gov't Code § 66412.8 (amended).....	91
Gov't Code § 66478.4 (amended).....	92
Gov't Code § 66632.4 (amended).....	92
Gov't Code § 66680 (amended).....	93
Gov't Code § 66681 (amended).....	94
Gov't Code § 66703.7 (amended).....	95
Gov't Code § 67679 (amended).....	96
Gov't Code § 68090.8 (amended).....	98
Gov't Code § 70372 (amended).....	99
HARBORS AND NAVIGATION CODE	101
Harb. & Nav. Code § 64 (amended).....	101
Harb. & Nav. Code § 86 (amended).....	102
Harb. & Nav. Code § 153 (amended).....	103
Harb. & Nav. Code § 676 (amended).....	104
HEALTH AND SAFETY CODE	105
Health & Safety Code § 11358 (amended).....	105
Health & Safety Code § 25150 (amended).....	106
Health & Safety Code § 25197.2 (amended).....	107
Health & Safety Code § 25209.2 (amended).....	108
Health & Safety Code § 25261 (amended).....	109
Health & Safety Code § 25262 (amended).....	110
Health & Safety Code § 25395.66 (amended).....	112
Health & Safety Code § 41861 (amended).....	113
Health & Safety Code § 110795 (amended).....	113
Health & Safety Code § 111067 (amended).....	114
Health & Safety Code § 112160 (amended).....	115
Health & Safety Code § 112175 (amended).....	115
Health & Safety Code § 112185 (amended).....	116
Health & Safety Code § 114031 (amended).....	116
Health & Safety Code § 114775 (amended).....	116
Health & Safety Code § 114780 (amended).....	117
Health & Safety Code § 121870 (amended).....	117
Health & Safety Code § 131052 (amended).....	118
LABOR CODE.....	120
Labor Code § 226 (amended).....	120
Labor Code § 3212 (amended).....	123
Labor Code § 3363 (amended).....	124
Labor Code § 6302 (amended).....	124
MILITARY AND VETERANS CODE	125
Mil. & Vet. Code § 88 (amended).....	125
PENAL CODE	126
Penal Code § 409.5 (amended).....	126
Penal Code § 597 (amended).....	127
Penal Code § 597.5 (amended).....	129
Penal Code § 597s (amended).....	130

Penal Code § 626.9 (amended).	130
Penal Code § 638.52 (amended).	134
Penal Code § 830.2 (amended).	136
Penal Code § 830.6 (amended).	138
Penal Code § 969e (amended).	139
Penal Code § 1463 (amended).	140
Penal Code § 1464.8 (amended).	141
Penal Code § 1524 (amended).	141
Penal Code § 20015 (amended).	146
Penal Code § 25700 (amended).	146
Penal Code § 26100 (amended).	147
Penal Code § 29300 (amended).	147
Penal Code § 30945 (amended).	148
Penal Code § 34000 (amended).	148
PUBLIC CONTRACT CODE	149
Pub. Cont. Code § 10109 (amended).	149
Pub. Cont. Code § 20126 (amended).	149
Pub. Cont. Code § 20165 (amended).	150
PUBLIC RESOURCES CODE	150
Pub. Res. Code § 829 (amended).	150
Pub. Res. Code § 830 (amended).	151
Pub. Res. Code § 3233 (amended).	151
Pub. Res. Code § 3717 (amended).	152
Pub. Res. Code § 3718 (amended).	152
Pub. Res. Code § 3783 (amended).	153
Pub. Res. Code § 3784 (amended).	154
Pub. Res. Code § 3784.5 (amended).	154
Pub. Res. Code § 3785 (amended).	154
Pub. Res. Code § 4417.5 (amended).	155
Pub. Res. Code § 4466 (amended).	155
Pub. Res. Code § 4551.5 (amended).	156
Pub. Res. Code § 4582.6 (amended).	156
Pub. Res. Code § 4582.9 (amended).	157
Pub. Res. Code § 4590 (amended).	158
Pub. Res. Code § 4593.6 (amended).	160
Pub. Res. Code § 4597 (amended).	160
Pub. Res. Code § 4597.18 (amended).	161
Pub. Res. Code § 4604 (amended).	161
Pub. Res. Code § 4629.2 (amended).	162
Pub. Res. Code § 4629.6 (amended).	163
Pub. Res. Code § 4662 (amended).	165
Pub. Res. Code § 4799.10 (amended).	165
Pub. Res. Code § 4800 (amended).	167
Pub. Res. Code § 5003.1 (amended).	167
Pub. Res. Code § 5003.35 (amended).	168
Pub. Res. Code § 5006.41 (amended).	168
Pub. Res. Code § 5006.6 (amended).	168
Pub. Res. Code § 5019.80 (amended).	169
Pub. Res. Code § 5075.8 (amended).	170
Pub. Res. Code § 5080.39 (amended).	171
Pub. Res. Code § 5093.542 (amended).	171
Pub. Res. Code § 5094.1 (amended).	172

Pub. Res. Code § 5094.2 (amended).	172
Pub. Res. Code § 5094.3 (amended).	173
Pub. Res. Code § 5096.129 (amended).	174
Pub. Res. Code § 5096.310 (amended).	174
Pub. Res. Code § 5096.323 (amended).	179
Pub. Res. Code § 5096.350 (amended).	179
Pub. Res. Code § 5096.352 (amended).	182
Pub. Res. Code § 5096.357 (amended).	183
Pub. Res. Code § 5096.372 (amended).	184
Pub. Res. Code § 5096.512 (amended).	184
Pub. Res. Code § 5096.516 (amended).	185
Pub. Res. Code § 5096.650 (amended).	186
Pub. Res. Code § 5096.679 (amended).	189
Pub. Res. Code § 5096.821 (amended).	189
Pub. Res. Code § 5099.12 (amended).	190
Pub. Res. Code § 5675 (amended).	190
Pub. Res. Code § 5676 (amended).	191
Pub. Res. Code § 5684 (amended).	191
Pub. Res. Code § 5812 (amended).	191
Pub. Res. Code § 5814 (amended).	192
Pub. Res. Code § 5817 (amended).	192
Pub. Res. Code § 5818.1 (amended).	193
Pub. Res. Code § 5818.2 (amended).	193
Pub. Res. Code § 5845.2 (amended).	194
Pub. Res. Code § 5907 (amended).	194
Pub. Res. Code § 5927 (amended).	204
Pub. Res. Code § 5930 (amended).	205
Pub. Res. Code § 5932 (amended).	205
Pub. Res. Code § 5933 (amended).	206
Pub. Res. Code § 5936 (amended).	206
Pub. Res. Code § 6217.1 (amended).	207
Pub. Res. Code § 6217.3 (amended).	210
Pub. Res. Code § 6378 (amended).	210
Pub. Res. Code § 6873.5 (amended).	211
Pub. Res. Code § 6890 (amended).	211
Pub. Res. Code § 8554 (amended).	213
Pub. Res. Code § 8560 (amended).	213
Pub. Res. Code § 8723 (amended).	215
Pub. Res. Code § 9960 (amended).	216
Pub. Res. Code § 10002 (amended).	217
Pub. Res. Code § 10004 (amended).	217
Pub. Res. Code § 10005 (amended).	217
Pub. Res. Code § 10332 (amended).	218
Pub. Res. Code § 10334 (amended).	219
Pub. Res. Code § 10342 (amended).	219
Pub. Res. Code § 10344 (amended).	220
Pub. Res. Code § 12252 (amended).	220
Pub. Res. Code § 21080.23 (amended).	220
Pub. Res. Code § 21080.25 (amended).	222
Pub. Res. Code § 21080.29 (amended).	224
Pub. Res. Code § 21080.35 (amended).	226
Pub. Res. Code § 21080.37 (amended).	227
Pub. Res. Code § 21083.4 (amended).	229

Pub. Res. Code § 21089 (amended).....	230
Pub. Res. Code § 21104.2 (amended).....	231
Pub. Res. Code § 21155.1 (amended).....	231
Pub. Res. Code § 21157.7 (amended).....	234
Pub. Res. Code § 21159.21 (amended).....	236
Pub. Res. Code § 25619 (amended).....	237
Pub. Res. Code § 26403 (amended).....	239
Pub. Res. Code § 28000 (amended).....	240
Pub. Res. Code § 28004 (amended).....	242
Pub. Res. Code § 29004 (amended).....	243
Pub. Res. Code § 29107 (amended).....	243
Pub. Res. Code § 29305 (amended).....	243
Pub. Res. Code § 29413 (amended).....	244
Pub. Res. Code § 30100.2 (amended).....	244
Pub. Res. Code § 30170 (amended).....	244
Pub. Res. Code § 30233 (amended).....	248
Pub. Res. Code § 30265.5 (amended).....	249
Pub. Res. Code § 30404 (amended).....	250
Pub. Res. Code § 30420 (amended).....	251
Pub. Res. Code § 30609.5 (amended).....	251
Pub. Res. Code § 30921 (amended).....	252
Pub. Res. Code § 31220 (amended).....	254
Pub. Res. Code § 31251.2 (amended).....	255
Pub. Res. Code § 32301 (amended).....	255
Pub. Res. Code § 32322 (amended).....	257
Pub. Res. Code § 32526 (amended).....	258
Pub. Res. Code § 33700 (amended).....	258
Pub. Res. Code § 33913 (amended).....	259
Pub. Res. Code § 34001 (amended).....	260
Pub. Res. Code § 34002 (amended).....	260
Pub. Res. Code § 35650 (amended).....	260
Pub. Res. Code § 36602 (amended).....	262
Pub. Res. Code § 36725 (amended).....	263
Pub. Res. Code § 36750 (amended).....	264
Pub. Res. Code § 36800 (amended).....	265
Pub. Res. Code § 36900 (amended).....	265
Pub. Res. Code § 37002 (amended).....	267
Pub. Res. Code § 37014 (amended).....	268
Pub. Res. Code § 37015 (amended).....	268
Pub. Res. Code § 71550 (amended).....	269
Pub. Res. Code § 71551 (amended).....	270
Pub. Res. Code § 71556 (amended).....	270
Pub. Res. Code § 71560 (amended).....	270
Pub. Res. Code § 72421 (amended).....	271
Pub. Res. Code § 72430 (amended).....	272
Pub. Res. Code § 75050 (amended).....	273
Pub. Res. Code § 75055 (amended).....	275
Pub. Res. Code § 75077 (amended).....	276
Pub. Res. Code § 75101 (amended).....	277
Pub. Res. Code § 80028 (amended).....	279
Pub. Res. Code § 80111 (amended).....	279
Pub. Res. Code § 80132 (amended).....	280

PUBLIC UTILITIES CODE	282
Pub. Util. Code § 7718 (amended).....	282
REVENUE AND TAXATION CODE	283
Rev. & Tax. Code § 421 (amended).....	283
Rev. & Tax. Code § 18741 (amended).....	285
Rev. & Tax. Code § 18742 (amended).....	285
Rev. & Tax. Code § 18749.2 (amended).....	286
Rev. & Tax. Code § 34019 (amended).....	286
Rev. & Tax. Code § 46618 (amended).....	293
Rev. & Tax. Code § 46751 (amended).....	293
STREETS AND HIGHWAY CODE	294
Sts. & Hy. Code § 91.8 (amended).	294
Sts. & Hy. Code § 156.3 (amended).	295
Sts. & Hy. Code § 156.4 (amended).	296
Sts. & Hy. Code § 800 (amended).	296
Sts. & Hy. Code § 800.5 (amended).	296
Sts. & Hy. Code § 800.6 (amended).	298
VEHICLE CODE	300
Veh. Code § 21117 (amended).....	300
WATER CODE.....	301
Water Code § 139.4 (amended).....	301
Water Code § 233 (amended).....	302
Water Code § 345 (amended).....	302
Water Code § 359 (amended).....	303
Water Code § 1013 (amended).....	304
Water Code § 1275 (amended).....	306
Water Code § 1701.3 (amended).....	306
Water Code § 6500 (amended).....	307
Water Code § 6501 (amended).....	307
Water Code § 8539 (amended).....	307
Water Code § 8610 (amended).....	308
Water Code § 8611 (amended).....	308
Water Code § 11901 (amended).....	309
Water Code § 11910 (amended).....	309
Water Code § 11915.5 (amended).....	310
Water Code § 11917 (amended).....	310
Water Code § 12307 (amended).....	311
Water Code § 12314 (amended).....	311
Water Code § 12511 (amended).....	312
Water Code § 12525 (amended).....	312
Water Code § 12565 (amended).....	312
Water Code § 12582 (amended).....	313
Water Code § 12608 (amended).....	313
Water Code § 12846 (amended).....	313
Water Code § 12882.4 (amended).....	314
Water Code § 12929.40 (amended).....	314
Water Code § 12987 (amended).....	314
Water Code § 12994 (amended).....	315
Water Code § 12999 (amended).....	317
Water Code § 14901 (amended).....	317
Water Code § 14903 (amended).....	319
Water Code § 14905 (amended).....	319

Water Code § 14906 (amended).....	319
Water Code § 14953 (amended).....	319
Water Code § 14954 (amended).....	320
Water Code § 31162 (amended).....	320
Water Code § 78501 (amended).....	321
Water Code § 78531 (amended).....	322
Water Code § 78543 (amended).....	323
Water Code § 78551 (amended).....	323
Water Code § 78647.2 (amended).....	323
Water Code § 78682.2 (amended).....	324
Water Code § 79038 (amended).....	324
Water Code § 79050 (amended).....	325
Water Code § 79068.8 (amended).....	325
Water Code § 79068.14 (amended).....	326
Water Code § 79104.204 (amended).....	326
Water Code § 79563.5 (amended).....	326
Water Code § 79736 (amended).....	327
Water Code § 85032 (amended).....	328
Water Code § 85034 (amended).....	328
Water Code § 85084.5 (amended).....	329
Water Code § 85085 (amended).....	329
Water Code § 85087 (amended).....	330
Water Code § 85320 (amended).....	330
Water Code § 85322 (amended).....	332
WELFARE AND INSTITUTIONS CODE	332
Welf. & Inst. Code § 256 (amended).	332
Welf. & Inst. Code § 258 (amended).	333
Welf. & Inst. Code § 1760.5 (amended).	336

PROPOSED LEGISLATION

BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 4826.2 (amended).

SEC. _____. Section 4826.2 of the Business and Professions Code is amended to read:

4826.2. (a) Notwithstanding any other provision of law, a veterinarian, registered veterinary technician, or a veterinary assistant working under the supervision of a veterinarian, may provide veterinary care and treatment for any animal restricted pursuant to Section 2118 Chapter 2 (commencing with Section 26700) of Title 2 of Part 6 of Division 7 of the Fish and Game Wildlife Code. A veterinarian, registered veterinary technician, or a veterinary assistant working under the supervision of a veterinarian, may lawfully possess one or more of the animals only for the period of time that, in his or her judgment, veterinary care and treatment are necessary. No veterinarian, registered veterinary technician, or veterinary assistant working under the supervision of a veterinarian, has a duty to advise law enforcement if he or she becomes aware that one or more of the animals is possessed in the state.

(b) For the purposes of this section, “veterinary care and treatment” does not include boarding when no veterinary care or treatment is required.

Comment. Section 4826.2 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to add subdivision designations.

Bus. & Prof. Code § 8555 (amended).

SEC. _____. Section 8555 of the Business and Professions Code is amended to read: 8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the Public Utilities Commission, except to work performed upon property of the utilities not subject to the jurisdiction of the Public Utilities Commission or work done by the utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the Department of Pesticide Regulation or a county agricultural commissioner.

(c) Pest control performed by persons upon property that they own, lease or rent, except that the persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of an educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony. A professional engaging in research, study, investigation, or preparation for expert opinion or testimony on his or her own behalf shall comply with the requirements of this chapter.

1 (f) Certified architects and registered civil engineers, acting solely within their
2 professional capacity, except that they shall be subject to the limitations imposed by
3 Article 3 of this chapter.

4 (g) Persons engaged in the live capture and removal or exclusion of vertebrate
5 pests, bees, or wasps from a structure without the use of pesticides, provided those
6 persons maintain insurance coverage as described in Section 8692. “Vertebrate
7 pests” include, but are not limited to, bats, raccoons, skunks, and squirrels, but do
8 not include mice, rats, or pigeons.

9 (h) This section does not exempt a person from the provisions of ~~Chapter 1.5~~
10 ~~(commencing with Section 2050) of Division 3 Part 1 (commencing with Section~~
11 ~~62000) of Division 17 of the Fish and Game Wildlife Code.~~

12 **Comment.** Section 8555 is amended to reflect the recodification of the former Fish and Game
13 Code. The section is also amended to add a subdivision designation.

14 **Bus. & Prof. Code § 12024.7 (amended).**

15 SEC. _____. Section 12024.7 of the Business and Professions Code is amended to
16 read:

17 12024.7. (a) Any person who sells meat directly to the consumer on the basis of
18 primal cuts or carcass weight shall supply the buyer with an accurate statement of
19 weight at time of sale of the carcass or primal cut purchased, and shall supply a
20 complete and accurate statement which shall contain the weight of the meat
21 delivered to the buyer and the number and type of cuts. When any fruits, vegetables,
22 or other food products are sold as part of a combination sale with meat sold directly
23 to the consumer on the basis of primal cuts or carcass weight, the seller shall supply
24 an itemized statement showing the net quantity of any fruits, vegetables, and other
25 food products delivered to the buyer.

26 (b) This section shall also apply to any person who custom cuts any meat animal
27 carcass or part of such carcass for the owner, except the carcass of any game
28 mammal taken as authorized by the Fish and Game Wildlife Code.

29 **Comment.** Section 12024.7 is amended to reflect the recodification of the former Fish and Game
30 Code. The section is also amended to add subdivision designations.

31 **Bus. & Prof. Code § 12713 (amended).**


32 SEC. _____. Section 12713 of the Business and Professions Code is amended to
33 read:

34 12713. (a) A weighmaster is responsible for ensuring that the weighmaster
35 certificates issued by him or her, or a deputy acting for him or her, are complete and
36 contain all the information required by Sections 12714, 12714.5, and 12715 that is
37 applicable to each transaction.

38 (b) It is unlawful to issue, or cause to be issued, a weighmaster certificate if the
39 certificate does not contain all the information required by Sections 12714, 12714.5,
40 and 12715 for the commodity weighed, measured, or counted. The issuance of a
41 receipt showing the weight, measure, or count of fish, mollusks, or crustaceans

pursuant to ~~Article 6 (commencing with Section 8010) of Chapter 1 of Part 3 of Division 6 Article 1 (commencing with Section 21000) of Chapter 3 of Title 10 of Part 6 of Division 6~~ of the Fish and Game Wildlife Code constitutes the issuance of a weighmaster certificate under this chapter when issued by a person who is a weighmaster pursuant to Section 12700.

Comment. Section 12713 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** The cross-reference in Section 12713(b) may be incorrect. The referenced article does not expressly mention a certificate issued by a weighmaster or a record of weight. The revision proposed above would instead refer to the provisions that govern landing receipts, which do require a record of the weight of the landed fish or invertebrates.


The Commission requests public comment on whether that substitution is appropriate.

Bus. & Prof. Code § 26036 (amended).

SEC. _____. Section 26036 of the Business and Professions Code is amended to read:

26036. Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Wildlife Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.

Comment. Section 26036 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** Section 26036 was added to the Business and Professions Code in 2016 by an initiative statute, Proposition 64. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Bus. & Prof. Code § 26057 (amended).

SEC. _____. Section 26057 of the Business and Professions Code is amended to read:

26057. (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure or inability to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow, water quality, and fish and wildlife.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

1 (3) Failure to provide information required by the licensing authority.

2 (4) The applicant, owner, or licensee has been convicted of an offense that is
3 substantially related to the qualifications, functions, or duties of the business or
4 profession for which the application is made, except that if the licensing authority
5 determines that the applicant, owner, or licensee is otherwise suitable to be issued a
6 license, and granting the license would not compromise public safety, the licensing
7 authority shall conduct a thorough review of the nature of the crime, conviction,
8 circumstances, and evidence of rehabilitation of the applicant or owner, and shall
9 evaluate the suitability of the applicant, owner, or licensee to be issued a license
10 based on the evidence found through the review. In determining which offenses are
11 substantially related to the qualifications, functions, or duties of the business or
12 profession for which the application is made, the licensing authority shall include,
13 but not be limited to, the following:

14 (A) A violent felony conviction, as specified in subdivision (c) of Section 667.5
15 of the Penal Code.

16 (B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7
17 of the Penal Code.

18 (C) A felony conviction involving fraud, deceit, or embezzlement.

19 (D) A felony conviction for hiring, employing, or using a minor in transporting,
20 carrying, selling, giving away, preparing for sale, or peddling, any controlled
21 substance to a minor; or selling, offering to sell, furnishing, offering to furnish,
22 administering, or giving any controlled substance to a minor.

23 (E) A felony conviction for drug trafficking with enhancements pursuant to
24 Section 11370.4 or 11379.8 of the Health and Safety Code.

25 (5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and
26 notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior
27 conviction, where the sentence, including any term of probation, incarceration, or
28 supervised release, is completed, for possession, possession for sale, sale,
29 manufacture, transportation, or cultivation of a controlled substance is not
30 considered substantially related, and shall not be the sole ground for denial of a
31 license. Conviction for any controlled substance felony subsequent to licensure shall
32 be grounds for revocation of a license or denial of the renewal of a license.

33 (6) The applicant, or any of its officers, directors, or owners, has been subject to
34 fines, penalties, or otherwise been sanctioned for cultivation or production of a
35 controlled substance on public or private lands pursuant to ~~Section 12025 or 12025.1~~
36 Article 2 (commencing with Section 6380) of Chapter 4 of, or Chapter 6
37 (commencing with Section 6550) of, Title 17 of Part 4 of Division 3 of the Fish and
38 Game Wildlife Code.


39 (7) The applicant, or any of its officers, directors, or owners, has been sanctioned
40 by a licensing authority or a city, county, or city and county for unauthorized
41 commercial cannabis activities, has had a license suspended or revoked under this

1 division in the three years immediately preceding the date the application is filed
2 with the licensing authority.

3 (8) Failure to obtain and maintain a valid seller's permit required pursuant to Part
4 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation
5 Code.

6 (9) Any other condition specified in law.

7 **Comment.** Paragraph (6) of subdivision (b) of Section 26057 is amended to reflect the
8 recodification of the former Fish and Game Code.

9  **Note.** Section 26057 was added to the Business and Professions Code in 2016 by an initiative
10 statute, Proposition 64. The Commission believes that the proposed technical revision of that
11 section would not be an impermissible amendment. See discussion of initiative statutes *supra* at
12 notes 5 and 6, and associated text.

13 **Bus. & Prof. Code § 26060.1 (amended).**

14 SEC. _____. Section 26060.1 of the Business and Professions Code is amended to
15 read:

16 26060.1. (a) An application for a license for cultivation issued by the Department
17 of Food and Agriculture shall identify the source of water supply as follows:

18 (1)(A) If water will be supplied by a retail water supplier, as defined in Section
19 13575 of the Water Code, the application shall identify the retail water supplier.

20 (B) Paragraphs (2) and (3) do not apply to any water subject to subparagraph (A)
21 unless the retail water supplier has 10 or fewer customers, the applicant receives 10
22 percent or more of the water supplied by the retail water supplier, 25 percent or
23 more of the water delivered by the retail water supplier is used for cannabis
24 cultivation, or the applicant and the retail water supplier are affiliates, as defined in
25 Section 2814.20 of Title 23 of the California Code of Regulations.

26 (2) If the water supply includes a diversion within the meaning of Section 5100
27 of the Water Code, the application shall identify the point of diversion and the
28 maximum amount to be diverted as follows:

29 (A) For an application submitted before January 1, 2019, the application shall
30 include a copy of one of the following:

31 (i) A small irrigation use registration certificate, permit, or license issued pursuant
32 to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that
33 covers the diversion.

34 (ii) A statement of water diversion and use filed with the State Water Resources
35 Control Board on or before October 31, 2017, that covers the diversion and specifies
36 the amount of water used for cannabis cultivation.

37 (iii) A pending application for a permit to appropriate water, filed with the State
38 Water Resources Control Board on or before October 31, 2017.

39 (iv) Documentation submitted to the State Water Resources Control Board on or
40 before January 1, 2019, demonstrating that the diversion is subject to subdivision
41 (a), (c), (d), or (e) of Section 5101 of the Water Code.

(v) Documentation submitted to the State Water Resources Control Board on or before October 31, 2017, demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and before January 1, 2017. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

(B) For an application submitted after December 31, 2018, the application shall include a copy of one of the following:

(i) A small irrigation use registration certificate, permit, or license issued pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code that covers the diversion.

(ii) A statement of water diversion and use filed with the State Water Resources Control Board that covers the diversion and specifies the amount of water used for cannabis cultivation.

(iii) Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is subject to subdivision (a), (c), (d), or (e) of Section 5101 of the Water Code.

(iv) Documentation submitted to the State Water Resources Control Board demonstrating that the diversion is authorized under a riparian right and that no diversion occurred after January 1, 2010, and in the calendar year in which the application is submitted. The documentation shall be submitted on or accompany a form provided by the State Water Resources Control Board and shall include all of the information outlined in subdivisions (a) to (d), inclusive, and (e) of Section 5103 of the Water Code. The documentation shall also include a general description of the area in which the water will be used in accordance with subdivision (g) of Section 5103 of the Water Code and the year in which the diversion is planned to commence.

(3) If water will be supplied from a groundwater extraction not subject to paragraph (2), the application shall identify the location of the extraction and the maximum amount to be diverted for cannabis cultivation in any year.

(b) The Department of Food and Agriculture shall include in any license for cultivation all of the following:

(1) Conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to: (A) ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability; (B) ensure that cultivation does not negatively impact springs, riparian habitat, wetlands, or aquatic habitat; and (C) otherwise protect fish, wildlife, fish and wildlife habitat, and water quality. The

conditions shall include, but not be limited to, the principles, guidelines, and requirements established pursuant to Section 13149 of the Water Code.


(2) Any relevant mitigation requirements the Department of Food and Agriculture identifies as part of its approval of the final environmental documentation for the cannabis cultivation licensing program as requirements that should be included in a license for cultivation. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the identification of these mitigation measures. This paragraph does not reduce any requirements established pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) A condition that the license shall not be effective until the licensee has demonstrated compliance with Section 1602 Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code or receives written verification from the Department of Fish and Wildlife that a streambed alteration agreement is not required.

(c) The Department of Food and Agriculture shall consult with the State Water Resources Control Board and the Department of Fish and Wildlife in the implementation of this section.

(d) Notwithstanding paragraph (1) of subdivision (b), the Department of Food and Agriculture is not responsible for verifying compliance with the conditions requested or imposed by the Department of Fish and Wildlife or the State Water Resources Control Board. The Department of Fish and Wildlife or the State Water Resources Control Board, upon finding and making the final determination of a violation of a condition included pursuant to paragraph (1) of subdivision (b), shall notify the Department of Food and Agriculture, which may take appropriate action with respect to the licensee in accordance with Chapter 3 (commencing with Section 26030).

Comment. Paragraph (3) of subdivision (b) of Section 26060.1 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** In the tentative recommendation, Fish and Game Code Section 1602 would be continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-reference revision above would refer to the title that contains all of those sections, rather than referring to the five sections individually. That seems unproblematic, because the entire title relates to the substance of Section 1602.

The Commission requests public comment on whether that simplified reference would cause any problems.

CIVIL CODE

Civ. Code § 3482.5 (amended).

SEC. _____. Section 3482.5 of the Civil Code is amended to read:

3482.5. (a)(1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner

1 consistent with proper and accepted customs and standards, as established and
2 followed by similar agricultural operations in the same locality, shall be or become
3 a nuisance, private or public, due to any changed condition in or about the locality,
4 after it has been in operation for more than three years if it was not a nuisance at the
5 time it began.

6 (2) No activity of a district agricultural association that is operated in compliance
7 with Division 3 (commencing with Section 3001) of the Food and Agricultural
8 Code, shall be or become a private or public nuisance due to any changed condition
9 in or about the locality, after it has been in operation for more than three years if it
10 was not a nuisance at the time it began. This paragraph shall not apply to any
11 activities of the 52nd District Agricultural Association that are conducted on the
12 grounds of the California Exposition and State Fair, nor to any public nuisance
13 action brought by a city, county, or city and county alleging that the activities,
14 operations, or conditions of a district agricultural association have substantially
15 changed after more than three years from the time that the activities, operations, or
16 conditions began.

17 (b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity,
18 operation, or facility, or appurtenances thereof obstruct the free passage or use, in
19 the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or
20 any public park, square, street, or highway.

21 (c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained
22 in the Health and Safety Code, Fish and Game Wildlife Code, Food and Agricultural
23 Code, or Division 7 (commencing with Section 13000) of the Water Code, if the
24 agricultural activity, operation, or facility, or appurtenances thereof constitute a
25 nuisance, public or private, as specifically defined or described in any of those
26 provisions.

27 (d) This section shall prevail over any contrary provision of any ordinance or
28 regulation of any city, county, city and county, or other political subdivision of the
29 state. However, nothing in this section shall preclude a city, county, city and county,
30 or other political subdivision of this state, acting within its constitutional or statutory
31 authority and not in conflict with other provisions of state law, from adopting an
32 ordinance that allows notification to a prospective homeowner that the dwelling is
33 in close proximity to an agricultural activity, operation, facility, or appurtenances
34 thereof and is subject to the provisions of this section consistent with Section
35 1102.6a.

36 (e) For purposes of this section, the term “agricultural activity, operation, or
37 facility, or appurtenances thereof” shall include, but not be limited to, the cultivation
38 and tillage of the soil, dairying, the production, cultivation, growing, and harvesting
39 of any agricultural commodity including timber, viticulture, apiculture, or
40 horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any
41 practices performed by a farmer or on a farm as incident to or in conjunction with

1 those farming operations, including preparation for market, delivery to storage or to
2 market, or delivery to carriers for transportation to market.

3 **Comment.** Subdivision (c) of Section 3482.5 is amended to reflect the recodification of the
4 former Fish and Game Code.

5 **Civ. Code § 3508 (amended).**

6 SEC. _____. Section 3508 of the Civil Code is amended to read:

7 3508. (a) This title shall not apply to any of the following:

8 (1) The exhibition of any motion picture, such as a newsreel or documentary,
9 involving acts of killing or cruelty which were not intentionally committed for the
10 purpose of producing the motion picture.

11 (2) Any motion picture made, in whole or in part, prior to January 1, 1979.

12 (3) Any motion picture all or part of which has been edited or remade so that any
13 previous conduct which constituted a nuisance under this title no longer appears.

14 (4) The taking of any animal as permitted by any provision of the Fish and Game
15 Wildlife Code or pursuant thereto in accordance with regulations adopted by the
16 Fish and Game Commission unless the time, place, or manner of such taking
17 violates any provision of law except this title. This title shall apply to any other
18 animal whether or not the time, place, or manner of the taking is prohibited by any
19 laws other than this title, however, this title shall not apply to the taking of any
20 animal authorized by law in any other jurisdiction unless the time, place or manner
21 of such taking is prohibited by law or regulation.

22 (5) A motion picture which includes scenes of killing or cruelty to animals if the
23 acts constituting the killing or cruelty were authorized by the laws governing such
24 acts in the jurisdiction where the scenes were filmed.

25 (6) Any motion picture which bears within its contents a statement from the
26 producer of the motion picture that all scenes depicting animals were filmed without
27 the intentional killing of, or cruelty to an animal or that any killing or cruelty to an
28 animal was authorized by the laws of the jurisdiction where the scenes were filmed
29 or that the film is otherwise exempt under this title.

30 (7) Any motion picture if the exhibitor ~~thereof~~ of that motion picture has a written
31 signed statement, or a copy thereof, from the producer of the motion picture that all
32 scenes depicting animals were filmed without the intentional killing of, or cruelty
33 to an animal or that any killing or cruelty to an animal was authorized by the laws
34 of the jurisdiction where the scenes were filmed or that the film is otherwise exempt
35 under this title.

36 (b) This title shall not apply in any case in which it would conflict with federal
37 supremacy in the field of television broadcasting.

38 **Comment.** Section 3508 is amended to reflect the recodification of the former Fish and Game
39 Code. The section is also amended to make a technical correction.

1 CODE OF CIVIL PROCEDURE

2 **Code Civ. Proc. § 338 (amended).**

3 SEC. ____ . Section 338 of the Code of Civil Procedure is amended to read:

4 338. Within three years:

5 (a) An action upon a liability created by statute, other than a penalty or forfeiture.

6 (b) An action for trespass upon or injury to real property.

7 (c)(1) An action for taking, detaining, or injuring goods or chattels, including
8 actions for the specific recovery of personal property.

9 (2) The cause of action in the case of theft, as described in Section 484 of the
10 Penal Code, of an article of historical, interpretive, scientific, or artistic significance
11 is not deemed to have accrued until the discovery of the whereabouts of the article
12 by the aggrieved party, his or her agent, or the law enforcement agency that
13 originally investigated the theft.

14 (3)(A) Notwithstanding paragraphs (1) and (2), an action for the specific recovery
15 of a work of fine art brought against a museum, gallery, auctioneer, or dealer, in the
16 case of an unlawful taking or theft, as described in Section 484 of the Penal Code,
17 of a work of fine art, including a taking or theft by means of fraud or duress, shall
18 be commenced within six years of the actual discovery by the claimant or his or her
19 agent, of both of the following:

20 (i) The identity and the whereabouts of the work of fine art. In the case where
21 there is a possibility of misidentification of the object of fine art in question, the
22 identity can be satisfied by the identification of facts sufficient to determine that the
23 work of fine art is likely to be the work of fine art that was unlawfully taken or
24 stolen.

25 (ii) Information or facts that are sufficient to indicate that the claimant has a claim
26 for a possessory interest in the work of fine art that was unlawfully taken or stolen.

27 (B) This paragraph shall apply to all pending and future actions commenced on
28 or before December 31, 2017, including an action dismissed based on the expiration
29 of statutes of limitation in effect prior to the date of enactment of this statute if the
30 judgment in that action is not yet final or if the time for filing an appeal from a
31 decision on that action has not expired, provided that the action concerns a work of
32 fine art that was taken within 100 years prior to the date of enactment of this statute.

33 (C) For purposes of this paragraph:

34 (i) “Actual discovery,” notwithstanding Section 19 of the Civil Code, does not
35 include constructive knowledge imputed by law.

36 (ii) “Auctioneer” means an individual who is engaged in, or who by advertising
37 or otherwise holds himself or herself out as being available to engage in, the calling
38 for, the recognition of, and the acceptance of, offers for the purchase of goods at an
39 auction as defined in subdivision (b) of Section 1812.601 of the Civil Code.

40 (iii) “Dealer” means a person who holds a valid seller’s permit and who is actively
41 and principally engaged in, or conducting the business of, selling works of fine art.

1 (iv) “Duress” means a threat of force, violence, danger, or retribution against an
2 owner of the work of fine art in question, or his or her family member, sufficient to
3 coerce a reasonable person of ordinary susceptibilities to perform an act that
4 otherwise would not have been performed or to acquiesce to an act to which he or
5 she would otherwise not have acquiesced.

6 (v) “Fine art” has the same meaning as defined in paragraph (1) of subdivision (d)
7 of Section 982 of the Civil Code.

8 (vi) “Museum or gallery” shall include any public or private organization or
9 foundation operating as a museum or gallery.

10 (4) Section 361 shall not apply to an action brought pursuant to paragraph (3).

11 (5) A party in an action to which paragraph (3) applies may raise all equitable and
12 legal affirmative defenses and doctrines, including, without limitation, laches and
13 unclean hands.

14 (d) An action for relief on the ground of fraud or mistake. The cause of action in
15 that case is not deemed to have accrued until the discovery, by the aggrieved party,
16 of the facts constituting the fraud or mistake.

17 (e) An action upon a bond of a public official except any cause of action based on
18 fraud or embezzlement is not deemed to have accrued until the discovery, by the
19 aggrieved party or his or her agent, of the facts constituting the cause of action upon
20 the bond.

21 (f)(1) An action against a notary public on his or her bond or in his or her official
22 capacity except that a cause of action based on malfeasance or misfeasance is not
23 deemed to have accrued until discovery, by the aggrieved party or his or her agent,
24 of the facts constituting the cause of action.

25 (2) Notwithstanding paragraph (1), an action based on malfeasance or
26 misfeasance shall be commenced within one year from discovery, by the aggrieved
27 party or his or her agent, of the facts constituting the cause of action or within three
28 years from the performance of the notarial act giving rise to the action, whichever
29 is later.

30 (3) Notwithstanding paragraph (1), an action against a notary public on his or her
31 bond or in his or her official capacity shall be commenced within six years.

32 (g) An action for slander of title to real property.

33 (h) An action commenced under Section 17536 of the Business and Professions
34 Code. The cause of action in that case shall not be deemed to have accrued until the
35 discovery by the aggrieved party, the Attorney General, the district attorney, the
36 county counsel, the city prosecutor, or the city attorney of the facts constituting
37 grounds for commencing the action.

38 (i) An action commenced under the Porter-Cologne Water Quality Control Act
39 (Division 7 (commencing with Section 13000) of the Water Code). The cause of
40 action in that case shall not be deemed to have accrued until the discovery by the
41 State Water Resources Control Board or a regional water quality control board of
42 the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.


(l) An action commenced under ~~Section 1602, 1615, or 5650.1~~ Article 2 (commencing with Section 6320) of Chapter 3 of Title 17 of Part 4 of Division 3, Section 6352, Sections 6320 through 6328, inclusive, Sections 6352 through 6356, inclusive, or Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

(m) An action challenging the validity of the levy upon a parcel of a special tax levied by a local agency on a per parcel basis.

(n) An action commencing under Section 51.7 of the Civil Code.

(o) An action commenced under Section 4601.1 of the Public Resources Code, if the underlying violation is of Section 4571, 4581, or 4621 of the Public Resources Code, or of Section 1103.1 of Title 14 of the California Code of Regulations, and the underlying violation is related to the conversion of timberland to nonforestry-related agricultural uses. These causes of action shall not be deemed to have accrued until discovery by the Department of Forestry and Fire Protection.

Comment. Subdivision (l) of Section 338 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** In the tentative recommendation, Fish and Game Code Section 1602 would be continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-reference revision above would refer to the title that contains all of those sections, rather than referring to the five sections individually. That seems unproblematic, because the entire title relates to the substance of Section 1602.

The Commission requests public comment on whether that simplified reference would cause any problems.

Code Civ. Proc. § 706.070 (amended).

SEC. _____. Section 706.070 of the Code of Civil Procedure is amended to read:
706.070. As used in this article:

(a) “State” means the State of California and includes any officer, department, board, or agency thereof.

(b) “State tax liability” means an amount for which the state has a state tax lien as defined in Section 7162 of the Government Code excluding a state tax lien created pursuant to the Fish and Game Wildlife Code.

(c) For purposes of an earnings withholding order for taxes issued by the Franchise Tax Board, “state tax liability” also includes any liability under Part 10

(commencing with Section 17001), Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code that is due and payable within the meaning of subdivision (b) of Section 19221 of the Revenue and Taxation Code, and unpaid. The amendments to this section by the act adding this subdivision shall apply to any amount that is unpaid on or after the effective date of that act, or any amount that first becomes due and payable, and unpaid, after the effective date of that act.

Comment. Section 706.070 is amended to reflect the recodification of the former Fish and Game Code.

Code Civ. Proc. § 1021.8 (amended).

SEC. _____. Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 17537.3, 22445, 22446.5, 22958, 22962, or 22963 of the Business and Professions Code, Section 52, 52.1, 55.1, or 3494 of the Civil Code, the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code or the California Commodity Law of 1990 (Division 4.5 (commencing with Section 29500) of Title 4 of the Corporations Code), Section 1615, 2014, or 5650.1 Sections 4470, 6320 through 6328, inclusive, or 6352 through 6356, inclusive, of the Fish and Game Wildlife Code, Section 4458, 12598, 12606, 12607, 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health and Safety Code, Section 308.1 or 308.3 of the Penal Code, Section 2774.1, 4601.1, 4603, 4605, 30820, 30821.6, 30822, 42847, or 48023 of the Public Resources Code, Section 30101.7 of the Revenue and Taxation Code, or Section 275, 1052, 1845, 13261, 13262, 13264, 13265, 13268, 13304, 13331, 13350, or 13385 of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any action filed thereafter.

(c) The amendments made to this section by Chapter 227 of the Statutes of 2004 shall apply to any action pending on the effective date of these amendments and to any action filed thereafter.

Comment. Section 1021.8 is amended to reflect the recodification of the former Fish and Game Code.

Code Civ. Proc. § 1240.055 (amended).

SEC. _____. Section 1240.055 of the Code of Civil Procedure is amended to read:

1240.055. (a) As used in this section, the following terms have the following meanings:

1 (1) “Conservation easement” means a conservation easement as defined in
2 Section 815.1 of the Civil Code and recorded as required by Section 815.5 of the
3 Civil Code.

4 (2) “Holder of a conservation easement” means the entity or organization that
5 holds the conservation easement on the property that is proposed for acquisition and
6 that is authorized to acquire and hold conservation easements pursuant to Section
7 815.3 of the Civil Code.

8 (3) “Property appropriated to public use,” as used in Article 6 (commencing with
9 Section 1240.510) and Article 7 (commencing with Section 1240.610), includes a
10 conservation easement if any of the following applies:

11 (A) The conservation easement is held by a public entity.

12 (B) A public entity provided funds, not including the value of a charitable
13 contribution for federal or state income tax purposes but including the California
14 Natural Heritage Preservation Tax Credit, for the acquisition of that easement.

15 (C) A public entity imposed conditions on approval or permitting of a project that
16 were satisfied, in whole or in part, by the conservation easement.

17 (b) A person authorized to acquire property for public use by eminent domain
18 shall exercise the power of eminent domain to acquire property that is subject to a
19 conservation easement only as provided in this section.

20 (c) Not later than 105 days prior to the hearing held pursuant to Section 1245.235,
21 or at the time of the offer made to the owner or owners of record pursuant to Section
22 7267.2 of the Government Code, whichever occurs earlier, the person seeking to
23 acquire property subject to a conservation easement shall give notice to the holder
24 of the conservation easement as provided in this subdivision. If the person is not
25 required to hold a hearing pursuant to Section 1245.235, then the notice shall be
26 given 105 days prior to the time of the offer made to the owner or owners of record
27 pursuant to Section 7267.2 of the Government Code.

28 (1) The notice required by subdivision (c) shall be sent by first-class mail and
29 shall state all of the following:

30 (A) A general description, in text or by diagram, of the property subject to a
31 conservation easement that the person proposes to acquire by eminent domain.

32 (B) A description of the public use or improvement that the person is considering
33 for the property subject to a conservation easement.

34 (C) That written comments on the acquisition may be submitted in accordance
35 with paragraph (3) no later than 45 days from the date the person seeking to acquire
36 the property mailed the notice to the holder of the conservation easement.

37 (D) That the holder of the conservation easement, within 15 days of receipt of the
38 notice required by subdivision (c), is required, under certain circumstances, to do
39 all of the following:

40 (i) Send a copy of the notice by first-class mail to each public entity that provided
41 funds for the purchase of the easement or that imposed conditions on approval or

1 permitting of a project that were satisfied, in whole or in part, by the creation of the
2 conservation easement.

3 (ii) Inform the public entity that written comments on the acquisition may be
4 submitted in accordance with paragraph (3).

5 (iii) Notify the person seeking to acquire the property of the name and address of
6 any public entity that was sent a copy of the notice pursuant to this paragraph.

7 (2)(A) The holder of the conservation easement, within 15 days of receipt of the
8 notice required by subdivision (c), shall do all of the following:

9 (i) Send a copy of the notice by first-class mail to each public entity that provided
10 funds for the purchase of the easement or that imposed conditions on approval or
11 permitting of a project that were satisfied, in whole or in part, by the creation of the
12 conservation easement.

13 (ii) Inform the public entity that written comments on the acquisition may be
14 submitted in accordance with paragraph (3).

15 (iii) Notify the person seeking to acquire the property of the name and address of
16 any public entity that was sent a copy of the notice pursuant to this paragraph.

17 (B) Subparagraph (A) shall apply only if one of the following applies:

18 (i) The holder of the easement is the original grantee of the conservation easement
19 and there is a public entity as described in subparagraph (A).

20 (ii) The holder of the easement has actual knowledge of a public entity as
21 described in subparagraph (A).

22 (iii) Recorded documents evidence the identity of a public entity as described in
23 subparagraph (A).

24 (3) The holder of the conservation easement or the public entity receiving notice,
25 or both, may provide to the person seeking to acquire the property written comments
26 on the acquisition, including identifying any potential conflict between the public
27 use proposed for the property and the purposes and terms of the conservation
28 easement. Written comments on the acquisition may be submitted no later than 45
29 days from the date the person seeking to acquire the property mailed the notice to
30 the holder of the conservation easement.

31 (d) The person seeking to acquire the property subject to a conservation easement,
32 within 30 days after receipt of written comments from the holder of the conservation
33 easement or from a public entity described in paragraph (2) of subdivision (c), shall
34 respond in writing to the comments. The response to the comments shall be mailed
35 by first-class mail to each easement holder or public entity that filed comments.

36 (e) The notice of the hearing on the resolution of necessity, pursuant to Section
37 1245.235, shall be sent by first-class mail to the holder of any conservation easement
38 and to any public entity whose name and address are provided as described in
39 paragraph (2) of subdivision (c) and shall state that they have the right to appear and
40 be heard on the matters referred to in Sections 1240.030, 1240.510, and 1240.610.
41 The notice shall state that, pursuant to paragraph (3) of subdivision (b) of Section
42 1245.235, failure to file a written request to appear and be heard within 15 days after

1 the notice was mailed will result in waiver of the right to appear and be heard. The
2 resolution of necessity to acquire property subject to a conservation easement shall
3 refer specifically either to Section 1240.510 or 1240.610 as authority for the
4 acquisition of the property.

5 (f) In any eminent domain proceeding to acquire property subject to a
6 conservation easement, the holder of the conservation easement:

7 (1) Shall be named as a defendant, as set forth in Section 1250.220.

8 (2) May appear in the proceedings, as set forth in Section 1250.230.

9 (3) Shall have all the same rights and obligations as any other defendant in the
10 eminent domain proceeding.

11 (g)(1) The holder of the conservation easement is an owner of property entitled to
12 compensation determined pursuant to Section 1260.220 and Chapter 9
13 (commencing with Section 1263.010) and in accordance with all of the following:

14 (A) The total compensation for the acquisition of all interests in property
15 encumbered by a conservation easement shall not be less than, and shall not exceed,
16 the fair market value of the fee simple interest of the property as if it were not
17 encumbered by the conservation easement.

18 (B) If the acquisition does not damage the conservation easement, the total
19 compensation shall be assessed by determining the value of all interests in the
20 property as encumbered by the conservation easement.

21 (C) If the acquisition damages the conservation easement in whole or in part,
22 compensation shall be determined consistent with Section 1260.220 and the value
23 of the fee simple interest of the property shall be assessed as if it were not
24 encumbered by the conservation easement.

25 (2) This subdivision shall not apply if the requirements of Section 10261 of the
26 Public Resources Code apply.

27 (h) This section shall not apply if the requirements of Section ~~1348.3~~ 54835 of the
28 Fish and Game Wildlife Code apply.

29 **Comment.** Subdivision (h) of Section 1240.055 is amended to reflect the recodification of the
30 former Fish and Game Code.

31 **Code Civ. Proc. § 1240.680 (amended).**

32 SEC. _____. Section 1240.680 of the Code of Civil Procedure is amended to read:

33 1240.680. (a) Subject to Sections 1240.690 and 1240.700, notwithstanding any
34 other provision of law, property is presumed to have been appropriated for the best
35 and most necessary public use if the property is appropriated to public use as any of
36 the following:

37 (1) A state, regional, county, or city park, open space, or recreation area.

38 (2) A wildlife or waterfowl management area established by the Department of
39 Fish and Game Wildlife pursuant to Section ~~1525~~ 60600 of the Fish and Game
40 Wildlife Code.

1 (3) A historic site included in the National Register of Historic Places or state-
2 registered landmarks.

3 (4) An ecological reserve as provided for in ~~Article 4 (commencing with Section~~
4 ~~1580) of Chapter 5 of Division 2 Part 6 (commencing with Section 60750) of~~
5 ~~Division 16 of the Fish and Game Wildlife Code.~~

6 (b) The presumption established by this section is a presumption affecting the
7 burden of proof.

8 **Comment.** Section 1240.680 is amended to reflect the recodification of the former Fish and
9 Game Code. The section is also amended to update a reference to the former Department of Fish
10 and Game. See Fish & Wildlife Code § 1500.

11 **Code Civ. Proc. § 1245.210 (amended).**

12 SEC. _____. Section 1245.210 of the Code of Civil Procedure is amended to read:
13 1245.210. As used in this article, “governing body” means:

14 (a) In the case of a taking by a local public entity, the legislative body of the local
15 public entity.

16 (b) In the case of a taking by the Sacramento and San Joaquin Drainage District,
17 the Central Valley Flood Protection Board.

18 (c) In the case of a taking by the State Public Works Board pursuant to the
19 Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3
20 of Title 2 of the Government Code), the State Public Works Board.

21 (d) In the case of a taking by the Department of Fish and Wildlife pursuant to
22 Section 1348 54815 of the Fish and Game Wildlife Code, the Wildlife Conservation
23 Board.

24 (e) In the case of a taking by the Department of Transportation (other than a taking
25 pursuant to Section 21633 of the Public Utilities Code or Section 30100 of the
26 Streets and Highways Code), the California Transportation Commission.

27 (f) In the case of a taking by the Department of Transportation pursuant to Section
28 21633 of the Public Utilities Code, the California Transportation Commission.

29 (g) In the case of a taking by the Department of Transportation pursuant to Section
30 30100 of the Streets and Highways Code, the California Transportation
31 Commission.

32 (h) In the case of a taking by the Department of Water Resources, the California
33 Water Commission.

34 (i) In the case of a taking by the University of California, the Regents of the
35 University of California.

36 (j) In the case of a taking by the State Lands Commission, the State Lands
37 Commission.

38 (k) In the case of a taking by Hastings College of Law, the board of directors of
39 that college.

40 (l) In the case of a taking by the High-Speed Rail Authority, the State Public
41 Works Board.

SEC. _____. Section 1822.58 of the Code of Civil Procedure is amended to read:
1822.58. A warrant may be issued under the requirements of this title to authorize personnel of the Department of Fish and Game Wildlife to conduct inspections of locations where fish, ~~amphibia~~ amphibians, or aquatic plants are held or stored under ~~Division 12 (commencing with Section 15000)~~ Part 1 (commencing with Section 23300) of Division 7 of the Fish and Game Wildlife Code.

EDUCATION CODE

SEC. _____. Section 52410 of the Education Code is amended to read:

52410. Upon the approval of appropriate school district personnel, or the approval of the county superintendent of schools as to students under his jurisdiction, and with the written approval of the parent or guardian of the student, a student in grade 11 or 12, who will be at least 17 years of age at the commencement of his junior year, may be employed as an environmental intern by a federal, state, or local agency in California concerned with the regulation of natural resources or with the protection of the environment during the summer vacation period. These agencies shall include, but not be limited to, the Resources Agency, the Agriculture and Services Agency, the Business and Transportation Agency, the Department of Fish and Game Wildlife, the Department of Conservation, the Department of Parks and Recreation, the Department of Water Resources, the State Water Resources Control Board, the State Air Resources Board, the State Lands Division, California regional water quality control boards, air pollution control districts, mosquito abatement districts, soil conservation districts, local planning agencies, and county and city park and recreation departments.

FAMILY CODE

SEC. _____. Section 17520 of the Family Code is amended to read:
17520. (a) As used in this section:
(1) “Applicant” means a person applying for issuance or renewal of a license.

1 (2) “Board” means an entity specified in Section 101 of the Business and
2 Professions Code, the entities referred to in Sections 1000 and 3600 of the Business
3 and Professions Code, the State Bar of California, the Department of Real Estate,
4 the Department of Motor Vehicles, the Secretary of State, the Department of Fish
5 and Wildlife, and any other state commission, department, committee, examiner, or
6 agency that issues a license, certificate, credential, permit, registration, or any other
7 authorization to engage in a business, occupation, or profession, or to the extent
8 required by federal law or regulations, for recreational purposes. This term includes
9 all boards, commissions, departments, committees, examiners, entities, and
10 agencies that issue a license, certificate, credential, permit, registration, or any other
11 authorization to engage in a business, occupation, or profession. The failure to
12 specifically name a particular board, commission, department, committee,
13 examiner, entity, or agency that issues a license, certificate, credential, permit,
14 registration, or any other authorization to engage in a business, occupation, or
15 profession does not exclude that board, commission, department, committee,
16 examiner, entity, or agency from this term.

17 (3) “Certified list” means a list provided by the local child support agency to the
18 Department of Child Support Services in which the local child support agency
19 verifies, under penalty of perjury, that the names contained therein are support
20 obligors found to be out of compliance with a judgment or order for support in a
21 case being enforced under Title IV-D of the federal Social Security Act.

22 (4) “Compliance with a judgment or order for support” means that, as set forth in
23 a judgment or order for child or family support, the obligor is no more than 30
24 calendar days in arrears in making payments in full for current support, in making
25 periodic payments in full, whether court ordered or by agreement with the local
26 child support agency, on a support arrearage, or in making periodic payments in full,
27 whether court ordered or by agreement with the local child support agency, on a
28 judgment for reimbursement for public assistance, or has obtained a judicial finding
29 that equitable estoppel as provided in statute or case law precludes enforcement of
30 the order. The local child support agency is authorized to use this section to enforce
31 orders for spousal support only when the local child support agency is also enforcing
32 a related child support obligation owed to the obligee parent by the same obligor,
33 pursuant to Sections 17400 and 17604.

34 (5) “License” includes membership in the State Bar of California, and a
35 certificate, credential, permit, registration, or any other authorization issued by a
36 board that allows a person to engage in a business, occupation, or profession, or to
37 operate a commercial motor vehicle, including appointment and commission by the
38 Secretary of State as a notary public. “License” also includes any driver’s license
39 issued by the Department of Motor Vehicles, any commercial fishing license issued
40 by the Department of Fish and Wildlife, and to the extent required by federal law or
41 regulations, any license used for recreational purposes. This term includes all
42 licenses, certificates, credentials, permits, registrations, or any other authorization

1 issued by a board that allows a person to engage in a business, occupation, or
2 profession. The failure to specifically name a particular type of license, certificate,
3 credential, permit, registration, or other authorization issued by a board that allows
4 a person to engage in a business, occupation, or profession, does not exclude that
5 license, certificate, credential, permit, registration, or other authorization from this
6 term.

7 (6) “Licensee” means a person holding a license, certificate, credential, permit,
8 registration, or other authorization issued by a board, to engage in a business,
9 occupation, or profession, or a commercial driver’s license as defined in Section
10 15210 of the Vehicle Code, including an appointment and commission by the
11 Secretary of State as a notary public. “Licensee” also means a person holding a
12 driver’s license issued by the Department of Motor Vehicles, a person holding a
13 commercial fishing license issued by the Department of Fish and ~~Game~~ Wildlife,
14 and to the extent required by federal law or regulations, a person holding a license
15 used for recreational purposes. This term includes all persons holding a license,
16 certificate, credential, permit, registration, or any other authorization to engage in a
17 business, occupation, or profession, and the failure to specifically name a particular
18 type of license, certificate, credential, permit, registration, or other authorization
19 issued by a board does not exclude that person from this term. For licenses issued
20 to an entity that is not an individual person, “licensee” includes an individual who
21 is either listed on the license or who qualifies for the license.

22 (b) The local child support agency shall maintain a list of those persons included
23 in a case being enforced under Title IV-D of the federal Social Security Act against
24 whom a support order or judgment has been rendered by, or registered in, a court of
25 this state, and who are not in compliance with that order or judgment. The local
26 child support agency shall submit a certified list with the names, social security
27 numbers, individual taxpayer identification numbers, or other uniform identification
28 numbers, and last known addresses of these persons and the name, address, and
29 telephone number of the local child support agency who certified the list to the
30 department. The local child support agency shall verify, under penalty of perjury,
31 that the persons listed are subject to an order or judgment for the payment of support
32 and that these persons are not in compliance with the order or judgment. The local
33 child support agency shall submit to the department an updated certified list on a
34 monthly basis.

35 (c) The department shall consolidate the certified lists received from the local
36 child support agencies and, within 30 calendar days of receipt, shall provide a copy
37 of the consolidated list to each board that is responsible for the regulation of
38 licenses, as specified in this section.

39 (d) On or before November 1, 1992, or as soon thereafter as economically feasible,
40 as determined by the department, all boards subject to this section shall implement
41 procedures to accept and process the list provided by the department, in accordance
42 with this section. Notwithstanding any other law, all boards shall collect social

1 security numbers or individual taxpayer identification numbers from all applicants
2 for the purposes of matching the names of the certified list provided by the
3 department to applicants and licensees and of responding to requests for this
4 information made by child support agencies.

5 (e)(1) Promptly after receiving the certified consolidated list from the department,
6 and prior to the issuance or renewal of a license, each board shall determine whether
7 the applicant is on the most recent certified consolidated list provided by the
8 department. The board shall have the authority to withhold issuance or renewal of
9 the license of an applicant on the list.

10 (2) If an applicant is on the list, the board shall immediately serve notice as
11 specified in subdivision (f) on the applicant of the board's intent to withhold
12 issuance or renewal of the license. The notice shall be made personally or by mail
13 to the applicant's last known mailing address on file with the board. Service by mail
14 shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

15 (A) The board shall issue a temporary license valid for a period of 150 days to
16 any applicant whose name is on the certified list if the applicant is otherwise eligible
17 for a license.

18 (B) Except as provided in subparagraph (D), the 150-day time period for a
19 temporary license shall not be extended. Except as provided in subparagraph (D),
20 only one temporary license shall be issued during a regular license term and it shall
21 coincide with the first 150 days of that license term. As this paragraph applies to
22 commercial driver's licenses, "license term" shall be deemed to be 12 months from
23 the date the application fee is received by the Department of Motor Vehicles. A
24 license for the full or remainder of the license term shall be issued or renewed only
25 upon compliance with this section.

26 (C) In the event that a license or application for a license or the renewal of a
27 license is denied pursuant to this section, any funds paid by the applicant or licensee
28 shall not be refunded by the board.

29 (D) This paragraph shall apply only in the case of a driver's license, other than a
30 commercial driver's license. Upon the request of the local child support agency or
31 by order of the court upon a showing of good cause, the board shall extend a 150-
32 day temporary license for a period not to exceed 150 extra days.

33 (3)(A) The department may, when it is economically feasible for the department
34 and the boards to do so as determined by the department, in cases where the
35 department is aware that certain child support obligors listed on the certified lists
36 have been out of compliance with a judgment or order for support for more than
37 four months, provide a supplemental list of these obligors to each board with which
38 the department has an interagency agreement to implement this paragraph. Upon
39 request by the department, the licenses of these obligors shall be subject to
40 suspension, provided that the licenses would not otherwise be eligible for renewal
41 within six months from the date of the request by the department. The board shall
42 have the authority to suspend the license of any licensee on this supplemental list.

1 (B) If a licensee is on a supplemental list, the board shall immediately serve notice
2 as specified in subdivision (f) on the licensee that his or her license will be
3 automatically suspended 150 days after notice is served, unless compliance with this
4 section is achieved. The notice shall be made personally or by mail to the licensee's
5 last known mailing address on file with the board. Service by mail shall be complete
6 in accordance with Section 1013 of the Code of Civil Procedure.

7 (C) The 150-day notice period shall not be extended.

8 (D) In the event that any license is suspended pursuant to this section, any funds
9 paid by the licensee shall not be refunded by the board.

10 (E) This paragraph shall not apply to licenses subject to annual renewal or annual
11 fee.

12 (f) Notices shall be developed by each board in accordance with guidelines
13 provided by the department and subject to approval by the department. The notice
14 shall include the address and telephone number of the local child support agency
15 that submitted the name on the certified list, and shall emphasize the necessity of
16 obtaining a release from that local child support agency as a condition for the
17 issuance, renewal, or continued valid status of a license or licenses.

18 (1) In the case of applicants not subject to paragraph (3) of subdivision (e), the
19 notice shall inform the applicant that the board shall issue a temporary license, as
20 provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar
21 days if the applicant is otherwise eligible and that upon expiration of that time period
22 the license will be denied unless the board has received a release from the local child
23 support agency that submitted the name on the certified list.

24 (2) In the case of licensees named on a supplemental list, the notice shall inform
25 the licensee that his or her license will continue in its existing status for no more
26 than 150 calendar days from the date of mailing or service of the notice and
27 thereafter will be suspended indefinitely unless, during the 150-day notice period,
28 the board has received a release from the local child support agency that submitted
29 the name on the certified list. Additionally, the notice shall inform the licensee that
30 any license suspended under this section will remain so until the expiration of the
31 remaining license term, unless the board receives a release along with applications
32 and fees, if applicable, to reinstate the license during the license term.

33 (3) The notice shall also inform the applicant or licensee that if an application is
34 denied or a license is suspended pursuant to this section, any funds paid by the
35 applicant or licensee shall not be refunded by the board. The Department of Child
36 Support Services shall also develop a form that the applicant shall use to request a
37 review by the local child support agency. A copy of this form shall be included with
38 every notice sent pursuant to this subdivision.

39 (g)(1) Each local child support agency shall maintain review procedures
40 consistent with this section to allow an applicant to have the underlying arrearage
41 and any relevant defenses investigated, to provide an applicant information on the
42 process of obtaining a modification of a support order, or to provide an applicant

1 assistance in the establishment of a payment schedule on arrearages if the
2 circumstances so warrant.

3 (2) It is the intent of the Legislature that a court or local child support agency,
4 when determining an appropriate payment schedule for arrearages, base its decision
5 on the facts of the particular case and the priority of payment of child support over
6 other debts. The payment schedule shall also recognize that certain expenses may
7 be essential to enable an obligor to be employed. Therefore, in reaching its decision,
8 the court or the local child support agency shall consider both of these goals in
9 setting a payment schedule for arrearages.

10 (h) If the applicant wishes to challenge the submission of his or her name on the
11 certified list, the applicant shall make a timely written request for review to the local
12 child support agency who certified the applicant's name. A request for review
13 pursuant to this section shall be resolved in the same manner and timeframe
14 provided for resolution of a complaint pursuant to Section 17800. The local child
15 support agency shall immediately send a release to the appropriate board and the
16 applicant, if any of the following conditions are met:

17 (1) The applicant is found to be in compliance or negotiates an agreement with
18 the local child support agency for a payment schedule on arrearages or
19 reimbursement.

20 (2) The applicant has submitted a request for review, but the local child support
21 agency will be unable to complete the review and send notice of its findings to the
22 applicant within the time specified in Section 17800.

23 (3) The applicant has filed and served a request for judicial review pursuant to this
24 section, but a resolution of that review will not be made within 150 days of the date
25 of service of notice pursuant to subdivision (f). This paragraph applies only if the
26 delay in completing the judicial review process is not the result of the applicant's
27 failure to act in a reasonable, timely, and diligent manner upon receiving the local
28 child support agency's notice of findings.

29 (4) The applicant has obtained a judicial finding of compliance as defined in this
30 section.

31 (i) An applicant is required to act with diligence in responding to notices from the
32 board and the local child support agency with the recognition that the temporary
33 license will lapse or the license suspension will go into effect after 150 days and
34 that the local child support agency and, where appropriate, the court must have time
35 to act within that period. An applicant's delay in acting, without good cause, which
36 directly results in the inability of the local child support agency to complete a review
37 of the applicant's request or the court to hear the request for judicial review within
38 the 150-day period shall not constitute the diligence required under this section
39 which would justify the issuance of a release.

40 (j) Except as otherwise provided in this section, the local child support agency
41 shall not issue a release if the applicant is not in compliance with the judgment or
42 order for support. The local child support agency shall notify the applicant in writing

1 that the applicant may, by filing an order to show cause or notice of motion, request
2 any or all of the following:

3 (1) Judicial review of the local child support agency's decision not to issue a
4 release.

5 (2) A judicial determination of compliance.

6 (3) A modification of the support judgment or order.

7 The notice shall also contain the name and address of the court in which the
8 applicant shall file the order to show cause or notice of motion and inform the
9 applicant that his or her name shall remain on the certified list if the applicant does
10 not timely request judicial review. The applicant shall comply with all statutes and
11 rules of court regarding orders to show cause and notices of motion.

12 This section shall not be deemed to limit an applicant from filing an order to show
13 cause or notice of motion to modify a support judgment or order or to fix a payment
14 schedule on arrearages accruing under a support judgment or order or to obtain a
15 court finding of compliance with a judgment or order for support.

16 (k) The request for judicial review of the local child support agency's decision
17 shall state the grounds for which review is requested and judicial review shall be
18 limited to those stated grounds. The court shall hold an evidentiary hearing within
19 20 calendar days of the filing of the request for review. Judicial review of the local
20 child support agency's decision shall be limited to a determination of each of the
21 following issues:

22 (1) Whether there is a support judgment, order, or payment schedule on arrearages
23 or reimbursement.

24 (2) Whether the petitioner is the obligor covered by the support judgment or order.

25 (3) Whether the support obligor is or is not in compliance with the judgment or
26 order of support.

27 (4)(A) The extent to which the needs of the obligor, taking into account the
28 obligor's payment history and the current circumstances of both the obligor and the
29 obligee, warrant a conditional release as described in this subdivision.

30 (B) The request for judicial review shall be served by the applicant upon the local
31 child support agency that submitted the applicant's name on the certified list within
32 seven calendar days of the filing of the petition. The court has the authority to uphold
33 the action, unconditionally release the license, or conditionally release the license.

34 (C) If the judicial review results in a finding by the court that the obligor is in
35 compliance with the judgment or order for support, the local child support agency
36 shall immediately send a release in accordance with subdivision (I) to the
37 appropriate board and the applicant. If the judicial review results in a finding by the
38 court that the needs of the obligor warrant a conditional release, the court shall make
39 findings of fact stating the basis for the release and the payment necessary to satisfy
40 the unrestricted issuance or renewal of the license without prejudice to a later
41 judicial determination of the amount of support arrearages, including interest, and

1 shall specify payment terms, compliance with which are necessary to allow the
2 release to remain in effect.

3 (l) The department shall prescribe release forms for use by local child support
4 agencies. When the obligor is in compliance, the local child support agency shall
5 mail to the applicant and the appropriate board a release stating that the applicant is
6 in compliance. The receipt of a release shall serve to notify the applicant and the
7 board that, for the purposes of this section, the applicant is in compliance with the
8 judgment or order for support. Any board that has received a release from the local
9 child support agency pursuant to this subdivision shall process the release within
10 five business days of its receipt.

11 If the local child support agency determines subsequent to the issuance of a release
12 that the applicant is once again not in compliance with a judgment or order for
13 support, or with the terms of repayment as described in this subdivision, the local
14 child support agency may notify the board, the obligor, and the department in a
15 format prescribed by the department that the obligor is not in compliance.

16 The department may, when it is economically feasible for the department and the
17 boards to develop an automated process for complying with this subdivision, notify
18 the boards in a manner prescribed by the department, that the obligor is once again
19 not in compliance. Upon receipt of this notice, the board shall immediately notify
20 the obligor on a form prescribed by the department that the obligor's license will be
21 suspended on a specific date, and this date shall be no longer than 30 days from the
22 date the form is mailed. The obligor shall be further notified that the license will
23 remain suspended until a new release is issued in accordance with subdivision (h).
24 Nothing in this section shall be deemed to limit the obligor from seeking judicial
25 review of suspension pursuant to the procedures described in subdivision (k).

26 (m) The department may enter into interagency agreements with the state agencies
27 that have responsibility for the administration of boards necessary to implement this
28 section, to the extent that it is cost effective to implement this section. These
29 agreements shall provide for the receipt by the other state agencies and boards of
30 federal funds to cover that portion of costs allowable in federal law and regulation
31 and incurred by the state agencies and boards in implementing this section.
32 Notwithstanding any other provision of law, revenue generated by a board or state
33 agency shall be used to fund the nonfederal share of costs incurred pursuant to this
34 section. These agreements shall provide that boards shall reimburse the department
35 for the nonfederal share of costs incurred by the department in implementing this
36 section. The boards shall reimburse the department for the nonfederal share of costs
37 incurred pursuant to this section from moneys collected from applicants and
38 licensees.

39 (n) Notwithstanding any other law, in order for the boards subject to this section
40 to be reimbursed for the costs incurred in administering its provisions, the boards
41 may, with the approval of the appropriate department director, levy on all licensees
42 and applicants a surcharge on any fee or fees collected pursuant to law, or,

1 alternatively, with the approval of the appropriate department director, levy on the
2 applicants or licensees named on a certified list or supplemental list, a special fee.

3 (o) The process described in subdivision (h) shall constitute the sole
4 administrative remedy for contesting the issuance of a temporary license or the
5 denial or suspension of a license under this section. The procedures specified in the
6 administrative adjudication provisions of the Administrative Procedure Act
7 (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with
8 Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not
9 apply to the denial, suspension, or failure to issue or renew a license or the issuance
10 of a temporary license pursuant to this section.

11 (p) In furtherance of the public policy of increasing child support enforcement and
12 collections, on or before November 1, 1995, the State Department of Social Services
13 shall make a report to the Legislature and the Governor based on data collected by
14 the boards and the district attorneys in a format prescribed by the State Department
15 of Social Services. The report shall contain all of the following:

16 (1) The number of delinquent obligors certified by district attorneys under this
17 section.

18 (2) The number of support obligors who also were applicants or licensees subject
19 to this section.

20 (3) The number of new licenses and renewals that were delayed, temporary
21 licenses issued, and licenses suspended subject to this section and the number of
22 new licenses and renewals granted and licenses reinstated following board receipt
23 of releases as provided by subdivision (h) by May 1, 1995.

24 (4) The costs incurred in the implementation and enforcement of this section.

25 (q) Any board receiving an inquiry as to the licensed status of an applicant or
26 licensee who has had a license denied or suspended under this section, or has been
27 granted a temporary license under this section, shall respond only that the license
28 was denied or suspended or the temporary license was issued pursuant to this
29 section. Information collected pursuant to this section by any state agency, board,
30 or department shall be subject to the Information Practices Act of 1977 (Chapter 1
31 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
32 Code).

33 (r) Any rules and regulations issued pursuant to this section by any state agency,
34 board, or department may be adopted as emergency regulations in accordance with
35 the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5
36 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
37 Government Code). The adoption of these regulations shall be deemed an
38 emergency and necessary for the immediate preservation of the public peace, health,
39 and safety, or general welfare. The regulations shall become effective immediately
40 upon filing with the Secretary of State.

41 (s) The department and boards, as appropriate, shall adopt regulations necessary
42 to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (I).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost effective and permitted by the Revenue and Taxation Code.

(w)(1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

Comment. Section 17520 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.


FOOD AND AGRICULTURE CODE

Food & Agric. Code § 23.5 (amended).

SEC. _____. Section 23.5 of the Food and Agriculture Code is amended to read:

23.5. The commercial production of aquatic plants and animals propagated and raised by a registered aquaculturist pursuant to Section ~~15101~~ 23605 of the Fish and Game Wildlife Code in the state is a growing industry and provides a healthful and nutritious food product, and, as a commercial operation, utilizes management, land, water, and feed as do other agricultural enterprises. Therefore, the commercial production of that aquatic life shall be considered a branch of the agricultural industry of the state for the purpose of any law that provides for the benefit or protection of the agricultural industry of the state except those laws relating to plant quarantine or pest control.

Comment. Section 23.5 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** In the tentative recommendation, existing Section 15101 would be continued in proposed Fish and Wildlife Code Sections 23600, 23605, 23610, and 23700. In the cross-reference revision

proposed above, only proposed Section 23605 is referenced. It is the main provision requiring registration of an aquaculture facility.

The Commission requests public comment on whether that simplification would cause any problems.

Food & Agric. Code § 5262 (amended).

SEC. ____ . Section 5262 of the Food and Agriculture Code is amended to read:

5262. (a) Based on available funding, the department shall develop and maintain a written plan on the most appropriate options for detection, exclusion, eradication, control, or management of the higher priority invasive pests on the list prepared pursuant to Section 5261. In determining which invasive pests are the higher priority and in developing the most appropriate options for detection, exclusion, eradication, control, or management, the department shall consult with the United States Department of Agriculture, the University of California, other state agencies and departments, and others in the scientific and research community. In implementing this chapter, the department may undertake or contract for scientific research with the University of California or other institutions of higher learning. The plan shall include both of the following:

(1) A discussion of the state not acting to detect, exclude, eradicate, control, or manage the invasive pest.

(2) The identification and description of the most appropriate options for detection, exclusion, eradication, control, or management of the invasive pest.

(b) If the department determines that aerial application of pesticides would be among the more appropriate responses, the plan shall contain a discussion of all of the following:

(1) The pesticides that would likely be the most appropriate.

(2) The concentrations of those pesticides.

(3) How often pesticide use would be necessary.

(4) A list of each active ingredient and inert material, to the extent that the disclosure of the inert material is permitted by state and federal law.

(5) A summary of up-to-date scientific information on the impacts of the pesticide and its inert materials on all of the following:

(A) Healthy children and adults.

(B) Children and adults with compromised health.

(C) Domestic animals.

(D) Fish and wildlife.

(E) Public health and the environment, including drinking water.

(c) The State Department of Public Health, the Department of Fish and ~~Game~~ Wildlife, the Office of Environmental Health Hazard Assessment, the Department of Boating and Waterways, the Department of Forestry and Fire Protection, the State Water Resources Control Board, and the Department of Pesticide Regulation shall participate in the preparation of the plan in their areas of expertise. The Office of

1 Environmental Health Hazard Assessment shall include an analysis of the risks of
2 using the pesticide and its inert material.

3 (d) In developing the plan, the department shall hold public hearings that shall
4 include a presentation by the department and the opportunity for public comment
5 and establish a process for submittal of public comment. Following the public
6 hearing, the department shall reassess the appropriateness of the response and may
7 revise the response and may hold additional public hearings.

8 (e) The plan shall include a characterization of the number of and the nature of
9 the public comments received pursuant to subdivision (d).

10 (f) The department shall make the plan available to the public, including making
11 it available on the department's Internet Web site.

12 **Comment.** Section 5262 is amended to update a reference to the former Department of Fish and
13 Game. See Fish & Wildlife Code § 1500.

14 **Food & Agric. Code § 6025.4 (amended).**

15 SEC. _____. Section 6025.4 of the Food and Agriculture Code is amended to read:

16 6025.4. (a) Notwithstanding Section 597u of the Penal Code, carbon monoxide
17 may be used for the control of burrowing rodent pests, provided the following
18 conditions are met:

19 (1) The carbon monoxide delivery device shall be permanently affixed with a
20 warning label in plain view of the operator that includes, at a minimum, the
21 following information:

22 DANGER: Carbon monoxide is a poisonous gas that is odorless and colorless.
23 Exposure to carbon monoxide can kill within minutes. Never use in structures
24 inhabited by humans or livestock. The device must be used in accordance with all
25 existing laws and regulations, including Chapter 1.5 (commencing with Section
26 2050) of Division 3 of Part 1 (commencing with Section 62000) of Division 17,
27 known as the California Endangered Species Act, and Sections 4002 and 4003 of,
28 Section 32150, of the Fish and Game Wildlife Code.

29 (2) The use of carbon monoxide is subject to the requirements of Chapter 1.5
30 (commencing with Section 2050) of Division 3 of Part 1 (commencing with Section
31 62000) of Division 17, known as the California Endangered Species Act, and
32 Sections 4002 and 4003 of, Section 32150, of the Fish and Game Wildlife Code,
33 and the requirements of Division 6 (commencing with Section 11401) and Division
34 7 (commencing with Section 12500).

35 (b) This section shall remain in effect only until January 1, 2023, and as of that
36 date is repealed.

37 **Comment.** Section 6025 is amended to reflect the recodification of the former Fish and Game
38 Code.

39 **Food & Agric. Code § 6049 (amended).**

40 SEC. _____. Section 6049 of the Food and Agriculture Code is amended to read:

6049. The department, with the cooperation of the University of California, the United States Department of Agriculture, or other agencies, may develop and implement biological control methods to eradicate or control the aquatic weed pest hydrilla (*Hydrilla verticillata*) in any area of the state, and may conduct studies for those purposes. When the development or implementation involves the use of fish, each individual program for development or implementation shall first be approved by the Department of Fish and Game Wildlife.

Comment. Section 6049 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Food & Agric. Code § 7270.5 (amended).

SEC. _____. Section 7270.5 of the Food and Agriculture Code is amended to read: 7270.5. For the purposes of this article:

(a) “Integrated weed management plan” means an ecosystem-based control strategy that focuses on long-term prevention of weeds through a combination of techniques, such as biological controls, judicious use of herbicides, modified land management, and cultural practices, and where control practices are selected and applied in a manner that minimizes the risks to human health, nontargeted organisms, and the environment. An integrated weed management plan shall also, when appropriate, comply with any applicable provisions of Chapter 6 (commencing with Section 1600) of Division 2 Title 3 (commencing with Section 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code, Division 6 (commencing with Section 11401) and Division 7 (commencing with Section 12500) of the Food and Agricultural Code, and the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(b) “Noxious and invasive weeds” means weeds that the department has determined to be either noxious or invasive weed species.

(c) “Person” shall have the same meaning as in Section 38, but shall additionally include the United States of America, and all political subdivisions, districts, municipalities, and public agencies of the State of California.

(d) “Riverway” means the water, bed, shoreline, and riparian vegetation, of any creek, including an “urban creek” as defined in Section 7048 of the Water Code, stream, river, lake, reservoir, or other body of freshwater, including a “stream environment zone” as defined in Section 66957 of the Government Code, as well as enclosed bays and estuaries, as defined by Section 13391.5 of the Water Code.

Comment. Section 7270.5 is amended to reflect the recodification of the former Fish and Game Code.

Food & Agric. Code § 7700 (amended).

SEC. _____. Section 7700 of the Food and Agriculture Code is amended to read:

7700. (a)(1) There is in state government the Invasive Species Council of California. The purpose of the council is to help coordinate a comprehensive effort

1 to prevent the introduction of invasive species in the state and to advise state
2 agencies, including, but not limited to, the department and the Natural Resources
3 Agency, within their respective authorities how to facilitate coordinated,
4 complementary, and cost-effective control or eradication of invasive species that
5 have entered or are already established in the state. The council may address
6 nonnative organisms that cause economic or environmental harm. Invasive species
7 within the scope of the council's advisory duties do not include humans, domestic
8 livestock, domestic or domesticated species exempted pursuant to Section 2118
9 Chapter 2 (commencing with Section 26700) of Title 2 of Part 6 of Division 7 of
10 the Fish and Game Wildlife Code, or nonharmful exotic organisms.

11 (2) This part shall not prohibit the department from serving as the state's
12 governing authority in invasive pest and plant management, as specified in this
13 division.

14 (b) The Invasive Species Council of California shall consist of the following six
15 members:

16 (1) The secretary or his or her designated representative.

17 (2) The Secretary of the Natural Resources Agency or his or her designated
18 representative.

19 (3) The Secretary for Environmental Protection or his or her designated
20 representative.

21 (4) The Secretary of Transportation or his or her designated representative.

22 (5) The Secretary of California Health and Human Services or his or her
23 designated representative.

24 (6) The Director of Emergency Services or his or her designated representative.

25 (c) The Secretary of the Natural Resources Agency or his or her designated
26 representative and the secretary or his or her designee shall serve as cochair of the
27 council.

28 (d) The Invasive Species Council of California shall meet annually and as needed
29 as determined by the cochair.

30 (e) The secretary may designate a staff liaison to further the purposes of this part.

31 (f) (1) The Invasive Species Council of California may establish advisory
32 committees and ad hoc working groups, as necessary, to advise on a broad array of
33 issues related to preventing the introduction of invasive species and providing for
34 their control or eradication, as well as minimizing the economic, ecological, and
35 human health impacts that invasive species cause.

36 (2) The advisory committees and working groups may consist of representatives
37 from state agencies, federal agencies, county agricultural commissioners, academia,
38 nonprofit organizations, tribal nations, industry representatives, and members of the
39 public.

40 **Comment.** Paragraph (1) of subdivision (a) of Section 7700 is amended to reflect the
41 recodification of the former Fish and Game Code.

1 **Food & Agric. Code § 11281 (amended).**

2 SEC. _____. Section 11281 of the Food and Agriculture Code is amended to read:
3 11281. If any coyotes are found to exist on land which is owned by the state, other
4 than lands subject to the control of the Department of Parks and Recreation and
5 other than ecological reserves established pursuant to Article 4 (commencing with
6 Section 1580) of Chapter 5 of Division 2 Part 6 (commencing with Section 60750)
7 of Division 16 of the Fish and Game Wildlife Code and the coyotes are found to be
8 causing damage on public or private land, the director may control, may employ
9 persons pursuant to Article 1 (commencing with Section 11221) to control, or may
10 contract with the commissioner to control, the coyotes which are determined to be
11 the cause of the damage.

12 **Comment.** Section 11281 is amended to reflect the recodification of the former Fish and Game
13 Code.

14 **Food & Agric. Code § 11283 (amended).**

15 SEC. _____. Section 11283 of the Food and Agriculture Code is amended to read:
16 11283. The director shall submit an annual memorandum of understanding to the
17 Director of Fish and Game Wildlife for review and approval prior to implementing
18 any coyote control program pursuant to this article.

19 **Comment.** Section 11283 is amended to update a reference to the Director of the former
20 Department of Fish and Game. See Fish & Wildlife Code § 1500.

21 **Food & Agric. Code § 11302 (amended).**

22 SEC. _____. Section 11302 of the Food and Agriculture Code is amended to read:
23 11302. The director, upon receiving information causing him or her to believe that
24 coyotes are finding refuge on state park lands or on ecological reserves and are
25 causing damage to nearby private property, may request the Department of Parks
26 and Recreation, in the case of state park lands, or the Department of Fish and Game
27 Wildlife, in the case of ecological reserves, to cooperate in the acquisition and
28 evaluation of evidence to that effect. Upon a request by the director, the department
29 or departments shall cooperate in the evaluation or acquisition.

30 **Comment.** Section 11302 is amended to update a reference to the former Department of Fish
31 and Game. See Fish & Wildlife Code § 1500.

32 **Food & Agric. Code § 11303 (amended).**

33 SEC. _____. Section 11303 of the Food and Agriculture Code is amended to read:
34 11303. Upon a determination pursuant to Section 11302 that coyotes are finding
35 refuge on state park lands or on an ecological reserve and are causing damage to
36 nearby private property, the director and the Department of Parks and Recreation,
37 with the review and approval of the Director of Fish and Game Wildlife as to state
38 park lands, or the Department of Fish and Game Wildlife as to ecological preserves,
39 may enter into an interdepartmental agreement to control coyotes finding refuge on
40 state park lands or on ecological reserves and causing damage to nearby private

property. Methods utilized to take the coyotes shall be specific to those coyotes which are causing the damage. The Department of Parks and Recreation or the Department of Fish and Game Wildlife shall specify the methods of take, location of take, time of take, necessary protections for public safety, protections convenient for state park lands or ecological reserve users and uses, and may specify whether the department is to employ persons to control coyotes pursuant to Article 1 (commencing with Section 11221) or whether control is to be done by the Department of Parks and Recreation or the Department of Fish and Game Wildlife.

Comment. Section 11303 is amended to update references to the former Department of Fish and Game, and the Director of that department. See Fish & Wildlife Code § 1500.

Food & Agric. Code § 11304 (amended).

SEC. _____. Section 11304 of the Food and Agriculture Code is amended to read:
11304. The Department of Parks and Recreation or the Department of Fish and Game Wildlife may submit claims to the department for reimbursement of direct costs incurred pursuant to the implementation of this article which shall be paid if found by the director to be reasonably necessary to implement this article.

Comment. Section 11304 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Food & Agric. Code § 11531 (amended).

SEC. _____. Section 11531 of the Food and Agriculture Code is amended to read:
11531. Except as provided in Chapter 6 (commencing with Section 12001), this division does not apply to any person while engaged in any of the following:

(a) Any activity that is defined as structural pest control and required to be licensed under Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code.

(b) Preservative treatment of fabrics or structural materials.

(c) Household or industrial sanitation services.

(d) Seed treatment which is incidental to such person's regular business.

(e) Live capture and removal or exclusion of vertebrate pests, bees, or wasps without the use of pesticides. Vertebrate pests include, but are not limited to, bats, raccoons, skunks, and squirrels, but do not include mice, rats, or pigeons. This section does not exempt a person from the provisions of Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife Code.

Comment. Section 11531 is amended to reflect the recodification of the former Fish and Game Code.

Food & Agric. Code § 14103 (amended).

SEC. _____. Section 14103 of the Food and Agriculture Code is amended to read:
14103. In establishing criteria and regulations relating to environmental injury and protection, and in conducting the reviews required in Chapters 2 and 3, the

1 director shall consult with representatives of the Water Resources Control Board,
2 the Departments of Public Health, Fish and Game Wildlife, and Conservation, and
3 four outside experts of his selection from the fields of agricultural, biological,
4 ecological, and medical sciences.

5 **Comment.** Section 14103 is amended to update a reference to the former Department of Fish
6 and Game. See Fish & Wildlife Code § 1500.

7 **Food & Agric. Code § 19314 (amended).**

8 SEC. _____. Section 19314 of the Food and Agriculture Code is amended to read:
9 19314. The department may suspend or revoke a registration certificate, at any
10 time, if it finds any of the following has occurred:

11 (a) The registrant has sold or offered for sale to an unlicensed person, any inedible
12 kitchen grease.

13 (b) The registrant has stolen, misappropriated, contaminated, or damaged inedible
14 kitchen grease or containers of inedible kitchen grease.

15 (c) The registrant has violated this article or any regulations adopted to implement
16 this article.

17 (d) The registrant has taken possession of inedible kitchen grease from an
18 unregistered transporter or has knowingly taken possession of inedible kitchen
19 grease that has been stolen.

20 (e) The registrant has been found to have engaged in, or aided and abetted another
21 person or entity in the commission of, any violation of a statute, regulation, or order
22 relating to the transportation or disposal of inedible kitchen grease, including a
23 violation of the federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.),
24 the Porter-Cologne Water Quality Control Act (Division 7 (commencing with
25 Section 13000) of the Water Code), Section 5650 Article 1 (commencing with
26 Section 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 of the Fish and Game
27 Wildlife Code, commercial vehicle weight limits, or commercial vehicle hours of
28 service.

29 (f) For purposes of this section, “registrant” includes any business entity, trustee,
30 officer, director, partner, person, or other entity holding more than 5 percent equity,
31 ownership, or debt liability in the registered entity engaged in the transportation of
32 inedible kitchen grease.

33 (g)(1) The registrant may appeal the suspension or revocation decision of the
34 department.

35 (2) The department shall establish procedures for the appeals process, to include
36 a noticed hearing.

37 (3) The department may reverse a suspension or revocation upon a finding of good
38 cause to do so.

39 (h) The department shall adopt regulations that specify the maximum time period
40 during which a suspension or revocation of a registration certificate may be
41 imposed, based on the severity or the number of violations that are the basis of the

department's action. The time period for the suspension or revocation of the registration certificate shall not exceed three years from the date the suspension or revocation of the registration certificate is imposed.

Comment. Subdivision (e) of Section 19314 is amended to reflect the recodification of the former Fish and Game Code.

Food & Agric. Code § 76511 (amended).

SEC. _____. Section 76511 of the Food and Agriculture Code is amended to read:

76511. "Commercial salmon vessel operator" is a commercial fisherman who operates a commercial salmon vessel for which a valid commercial salmon vessel permit has been issued pursuant to Article 4.5 (commencing with Section 8230) of Chapter 2 of Part 3 of Division 6 Chapter 5 (commencing with Section 41650) of Title 2 of Part 17 of Division 10 of the Fish and Game Wildlife Code.


Comment. Section 76511 is amended to reflect the recodification of the former Fish and Game Code.

Food & Agric. Code § 76530 (amended).

SEC. _____. Section 76530 of the Food and Agriculture Code is amended to read:

76530. "Fisherman" means an individual licensed to commercially harvest fish pursuant to Sections 7850 to 7852, inclusive, Section 14500 of the Fish and Game Wildlife Code.

Comment. Section 76530 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** In the tentative recommendation, existing Fish and Game Code Sections 7850 to 7852, inclusive, would be continued as proposed Sections 14500, 14550, 14600, and 14615. The amendment proposed above would only cross-refer to the provision that prescribes activity requiring a license.

The Commission requests public comment on whether that simplification would be appropriate.

Food & Agric. Code § 76535 (amended).

SEC. _____. Section 76535 of the Food and Agriculture Code is amended to read:

76535. "Handler" means any of the following:

- (a) A processor.
- (b) A receiver.
- (c) A wholesaler.
- (d) An exporter.
- (e) An individual licensed or working for a partnership, corporation, or any other business unit or organization licensed pursuant to subdivision (a) of Section 8032 20205 of the Fish and Game Wildlife Code and engaged in the California commercial salmon fishery.

Comment. Section 76535 is amended to reflect the recodification of the former Fish and Game Code.

1 **Food & Agric. Code § 76550 (amended).**

2 SEC. _____. Section 76550 of the Food and Agriculture Code is amended to read:
3 76550. “Processor” means any individual licensed or working for a partnership,
4 corporation, or any other business unit or organization licensed pursuant to Section
5 8034 20400 of the Fish and Game Wildlife Code and engaged in the California
6 commercial salmon fishery.

7 **Comment.** Section 76550 is amended to reflect the recodification of the former Fish and Game
8 Code.

9 **Food & Agric. Code § 76560 (amended).**

10 SEC. _____. Section 76560 of the Food and Agriculture Code is amended to read:
11 76560. “Receiver” means any individual licensed or working for a partnership,
12 corporation, or any other business unit or organization licensed pursuant to Section
13 8033 20450 of the Fish and Game Wildlife Code and engaged in the California
14 commercial salmon fishery.

15 **Comment.** Section 76560 is amended to reflect the recodification of the former Fish and Game
16 Code.

17 **Food & Agric. Code § 76580 (amended).**

18 SEC. _____. Section 76580 of the Food and Agriculture Code is amended to read:
19 76580. “Wholesaler” means any individual licensed or working for a partnership,
20 corporation, or any other business unit or organization licensed pursuant to Section
21 8035 20550 of the Fish and Game Wildlife Code and engaged in the California
22 commercial salmon fishery.

23 **Comment.** Section 76580 is amended to reflect the recodification of the former Fish and Game
24 Code.

25 **Food & Agric. Code § 76900 (amended).**

26 SEC. _____. Section 76900 of the Food and Agriculture Code is amended to read:
27 76900. Programs and administration of the activities that are conducted pursuant
28 to this chapter shall be funded as follows:

29 (a)(1) Every fisherman who sells salmon to any person who is required to be
30 licensed as a fish receiver pursuant to Section 8033 20450 of the Fish and Game
31 Wildlife Code shall pay the fee specified in Sections 76902 and 76905 for each
32 pound, or fraction thereof, of salmon taken and sold by the fisherman to the fish
33 receiver. The fee shall be collected from the fisherman and remitted to the secretary
34 by any person licensed to receive fish to whom the salmon are sold.

35 (2) Every fisherman licensed pursuant to Section 8033.5 20500 of the Fish and
36 Game Wildlife Code who sells salmon to the ultimate consumer shall pay the fee
37 specified in paragraph (1) and, if handlers have become subject to this chapter
38 pursuant to Article 9.5 (commencing with Section 76961), shall also pay the fee
39 specified in paragraph (1) of subdivision (b) for each pound, or fraction thereof, of

1 salmon taken and sold by the fisherman to the ultimate consumer. The fees shall be
2 remitted to the secretary by the fisherman.

3 (b)(1) Every handler subject to this chapter pursuant to Article 9.5 (commencing
4 with Section 76961) shall pay the fee specified in Sections 76902 and 76905 for
5 each pound, or fraction thereof, of salmon received from a fisherman. The fee shall
6 be remitted to the secretary by the handler.

7 (2) Every handler subject to this chapter pursuant to Article 9.5 (commencing with
8 Section 76961) shall pay the fee specified in paragraph (1) and shall also pay the fee
9 specified in paragraph (1) of subdivision (a) for each pound, or fraction thereof, of
10 salmon that the handler has caught while conducting the activities of a commercial
11 fisherman for his or her own processing or sale. The fees shall be remitted to the
12 secretary by the handler.

13 **Comment.** Section 76900 is amended to reflect the recodification of the former Fish and Game
14 Code.

15 **Food & Agric. Code § 76901 (amended).**

16 SEC. _____. Section 76901 of the Food and Agriculture Code is amended to read:
17 76901. Consistent with Section 8041 20950 of the Fish and Game Wildlife Code,
18 the following persons shall remit the fees required by subdivision (a) of Section
19 76900 to the secretary:

20 (a) Any person who is required to be licensed as a fish receiver by Section 8033
21 20450 of the Fish and Game Wildlife Code, and receives salmon in this state from
22 persons conducting the activities of a commercial fisherman.

23 (b) Any commercial fisherman licensed pursuant to Section 8033.5 20500 of the
24 Fish and Game Wildlife Code who sells salmon to the ultimate consumer.

25 **Comment.** Section 76901 is amended to reflect the recodification of the former Fish and Game
26 Code.

27 **Food & Agric. Code § 76904 (amended).**

28 SEC. _____. Section 76904 of the Food and Agriculture Code is amended to read:
29 76904. (a) Sections ~~8058 to 8070, inclusive, Subdivisions (b) through (g) of~~
30 Section 21365, Section 21370, and Section 21375 of the Fish and Game Wildlife
31 Code apply to claims for overpayment of fees to the secretary.

32 (b) For purposes of this section, “department,” as used in those sections, means
33 the Department of Food and Agriculture, and “landing fee” means the fees imposed
34 pursuant to this article.

35 **Comment.** Section 76904 is amended to reflect the recodification of the former Fish and Game
36 Code. The section is also amended to add subdivision designations.

37 **Food & Agric. Code § 76950 (amended).**

38 SEC. _____. Section 76950 of the Food and Agriculture Code is amended to read:

1 76950. (a) On or before August 15, 1989, the secretary shall establish a list of
2 commercial salmon vessel operators eligible to vote on implementation of this
3 chapter.

4 (b) In establishing the list, the secretary may require that handlers and commercial
5 salmon vessel operators submit the names and mailing addresses of all commercial
6 salmon vessel operators who harvested salmon during the previous season, as
7 evidenced by receipts prepared under Section 8043 21000 of the Fish and Game
8 Wildlife Code, together with the volume of salmon landed.

9 (c) The secretary may also request the assistance of the Director of Fish and
10 Wildlife for the names of all commercial salmon vessel operators who landed
11 salmon the previous season and the volume of landings for each vessel.

12 (d) The request for the information shall be in writing and shall be subject to the
13 confidentiality provisions of Section 8022 22205 of the Fish and Game Wildlife
14 Code.

15 (e) The list shall be filed within 30 days following receipt of the written notice.

16 **Comment.** Section 76950 is amended to reflect the recodification of the former Fish and Game
17 Code. The section is also amended to add subdivision designations.

18 ☐ **Note.** In the tentative recommendation, existing Fish and Game Code Section 8043 would be
19 continued in proposed Sections 21000, 21005, 21020, 20125, and 21155. In the revision proposed
20 above, only the provision that establishes the duty of a commercial fisherman to file landing
21 receipts would be referenced. That would seem to be unproblematic, because the other provisions
22 of Section 8043 would apply by their terms.

23 **The Commission requests public comment on whether the proposed simplification would**
24 **be appropriate.**

25 **Food & Agric. Code § 76951 (amended).**

26 SEC. _____. Section 76951 of the Food and Agriculture Code is amended to read:

27 76951. (a) Any commercial salmon vessel operator whose name does not appear
28 upon the secretary's list of commercial salmon vessel operators affected may have
29 his or her name established on the list by filing with the secretary a signed statement,
30 identifying himself or herself as a commercial salmon vessel operator and furnishing
31 evidence of having made landings the previous year through the submission of
32 receipts prepared under Section 8043 Article 1 (commencing with Section 21000)
33 of Chapter 3 of Title 10 of Part 6 of Division 6 of the Fish and Game Wildlife Code.

34 (b) Failure to be on the list does not exempt a commercial salmon vessel operator
35 from paying assessments under this chapter.

36 **Comment.** Section 76951 is amended to reflect the recodification of the former Fish and Game
37 Code. The section is also amended to add subdivision designations.

38 ☐ **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code Section
39 8043, which is cross-referenced in the section above, have been continued in several different
40 sections of the proposed Fish and Wildlife Code.

41 **The Commission requests public comment on the proposed conforming revision of those**
42 **provisions in the section above.**

1 **Food & Agric. Code § 76953.5 (amended).**

2 SEC. _____. Section 76953.5 of the Food and Agriculture Code is amended to read:

3 76953.5. (a) Before the referendum vote is conducted by the secretary, the
4 proponents of the council shall deposit with the secretary the amount that the
5 secretary determines is necessary to defray the expenses of preparing the necessary
6 lists and information and conducting the referendum vote.

7 (b) Any funds not used in carrying out this article shall be returned to the
8 proponents of the council who deposited the funds with the secretary.

9 (c) Upon establishment of the council, the council may reimburse the proponents
10 of the council for any funds deposited with the secretary that were used in carrying
11 out this article, and for any legal expenses and costs incurred in establishing the
12 council.

13 (d) After approval by the Commercial Salmon Trollers Advisory Committee
14 created pursuant to Section 7862 41380 of the Fish and Game Wildlife Code, the
15 Department of Fish and Wildlife may expend funds collected pursuant to Section
16 7861 41360 of the Fish and Game Wildlife Code, for payment to the secretary to
17 pay necessary costs incurred in conducting the implementation referendum vote. If
18 the commercial salmon vessel operators who voted in the implementation
19 referendum voted in favor of implementing this article, as provided in Section
20 76952, the council shall reimburse the Commercial Salmon Stamp Account in the
21 Fish and Game Preservation Fund all amounts received from that fund.

22 **Comment.** Section 76953.5 is amended to reflect the recodification of the former Fish and Game
23 Code.

24 **Food & Agric. Code § 76961 (amended).**

25 SEC. _____. Section 76961 of the Food and Agriculture Code is amended to read:

26 76961. Nothing in this division shall be interpreted to supersede or limit state
27 agencies from exercising their existing enforcement authority, including, but not
28 limited to, under the Fish and Game Wildlife Code, the Food and Agricultural Code,
29 the Government Code, the Health and Safety Code, the Public Resources Code, the
30 Water Code, or the application of those laws.

31 **Comment.** Section 76961 is amended to reflect the recodification of the former Fish and Game
32 Code.

33 **Food & Agric. Code § 76971 (amended).**


34 SEC. _____. Section 76971 of the Food and Agriculture Code is amended to read:

35 76971. (a) Between January 1, 2019, and February 28, 2019, and in the same
36 period each five years thereafter, the secretary shall, by the public hearing
37 procedure, and if appropriate, the procedure specified in this article, determine
38 whether the council program provided for in this chapter shall continue in effect.

39 (b) If the secretary finds from evidence received at the hearing that a substantial
40 question exists as to whether the council program is contrary to or does not
41 effectuate the declared purposes or provisions of this chapter or receives in writing

a referendum petition with the signatures of 25 percent or more of the number of commercial salmon vessel operators who made landings in the previous year, as evidenced by receipts prepared under Section 8043 Article 1 (commencing with Section 21000) of Chapter 3 of Title 10 of Part 6 of Division 6 of the Fish and Game Wildlife Code, and, if applicable, 25 percent or more of the handlers who are subject to this chapter, the council program shall be submitted to referendum as provided in this article.

Comment. Section 76971 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code Section 8043, which is cross-referenced in the section above, have been continued in several different sections of the proposed Fish and Wildlife Code.

The Commission requests public comment on the proposed conforming revision of those provisions in the section above.

Food & Agric. Code § 76981 (amended).

SEC. _____. Section 76981 of the Food and Agriculture Code is amended to read:

76981. (a) If the commercial salmon vessel operators and the handlers vote to terminate the council pursuant to Article 10 (commencing with Section 76971), the council shall remain in existence for the purpose of furnishing the secretary with a complete record of its outstanding financial obligations, accrued and to accrue.

(b) The secretary shall pay from the money deposited and disbursed any outstanding obligations and any obligations incurred by the secretary and the department under the terms and provisions of this section. Any money that remains shall be retained by the secretary to defray the expenses of formulation, issuance, administration, or enforcement of any subsequent program for salmon promotion.

(c) If no such program is undertaken within a period of three years from the date of termination of the council, that money shall be withdrawn from the approved depository and paid into the special account for enhancement and restoration programs established pursuant to Section ~~7861~~ 41360 of the Fish and Game Wildlife Code.

Comment. Section 76981 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to add subdivision designations.


Food & Agric. Code § 78406 (amended).

SEC. _____. Section 78406 of the Food and Agriculture Code is amended to read:

78406. “Fisherman” means any person licensed to commercially harvest fish or shellfish pursuant to ~~Sections 7850 to 7852, inclusive, Chapter 1 (commencing with Section 14500)~~ of Title 2 of Part 6 of Division 6 of the Fish and Game Wildlife Code who lands any species of fish or shellfish for commercial purposes included in, and not excepted from, a fishery, as defined in Section 78407, or who is the registered owner or lessee of a vessel that is used to land any species of fish or shellfish included in, and not excepted from, a fishery, as defined in Section 78407,

1 if the registered owner or lessee has a financial interest in the fish or shellfish and
2 pays or has assessments paid on his or her behalf.

3 **Comment.** Section 78406 is amended to reflect the recodification of the former Fish and Game
4 Code.

5  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
6 sections that are cross-referenced in the section above have been continued in several different
7 sections of the proposed Fish and Wildlife Code.

8 **The Commission requests public comment on the proposed conforming revision of those**
9 **provisions in the section above.**

10 **Food & Agric. Code § 78408 (amended).**

11 SEC. _____. Section 78408 of the Food and Agriculture Code is amended to read:
12 78408. “Handler” means any of the following:

- 13 (a) A processor engaged in the California fishery.
- 14 (b) A receiver engaged in the California fishery.
- 15 (c) A wholesaler engaged in the California fishery.
- 16 (d) An exporter engaged in the California fishery.
- 17 (e) A person is licensed or who works for any person who is licensed pursuant to
18 subdivision (a) of Section 8032 20205 of the Fish and Game Wildlife Code and
19 engaged in the California commercial fisheries.

20 **Comment.** Section 78408 is amended to reflect the recodification of the former Fish and Game
21 Code.

22 **Food & Agric. Code § 78411 (amended).**

23 SEC. _____. Section 78411 of the Food and Agriculture Code is amended to read:
24 78411. “Processor” means any person who is licensed or who works for any
25 person who is licensed pursuant to Section 8034 20400 of the Fish and Game
26 Wildlife Code and engaged in the California commercial fisheries.

27 **Comment.** Section 78411 is amended to reflect the recodification of the former Fish and Game
28 Code.

29 **Food & Agric. Code § 78412 (amended).**

30 SEC. _____. Section 78412 of the Food and Agriculture Code is amended to read:
31 78412. “Receiver” means any person who is licensed or who works for a person
32 who is licensed pursuant to Section 8033 20450 of the Fish and Game Wildlife Code
33 and engaged in the California commercial fisheries.

34 **Comment.** Section 78412 is amended to reflect the recodification of the former Fish and Game
35 Code.

36 **Food & Agric. Code § 78413 (amended).**

37 SEC. _____. Section 78413 of the Food and Agriculture Code is amended to read:

1 78413. “Wholesaler” means any person who is licensed or who works for a person
2 who is licensed pursuant to Section 8035 20550 of the Fish and Game Wildlife Code
3 and engaged in the California commercial fisheries.

4 **Comment.** Section 78413 is amended to reflect the recodification of the former Fish and Game
5 Code.

6 **Food & Agric. Code § 78486 (amended).**

7 SEC. _____. Section 78486 of the Food and Agriculture Code is amended to read:
8 78486. One nonvoting member of the council may be appointed by the secretary
9 to represent each of the following entities:

10 (a) The department.

11 (b) The Department of Fish and Game Wildlife.

12 (c) The California Sea Grant Program.

13 (d) The State Department of Health Services.

14 **Comment.** Section 78486 is amended to update a reference to the former Department of Fish
15 and Game. See Fish & Wildlife Code § 1500.

16 **Food & Agric. Code § 78550 (amended).**

17 SEC. _____. Section 78550 of the Food and Agriculture Code is amended to read:
18 78550. (a) In order to carry out the programs and administer the activities that are
19 conducted pursuant to this chapter, except as specified in Section 78557, a fee shall
20 be established by the director and, thereafter, shall be recommended to the director
21 by the council, based on an amount which is four-tenths of 1 percent of the ex-vessel
22 price per pound paid for each pound of fish or shellfish specified in subdivision (a)
23 of Section 78407 sold to a receiver, or sold by a fisherman directly to the public
24 pursuant to Section 8033.5 20500 of the Fish and Game Wildlife Code.

25 (b) The fee shall be paid by the receiver or the fisherman, or both, and remitted to
26 the director as specified in Section 78552.

27 (c) The amount of the fee for each species shall be established annually by the
28 council for recommendation to the director, calculated to the nearest 1/10,000 of
29 one cent (\$0.0001) based on the formulation in this section.

30 (d) Individual fees shall be established for species identified in subdivision (a) of
31 Section 78407.


32 (e) The council, with assistance from the Department of Fish and Game Wildlife,
33 may determine the fee structure for individual species and may average or
34 consolidate fees for similar species to simplify landing fee reporting and accounting
35 requirements.

36 (f) The amount of the fee shall be based on the landed weight of the fish or
37 shellfish, as reported on the fish landing receipt made under Section 8043 Article 1
38 (commencing with Section 21000) of Chapter 3 of Title 10 of Part 6 of Division 6
39 of the Fish and Game Wildlife Code.

(g) A fisherman selling to the public pursuant to Section ~~8033.5~~ 20500 of the Fish and Game Wildlife Code shall remit the fee directly to the director as specified in Section 78552.

(h) To facilitate collection of fees from receivers or fishermen who handle a small volume of fish and shellfish specified in subdivision (a) of Section 78407, receivers or fishermen whose estimated monthly fee payments do not exceed ten dollars (\$10) may file reports and submit fees on a quarterly basis. Payments are delinquent if not submitted within 60 days following the end of the quarter in which they are due.

Comment. Section 78550 is amended to reflect the recodification of the former Fish and Game Code, and to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision designations.

 **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code Section 8043, which is cross-referenced in proposed subdivision (f) of the section above, have been continued in several different sections of the proposed Fish and Wildlife Code.

The Commission requests public comment on the proposed conforming revision of those provisions in the section above.

Food & Agric. Code § 78552.5 (amended).

SEC. _____. Section 78552.5 of the Food and Agriculture Code is amended to read:

78552.5. (a) Notwithstanding any other provision of this article, in any calendar year in which a fisherman who is selling to the public lands, or a receiver receives, less than 10,000 pounds in the aggregate of fish or shellfish in all fisheries combined or for which the annual fees that would otherwise be due by that fisherman or receiver to the council for those fish or shellfish totals less than twenty-five dollars (\$25), the fisherman selling to the public or the receiver shall not pay any fees pursuant to this chapter.

(b) In any calendar year in which a fisherman who is selling to the public lands, or a receiver receives, 10,000 pounds or more in the aggregate of fish or shellfish in all fisheries combined, or for which the annual fees that are due by that fisherman or receiver to the council for those fish or shellfish totals twenty-five dollars (\$25) or more, the fisherman selling to the public or the receiver shall remit the fees on or before February 28 of the year following the landing or receipt. Any fees that are not received on or before February 28 of the year following the landing or receipt of fish or shellfish for which the fees are due is delinquent and subject to collection pursuant to Section 78554.

(c) If, in any calendar year, a fisherman lands less than 10,000 pounds in the aggregate of fish or shellfish in all fisheries combined, and has paid fees to the council, the fisherman may apply for a refund of the amount paid, not to exceed a total of twenty-five dollars (\$25). An application for refund shall be submitted on a form supplied by the council and shall include documentation in the form of landing receipts submitted to the Department of Fish and Game Wildlife pursuant to Section ~~8046~~ 21150 of the Fish and Game Wildlife Code for all species landed and proof of fees paid. Applications for refunds shall be received at the council office on or

1 before March 31 of the year following the landing or receipt of fish or shellfish for
2 which the fees were paid.

3 **Comment.** Section 78552.5 is amended to reflect the recodification of the former Fish and Game
4 Code. The section is also amended to update a reference to the former Department of Fish and
5 Game. See Fish & Wildlife Code § 1500.

6 **Food & Agric. Code § 78554 (amended).**

7 SEC. _____. Section 78554 of the Food and Agriculture Code is amended to read:

8 78554. (a) The collection of funds from anyone who does not pay or remit fees
9 due and payable shall be conducted as follows:

10 (1) Pursuant to Section ~~8053~~ 21350 of the Fish and Game Wildlife Code.

11 (2) When the secretary makes a determination that fees due pursuant to this
12 chapter are deficient, the secretary may determine the amount of the deficiency,
13 including any applicable penalty. Section 59234.5 shall apply to deficiency
14 determinations made pursuant to this section.

15 (3) This subdivision is supplemental to any other provisions for collection and
16 imposition of fees and penalties provided by this chapter. In lieu of proceeding
17 pursuant to this section, the secretary may file a complaint for collection of unpaid
18 fees as provided by law.

19 (b) A person who violates any provision of this chapter is guilty of a misdemeanor,
20 and, upon conviction, shall be punished by a fine of not less than one hundred dollars
21 (\$100) or more than one thousand dollars (\$1,000), by imprisonment in the county
22 jail for not less than 10 days or more than six months, or by both that fine and
23 imprisonment. Each violation during any day is a separate offense.

24 (c) A person who violates any provision of this chapter is liable civilly in an
25 amount of not more than two thousand five hundred dollars (\$2,500) for each
26 violation. Each violation during any day is a separate offense.

27 **Comment.** Section 78554 is amended to reflect the recodification of the former Fish and Game
28 Code.

29 **Food & Agric. Code § 78556 (amended).**

30 SEC. _____. Section 78556 of the Food and Agriculture Code is amended to read:

31 78556. Sections ~~8058 to 8070~~ 21365 to 21375, inclusive, of the Fish and Game
32 Wildlife Code apply to claims for overpayment of fees to the secretary. For purposes
33 of this section, “department,” as used in those sections, means the Department of
34 Food and Agriculture, and “landing fee” means the fees imposed pursuant to this
35 article.

36 **Comment.** Section 78556 is amended to reflect the recodification of the former Fish and Game
37 Code.

38 **Food & Agric. Code § 78564 (amended).**

39 SEC. _____. Section 78564 of the Food and Agriculture Code is amended to read:

1 78564. (a) The council may develop guidelines for the establishment and
2 operation of a “credit-back” program for receivers and fishermen, which authorizes
3 the reimbursement of a percentage of individual contributions to the council, not to
4 exceed 50 percent, for specified individual expenditures benefiting the fishing
5 industry. Individual expenditures eligible for reimbursement may include, but are
6 not necessarily limited to, promotion, research and development, and advertising.
7 The council shall appoint a review committee from its membership and from the
8 fishing industry to review and approve applications for the credit. Any guidelines
9 that require the assistance of, or impact the operation of, the Department of Fish and
10 Game Wildlife are subject to Section 78552.

11 (b) Upon submittal of a statement of completion of a credit-back program, and its
12 acceptance by the review committee, the review committee may direct the council
13 to reimburse a percentage of individual contributions, not to exceed 50 percent, at
14 the end of the fiscal year for which the credit-back application and expenditure were
15 made.

16 **Comment.** Section 78564 is amended to update a reference to the former Department of Fish
17 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
18 designations.

19 **Food & Agric. Code § 78575 (amended).**

20 SEC. _____. Section 78575 of the Food and Agriculture Code is amended to read:

21 78575. On or before February 1, 1991, the director shall establish a list of
22 receivers and fishermen eligible to vote on the implementation of this chapter. In
23 establishing the list, the director may request, in writing, the assistance of the
24 Director of Fish and Game Wildlife and associations representing fishermen or
25 receivers in gathering the names of all fishermen and receivers who sold or received
26 specified seafood species landed the previous season. The list shall be filed within
27 30 days following receipt of the written notice from the director. All information on
28 the volume of landings shall be kept confidential.

29 **Comment.** Section 78575 is amended to update a reference to the Director of the former
30 Department of Fish and Game. See Fish & Wildlife Code § 1500.

31 **Food & Agric. Code § 78576 (amended).**

32 SEC. _____. Section 78576 of the Food and Agriculture Code is amended to read:

33 78576. (a) Any fisherman or receiver whose name does not appear on the
34 director’s list of receivers may have his or her name included on the list by filing
35 with the director a signed statement, identifying himself or herself as a fisherman or
36 receiver and furnishing evidence of having sold or received landings the previous
37 year through the submission of receipts prepared under Section 8043 Article 1
38 (commencing with Section 21000) of Chapter 3 of Title 10 of Part 6 of Division 6
39 of the Fish and Game Wildlife Code.

40 (b) The failure to include a fisherman’s or a receiver’s name on the list does not
41 exempt a fisherman or a receiver from paying assessments under this chapter.

1 **Comment.** Section 78576 is amended to reflect the recodification of the former Fish and Game
2 Code. The section is also amended to add subdivision designations.

3 **Food & Agric. Code § 78584 (amended).**

4 SEC. _____. Section 78584 of the Food and Agriculture Code is amended to read:
5 78584. Nothing in this division shall be interpreted to supersede or limit state
6 agencies from exercising their existing enforcement authority, including, but not
7 limited to, under the Fish and Game Wildlife Code, the Food and Agricultural Code,
8 the Government Code, the Health and Safety Code, the Public Resources Code, the
9 Water Code, or the application of those laws.

10 **Comment.** Section 78584 is amended to reflect the recodification of the former Fish and Game
11 Code.

12 **Food & Agric. Code § 78588 (amended).**

13 SEC. _____. Section 78588 of the Food and Agriculture Code is amended to read:
14 78588. (a) On the termination of the council pursuant to this article, the council
15 shall remain in existence until the end of the marketing season then current for the
16 purpose of furnishing the secretary with a complete record of its outstanding
17 financial obligations.

18 (b) The secretary shall pay from the money collected pursuant to Article 7
19 (commencing with Section 78550) any outstanding obligations and any obligations
20 incurred by the secretary and the department under this section. Any money that
21 remains shall be retained by the secretary to defray the expenses of formulation,
22 issuance, administration, or enforcement of any subsequent program for seafood
23 promotion.

24 (c) If no seafood promotion program is undertaken within a period of three years
25 from the date of termination of the council, that money shall be withdrawn from the
26 approved depository and paid into the special account for enhancement and
27 restoration programs established pursuant to Section 7861 41360 of the Fish and
28 Game Wildlife Code.

29 (d) The secretary may also specifically designate any money that remains for
30 expenditure for research on commercial fishery resources or fisheries, the
31 improvement of commercial fishery resources or fisheries, or both.

32 **Comment.** Section 78588 is amended to reflect the recodification of the former Fish and Game
33 Code. The section is also amended to add subdivision designations.

34 **Food & Agric. Code § 79023 (amended).**

35 SEC. _____. Section 79023 of the Food and Agriculture Code is amended to read:
36 79023. “Diver” means an individual licensed to commercially harvest fish
37 pursuant to Section 7850 14500 of the Fish and Game Wildlife Code, and who in
38 addition holds a valid sea urchin diving permit.

39 **Comment.** Section 79023 is amended to reflect the recodification of the former Fish and Game
40 Code.

1 **Food & Agric. Code § 79024 (amended).**

2 SEC. _____. Section 79024 of the Food and Agriculture Code is amended to read:
3 79024. “Handler” means any individual or person working for any individual or
4 business entity licensed as one of the following who can document that they are
5 substantially engaged in the California commercial sea urchin fishery:

6 (a) A receiver licensed pursuant to Section 8033 20450 of the Fish and Game
7 Wildlife Code.

8 (b) A processor licensed pursuant to Section 8034 20400 of the Fish and Game
9 Wildlife Code.

10 (c) A wholesaler licensed pursuant to Section 8035 20550 of the Fish and Game
11 Wildlife Code.

12 (d) A business entity or organization licensed pursuant to subdivision (a) of
13 Section 8032 20205 of the Fish and Game Wildlife Code.

14 **Comment.** Section 79024 is amended to reflect the recodification of the former Fish and Game
15 Code.

16 **Food & Agric. Code § 79040 (amended).**

17 SEC. _____. Section 79040 of the Food and Agriculture Code is amended to read:
18 79040. There is in the state government the California Sea Urchin Commission.
19 The commission shall be composed of 11 voting members, including five sea urchin
20 handlers, five sea urchin divers, and one public member, and may include any
21 number of nonvoting members, at the discretion of the commission.

22 (a) Handlers shall elect five commission members from among those persons
23 qualified pursuant to this act and licensed pursuant to the Fish and Game Wildlife
24 Code to engage in the sea urchin fishery or a person specifically representing one or
25 more handlers.

26 (b)(1) Divers statewide shall elect five persons from among those persons
27 qualified pursuant to this act and licensed pursuant to the Fish and Game Wildlife
28 Code to engage in the sea urchin fishery.

29 (2) One diver member shall be elected from each of the following areas:

30 (A) San Diego County.

31 (B) Orange or Los Angeles County.

32 (C) Ventura County.

33 (D) Santa Barbara County.

34 (E) Sonoma or Mendocino County.

35 (3) Persons nominated for election to the commission as a diver member shall be
36 nominated by a petition signed by not less than five divers eligible to vote pursuant
37 to this chapter.

38 (c) The public member shall be appointed to the commission by the secretary from
39 nominees recommended by the commission.

40 (d) The secretary and other appropriate individuals, as determined by the
41 commission, shall be nonvoting members of the commission.

1 (e) If the secretary finds, pursuant to Section 79103, that either the divers or
2 handlers, but not both, have voted in favor of the referendum, the number of
3 commission voting members shall be six, composed of either five divers or five
4 handlers, depending on which portion of the industry voted in favor of the
5 referendum, elected pursuant to this section and one public member.

6 (f) If the composition of the commission is determined by subdivision (e) it shall
7 also include at least one nonvoting member appointed by the commission
8 representing either divers or handlers, whichever did not vote in favor of the
9 referendum.

10 **Comment.** Section 79040 is amended to reflect the recodification of the former Fish and Game
11 Code.

12 **Food & Agric. Code § 79100 (amended).**

13 SEC. _____. Section 79100 of the Food and Agriculture Code is amended to read:

14 79100. (a) Within 60 days of the effective date of this chapter, the secretary shall
15 establish a list of divers and handlers eligible to vote on implementation of this
16 chapter. In establishing the list, the secretary may require that divers and handlers
17 submit the names and mailing addresses of all divers and handlers. The secretary
18 also may request assistance of the Director of Fish and Game Wildlife for the names
19 of all licensed divers and handlers engaged in the sea urchin fishery during the
20 previous season and the volume of landings of each diver. The request for
21 information shall be in writing and the information provided shall be confidential
22 and not made public. Notwithstanding Section 8022 22205 of the Fish and Wildlife
23 Code or any other provision of law, the Director of Fish and Game Wildlife shall
24 comply with the request within 30 days of receipt.

25 (b) Any diver and handler whose name does not appear on the appropriate list
26 may have his or her name placed on the list by filing with the secretary a signed
27 statement, identifying himself or herself as a diver or handler, and submitting other
28 supporting documentation. Failure to be on the list does not exempt the person from
29 paying assessments, and does not invalidate any industry votes conducted pursuant
30 to this article.

31 (c) Proponents and opponents of establishing the commission pursuant to this
32 chapter may contact divers and handlers on the lists through the secretary, in a form
33 and manner prescribed by the secretary, if all expenses associated with those
34 contacts are paid in advance.

35 **Comment.** Section 79100 is amended to reflect the recodification of the former Fish and Game
36 Code. The section is also amended to update a reference to the Director of the former Department
37 of Fish and Game. See Fish & Wildlife Code § 1500.

38 **Food & Agric. Code § 79121 (amended).**

39 SEC. _____. Section 79121 of the Food and Agriculture Code is amended to read:

40 79121. (a) Every person or entity who handles sea urchin in any quantity shall
41 keep a complete and accurate record of all transactions involving the purchase or

1 sale of sea urchin. The records shall be in a simple form and contain such
2 information as the commission shall prescribe. The records shall be preserved by
3 the handler for a period of three years, and shall be offered and submitted for
4 inspection at any reasonable time upon written demand of the commission or its
5 duly authorized agent.

6 (b) The assessment imposed by this article shall be paid consistent with the
7 applicable procedures required for the payment of landing fees pursuant to Article
8 7.5 (commencing with Section 8040) of Chapter 1 of Part 3 of Division 6 Title 10
9 commencing with Section 20900) of Part 6 of Division 6 of the Fish and Game
10 Wildlife Code. The fees imposed shall be paid quarterly pursuant to Section 8053
11 21350 of the Fish and Game Wildlife Code. If fees are not paid as required, the
12 commission shall collect amounts owed under the procedures prescribed for sales
13 and use taxes provided in Chapter 5 (commencing with Section 6451) of Part 1 of
14 Division 2 of the Revenue and Taxation Code, insofar as they may be applicable,
15 and for those purposes, “board” means the commission and “the date on which the
16 tax became due and payable” means 30 days after the close of the quarter for which
17 it is due.

18 (c) Sections ~~8058 to 8070~~ 21365 to 21375, inclusive, of the Fish and Game
19 Wildlife Code, shall apply to claims for overpayment of assessments to the
20 commission. For the purposes of this subdivision, “department” as used in those
21 sections, means the commission, and “landing fee” means the assessment imposed
22 under this article.

23 **Comment.** Section 79121 is amended to reflect the recodification of the former Fish and Game
24 Code.

25 **Food & Agric. Code § 79132 (amended).**

26 SEC. _____. Section 79132 of the Food and Agriculture Code is amended to read:
27 79132. The commission may consult and enter into agreements with the Director
28 of Fish and Game Wildlife, if necessary and appropriate, to assist in the
29 administration and enforcement of this chapter, including, but not limited to,
30 collecting assessments authorized by this chapter and providing routine information
31 regarding the persons that may be subject to this chapter. If an agreement is
32 established, the commission shall reimburse the Department of Fish and Game
33 Wildlife for reasonable administrative costs associated with the agreement.

34 **Comment.** Section 79132 is amended to update a reference to the former Department of Fish
35 and Game, and a reference to the Director of that department. See Fish & Wildlife Code § 1500.

36 **Food & Agric. Code § 79157 (amended).**

37 SEC. _____. Section 79157 of the Food and Agriculture Code is amended to read:
38 79157. “Fisherman” or “fishermen” means a person licensed to commercially
39 harvest fish pursuant to Section ~~7850~~ 14500 of the Fish and Game Wildlife Code,
40 who in addition holds a valid spiny lobster fishing permit, and has documented
41 landings of spiny lobster in the previous marketing season.

1 **Comment.** Section 79157 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 **Food & Agric. Code § 79157.5 (amended).**

4 SEC. _____. Section 79157.5 of the Food and Agriculture Code is amended to read:
5 79157.5. “Handler” means a person engaged with the following licensees:

- 6 (a) Licensed pursuant to Section 8033 20450 of the Fish and Game Wildlife Code.
7 (b) Licensed pursuant to Section 8034 20400 of the Fish and Game Wildlife Code.
8 (c) Licensed pursuant to Section 8035 20550 of the Fish and Game Wildlife Code.
9 (d) Licensed pursuant to subdivision (a) of Section 8032 20205 of the Fish and
10 Game Wildlife Code.

11 **Comment.** Section 79157.5 is amended to reflect the recodification of the former Fish and Game
12 Code.

13 **Food & Agric. Code § 79180 (amended).**

14 SEC. _____. Section 79180 of the Food and Agriculture Code is amended to read:
15 79180. (a) Within 60 days of the effective date of this chapter, the secretary shall
16 establish a list of fishermen eligible to vote on the implementation of this chapter.
17 In establishing the list, the secretary may require that fishermen submit the names
18 and mailing addresses of all fishermen. The secretary also may request the
19 assistance of the Director of Fish and Wildlife for the names of all licensed
20 fishermen engaged in the spiny lobster fishery during the previous season and the
21 volume of landings of each fisherman. The request for information shall be in
22 writing and the information provided shall be confidential and not made public.
23 Notwithstanding Section 8022 22205 of the Fish and Game Wildlife Code or any
24 other law, the Director of Fish and Wildlife shall comply with the request within 30
25 days of receipt.

26 (b) A fisherman whose name does not appear on the appropriate list may have his
27 or her name placed on the list by filing with the secretary a signed statement
28 identifying himself or herself as a fisherman and submitting other supporting
29 documentation. Failure to be on the list does not exempt the person from paying
30 assessments and does not invalidate any industry votes conducted pursuant to this
31 article.

32 (c) Proponents and opponents of establishing the commission pursuant to this
33 chapter may contact fishermen on the lists through the secretary in a form and
34 manner prescribed by the secretary, if all expenses associated with those contacts
35 are paid in advance.

36 **Comment.** Section 79180 is amended to reflect the recodification of the former Fish and Game
37 Code.

38 **Food & Agric. Code § 80075 (amended).**

39 SEC. _____. Section 80075 of the Food and Agriculture Code is amended to read:

1 **Gov't Code § 998.1 (amended).**

2 SEC. ____ . Section 998.1 of the Government Code is amended to read:

3 998.1. (a) The sum of two million eight hundred sixty-seven thousand six hundred
4 sixty-seven dollars (\$2,867,667) is hereby transferred from the Lake Davis Northern
5 Pike Eradication Project Relief Account to the City of Portola to provide economic
6 and infrastructure assistance and in satisfaction of the City of Portola's claims
7 against the State of California or its agencies, officers, and employees for all alleged
8 damage or injury it claims to have suffered as a result of the Lake Davis Northern
9 Pike Eradication Project. This sum of money is being paid in accordance with the
10 terms of a settlement agreement and release to be entered into between the City of
11 Portola and the State of California, and shall be reduced by any amounts already
12 expended by the State of California or the Department of Fish and Game Wildlife
13 pursuant to any agreement with the City of Portola concerning the provision of
14 alternate water supplies. With respect to the Lake Davis Northern Pike Eradication
15 Project, and except as otherwise provided in that agreement, all obligations imposed
16 upon the State of California by any such memoranda and by Section 116751 of the
17 Health and Safety Code shall terminate upon enactment of this part.

18 (b) The sum of two million fifty-eight thousand three hundred thirty-three dollars
19 (\$2,058,333) is hereby transferred from the Lake Davis Northern Pike Eradication
20 Project Relief Account to the County of Plumas to provide economic and
21 infrastructure assistance and in satisfaction of the County of Plumas' and Plumas
22 County Flood Control and Water Conservation District's claims against the State of
23 California and its agencies, officers, and employees for all alleged damage or injury
24 they claim to have suffered as a result of the Lake Davis Northern Pike Eradication
25 Project. This sum of money is being paid in accordance with the terms of a
26 settlement agreement and release between the County of Plumas and Plumas County
27 Flood Control and Water Conservation District and the State of California, and shall
28 be reduced by any amounts already expended by the State of California or the
29 Department of Fish and Game Wildlife pursuant to any agreement with the County
30 of Plumas concerning the provision of alternate water supplies. With regard to the
31 Lake Davis Northern Pike Eradication Project, and except as provided in that
32 agreement, all obligations imposed upon the State of California by such Memoranda
33 and by Section 16751 of the Health and Safety Code, shall terminate upon
34 enactment of this part.

35 (c) The sum of two hundred fifty thousand dollars (\$250,000) shall be transferred
36 from the Lake Davis Northern Pike Eradication Project Relief Account to the
37 County of Plumas to be used as matching funds for the purpose of obtaining a loan
38 or grant from the State Department of Health Services pursuant to Chapter 4.5
39 (commencing with Section 116760) of Part 12 of Division 104 of the Health and
40 Safety Code to make improvements to the Lake Davis Water Treatment Plant. The
41 funds shall be deposited in an interest bearing account and held until the county
42 enters into an agreement with the State Department of Health Services for a loan or

1 grant. If the improvements requested by the County of Plumas are not eligible for a
2 loan or grant, the sum of two hundred fifty thousand dollars (\$250,000), plus any
3 interest earned, shall be returned to the General Fund.

4 (d) The sum of four million dollars (\$4,000,000) shall be available from the Lake
5 Davis Northern Pike Eradication Project Relief Account to pay all other claims
6 including, but not limited to, claims for personal injury, property damage, or
7 business loss, arising out of the Lake Davis Northern Pike Eradication Project. Any
8 unused funds, plus any interest earned, shall revert to the General Fund.

9 **Comment.** Section 998.1 is amended to update references to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Gov't Code § 1322 (amended).**

12 SEC. _____. Section 1322 of the Government Code is amended to read:

13 1322. In addition to any other statutory provisions requiring confirmation by the
14 Senate of officers appointed by the Governor, the appointments by the Governor of
15 the following officers and the appointments by him or her to the listed boards and
16 commissions are subject to confirmation by the Senate:

- 17 (1) California Horse Racing Board.
- 18 (2) Court Reporters Board of California.
- 19 (3) Chief, Division of Occupational Safety and Health.
- 20 (4) Chief, Division of Labor Standards Enforcement.
- 21 (5) Commissioner of Corporations.
- 22 (6) Contractors State License Board.
- 23 (7) Director of Fish and Game Wildlife.
- 24 (8) Director of Health Care Services.
- 25 (9) Chief Deputy, State Department of Health Care Services.
- 26 (10) Real Estate Commissioner.
- 27 (11) State Athletic Commissioner.
- 28 (12) State Board of Barbering and Cosmetology Examiners.
- 29 (13) State Librarian.
- 30 (14) Director of Social Services.
- 31 (15) Chief Deputy, State Department of Social Services.
- 32 (16) Director of State Hospitals.
- 33 (17) Chief Deputy, State Department of State Hospitals.
- 34 (18) Director of Developmental Services.
- 35 (19) Chief Deputy, State Department of Developmental Services.
- 36 (20) Director of Alcohol and Drug Abuse.
- 37 (21) Director of Rehabilitation.
- 38 (22) Chief Deputy, Department of Rehabilitation.
- 39 (23) Director of the Office of Statewide Health Planning and Development.
- 40 (24) Deputy, Health and Welfare Agency.
- 41 (25) Director, Department of Managed Health Care.

1 (26) Patient Advocate, California Health and Human Services Agency.

2 (27) State Public Health Officer, State Department of Public Health.

3 (28) Chief Deputy, State Department of Public Health.

4 **Comment.** Section 1322 is amended to update a reference to the Director of the former
5 Department of Fish and Game. See Fish & Wildlife Code § 1500.

6 **Gov't Code § 6276.10 (amended).**

7 SEC. _____. Section 6276.10 of the Government Code is amended to read:

8 6276.10. Cancer registries, confidentiality of information, Section 103885, Health
9 and Safety Code.

10 Candidate for local nonpartisan elective office, confidentiality of ballot statement,
11 Section 13311, Elections Code.

12 Child abuse information, exchange by multidisciplinary personnel teams, Section
13 830, Welfare and Institutions Code.

14 Child abuse report and those making report, confidentiality of, Sections 11167
15 and 11167.5, Penal Code.

16 Child care liability insurance, confidentiality of information, Section 1864,
17 Insurance Code.

18 Child concealer, confidentiality of address, Section 278.7, Penal Code.

19 Child custody investigation report, confidentiality of, Section 3111, Family Code.

20 Child day care facility, nondisclosure of complaint, Section 1596.853, Health and
21 Safety Code.

22 Child health and disability prevention, confidentiality of health screening and
23 evaluation results, Section 124110, Health and Safety Code.

24 Child sexual abuse reports, confidentiality of reports filed in a contested
25 proceeding involving child custody or visitation rights, Section 3118, Family Code.

26 Child support, confidentiality of income tax return, Section 3552, Family Code.

27 Child support, promise to pay, confidentiality of, Section 7614, Family Code.

28 Childhood lead poisoning prevention, confidentiality of blood lead findings,
29 Section 124130, Health and Safety Code.

30 Children and families commission, local, confidentiality of individually
31 identifiable information, Section 130140.1, Health and Safety Code.

32 Cigarette tax, confidential information, Section 30455, Revenue and Taxation
33 Code.

34 Civil actions, delayed disclosure for 30 days after complaint filed, Section
35 482.050, Code of Civil Procedure.

36 Closed sessions, document assessing vulnerability of state or local agency to
37 disruption by terrorist or other criminal acts, subdivision (aa), Section 6254.

38 Closed sessions, meetings of local governments, pending litigation, Section
39 54956.9.

40 Colorado River Board, confidential information and records, Section 12519,
41 Water Code.

1 Commercial fishing licensee, confidentiality of records, Section 7923 21920, Fish
2 and Game Wildlife Code.

3 Commercial fishing reports, Section 8022 22205, Fish and Game Wildlife Code.

4 Community care facilities, confidentiality of client information, Section 1557.5,
5 Health and Safety Code.

6 Community college employee, candidate examination records, confidentiality of,
7 Section 88093, Education Code.

8 Community college employee, notice and reasons for nonreemployment,
9 confidentiality, Section 87740, Education Code.

10 **Comment.** Section 6276 is amended to reflect the recodification of the former Fish and Game
11 Code.

12 **Gov't Code § 6276.18 (amended).**

13 SEC. _____. Section 6276.18 of the Government Code is amended to read:

14 6276.18. Family Court, records, Section 1818, Family Code.

15 Farm product processor license, confidentiality of financial statements, Section
16 55523.6, Food and Agricultural Code.

17 Farm product processor licensee, confidentiality of grape purchases, Section
18 55601.5, Food and Agricultural Code.

19 Fee payer information, prohibition against disclosure by Board of Equalization
20 and others, Section 55381, Revenue and Taxation Code.

21 Financial institutions, issuance of securities, reports and records of state agencies,
22 subdivision (d), Section 6254.

23 Financial statements of insurers, confidentiality of information received, Section
24 925.3, Insurance Code.

25 Financial statements and questionnaires, of prospective bidders for the state,
26 confidentiality of, Section 10165, Public Contract Code.

27 Financial statements and questionnaires, of prospective bidders for California
28 State University contracts, confidentiality of, Section 10763, Public Contract Code.

29 Firearms, centralized list of exempted federal firearms licensees, disclosure of
30 information compiled from, Sections 24850 to 24890, inclusive, Penal Code.

31 Firearms, centralized list of dealers and licensees, disclosure of information
32 compiled from, Sections 26700 to 26915, inclusive, Penal Code.

33 Firearm license applications, subdivision (u), Section 6254.

34 Firearm sale or transfer, confidentiality of records, Chapter 5 (commencing with
35 Section 28050) of Division 6 of Title 4 of Part 6, Penal Code.

36 Fishing and hunting licenses, confidentiality of names and addresses contained in
37 records submitted to the Department of Fish and Game Wildlife to obtain
38 recreational fishing and hunting licenses, Section 1050.6 2915, Fish and Game
39 Wildlife Code.

40 Foreign marketing of agricultural products, confidentiality of financial
41 information, Section 58577, Food and Agricultural Code.

1 Forest fires, anonymity of informants, Section 4417, Public Resources Code.
2 Foster homes, identifying information, Section 1536, Health and Safety Code.
3 Franchise Tax Board, access to Franchise Tax Board information by the State
4 Department of Social Services, Section 11025, Welfare and Institutions Code.

5 Franchise Tax Board, auditing, confidentiality of, Section 90005.

6 Franchises, applications, and reports filed with Commissioner of Corporations,
7 disclosure and withholding from public inspection, Section 31504, Corporations
8 Code.

9 Fur dealer licensee, confidentiality of records, Section ~~4041~~ 11335, Fish and
10 Game Wildlife Code.

11 **Comment.** Section 6276.18 is amended to reflect the recodification of the former Fish and Game
12 Code. The section is also amended to update a reference to the former Department of Fish and
13 Game. See Fish & Wildlife Code § 1500.

14 **Gov't Code § 6276.34 (amended).**

15 SEC. _____. Section 6276.34 of the Government Code is amended to read:

16 6276.34. Parole revocation proceedings, confidentiality of information in reports,
17 Section 3063.5, Penal Code.

18 Passenger fishing boat licenses, records, Section ~~7923~~ 21920, Fish and Game
19 Wildlife Code.

20 Paternity, acknowledgement, confidentiality of records, Section 102760, Health
21 and Safety Code.

22 Patient-physician confidential communication, Sections 992 and 994, Evidence
23 Code.

24 Patient records, confidentiality of, Section 123135, Health and Safety Code.

25 Payment instrument licensee records, inspection of, Section 33206, Financial
26 Code.

27 Payroll records, confidentiality of, Section 1776, Labor Code.

28 Peace officer personnel records, confidentiality of, Sections 832.7 and 832.8,
29 Penal Code.

30 Penitential communication between penitent and clergy, Sections 1032 and 1033,
31 Evidence Code.

32 Personal Care Services Program, exemption from disclosure for information
33 regarding persons paid by the state to provide personal care services, Section
34 6253.2.

35 Personal Income Tax, disclosure of information, Article 2 (commencing with
36 Section 19542), Chapter 7, Part 10.2, Division 2, Revenue and Taxation Code.

37 Personal information, Information Practices Act, prohibitions against disclosure
38 by state agencies, Sections 1798.24 and 1798.75, Civil Code.

39 Personal information, subpoena of records containing, Section 1985.4, Code of
40 Civil Procedure.

41 Personal representative, confidentiality of personal representative's birth date and
42 driver's license number, Section 8404, Probate Code.

1 Persons formerly classified as mentally abnormal sex offenders committed to a
2 state hospital, confidentiality of records, Section 4135, Welfare and Institutions
3 Code.

4 Persons with mental health disorders, court-ordered evaluation, confidentiality of
5 reports, Section 5202, Welfare and Institutions Code.

6 Persons with mental health disorders, confidentiality of written consent to
7 detainment, Section 5326.4, Welfare and Institutions Code.

8 Persons with mental health disorders voluntarily detained and receiving services,
9 confidentiality of records and information, Sections 5328, 5328.15, 5328.2, 5328.4,
10 5328.8, and 5328.9, Welfare and Institutions Code.

11 Persons with mental health disorders, weapons restrictions, confidentiality of
12 information about, Section 8103, Welfare and Institutions Code.

13 Petition signatures, Section 18650, Elections Code.

14 Petroleum supply and pricing, confidential information, Sections 25364 and
15 25366, Public Resources Code.

16 Pharmacist, alcohol or dangerous drug diversion and rehabilitation records,
17 confidentiality of, Section 4372, Business and Professions Code.

18 Physical therapist or assistant, records of dangerous drug or alcohol diversion and
19 rehabilitation, confidentiality of, Section 2667, Business and Professions Code.

20 Physical or mental condition or conviction of controlled substance offense,
21 records in Department of Motor Vehicles, confidentiality of, Section 1808.5,
22 Vehicle Code.

23 Physician and surgeon, rehabilitation and diversion records, confidentiality of,
24 Section 2355, Business and Professions Code.

25 Physician assistant, alcohol or dangerous drug diversion and rehabilitation
26 records, confidentiality of, Section 3534.7, Business and Professions Code.

27 Physician competency examination, confidentiality of reports, Section 2294,
28 Business and Professions Code.

29 Physicians and surgeons, confidentiality of reports of patients with a lapse of
30 consciousness disorder, Section 103900, Health and Safety Code.

31 Physician Services Account, confidentiality of patient names in claims, Section
32 16956, Welfare and Institutions Code.

33 Pilots, confidentiality of personal information, Section 1157.1, Harbors and
34 Navigation Code.

35 Pollution Control Financing Authority, financial data submitted to, subdivision
36 (o), Section 6254.

37 Postmortem or autopsy photos, Section 129, Code of Civil Procedure.

38 **Comment.** Section 6276.34 is amended to reflect the recodification of the former Fish and Game
39 Code.

40 **Gov't Code § 6276.42 (amended).**

41 SEC. _____. Section 6276.42 of the Government Code is amended to read:

1 6276.42. State agency activities relating to unrepresented employees, subdivision
2 (p) of Section 6254.

3 State agency activities relating to providers of health care, subdivision (a) of
4 Section 6254.

5 State Auditor, access to barred records, Section 8545.2.

6 State Auditor, confidentiality of records, Sections 8545, 8545.1, and 8545.3.

7 State civil service employee, confidentiality of appeal to state personnel board,
8 Section 18952.

9 State civil service employees, confidentiality of reports, Section 18573.

10 State civil service examination, confidentiality of application and examination
11 materials, Section 18934.

12 State Compensation Insurance Fund, exemption from disclosure for various
13 records maintained by the State Compensation Insurance Fund, subdivision (ad),
14 Section 6254.

15 State Contract Act, bids, questionnaires and financial statements, Section 10165,
16 Public Contract Code.

17 State Contract Act, bids, sealing, opening and reading bids, Section 10304, Public
18 Contract Code.

19 State Energy Resources Conservation and Development Commission,
20 confidentiality of proprietary information submitted to, Section 25223, Public
21 Resources Code.

22 State hospital patients, information and records in possession of Superintendent
23 of Public Instruction, confidentiality of, Section 56863, Education Code.

24 State Long-Term Care Ombudsman, access to government agency records,
25 Section 9723, Welfare and Institutions Code.

26 State Long-Term Care Ombudsman office, confidentiality of records and files,
27 Section 9725, Welfare and Institutions Code.

28 State Long-Term Care Ombudsman office, disclosure of information or
29 communications, Section 9715, Welfare and Institutions Code.

30 State Lottery Evaluation Report, disclosure, Section 8880.46.

31 State prisoners, exemption from disclosure for surveys by the California Research
32 Bureau of children of female prisoners, Section 7443, Penal Code.

33 State summary criminal history information, confidentiality of information,
34 Sections 11105, 11105.1, 11105.3, and 11105.4, Penal Code.

35 State Teachers' Retirement System, confidentiality of information filed with the
36 system by a member, participant, or beneficiary, Sections 22306 and 26215,
37 Education Code.

38 Sterilization of disabled, confidentiality of evaluation report, Section 1955,
39 Probate Code.

40 Strawberry marketing information, confidentiality of, Section 63124, Food and
41 Agricultural Code.

1 Structural pest control licensee records relating to pesticide use, confidentiality
2 of, Section 15205, Food and Agricultural Code.

3 Student driver, records of physical or mental condition, confidentiality of, Section
4 12661, Vehicle Code.

5 Student, community college, information received by school counselor,
6 confidentiality of, Section 72621, Education Code.

7 Student, community college, records, limitations on release, Section 76243,
8 Education Code.

9 Student, community college, record contents, records of administrative hearing to
10 change contents, confidentiality of, Section 76232, Education Code.

11 Student, sexual assault on private higher education institution campus,
12 confidentiality of information, Section 94385, Education Code.

13 Student, sexual assault on public college or university, confidentiality of
14 information, Section 67385, Education Code.

15 Sturgeon egg processors, records, ~~Section 10004~~ subdivision (b) of Section
16 43270, Fish and Game Wildlife Code.

17 **Comment.** Section 6276.42 is amended to reflect the recodification of the former Fish and Game
18 Code.

19 **Gov't Code § 7000 (amended).**

20 SEC. _____. Section 7000 of the Government Code is amended to read:

21 7000. It is the intent of the Legislature in enacting this chapter to provide a means
22 whereby the Departments of Water Resources, Parks and Recreation, Fish and
23 Game Wildlife, and General Services, of the State of California, may acquire by
24 purchase, gift, grant, bequest, devise, lease, condemnation or otherwise, the fee or
25 any lesser interest or right in real property in order to protect, preserve, maintain,
26 improve, restore, limit the future use of, or otherwise conserve for public use and
27 enjoyment any of the lands and areas, identified below, alongside the Westside
28 Freeway, Interstate Route 5, and the California Aqueduct, which have significant
29 scenic values:

30 (a) Between the California Aqueduct and the Westside Freeway from Highway
31 41 north to Milham Avenue.

32 (b) Between the California Aqueduct and the Westside Freeway from Ness
33 Avenue north to Pioneer Road.

34 (c) Between the California Aqueduct, the Westside Freeway and the Delta-
35 Mendota Canal from Cottonwood Road north to the freeway-aqueduct crossing at
36 Orestimba Creek, and between the aqueduct and freeway north of that point to the
37 Alameda County line.

38 The Department of Transportation may acquire scenic easements along said
39 Westside Freeway, provided that funds for such easements are obtained pursuant to
40 the provisions of Section 319 of Title 23 of the United States Code relating to the
41 purchase of interests in lands adjacent to highway rights-of-way, provided further

1 that the federal government reimburses the state for the costs of such scenic
2 easements, and also provided that the use of money for this purpose will not reduce
3 the amount of funds which would otherwise be available to the state for highway
4 purposes.

5 **Comment.** Section 7000 is amended to update a reference to the former Department of Fish and
6 Game. See Fish & Wildlife Code § 1500.

7 **Gov't Code § 8597 (amended).**

8 SEC. _____. Section 8597 of the Government Code is amended to read:

9 8597. Whenever a state of emergency is proclaimed to exist within any region or
10 area, or whenever a state of war emergency exists, the following classes of state
11 employees who are within the region or area proclaimed or who may be assigned to
12 duty therein shall be peace officers and shall have the full powers and duties of those
13 officers for all purposes as provided by Section 830.1 of the Penal Code, and shall
14 perform those duties and exercise any powers which are appropriate or which may
15 be directed by their superior officers:

16 (a) All peace officers of the Department of the California Highway Patrol.

17 (b) All deputies of the Department of Fish and Game Wildlife who have been
18 appointed to enforce the provisions of the Fish and Game Wildlife Code pursuant
19 to Section 851 of that code.

20 (c) The Director of Forestry and Fire Protection and the classes of the Department
21 of Forestry and Fire Protection who are designated by the Director of Forestry and
22 Fire Protection as having the powers of peace officers pursuant to Section 4156 of
23 the Public Resources Code.

24 (d) Peace officers who are state employees within the provisions of Section 830.5
25 of the Penal Code.

26 **Comment.** Section 8597 is amended to reflect the recodification of the former Fish and Game
27 Code. The section is also amended to update a reference to the former Department of Fish and
28 Game. See Fish & Wildlife Code § 1500.

29 **Gov't Code § 8670.4 (amended).**

30 SEC. _____. Section 8670.4 of the Government Code is amended to read:

31 8670.4. There shall be an administrator for oil spill response. The administrator
32 shall be a chief deputy director of the Department of Fish and Game Wildlife. The
33 administrator shall be appointed by the Governor and shall serve at the pleasure of
34 the Governor. The appointment by the Governor shall be subject to the advice and
35 consent of the Senate. The compensation of the administrator shall be fixed by the
36 Governor pursuant to law.

37 **Comment.** Section 8670.4 is amended to update a reference to the former Department of Fish
38 and Game. See Fish & Wildlife Code § 1500.

39 **Gov't Code § 8670.59 (amended).**

40 SEC. _____. Section 8670.59 of the Government Code is amended to read:

1 8670.59. (a) Any civil action brought pursuant to this chapter, or pursuant to
2 Division 7.8 (commencing with Section 8750) of the Public Resources Code, shall
3 be brought in the county in which the spill, discharge, or violation occurred, the
4 county in which the principal place of business of the defendant is located, or the
5 county in which the defendant is doing business in this state.

6 (b)(1) Notwithstanding any other provision of law, all criminal actions for the
7 prosecution of misdemeanor violations of this chapter or Division 7.8 (commencing
8 with Section 8750) of the Public Resources Code shall be commenced within one
9 year from the date of the discovery of the facts or circumstances that constitute the
10 violation.

11 (2) Notwithstanding any other provision of law, all criminal actions for the
12 prosecution of felony violations of this chapter or Division 7.8 (commencing with
13 Section 8750) of the Public Resources Code shall be commenced within three years
14 from the date of the discovery of the facts or circumstances that constitute the
15 violation.

16 (c) Notwithstanding any other provision of law, except as provided in subdivision
17 (d), any action to recover civil damages or penalties shall be commenced within
18 three years from the date of discovery of the facts or circumstances that constitute a
19 violation of this chapter or Division 7.8 (commencing with Section 8750) of the
20 Public Resources Code.

21 (d) Any action to recover civil damages or penalties pursuant to paragraph (3),
22 (4), (5), (6), or (7) of subdivision (h) of Section 8670.56.5 because of effects on
23 natural resources shall be commenced within five years from the date of the
24 discovery of the facts or circumstances that are the basis for the cause of action.

25 (e) Any action to compel the removal of oil or the restoration and rehabilitation
26 of wildlife and wildlife habitat shall be commenced within five years from the date
27 of discovery of the facts or circumstances that constitute a violation of this chapter
28 or Division 7.8 (commencing with Section 8750) of the Public Resources Code.

29 (f) For purposes of subdivisions (b), (c), (d), and (e), “date of discovery” means
30 the actual date that facts sufficient to establish that a violation of this chapter or
31 Division 7.8 (commencing with Section 8750) of the Public Resources Code has
32 occurred are discovered by a peace officer appointed pursuant to Section 851 ~~4110~~
33 of the Fish and ~~Game~~ Wildlife Code.

34 (g) The administrator may adopt regulations prescribing procedures for the
35 implementation of this section.

36 **Comment.** Section 8670.59 is amended to reflect the recodification of the former Fish and Game
37 Code.

38 **Gov’t Code § 8670.61 (amended).**

39 SEC. _____. Section 8670.61 of the Government Code is amended to read:

40 8670.61. The civil and criminal penalties provided in this chapter and Division
41 7.8 (commencing with Section 8750) of the Public Resources Code shall be separate

1 from, and in addition to, and do not supersede or limit, any and all other remedies,
2 civil or criminal, except as provided in subdivision (j) of Section 5650.1 Section
3 6324 of the Fish and Game Wildlife Code.

4 **Comment.** Section 8670.61 is amended to reflect the recodification of the former Fish and Game
5 Code.

6 **Gov't Code § 11011.2 (amended).**

7 SEC. _____. Section 11011.2 of the Government Code is amended to read:

8 11011.2. (a)(1) Notwithstanding any other law, including, but not limited to,
9 Sections 11011 and 14670, except as provided in this section, the Department of
10 General Services may lease real property under the jurisdiction of a state agency,
11 department, or district agricultural association, if the Director of General Services
12 determines that the real property is of no immediate need to the state but may have
13 some potential future use to the program needs of the agency, department, or district
14 agricultural association.

15 (2) The Director of General Services may not lease any of the following real
16 property pursuant to this section:

17 (A) Tax-deeded land or lands under the jurisdiction of the State Lands
18 Commission.

19 (B) Land that has escheated to the state or that has been distributed to the state by
20 court decree in estates of deceased persons.

21 (C) Lands under the jurisdiction of the State Coastal Conservancy or another state
22 conservancy.

23 (D) Lands under the jurisdiction of the Department of Transportation or the
24 California State University system, or land owned by the Regents of the University
25 of California.

26 (E) Lands under the jurisdiction of the Department of Parks and Recreation.

27 (F) Lands under the jurisdiction of the Department of Fish and Game Wildlife.

28 (3) A lease entered into pursuant to this section shall be set at the amount of the
29 lease's fair market value, as determined by the Director of General Services. The
30 Director of General Services may determine the length of term or a use of the lease,
31 and specify any other terms and conditions which are determined to be in the best
32 interest of the state.

33 (b) The Department of General Services may enter into a long-term lease of real
34 property pursuant to this section that has outstanding lease revenue bonds and for
35 which the real property cannot be disencumbered from the bonds, only if the issuer
36 and trustee for the bonds approves the lease transaction, and this approval takes into
37 consideration, among other things, that the proposed lease transaction does not
38 breach a covenant or obligation of the issuer or trustee.

39 (c)(1) All issuer- and trustee-related costs for reviewing a proposed lease
40 transaction pursuant to this section, and all other costs of the lease transaction

1 related to the defeasance or other retirement of any bonds, including the cost of
2 nationally recognized bond counsel, shall be paid from the proceeds of that lease.

3 (2) The Department of General Services shall be reimbursed for any reasonable
4 costs or expenses incurred in conducting a transaction pursuant to this section.

5 (3) Notwithstanding subdivision (g) of Section 11011, the Department of General
6 Services shall deposit into the General Fund the net proceeds of a lease entered into
7 pursuant to this section, after deducting the amount of the reimbursement of costs
8 incurred pursuant to this section or the reimbursement of adjustments to the General
9 Fund loan made pursuant to Section 8 of Chapter 20 of the 2009–10 Fourth
10 Extraordinary Session from the lease.

11 (d) The Department of General Services shall transmit a report to each house of
12 the Legislature on or before June 30, 2011, and on or before June 30 each year
13 thereafter, listing every new lease that exceeds a period of five years entered into
14 under the authority of this section and the following information regarding each
15 listed lease:

16 (1) Lease payments.

17 (2) Length of the lease.

18 (3) Identification of the leasing parties.

19 (4) Identification of the leased property.

20 (5) Any other information the Director of General Services determines should be
21 included in the report to adequately describe the material provisions of the lease.

22 **Comment.** Subparagraph (F) of paragraph (2) of subdivision (a) of Section 11011.2 is amended
23 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

24 **Gov't Code § 11125.6 (amended).**

25 SEC. _____. Section 11125.6 of the Government Code is amended to read:

26 11125.6. (a) An emergency meeting may be called at any time by the president of
27 the Fish and Game Commission or by a majority of the members of the commission
28 to consider an appeal of a closure of or restriction in a fishery adopted pursuant to
29 Section ~~7710~~ 22800 of the Fish and Game Wildlife Code. In the case of an
30 emergency situation involving matters upon which prompt action is necessary due
31 to the disruption or threatened disruption of an established fishery, the commission
32 may hold an emergency meeting without complying with the 10-day notice
33 requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4
34 if the delay necessitated by providing the 10-day notice of a public meeting required
35 by Section 11125 or the 48-hour notice required by Section 11125.4 would
36 significantly adversely impact the economic benefits of a fishery to the participants
37 in the fishery and to the people of the state or significantly adversely impact the
38 sustainability of a fishery managed by the state.

39 (b) At the commencement of an emergency meeting called pursuant to this
40 section, the commission shall make a finding in open session that the delay
41 necessitated by providing notice 10 days prior to a meeting as required by Section

1 11125 or 48 hours prior to a meeting as required by Section 11125.4 would
2 significantly adversely impact the economic benefits of a fishery to the participants
3 in the fishery and to the people of the state or significantly adversely impact the
4 sustainability of a fishery managed by the state. The finding shall set forth the
5 specific facts that constitute the impact to the economic benefits of the fishery or
6 the sustainability of the fishery. The finding shall be adopted by a vote of at least
7 four members of the commission, or, if less than four of the members are present, a
8 unanimous vote of those members present. Failure to adopt the finding shall
9 terminate the meeting.

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

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

19 **Comment.** Subdivision (a) of Section 11125.6 is amended to reflect the recodification of the
20 former Fish and Game Code.

21 **Gov't Code § 11343.4 (amended).**

22 SEC. _____. Section 11343.4 of the Government Code is amended to read:

23 11343.4. (a) Except as otherwise provided in subdivision (b), a regulation or an
24 order of repeal required to be filed with the Secretary of State shall become effective
25 on a quarterly basis as follows:

26 (1) January 1 if the regulation or order of repeal is filed on September 1 to
27 November 30, inclusive.

28 (2) April 1 if the regulation or order of repeal is filed on December 1 to February
29 29, inclusive.

30 (3) July 1 if the regulation or order of repeal is filed on March 1 to May 31,
31 inclusive.

32 (4) October 1 if the regulation or order of repeal is filed on June 1 to August 31,
33 inclusive.

34 (b) The effective dates in subdivision (a) shall not apply in all of the following:

35 (1) The effective date is specifically provided by the statute pursuant to which the
36 regulation or order of repeal was adopted, in which event it becomes effective on
37 the day prescribed by the statute.

38 (2) A later date is prescribed by the state agency in a written instrument filed with,
39 or as part of, the regulation or order of repeal.

40 (3) The agency makes a written request to the office demonstrating good cause
41 for an earlier effective date, in which case the office may prescribe an earlier date.

1 (4)(A) A regulation adopted by the Fish and Game Commission that is governed
2 by Article 2 (commencing with Section 250) of Chapter 2 of Division 1 Article 2
3 (commencing with Section 1100) of Chapter 1 of Title 2 of Part 1 of Division 2 of
4 the Fish and Game Wildlife Code.

5 (B) A regulation adopted by the Fish and Game Commission that requires a
6 different effective date in order to conform to a federal regulation.

7 **Comment.** Section 11343.4 is amended to reflect the recodification of the former Fish and Game
8 Code.

9 **Gov't Code § 12805.1 (amended).**

10 SEC. _____. Section 12805.1 of the Government Code is amended to read:

11 12805.1. The Secretary of the Resources Agency shall facilitate coordination
12 between the Department of Fish and Game Wildlife and the California Coastal
13 Commission in a manner consistent with, and in furtherance of, the goals and
14 policies of Division 20 (commencing with Section 30000) of the Public Resources
15 Code (the California Coastal Act of 1976) and of Chapter 10 (commencing with
16 Section 2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of
17 Division 17 of the Fish and Game Wildlife Code (the Natural Community
18 Conservation Planning Act).

19 **Comment.** Section 12805.1 is amended to reflect the recodification of the former Fish and Game
20 Code. The section is also amended to update a reference to the former Department of Fish and
21 Game. See Fish & Wildlife Code § 1500.

22 **Gov't Code § 12805.3 (amended).**

23 SEC. _____. Section 12805.3 of the Government Code is amended to read:

24 12805.3. (a) The Secretary of the Natural Resources Agency shall convene a
25 committee to develop and submit to the Governor and the Legislature, before July
26 1, 2012, a strategic vision for the Department of Fish and Game Wildlife and the
27 Fish and Game Commission.

28 (b) The committee members shall include all of the following:

29 (1) The Secretary of the Natural Resources Agency.

30 (2) The Director of Fish and Game Wildlife.

31 (3) The president of the Fish and Game Commission.

32 (4) The chair of the State Energy Resources Conservation and Development
33 Commission.

34 (5) A representative of the University of California.

35 (6) Representatives of the United States Fish and Wildlife Service and the
36 National Marine Fisheries Service, if they choose to participate.

37 (c) The strategic vision shall address all of the following matters:

38 (1) Improving and enhancing capacity of the department and the commission to
39 fulfill their public trust responsibilities to protect and manage the state's fish and
40 wildlife for their ecological values and for the use and benefit of the people of the
41 state.

1 (2) Comprehensive biodiversity management, including conservation planning
2 and monitoring.

3 (3) Sustainable ecosystem functions, including terrestrial, freshwater, and marine
4 habitat.

5 (4) Opportunities for sustainable recreational and commercial harvest of fish and
6 wildlife.

7 (5) Permitting, regulatory, and enforcement functions.

8 (6) Science capacity and academic relationships, including strategies to protect
9 and enhance the independence and integrity of the science that forms the basis for
10 department and commission policies and decisions.

11 (7) Education, communication, and relations with the public, landowners,
12 nonprofit entities, and land management agencies.

13 (8) Reforms necessary to take on the challenges of the 21st century, including, but
14 not necessarily limited to:

15 (A) Climate change and adaptation.

16 (B) Meeting California's future renewable energy needs while protecting sensitive
17 habitat.

18 (C) The restoration of the state's native fish species.

19 (D) Implementing and updating the state's Wildlife Action Plan.

20 (9) The development and deployment of technology to meet the department's
21 mission, including data modeling, collection, and online reporting.

22 (10) Budget and fiscal development, accounting, and management.

23 (11) Coordination among state agencies.

24 (12) Recommendations for institutional or governance changes, including
25 clarification of the roles of the commission and the department.

26 (13) Strategies for identifying stable funding options to fulfill the mission of the
27 department while reducing dependency on the General Fund.

28 (14) Other recommendations deemed desirable by the committee.

29 (d) The committee shall seek input from elected officials, governmental agencies,
30 and interested parties, and shall review existing reports and studies on the
31 functioning of the department and other state models for fish and wildlife
32 governance.

33 (e) For the purposes of carrying out this section, the committee may also seek
34 input from other policy and resource leaders.

35 (f)(1) The committee, its members, and state agencies represented on the
36 committee may contract for consultants to assist in the preparation of the strategic
37 vision.

38 (2) Contracts entered into pursuant to paragraph (1) shall terminate no later than
39 December 31, 2011.

40 (3) Contracts entered into pursuant to paragraph (1) shall be exempt from Part 2
41 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(g) The Governor or the committee shall appoint a “blue ribbon” citizen commission or task force, a stakeholder advisory group, and any other group that the Governor or the committee deems necessary or desirable to assist in carrying out this section. A stakeholder advisory group appointed pursuant to this section shall be broadly constructed to represent a diverse range of interests affected by state policies that govern fish and wildlife, including, but not necessarily limited to, persons representing fishing and hunting interests, nonprofit conservation organizations, nonconsumptive recreational users, landowners, scientific and educational interests, and other interests or entities dedicated to habitat conservation and protection of public trust resources. The committee convened pursuant to subdivision (a), in developing the strategic vision, shall take into account the recommendations of any group appointed pursuant to this subdivision.

(h)(1) The requirement for submitting the strategic vision imposed under subdivision (a) is inoperative on January 1, 2015, pursuant to Section 10231.5 of the Government Code, or on the date that the strategic vision is submitted, whichever date is later.

(2) The strategic vision shall be submitted in compliance with Section 9795 of the Government Code.

Comment. Section 12805.3 is amended to update a reference to the former Department of Fish and Game, and a reference to the Director of that department. See Fish & Wildlife Code § 1500.

Gov’t Code § 14012 (amended).

SEC. _____. Section 14012 of the Government Code is amended to read:

14012. (a) The director may sell or lease excess right-of-way parcels to municipalities or other local agencies for public purposes, and may accept as all or part of the consideration for such sale or lease any substantial benefits the state will derive from the municipality or other local agency’s undertaking maintenance or landscaping costs that would otherwise be the obligation of the state.

(b) For the purposes of Section 9 of Article 19 of the California Constitution, the department shall notify, on a quarterly basis, the State Coastal Conservancy, the Department of Parks and Recreation, the Wildlife Conservation Board, and the Department of Fish and Game Wildlife of excess property.

Comment. Section 14012 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Gov’t Code § 14659 (amended).

SEC. _____. Section 14659 of the Government Code is amended to read:

14659. The Department of General Services and its director succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the California Victim Compensation and Government Claims Board, or its executive officer, under the following statutes as they existed on January 1, 2016:

(a) Section 77 of the Code of Civil Procedure.

(b) Section 846.1 of the Civil Code.

- (c) Sections 12117, 24618, and 89750.5 of the Education Code.
- (d) Sections 1122 and 15512 24600 and 25110 of the Fish and Game Wildlife Code.
- (e) Sections 3955, 14978.2, and 52295 of the Food and Agricultural Code.
- (f) Sections 800, 850.6, 900.2, 905.2, 905.3, 906, 911.2, 912.5, 915, 920, 925, 927.13, 935.6, 935.7, 940.2, 965, 965.1, 965.5, 997.1, 998, 998.2, 1151, 3515.7, 8652, 8902, 11007.6, 11014, 11030.1, 11030.2, 11031, 11275, 13332.09, 14600, 15202, 16302.1, 16304.6, 16383, 16431, 17051.5, 17201, 19815.4, 20163, 21223, 21265, 26749, 68503, 68506, 68543, 68543.5, 68543.8, and 68565 of this code.
- (g) Sections 13052, 25370, 121265, and 121270 of the Health and Safety Code.
- (h) Sections 11580.1 and 11872 of the Insurance Code.
- (i) Sections 4724, 4725, and 4726 of the Labor Code.
- (j) Sections 422.92, 987.9, 1557, 2786, 11163, and 11172 of the Penal Code.
- (k) Sections 10301, 10306, 10308, 10311, 10326.2, and 12102.2 of the Public Contract Code.
- (l) Sections 4116, 4602.6, 5093.68, and 30171.2 of the Public Resources Code.
- (m) Sections 4461, 14171.5, 14171.6, and 15634 of the Welfare and Institutions Code.
- Comment.** Section 14659 is amended to reflect the recodification of the former Fish and Game Code.

Gov't Code § 15855 (amended).

- SEC. _____. Section 15855 of the Government Code is amended to read:
15855. (a) Notwithstanding any other law, except as provided in subdivision (b), the State Public Works Board is the only state agency that may exercise the power of eminent domain to acquire property needed by any state agency for any state purpose or function.
- (b) Subdivision (a) does not affect or limit the right of the Department of Transportation, High-Speed Rail Authority, Department of Water Resources, State Lands Commission, Central Valley Flood Protection Board, Hastings College of the Law, or the Regents of the University of California to exercise the power of eminent domain. Subdivision (a) does not affect or limit the exercise of the power of eminent domain by the Department of Fish and Wildlife pursuant to Section 1348 54815 of the Fish and Game Wildlife Code.
- (c) (1) Any eminent domain proceeding commenced by the State Public Works Board for an acquisition for high-speed train system purposes prior to, and pending after, January 1, 2019, shall be deemed to have been commenced by the High-Speed Rail Authority, and the High-Speed Rail Authority shall be automatically substituted for the State Public Works Board as a party in any such action. All subsequent proceedings shall be in the name of the High-Speed Rail Authority. However, any misnomer not affecting the parties' substantial rights shall be

1 disregarded. The court may order substitution at any time, but the absence of such
2 an order does not affect the substitution.

3 (2) The State Public Works Board shall file with the court and serve on all parties
4 to an action described in paragraph (1) a notice that the High-Speed Rail Authority
5 is automatically substituted in place of the State Public Works Board and is the
6 agency exercising the power of eminent domain on behalf of the state in the action.

7 **Comment.** Section 15855 is amended to reflect the recodification of the former Fish and Game
8 Code.

9 **Gov't Code § 20399 (amended).**

10 SEC. _____. Section 20399 of the Government Code is amended to read:

11 20399. "State safety member," includes persons employed in the Department of
12 Fish and Game Wildlife in connection with its warden service, whose principal
13 duties consist of active law enforcement service, including immediate supervision
14 by persons employed to perform the duties performed under the titles of Chief and
15 Assistant Chief of Warden Service, and Captain of Patrol Boats, except those whose
16 principal duties are those of a telephone operator, clerk, stenographer, machinist,
17 mechanic, assistant fish and game warden, or otherwise clearly do not fall within
18 the scope of active law enforcement service, even though the person is subject to
19 occasional call, or is occasionally called upon, to perform duties within the scope of
20 active law enforcement.

21 **Comment.** Section 20399 is amended to update a reference to the former Department of Fish
22 and Game. See Fish & Wildlife Code § 1500.

23 **Gov't Code § 22013.1 (amended).**

24 SEC. _____. Section 22013.1 of the Government Code is amended to read:

25 22013.1. "Policeman" as used in this part also includes persons employed in the
26 Department of Fish and Game Wildlife in connection with its warden service, whose
27 principal duties consist of active law enforcement service, including immediate
28 supervision by persons employed to perform the duties now performed under the
29 titles of chief and assistant chief of warden service, and captain of patrol boats for
30 the purposes of Section 218(d)(5)(A) of the Social Security Act.

31 **Comment.** Section 22013.1 is amended to update a reference to the former Department of Fish
32 and Game. See Fish & Wildlife Code § 1500.

33 **Gov't Code § 50060 (amended).**

34 SEC. _____. Section 50060 of the Government Code is amended to read:

35 50060. As used in this article:

36 (a) "District" means a habitat maintenance assessment district formed pursuant to
37 this article.

38 (b) "Improvement" means one or any combination of the following:

39 (1) The acquisition, construction, or rehabilitation of any facilities needed to
40 create, restore, enhance, or maintain natural habitat.

1 (2) The installation or construction of any facilities which are appurtenant to any
2 facilities in paragraph (1) or which are necessary or convenient for the maintenance
3 or servicing thereof, including, but not limited to, grading, clearing, removal of
4 debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving,
5 or water, irrigation, drainage, or electrical facilities.

6 (3) The installation of habitat improvements, including, but not limited to, any of
7 the following:

8 (A) Land preparation, such as grading, leveling, cutting and filling, sod,
9 landscaping, irrigation systems, sidewalks, and drainage.

10 (B) The maintenance or servicing, or both, of any of the foregoing.

11 (4) The acquisition of land for habitat maintenance purposes.

12 (5) The acquisition of any existing improvement otherwise authorized pursuant to
13 this article.

14 (c) “Incidental expenses” include all of the following:

15 (1) The costs of preparation of the report, including plans, specifications,
16 estimates, diagrams, and assessment.

17 (2) The costs of printing, advertising, and the giving of published, posted, and
18 mailed notices.

19 (3) Compensation payable to the county for collection of assessments.

20 (4) Compensation of any engineer, scientist, or attorney employed to render
21 services in proceedings pursuant to this article. The compensation shall not exceed
22 the estimated amount required to provide the service.

23 (5) Any other expenses incidental to the construction, installation, or maintenance
24 and servicing of the improvements.

25 (6) Any expenses incidental to the issuance of bonds or notes pursuant to Section
26 50068.

27 (7) The costs of biological monitoring and evaluation of collected data related to
28 the establishment or operation of natural habitat.

29 (8) The direct costs incurred by the Department of Fish and Game Wildlife in
30 approving long-term natural habitat maintenance plans pursuant to Section 2901
31 58080 of the Fish and Game Wildlife Code.

32 (d) “Legislative body” means the city council, board of supervisors, or any other
33 governing body of a local agency.

34 (e) “Local agency” means any city, county, or city and county, whether general
35 law or chartered.

36 (f) “Maintain” or “maintenance” means the furnishing of services and materials
37 for the ordinary and usual maintenance, operation, and servicing of any
38 improvement, including, but not limited to, all of the following:

39 (1) Repair, removal, or replacement of all or any part of any improvement.

40 (2) Providing for the life, growth, health, and beauty of habitat, including
41 cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or
42 injury.

(3) The removal of trimmings, rubbish, debris, and other solid waste.

(4) The operation and management of natural habitat, including biological monitoring and evaluation of collected data.

(5) The conduct of biological activities necessary to sustain the species being protected.

Comment. Paragraph (8) of subdivision (c) of Section 50060 is amended to reflect the recodification of the former Fish and Game Code. That paragraph is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Gov't Code § 50060.5 (amended).

SEC. _____. Section 50060.5 of the Government Code is amended to read:

50060.5. (a) A local agency may, by ordinance or by resolution adopted after notice and hearing, establish a district to provide for the improvement or maintenance of natural habitat. The local agency may perform those functions or contract with the state, another local agency, or a special district to perform those functions. If a local agency establishes a district, it may provide for the levy of assessments for not more than 30 years to pay the cost and incidental expenses of implementing a long-term natural habitat maintenance plan approved by the Department of Fish and Game Wildlife pursuant to Section ~~2901~~ 58080 of the Fish and Game Wildlife Code. Any assessments levied pursuant to this section shall be levied only in accordance with a plan for the conservation of natural habitat approved by the Department of Fish and Game Wildlife. No plan shall be approved by the Department of Fish and Game Wildlife unless it contains provisions for the recovery of all costs incurred by the department in its review of the plan for the conservation of natural habitat.

(b) The legislative body of the local agency establishing a district shall serve as the legislative body of the district.

(c) Notwithstanding any other provision of this article, assessments levied pursuant to this article shall not be reduced or terminated if doing so would interfere with the implementation of an approved plan for the conservation of natural habitat.

(d) This article applies only to the implementation of a long-term natural habitat maintenance plan by a district, and does not alter, limit, or otherwise affect any other district that has been, or may be, established pursuant to law, including, but not limited to, any other district relating to wildlife habitat.

(e) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5, does not apply to a district formed pursuant to this article.

Comment. Section 50060.5 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update references to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Gov't Code § 51201 (amended).

SEC. _____. Section 51201 of the Government Code is amended to read:

1 51201. As used in this chapter, unless otherwise apparent from the context, the
2 following terms have the following meanings:

3 (a) “Agricultural commodity” means any and all plant and animal products
4 produced in this state for commercial purposes, including, but not limited to, plant
5 products used for producing biofuels.

6 (b) “Agricultural use” means use of land, including but not limited to greenhouses,
7 for the purpose of producing an agricultural commodity for commercial purposes.

8 (c) “Prime agricultural land” means any of the following:

9 (1) All land that qualifies for rating as class I or class II in the Natural Resource
10 Conservation Service land use capability classifications.

11 (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.

12 (3) Land which supports livestock used for the production of food and fiber and
13 which has an annual carrying capacity equivalent to at least one animal unit per acre
14 as defined by the United States Department of Agriculture.

15 (4) Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which
16 have a nonbearing period of less than five years and which will normally return
17 during the commercial bearing period on an annual basis from the production of
18 unprocessed agricultural plant production not less than two hundred dollars (\$200)
19 per acre.

20 (5) Land which has returned from the production of unprocessed agricultural plant
21 products an annual gross value of not less than two hundred dollars (\$200) per acre
22 for three of the previous five years.

23 (d) “Agricultural preserve” means an area devoted to either agricultural use, as
24 defined in subdivision (b), recreational use as defined in subdivision (n), or open-
25 space use as defined in subdivision (o), or any combination of those uses and which
26 is established in accordance with the provisions of this chapter.

27 (e) “Compatible use” is any use determined by the county or city administering
28 the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be
29 compatible with the agricultural, recreational, or open-space use of land within the
30 preserve and subject to contract. “Compatible use” includes agricultural use,
31 recreational use or open-space use unless the board or council finds after notice and
32 hearing that the use is not compatible with the agricultural, recreational or open-
33 space use to which the land is restricted by contract pursuant to this chapter.

34 (f) “Board” means the board of supervisors of a county which establishes or
35 proposes to establish an agricultural preserve or which enters or proposes to enter
36 into a contract on land within an agricultural preserve pursuant to this chapter.

37 (g) “Council” means the city council of a city which establishes or proposes to
38 establish an agricultural preserve or which enters or proposes to enter into a contract
39 on land within an agricultural preserve pursuant to this chapter.

40 (h) Except where it is otherwise apparent from the context, “county” or “city”
41 means the county or city having jurisdiction over the land.

1 (i) A “scenic highway corridor” is an area adjacent to, and within view of, the
2 right-of-way of:

3 (1) An existing or proposed state scenic highway in the state scenic highway
4 system established by the Legislature pursuant to Article 2.5 (commencing with
5 Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which
6 has been officially designated by the Department of Transportation as an official
7 state scenic highway; or

8 (2) A county scenic highway established pursuant to Article 2.5 (commencing
9 with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if
10 each of the following conditions have been met:

11 (A) The scenic highway is included in an adopted general plan of the county or
12 city; and

13 (B) The scenic highway corridor is included in an adopted specific plan of the
14 county or city; and

15 (C) Specific proposals for implementing the plan, including regulation of land
16 use, have been approved by the Advisory Committee on a Master Plan for Scenic
17 Highways, and the county or city highway has been officially designated by the
18 Department of Transportation as an official county scenic highway.

19 (j) A “wildlife habitat area” is a land or water area designated by a board or
20 council, after consulting with and considering the recommendation of the
21 Department of Fish and Game Wildlife, as an area of importance for the protection
22 or enhancement of the wildlife resources of the state.

23 (k) A “saltpond” is an area which, for at least three consecutive years immediately
24 prior to being placed within an agricultural preserve pursuant to this chapter, has
25 been used for the solar evaporation of seawater in the course of salt production for
26 commercial purposes.

27 (l) A “managed wetland area” is an area, which may be an area diked off from the
28 ocean or any bay, river or stream to which water is occasionally admitted, and
29 which, for at least three consecutive years immediately prior to being placed within
30 an agricultural preserve pursuant to this chapter, was used and maintained as a
31 waterfowl hunting preserve or game refuge or for agricultural purposes.

32 (m) A “submerged area” is any land determined by the board or council to be
33 submerged or subject to tidal action and found by the board or council to be of great
34 value to the state as open space.

35 (n) “Recreational use” is the use of land in its agricultural or natural state by the
36 public, with or without charge, for any of the following: walking, hiking, picnicking,
37 camping, swimming, boating, fishing, hunting, or other outdoor games or sports for
38 which facilities are provided for public participation. Any fee charged for the
39 recreational use of land as defined in this subdivision shall be in a reasonable amount
40 and shall not have the effect of unduly limiting its use by the public. Any ancillary
41 structures necessary for a recreational use shall comply with the provisions of
42 Section 51238.1.

(o) “Open-space use” is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within:

(1) A scenic highway corridor, as defined in subdivision (i).

(2) A wildlife habitat area, as defined in subdivision (j).

(3) A saltpond, as defined in subdivision (k).

(4) A managed wetland area, as defined in subdivision (l).

(5) A submerged area, as defined in subdivision (m).

(6) An area enrolled in the United States Department of Agriculture Conservation Reserve Program or Conservation Reserve Enhancement Program.

(p) “Development” means, as used in Section 51223, the construction of buildings or the use of the restricted property if the buildings or use are unrelated to the agricultural use, the open-space use, or uses compatible with either agricultural or open-space uses of the property, or substantially impair the agricultural, open-space, or a combination of the agricultural and open-space uses of the property. Agricultural use, open-space use, uses compatible with either agricultural or open-space uses, or the acquisition of land or an interest in land are not development.

Comment. Section 51201 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Gov’t Code § 65303.4 (amended).

SEC. _____. Section 65303.4 of the Government Code is amended to read:

65303.4. The Department of Water Resources or the Central Valley Flood Protection Board, as appropriate, and the Department of Fish and Game Wildlife may develop site design and planning policies to assist local agencies which request help in implementing the general plan guidelines for meeting flood control objectives and other land management needs.

Comment. Section 65303.4 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Gov’t Code § 65913.4 (amended).

SEC. _____. Section 65913.4 of the Government Code is amended to read:

65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and is not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(1) The development is a multifamily housing development that contains two or more residential units.

(2) The development is located on a site that satisfies all of the following:

(A) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal

1 parcel or parcels wholly within the boundaries of an urbanized area or urban cluster,
2 as designated by the United States Census Bureau.

3 (B) A site in which at least 75 percent of the perimeter of the site adjoins parcels
4 that are developed with urban uses. For the purposes of this section, parcels that are
5 only separated by a street or highway shall be considered to be adjoined.

6 (C) A site that is zoned for residential use or residential mixed-use development,
7 or has a general plan designation that allows residential use or a mix of residential
8 and nonresidential uses, with at least two-thirds of the square footage of the
9 development designated for residential use.

10 (3) (A) The development proponent has committed to record, prior to the issuance
11 of the first building permit, a land use restriction or covenant providing that any
12 lower income housing units required pursuant to subparagraph (B) of paragraph (4)
13 shall remain available at affordable housing costs or rent to persons and families of
14 lower income for no less than the following periods of time:

15 (i) Fifty-five years for units that are rented.

16 (ii) Forty-five years for units that are owned.

17 (B) The city or county shall require the recording of covenants or restrictions
18 implementing this paragraph for each parcel or unit of real property included in the
19 development.

20 (4) The development satisfies both of the following:

21 (A) Is located in a locality that the department has determined is subject to this
22 subparagraph on the basis that the number of units that have been issued building
23 permits is less than the locality's share of the regional housing needs, by income
24 category, for that reporting period. A locality shall remain eligible under this
25 subparagraph until the department's determination for the next reporting period.

26 (B) The development is subject to a requirement mandating a minimum
27 percentage of below market rate housing based on one of the following:

28 (i) The locality did not submit its latest production report to the department by the
29 time period required by Section 65400, or that production report reflects that there
30 were fewer units of above moderate-income housing issued building permits than
31 were required for the regional housing needs assessment cycle for that reporting
32 period. In addition, if the project contains more than 10 units of housing, the project
33 seeking approval dedicates a minimum of 10 percent of the total number of units to
34 housing affordable to households making below 80 percent of the area median
35 income. If the locality has adopted a local ordinance that requires that greater than
36 10 percent of the units be dedicated to housing affordable to households making
37 below 80 percent of the area median income, that local ordinance applies.

38 (ii) The locality's latest production report reflects that there were fewer units of
39 housing issued building permits affordable to either very low income or low-income
40 households by income category than were required for the regional housing needs
41 assessment cycle for that reporting period, and the project seeking approval
42 dedicates 50 percent of the total number of units to housing affordable to households

1 making below 80 percent of the area median income, unless the locality has adopted
2 a local ordinance that requires that greater than 50 percent of the units be dedicated
3 to housing affordable to households making below 80 percent of the area median
4 income, in which case that local ordinance applies.

5 (iii) The locality did not submit its latest production report to the department by
6 the time period required by Section 65400, or if the production report reflects that
7 there were fewer units of housing affordable to both income levels described in
8 clauses (i) and (ii) that were issued building permits than were required for the
9 regional housing needs assessment cycle for that reporting period, the project
10 seeking approval may choose between utilizing clause (i) or (ii).

11 (5) The development, excluding any additional density or any other concessions,
12 incentives, or waivers of development standards granted pursuant to the Density
13 Bonus Law in Section 65915, is consistent with objective zoning standards,
14 objective subdivision standards, and objective design review standards in effect at
15 the time that the development is submitted to the local government pursuant to this
16 section. For purposes of this paragraph, “objective zoning standards,” “objective
17 subdivision standards,” and “objective design review standards” mean standards
18 that involve no personal or subjective judgment by a public official and are
19 uniformly verifiable by reference to an external and uniform benchmark or criterion
20 available and knowable by both the development applicant or proponent and the
21 public official before submittal. These standards may be embodied in alternative
22 objective land use specifications adopted by a city or county, and may include, but
23 are not limited to, housing overlay zones, specific plans, inclusionary zoning
24 ordinances, and density bonus ordinances, subject to the following:

25 (A) A development shall be deemed consistent with the objective zoning
26 standards related to housing density, as applicable, if the density proposed is
27 compliant with the maximum density allowed within that land use designation,
28 notwithstanding any specified maximum unit allocation that may result in fewer
29 units of housing being permitted.

30 (B) In the event that objective zoning, general plan, subdivision, or design review
31 standards are mutually inconsistent, a development shall be deemed consistent with
32 the objective zoning and subdivision standards pursuant to this subdivision if the
33 development is consistent with the standards set forth in the general plan.

34 (C) The amendments to this subdivision made by the act adding this subparagraph
35 do not constitute a change in, but are declaratory of, existing law.

36 (6) The development is not located on a site that is any of the following:

37 (A) A coastal zone, as defined in Division 20 (commencing with Section 30000)
38 of the Public Resources Code.

39 (B) Either prime farmland or farmland of statewide importance, as defined
40 pursuant to United States Department of Agriculture land inventory and monitoring
41 criteria, as modified for California, and designated on the maps prepared by the
42 Farmland Mapping and Monitoring Program of the Department of Conservation, or

1 land zoned or designated for agricultural protection or preservation by a local ballot
2 measure that was approved by the voters of that jurisdiction.

3 (C) Wetlands, as defined in the United States Fish and Wildlife Service Manual,
4 Part 660 FW 2 (June 21, 1993).

5 (D) Within a very high fire hazard severity zone, as determined by the Department
6 of Forestry and Fire Protection pursuant to Section 51178, or within a high or very
7 high fire hazard severity zone as indicated on maps adopted by the Department of
8 Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.
9 This subparagraph does not apply to sites excluded from the specified hazard zones
10 by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have
11 adopted fire hazard mitigation measures pursuant to existing building standards or
12 state fire mitigation measures applicable to the development.

13 (E) A hazardous waste site that is listed pursuant to Section 65962.5 or a
14 hazardous waste site designated by the Department of Toxic Substances Control
15 pursuant to Section 25356 of the Health and Safety Code, unless the Department of
16 Toxic Substances Control has cleared the site for residential use or residential mixed
17 uses.

18 (F) Within a delineated earthquake fault zone as determined by the State
19 Geologist in any official maps published by the State Geologist, unless the
20 development complies with applicable seismic protection building code standards
21 adopted by the California Building Standards Commission under the California
22 Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13
23 of the Health and Safety Code), and by any local building department under Chapter
24 12.2 (commencing with Section 8875) of Division 1 of Title 2.

25 (G) Within a special flood hazard area subject to inundation by the 1 percent
26 annual chance flood (100-year flood) as determined by the Federal Emergency
27 Management Agency in any official maps published by the Federal Emergency
28 Management Agency. If a development proponent is able to satisfy all applicable
29 federal qualifying criteria in order to provide that the site satisfies this subparagraph
30 and is otherwise eligible for streamlined approval under this section, a local
31 government shall not deny the application on the basis that the development
32 proponent did not comply with any additional permit requirement, standard, or
33 action adopted by that local government that is applicable to that site. A
34 development may be located on a site described in this subparagraph if either of the
35 following are met:

36 (i) The site has been subject to a Letter of Map Revision prepared by the Federal
37 Emergency Management Agency and issued to the local jurisdiction.

38 (ii) The site meets Federal Emergency Management Agency requirements
39 necessary to meet minimum flood plain management criteria of the National Flood
40 Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60
41 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
42 Code of Federal Regulations.

1 (H) Within a regulatory floodway as determined by the Federal Emergency
2 Management Agency in any official maps published by the Federal Emergency
3 Management Agency, unless the development has received a no-rise certification in
4 accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.
5 If a development proponent is able to satisfy all applicable federal qualifying criteria
6 in order to provide that the site satisfies this subparagraph and is otherwise eligible
7 for streamlined approval under this section, a local government shall not deny the
8 application on the basis that the development proponent did not comply with any
9 additional permit requirement, standard, or action adopted by that local government
10 that is applicable to that site.

11 (I) Lands identified for conservation in an adopted natural community
12 conservation plan pursuant to the Natural Community Conservation Planning Act
13 (~~Chapter 10 (commencing with Section 2800) of Division 3~~ Title 2 (commencing
14 with Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code),
15 habitat conservation plan pursuant to the federal Endangered Species Act of 1973
16 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

17 (J) Habitat for protected species identified as candidate, sensitive, or species of
18 special status by state or federal agencies, fully protected species, or species
19 protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et
20 seq.), the California Endangered Species Act (~~Chapter 1.5 (commencing with~~
21 ~~Section 2050) of Division 3~~ Part 1 (commencing with Section 62000) of Division
22 17 of the Fish and Game Wildlife Code), or the Native Plant Protection Act (~~Chapter~~
23 ~~10 (commencing with Section 1900) of Division 2~~ Title 1 (commencing with
24 Section 53800) of Part 3 of Division 14 of the Fish and Game Wildlife Code).

25 (K) Lands under conservation easement.

26 (7) The development is not located on a site where any of the following apply:

27 (A) The development would require the demolition of the following types of
28 housing:

29 (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts
30 rents to levels affordable to persons and families of moderate, low, or very low
31 income.

32 (ii) Housing that is subject to any form of rent or price control through a public
33 entity's valid exercise of its police power.

34 (iii) Housing that has been occupied by tenants within the past 10 years.

35 (B) The site was previously used for housing that was occupied by tenants that
36 was demolished within 10 years before the development proponent submits an
37 application under this section.

38 (C) The development would require the demolition of a historic structure that was
39 placed on a national, state, or local historic register.

40 (D) The property contains housing units that are occupied by tenants, and units at
41 the property are, or were, subsequently offered for sale to the general public by the
42 subdivider or subsequent owner of the property.

1 (8) The development proponent has done both of the following, as applicable:

2 (A) Certified to the locality that either of the following is true, as applicable:

3 (i) The entirety of the development is a public work for purposes of Chapter 1
4 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

5 (ii) If the development is not in its entirety a public work, that all construction
6 workers employed in the execution of the development will be paid at least the
7 general prevailing rate of per diem wages for the type of work and geographic area,
8 as determined by the Director of Industrial Relations pursuant to Sections 1773 and
9 1773.9 of the Labor Code, except that apprentices registered in programs approved
10 by the Chief of the Division of Apprenticeship Standards may be paid at least the
11 applicable apprentice prevailing rate. If the development is subject to this
12 subparagraph, then for those portions of the development that are not a public work
13 all of the following shall apply:

14 (I) The development proponent shall ensure that the prevailing wage requirement
15 is included in all contracts for the performance of the work.

16 (II) All contractors and subcontractors shall pay to all construction workers
17 employed in the execution of the work at least the general prevailing rate of per
18 diem wages, except that apprentices registered in programs approved by the Chief
19 of the Division of Apprenticeship Standards may be paid at least the applicable
20 apprentice prevailing rate.

21 (III) Except as provided in subclause (V), all contractors and subcontractors shall
22 maintain and verify payroll records pursuant to Section 1776 of the Labor Code and
23 make those records available for inspection and copying as provided therein.

24 (IV) Except as provided in subclause (V), the obligation of the contractors and
25 subcontractors to pay prevailing wages may be enforced by the Labor
26 Commissioner through the issuance of a civil wage and penalty assessment pursuant
27 to Section 1741 of the Labor Code, which may be reviewed pursuant to Section
28 1742 of the Labor Code, within 18 months after the completion of the development,
29 by an underpaid worker through an administrative complaint or civil action, or by a
30 joint labor-management committee ~~though~~ through a civil action under Section
31 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the
32 contractor, subcontractor, and surety on a bond or bonds issued to secure the
33 payment of wages covered by the assessment shall be liable for liquidated damages
34 pursuant to Section 1742.1 of the Labor Code.

35 (V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors
36 performing work on the development are subject to a project labor agreement that
37 requires the payment of prevailing wages to all construction workers employed in
38 the execution of the development and provides for enforcement of that obligation
39 through an arbitration procedure. For purposes of this clause, “project labor
40 agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of
41 Section 2500 of the Public Contract Code.

1 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the
2 requirement that employer payments not reduce the obligation to pay the hourly
3 straight time or overtime wages found to be prevailing shall not apply if otherwise
4 provided in a bona fide collective bargaining agreement covering the worker. The
5 requirement to pay at least the general prevailing rate of per diem wages does not
6 preclude use of an alternative workweek schedule adopted pursuant to Section 511
7 or 514 of the Labor Code.

8 (B) (i) For developments for which any of the following conditions apply,
9 certified that a skilled and trained workforce shall be used to complete the
10 development if the application is approved:

11 (I) On and after January 1, 2018, until December 31, 2021, the development
12 consists of 75 or more units with a residential component that is not 100 percent
13 subsidized affordable housing and will be located within a jurisdiction located in a
14 coastal or bay county with a population of 225,000 or more.

15 (II) On and after January 1, 2022, until December 31, 2025, the development
16 consists of 50 or more units with a residential component that is not 100 percent
17 subsidized affordable housing and will be located within a jurisdiction located in a
18 coastal or bay county with a population of 225,000 or more.

19 (III) On and after January 1, 2018, until December 31, 2019, the development
20 consists of 75 or more units with a residential component that is not 100 percent
21 subsidized affordable housing and will be located within a jurisdiction with a
22 population of fewer than 550,000 and that is not located in a coastal or bay county.

23 (IV) On and after January 1, 2020, until December 31, 2021, the development
24 consists of more than 50 units with a residential component that is not 100 percent
25 subsidized affordable housing and will be located within a jurisdiction with a
26 population of fewer than 550,000 and that is not located in a coastal or bay county.

27 (V) On and after January 1, 2022, until December 31, 2025, the development
28 consists of more than 25 units with a residential component that is not 100 percent
29 subsidized affordable housing and will be located within a jurisdiction with a
30 population of fewer than 550,000 and that is not located in a coastal or bay county.

31 (ii) For purposes of this section, “skilled and trained workforce” has the same
32 meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of
33 Division 2 of the Public Contract Code.

34 (iii) If the development proponent has certified that a skilled and trained
35 workforce will be used to complete the development and the application is
36 approved, the following shall apply:

37 (I) The applicant shall require in all contracts for the performance of work that
38 every contractor and subcontractor at every tier will individually use a skilled and
39 trained workforce to complete the development.

40 (II) Every contractor and subcontractor shall use a skilled and trained workforce
41 to complete the development.

(III) Except as provided in subclause (IV), the applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, “project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(C) Notwithstanding subparagraphs (A) and (B), a development that is subject to approval pursuant to this section is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:

(i) The project includes 10 or fewer units.

(ii) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(9) The development did not or does not involve a subdivision of a parcel that is, or, notwithstanding this section, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land, unless the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:

(A) The development has received or will receive financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to subparagraph (A) of paragraph (8).

1 (B) The development is subject to the requirement that prevailing wages be paid,
2 and a skilled and trained workforce used, pursuant to paragraph (8).

3 (10) The development shall not be upon an existing parcel of land or site that is
4 governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with
5 Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational
6 Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of
7 Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part
8 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety
9 Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section
10 18860) of Division 13 of the Health and Safety Code).

11 (b) (1) If a local government determines that a development submitted pursuant
12 to this section is in conflict with any of the objective planning standards specified
13 in subdivision (a), it shall provide the development proponent written
14 documentation of which standard or standards the development conflicts with, and
15 an explanation for the reason or reasons the development conflicts with that standard
16 or standards, as follows:

17 (A) Within 60 days of submittal of the development to the local government
18 pursuant to this section if the development contains 150 or fewer housing units.

19 (B) Within 90 days of submittal of the development to the local government
20 pursuant to this section if the development contains more than 150 housing units.

21 (2) If the local government fails to provide the required documentation pursuant
22 to paragraph (1), the development shall be deemed to satisfy the objective planning
23 standards specified in subdivision (a).

24 (c) (1) Any design review or public oversight of the development may be
25 conducted by the local government's planning commission or any equivalent board
26 or commission responsible for review and approval of development projects, or the
27 city council or board of supervisors, as appropriate. That design review or public
28 oversight shall be objective and be strictly focused on assessing compliance with
29 criteria required for streamlined projects, as well as any reasonable objective design
30 standards published and adopted by ordinance or resolution by a local jurisdiction
31 before submission of a development application, and shall be broadly applicable to
32 development within the jurisdiction. That design review or public oversight shall be
33 completed as follows and shall not in any way inhibit, chill, or preclude the
34 ministerial approval provided by this section or its effect, as applicable:

35 (A) Within 90 days of submittal of the development to the local government
36 pursuant to this section if the development contains 150 or fewer housing units.

37 (B) Within 180 days of submittal of the development to the local government
38 pursuant to this section if the development contains more than 150 housing units.

39 (2) If the development is consistent with the requirements of subparagraph (A) or
40 (B) of paragraph (9) of subdivision (a) and is consistent with all objective
41 subdivision standards in the local subdivision ordinance, an application for a
42 subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with

1 Section 66410)) shall be exempt from the requirements of the California
2 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
3 Public Resources Code) and shall be subject to the public oversight timelines set
4 forth in paragraph (1).

5 (d) (1) Notwithstanding any other law, a local government, whether or not it has
6 adopted an ordinance governing automobile parking requirements in multifamily
7 developments, shall not impose automobile parking standards for a streamlined
8 development that was approved pursuant to this section in any of the following
9 instances:

10 (A) The development is located within one-half mile of public transit.

11 (B) The development is located within an architecturally and historically
12 significant historic district.

13 (C) When on-street parking permits are required but not offered to the occupants
14 of the development.

15 (D) When there is a car share vehicle located within one block of the development.

16 (2) If the development does not fall within any of the categories described in
17 paragraph (1), the local government shall not impose automobile parking
18 requirements for streamlined developments approved pursuant to this section that
19 exceed one parking space per unit.

20 (e) (1) If a local government approves a development pursuant to this section,
21 then, notwithstanding any other law, that approval shall not expire if the project
22 includes public investment in housing affordability, beyond tax credits, where 50
23 percent of the units are affordable to households making below 80 percent of the
24 area median income.

25 (2) If a local government approves a development pursuant to this section and the
26 project does not include 50 percent of the units affordable to households making
27 below 80 percent of the area median income, that approval shall automatically
28 expire after three years except that a project may receive a one-time, one-year
29 extension if the project proponent can provide documentation that there has been
30 significant progress toward getting the development construction ready, such as
31 filing a building permit application.

32 (3) If a local government approves a development pursuant to this section, that
33 approval shall remain valid for three years from the date of the final action
34 establishing that approval and shall remain valid thereafter for a project so long as
35 vertical construction of the development has begun and is in progress. Additionally,
36 the development proponent may request, and the local government shall have
37 discretion to grant, an additional one-year extension to the original three-year
38 period. The local government's action and discretion in determining whether to
39 grant the foregoing extension shall be limited to considerations and process set forth
40 in this section.

41 (f) A local government shall not adopt any requirement, including, but not limited
42 to, increased fees or inclusionary housing requirements, that applies to a project

1 solely or partially on the basis that the project is eligible to receive ministerial or
2 streamlined approval pursuant to this section.

3 (g) This section shall not affect a development proponent's ability to use any
4 alternative streamlined by right permit processing adopted by a local government,
5 including the provisions of subdivision (i) of Section 65583.2.

6 (h) The California Environmental Quality Act (Division 13 (commencing with
7 Section 21000) of the Public Resources Code) does not apply to actions taken by a
8 state agency or local government to lease, convey, or encumber land owned by the
9 local government or to facilitate the lease, conveyance, or encumbrance of land
10 owned by the local government, or to provide financial assistance to a development
11 that receives streamlined approval pursuant to this section that is to be used for
12 housing for persons and families of very low, low, or moderate income, as defined
13 in Section 50093 of the Health and Safety Code.

14 (i) For purposes of this section, the following terms have the following meanings:

15 (1) "Affordable housing cost" has the same meaning as set forth in Section
16 50052.5 of the Health and Safety Code.

17 (2) "Affordable rent" has the same meaning as set forth in Section 50053 of the
18 Health and Safety Code.

19 (3) "Department" means the Department of Housing and Community
20 Development.

21 (4) "Development proponent" means the developer who submits an application
22 for streamlined approval pursuant to this section.

23 (5) "Completed entitlements" means a housing development which has received
24 all the required land use approvals or entitlements necessary for the issuance of a
25 building permit.

26 (6) "Locality" or "local government" means a city, including a charter city, a
27 county, including a charter county, or a city and county, including a charter city and
28 county.

29 (7) "Production report" means the information reported pursuant to subparagraph
30 (H) of paragraph (2) of subdivision (a) of Section 65400.

31 (8) "State agency" includes every state office, officer, department, division,
32 bureau, board, and commission, but does not include the California State University
33 or the University of California.

34 (9) "Subsidized" means units that are price or rent restricted such that the units
35 are permanently affordable to households meeting the definitions of very low and
36 lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety
37 Code.

38 (10) "Reporting period" means either of the following:

39 (A) The first half of the regional housing needs assessment cycle.

40 (B) The last half of the regional housing needs assessment cycle.

1 (11) “Urban uses” means any current or former residential, commercial, public
2 institutional, transit or transportation passenger facility, or retail use, or any
3 combination of those uses.

4 (j) The department may review, adopt, amend, and repeal guidelines to implement
5 uniform standards or criteria that supplement or clarify the terms, references, or
6 standards set forth in this section. Any guidelines or terms adopted pursuant to this
7 subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340)
8 of Part 1 of Division 3 of Title 2 of the Government Code.

9 (k) The determination of whether an application for a development is subject to
10 the streamlined ministerial approval process provided by subdivision (b) is not a
11 “project” as defined in Section 21065 of the Public Resources Code.

12 (l) It is the policy of the state that this section be interpreted and implemented in
13 a manner to afford the fullest possible weight to the interest of, and the approval and
14 provision of, increased housing supply.

15 (m) This section shall remain in effect only until January 1, 2026, and as of that
16 date is repealed.

17 **Comment.** Subparagraphs (I) and (J) of paragraph (6) of subdivision (a) of Section 65913.4 are
18 amended to reflect the recodification of the former Fish and Game Code. The section is also
19 amended to correct a typographical error.

20 **Gov’t Code § 65966 (amended).**

21 SEC. _____. Section 65966 of the Government Code is amended to read:

22 65966. (a) Any conservation easement created as a component of satisfying a local
23 or state mitigation requirement shall be perpetual in duration, whether created
24 pursuant to Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1
25 of Title 5 of this code or Chapter 4 (commencing with Section 815) of Title 2 of
26 Part 2 of the Civil Code.

27 (b) Any local or state agency that requires property to be protected pursuant to
28 subdivision (a) or (b) of Section 65967 may identify how the funding needs of the
29 long-term stewardship of the property will be met. Nothing in this chapter shall be
30 construed as otherwise precluding other methods of funding for the long-term
31 stewardship of the property. If an endowment is conveyed or secured at the time the
32 property is protected, all of the following shall apply:

33 (1) The endowment shall be held, managed, invested, and disbursed solely for,
34 and permanently restricted to, the long-term stewardship of the specific property for
35 which the funds were set aside.

36 (2) The endowment shall be calculated to include a principal amount that, when
37 managed and invested, is reasonably anticipated to cover the annual stewardship
38 costs of the property in perpetuity.

39 (3) The endowment shall be held, managed, invested, disbursed, and governed as
40 described in subdivision (a) of Section 65965 consistent with the Uniform Prudent
41 Management of Institutional Funds Act (Part 7 (commencing with Section 18501)
42 of Division 9 of the Probate Code).

1 (c) If a nonprofit corporation holds the endowment, the nonprofit shall utilize
2 generally accepted accounting practices that are promulgated by the Financial
3 Accounting Standards Board or any successor entity.

4 (d) If a local agency holds the endowment, the local agency shall do all of the
5 following:

6 (1) Hold, manage, and invest the endowment consistent with subdivision (b) to
7 the extent allowed by law.

8 (2) Disburse funds on a timely basis to meet the stewardship expenses of the entity
9 holding the property.

10 (3) Utilize accounting standards consistent with standards promulgated by the
11 Governmental Accounting Standards Board or any successor entity.

12 (e)(1) Unless the mitigation agreement provides that another person or entity shall
13 prepare the annual fiscal report described below, a governmental entity, community
14 foundation, special district, a congressionally chartered foundation, or a nonprofit
15 organization that holds funds pursuant to this chapter, including an endowment or
16 moneys for initial stewardship costs, shall provide the local or state agency that
17 required the endowment with an annual fiscal report that contains at least the
18 following elements with respect to each individual endowment dedicated and held
19 by that entity:

20 (A) The balance of each individual endowment at the beginning of the reporting
21 period.

22 (B) The amount of any contribution to the endowment during the reporting period
23 including, but not limited to, gifts, grants, and contributions received.

24 (C) The net amounts of investment earnings, gains, and losses during the reporting
25 period, including both realized and unrealized amounts.

26 (D) The amounts distributed during the reporting period that accomplish the
27 purpose for which the endowment was established.

28 (E) The administrative expenses charged to the endowment from internal or third-
29 party sources during the reporting period.

30 (F) The balance of the endowment or other fund at the end of the reporting period.

31 (G) The specific asset allocation percentages including, but not limited to, cash,
32 fixed income, equities, and alternative investments.

33 (H) The most recent financial statements for the organization audited by an
34 independent auditor who is, at a minimum, a certified public accountant.

35 (2) If an entity is required to submit an identical annual fiscal report pursuant to
36 paragraph (1) to the Department of Fish and Game Wildlife and any other state or
37 local agency, then that report shall be provided only to the Department of Fish and
38 Game Wildlife. In that instance, the Department of Fish and Game Wildlife shall
39 provide a copy of that annual fiscal report on its Internet Web site for a minimum
40 of five years.

41 (f) If a state agency authorizes a governmental entity, special district, or nonprofit
42 organization to hold property pursuant to subdivision (a) or (b) of Section 65967 in

1 connection with a development project, the agency may require the project
2 proponent to pay a one-time fee that does not exceed the reasonable costs of the
3 agency in reviewing qualifications of potential holders of the property and
4 approving those holders. This one-time fee shall be collected only if the agency can
5 demonstrate its actual review of qualifications and approval of holders.

6 (g) If a local agency authorizes a governmental entity, special district, or nonprofit
7 organization to hold property or an endowment pursuant to this chapter, the agency
8 may require the project proponent to pay a one-time fee that does not exceed the
9 reasonable costs of the agency in reviewing qualifications of the parties identified
10 in the mitigation agreement, approving those parties, and any regular oversight over
11 those parties to ensure that the parties are complying with all applicable laws. This
12 one-time fee shall be collected only if the agency can demonstrate its actual review
13 of qualifications, approval of parties, or regular oversight of compliance and
14 performance.

15 (h) A local agency may require a project proponent to provide a one-time payment
16 that will provide for the initial stewardship costs for up to three years while the
17 endowment begins to accumulate investment earnings. The funds for the initial
18 stewardship costs are distinct from the funds that may be conveyed for long-term
19 stewardship, construction, or other costs. If there are funds remaining at the
20 completion of the initial stewardship period, the funds shall be conveyed to the
21 project proponent.

22 (i) The local agency may contract with or designate a qualified third party to do
23 any of the following:

24 (1) Review the qualifications of a governmental entity, special district, or
25 nonprofit organization to effectively manage and steward natural land or resources
26 pursuant to subdivision (c) of Section 65967.

27 (2) Review the qualifications of a governmental entity, community foundation, or
28 nonprofit organization to hold and manage the endowment that is set aside for long-
29 term stewardship of the property.

30 (3) Review reports or other performance indicators to evaluate the stewardship of
31 lands, natural resources, or funds, and compliance with the mitigation agreement.

32 (j) If a property conserved pursuant to subdivision (a) or (b) of Section 65967 is
33 condemned, the net proceeds from the condemnation of the real property interest set
34 aside for mitigation purposes shall be used for the purchase of property that replaces
35 the natural resource characteristics the original mitigation was intended to protect,
36 or as near as reasonably feasible. Any endowment held for the condemned property
37 shall be held for the long-term stewardship of the replacement property.

38 (k) Unless prohibited by law, no provision in this chapter is intended to prohibit
39 for-profit entities from holding, acquiring, or providing property for mitigation
40 purposes.

41 (l) Nothing in this section shall prohibit a state agency from exercising any powers
42 described in subdivision (d), (g), or (h).

1 (m) A governmental entity, special district, or nonprofit organization may contract
2 with a community foundation or congressionally chartered foundation at any time
3 to hold, manage, and invest the endowment for a mitigation property and disburse
4 payments from the endowment to the holder of the mitigation property consistent
5 with the fund agreement.

6 (n) Except as expressly authorized in paragraph (1) of subdivision (e), the
7 mitigation agreement shall not include any provision to waive or exempt the parties
8 from any requirement, in whole or part, of this chapter.

9 (o) Subdivisions (b) to (e), inclusive, shall not apply to funds, including funds
10 from mitigation fees, held for the long-term management and stewardship of
11 property pursuant to either an interim or approved habitat conservation plan
12 pursuant to Chapter 35 (commencing with Section 1531) of Title 16 of the United
13 States Code or an interim or approved natural community conservation plan
14 pursuant to Chapter 10 (~~commencing with Section 2800~~) of Division 3 Title 2
15 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and Game
16 Wildlife Code, if, in the interim or approved plan documents, the permitting agency
17 determines the endowment to be established with those funds will be adequate and
18 provides a schedule for funding the endowment.

19 **Comment.** Subdivision (o) of Section 65966 is amended to reflect the recodification of the
20 former Fish and Game Code. The section is also amended to update references to the former
21 Department of Fish and Game. See Fish & Wildlife Code § 1500.

22 **Gov't Code § 65968 (amended).**

23 SEC. ____ . Section 65968 of the Government Code is amended to read:

24 65968. (a) Notwithstanding ~~Section 13014~~ Title 2 (commencing with Section
25 58050) of Part 3 of Division 15 of the Fish and Game Wildlife Code, if an
26 endowment is conveyed pursuant to Section 65966 for property conveyed pursuant
27 to Section 65967, the endowment may be held by the same governmental entity,
28 special district, or nonprofit organization that holds the property pursuant to this
29 section.

30 (b)(1) Except as permitted pursuant to paragraph (2), the endowment shall be held
31 by one of the following:

32 (A) The agency or agencies that required the mitigation.

33 (B) The governmental entity, special district, or nonprofit organization that either
34 holds the property, or holds an interest in the property, for conservation purposes.

35 (C) The governmental entity or special district that retains the property after
36 conveying an interest in the property for conservation purposes if that governmental
37 entity or special district is protecting, restoring, or enhancing the property that was
38 retained.

39 (2) The exceptions to paragraph (1) are the following:

40 (A) An endowment that is held by an entity other than the state or holder of the
41 mitigation property as of January 1, 2012.

(B) An endowment that is held by another entity, which is qualified pursuant to this chapter, pursuant to the terms of a natural community conservation plan (~~Chapter 10 (commencing with Section 2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code~~) or a safe harbor agreement (~~Article 3.7 (commencing with Section 2089.2) of Chapter 1.5 of Division 3 Title 5 (commencing with Section 63900) of Part 1 of Division 17 of the Fish and Game Wildlife Code~~). In order for this paragraph to apply, prior to setting aside any endowments, the implementation agreement that is a part of an approved natural community conservation plan, the planning agreement for any natural community conservation plan that has not yet been approved, or the safe harbor agreement shall specifically address the arrangements for the endowment including, but not limited to, qualifications of the endowment holder, capitalization rate, return objectives, and the spending rule and disbursement policies.

(C) If existing law prohibits the holder of the mitigation property to hold the endowment, including for-profit entities.

(D) If the project proponent and the holder of the mitigation property or conservation easement agree that a community foundation or a congressionally chartered foundation shall hold the endowment.

(E) If the mitigation property is held or managed by a federal agency.

(F) If any of the same mitigation property is required to be conveyed pursuant to both a federal and state governmental approval, and under the federal governmental approval the federal agency does not approve one of the entities described in paragraph (1) of subdivision (b) as chosen to hold the endowment by the agreement of the project proponent and the holder of the mitigation property or conservation easement.

(c) A community foundation or congressionally chartered foundation that holds an endowment pursuant to subparagraphs (A) to (F), inclusive, of paragraph (2) of subdivision (b), shall meet all the qualifications and requirements of this chapter for holding, managing, investing, and disbursing the endowment funds.

(d) Any entity that holds an endowment under this chapter shall hold, manage, invest, and disburse the funds in furtherance of the long-term stewardship of the property in accordance with subdivision (a) of Section 65965.

(e) The holder of an endowment shall certify to the project proponent or the holder of the mitigation property or a conservation easement and the local or state agency that required the endowment that it meets all of the following requirements:

(1) The holder has the capacity to effectively manage the mitigation funds.

(2) The holder has the capacity to achieve reasonable rates of return on the investment of those funds similar to those of other prudent investors for endowment funds and shall manage and invest the endowment in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances, consistent with the Uniform Prudent Management of Institutional

1 Funds Act (Part 7 (commencing with Section 18501) of Division 9 of the Probate
2 Code).

3 (3) The holder utilizes generally accepted accounting practices as promulgated by
4 either of the following:

5 (A) The Financial Accounting Standards Board or any successor entity for
6 nonprofit organizations.

7 (B) The Governmental Accounting Standards Board or any successor entity for
8 public agencies, to the extent those practices do not conflict with any requirement
9 for special districts in Article 2 (commencing with Section 53630) of Chapter 4 of
10 Part 1 of Division 2 of Title 5.

11 (4) The holder will be able to ensure that funds are accounted for, and tied to, a
12 specific property.

13 (5) If the holder is a nonprofit organization, a community foundation, or a
14 congressionally chartered foundation, it has an investment policy that is consistent
15 with the Uniform Prudent Management of Institutional Funds Act (Part 7
16 (commencing with Section 18501) of Division 9 of the Probate Code).

17 (f) If a governmental entity, community foundation, special district, nonprofit
18 organization, or a congressionally chartered foundation meets the requirements of
19 this chapter, it is qualified to be a holder of the endowment for the purpose of
20 obtaining any permit, clearance, or mitigation approval from a state or local agency.

21 (g) Except for a mitigation agreement prepared by a state agency, the mitigation
22 agreement that authorizes the funds to be conveyed to a governmental entity,
23 community foundation, special district, a congressionally chartered foundation, or
24 nonprofit organization pursuant to subdivision (a) shall include a provision that
25 requires the endowment be held by a governmental entity, special district, or a
26 nonprofit organization to revert to the local agency, or to a successor organization
27 identified by the agency and subject to subdivision (e), if any of the following
28 occurs:

29 (1) The governmental entity, community foundation, special district, a
30 congressionally chartered foundation, or nonprofit organization ceases to exist.

31 (2) The governmental entity, community foundation, special district, a
32 congressionally chartered foundation, or nonprofit organization is dissolved.

33 (3) The governmental entity, community foundation, special district, a
34 congressionally chartered foundation, or nonprofit organization becomes bankrupt
35 or insolvent.

36 (4) The local agency reasonably determines that the endowment held by the
37 governmental entity, community foundation, special district, or nonprofit
38 organization, or its successor entity, is not being held, managed, invested, or
39 disbursed for conservation purposes and consistent with the mitigation agreement
40 and legal requirements. Any reverted funds shall continue to be held, managed, and
41 disbursed only for long-term stewardship and benefit of the specific property for
42 which they were set aside. If the funds revert from the governmental entity,

1 community foundation, special district, or nonprofit organization, the special district
2 or nonprofit organization may choose to relinquish the property. If the property is
3 relinquished, the local agency shall accept title to the property or identify an
4 approved governmental entity, community foundation, special district, or nonprofit
5 organization to accept title to the property.

6 (h) Nothing in this section shall prohibit a state or local agency from determining
7 that a governmental entity, community foundation, special district, a
8 congressionally chartered foundation, or nonprofit organization meets the
9 requirements of this section and is qualified to hold the endowment, or including a
10 provision in the mitigation agreement as described in subdivision (g).

11 (i) A state or local agency may allow the endowment to be held temporarily in an
12 escrow account until December 31, 2012, after which time the funds shall be
13 transferred to the entity that will permanently hold the endowment.

14 (j) Subject to subdivision (g), any endowment that is conveyed to and held by a
15 governmental entity, special district, or nonprofit organization pursuant to this
16 section shall continue to be held by the entity if this section is repealed.

17 (k) A state or local agency shall not require, as a condition of obtaining any permit,
18 clearance, agreement, or mitigation approval from the state or local agency, that a
19 preferred or exclusively named entity by the state or local agency be named as the
20 entity to hold, manage, invest, and disburse the funds in furtherance of the long-
21 term stewardship of the property for which the funds were set aside.

22 (l) This section shall remain in effect only until January 1, 2022, and as of that
23 date is repealed, unless a later enacted statute, that is enacted before January 1, 2022,
24 deletes or extends that date.

25 **Comment.** Section 65968(a) and (b)(2)(B) are amended to reflect the recodification of the
26 former Fish and Game Code.

27 **Gov't Code § 66412.8 (amended).**

28 SEC. _____. Section 66412.8 of the Government Code is amended to read:

29 66412.8. (a) A project located in Los Angeles County that is approved by a public
30 agency before the effective date of the act adding this section is not in violation of
31 any requirement of this division by reason of the failure to construct a roadway
32 across the property transferred to the state pursuant to subdivision (c) of Section
33 21080.29 of the Public Resources Code and to construct a bridge over the adjacent
34 Ballona Channel in Los Angeles County, otherwise required as a condition of
35 approval of a vesting tentative map or a tentative map, if all of the following
36 conditions apply:

37 (1) The improvements specified in subdivision (a) are not constructed, due in
38 whole or in part, to the project owner's or developer's relinquishment of easement
39 rights to construct the improvements.

40 (2) The easement rights specified in paragraph (1) are relinquished in connection
41 with the acquisition by the State of California, acting by and through the Wildlife

1 Conservation Board of the Department of Fish and Game Wildlife, of a wetlands
2 project that is a minimum of 400 acres in size and located in the coastal zone.

3 (b) Where the easement rights have been relinquished, any municipal ordinance
4 or regulation adopted by a charter city or a general law city shall be inapplicable to
5 the extent that the ordinance or regulation requires construction of the transportation
6 improvements specified in subdivision (a), or would otherwise require reprocessing
7 or resubmittal of a permit or approval, including, but not limited to, a final recorded
8 map, a vesting tentative map, or a tentative map, as a result of the transportation
9 improvements specified in subdivision (a) not being constructed.

10 **Comment.** Section 66412.8 is amended to update a reference to the former Department of Fish
11 and Game. See Fish & Wildlife Code § 1500.

12 **Gov't Code § 66478.4 (amended).**

13 SEC. _____. Section 66478.4 of the Government Code is amended to read:

14 66478.4. (a) No local agency shall approve either a tentative or a final map of any
15 proposed subdivision to be fronted upon a public waterway, river, or stream which
16 does not provide, or have available, reasonable public access by fee or easement
17 from a public highway to that portion of the bank of the river or stream bordering
18 or lying within the proposed subdivision.

19 (b) Reasonable public access shall be determined by the local agency in which the
20 proposed subdivision is to be located. In making the determination of what shall be
21 reasonable access, the local agency shall consider all of the following:

22 (1) That access may be by highway, foot trail, bike trail, horse trail, or any other
23 means of travel.

24 (2) The size of the subdivision.

25 (3) The type of riverbank and the various appropriate recreational, educational,
26 and scientific uses, including, but not limited to, swimming, diving, boating, fishing,
27 water skiing, scientific collection, and teaching.

28 (4) The likelihood of trespass on private property and reasonable means of
29 avoiding these trespasses.

30 (c) A public waterway, river, or stream for the purposes of Sections 66477.2,
31 66478.4, 66478.5 and 66478.6 means those waterways, rivers and streams defined
32 in Sections 100 through 106 of the Harbors and Navigation Code, any stream
33 declared to be a public highway for fishing pursuant to Sections 25660 through
34 25662 of the Government Code, the rivers listed in Section ~~1505~~ 60900 of the Fish
35 and Game Wildlife Code as spawning areas, all waterways, rivers and streams
36 downstream from any state or federal salmon or steelhead fish hatcheries.

37 **Comment.** Section 66478.4 is amended to reflect the recodification of the former Fish and Game
38 Code.

39 **Gov't Code § 66632.4 (amended).**

40 SEC. _____. Section 66632.4 of the Government Code is amended to read:

66632.4. Within any portion or portions of the shoreline band that are located outside the boundaries of water-oriented priority land uses, as fixed and established pursuant to Section 66611, the commission may deny an application for a permit for a proposed project only on the grounds that the project fails to provide maximum feasible public access, consistent with the proposed project, to the bay and its shoreline. When considering whether a project provides maximum feasible public access in areas of sensitive habitat, including tidal marshlands and mudflats, the commission shall, after consultation with the Department of Fish and Game Wildlife, and using the best available scientific evidence, determine whether the access is compatible with wildlife protection in the bay.

Comment. Section 66632.4 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Gov't Code § 66680 (amended).

SEC. _____. Section 66680 of the Government Code is amended to read:

66680. The commission shall review and approve, or disapprove, the plan on the basis of whether the plan provides all of the following:

(a) Permanent protection and enhancement of marshes, tidelands, tidally influenced wetlands, and upland habitat sufficient to assure the long-term usefulness of White Slough as a wildlife habitat, a flood basin consistent with wetland enhancement goals, and a wetland resource for the city and the region, including the establishment, operation, and maintenance of adequate tidal action and water quality to preclude algal blooms, to provide a fishery, and to provide waterfowl feeding, resting, and breeding areas.

(b) Location and siting for a project that consists of a State Highway Route 37 widened to not more than four lanes, with the minimum medians and shoulders necessary to assure highway safety, interchanges between State Highway Route 37 and State Highway Route 29 and Sacramento Street, the covering of the flooded sewerline south of State Highway Route 37 and the relocation of the flooded line north of State Highway Route 37 within the area required for the widening of State Highway Route 37, and that provides for all of the following:

(1) A tidal control structure or structures or open channels, sufficient to assure adequate waterflow for suitable water quality, wetland enhancement of South White Slough, and flood protection, between the wetlands north and south of the State Highway Route 37 corridor.

(2) Adequate height and design to protect developed areas of the city from flooding.

(3) No access from the widened State Highway Route 37 to tidal wetlands north of the highway.

(4) The minimum wetland fill necessary, but in no event more than 13 acres.

(5) Mitigation measures, specifically including the following:

1 (A) Prior to the placing of fill or commencement of other highway construction
2 work, acquisition of upland areas in the vicinity of White Slough which do not
3 presently provide unique or especially significant wildlife habitat and which are four
4 times the size of the area to be filled.

5 (B) The conversion of these lands to wetlands during highway construction.

6 (C) The hiring of an independent biologist to assess current conditions on the
7 wetlands to be filled and to monitor the conditions of the newly created wetlands
8 over time.

9 (D) The permanent protection of the created wetlands.

10 (E) Assurances that the created wetlands will be functioning in a manner which
11 fully replaces the filled wetlands within five years. If, after three years it does not
12 appear that the created wetlands will be fully functioning within the five-year
13 period, then the wetlands shall be further improved in a manner which ensures full
14 replacement of the filled wetlands or which provides additional new wetlands. After
15 the five years, the department shall no longer be required to maintain the created
16 wetlands, but may transfer the created wetlands either to the Department of Fish and
17 Game Wildlife or to another appropriate resource agency for the wetlands'
18 permanent management for wildlife habitat purposes.

19 (c) Levees within and adjacent to South White Slough necessary for flood control,
20 wetland habitat enhancement, and public access purposes. The department shall not
21 be responsible for the construction and maintenance of the levees within and
22 adjacent to South White Slough, except for the White Slough Project. Fill for flood
23 control and public access purposes shall be the minimum necessary and shall be
24 mitigated by the acquisition, excavation, and conversion to wetlands of uplands in
25 the vicinity of the project and which do not presently provide unique or especially
26 significant wildlife habitat, to provide an area of wetland habitat at least twice the
27 area to be filled.

28 (d) Acquisition of interests in real property sufficient to preserve and maintain
29 permanently the wetland, tidal, water-covered, and public access areas of White
30 Slough.

31 (e) Recognition that the project constructed in accordance with the plan is required
32 to meet the requirements of the federal Clean Water Act and the Rivers and Harbors
33 Act, if applicable.

34 **Comment.** Subparagraph (E) of paragraph (5) of subdivision (b) of Section 66680 is amended
35 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

36 **Gov't Code § 66681 (amended).**

37 SEC. _____. Section 66681 of the Government Code is amended to read:

38 66681. The plan shall be implemented as follows:

39 (a) The city and the county shall adopt the relevant provisions of the plan into
40 their general and specific plans, shall adopt land use ordinances that implement the
41 policies of the plan, and shall review and issue or deny any necessary local permits

1 for projects within White Slough based on the requirements of the plan and
2 implementing ordinances.

3 (b) In addition to obtaining any other permit required by law from the city or
4 county or any state, regional, or local agency, any person placing fill, extracting
5 materials, or making any substantial change in use of any area within White Slough
6 shall obtain a permit from the commission. The commission shall issue a permit for
7 these activities only if it finds the project consistent with the plan, this chapter, and,
8 where not inconsistent with the plan and this chapter, this title, the San Francisco
9 Bay Plan, and other relevant state and local law.

10 (c) The Department of Fish and Game Wildlife, the Wildlife Conservation Board,
11 the State Lands Commission, the State Coastal Conservancy, and the Department
12 of Transportaton Transportation shall exercise their powers and allocate available
13 resources to acquire, enhance, or manage wetlands and public access areas within
14 White Slough in a manner consistent with the plan, subject to statewide goals and
15 priorities of the agencies.

16 **Comment.** Section 66681 is amended to update a reference to the former Department of Fish
17 and Game. See Fish & Wildlife Code § 1500. The section is also amended to make a technical
18 correction.

19 **Gov't Code § 66703.7 (amended).**

20 SEC. _____. Section 66703.7 of the Government Code is amended to read:

21 66703.7. (a) Not later than six months after the date of the board's first meeting
22 described in subdivision (a) of Section 66703.6, the board shall convene a Bay
23 Restoration Advisory Committee to assist and advise the board in carrying out the
24 functions of the board. The advisory committee shall meet on a regular basis.

25 (b) The membership of the advisory committee shall be determined by the
26 authority based upon criteria that provide a broad representation of community and
27 agency interests within the authority's jurisdiction over the restoration of wetland
28 areas in the San Francisco Bay and along its shoreline. The membership of the
29 advisory committee may include, but is not limited to, representatives from the
30 following:

31 (1) The Department of Fish and Game Wildlife.

32 (2) The State Coastal Conservancy.

33 (3) The San Francisco Bay National Wildlife Refuge Complex operated by the
34 United States Fish and Wildlife Service.

35 (4) Open space and park districts that own or operate shoreline parcels in the San
36 Francisco Bay Area.

37 (5) The San Francisco Bay Regional Water Quality Control Board.

38 (6) The San Francisco Bay Conservation and Development Commission.

39 (7) The San Francisco Bay Joint Venture Management Board.

40 (8) The San Francisco Bay Trail Project.

41 (9) The San Francisco Estuary Project.

1 (10) Nongovernmental organizations working to restore, protect, and enhance San
2 Francisco Bay wetlands and wildlife habitat.

3 (11) Members of the public from bayside cities and counties in the San Francisco
4 Bay Area.

5 **Comment.** Section 66703.7 is amended to update a reference to the former Department of Fish
6 and Game. See Fish & Wildlife Code § 1500.

7 **Gov't Code § 67679 (amended).**

8 SEC. _____. Section 67679 of the Government Code is amended to read:

9 67679. (a)(1) The board shall identify those basewide public capital facilities
10 described in the Fort Ord Reuse Plan, including, but not limited to, roads, freeway
11 ramps, air transportation facilities, and freight hauling and handling facilities;
12 sewage and water conveyance and treatment facilities; school, library, and other
13 educational facilities; and recreational facilities, that serve residents or will serve
14 future residents of the base territory and could most efficiently or conveniently be
15 planned, negotiated, financed, constructed, or repaired, remodeled, or replaced by
16 the board to further the integrated future use of the base. The board shall undertake
17 to plan for and arrange the provision of those facilities, including arranging for their
18 financing and construction or repair, remodeling, or replacement. The board may
19 plan, design, construct, repair, remodel, or replace and finance these public capital
20 facilities, or delegate any of those powers to one or more member agencies.
21 Notwithstanding any other provision of law, no permit or permission of any kind
22 from any city or county shall be required for any project undertaken by the board
23 pursuant to this section.

24 (2) The board shall identify significant local public capital facilities, as
25 distinguished from the basewide public capital facilities identified in the paragraph
26 (1) which are described in the Fort Ord Reuse Plan. Local public capital facilities
27 shall be the responsibility of the city or county with land use jurisdiction or the
28 redevelopment agency if the facilities are located within an established project area
29 and the board of the redevelopment agency determines that it will assume
30 responsibility.

31 (3) The board may construct or otherwise act to improve a local public capital
32 facility only with the consent of the city or county with land use authority over the
33 area where the facility is or will be located. A city or county or a local
34 redevelopment agency may construct or otherwise act to improve a basewide public
35 capital facility only with the consent of the board.

36 (b) If all or any portion of the Fritzsche Army Air Field is transferred to the City
37 of Marina, the board shall not consider those portions of the air field that continue
38 to be used as an airport to be basewide capital facilities, except with the consent of
39 the legislative body of the city. If all or any portion of the two Army golf courses
40 within the territory of Seaside are transferred to the City of Seaside, the board shall
41 not consider those portions of the golf courses that continue in use as golf courses

1 to be basewide capital facilities, except with the consent of the legislative body of
2 the city.

3 (c) The board may seek state and federal grants and loans or other assistance to
4 help fund public facilities.

5 (d) The board may, in any year, levy assessments, reassessments, or special taxes
6 and issue bonds to finance these basewide public facilities in accordance with, and
7 pursuant to, any of the following:

8 (1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000)
9 of the Streets and Highways Code).

10 (2) The Improvement Bond Act of 1915 (Division 10 (commencing with Section
11 8500) of the Streets and Highways Code).

12 (3) The Municipal Improvement Act of 1913 (Division 12 (commencing with
13 Section 10000) of the Streets and Highways Code).

14 (4) The Benefit Assessment Act of 1982 (Chapter 6.4 (commencing with Section
15 54703)).

16 (5) The Landscape and Lighting Act of 1972 (Part 2 (commencing with Section
17 22500) of Division 15 of the Streets and Highways Code).

18 (6) The Integrated Financing District Act (Chapter 1.5 (commencing with Section
19 53175) of Division 2 of Title 5).

20 (7) The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing
21 with Section 53311) of Part 1 of Division 2 of Title 5).

22 (8) The Infrastructure Financing District Act (Chapter 2.8 (commencing with
23 Section 53395) of Division 2 of Title 5).

24 (9) The Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing
25 with Section 6584) of Chapter 5 of Division 7 of Title 1).

26 (10) The Revenue Bond Act of 1941 (Chapter 6 (commencing with Section
27 54300) of Division 2 of Title 5).

28 (11) Fire suppression assessments levied pursuant to Article 3.6 (commencing
29 with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5.

30 (12) The Habitat Maintenance Funding Act (~~Chapter 11 (commencing with~~
31 ~~Section 2900) of Division 3 Title 3 (commencing with Section 58075) of Part 3 of~~
32 Division 15 of the Fish and Game Wildlife Code).

33 Notwithstanding any other provision of law, the board may create any of these
34 financing districts within the area of Fort Ord to finance basewide public facilities
35 without the consent of any city or county. In addition, until January 1, 2000, the
36 board may, but is not obligated to create, within the area of Fort Ord, any of these
37 financing districts which authorize financing for public services and may levy
38 authorized assessments or special taxes in order to pass through funding for these
39 services to the local agencies. Notwithstanding any other provision of law, no city
40 or county with jurisdiction over any area of the base, whether now or in the future,
41 shall create any land-based financing district or levy any assessment or tax secured
42 by a lien on real property within the area of the base without the consent of the

1 board, except that the city or county may create these financing districts for the
2 purposes and subject to any financing limitations that may be specified in the capital
3 improvement program prepared pursuant to Section 67675.

4 (e) The board may levy development fees on development projects within the area
5 of the base. Any development fees shall comply with the requirements of Chapter 5
6 (commencing with Section 66000) of Division 1 of Title 5. No local agency shall
7 issue any building permit for any development within the area of Fort Ord until the
8 board has certified that all development fees that it has levied with respect to the
9 development project have been paid or otherwise satisfied.

10 **Comment.** Paragraph (12) of subdivision (d) of Section 67679 is amended to reflect the
11 recodification of the former Fish and Game Code.

12 **Gov't Code § 68090.8 (amended).**

13 SEC. _____. Section 68090.8 of the Government Code is amended to read:

14 68090.8. (a)(1) The Legislature finds that the management of civil and criminal
15 cases, including traffic cases, and the accounting for funds in the trial courts requires
16 these courts to implement appropriate levels of administrative automation.

17 (2) The purpose of this section is to make a fund available for the development of
18 automated administrative systems, including automated accounting, automated data
19 collection through case management systems, and automated case-processing
20 systems for the trial courts, together with funds to train operating personnel, and for
21 the maintenance and enhancement of the systems. As used in this paragraph,
22 “automated administrative systems” does not include electronic reporting systems
23 for use in a courtroom.

24 (3) Automated data collection shall provide the foundation for planning, research,
25 and evaluation programs that are generated from within and outside of the judicial
26 branch. This system shall be a resource to the courts, the Judicial Council and its
27 committees, the Administrative Office of the Courts, the Legislature, the Governor,
28 and the public. During the developmental stage and prior to the implementation of
29 the system, the Legislature shall make recommendations to the Judicial Council as
30 to the breadth and level of detail of the data to be collected.

31 (b) Prior to making any other required distribution, the county treasurer shall
32 transmit 2 percent of all fines, penalties, and forfeitures collected in criminal cases,
33 including, but not limited to, moneys collected pursuant to Chapter 12 (commencing
34 with Section 76000) of Title 8 of this code, Section ~~13003~~ 3610 of the Fish and
35 Game Wildlife Code, Section 11502 of the Health and Safety Code, and Chapter 1
36 (commencing with Section 1427) of Title 11 of Part 2 of the Penal Code, into the
37 State Trial Court Improvement and Modernization Fund established pursuant to
38 Section 77209, to be used exclusively to pay the costs of automated systems for the
39 trial courts, as described in paragraph (2) of subdivision (a). These systems shall
40 meet Judicial Council performance standards, including production of reports as
41 needed by the state, the counties, and local governmental entities.

1 **Comment.** Section 68090.8 is amended to reflect the recodification of the former Fish and Game
2 Code.

3 **Gov't Code § 70372 (amended).**

4 SEC. _____. Section 70372 of the Government Code is amended to read:

5 70372. (a)(1) Except as otherwise provided in this article, there shall be levied a
6 state court construction penalty, in the amount of five dollars (\$5) for every ten
7 dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture
8 imposed and collected by the courts for all criminal offenses, including, but not
9 limited to, all offenses involving a violation of a section of the Fish and Game
10 Wildlife Code, the Health and Safety Code, or the Vehicle Code or any local
11 ordinance adopted pursuant to the Vehicle Code. This penalty is in addition to any
12 other state or local penalty, including, but not limited to, the penalty provided by
13 Section 1464 of the Penal Code and Section 76000.

14 (2) This construction penalty does not apply to the following:

15 (A) Any restitution fine.

16 (B) Any penalty authorized by Section 1464 of the Penal Code or Chapter 12
17 (commencing with Section 76000) of Title 8.

18 (C) Any parking offense subject to Article 3 (commencing with Section 40200)
19 of Chapter 1 of Division 17 of the Vehicle Code.

20 (D) The state surcharge authorized by Section 1465.7 of the Penal Code.

21 (3) Any bail schedule adopted pursuant to Section 1269b of the Penal Code or
22 adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may
23 include the necessary amount to pay the penalty established by this section, the
24 penalties authorized by Section 1464 of the Penal Code and Chapter 12
25 (commencing with Section 76000) of Title 8, and the surcharge authorized by
26 Section 1465.7 of the Penal Code for all matters where a personal appearance is not
27 mandatory and the bail is posted primarily to guarantee payment of the fine. After a
28 determination by the court of the amount due, the clerk of the court shall collect the
29 penalty and transmit it immediately to the county treasury and the county treasurer
30 shall transmit these sums as provided in subdivision (f).

31 (b) In addition to the penalty provided by subdivision (a), for every parking
32 offense where a parking penalty, fine, or forfeiture is imposed, an added state court
33 construction penalty of four dollars and fifty cents (\$4.50) shall be included in the
34 total penalty, fine, or forfeiture. These moneys shall be taken from fines and
35 forfeitures deposited with the county treasurer prior to any division pursuant to
36 Section 1462.3 or 1463.009 of the Penal Code. In those cities, districts, or other
37 issuing agencies which elect to accept parking penalties, and otherwise process
38 parking violations pursuant to Article 3 (commencing with Section 40200) of
39 Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency
40 shall observe the increased bail amounts as established by the court reflecting the
41 added penalty provided for by this subdivision. Each agency that elects to process
42 parking violations shall pay to the county treasurer four dollars and fifty cents

1 (\$4.50) for the parking penalty imposed by this subdivision for each violation that
2 is not filed in court. Those payments to the county treasurer shall be made monthly,
3 and the county treasurer shall transmit these sums as provided in paragraph (2) of
4 subdivision (f). In the event these payments were deposited in a local courthouse
5 construction fund and expended pursuant to the provisions of Chapter 592 of the
6 Statutes of 2003, no county or processing agency shall be liable for the failure to
7 transmit the payments to the Controller during the 2008 calendar year.

8 (c) If multiple offenses are involved, the state court construction penalty under
9 subdivision (a) shall be based upon the total fine or bail for each case. If a fine is
10 suspended, in whole or in part, the state court construction penalty under subdivision
11 (a) shall be reduced in proportion to the suspension.

12 (d) If any deposited bail is made for an offense to which this section applies, and
13 for which a court appearance is not mandatory, the person making the deposit shall
14 also deposit a sufficient amount to include the state court construction penalty
15 prescribed by subdivision (a) for forfeited bail. If bail is returned, the state court
16 construction penalty paid thereon pursuant to subdivision (a) shall also be returned.

17 (e) In any case where a person convicted of any offense, to which this section
18 applies, is in prison until the fine is satisfied, the judge may waive all or any part of
19 the state court construction penalty, the payment of which would work a hardship
20 on the person convicted or his or her immediate family.

21 (f)(1) Within 45 days after the end of the month that moneys are deposited in the
22 county treasury pursuant to subdivision (a), the county treasurer shall transmit the
23 moneys to the Controller, to be deposited as follows:

24 (A) The total to be deposited pursuant to subdivision (a) shall be multiplied by a
25 fraction as follows:

26 (i) The numerator is the amount imposed as of January 1, 1998, as an additional
27 penalty on every ten dollars (\$10), or part of ten dollars (\$10), upon every fine,
28 penalty, or forfeiture, if any, for deposit into the local courthouse construction fund
29 in that county established pursuant to Sections 76000 and 76100. The numerator
30 shall be expressed in whole dollars and fractions of a dollar.

31 (ii) The denominator is five dollars (\$5).

32 (B) The resulting amount shall be deposited in the Immediate and Critical Needs
33 Account of the State Court Facilities Construction Fund, established in Section
34 70371.5.

35 (C) The remaining amount of the deposit shall be deposited in the State Court
36 Facilities Construction Fund.

37 (2) Within 45 days after the end of the month that moneys are deposited in the
38 county treasury pursuant to subdivision (b), the county treasurer shall transmit the
39 moneys to the Controller to be deposited as follows: one-third of the total amount
40 shall be deposited in the State Court Facilities Construction Fund and two-thirds of
41 the total amount shall be deposited in the Immediate and Critical Needs Account of
42 the State Court Facilities Construction Fund, established in Section 70371.5.

1 **Comment.** Paragraph (1) of subdivision (a) of Section 70372 is amended to reflect the
2 recodification of the former Fish and Game Code.

3 HARBORS AND NAVIGATION CODE

4 **Harb. & Nav. Code § 64 (amended).**

5 SEC. _____. Section 64 of the Harbors and Navigation Code is amended to read:

6 64. (a) The Legislature hereby finds and declares that the growth of water hyacinth
7 (Eichhornia crassipes), Brazilian elodea (Egeria densa), and South American
8 spongeplant (Limnobium laevigatum) in the Sacramento-San Joaquin Delta, its
9 tributaries, and the Suisun Marsh has occurred at an unprecedented level and that
10 the resulting accumulations of water hyacinth (Eichhornia crassipes), Brazilian
11 elodea (Egeria densa), and South American spongeplant (Limnobium laevigatum)
12 obstruct navigation, impair other recreational uses of waterways, have the potential
13 for damaging manmade facilities, and may threaten the health and stability of
14 fisheries and other ecosystems within the delta and marsh. Accordingly, it is
15 necessary that the state, in cooperation with agencies of the United States, undertake
16 an aggressive program for the effective control of water hyacinth (Eichhornia
17 crassipes), Brazilian elodea (Egeria densa), and South American spongeplant
18 (Limnobium laevigatum) in the delta, its tributaries, and the marsh.

19 (b) The department is designated as the lead agency of the state for the purpose of
20 cooperating with agencies of the United States and other public agencies in
21 controlling water hyacinth (Eichhornia crassipes), Brazilian elodea (Egeria densa),
22 and South American spongeplant (Limnobium laevigatum) in the delta, its
23 tributaries, and the marsh.

24 (c) The department, other state agencies, cities, counties, and districts are hereby
25 authorized to cooperate with one another and with agencies of the United States in
26 controlling water hyacinth (Eichhornia crassipes), Brazilian elodea (Egeria densa),
27 and South American spongeplant (Limnobium laevigatum) in the delta, its
28 tributaries, and the marsh and may furnish money, services, equipment, and other
29 property to that end.

30 (d) Up to five thousand dollars (\$5,000) per year of the funds available for
31 expenditure by the Department of Fish and Game Wildlife to implement this section
32 shall be paid from the Harbors and Watercraft Revolving Fund.

33 (e) Whenever any control program is proposed to take place in Rock Slough, the
34 department and the Contra Costa Water District shall develop a memorandum of
35 understanding establishing the parameters of the control program. This subdivision
36 does not apply to any control program proposed for Sand Mound Slough.

37 **Comment.** Section 64 is amended to update a reference to the former Department of Fish and
38 Game. See Fish & Wildlife Code § 1500.

1 **Harb. & Nav. Code § 86 (amended).**

2 SEC. _____. Section 86 of the Harbors and Navigation Code is amended to read:

3 86. (a) The local public agency shall annually certify to the department that for a
4 small craft harbor or boating facility project that is, or has been, funded pursuant to
5 Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3, or a harbor constructed with funds from
6 the State Lands Commission from tidelands oil revenues, adequate restroom and
7 sanitary facilities, parking, refuse disposal, vessel pumpout facilities as required
8 pursuant to Section 776, walkways, oil recycling facilities, receptacles for the
9 purpose of separating, reusing, or recycling all solid waste materials, and other
10 necessary shoreside facilities sufficient for the use and operation of all vessels using
11 the harbor or facility are provided or provide written findings showing why the
12 facility cannot certify to these conditions.

13 (b) A city, county, or district, which has received or is receiving moneys under
14 this division for the construction or improvement of small craft harbors that provides
15 facilities for the operation of commercial fishing vessels registered pursuant to
16 Article 4 (commencing with Section 7880) of Chapter 1 of Part 3 of Division 6 of
17 Article 1 (commencing with Section 14750) of Chapter 2 of Title 2 of Part 6 of
18 Division 6 of the Fish and Game Wildlife Code, shall not prohibit the commercial
19 operation and use of those facilities by commercial passenger fishing vessels of the
20 same or similar displacement, which are licensed pursuant to ~~Section 7920~~ 21905
21 of the Fish and Game Wildlife Code, or the use by private recreational vessels unless
22 otherwise expressly provided by law, unless the city, county, or district provides,
23 elsewhere in the same harbor, alternative, equivalent facilities available at
24 comparable cost for the commercial operation and use of commercial passenger
25 fishing vessels and private recreational vessels or unless the city, county, or district
26 adopts written findings showing why the existing facility cannot accommodate the
27 operation of commercial fishing vessels, including commercial passenger fishing
28 vessels, or private recreational vessels and why the facility cannot be modified to
29 do so or why alternative, equivalent facilities cannot be provided in the same harbor
30 to accommodate those operations. This subdivision does not require a facility to
31 accept an application for the operation of an additional commercial passenger
32 fishing boat at that facility if the harbor provides alternative, equivalent, adequate,
33 safe facilities at comparable cost for the operation and use of commercial passenger
34 fishing boats or if accommodations for the operation of the additional commercial
35 passenger fishing boat are not reasonably available at the facility under the contract
36 or agreement.

37 For the purposes of this subdivision, an alternative, equivalent facility in the same
38 harbor shall provide, at comparable cost, adequate restroom and sanitary facilities,
39 parking, refuse disposal, vessel pumpout facilities, walkways, oil recycling
40 facilities, receptacles for the purpose of separating, reusing, or recycling all solid
41 waste materials, power and water service, and other shoreside facilities and
42 equivalent docks, water channels, navigation aids, and weather protection,

1 including, but not limited to, breakwaters, which are equivalent to the facility funded
2 pursuant to Section 70, 70.2, 70.8, 71.4, 72.5, or 76.3.


3 (c)(1) A loan, grant, contract or agreement, or plan funded pursuant to Section 70,
4 70.2, 70.8, 71.4, 72.5, or 76.3 for a small craft harbor or boating facility project shall
5 provide for construction, development, or improvement of facilities to meet the
6 provisions of subdivisions (a) and (b), and provide vehicular access roads to the
7 harbor or facility, as recommended by the Department of Transportation pursuant
8 to Division 13 (commencing with Section 21000) of the Public Resources Code,
9 unless the reasons for not meeting those provisions and recommendations are set
10 forth in the contract or agreement with the department, or an addendum thereto.

11 (2) The small craft harbor or boating facility shall be designed, constructed,
12 developed, improved, and operated to meet, at a minimum, applicable certification
13 standards described in the Tier 1 standards of the California Green Building
14 Standards Code (Part 11 of Title 24 of the California Code of Regulations).

15 (d) During the term of any existing or new loan contract made pursuant to Section
16 71.4 or 76.3, or any existing or new contract or agreement pursuant to Section 70,
17 70.2, or 70.8, the department shall supervise and monitor compliance with this
18 section and the operation and maintenance of the harbor or facility to assure that the
19 planning, construction, development, or improvement fully complies with this
20 section and the contract or agreement terms and conditions.

21 (e) For the purposes of this chapter and Article 3 (commencing with Section 70)
22 of Chapter 2, a harbor or facility that is the subject of a contract or agreement as
23 described in subdivision (d), is under the jurisdiction of the department.

24 **Comment.** Subdivision (b) of Section 86 is amended to reflect the recodification of the former
25 Fish and Game Code.

26  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
27 sections that are cross-referenced in subdivision (b) of the section above have been continued in
28 several different sections of the proposed Fish and Wildlife Code.

29 **The Commission requests public comment on the proposed conforming revision of those**
30 **provisions in the section above.**

31 **Harb. & Nav. Code § 153 (amended).**

32 SEC. _____. Section 153 of the Harbors and Navigation Code is amended to read:

33 153. Any recovery or settlement of money damages, including, but not limited to,
34 civil penalties, arising out of any civil action filed and maintained by the Attorney
35 General in the enforcement of this chapter shall be deposited in the Fish and Wildlife
36 Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund
37 established pursuant to Section 12017 paragraph (3) of subdivision (b) of Section
38 67505 of the Fish and Game Wildlife Code.

39 **Comment.** Section 153 is amended to reflect the recodification of the former Fish and Game
40 Code. The section is also amended to update the name of the former Fish and Wildlife Pollution
41 Cleanup and Abatement Account in the Fish and Game Preservation Fund.

1 **Harb. & Nav. Code § 676 (amended).**

2 SEC. ____ . Section 676 of the Harbors and Navigation Code is amended to read:

3 676. (a) All moneys deposited in the Harbors and Watercraft Revolving Fund
4 pursuant to Section 675 shall be available, upon appropriation by the Legislature,
5 for the following purposes:

6 (1) For reasonable costs incurred by the department associated with determining
7 the prevention fee and adoption of regulations pursuant to Section 675, and with
8 administering the grants pursuant to subdivision (b).

9 (2)(A) For reasonable costs, not to exceed 15 percent of the remaining revenues
10 deposited into the fund, of the Department of Fish and Game Wildlife for
11 implementation of subparagraph (A) or (C) of paragraph (2) of, or paragraph (1) of,
12 subdivision (a) of Section 2301 or Section 2302 Section 49950, subdivision (a), (b),
13 or (d) of Section 49960, or Chapter 2 (commencing with Section 50100) of Title 2
14 of Part 11 of Division 11 of the Fish and Game Wildlife Code in those areas of the
15 state where a dreissenid mussel infestation prevention plan has not been
16 implemented.

17 (B) The amount specified in subparagraph (A) is in addition to moneys available
18 pursuant to subdivision (d) of Section 85.2.

19 (3) An amount not less than 85 percent of the remaining revenues deposited into
20 the fund shall be made available for grants to entities subject to subdivision (a) of
21 Section 2302 50105 of the Fish and Game Wildlife Code for the reasonable
22 regulatory costs incident to the implementation of a dreissenid mussel infestation
23 prevention plan implemented either before or after January 1, 2013, that is
24 consistent with the requirements of Section 2302 Chapter 2 (commencing with
25 Section 50100) of Title 2 of Part 11 of Division 11 of the Fish and Game Wildlife
26 Code.

27 (b) For the purposes of awarding grants pursuant to paragraph (3) of subdivision
28 (a), the department shall do all of the following:

29 (1) Give priority to dreissenid mussel infestation prevention plans that are
30 consistent with Section 2302 Chapter 2 (commencing with Section 50100) of Title
31 2 of Part 11 of Division 11 of the Fish and Game Wildlife Code and that also include
32 visual and manual inspection standards and other infestation prevention procedures
33 consistent with either the Department of Fish and Game's Wildlife's Invasive
34 Mussel Guidebook for Recreational Water Managers and Users, dated September
35 2010, or the Natural Resource Agency's Aquatic Invasive Species Management
36 Plan, dated January 2008, or subsequently adopted guidebooks and management
37 plans.

38 (2) Take into consideration the benefits of regional-scale dreissenid mussel
39 infestation prevention plans.


40 (3) Take into consideration the unique economic, ecological, and recreational
41 impacts to rural and urban reservoirs from dreissenid mussel infestation.

(c) For purposes of this article, reasonable regulatory costs include costs associated with the investigation and inspection of a conveyance for the presence of dreissenid mussels prior to contact with a reservoir, as defined in Section 6004.5 of the Water Code. None of the revenues collected pursuant to subdivision (a) of Section 675 shall be used for any purpose other than those explicitly authorized by this section.

(d) For the purposes of this section, conveyances include boats and other watercraft, and associated vehicles, containers, and trailers that may carry or contain adult or larval dreissenid mussels.

(e) As a condition of receiving grant funding pursuant to this section, an entity shall report to the department data, as deemed appropriate by the department, regarding dreissenid mussel prevention and inspection programs implemented with the funding.

Comment. Section 676 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update references to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

 **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code sections that are cross-referenced in the section above have been continued in several different sections of the proposed Fish and Wildlife Code.

The Commission requests public comment on the proposed conforming revision of those provisions in the section above.

HEALTH AND SAFETY CODE

Health & Safety Code § 11358 (amended).

SEC. _____. Section 11358 of the Health and Safety Code is amended to read:

11358. Each person who plants, cultivates, harvests, dries, or processes cannabis plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Each person under the age of 18 who plants, cultivates, harvests, dries, or processes any cannabis plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Each person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living cannabis plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Each person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both that fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants, or any part thereof, except as otherwise provided by law, may be punished by

1 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if any
2 of the following conditions exist:

3 (1) The person has one or more prior convictions for an offense specified in clause
4 (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the
5 Penal Code or for an offense requiring registration pursuant to subdivision (c) of
6 Section 290 of the Penal Code.

7 (2) The person has two or more prior convictions under subdivision (c).

8 (3) The offense resulted in any of the following:

9 (A) Violation of Section 1052 of the Water Code relating to illegal diversion of
10 water.

11 (B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code
12 relating to discharge of water.

13 (C) Violation of ~~Section 5650 or 5652~~ Section 66500 or 66525 of the Fish and
14 Game Wildlife Code relating to waters of the state.

15 (D) Violation of ~~Section 1602~~ Title 3 (commencing with Sections 69700) of Part
16 4 of Division 17 of the Fish and Game Wildlife Code relating to rivers, streams, and
17 lakes.

18 (E) Violation of Section 374.8 of the Penal Code relating to hazardous substances
19 or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to
20 hazardous waste.

21 (F) Violation of Section 2080 ~~62600~~ of the Fish and Game Wildlife Code relating
22 to endangered and threatened species or Section 3513 ~~29855~~ of the Fish and Game
23 Wildlife Code relating to the Migratory Bird Treaty Act, or Section 2000 ~~8000~~
24 of the Fish and Game Wildlife Code relating to the unlawful taking of fish and wildlife.

25 (G) Intentionally or with gross negligence causing substantial environmental
26 harm to public lands or other public resources.

27 **Comment.** Paragraph (3) of subdivision (d) of Section 11358 is amended to reflect the
28 recodification of the former Fish and Game Code.

29 **Notes.** (1) In the tentative recommendation, Fish and Game Code Section 1602 would be
30 continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-
31 reference revision above would refer to the title that contains all of those sections, rather than
32 referring to the five sections individually. That seems unproblematic, because the entire title relates
33 to the substance of Section 1602.

34 **The Commission requests public comment on whether that simplified reference would**
35 **cause any problems.**

36 (2) Health and Safety Code Section 11358 was amended in 2016 by an initiative statute,
37 Proposition 64. The Commission believes that the proposed technical revision of that section would
38 not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6,
39 and associated text.

40 **Health & Safety Code § 25150 (amended).**

41 SEC. _____. Section 25150 of the Health and Safety Code is amended to read:

1 25150. (a) The department shall adopt, and revise when appropriate, standards
2 and regulations for the management of hazardous wastes to protect against hazards
3 to the public health, to domestic livestock, to wildlife, or to the environment.

4 (b) The department and the local officers and agencies authorized to enforce this
5 chapter pursuant to subdivision (a) of Section 25180 shall apply the standards and
6 regulations adopted pursuant to subdivision (a) to the management of hazardous
7 waste.

8 (c) Except as provided in subdivision (d), the department may limit the application
9 of the standards and regulations adopted or revised pursuant to subdivision (a) at
10 facilities operating pursuant to a hazardous waste facilities permit or other grant of
11 authorization issued by the department in any manner that the department
12 determines to be appropriate, including, but not limited to, requiring these facilities
13 to apply for, and receive, a permit modification prior to the application of the
14 standards and regulations.

15 (d) The department shall not adopt or revise standards and regulations which
16 result in the imposition of any requirement for the management of a RCRA waste
17 that is less stringent than a corresponding requirement adopted by the
18 Environmental Protection Agency pursuant to the federal act.

19 (e) The department shall adopt, and revise when appropriate, regulations for the
20 recycling of hazardous waste to protect against hazards to the public health,
21 domestic livestock, wildlife, or to the environment, and to encourage the best use of
22 natural resources.

23 (f) Before the adoption of regulations, the department shall notify all agencies of
24 interested local governments, including, but not limited to, certified unified program
25 agencies, local governing bodies, local planning agencies, local health authorities,
26 local building inspection departments, the Department of Pesticide Regulation, the
27 Department of the California Highway Patrol, the Department of Fish and Game
28 Wildlife, the Department of Industrial Relations, the Division of Industrial Safety,
29 the State Air Resources Board, the State Water Resources Control Board, the State
30 Fire Marshal, regional water quality control boards, the State Building Standards
31 Commission, the Office of Environmental Health Hazard Assessment, and the
32 California Integrated Waste Management Board.

33 **Comment.** Section 25150 is amended to update a reference to the former Department of Fish
34 and Game. See Fish & Wildlife Code § 1500.

35 **Health & Safety Code § 25197.2 (amended).**

36 SEC. _____. Section 25197.2 of the Health and Safety Code is amended to read:
37 25197.2. (a) The department shall establish a statewide Hazardous Waste Strike
38 Force which shall consist of a representative from each of the following agencies:

- 39 (1) The Department of Transportation.
40 (2) The Department of Industrial Relations.
41 (3) The Department of Food and Agriculture.

- 1 (4) The State Water Resources Control Board.
- 2 (5) The State Air Resources Board.
- 3 (6) The Department of the California Highway Patrol.
- 4 (7) The Office of the State Fire Marshal in the Department of Forestry and Fire
- 5 Protection.
- 6 (8) The California Integrated Waste Management Board.
- 7 (9) The Department of Fish and Game Wildlife.
- 8 (10) The Office of Emergency Services.
- 9 (11) The Department of Toxic Substances Control.
- 10 (12) The Attorney General.
- 11 (13) The Department of Pesticide Regulation.
- 12 (b) The director, or the director's designee, shall direct and coordinate the
- 13 activities of the Hazardous Waste Strike Force.
- 14 (c) The Hazardous Waste Strike Force shall do all of the following:
- 15 (1) Recommend standardized programs among the agencies represented on the
- 16 Hazardous Waste Strike Force for the purposes of uniformly enforcing state
- 17 hazardous waste statutes and regulations and reporting violators of these statutes
- 18 and regulations.
- 19 (2) Recommend programs to publicize and improve the statewide telephone
- 20 number established pursuant to paragraph (5) of subdivision (b) of Section 25197.1.
- 21 (3) Recommend local and regional programs to report information concerning
- 22 violations of this chapter and any other hazardous waste statutes and regulations.
- 23 **Comment.** Section 25197.2 is amended to update a reference to the former Department of Fish
- 24 and Game. See Fish & Wildlife Code § 1500.

25 **Health & Safety Code § 25209.2 (amended).**

- 26 SEC. _____. Section 25209.2 of the Health and Safety Code is amended to read:
- 27 25209.2. The state board, in consultation, as necessary, with other appropriate
- 28 state agencies, shall adopt or amend emergency regulations that establish minimum
- 29 requirements for the design, construction, operation, and closure of a solar
- 30 evaporator. The regulations shall include, but are not limited to, requirements to
- 31 ensure all of the following:
- 32 (a) The operation of a solar evaporator does not result in a discharge of on-farm
- 33 agricultural drainage water outside the boundaries of the area of land that makes up
- 34 the solar evaporator.
- 35 (b)(1) The solar evaporator is designed, constructed, and operated so that, under
- 36 reasonably ~~foreseeable~~ foreseeable operating conditions, the discharge of agricultural
- 37 water to the solar evaporator does not result in standing water or drift of salt spray,
- 38 mist, or particles outside the boundaries of the solar evaporator to the extent that
- 39 drift constitutes a nuisance condition.

(2) Notwithstanding paragraph (1), a solar evaporator may be designed, constructed, and operated to accommodate standing water, if it includes a water catchment basin.

(3) The board may specify those conditions under which a solar evaporator is required to include a water catchment basin to prevent standing water that would otherwise occur within the solar evaporator.

(c) Avian wildlife is adequately protected. In adopting regulations pursuant to this subdivision, the state board shall do the following:

(1) Consider and, to the extent feasible, incorporate best management practices recommended or adopted by the United States Fish and Wildlife Service.

(2) Establish guidelines for the authorized inspection of a solar evaporator by the regional board pursuant to Section 25209.15. The guidelines shall include technical advice developed in consultation with the Department of Fish and ~~Game~~ Wildlife and the United States Fish and Wildlife Service that may be used by regional board personnel to identify observed conditions relating to the operation of a solar evaporator that indicate an unreasonable threat to avian wildlife.

(d) Constituents in agricultural drainage water discharged to the solar evaporator will not migrate from the solar evaporator into the vadose zone or the waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(e) Adequate groundwater monitoring and recordkeeping is performed to ensure compliance with this article.

(f) Salt isolated in a solar evaporator shall be managed in accordance with all applicable laws and shall eventually be harvested and sold for commercial purposes, used for beneficial purposes, or stored or disposed in a facility authorized to accept that waste pursuant to this chapter or Division 30 (commencing with Section 40000) of the Public Resources Code.

Comment. Section 25209.2 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500. The section is also amended to make a technical correction.

Health & Safety Code § 25261 (amended).

SEC. _____. Section 25261 of the Health and Safety Code is amended to read:

25261. (a) There is within the California Environmental Protection Agency a Site Designation Committee. The membership of the committee consists of the following six persons:

(1) Secretary for Environmental Protection.

(2) Director of Toxic Substances Control.

(3) Chairperson of the State Water Resources Control Board.

(4) Director of Fish and ~~Game~~ Wildlife.

(5) Director of the Office of Environmental Health Hazard Assessment.

(6) Chairperson of the State Air Resources Board.

(b) The committee shall carry out the functions described in Sections 25262, 25263, and 25265 and shall meet as necessary to ensure that those functions are

1 carried out in a timely manner. The decisions of the committee shall be subject to
2 the concurrence of four members. The committee shall choose a chairperson from
3 among its members. A committee member may designate an employee of the
4 member's agency to participate in committee meetings in the member's place.

5 **Comment.** Section 25261 is amended to update a reference to the Director of the former
6 Department of Fish and Game. See Fish & Wildlife Code § 1500.

7 **Health & Safety Code § 25262 (amended).**

8 SEC. _____. Section 25262 of the Health and Safety Code is amended to read:

9 25262. (a) A responsible party for a hazardous materials release site may request
10 the committee at any time to designate an administering agency to oversee a site
11 investigation and remedial action at the site. The committee shall designate an
12 administering agency as responsible for the site within 45 days of the date the
13 request is received. A request to designate an administering agency may be denied
14 only if the committee makes one of the following findings:

15 (1) No single agency in state or local government has the expertise needed to
16 adequately oversee a site investigation and remedial action at the site.

17 (2) Designating an administering agency will have the effect of reversing a
18 regulatory or enforcement action initiated by an agency that has jurisdiction over
19 the site, a facility on the site, or an activity at the site.

20 (3) Designating an administering agency will prevent a regulatory or enforcement
21 action required by federal law or regulations.

22 (4) The administering agency and the responsible party are local agencies formed,
23 in whole or in part, by the same political subdivision.

24 (b) A responsible party who requests the designation of an administering agency
25 for a hazardous materials release site shall provide the committee with a brief
26 description of the site, an analysis of the known or suspected nature of the release
27 or threatened release that is the subject of required site investigation or remedial
28 action, a description of the type of facility from which the release occurred or the
29 type of activity that caused the release, a specification of the regulatory or
30 enforcement actions that have been taken, or are pending, with respect to the release,
31 and a statement of which agency the responsible party believes should be designated
32 as administering agency for the site.

33 (c)(1) The committee shall take all of the following factors into account in
34 determining which agency to designate as administering agency for a site:

35 (A) The type of release that is the subject of site investigation and remedial action.

36 (B) The nature of the threat that the release poses to human health and safety or
37 to the environment.

38 (C) The source of the release, the type of facility or activity from which the release
39 occurred, the regulatory programs that govern the facility or activity involved, and
40 the agency or agencies that administer those regulatory programs.

41 (D) The regulatory history of the site, the types of regulatory actions or
42 enforcement actions that have been taken with respect to the site or the facility or

1 activity from which the release occurred, and the experience and involvement that
2 various agencies have had with the site.

3 (E) The capabilities and expertise of the agencies that are candidates for
4 designation as the administering agency for the site and the degree to which those
5 capabilities and that expertise are applicable to the type of release at the site, the
6 nature of the threat that the release poses to health and safety or the environment
7 and the probable remedial measures that will be required.

8 (2) After weighing the factors described in paragraph (1) as they apply to the site,
9 the committee shall use the criteria specified in subparagraphs (A), (B), (C), and (D)
10 as guidelines for designating the administering agency. If more than one of the
11 criteria apply to the site, the committee shall use its best judgment, taking into
12 account the known facts concerning the hazardous materials release at the site and
13 its regulatory history, in determining which agency may best serve as the
14 administering agency. The criteria are as follows:

15 (A) The administering agency shall be the Department of Toxic Substances
16 Control if one of the following applies:

17 (i) The department has issued an order, or otherwise initiated action, with respect
18 to the release at the site pursuant to Section 25355, 25355.5, or 25358.3.

19 (ii) The department has issued an order for corrective action at the site pursuant
20 to Section 25187.

21 (iii) The source of the release is a facility or hazardous waste management unit or
22 an activity that is, or was, regulated by the department pursuant to Chapter 6.5
23 (commencing with Section 25100).

24 (iv) The department is conducting, or has conducted, oversight of the site
25 investigation and remedial action at the site at the request of the responsible party.

26 (B) The administering agency shall be the California regional water quality
27 control board for the region in which the site is located, if one of the following
28 applies:

29 (i) The California regional water quality control board has issued a cease and
30 desist order pursuant to Section 13301, or a cleanup and abatement order pursuant
31 to Section 13304 of the Water Code in connection with the release at the site.

32 (ii) The source of the release is a facility or an activity that is subject to waste
33 discharge requirements issued by the California regional water quality control board
34 pursuant to Section 13263 of the Water Code or that is regulated by the California
35 regional water quality control board pursuant to Article 5.6 (commencing with
36 Section 25159.10) of, or Article 9.5 (commencing with Section 25208) of, Chapter
37 6.5, or pursuant to Chapter 6.67 (commencing with Section 25270).

38 (iii) The California regional water quality control board has jurisdiction over the
39 site pursuant to Chapter 5.6 (commencing with Section 13390) of Division 7 of the
40 Water Code.

41 (C) The administering agency shall be the Department of Fish and Game Wildlife
42 if the release has polluted or contaminated the waters of the state and the department

1 has taken action against the responsible party pursuant to Section ~~2014 or 12015~~ of,
2 or Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6
3 ~~4470 or 6500~~, Article 2 (commencing with Section 6320) of Chapter 3 of Title 17
4 of Part 4 of Division 3 of, Title 1 (commencing with Section 66500) of Part 3 of, or
5 Title 1 (commencing with Section 71000) of Part 5 of, Division 17 of, the Fish and
6 Game Wildlife Code, subsection (f) of Section 107 of the Comprehensive
7 Environmental Response, Compensation, and Liability Act, as amended, (42 U.S.C.
8 Sec. 9607 (f)), or Section 311 of the Federal Water Pollution Act, as amended (33
9 U.S.C. Sec. 1321).

10 (D) The administering agency shall be a local agency if any one of the following
11 circumstances is applicable:

12 (i) The source of the release at the site is an underground storage tank, as defined
13 in subdivision (y) of Section 25281, the local agency is the agency described in
14 subdivision (i) of Section 25281, and there is no evidence of any extensive
15 groundwater contamination at the site.

16 (ii) The local agency has accepted responsibility for overseeing the site
17 investigation or remedial action at the site and a state agency is not involved.

18 (iii) The local agency has agreed to oversee the site investigation or remedial
19 action at the site and is certified, or has been approved, by a state agency to conduct
20 that oversight.

21 (d) A responsible party for a hazardous materials release site may request the
22 designation of an administering agency for the site pursuant to this section only
23 once. The action of the committee on the request is a final action and is not subject
24 to further administrative or judicial review.

25 **Comment.** Subparagraph (C) of paragraph (2) of subdivision (c) of Section 25262 is amended
26 to reflect the recodification of the former Fish and Game Code. That subparagraph is also amended
27 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

28 **Health & Safety Code § 25395.66 (amended).**

29 SEC. _____. Section 25395.66 of the Health and Safety Code is amended to read:

30 25395.66. “Applicable law” means all of the provisions of the following state
31 statutory and common laws that impose liability on an owner or occupant of
32 property for pollution conditions caused by a release or threatened release of
33 hazardous material on, under, or adjacent to the property:

34 (a) Title 1 (commencing with Section 3479) of, Title 2 (commencing with Section
35 3490) of, and Title 3 (commencing with Section 3501) of, Part 3 of Division 4 of
36 the Civil Code.

37 (b) Chapter 2 (commencing with Section 731) of Title 10 of Part 2 of the Code of
38 Civil Procedure, but not including Section 736 of the Code of Civil Procedure.

39 ~~(c) Section 5650 Article 1 (commencing with Section 66500 of Chapter 1 of Title~~
40 1 of Part 3 of Division 17 of the Fish and Game Wildlife Code.

(d) Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), and Chapter 6.8 (commencing with Section 25300), of this division.

(e) Chapter 1 (commencing with Section 13000) to Chapter 5 (commencing with Section 13300), inclusive, of Division 7 of the Water Code.

(f) State common law regarding contribution, nuisance, trespass, and equitable indemnity.

Comment. Section 25395.66 is amended to reflect the recodification of the former Fish and Game Code.

Health & Safety Code § 41861 (amended).

SEC. _____. Section 41861 of the Health and Safety Code is amended to read:

41861. No burning shall be conducted for the improvement of land for wildlife or game habitat until the person desiring to conduct such burning obtains from the Department of Fish and Game Wildlife a written statement certifying that the burning is desirable and proper for the improvement of land for wildlife or game habitat and such statement is filed with the air pollution control officer having jurisdiction in the area in which the burning is to take place. As to burning conducted by the Department of Fish and Game Wildlife, the department shall, on its own behalf, issue and file such statements.

Comment. Section 41861 is amended to update references to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Health & Safety Code § 110795 (amended).

SEC. _____. Section 110795 of the Health and Safety Code is amended to read:


110795. (a) The department may adopt regulations that name and describe the characteristics of salmon and any other fish or other seafood it considers appropriate. The department shall consult with the Department of Fish and Game Wildlife, the Joint Committee on Fisheries and Aquaculture, consumers, commercial fishermen, aquaculturists, and seafood processors, wholesalers, restaurateurs, and other retailers before adopting these regulations. The department shall not adopt any regulation that conflicts with the common name of any fish designated by the Department of Fish and Game pursuant to former Section 8023 of the Fish and Game Code.

(b) In addition to the consultations required by subdivision (a), the department shall consult and seek the recommendations of the groups named in that subdivision concerning the possible need for, or desirability of, any further legislation or regulations affecting seafood labeling.

(c) No regulation adopted pursuant to this section shall deviate from a pertinent United States standard where the fish or seafood product specified is packed or processed as a standardized product under a United States standard.

(d) Nothing in this section or in regulations adopted pursuant to this section shall be construed to require the use of more than the common family name of any fish or seafood by any restaurant in menus or advertisements.

Comment. Section 110795 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

 **Note.** Fish and Game Code Section 8023, which is cross-referenced in the section above, was repealed in 1986. See 1986 Cal. Stat. ch. 1049, § 18. The former section concerned landing receipts. Its last paragraph read: “The names used in the receipt for designating the species of the fish dealt with shall be those in common usage, and may be designated by the department.” That rule seems to provide the department with authority to designate the common names of different species of fish.

Existing Section 8045 provides a similar, but different rule: “The names used in the landing receipt and transportation receipt made under Sections 8043 and 8047 for designating the species of fish dealt with shall be those in common usage unless otherwise designated by the department.” The “unless otherwise designated” language suggests that the department has authority to designate names *other than* common names.

The revision of Health and Safety Code Section 11079 proposed above takes a conservative approach, strictly construing the existing language as a reference to former Section 8023. However, that may not be the best way to preserve the spirit of the provision. It might be better to substitute a reference to Section 8045.

The Commission requests public comment on how best to revise the reference to Section 8023.

Health & Safety Code § 111067 (amended).

SEC. _____. Section 111067 of the Health and Safety Code is amended to read:

111067. (a) Any city, county, or city and county may adopt an ordinance that provides for the regulation of the disposition of bullfrogs and turtles imported for sale in live animal markets for use as food. The ordinances may provide for all of the following:

- (1) The designation of a local agency to carry out this article.
- (2) Require a permit, issued by an agency designated by the city, county, or city and county to issue permits, for the sale of bullfrogs and turtles imported for sale in live animal markets for use as food.
- (3) Establish a fee for the permit in an amount determined sufficient to offset the administrative cost of issuing the permit and enforcing the provisions of the ordinance.
- (4) Require that animals sold pursuant to the permit be dispatched at the time of sale.
- (5) Require that signs be posted at the permittee’s place of business, stating that animals must be properly dispatched and that release into the wild in a live state is unlawful.
- (6) Authorize the local agency, after notice and opportunity for a hearing, to suspend or revoke a permit issued pursuant to paragraph (1) for violation of any provision of the ordinance adopted pursuant to this article.

(b) The State Department of Health Services and the Department of Fish and Game Wildlife may consult with a city, county, or city and county for purposes related to this article.

Comment. Section 111067 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Health & Safety Code § 112160 (amended).

SEC. _____. Section 112160 of the Health and Safety Code is amended to read:

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 Wildlife, 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).

Comment. Section 112160 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Health & Safety Code § 112175 (amended).

SEC. _____. Section 112175 of the Health and Safety Code is amended to read:

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 14500.

1 14615, 23600, 23605, 23610, 23700, 45010, and 45505 of the Fish and Game
2 Wildlife Code and in regulations adopted by the department pursuant to this chapter,
3 with regard to growing areas, relaying and depuration procedures, and aquaculture
4 facilities.

5 **Comment.** Section 112175 is amended to reflect the recodification of the former Fish and Game
6 Code.

7 **Health & Safety Code § 112185 (amended).**

8 SEC. _____. Section 112185 of the Health and Safety Code is amended to read:

9 112185. (a) It is unlawful for any person to take, sell, offer, or hold for sale any
10 shellfish from an area declared by the director to be unsuitable for harvesting for
11 human consumption, without complying with all regulations adopted by the
12 department to ensure that the shellfish have been purified.

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

17 **Comment.** Section 112185 is amended to update a reference to the former Department of Fish
18 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
19 designations.

20 **Health & Safety Code § 114031 (amended).**

21 SEC. _____. Section 114031 of the Health and Safety Code is amended to read:

22 114031. (a) Game animals shall be received from an approved source.

23 (b) A game animal shall not be received for sale or service if it is a species of
24 wildlife that is listed in 50 C.F.R. 17 Endangered and Threatened Wildlife and
25 Plants or is listed as an endangered or threatened animal by the Department of Fish
26 and Game Wildlife.

27 (c) The enforcement agency may approve the use of legally obtained donated fish
28 and game by nonprofit organizations authorized to serve meals to indigent persons.

29 (1) “Fish,” as used in this subdivision, shall be defined as that term is used in
30 Section 45 335 of the Fish and Game Wildlife Code.

31 (2) “Game,” as used in this subdivision, means any game bird, as defined in
32 Section 3500 410 or 490 of the Fish and Game Wildlife Code, or game mammal, as
33 defined in Section 3950 375 of the Fish and Game Wildlife Code.

34 **Comment.** Section 114031 is amended to reflect the recodification of the former Fish and Game
35 Code. The section is also amended to update a reference to the former Department of Fish and
36 Game. See Fish & Wildlife Code § 1500.

37 **Health & Safety Code § 114775 (amended).**

38 SEC. _____. Section 114775 of the Health and Safety Code is amended to read:

1 114775. The department, utilizing available funds and in cooperation with the
2 Department of Fish and Game Wildlife and the Joint Committee on Fisheries and
3 Aquaculture, shall do all of the following:

4 (a) Cooperate with any federal agency that conducts monitoring of marine life or
5 ocean waters, or both, at the sites of radioactive waste dumping off the California
6 coast to determine the effects of the dumping.

7 (b) Purchase and test samples of seafood taken in the vicinity of the Farallon
8 Islands radioactive waste dump site to determine whether the seafood contains
9 radioactivity beyond natural and artificial background levels.

10 (c) Make annual reports to the Legislature on the implementation of this section,
11 including any recommendations for legislation it deems necessary to protect the
12 health of Californians.

13 (d) Take emergency action pursuant to the general authority contained in the
14 Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section
15 109875)) to prohibit the commercial sale of seafood for human consumption if, in
16 the judgment of the director, samples analyzed pursuant to subdivision (b), are
17 found to contain radioactivity that poses a threat to human health.

18 **Comment.** Section 114775 is amended to update a reference to the former Department of Fish
19 and Game. See Fish & Wildlife Code § 1500.

20 **Health & Safety Code § 114780 (amended).**

21 SEC. _____. Section 114780 of the Health and Safety Code is amended to read:

22 114780. (a) The Legislature finds and declares that the dumping of radioactive
23 waste, including the scuttling of radioactive nuclear submarines, into the Pacific
24 Ocean, could adversely affect the California coastal zone.

25 (b) The California Coastal Commission, in cooperation when appropriate with the
26 department, the Department of Justice, the Department of Fish and Game Wildlife,
27 and the Joint Committee on Fisheries and Aquaculture, shall use any means
28 available to the commission, pursuant to law, to prevent any dumping of radioactive
29 waste in the Pacific Ocean by any public or private entity, unless the commission
30 finds that the dumping would be consistent with the goals and policies of Division
31 20 (commencing with Section 30000) of the Public Resources Code.

32 **Comment.** Section 114780 is amended to update a reference to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.


34 **Health & Safety Code § 121870 (amended).**

35 SEC. _____. Section 121870 of the Health and Safety Code is amended to read:

36 121870. This chapter, or any regulations adopted pursuant thereto, shall not
37 authorize the importation, transportation, or possession of any live wild animals
38 enumerated in ~~Chapter 2 (commencing with Section 2116) of Division 3~~ Section
39 5280 or 5282, or Title 1 (commencing with Section 26500) or Title 2 (commencing
40 with Section 26600) of Part 6 of Division 7, of the Fish and Game Wildlife Code or
41 the regulations of the Fish and Game Commission adopted pursuant thereto, except

as provided in ~~Chapter 2 (commencing with Section 2116) of Division 3 Title 1 (commencing with Section 26500) or Title 2 (commencing with Section 26600) of Part 6 of Division 7~~ of the Fish and Game Wildlife Code.

Comment. Section 121870 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** The revisions proposed above would continue all of the referenced provisions, with one exception. The enforcement rules in existing Fish and Game Code Sections 2118.4, 2128, and 2125 are not included in the revised cross-reference. Those provisions do not seem germane to the references.

The Commission requests public comment on whether that approach would cause any problems.

Health & Safety Code § 131052 (amended).

SEC. _____. Section 131052 of the Health and Safety Code is amended to read:

131052. In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health as provided for or referred to in all of the following provisions of law:

(1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the Business and Professions Code.

(2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

(3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

(4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and Agricultural Code.

(5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

(6) Sections 1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, 7115, and 15700 11500, 13805, 24800, 31700, 45450, 45455, 45460, 45500, 45515, and 65970 of the Fish and Game Wildlife Code.

(7) Sections 855, 51010, and 551017.1 of the Government Code. For purposes of subdivision (s) of Section 6254 of the Government Code, the term “State Department of Health Services” is hereby deemed to refer to the State Department of Public Health.

(8)(A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

(B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

1 (C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2 and
2 Part 3 of Division 101.

3 (D) Division 102, including Sections 102230 and 102231.

4 (E) Division 103, including Sections 104145, 104181, 104182, 104182.5, 104187,
5 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320, 104321,
6 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and
7 105430.

8 (F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855,
9 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475,
10 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736,
11 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375,
12 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

13 (G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480,
14 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

15 (H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and
16 Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

17 (9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and
18 11520 of the Insurance Code.

19 (10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009,
20 and 9022 of the Labor Code.

21 (11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550,
22 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

23 (12) Section 4806 of the Probate Code.

24 (13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308,
25 44103, and 71081 of the Public Resources Code.

26 (14) Section 10405 of the Public Contract Code.

27 (15) Sections 883, 1507, and 7718 of the Public Utilities Code.

28 (16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6,
29 43010.1, and 43011.1 of the Revenue and Taxation Code.

30 (17) Section 11020 of the Unemployment Insurance Code.

31 (18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

32 (19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24
33 of the Welfare and Institutions Code. Payment for services provided under the
34 Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program
35 pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through
36 the State Department of Health Care Services. The State Department of Public
37 Health and the State Department of Health Care Services may enter into an
38 interagency agreement for the administration of those payments. This paragraph, to
39 the extent that it applies to the Family PACT Waiver Program, shall become
40 inoperative on June 30, 2012.

41 (20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5,
42 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4,

1 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824,
2 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864,
3 13868, 13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892,
4 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4,
5 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022,
6 14025, 14026, 14027, and 14029 of the Water Code.

7 **Comment.** Section 131052(6) is amended to reflect the recodification of the former Fish and
8 Game Code.

9 LABOR CODE

10 **Labor Code § 226 (amended).**

11 SEC. _____. Section 226 of the Labor Code is amended to read:

12 226. (a) An employer, semimonthly or at the time of each payment of wages, shall
13 furnish to his or her employee, either as a detachable part of the check, draft, or
14 voucher paying the employee's wages, or separately if wages are paid by personal
15 check or cash, an accurate itemized statement in writing showing (1) gross wages
16 earned, (2) total hours worked by the employee, except as provided in subdivision
17 (j), (3) the number of piece-rate units earned and any applicable piece rate if the
18 employee is paid on a piece-rate basis, (4) all deductions, provided that all
19 deductions made on written orders of the employee may be aggregated and shown
20 as one item, (5) net wages earned, (6) the inclusive dates of the period for which the
21 employee is paid, (7) the name of the employee and only the last four digits of his
22 or her social security number or an employee identification number other than a
23 social security number, (8) the name and address of the legal entity that is the
24 employer and, if the employer is a farm labor contractor, as defined in subdivision
25 (b) of Section 1682, the name and address of the legal entity that secured the services
26 of the employer, and (9) all applicable hourly rates in effect during the pay period
27 and the corresponding number of hours worked at each hourly rate by the employee
28 and, beginning July 1, 2013, if the employer is a temporary services employer as
29 defined in Section 201.3, the rate of pay and the total hours worked for each
30 temporary services assignment. The deductions made from payment of wages shall
31 be recorded in ink or other indelible form, properly dated, showing the month, day,
32 and year, and a copy of the statement and the record of the deductions shall be kept
33 on file by the employer for at least three years at the place of employment or at a
34 central location within the State of California. For purposes of this subdivision,
35 "copy" includes a duplicate of the itemized statement provided to an employee or a
36 computer-generated record that accurately shows all of the information required by
37 this subdivision.

38 (b) An employer that is required by this code or any regulation adopted pursuant
39 to this code to keep the information required by subdivision (a) shall afford current
40 and former employees the right to inspect or receive a copy of records pertaining to

1 their employment, upon reasonable request to the employer. The employer may take
2 reasonable steps to ensure the identity of a current or former employee. If the
3 employer provides copies of the records, the actual cost of reproduction may be
4 charged to the current or former employee.

5 (c) An employer who receives a written or oral request to inspect or receive a copy
6 of records pursuant to subdivision (b) pertaining to a current or former employee
7 shall comply with the request as soon as practicable, but no later than 21 calendar
8 days from the date of the request. A violation of this subdivision is an infraction.
9 Impossibility of performance, not caused by or a result of a violation of law, shall
10 be an affirmative defense for an employer in any action alleging a violation of this
11 subdivision. An employer may designate the person to whom a request under this
12 subdivision will be made.

13 (d) This section does not apply to any employer of a person employed by the
14 owner or occupant of a residential dwelling whose duties are incidental to the
15 ownership, maintenance, or use of the dwelling, including the care and supervision
16 of children, or whose duties are personal and not in the course of the trade, business,
17 profession, or occupation of the owner or occupant.

18 (e) (1) An employee suffering injury as a result of a knowing and intentional
19 failure by an employer to comply with subdivision (a) is entitled to recover the
20 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
21 a violation occurs and one hundred dollars (\$100) per employee for each violation
22 in a subsequent pay period, not to exceed an aggregate penalty of four thousand
23 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

24 (2) (A) An employee is deemed to suffer injury for purposes of this subdivision if
25 the employer fails to provide a wage statement.

26 (B) An employee is deemed to suffer injury for purposes of this subdivision if the
27 employer fails to provide accurate and complete information as required by any one
28 or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot
29 promptly and easily determine from the wage statement alone one or more of the
30 following:

31 (i) The amount of the gross wages or net wages paid to the employee during the
32 pay period or any of the other information required to be provided on the itemized
33 wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision
34 (a).

35 (ii) Which deductions the employer made from gross wages to determine the net
36 wages paid to the employee during the pay period. Nothing in this subdivision alters
37 the ability of the employer to aggregate deductions consistent with the requirements
38 of item (4) of subdivision (a).

39 (iii) The name and address of the employer and, if the employer is a farm labor
40 contractor, as defined in subdivision (b) of Section 1682, the name and address of
41 the legal entity that secured the services of the employer during the pay period.

1 (iv) The name of the employee and only the last four digits of his or her social
2 security number or an employee identification number other than a social security
3 number.

4 (C) For purposes of this paragraph, “promptly and easily determine” means a
5 reasonable person would be able to readily ascertain the information without
6 reference to other documents or information.

7 (3) For purposes of this subdivision, a “knowing and intentional failure” does not
8 include an isolated and unintentional payroll error due to a clerical or inadvertent
9 mistake. In reviewing for compliance with this section, the factfinder may consider
10 as a relevant factor whether the employer, prior to an alleged violation, has adopted
11 and is in compliance with a set of policies, procedures, and practices that fully
12 comply with this section.

13 (f) A failure by an employer to permit a current or former employee to inspect or
14 receive a copy of records within the time set forth in subdivision (c) entitles the
15 current or former employee or the Labor Commissioner to recover a seven-hundred-
16 fifty-dollar (\$750) penalty from the employer.

17 (g) The listing by an employer of the name and address of the legal entity that
18 secured the services of the employer in the itemized statement required by
19 subdivision (a) shall not create any liability on the part of that legal entity.

20 (h) An employee may also bring an action for injunctive relief to ensure
21 compliance with this section, and is entitled to an award of costs and reasonable
22 attorney’s fees.

23 (i) This section does not apply to the state, to any city, county, city and county,
24 district, or to any other governmental entity, except that if the state or a city, county,
25 city and county, district, or other governmental entity furnishes its employees with
26 a check, draft, or voucher paying the employee’s wages, the state or a city, county,
27 city and county, district, or other governmental entity shall use no more than the last
28 four digits of the employee’s social security number or shall use an employee
29 identification number other than the social security number on the itemized
30 statement provided with the check, draft, or voucher.

31 (j) An itemized wage statement furnished by an employer pursuant to subdivision
32 (a) shall not be required to show total hours worked by the employee if any of the
33 following apply:

34 (1) The employee’s compensation is solely based on salary and the employee is
35 exempt from payment of overtime under subdivision (a) of Section 515 or any
36 applicable order of the Industrial Welfare Commission.

37 (2) The employee is exempt from the payment of minimum wage and overtime
38 under any of the following:

39 (A) The exemption for persons employed in an executive, administrative, or
40 professional capacity provided in any applicable order of the Industrial Welfare
41 Commission.

1 (B) The exemption for outside salespersons provided in any applicable order of
2 the Industrial Welfare Commission.

3 (C) The overtime exemption for computer software professionals paid on a
4 salaried basis provided in Section 515.5.

5 (D) The exemption for individuals who are the parent, spouse, child, or legally
6 adopted child of the employer provided in any applicable order of the Industrial
7 Welfare Commission.

8 (E) The exemption for participants, director, and staff of a live-in alternative to
9 incarceration rehabilitation program with special focus on substance abusers
10 provided in Section 8002 of the Penal Code.

11 (F) The exemption for any crew member employed on a commercial passenger
12 fishing boat licensed pursuant to ~~Article 5 (commencing with Section 7920) of~~
13 ~~Chapter 1 of Part 3 of Division 6~~ Section 21905 of the Fish and Game Wildlife Code
14 provided in any applicable order of the Industrial Welfare Commission.

15 (G) The exemption for any individual participating in a national service program
16 provided in any applicable order of the Industrial Welfare Commission.

17 **Comment.** Subparagraph (F) of paragraph (2) of subdivision (j) of Section 226 is amended to
18 reflect the recodification of the former Fish and Game Code.

19 **Labor Code § 3212 (amended).**

20 SEC. _____. Section 3212 of the Labor Code is amended to read:

21 3212. In the case of members of a sheriff's office or the California Highway
22 Patrol, district attorney's staff of inspectors and investigators or of police or fire
23 departments of cities, counties, cities and counties, districts or other public or
24 municipal corporations or political subdivisions, whether those members are
25 volunteer, partly paid, or fully paid, and in the case of active firefighting members
26 of the Department of Forestry and Fire Protection whose duties require firefighting
27 or of any county forestry or firefighting department or unit, whether voluntary, fully
28 paid, or partly paid, and in the case of members of the warden service of the Wildlife
29 Protection Branch of the Department of Fish and Game Wildlife whose principal
30 duties consist of active law enforcement service, excepting those whose principal
31 duties are clerical or otherwise do not clearly fall within the scope of active law
32 enforcement service such as stenographers, telephone operators, and other
33 ~~officeworkers~~ office workers, the term "injury" as used in this act includes hernia
34 when any part of the hernia develops or manifests itself during a period while the
35 member is in the service in the office, staff, division, department, or unit, and in the
36 case of members of fire departments, except those whose principal duties are
37 clerical, such as stenographers, telephone operators, and other ~~officeworkers~~ office
38 workers, and in the case of county forestry or firefighting departments, except those
39 whose principal duties are clerical, such as stenographers, telephone operators, and
40 other office workers, and in the case of active firefighting members of the
41 Department of Forestry and Fire Protection whose duties require firefighting, and

1 in the case of members of the warden service of the Wildlife Protection Branch of
2 the Department of Fish and Game Wildlife whose principal duties consist of active
3 law enforcement service, excepting those whose principal duties are clerical or
4 otherwise do not clearly fall within the scope of active law enforcement service such
5 as stenographers, telephone operators, and other ~~officeworkers~~ office workers, the
6 term “injury” includes pneumonia and heart trouble that develops or manifests itself
7 during a period while the member is in the service of the office, staff, department,
8 or unit. In the case of regular salaried county or city and county peace officers, the
9 term “injury” also includes any hernia that manifests itself or develops during a
10 period while the officer is in the service. The compensation that is awarded for the
11 hernia, heart trouble, or pneumonia shall include full hospital, surgical, medical
12 treatment, disability indemnity, and death benefits, as provided by the workers’
13 compensation laws of this state.

14 The hernia, heart trouble, or pneumonia so developing or manifesting itself in
15 those cases shall be presumed to arise out of and in the course of the employment.
16 This presumption is disputable and may be controverted by other evidence, but
17 unless so controverted, the appeals board is bound to find in accordance with it. The
18 presumption shall be extended to a member following termination of service for a
19 period of three calendar months for each full year of the requisite service, but not to
20 exceed 60 months in any circumstance, commencing with the last date actually
21 worked in the specified capacity.

22 The hernia, heart trouble, or pneumonia so developing or manifesting itself in
23 those cases shall in no case be attributed to any disease existing prior to that
24 development or manifestation.

25 **Comment.** Section 3212 is amended to update references to the former Department of Fish and
26 Game. See Fish & Wildlife Code § 1500. The section is also amended to make technical
27 corrections.

28 **Labor Code § 3363 (amended).**

29 SEC. _____. Section 3363 of the Labor Code is amended to read:

30 3363. Each member registered with the Department of Fish and Game Wildlife as
31 an active member of the reserve fish and game warden program of the department
32 is an employee of the department for the purposes of this division, and is entitled to
33 receive compensation from the department in accordance with the provisions
34 thereof.

35 **Comment.** Section 3363 is amended to update a cross-reference to the former Department of
36 Fish and Game. See Fish & Wildlife Code § 1500.

37 **Labor Code § 6302 (amended).**

38 SEC. _____. Section 6302 of the Labor Code is amended to read:

39 6302. As used in this division:

40 (a) “Director” means the Director of Industrial Relations.

41 (b) “Department” means the Department of Industrial Relations.

(c) “Insurer” includes the State Compensation Insurance Fund and any private company, corporation, mutual association, and reciprocal or interinsurance exchange, authorized under the laws of this state to insure employers against liability for compensation under this part and under Division 4 (commencing with Section 3201), and any employer to whom a certificate of consent to self-insure has been issued.

(d) “Division” means the Division of Occupational Safety and Health.

(e) “Standards board” means the Occupational Safety and Health Standards Board, within the department.

(f) “Appeals board” means the Occupational Safety and Health Appeals Board, within the department.

(g) “Aquaculture” means a form of agriculture as defined in Section 17 225 of the Fish and ~~Game~~ Wildlife Code.

(h) “Serious injury or illness” means any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by the commission of a Penal Code violation, except the violation of Section 385 of the Penal Code, or an accident on a public street or highway.

(i) “Serious exposure” means any exposure of an employee to a hazardous substance when the exposure occurs as a result of an incident, accident, emergency, or exposure over time and is in a degree or amount sufficient to create a substantial probability that death or serious physical harm in the future could result from the exposure.

Comment. Section 6302 is amended to reflect the recodification of the former Fish and Game Code.

MILITARY AND VETERANS CODE

Mil. & Vet. Code § 88 (amended).

SEC. _____. Section 88 of the Military and Veterans Code is amended to read:

88. (a) Notwithstanding other provisions of law, including, but not limited to, Section 1 of Chapter 648 of the Statutes of 1992, as amended, the Department of Veterans Affairs shall enter into an agreement with the Department of Fish and ~~Game~~ Wildlife that grants to the Department of Fish and ~~Game~~ Wildlife for a period of 99 years, exclusive authority over management and control of approximately 340 acres of land being portions of Sections 19, 28, 29, and 30 of Township 7 North, Range 4 West, Mount Diablo Base and Meridian, in the vicinity of the Rector Reservoir, Napa County, to be utilized by the Department of Fish and ~~Game~~ Wildlife exclusively for open space or conservation purposes. The agreement may

1 be terminated only upon the mutual agreement of the Department of Veterans
2 Affairs and the Department of Fish and Game Wildlife.

3 (b) If the agreement described in subdivision (a) is not entered into by December
4 31, 1997, exclusive authority over the management and control of the property
5 described in subdivision (a) is hereby granted to the Department of Fish and Game
6 Wildlife, effective January 1, 1998.

7 (c) Upon the effective date of the agreement entered into pursuant to subdivision
8 (a) or upon the operation of subdivision (b), the provisions of Section 1 of Chapter
9 648 of the Statutes of 1992, as amended, authorizing the property described in
10 subdivision (a) as surplus property are repealed.

11 **Comment.** Section 88 is amended to update references to the former Department of Fish and
12 Game. See Fish & Wildlife Code § 1500.

13 PENAL CODE

14 Penal Code § 409.5 (amended).

15 SEC. ____ . Section 409.5 of the Penal Code is amended to read:

16 409.5. (a) Whenever a menace to the public health or safety is created by a
17 calamity including a flood, storm, fire, earthquake, explosion, accident, or other
18 disaster, officers of the Department of the California Highway Patrol, police
19 departments, marshal's office or sheriff's office, any officer or employee of the
20 Department of Forestry and Fire Protection designated a peace officer by
21 subdivision (g) of Section 830.2, any officer or employee of the Department of Parks
22 and Recreation designated a peace officer by subdivision (f) of Section 830.2, any
23 officer or employee of the Department of Fish and Game Wildlife designated a
24 peace officer under subdivision (e) of Section 830.2, and any publicly employed
25 full-time lifeguard or publicly employed full-time marine safety officer while acting
26 in a supervisory position in the performance of his or her official duties, may close
27 the area where the menace exists for the duration thereof by means of ropes,
28 markers, or guards to any and all persons not authorized by the lifeguard or officer
29 to enter or remain within the enclosed area. If the calamity creates an immediate
30 menace to the public health, the local health officer may close the area where the
31 menace exists pursuant to the conditions set forth in this section.

32 (b) Officers of the Department of the California Highway Patrol, police
33 departments, marshal's office or sheriff's office, officers of the Department of Fish
34 and Game Wildlife designated as peace officers by subdivision (e) of Section 830.2,
35 or officers of the Department of Forestry and Fire Protection designated as peace
36 officers by subdivision (g) of Section 830.2 may close the immediate area
37 surrounding any emergency field command post or any other command post
38 activated for the purpose of abating any calamity enumerated in this section or any
39 riot or other civil disturbance to any and all unauthorized persons pursuant to the

1 conditions set forth in this section whether or not the field command post or other
2 command post is located near to the actual calamity or riot or other civil disturbance.

3 (c) Any unauthorized person who willfully and knowingly enters an area closed
4 pursuant to subdivision (a) or (b) and who willfully remains within the area after
5 receiving notice to evacuate or leave shall be guilty of a misdemeanor.

6 (d) Nothing in this section shall prevent a duly authorized representative of any
7 news service, newspaper, or radio or television station or network from entering the
8 areas closed pursuant to this section.

9 **Comment.** Section 409.5 is amended to update references to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Penal Code § 597 (amended).**

12 SEC. _____. Section 597 of the Penal Code is amended to read:

13 597. (a) Except as provided in subdivision (c) of this section or Section 599c,
14 every person who maliciously and intentionally maims, mutilates, tortures, or
15 wounds a living animal, or maliciously and intentionally kills an animal, is guilty of
16 a crime punishable pursuant to subdivision (d).

17 (b) Except as otherwise provided in subdivision (a) or (c), every person who
18 overdrives, overloads, drives when overloaded, overworks, tortures, torments,
19 deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or
20 cruelly kills any animal, or causes or procures any animal to be so overdriven,
21 overloaded, driven when overloaded, overworked, tortured, tormented, deprived of
22 necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly
23 killed; and whoever, having the charge or custody of any animal, either as owner or
24 otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty
25 upon the animal, or in any manner abuses any animal, or fails to provide the animal
26 with proper food, drink, or shelter or protection from the weather, or who drives,
27 rides, or otherwise uses the animal when unfit for labor, is, for each offense, guilty
28 of a crime punishable pursuant to subdivision (d).

29 (c) Every person who maliciously and intentionally maims, mutilates, or tortures
30 any mammal, bird, reptile, amphibian, or fish, as described in subdivision (e), is
31 guilty of a crime punishable pursuant to subdivision (d).

32 (d) A violation of subdivision (a), (b), or (c) is punishable as a felony by
33 imprisonment pursuant to subdivision (h) of Section 1170, or by a fine of not more
34 than twenty thousand dollars (\$20,000), or by both that fine and imprisonment, or
35 alternatively, as a misdemeanor by imprisonment in a county jail for not more than
36 one year, or by a fine of not more than twenty thousand dollars (\$20,000), or by
37 both that fine and imprisonment.

38 (e) Subdivision (c) applies to any mammal, bird, reptile, amphibian, or fish ~~which~~
39 that is a creature described as follows:

1 (1) Endangered species or threatened species as described in Chapter 1.5
2 (~~commencing with Section 2050~~) of Division 3 Part 1 (~~commencing with Section~~
3 62000) of Division 17 of the Fish and Game Wildlife Code.

4 (2) Fully protected birds described in Section 3511 345 of the Fish and Game
5 Wildlife Code.

6 (3) Fully protected mammals described in Chapter 8 (~~commencing with Section~~
7 4700) of Part 3 of Division 4 Section 355 of the Fish and Game Wildlife Code.

8 (4) Fully protected reptiles and amphibians described in Chapter 2 (~~commencing~~
9 ~~with Section 5050~~) of Division 5 Sections 340 and 360 of the Fish and Game
10 Wildlife Code.

11 (5) Fully protected fish as described in Section 5515 350 of the Fish and Game
12 Wildlife Code.

13 This subdivision does not supersede or affect any provisions of law relating to
14 taking of the described species, including, but not limited to, ~~Section 12008~~ Sections
15 5320, 5400, 5600, 5950, and 6202 of the Fish and Game Wildlife Code.

16 (f) For the purposes of subdivision (c), each act of malicious and intentional
17 maiming, mutilating, or torturing a separate specimen of a creature described in
18 subdivision (e) is a separate offense. If any person is charged with a violation of
19 subdivision (c), the proceedings shall be subject to Section 12157 4570 of the Fish
20 and Game Wildlife Code.

21 (g)(1) Upon the conviction of a person charged with a violation of this section by
22 causing or permitting an act of cruelty, as defined in Section 599b, all animals
23 lawfully seized and impounded with respect to the violation by a peace officer,
24 officer of a humane society, or officer of a pound or animal regulation department
25 of a public agency shall be adjudged by the court to be forfeited and shall thereupon
26 be awarded to the impounding officer for proper disposition. A person convicted of
27 a violation of this section by causing or permitting an act of cruelty, as defined in
28 Section 599b, shall be liable to the impounding officer for all costs of impoundment
29 from the time of seizure to the time of proper disposition.

30 (2) Mandatory seizure or impoundment shall not apply to animals in properly
31 conducted scientific experiments or investigations performed under the authority of
32 the faculty of a regularly incorporated medical college or university of this state.

33 (h) Notwithstanding any other provision of law, if a defendant is granted probation
34 for a conviction under this section, the court shall order the defendant to pay for,
35 and successfully complete, counseling, as determined by the court, designed to
36 evaluate and treat behavior or conduct disorders. If the court finds that the defendant
37 is financially unable to pay for that counseling, the court may develop a sliding fee
38 schedule based upon the defendant's ability to pay. An indigent defendant may
39 negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant
40 has the ability to pay the nominal fee. County mental health departments or Medi-
41 Cal shall be responsible for the costs of counseling required by this section only for
42 those persons who meet the medical necessity criteria for mental health managed

1 care pursuant to Section 1830.205 of Title 9 of the California Code of Regulations
2 or the targeted population criteria specified in Section 5600.3 of the Welfare and
3 Institutions Code. The counseling specified in this subdivision shall be in addition
4 to any other terms and conditions of probation, including any term of imprisonment
5 and any fine. This provision specifies a mandatory additional term of probation and
6 is not to be utilized as an alternative in lieu of imprisonment pursuant to subdivision
7 (h) of Section 1170 or county jail when that sentence is otherwise appropriate. If the
8 court does not order custody as a condition of probation for a conviction under this
9 section, the court shall specify on the court record the reason or reasons for not
10 ordering custody. This subdivision shall not apply to cases involving police dogs or
11 horses as described in Section 600.

12 **Comment.** Subdivisions (e) and (f) of Section 597 are amended to reflect the recodification of
13 the former Fish and Game Code.

14 **Penal Code § 597.5 (amended).**

15 SEC. _____. Section 597.5 of the Penal Code is amended to read:

16 597.5. (a) Any person who does any of the following is guilty of a felony and is
17 punishable by imprisonment pursuant to subdivision (h) of Section 1170 for 16
18 months, or two or three years, or by a fine not to exceed fifty thousand dollars
19 (\$50,000), or by both that fine and imprisonment:

20 (1) Owns, possesses, keeps, or trains any dog, with the intent that the dog shall be
21 engaged in an exhibition of fighting with another dog.

22 (2) For amusement or gain, causes any dog to fight with another dog, or causes
23 any dogs to injure each other.

24 (3) Permits any act in violation of paragraph (1) or (2) to be done on any premises
25 under his or her charge or control, or aids or abets that act.

26 (b) Any person who is knowingly present, as a spectator, at any place, building,
27 or tenement where preparations are being made for an exhibition of the fighting of
28 dogs, with the intent to be present at those preparations, or is knowingly present at
29 that exhibition or at any other fighting or injuring as described in paragraph (2) of
30 subdivision (a), with the intent to be present at that exhibition, fighting, or injuring,
31 is guilty of an offense punishable by imprisonment in a county jail not to exceed
32 one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both that
33 imprisonment and fine.

34 (c) Nothing in this section shall prohibit any of the following:

35 (1) The use of dogs in the management of livestock, as defined by Section 14205
36 of the Food and Agricultural Code, by the owner of the livestock or his or her
37 employees or agents or other persons in lawful custody thereof.

38 (2) The use of dogs in hunting as permitted by the Fish and Game Wildlife Code,
39 including, but not limited to, Sections 4002 and 4756 Section 32150, and by the
40 rules and regulations of the Fish and Game Commission.

1 **Comment.** Section 597.5 is amended to reflect the recodification of the former Fish and Game
2 Code. A cross-reference to former Fish and Game Code Section 4756 is not continued. That section
3 was repealed in 2012. See 2012 Cal. Stat. ch. 595.

4 **Penal Code § 597s (amended).**

5 SEC. _____. Section 597s of the Penal Code is amended to read:

6 597s. (a) Every person who willfully abandons any animal is guilty of a
7 misdemeanor.

8 (b) This section shall not apply to the release or rehabilitation and release of native
9 California wildlife pursuant to statute or regulations of the California Department
10 of Fish and Game Wildlife.

11 **Comment.** Section 597s is amended to update a reference to the former Department of Fish and
12 Game. See Fish & Wildlife Code § 1500.

13 **Penal Code § 626.9 (amended).**

14 SEC. _____. Section 626.9 of the Penal Code is amended to read:

15 626.9. (a) This section shall be known, and may be cited, as the Gun-Free School
16 Zone Act of 1995.

17 (b) Any person who possesses a firearm in a place that the person knows, or
18 reasonably should know, is a school zone, as defined in paragraph (4) of subdivision
19 (e), shall be punished as specified in subdivision (f).

20 (c) Subdivision (b) does not apply to the possession of a firearm under any of the
21 following circumstances:

22 (1) Within a place of residence or place of business or on private property, if the
23 place of residence, place of business, or private property is not part of the school
24 grounds and the possession of the firearm is otherwise lawful.

25 (2) When the firearm is an unloaded pistol, revolver, or other firearm capable of
26 being concealed on the person and is in a locked container or within the locked trunk
27 of a motor vehicle.

28 This section does not prohibit or limit the otherwise lawful transportation of any
29 other firearm, other than a pistol, revolver, or other firearm capable of being
30 concealed on the person, in accordance with state law.

31 (3) When the person possessing the firearm reasonably believes that he or she is
32 in grave danger because of circumstances forming the basis of a current restraining
33 order issued by a court against another person or persons who has or have been
34 found to pose a threat to his or her life or safety. This subdivision does not apply
35 when the circumstances involve a mutual restraining order issued pursuant to
36 Division 10 (commencing with Section 6200) of the Family Code absent a factual
37 finding of a specific threat to the person's life or safety. Upon a trial for violating
38 subdivision (b), the trier of a fact shall determine whether the defendant was acting
39 out of a reasonable belief that he or she was in grave danger.

40 (4) When the person is exempt from the prohibition against carrying a concealed
41 firearm pursuant to Section 25615, 25625, 25630, or 25645.

1 (5) When the person holds a valid license to carry the firearm pursuant to Chapter
2 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, who is
3 carrying that firearm in an area that is not in, or on the grounds of, a public or private
4 school providing instruction in kindergarten or grades 1 to 12, inclusive, but within
5 a distance of 1,000 feet from the grounds of the public or private school.

6 (d) Except as provided in subdivision (b), it shall be unlawful for any person, with
7 reckless disregard for the safety of another, to discharge, or attempt to discharge, a
8 firearm in a school zone, as defined in paragraph (4) of subdivision (e).

9 The prohibition contained in this subdivision does not apply to the discharge of a
10 firearm to the extent that the conditions of paragraph (1) of subdivision (c) are
11 satisfied.

12 (e) As used in this section, the following definitions shall apply:

13 (1) "Concealed firearm" has the same meaning as that term is given in Sections
14 25400 and 25610.

15 (2) "Firearm" has the same meaning as that term is given in subdivisions (a) to
16 (d), inclusive, of Section 16520.

17 (3) "Locked container" has the same meaning as that term is given in Section
18 16850.

19 (4) "School zone" means an area in, or on the grounds of, a public or private
20 school providing instruction in kindergarten or grades 1 to 12, inclusive, or within
21 a distance of 1,000 feet from the grounds of the public or private school.

22 (f)(1) A person who violates subdivision (b) by possessing a firearm in, or on the
23 grounds of, a public or private school providing instruction in kindergarten or grades
24 1 to 12, inclusive, shall be punished by imprisonment pursuant to subdivision (h) of
25 Section 1170 for two, three, or five years.

26 (2) A person who violates subdivision (b) by possessing a firearm within a
27 distance of 1,000 feet from the grounds of a public or private school providing
28 instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

29 (A) By imprisonment pursuant to subdivision (h) of Section 1170 for two, three,
30 or five years, if any of the following circumstances apply:

31 (i) If the person previously has been convicted of any felony, or of any crime made
32 punishable by any provision listed in Section 16580.

33 (ii) If the person is within a class of persons prohibited from possessing or
34 acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or
35 Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of
36 this code or Section 8100 or 8103 of the Welfare and Institutions Code.

37 (iii) If the firearm is any pistol, revolver, or other firearm capable of being
38 concealed upon the person and the offense is punished as a felony pursuant to
39 Section 25400.

40 (B) By imprisonment in a county jail for not more than one year or by
41 imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five
42 years, in all cases other than those specified in subparagraph (A).

1 (3) A person who violates subdivision (d) shall be punished by imprisonment
2 pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

3 (g)(1) A person convicted under this section for a misdemeanor violation of
4 subdivision (b) who has been convicted previously of a misdemeanor offense
5 enumerated in Section 23515 shall be punished by imprisonment in a county jail for
6 not less than three months, or if probation is granted or if the execution or imposition
7 of sentence is suspended, it shall be a condition thereof that he or she be imprisoned
8 in a county jail for not less than three months.

9 (2) A person convicted under this section of a felony violation of subdivision (b)
10 or (d) who has been convicted previously of a misdemeanor offense enumerated in
11 Section 23515, if probation is granted or if the execution of sentence is suspended,
12 it shall be a condition thereof that he or she be imprisoned in a county jail for not
13 less than three months.

14 (3) A person convicted under this section for a felony violation of subdivision (b)
15 or (d) who has been convicted previously of any felony, or of any crime made
16 punishable by any provision listed in Section 16580, if probation is granted or if the
17 execution or imposition of sentence is suspended, it shall be a condition thereof that
18 he or she be imprisoned in a county jail for not less than three months.

19 (4) The court shall apply the three-month minimum sentence specified in this
20 subdivision, except in unusual cases where the interests of justice would best be
21 served by granting probation or suspending the execution or imposition of sentence
22 without the minimum imprisonment required in this subdivision or by granting
23 probation or suspending the execution or imposition of sentence with conditions
24 other than those set forth in this subdivision, in which case the court shall specify
25 on the record and shall enter on the minutes the circumstances indicating that the
26 interests of justice would best be served by this disposition.

27 (h) Notwithstanding Section 25605, any person who brings or possesses a loaded
28 firearm upon the grounds of a campus of, or buildings owned or operated for student
29 housing, teaching, research, or administration by, a public or private university or
30 college, that are contiguous or are clearly marked university property, unless it is
31 with the written permission of the university or college president, his or her
32 designee, or equivalent university or college authority, shall be punished by
33 imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four
34 years. Notwithstanding subdivision (k), a university or college shall post a
35 prominent notice at primary entrances on noncontiguous property stating that
36 firearms are prohibited on that property pursuant to this subdivision.

37 (i) Notwithstanding Section 25605, any person who brings or possesses a firearm
38 upon the grounds of a campus of, or buildings owned or operated for student
39 housing, teaching, research, or administration by, a public or private university or
40 college, that are contiguous or are clearly marked university property, unless it is
41 with the written permission of the university or college president, his or her
42 designee, or equivalent university or college authority, shall be punished by

1 imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three
2 years. Notwithstanding subdivision (k), a university or college shall post a
3 prominent notice at primary entrances on noncontiguous property stating that
4 firearms are prohibited on that property pursuant to this subdivision.

5 (j) For purposes of this section, a firearm shall be deemed to be loaded when there
6 is an unexpended cartridge or shell, consisting of a case that holds a charge of
7 powder and a bullet or shot, in, or attached in any manner to, the firearm, including,
8 but not limited to, in the firing chamber, magazine, or clip thereof attached to the
9 firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or
10 primed and has a powder charge and ball or shot in the barrel or cylinder.

11 (k) This section does not require that notice be posted regarding the proscribed
12 conduct.

13 (l) This section does not apply to a duly appointed peace officer as defined in
14 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid
15 peace officer of another state or the federal government who is carrying out official
16 duties while in California, any person summoned by any of these officers to assist
17 in making arrests or preserving the peace while he or she is actually engaged in
18 assisting the officer, a member of the military forces of this state or of the United
19 States who is engaged in the performance of his or her duties, or an armored vehicle
20 guard, engaged in the performance of his or her duties, as defined in subdivision (d)
21 of Section 7582.1 of the Business and Professions Code.

22 (m) This section does not apply to a security guard authorized to carry a loaded
23 firearm pursuant to Article 4 (commencing with Section 26000) of Chapter 3 of
24 Division 5 of Title 4 of Part 6.

25 (n) This section does not apply to an existing shooting range at a public or private
26 school or university or college campus.

27 (o) This section does not apply to an honorably retired peace officer authorized to
28 carry a concealed or loaded firearm pursuant to any of the following:

29 (1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title
30 4 of Part 6.

31 (2) Section 25650.

32 (3) Sections 25900 to 25910, inclusive.

33 (4) Section 26020.

34 (5) Paragraph (2) of subdivision (c) of Section 26300.

35 (p) This section does not apply to a peace officer appointed pursuant to Section
36 830.6 who is authorized to carry a firearm by the appointing agency.

37 (q)(1) This section does not apply to the activities of a program involving shooting
38 sports or activities, including, but not limited to, trap shooting, skeet shooting,
39 sporting clays, and pistol shooting, that are sanctioned by a school, school district,
40 college, university, or other governing body of the institution, that occur on the
41 grounds of a public or private school or university or college campus.

(2) This section does not apply to the activities of a state-certified hunter education program pursuant to Section 3051-10405 of the Fish and Game Wildlife Code if all firearms are unloaded and participants do not possess live ammunition in a school building.

Comment. Paragraph (2) of subdivision (q) of Section 626.9 is amended to reflect the recodification of the former Fish and Game Code.

Penal Code § 638.52 (amended).

SEC. _____. Section 638.52 of the Penal Code is amended to read:

638.52. (a) A peace officer may make an application to a magistrate for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device. The application shall be in writing under oath or equivalent affirmation, and shall include the identity of the peace officer making the application and the identity of the law enforcement agency conducting the investigation. The applicant shall certify that the information likely to be obtained is relevant to an ongoing criminal investigation and shall include a statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.

(b) The magistrate shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device if he or she finds that the information likely to be obtained by the installation and use of a pen register or a trap and trace device is relevant to an ongoing investigation and that there is probable cause to believe that the pen register or trap and trace device will lead to any of the following:

(1) Recovery of stolen or embezzled property.

(2) Property or things used as the means of committing a felony.

(3) Property or things in the possession of a person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.

(4) Evidence that tends to show a felony has been committed, or tends to show that a particular person has committed or is committing a felony.

(5) Evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

(6) The location of a person who is unlawfully restrained or reasonably believed to be a witness in a criminal investigation or for whose arrest there is probable cause.

(7) Evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(8) Evidence that does any of the following:

1 (A) Tends to show that a felony, a misdemeanor violation of the Fish and Game
2 Wildlife Code, or a misdemeanor violation of the Public Resources Code, has been
3 committed or is being committed.

4 (B) Tends to show that a particular person has committed or is committing a
5 felony, a misdemeanor violation of the Fish and Game Wildlife Code, or a
6 misdemeanor violation of the Public Resources Code.

7 (C) Will assist in locating an individual who has committed or is committing a
8 felony, a misdemeanor violation of the Fish and Game Wildlife Code, or a
9 misdemeanor violation of the Public Resources Code.

10 (c) Information acquired solely pursuant to the authority for a pen register or a
11 trap and trace device shall not include any information that may disclose the
12 physical location of the subscriber, except to the extent that the location may be
13 determined from the telephone number. Upon the request of the person seeking the
14 pen register or trap and trace device, the magistrate may seal portions of the
15 application pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948, and Sections 1040,
16 1041, and 1042 of the Evidence Code.

17 (d) An order issued pursuant to subdivision (b) shall specify all of the following:

18 (1) The identity, if known, of the person to whom is leased or in whose name is
19 listed the telephone line to which the pen register or trap and trace device is to be
20 attached.

21 (2) The identity, if known, of the person who is the subject of the criminal
22 investigation.

23 (3) The number and, if known, physical location of the telephone line to which
24 the pen register or trap and trace device is to be attached and, in the case of a trap
25 and trace device, the geographic limits of the trap and trace order.

26 (4) A statement of the offense to which the information likely to be obtained by
27 the pen register or trap and trace device relates.

28 (5) The order shall direct, if the applicant has requested, the furnishing of
29 information, facilities, and technical assistance necessary to accomplish the
30 installation of the pen register or trap and trace device.

31 (e) An order issued under this section shall authorize the installation and use of a
32 pen register or a trap and trace device for a period not to exceed 60 days.

33 (f) Extensions of the original order may be granted upon a new application for an
34 order under subdivisions (a) and (b) if the officer shows that there is a continued
35 probable cause that the information or items sought under this subdivision are likely
36 to be obtained under the extension. The period of an extension shall not exceed 60
37 days.

38 (g) An order or extension order authorizing or approving the installation and use
39 of a pen register or a trap and trace device shall direct that the order be sealed until
40 the order, including any extensions, expires, and that the person owning or leasing
41 the line to which the pen register or trap and trace device is attached not disclose the

1 existence of the pen register or trap and trace device or the existence of the
2 investigation to the listed subscriber or to any other person.

3 (h) Upon the presentation of an order, entered under ~~subdivisions~~ subdivision (b)
4 or (f), by a peace officer authorized to install and use a pen register, a provider of
5 wire or electronic communication service, landlord, custodian, or other person shall
6 immediately provide the peace officer all information, facilities, and technical
7 assistance necessary to accomplish the installation of the pen register unobtrusively
8 and with a minimum of interference with the services provided to the party with
9 respect to whom the installation and use is to take place, if the assistance is directed
10 by the order.

11 (i) Upon the request of a peace officer authorized to receive the results of a trap
12 and trace device, a provider of a wire or electronic communication service, landlord,
13 custodian, or other person shall immediately install the device on the appropriate
14 line and provide the peace officer all information, facilities, and technical assistance,
15 including installation and operation of the device unobtrusively and with a minimum
16 of interference with the services provided to the party with respect to whom the
17 installation and use is to take place, if the installation and assistance is directed by
18 the order.

19 (j) A provider of a wire or electronic communication service, landlord, custodian,
20 or other person who provides facilities or technical assistance pursuant to this
21 section shall be reasonably compensated by the requesting peace officer's law
22 enforcement agency for the reasonable expenses incurred in providing the facilities
23 and assistance.

24 (k) Unless otherwise ordered by the magistrate, the results of the pen register or
25 trap and trace device shall be provided to the peace officer at reasonable intervals
26 during regular business hours for the duration of the order.

27 (l) The magistrate, before issuing the order pursuant to subdivision (b), may
28 examine on oath the person seeking the pen register or the trap and trace device, and
29 any witnesses the person may produce, and shall take his or her affidavit or their
30 affidavits in writing, and cause the affidavit or affidavits to be subscribed by the
31 parties making them.

32 **Comment.** Paragraph (8) of subdivision (b) of Section 638.52 is amended to reflect the
33 recodification of the former Fish and Game Code. Subdivision (h) is also amended to make a
34 technical correction.

35 **Penal Code § 830.2 (amended).**

36 SEC. _____. Section 830.2 of the Penal Code is amended to read:

37 830.2. The following persons are peace officers whose authority extends to any
38 place in the state:

39 (a) Any member of the Department of the California Highway Patrol including
40 those members designated under subdivision (a) of Section 2250.1 of the Vehicle
41 Code, provided that the primary duty of the peace officer is the enforcement of any
42 law relating to the use or operation of vehicles upon the highways, or laws pertaining

1 to the provision of police services for the protection of state officers, state properties,
2 and the occupants of state properties, or both, as set forth in the Vehicle Code and
3 Government Code.

4 (b) A member of the University of California Police Department appointed
5 pursuant to Section 92600 of the Education Code, provided that the primary duty of
6 the peace officer shall be the enforcement of the law within the area specified in
7 Section 92600 of the Education Code.

8 (c) A member of the California State University Police Departments appointed
9 pursuant to Section 89560 of the Education Code, provided that the primary duty of
10 the peace officer shall be the enforcement of the law within the area specified in
11 Section 89560 of the Education Code.

12 (d)(1) Any member of the Office of Correctional Safety of the Department of
13 Corrections and Rehabilitation, provided that the primary duties of the peace officer
14 shall be the investigation or apprehension of inmates, wards, parolees, parole
15 violators, or escapees from state institutions, the transportation of those persons, the
16 investigation of any violation of criminal law discovered while performing the usual
17 and authorized duties of employment, and the coordination of those activities with
18 other criminal justice agencies.

19 (2) Any member of the Office of Internal Affairs of the Department of Corrections
20 and Rehabilitation, provided that the primary duties shall be criminal investigations
21 of Department of Corrections and Rehabilitation personnel and the coordination of
22 those activities with other criminal justice agencies. For purposes of this
23 subdivision, the member of the Office of Internal Affairs shall possess certification
24 from the Commission on Peace Officer Standards and Training for investigators, or
25 have completed training pursuant to Section 6126.1 of the Penal Code.

26 (e) Employees of the Department of Fish and Game Wildlife designated by the
27 director, provided that the primary duty of those peace officers shall be the
28 enforcement of the law as set forth in Section 856 4100 of the Fish and Game
29 Wildlife Code.

30 (f) Employees of the Department of Parks and Recreation designated by the
31 director pursuant to Section 5008 of the Public Resources Code, provided that the
32 primary duty of the peace officer shall be the enforcement of the law as set forth in
33 Section 5008 of the Public Resources Code.

34 (g) The Director of Forestry and Fire Protection and employees or classes of
35 employees of the Department of Forestry and Fire Protection designated by the
36 director pursuant to Section 4156 of the Public Resources Code, provided that the
37 primary duty of the peace officer shall be the enforcement of the law as that duty is
38 set forth in Section 4156 of the Public Resources Code.

39 (h) Persons employed by the Department of Alcoholic Beverage Control for the
40 enforcement of Division 9 (commencing with Section 23000) of the Business and
41 Professions Code and designated by the Director of Alcoholic Beverage Control,
42 provided that the primary duty of any of these peace officers shall be the

1 enforcement of the laws relating to alcoholic beverages, as that duty is set forth in
2 Section 25755 of the Business and Professions Code.

3 (i) Marshals and police appointed by the Board of Directors of the California
4 Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural
5 Code, provided that the primary duty of the peace officers shall be the enforcement
6 of the law as prescribed in that section.

7 **Comment.** Subdivision (e) of Section 830.2 is amended to reflect the recodification of the former
8 Fish and Game Code. That subdivision is also amended to update a reference to the former
9 Department of Fish and Game. See Fish & Wildlife Code § 1500.

10 **Penal Code § 830.6 (amended).**

11 SEC. _____. Section 830.6 of the Penal Code is amended to read:

12 830.6. (a)(1) Whenever any qualified person is deputized or appointed by the
13 proper authority as a reserve or auxiliary sheriff or city police officer, a reserve
14 deputy sheriff, a reserve deputy marshal, a reserve police officer of a regional park
15 district or of a transit district, a reserve park ranger, a reserve harbor or port police
16 officer of a county, city, or district as specified in Section 663.5 of the Harbors and
17 Navigation Code, a reserve deputy of the Department of Fish and ~~Game~~ Wildlife, a
18 reserve special agent of the Department of Justice, a reserve officer of a community
19 service district which is authorized under subdivision (h) of Section 61600 of the
20 Government Code to maintain a police department or other police protection, a
21 reserve officer of a school district police department under Section 35021.5 of the
22 Education Code, a reserve officer of a community college police department under
23 Section 72330, a reserve officer of a police protection district formed under Part 1
24 (commencing with Section 20000) of Division 14 of the Health and Safety Code, or
25 a reserve housing authority patrol officer employed by a housing authority defined
26 in subdivision (d) of Section 830.31, and is assigned specific police functions by
27 that authority, the person is a peace officer, if the person qualifies as set forth in
28 Section 832.6. The authority of a person designated as a peace officer pursuant to
29 this paragraph extends only for the duration of the person's specific assignment. A
30 reserve park ranger or a transit, harbor, or port district reserve officer may carry
31 firearms only if authorized by, and under those terms and conditions as are specified
32 by, his or her employing agency.

33 (2) Whenever any qualified person is deputized or appointed by the proper
34 authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy
35 sheriff, a reserve deputy marshal, a reserve park ranger, a reserve police officer of a
36 regional park district, transit district, community college district, or school district,
37 a reserve harbor or port police officer of a county, city, or district as specified in
38 Section 663.5 of the Harbors and Navigation Code, a reserve officer of a community
39 service district that is authorized under subdivision (h) of Section 61600 of the
40 Government Code to maintain a police department or other police protection, or a
41 reserve officer of a police protection district formed under Part 1 (commencing with
42 Section 20000) of Division 14 of the Health and Safety Code, and is so designated

1 by local ordinance or, if the local agency is not authorized to act by ordinance, by
2 resolution, either individually or by class, and is assigned to the prevention and
3 detection of crime and the general enforcement of the laws of this state by that
4 authority, the person is a peace officer, if the person qualifies as set forth in
5 paragraph (1) of subdivision (a) of Section 832.6. The authority of a person
6 designated as a peace officer pursuant to this paragraph includes the full powers and
7 duties of a peace officer as provided by Section 830.1. A transit, harbor, or port
8 district reserve police officer, or a city or county reserve peace officer who is not
9 provided with the powers and duties authorized by Section 830.1, has the powers
10 and duties authorized in Section 830.33, or in the case of a reserve park ranger, the
11 powers and duties that are authorized in Section 830.31, or in the case of a reserve
12 housing authority patrol officer, the powers and duties that are authorized in
13 subdivision (d) of Section 830.31, and a school district reserve police officer or a
14 community college district reserve police officer has the powers and duties
15 authorized in Section 830.32.

16 (b) Whenever any person designated by a Native American tribe recognized by
17 the United States Secretary of the Interior is deputized or appointed by the county
18 sheriff as a reserve or auxiliary sheriff or a reserve deputy sheriff, and is assigned
19 to the prevention and detection of crime and the general enforcement of the laws of
20 this state by the county sheriff, the person is a peace officer, if the person qualifies
21 as set forth in paragraph (1) of subdivision (a) of Section 832.6. The authority of a
22 peace officer pursuant to this subdivision includes the full powers and duties of a
23 peace officer as provided by Section 830.1.

24 (c) Whenever any person is summoned to the aid of any uniformed peace officer,
25 the summoned person is vested with the powers of a peace officer that are expressly
26 delegated to him or her by the summoning officer or that are otherwise reasonably
27 necessary to properly assist the officer.

28 **Comment.** Section 830.6 is amended to update a reference to the former Department of Fish and
29 Game. See Fish & Wildlife Code § 1500.

30 **Penal Code § 969e (amended).**

31 SEC. _____. Section 969e of the Penal Code is amended to read:

32 969e. In charging the fact of a previous conviction for a violation of Section 5652
33 66525 of the Fish and Game Wildlife Code, or of Section 13001 or 13002 of the
34 Health and Safety Code or of Section 374b or 374d of the Penal Code or of Section
35 23111, 23112, or 23113 of the Vehicle Code, it is sufficient to state, “That the
36 defendant, before the commission of the offense charged herein, was in (giving the
37 title of the court in which the conviction was had) convicted of a violation of
38 (specifying the section violated).”

39 **Comment.** Section 969e is amended to reflect the recodification of the former Fish and Game
40 Code.

1 **Penal Code § 1463 (amended).**

2 SEC. ____ . Section 1463 of the Penal Code is amended to read:

3 1463. All fines and forfeitures imposed and collected for crimes shall be
4 distributed in accordance with Section 1463.001.

5 The following definitions shall apply to terms used in this chapter:

6 (a) “Arrest” means any law enforcement action, including issuance of a notice to
7 appear or notice of violation, which results in a criminal charge.

8 (b) “City” includes any city, city and county, district, including any enterprise
9 special district, community service district, or community service area engaged in
10 police protection activities as reported to the Controller for inclusion in the 1989–
11 90 edition of the Financial Transactions Report Concerning Special Districts under
12 the heading of Police Protection and Public Safety, authority, or other local agency
13 (other than a county) which employs persons authorized to make arrests or to issue
14 notices to appear or notices of violation which may be filed in court.

15 (c) “City arrest” means an arrest by an employee of a city, or by a California
16 Highway Patrol officer within the limits of a city.

17 (d) “County” means the county in which the arrest took place.

18 (e) “County arrest” means an arrest by a California Highway Patrol officer outside
19 the limits of a city, or any arrest by a county officer or by any other state officer.

20 (f) “Court” means the superior court or a juvenile forum established under Section
21 257 of the Welfare and Institutions Code, in which the case arising from the arrest
22 is filed.

23 (g) “Division of moneys” means an allocation of base fine proceeds between
24 agencies as required by statute, including, but not limited to, Sections 1463.003,
25 1463.9, 1463.23, and 1463.26 of this code, ~~Sections 13001, 13002, and 13003~~
26 Article 1 (commencing with Section 3600) of Chapter 3 of Title 1 of Part 6 of
27 Division 2 and Section 3810 of the Fish and Game Wildlife Code, and Section
28 11502 of the Health and Safety Code.

29 (h) “Offense” means any infraction, misdemeanor, or felony, and any act by a
30 juvenile leading to an order to pay a financial sanction by reason of the act being
31 defined as an infraction, misdemeanor, or felony, whether defined in this or any
32 other code, except any parking offense as defined in subdivision (i).

33 (i) “Parking offense” means any offense charged pursuant to Article 3
34 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code,
35 including registration and equipment offenses included on a notice of parking
36 violation.

37 (j) “Penalty allocation” means the deposit of a specified part of moneys to offset
38 designated processing costs, as provided by Section 1463.16 of this code and by
39 Section 68090.8 of the Government Code.

40 (k) “Total parking penalty” means the total sum to be collected for a parking
41 offense, whether as fine, forfeiture of bail, or payment of penalty to the Department
42 of Motor Vehicles (DMV). It may include the following components:

1 (1) The base parking penalty as established pursuant to Section 40203.5 of the
2 Vehicle Code.

3 (2) The DMV fees added upon the placement of a hold pursuant to Section 40220
4 of the Vehicle Code.

5 (3) The surcharges required by Section 76000 of the Government Code.

6 (4) The notice penalty added to the base parking penalty when a notice of
7 delinquent parking violations is given.

8 (I) “Total fine or forfeiture” means the total sum to be collected upon a conviction,
9 or the total amount of bail forfeited or deposited as cash bail subject to forfeiture. It
10 may include, but is not limited to, the following components as specified for the
11 particular offense:

12 (1) The “base fine” upon which the state penalty and additional county penalty is
13 calculated.

14 (2) The “county penalty” required by Section 76000 of the Government Code.

15 (3) The “DNA penalty” required by Sections 76104.6 and 76104.7 of the
16 Government Code.

17 (4) The “emergency medical services penalty” authorized by Section 76000.5 of
18 the Government Code.

19 (5) The “service charge” permitted by Section 853.7 of the Penal Code and
20 Section 40508.5 of the Vehicle Code.

21 (6) The “special penalty” dedicated for blood alcohol analysis, alcohol program
22 services, traumatic brain injury research, and similar purposes.

23 (7) The “state penalty” required by Section 1464.

24 **Comment.** Subdivision (g) of Section 1463 is amended to reflect the recodification of the former
25 Fish and Game Code.

26 **Penal Code § 1464.8 (amended).**

27 SEC. _____. Section 1464.8 of the Penal Code is amended to read:

28 1464.8. Notwithstanding any other provision of law, when an allocation and
29 distribution of any fine, forfeiture, penalty, fee, or assessment collected in any
30 criminal case is made, including, but not limited to, moneys collected pursuant to
31 this chapter, Section 13003 3610 of the Fish and Game Wildlife Code, Chapter 12
32 (commencing with Section 76000) of Title 8 of the Government Code, and Sections
33 11372.5 and 11502 of the Health and Safety Code, the allocation and distribution of
34 any payment may be based upon the law in effect during the accounting period when
35 the payment is made.

36 **Comment.** Section 1464.8 is amended to reflect the recodification of the former Fish and Game
37 Code.

38 **Penal Code § 1524 (amended).**

39 SEC. _____. Section 1524 of the Penal Code is amended to read:

40 1524. (a) A search warrant may be issued upon any of the following grounds:

41 (1) When the property was stolen or embezzled.

- 1 (2) When the property or things were used as the means of committing a felony.
- 2 (3) When the property or things are in the possession of any person with the intent
- 3 to use them as a means of committing a public offense, or in the possession of
- 4 another to whom he or she may have delivered them for the purpose of concealing
- 5 them or preventing them from being discovered.
- 6 (4) When the property or things to be seized consist of an item or constitute
- 7 evidence that tends to show a felony has been committed, or tends to show that a
- 8 particular person has committed a felony.
- 9 (5) When the property or things to be seized consist of evidence that tends to show
- 10 that sexual exploitation of a child, in violation of Section 311.3, or possession of
- 11 matter depicting sexual conduct of a person under 18 years of age, in violation of
- 12 Section 311.11, has occurred or is occurring.
- 13 (6) When there is a warrant to arrest a person.
- 14 (7) When a provider of electronic communication service or remote computing
- 15 service has records or evidence, as specified in Section 1524.3, showing that
- 16 property was stolen or embezzled constituting a misdemeanor, or that property or
- 17 things are in the possession of any person with the intent to use them as a means of
- 18 committing a misdemeanor public offense, or in the possession of another to whom
- 19 he or she may have delivered them for the purpose of concealing them or preventing
- 20 their discovery.
- 21 (8) When the property or things to be seized include an item or evidence that tends
- 22 to show a violation of Section 3700.5 of the Labor Code, or tends to show that a
- 23 particular person has violated Section 3700.5 of the Labor Code.
- 24 (9) When the property or things to be seized include a firearm or other deadly
- 25 weapon at the scene of, or at the premises occupied or under the control of the person
- 26 arrested in connection with, a domestic violence incident involving a threat to
- 27 human life or a physical assault as provided in Section 18250. This section does not
- 28 affect warrantless seizures otherwise authorized by Section 18250.
- 29 (10) When the property or things to be seized include a firearm or other deadly
- 30 weapon that is owned by, or in the possession of, or in the custody or control of, a
- 31 person described in subdivision (a) of Section 8102 of the Welfare and Institutions
- 32 Code.
- 33 (11) When the property or things to be seized include a firearm that is owned by,
- 34 or in the possession of, or in the custody or control of, a person who is subject to the
- 35 prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a
- 36 prohibited firearm is possessed, owned, in the custody of, or controlled by a person
- 37 against whom a protective order has been issued pursuant to Section 6218 of the
- 38 Family Code, the person has been lawfully served with that order, and the person
- 39 has failed to relinquish the firearm as required by law.
- 40 (12) When the information to be received from the use of a tracking device
- 41 constitutes evidence that tends to show that either a felony, a misdemeanor violation
- 42 of the Fish and Game Wildlife Code, or a misdemeanor violation of the Public

1 Resources Code has been committed or is being committed, tends to show that a
2 particular person has committed a felony, a misdemeanor violation of the Fish and
3 Game Wildlife Code, or a misdemeanor violation of the Public Resources Code, or
4 is committing a felony, a misdemeanor violation of the Fish and Game Wildlife
5 Code, or a misdemeanor violation of the Public Resources Code, or will assist in
6 locating an individual who has committed or is committing a felony, a misdemeanor
7 violation of the Fish and Game Wildlife Code, or a misdemeanor violation of the
8 Public Resources Code. A tracking device search warrant issued pursuant to this
9 paragraph shall be executed in a manner meeting the requirements specified in
10 subdivision (b) of Section 1534.

11 (13) When a sample of the blood of a person constitutes evidence that tends to
12 show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the
13 person from whom the sample is being sought has refused an officer's request to
14 submit to, or has failed to complete, a blood test as required by Section 23612 of the
15 Vehicle Code, and the sample will be drawn from the person in a reasonable,
16 medically approved manner. This paragraph is not intended to abrogate a court's
17 mandate to determine the propriety of the issuance of a search warrant on a case-
18 by-case basis.

19 (14) Beginning January 1, 2016, the property or things to be seized are firearms
20 or ammunition or both that are owned by, in the possession of, or in the custody or
21 control of a person who is the subject of a gun violence restraining order that has
22 been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2
23 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the
24 custody of, or controlled by a person against whom a gun violence restraining order
25 has been issued, the person has been lawfully served with that order, and the person
26 has failed to relinquish the firearm as required by law.

27 (15) Beginning January 1, 2018, the property or things to be seized include a
28 firearm that is owned by, or in the possession of, or in the custody or control of, a
29 person who is subject to the prohibitions regarding firearms pursuant to Section
30 29800 or 29805, and the court has made a finding pursuant to subdivision (c) of
31 Section 29810 that the person has failed to relinquish the firearm as required by law.

32 (16) When the property or things to be seized are controlled substances or a
33 device, contrivance, instrument, or paraphernalia used for unlawfully using or
34 administering a controlled substance pursuant to the authority described in Section
35 11472 of the Health and Safety Code.

36 (17)(A) When all of the following apply:

37 (i) A sample of the blood of a person constitutes evidence that tends to show a
38 violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and
39 Navigation Code.

40 (ii) The person from whom the sample is being sought has refused an officer's
41 request to submit to, or has failed to complete, a blood test as required by Section
42 655.1 of the Harbors and Navigation Code.

1 (iii) The sample will be drawn from the person in a reasonable, medically
2 approved manner.

3 (B) This paragraph is not intended to abrogate a court's mandate to determine the
4 propriety of the issuance of a search warrant on a case-by-case basis.

5 (18) When the property or things to be seized consists of evidence that tends to
6 show that a violation of paragraph (1), (2), or (3) of subdivision (j) of Section 647
7 has occurred or is occurring.

8 (b) The property, things, person, or persons described in subdivision (a) may be
9 taken on the warrant from any place, or from any person in whose possession the
10 property or things may be.

11 (c) Notwithstanding subdivision (a) or (b), a search warrant shall not be issued for
12 any documentary evidence in the possession or under the control of any person who
13 is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined
14 in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010
15 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the
16 Evidence Code, and who is not reasonably suspected of engaging or having engaged
17 in criminal activity related to the documentary evidence for which a warrant is
18 requested unless the following procedure has been complied with:

19 (1) At the time of the issuance of the warrant, the court shall appoint a special
20 master in accordance with subdivision (d) to accompany the person who will serve
21 the warrant. Upon service of the warrant, the special master shall inform the party
22 served of the specific items being sought and that the party shall have the
23 opportunity to provide the items requested. If the party, in the judgment of the
24 special master, fails to provide the items requested, the special master shall conduct
25 a search for the items in the areas indicated in the search warrant.

26 (2)(A) If the party who has been served states that an item or items should not be
27 disclosed, they shall be sealed by the special master and taken to court for a hearing.

28 (B) At the hearing, the party searched shall be entitled to raise any issues that may
29 be raised pursuant to Section 1538.5 as well as a claim that the item or items are
30 privileged, as provided by law. The hearing shall be held in the superior court. The
31 court shall provide sufficient time for the parties to obtain counsel and make motions
32 or present evidence. The hearing shall be held within three days of the service of the
33 warrant unless the court makes a finding that the expedited hearing is impracticable.
34 In that case, the matter shall be heard at the earliest possible time.

35 (C) If an item or items are taken to court for a hearing, any limitations of time
36 prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be
37 tolled from the time of the seizure until the final conclusion of the hearing, including
38 any associated writ or appellate proceedings.

39 (3) The warrant shall, whenever practicable, be served during normal business
40 hours. In addition, the warrant shall be served upon a party who appears to have
41 possession or control of the items sought. If, after reasonable efforts, the party
42 serving the warrant is unable to locate the person, the special master shall seal and

1 return to the court, for determination by the court, any item that appears to be
2 privileged as provided by law.

3 (d)(1) As used in this section, a “special master” is an attorney who is a member
4 in good standing of the California State Bar and who has been selected from a list
5 of qualified attorneys that is maintained by the State Bar particularly for the
6 purposes of conducting the searches described in this section. These attorneys shall
7 serve without compensation. A special master shall be considered a public
8 employee, and the governmental entity that caused the search warrant to be issued
9 shall be considered the employer of the special master and the applicable public
10 entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the
11 Government Code, relating to claims and actions against public entities and public
12 employees. In selecting the special master, the court shall make every reasonable
13 effort to ensure that the person selected has no relationship with any of the parties
14 involved in the pending matter. Information obtained by the special master shall be
15 confidential and may not be divulged except in direct response to inquiry by the
16 court.

17 (2) In any case in which the magistrate determines that, after reasonable efforts
18 have been made to obtain a special master, a special master is not available and
19 would not be available within a reasonable period of time, the magistrate may direct
20 the party seeking the order to conduct the search in the manner described in this
21 section in lieu of the special master.

22 (e) Any search conducted pursuant to this section by a special master may be
23 conducted in a manner that permits the party serving the warrant or his or her
24 designee to accompany the special master as he or she conducts his or her search.
25 However, that party or his or her designee may not participate in the search nor shall
26 he or she examine any of the items being searched by the special master except upon
27 agreement of the party upon whom the warrant has been served.

28 (f) As used in this section, “documentary evidence” includes, but is not limited to,
29 writings, documents, blueprints, drawings, photographs, computer printouts,
30 microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video
31 recordings, films, and papers of any type or description.

32 (g) No warrant shall issue for any item or items described in Section 1070 of the
33 Evidence Code.


34 (h) Notwithstanding any other law, no claim of attorney work product as described
35 in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code
36 of Civil Procedure shall be sustained where there is probable cause to believe that
37 the lawyer is engaging or has engaged in criminal activity related to the
38 documentary evidence for which a warrant is requested unless it is established at the
39 hearing with respect to the documentary evidence seized under the warrant that the
40 services of the lawyer were not sought or obtained to enable or aid anyone to commit
41 or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney's ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(k) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

Comment. Paragraph (12) of subdivision (a) of Section 1524 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** Section 1524 was amended in 2016 by an initiative statute, Proposition 63. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Penal Code § 20015 (amended).

SEC. _____. Section 20015 of the Penal Code is amended to read:

20015. Nothing in this division shall prohibit the sale to, purchase by, possession of, or use of any blowgun or blowgun ammunition by zookeepers, animal control officers, Department of Fish and Game Wildlife personnel, humane officers whose names are maintained in the county record of humane officers pursuant to Section 14502 of the Corporations Code, or veterinarians in the course and scope of their business in order to administer medicine to animals.

Comment. Section 20015 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Penal Code § 25700 (amended).

SEC. _____. Section 25700 of the Penal Code is amended to read:

25700. (a) The unlawful carrying of any handgun in violation of Section 25400 is a nuisance and is subject to Sections 18000 and 18005.

(b) This section does not apply to any of the following:

(1) Any firearm in the possession of the Department of Fish and Game Wildlife.

(2) Any firearm that was used in the violation of any provision of the Fish and Game Wildlife Code or any regulation adopted pursuant thereto.

(3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public Resources Code.

Comment. Section 25700 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

1 **Penal Code § 26100 (amended).**

2 SEC. _____. Section 26100 of the Penal Code is amended to read:

3 26100. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of
4 any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle,
5 knowingly to permit any other person to carry into or bring into the vehicle a firearm
6 in violation of Section 25850 of this code or Section 2006 9715 of the Fish and
7 Game Wildlife Code.

8 (b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is
9 occupying the vehicle, who knowingly permits any other person to discharge any
10 firearm from the vehicle is punishable by imprisonment in the county jail for not
11 more than one year or in state prison for 16 months or two or three years.

12 (c) Any person who willfully and maliciously discharges a firearm from a motor
13 vehicle at another person other than an occupant of a motor vehicle is guilty of a
14 felony punishable by imprisonment in state prison for three, five, or seven years.

15 (d) Except as provided in Section 3002 9550 of the Fish and Game Wildlife Code,
16 any person who willfully and maliciously discharges a firearm from a motor vehicle
17 is guilty of a public offense punishable by imprisonment in the county jail for not
18 more than one year or in the state prison.

19 **Comment.** Section 26100 is amended to reflect the recodification of the former Fish and Game
20 Code.

21 **Penal Code § 29300 (amended).**

22 SEC. _____. Section 29300 of the Penal Code is amended to read:

23 29300. (a) Except as provided in subdivision (c), a firearm of any nature owned
24 or possessed in violation of Chapter 1 (commencing with Section 29610), Chapter
25 2 (commencing with Section 29800), or Chapter 3 (commencing with Section
26 29900) of Division 9 of this title, or Chapter 3 (commencing with Section 8100) of
27 Division 5 of the Welfare and Institutions Code, or used in the commission of any
28 misdemeanor as provided in this code, any felony, or an attempt to commit any
29 misdemeanor as provided in this code or any felony, is, upon a conviction of the
30 defendant or upon a juvenile court finding that an offense which would be a
31 misdemeanor or felony if committed by an adult was committed or attempted by the
32 juvenile with the use of a firearm, a nuisance, and is subject to Sections 18000 and
33 18005.

34 (b) A finding that the defendant was guilty of the offense but was insane at the
35 time the offense was committed is a conviction for the purposes of this section.

36 (c) A firearm is not a nuisance pursuant to this section if the firearm owner
37 disposes of the firearm pursuant to Section 29810.

38 (d) This section does not apply to any of the following:

39 (1) Any firearm in the possession of the Department of Fish and Game Wildlife.

40 (2) Any firearm that was used in the violation of any provision of the Fish and
41 Game Wildlife Code or any regulation adopted pursuant thereto.

1 (3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public
2 Resources Code.

3 **Comment.** Subdivision (d) of Section 29300 is amended to reflect the recodification of the
4 former Fish and Game Code. The section is also amended to update a reference to the former
5 Department of Fish and Game. See Fish & Wildlife Code § 1500.

6 **Penal Code § 30945 (amended).**

7 SEC. _____. Section 30945 of the Penal Code is amended to read:

8 30945. Unless a permit allowing additional uses is first obtained under Section
9 31000, a person who has registered an assault weapon or registered a .50 BMG rifle
10 under this article may possess it only under any of the following conditions:

11 (a) At that person's residence, place of business, or other property owned by that
12 person, or on property owned by another with the owner's express permission.

13 (b) While on the premises of a target range of a public or private club or
14 organization organized for the purpose of practicing shooting at targets.

15 (c) While on a target range that holds a regulatory or business license for the
16 purpose of practicing shooting at that target range.

17 (d) While on the premises of a shooting club that is licensed pursuant to the Fish
18 and Game Wildlife Code.

19 (e) While attending any exhibition, display, or educational project that is about
20 firearms and that is sponsored by, conducted under the auspices of, or approved by
21 a law enforcement agency or a nationally or state recognized entity that fosters
22 proficiency in, or promotes education about, firearms.

23 (f) While on publicly owned land, if the possession and use of a firearm described
24 in Section 30510, 30515, 30520, or 30530, is specifically permitted by the managing
25 agency of the land.

26 (g) While transporting the assault weapon or .50 BMG rifle between any of the
27 places mentioned in this section, or to any licensed gun dealer, for servicing or repair
28 pursuant to Section 31050, if the assault weapon is transported as required by
29 Sections 16850 and 25610.

30 **Comment.** Section 30945 is amended to reflect the recodification of the former Fish and Game
31 Code.

32 **Penal Code § 34000 (amended).**

33 SEC. _____. Section 34000 of the Penal Code is amended to read:

34 34000. (a) Notwithstanding any provision of law or of any local ordinance to the
35 contrary, when any firearm is in the possession of any officer of the state, or of a
36 county, city, or city and county, or of any campus of the University of California or
37 the California State University, and the firearm is an exhibit filed in any criminal
38 action or proceeding which is no longer needed or is unclaimed or abandoned
39 property, which has been in the possession of the officer for at least 180 days, the
40 firearm shall be sold, or destroyed, as provided for in Sections 18000 and 18005.

(b) This section does not apply to any firearm in the possession of the Department of Fish and Game Wildlife, or which was used in the violation of any provision in the Fish and Game Wildlife Code, or any regulation under that code.

Comment. Section 34000 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.


PUBLIC CONTRACT CODE

Pub. Cont. Code § 10109 (amended).

SEC. _____. Section 10109 of the Public Contract Code is amended to read:

10109. Any notice inviting bids on a project which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed project which would be subject to Section 1602 Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code shall include any conditions or modifications established pursuant to Section 1603 69795, 69805, or Article 4 (commencing with Section 70050) of Chapter 2 of Title 3 of Part 4 of Division 17 of the Fish and Wildlife Code.

Comment. Section 10109 is amended to reflect the recodification of the former Fish and Game Code.

 **Notes.** (1) In the tentative recommendation, Fish and Game Code Section 1602 would be continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-reference revision above would refer to the title that contains all of those sections, rather than referring to the five sections individually. That seems unproblematic, because the entire title relates to the substance of Section 1602.

The Commission requests public comment on whether that simplified reference would cause any problems.

(2) In the tentative recommendation, Fish and Game Code Section 1603 would be continued in proposed Sections 69795, 69805, 69810, and 70050 through 70070. The proposed cross-reference revision above would only refer to the provisions of Section 1603 that appear to be germane to the purpose of the reference.

The Commission requests public comment on whether that simplified reference would cause any problems.

Pub. Cont. Code § 20126 (amended).

SEC. _____. Section 20126 of the Public Contract Code is amended to read:

20126. Any notice inviting bids on a project which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed project which would be subject to Section 1602 Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code shall include any conditions or modifications established pursuant to Section 1603 69795, 69805, or Article 4 (commencing with Section 70050) of Chapter 2 of Title 3 of Part 4 of Division 17 of the Fish and Game Wildlife Code.

Comment. Section 20126 is amended to reflect the recodification of the former Fish and Game Code.

Notes. (1) In the tentative recommendation, Fish and Game Code Section 1602 would be continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-reference revision above would refer to the title that contains all of those sections, rather than referring to the five sections individually. That seems unproblematic, because the entire title relates to the substance of Section 1602.

The Commission requests public comment on whether that simplified reference would cause any problems.

(2) In the tentative recommendation, Fish and Game Code Section 1603 would be continued in proposed Sections 69795, 69805, 69810, and 70050 through 70070. The proposed cross-reference revision above would only refer to the provisions of Section 1603 that appear to be germane to the purpose of the reference.

The Commission requests public comment on whether that simplified reference would cause any problems.

Pub. Cont. Code § 20165 (amended).

SEC. _____. Section 20165 of the Public Contract Code is amended to read:

20165. Any notice inviting bids, which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed construction project which would be subject to Section 1602 Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of the Fish and Game Wildlife Code, shall include any conditions or modifications established pursuant to Section 1603 Section 69795, 69805, or Article 4 (commencing with Section 70050) of Chapter 2 of Title 3 of Part 4 of Division 17 of the Fish and Game Wildlife Code.

Comment. Section 20165 is amended to reflect the recodification of the former Fish and Game Code.

Notes. (1) In the tentative recommendation, Fish and Game Code Section 1602 would be continued in proposed Sections 69710, 69750, 69785, 70155, and 70165. The proposed cross-reference revision above would refer to the title that contains all of those sections, rather than referring to the five sections individually. That seems unproblematic, because the entire title relates to the substance of Section 1602.

The Commission requests public comment on whether that simplified reference would cause any problems.

(2) In the tentative recommendation, Fish and Game Code Section 1603 would be continued in proposed Sections 69795, 69805, 69810, and 70050 through 70070. The proposed cross-reference revision above would only refer to the provisions of Section 1603 that appear to be germane to the purpose of the reference.

The Commission requests public comment on whether that simplified reference would cause any problems.

PUBLIC RESOURCES CODE

Pub. Res. Code § 829 (amended).

SEC. _____. Section 829 of the Public Resources Code is amended to read:

1 829. As used in this chapter, “director” means the Director of the Department of
2 Fish and Game Wildlife.

3 **Comment.** Section 829 is amended to update a reference to the former Department of Fish and
4 Game. See Fish & Wildlife Code § 1500.

5 **Pub. Res. Code § 830 (amended).**

6 SEC. _____. Section 830 of the Public Resources Code is amended to read:

7 830. As used in this chapter, “department” means the Department of Fish and
8 Game Wildlife.

9 **Comment.** Section 830 is amended to update a reference to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Pub. Res. Code § 3233 (amended).**

12 SEC. _____. Section 3233 of the Public Resources Code is amended to read:

13 3233. (a) The division may develop field rules which establish volumetric
14 thresholds for emergency reporting by the operator of oil discharges to land
15 associated with onshore drilling, exploration, or production operations, where the
16 oil discharges, because of the circumstances established pursuant to paragraph (1)
17 of subdivision (c), cannot pass into or threaten the waters of the state. The division
18 may not adopt field rules under this section, unless the State Water Resources
19 Control Board and the Department of Fish and Game Wildlife first concur with the
20 volumetric reporting thresholds contained in the proposed field rules. Subchapter 1
21 (commencing with Section 1710) of Chapter 4 of Division 2 of Title 14 of the
22 California Code of Regulations shall apply to the adoption and implementation of
23 field rules authorized by this section.

24 (b) The authority granted to the division pursuant to subdivision (a) shall apply
25 solely to oil fields located in the San Joaquin Valley, as designated by the division.
26 The division shall adopt the field rules not later than January 1, 1998.

27 (c) For purposes of implementing this section, the division, the State Water
28 Resources Control Board, and the Department of Fish and Game Wildlife shall enter
29 into an agreement that defines the process for establishing both of the following:

30 (1) The circumstances, such as engineered containment, under which oil
31 discharges cannot pass into or threaten the waters of this state.

32 (2) The volumetric reporting thresholds that are applicable under the
33 circumstances established pursuant to paragraph (1).

34 (d) In no case shall a reporting threshold established in the field rules, where the
35 oil discharge cannot pass into or threaten the waters of this state, be less than one
36 barrel (42 gallons), unless otherwise established by federal law or regulation. Until
37 field rules are adopted, emergency reporting of oil discharges shall continue as
38 required by existing statute and regulations.

39 (e) An operator who discharges oil in amounts less than the volumetric thresholds
40 adopted by the division pursuant to this section is exempt from all applicable state
41 and local reporting requirements. Discharges of oil in amounts equal to, or greater

1 than, the volumetric thresholds adopted by the division pursuant to this section shall
2 be immediately reported to the Office of Emergency Services which shall inform
3 the division and other local or state agencies as required by Section 8589.7 of the
4 Government Code. Reporting to the Office of Emergency Services shall be deemed
5 to be in compliance with all applicable state and local reporting requirements.

6 (f) Oil discharges below the reporting thresholds established in the field rules shall
7 be exempt from the emergency notification or reporting requirements, and any
8 penalties provided for nonreporting, established under paragraph (1) of subdivision
9 (a) of Section 13260 of the Water Code, subdivisions (a), (c), and (e) of Section
10 13272 of the Water Code, Section 25507 of the Health and Safety Code, Sections
11 8670.25.5 and 51018 of the Government Code, and subdivision (h) of Section 1722
12 of Title 14 of the California Code of Regulations. Oil discharge reporting
13 requirements under Section 51018 of the Government Code shall be applicable if a
14 spill involves a fire or explosion.

15 (g) This section shall not affect existing reporting or notification requirements
16 under federal law.

17 (h) Nothing in this section shall be construed to relieve any party of any
18 responsibility established by statute, regulation, or order, to clean up or remediate
19 any oil discharge, whether reportable or exempt pursuant to this section.

20 (i) Reporting provided pursuant to this section is not intended to prohibit any
21 department or agency from seeking and obtaining any supplemental postreporting
22 information to which the department or agency might otherwise be entitled.

23 (j) For purposes of this section, “oil” means naturally occurring crude oil.

24 **Comment.** Section 3233 is amended to update references to the former Department of Fish and
25 Game. See Fish & Wildlife Code § 1500.

26 **Pub. Res. Code § 3717 (amended).**

27 SEC. _____. Section 3717 of the Public Resources Code is amended to read:

28 3717. Upon request, the supervisor shall notify the Department of Fish and Game
29 Wildlife and the California regional water quality control board in the area affected
30 of the location and abandonment of geothermal wells.

31 **Comment.** Section 3717 is amended to update a reference to the former Department of Fish and
32 Game. See Fish & Wildlife Code § 1500.

33 **Pub. Res. Code § 3718 (amended).**

34 SEC. _____. Section 3718 of the Public Resources Code is amended to read:

35 3718. Nothing in this chapter shall be construed as superseding any of the
36 provisions of Division 7 (commencing with Section 13000) of the Water Code or
37 Division 6 (commencing with Section 5650) Article 1 (commencing with Section
38 66500) of Chapter 1 of Title 1 of Part 3 of Division 17 of the Fish and Game Wildlife
39 Code.

40 **Comment.** Section 3718 is amended to reflect the recodification of the former Fish and Game
41 Code.

Note. Public Resources Code Section 3718 cross-refers to “Division 6 (commencing with Section 5650) of the Fish and Game Code.” This citation is erroneous, and was at the time it was enacted in 1965. Section 5650 is not the section that commences Division 6.

The erroneous cross-reference could be construed in three ways:

(1) It could be construed broadly as applying to the entirety of Division 6. That division contains the great majority of the Fish and Game Code provisions that govern fish and fishing, including sport fishing, commercial fishing, fish businesses, and special laws that govern specific types of fish and aquatic invertebrates. Many of the provisions govern ocean fish, rather than fresh water fish.

(2) It could be construed narrowly as applying to the chapter that commences with Section 5650. That chapter (which is also included in Division 6) governs water pollution generally and specific pollution issues relating to shellfish and mining in the Trinity and Klamath River area.

(3) It could be construed very narrowly, as applying only to the first article of the chapter that commences with Section 5650. That would include the general provisions on water pollution, but exclude the provisions on shellfish contamination and mining in the Trinity and Klamath River area.

The purpose of Section 3718 is to make clear that the chapter in which it is located does not supersede the specified provisions of the Water Code or Fish and Game Code. The chapter at issue regulates the drilling of geothermal wells for energy production. See Pub. Res. Code §§ 3700-3776.

That chapter includes provisions that expressly address the effect of geothermal wells on water quality. See Pub. Res. Code §§ 3714, 3716, 3717.

The provisions of the Water Code that are referenced in Section 3718 also govern the regulation of water quality and water pollution.

Given that context, it seems most likely that Section 3718 was intended to refer to the water pollution provisions in the Fish and Game Code, rather than the much broader law that addresses fishing (including clearly irrelevant provisions; e.g., provisions that regulate the use of traps and nets in ocean fishing). For that reason, the proposed law would take the third approach, revising Section 3718 to refer only to the water pollution provisions. Provisions that govern shellfish contamination and mining in the Trinity and Klamath River area would not be included in the reference.

The Commission requests public comment on whether that approach would properly continue existing law.

Pub. Res. Code § 3783 (amended).

SEC. _____. Section 3783 of the Public Resources Code is amended to read:

3783. Whenever the supervisor receives notification from the Department of Fish and Game Wildlife pursuant to subdivision (a) of Section 1016 67405 of the Fish and Game Wildlife Code that an oil sump is hazardous to wildlife, ~~he~~ the supervisor shall forthwith given written notice of such that hazardous condition to the owner, lessee, operator, or person responsible for the existence of the condition, and set forth the hazardous conditions as specified by the Department of Fish and Game Wildlife. The owner, lessee, operator, or person responsible shall, within 30 days from the date of such that notification, or such a longer period as may be mutually agreed upon by the supervisor, the Department of Fish and Game Wildlife, and the owner, lessee, operator, or person responsible, clean up or abate the condition to the satisfaction of the supervisor and the Department of Fish and Game Wildlife. If the owner, lessee, operator, or person responsible does not clean up or abate the condition to the satisfaction of the supervisor and the Department of Fish and Game

1 Wildlife within the required period of time, the supervisor shall forthwith order the
2 closure of the oil and gas production operation maintaining the oil sump.

3 **Comment.** Section 3783 is amended to reflect the recodification of the former Fish and Game
4 Code, and to update references to the former Department of Fish and Game. See Fish & Wildlife
5 Code § 1500. The section is also amended to make technical corrections.

6 **Pub. Res. Code § 3784 (amended).**

7 SEC. _____. Section 3784 of the Public Resources Code is amended to read:

8 3784. Whenever the supervisor receives notification from the Department of Fish
9 and Game Wildlife pursuant to ~~subdivision (b) of Section 1016 67410~~ of the Fish
10 and Game Wildlife Code that an oil sump constitutes an immediate and grave danger
11 to wildlife, ~~he~~ the supervisor shall forthwith give written notice of ~~such that~~
12 immediately dangerous condition to the owner, lessee, operator, or person
13 responsible for the existence of the condition, and set forth the immediately
14 dangerous condition as specified by the Department of Fish and Game Wildlife. The
15 owner, lessee, operator, or person responsible shall, within 10 days from the date of
16 such notification, or ~~such a~~ longer period as may be ~~mutally~~ mutually agreed upon
17 pursuant to Section 3784.5 by the supervisor, the Department of Fish and Game
18 Wildlife, and the owner, lessee, operator, or person responsible, clean up or abate
19 the condition to the satisfaction of the supervisor and the Department of Fish and
20 Game Wildlife. If the owner, lessee, operator, or person responsible does not clean
21 up or abate the condition to the satisfaction of the supervisor and the Department of
22 Fish and Game Wildlife within the required period of time, the supervisor shall
23 forthwith order the closure of the oil and gas production operation maintaining the
24 oil sump.

25 **Comment.** Section 3784 is amended to reflect the recodification of the former Fish and Game
26 Code, and to update references to the former Department of Fish and Game. See Fish & Wildlife
27 Code § 1500. The section is also amended to make technical corrections.

28 **Pub. Res. Code § 3784.5 (amended).**

29 SEC. _____. Section 3784.5 of the Public Resources Code is amended to read:

30 3784.5. Extension of the 10-day period specified in Section 3784 may be granted
31 only in cases where the supervisor and the Department of Fish and Game Wildlife
32 have determined that screening or elimination of the oil sump cannot be reasonably
33 accomplished within 10 days.

34 **Comment.** Section 3784.5 is amended to update a reference to the former Department of Fish
35 and Game. See Fish & Wildlife Code § 1500.

36 **Pub. Res. Code § 3785 (amended).**

37 SEC. _____. Section 3785 of the Public Resources Code is amended to read:

38 3785. The supervisor and the Department of Fish and Game Wildlife shall develop
39 a joint program to coordinate their respective responsibilities under this chapter and
40 Section 1016 Title 3 (commencing with Section 67400) of Part 3 of Division 17 of

1 the Fish and Game Wildlife Code to protect the wildlife resources of the state from
2 the hazards of exposed oil sumps.

3 **Comment.** Section 3785 is amended to reflect the recodification of the former Fish and Game
4 Code. The section is also amended to update a reference to the former Department of Fish and
5 Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 4417.5 (amended).**

7 SEC. _____. Section 4417.5 of the Public Resources Code is amended to read:

8 4417.5. (a) For the purpose of obtaining information leading to the arrest and
9 conviction of persons who willfully and maliciously set fire to, or who attempt to
10 willfully and maliciously set fire to, any property which is included within a state
11 responsibility area, as defined in Section 4102, including a hazardous fire area
12 designated by the board pursuant to Section 4252 or by the director pursuant to
13 Section 4253, the department shall, during the fire season, make a toll-free 800
14 telephone number available for, and establish, a program to protect the anonymity
15 of persons providing that information and to facilitate the identification of persons
16 who are eligible for the payment of rewards authorized pursuant to Section 1547 of
17 the Penal Code and Section 4417.

18 (b) The department may cooperate, and enter into interagency agreements, with
19 other state agencies in carrying out this section, including, but not limited to, the
20 Cal-TIP program of the Department of Fish and Game Wildlife.

21 **Comment.** Section 4417.5 is amended to update a reference to the former Department of Fish
22 and Game. See Fish & Wildlife Code § 1500.

23 **Pub. Res. Code § 4466 (amended).**

24 SEC. _____. Section 4466 of the Public Resources Code is amended to read:

25 4466. (a) The department shall prepare two model plans for the initial
26 development and implementation of a program for wildland resources management
27 through prescribed burning and other methods, one of which is appropriate for an
28 area of wildlands in northern California, and one, in southern California. All state
29 agencies, including the Departments of Fish and Game Wildlife and Conservation
30 and the State Water Resources Control Board, shall cooperate with the department
31 in the creation of the plans, to the end that administrative and environmental
32 considerations are carefully and effectively considered and included in the program.

33 (b) Upon completion of each plan, the director shall submit the plan to the board
34 for its review and approval as to its conformity with the requirements set forth in
35 Section 4467.

36 (c) The department shall apply for funding from nonstate sources for the purpose
37 of carrying out its planning responsibilities pursuant to this article. The department
38 may not commence such planning until such funding is available in an amount
39 sufficient to meet the costs of one model plan.

40 (d) Neither plan may be implemented or used after January 1, 1983.

1 **Comment.** Section 4466 is amended to update a reference to the former Department of Fish and
2 Game. See Fish & Wildlife Code § 1500.

3 **Pub. Res. Code § 4551.5 (amended).**

4 SEC. _____. Section 4551.5 of the Public Resources Code is amended to read:

5 4551.5. Rules and regulations shall apply to the conduct of timber operations and
6 shall include, but shall not be limited to, measures for fire prevention and control,
7 for soil erosion control, for site preparation that involves disturbance of soil or
8 burning of vegetation following timber harvesting activities, for water quality and
9 watershed control, for flood control, for stocking, for protection against timber
10 operations that unnecessarily destroy young timber growth or timber productivity
11 of the soil, for prevention and control of damage by forest insects, pests, and disease,
12 for the protection of natural and scenic qualities in special treatment areas identified
13 pursuant to subdivision (b) of Section 30417, and for the preparation of timber
14 harvesting plans. In developing these rules, the board shall solicit and consider
15 recommendations from the department, recommendations from the Department of
16 Fish and Game Wildlife relating to the protection of fish and wildlife,
17 recommendations from the State Water Resources Control Board and the California
18 regional water quality control boards relating to water quality, recommendations
19 from the State Air Resources Board and local air pollution control districts relating
20 to air pollution control, and recommendations of the California Coastal Commission
21 relating to the protection of natural and scenic coastal zone resources in special
22 treatment areas.

23 **Comment.** Section 4551.5 is amended to update a reference to the former Department of Fish
24 and Game. See Fish & Wildlife Code § 1500.

25 **Pub. Res. Code § 4582.6 (amended).**

26 SEC. _____. Section 4582.6 of the Public Resources Code is amended to read:

27 4582.6. (a) Upon receipt of the timber harvesting plan, the department shall place
28 it, or a true copy thereof, in a file available for public inspection in the county in
29 which timber operations are proposed under the plan, and, for the purpose of
30 interdisciplinary review, shall transmit a copy to the Department of Fish and Game
31 Wildlife, the appropriate California regional water quality control board, the county
32 planning agency, and, if the area is within its jurisdiction, the Tahoe Regional
33 Planning Agency, as the case may be. The department shall invite, consider, and
34 respond in writing to comments received from public agencies to which the plan has
35 been transmitted and shall consult with those agencies at their request.

36 (b) Within the public comment period, any responsible agency, as defined in
37 Section 21069, shall provide the department with specific comments or
38 recommendations, or both, on any significant environmental issues and proposed
39 mitigation measures raised by the timber harvesting plan. The responsible agency
40 shall also identify its statutory authority for any requests for mitigation measures
41 that it may determine to be necessary. If the responsible agency fails to respond by

1 the end of the public comment period, the department may assume that the
2 responsible agency has no comments or recommendations concerning the timber
3 harvesting plan, but the failure of the responsible agency to make comments or
4 recommendations shall not be used as the basis for a determination or presumption
5 that the timber harvesting plan will have no significant effect on the environment.
6 The department shall consider all comments and recommendations received from
7 responsible agencies and from the public during the public comment period. If a
8 responsible agency fails to respond within the public comment period, it may
9 request additional time to respond. The director may grant an extension of the time
10 to respond of up to 14 calendar days if he or she determines, after consultation with
11 the person submitting the timber harvesting plan, that an extension is necessary.

12 (c) To ensure that all public comments and concerns are considered by the
13 department, each responsible agency shall maintain a list of written information it
14 disseminates on the timber harvesting plan under review prior to the close of the
15 public comment period.

16 (d) On and after July 1, 1983, the board of supervisors or planning commission of
17 any county for which rules have been adopted pursuant to Section 4516.5 may
18 request a public hearing on any timber harvesting plan submitted for lands within
19 the county, and the department shall hold a hearing for the purpose of public
20 comment, if requested, prior to taking any action on the timber harvesting plan
21 pursuant to Section 4582.7. The hearing shall be held in the county in which the
22 proposed harvest is located at a time and place convenient to the public. The hearing
23 shall be held in county offices if made available by the county for that purpose. The
24 chairperson of the hearing shall be a representative of the department, shall receive
25 both oral and written testimony from members of the public, local government
26 officials, persons submitting the plans, and others, and shall provide for the hearing
27 to be electronically recorded. The department shall prepare and make available
28 written responses to significant issues raised at the hearing. The requirements of this
29 subdivision shall not be construed as extending the time within which any action is
30 required to be taken pursuant to Section 4582.7.

31 **Comment.** Section 4582.6 is amended to update a reference to the former Department of Fish
32 and Game. See Fish & Wildlife Code § 1500.

33 **Pub. Res. Code § 4582.9 (amended).**

34 SEC. _____. Section 4582.9 of the Public Resources Code is amended to read:

35 4582.9. (a) Notwithstanding any other provision of this chapter, the Director of
36 Fish and Game Wildlife or the State Water Resources Control Board may, not later
37 than 10 days after approval of a plan by the director, appeal the approval to the
38 board. At the time of filing of an appeal with the board, the person shall notify the
39 director and the plan submitter of the appeal, and no further timber operations shall
40 occur under the plan until the final determination of the appeal by the board.

(b) The Director of Fish and Game ~~Wildlife~~ or the State Water Resources Control Board may appeal the approval of a plan by the director only if the Department of Fish and Game ~~Wildlife~~ or the State Water Resources Control Board or a California regional water quality control board has (1) participated in an onsite inspection of the plan with the department and (2) participated in a multidisciplinary review of the plan. The board may establish procedures for filing an appeal and may, in order to demonstrate that a substantial issue is raised with respect to the environment or public safety, specify findings which are required to be made in filing an appeal.

(c) The board shall grant a hearing if it determines that the appeal under this section raises substantial issues with respect to the environment or to public safety. The board, by regulation, may delegate this determination to its chairperson.

(d) The board shall hold a public hearing within 30 days after the filing of an appeal, or a longer period mutually agreed upon by the board, the appellant, and the plan submitter. Witnesses may appear either at the request of a party having standing or at a request of a majority of the board or board committee holding the hearing. Within 10 days after the conclusion of the hearing, the board shall approve or deny the plan. The basis for the board's decision shall be all applicable provisions of California law, including, but not limited to, the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Division 1 of Title 5 of the Government Code) and subdivision (d) of Section 4512. In denying a plan, the board may make findings that set forth conditions under which it believes the plan would have been approved. The board may delegate conduct of the hearing and the decision to a committee of three members to be appointed for that hearing by the chairperson of the board. The committee shall consist of one general public member, one industry member, and the chairperson or the chairperson's designee. The chairperson of the board or the chairperson's designee shall conduct the hearing. The decision of the committee shall have the full force of a decision of the full board. At any time prior to a decision on an appeal conducted by a committee, any member of the committee may file a declaration of importance with the executive officer of the board and that appeal shall be immediately transferred to the full board for decision.

Comment. Section 4582.9 is amended to update references to the former Department of Fish and Game, and to the Director of that department. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 4590 (amended).

SEC. _____. Section 4590 of the Public Resources Code is amended to read:

4590. (a)(1) A timber harvesting plan approved on or after July 1, 2012, is effective for a period of not more than five years, unless extended pursuant to paragraph (2).

(2) A timber harvesting plan, on which timber operations have commenced but not been completed, may be extended by amendment for a two-year period in order to complete the timber operations, if both of the following occur:

(A) Good cause is shown.

(B) All timber operations are in conformance with the plan, this chapter, and all applicable rules and regulations, upon the filing of the notice of extension as required by this section.

(b) The extension shall apply to any area covered by the plan for which a report has not been submitted under Section 4585. The notice of extension shall be provided to the department not sooner than 140 days, but at least 10 days, prior to the expiration date of the plan. The notice shall include the circumstances that prevented a timely completion of the timber operations under the plan and, consistent with Section 4583, an agreement to comply with this chapter and the rules and regulations of the board as these exist on the date the extension notice is filed.

(c) Stocking work may continue for more than the effective period of the plan under subdivision (a), but shall be completed within five years after the conclusion of other work.

(d) A timber harvesting plan that is approved on or after January 1, 2010, to August 31, 2012, inclusive, may be extended by amendment for a two-year period in order to complete the timber operations, up to a maximum of two 2-year extensions, if the plan complies with subparagraphs (A) and (B) of paragraph (2) of subdivision (a) and the notice of extension, pursuant to subdivision (b), includes written certification by a registered professional forester that neither of the conditions in subdivision (e) has occurred.

(e) The department shall not approve an extension pursuant to subdivision (a) or (d) if either of the following has occurred:

(1) ~~Listed species, as defined in Article 1 (commencing with Section 2050) of Chapter 1.5 of Division 3~~ A species listed as endangered or threatened pursuant to Section 62200 of the Fish and Game Wildlife Code or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), have been discovered in the logging area of the plan since approval of the timber harvesting plan.

(2) Significant physical changes to the harvest area or adjacent areas have occurred since the timber harvesting plan's cumulative impacts were originally assessed.

(f) An extension of a timber harvesting plan on which either of the conditions in subdivision (e) has occurred may be obtained only pursuant to Section 1039 of Title 14 of the California Code of Regulations.

Comment. Paragraph (1) of subdivision (e) of Section 4590 is amended to reflect the recodification of the former Fish and Game Code.

Note. Public Resources Code Section 4590(e)(1) refers to a “[l]isted species, as defined in Article 1 (commencing with Section 2050) of Chapter 1.5 of Division 3 of the Fish and Game Code.” The referenced article, which begins the California Endangered Species Act, does not contain a definition of the term “listed species.” However, it seems clear from context and common usage that the term means a species that is on the list of endangered or threatened species maintained by the Fish and Game Commission. The reference has been revised accordingly.

The Commission requests public comment on whether that revision would cause any problems.

Pub. Res. Code § 4593.6 (amended).

SEC. _____. Section 4593.6 of the Public Resources Code is amended to read:

4593.6. Upon receipt of the nonindustrial timber management plan, the department shall place it, or a true copy thereof, in a file available for public inspection in the county in which timber operations are proposed under the plan, and, for the purpose of interdisciplinary review, shall transmit a copy to the Department of Fish and Game Wildlife, the appropriate California regional water quality control board, the county planning agency, and all other agencies having jurisdiction by law over natural resources affected by the plan. The department shall invite, consider, and respond in writing to comments received from public agencies to which the plan has been transmitted and shall consult with those agencies at their request.

Comment. Section 4593.6 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 4597 (amended).

SEC. _____. Section 4597 of the Public Resources Code is amended to read:

4597. (a) The Legislature finds and declares all of the following:

(1) The nonindustrial timber management plan established pursuant to Article 7.5 (commencing with Section 4593) has been successful in meeting the intent of this chapter by encouraging prudent and responsible forest management and discouraging accelerated timberland conversion by private nonindustrial forest landowners.

(2) There have been more than 850 nonindustrial timber management plans approved by the department covering a combined area of more than 360,000 acres.

(3) Building upon the model provided by the nonindustrial timber management plan, it is the policy of the state to encourage long-term planning, increased productivity of timberland, and the conservation of open space on a greater number of nonindustrial working forest ownerships and acreages.

(4) It is the policy of the state to encourage prudent and responsible forest resource management of nonindustrial timberlands by approving working forest management plans in advance and authorizing working forest timber harvest notices to be filed ministerially.

(5) To ensure long-term benefits such as added carbon sequestration, local and regional employment and economic activity, sustainable production of timber and other forest products, aesthetics, and the maintenance of ecosystem processes and services, the working forest management plan shall comply with rigorous timber inventory standards that are subject to periodic review and verification.

(b) This article shall be implemented in a manner that complies with the applicable provisions of this chapter and other laws, including, but not limited to,

1 the Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section
2 51100) of Division 1 of Title 5 of the Government Code), the California
3 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
4 Public Resources Code), the Porter Cologne Water Quality Control Act (Division 7
5 (commencing with Section 13000) of the Water Code), and the California
6 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) Part 1~~
7 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife
8 Code). Working forest landowners, as defined in Section 4597.1, shall comply with
9 all applicable regulatory requirements of the State Water Resources Control Board
10 and the appropriate regional water quality control board.

11 **Comment.** Subdivision (b) of Section 4597 is amended to reflect the recodification of the former
12 Fish and Game Code.

13 **Pub. Res. Code § 4597.18 (amended).**

14 SEC. _____. Section 4597.18 of the Public Resources Code is amended to read:

15 4597.18. A participating landowner, in conjunction with the preparation of an
16 application for a working forest management plan filed with the department, may
17 also seek approval of a safe harbor agreement from the Department of Fish and
18 Wildlife, pursuant to ~~Article 3.7 (commencing with Section 2089.2) of Chapter 1.5~~
19 of Division 3 Title 5 (commencing with Section 63900) of Part 1 of Division 17 of
20 the Fish and Game Wildlife Code. All review costs associated with the safe harbor
21 agreement approval process incurred by the Department of Fish and Wildlife
22 pursuant to this section shall be paid from the fund created in Section 4629.3.

23 **Comment.** Section 4597.18 is amended to reflect the recodification of the former Fish and Game
24 Code.

25 **Pub. Res. Code § 4604 (amended).**

26 SEC. _____. Section 4604 of the Public Resources Code is amended to read:

27 4604. (a) The department shall provide an initial inspection of the area in which
28 timber operations are to be conducted within 10 days from the date of filing of the
29 timber harvesting plan or nonindustrial timber management plan, or a longer period
30 as may be mutually agreed upon by the department and the person submitting the
31 plan, except that the inspection need not be made pursuant to the filing of a timber
32 harvesting plan if the department determines that the inspection would not add
33 substantive information that is necessary to enforce this chapter. The department
34 shall provide for inspections, as needed, as follows:

35 (1) During the period of commencement of timber operations.

36 (2) When timber operations are well under way.

37 (3) Following completion of timber operations.

38 (4) At any other times as determined to be necessary to enforce this chapter.

39 (b)(1) The Department of Fish and Game Wildlife, the California regional water
40 quality control boards, or the State Water Resources Control Board, if accompanied
41 by Department of Forestry and Fire Protection personnel and after 24-hour advance

1 notification is given to the landowner, may enter and inspect land during normal
2 business hours at any time after commencement of timber harvest plan activities on
3 the land and before the director issues a report of satisfactory completion of stocking
4 pursuant to Section 4588 or at any time before the end of the first winter period
5 following the filing of a work completion report pursuant to Section 4585,
6 whichever is later. Any member of the inspection party may utilize whatever
7 measurement and evaluation devices, including, but not limited to, photographic
8 equipment and temperature measurement devices, that are determined to be
9 necessary, when participating in an inspection of an area pursuant to subdivision (a)
10 or after commencement of timber harvesting plan activities pursuant to this
11 subdivision.

12 (2) Photographs taken during inspections shall be clearly labeled as to time, date,
13 and location and shall be the property of the department and part of the inspection
14 record. The inspection record shall be subject to all provisions of the California
15 Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of
16 Title 1 of the Government Code).

17 (3) This subdivision is not a limitation upon the authority of any agency to inspect
18 pursuant to any other provision of law.

19 (c) This section shall become operative on January 1, 1991, or on the effective
20 date of the rules and regulations adopted by the State Board of Forestry and Fire
21 Protection pursuant to Senate Bill 1566, whichever date occurs first.

22 **Comment.** Section 4604 is amended to update a reference to the former Department of Fish and
23 Game. See Fish & Wildlife Code § 1500.

24 **Pub. Res. Code § 4629.2 (amended).**

25 SEC. _____. Section 4629.2 of the Public Resources Code is amended to read:

26 4629.2. In enacting this article, it is the intent of the Legislature to accomplish all
27 of the following:

28 (a) Promote and encourage sustainable forest practices consistent with provisions
29 of this chapter in a manner consistent with other laws, including, but not limited to,
30 the Timberland Productivity Act of 1982 (Article 1 (commencing with Section
31 51100) of Chapter 6.7 of Part 1 of Division 1 of Title 5 of the Government Code),
32 the California Environmental Quality Act (Division 13 (commencing with Section
33 21000)), the Porter-Cologne Water Quality Act (Chapter 1 (commencing with
34 Section 13000) of Division 7 of the Water Code), and the California Endangered
35 Species Act (Article 3 (commencing with Section 2080) of Chapter 1.5 of Division
36 3 Part 1 (commencing with Section 62000) of Division 17 of the Fish and Game
37 Wildlife Code).

38 (b) Ensure continued sustainable funding for the state's forest practice program to
39 protect the state's forest resources, and replace the current piecemeal funding
40 structure with a single funding source.

(c) Support in-state production of timber within the state's environmental standards, and promote and encourage retention of forests and forested landscapes.

(d) Create a funding source for the restoration of the state's forested lands and promote restoration of fisheries and wildlife habitat and improvement in water quality.

(e) Promote restoration and management of forested landscapes consistent with the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(f) Promote transparency in regulatory costs and programs through the creation of performance measures and accountability for the state's forest practice regulatory program and simplify the collection and use of critical data to ensure consistency with other pertinent laws and regulations.

(g) Identify and implement efficiencies in the regulation of timber harvesting between state agencies.

(h) Modify current regulatory programs to incorporate, and provide incentives for best practices, and develop standards or strategies, where appropriate, to protect natural resources, including the development of plans that address road management and riparian function on an ownershipwide, watershedwide, or districtwide scale.

Comment. Section 4629.2 is amended to reflect the recodification of the former Fish and Game Code.

Note. In the section above, the "California Endangered Species Act" is cross-referenced, but identified as Article 3 (commencing with Section 2080) of Chapter 1.5 of Division 3 of the Fish and Game Code. If the intention of the Legislature was to refer to the entire California Endangered Species Act – as suggested by the reference to the act by name – the narrower reference to Article 3 of that Act was erroneous.

The cross-reference in Section 4629.2 has been revised to refer to the entirety of the California Endangered Species Act.

The Commission requests public comment on whether that approach would cause any problems.

Pub. Res. Code § 4629.6 (amended).

SEC. _____. Section 4629.6 of the Public Resources Code is amended to read:

4629.6. Moneys deposited in the fund shall, upon appropriation by the Legislature, only be expended for the following purposes:

(a) To reimburse the State Board of Equalization for its administrative costs associated with the administration, collection, audit, and issuance of refunds related to the lumber products and engineered wood assessment established pursuant to Section 4629.5.

(b) To pay refunds issued pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.

(c) To support the activities and costs of the department, the Department of Conservation, the Department of Fish and Wildlife, the State Water Resources Control Board, and regional water quality control boards associated with the review of projects or permits necessary to conduct timber operations. On or after July 1,

2013, except for fees applicable for fire prevention or protection within state responsibility area classified lands or timber yield assessments, no currently authorized or required fees shall be charged by the agencies listed in this subdivision for activities or costs associated with the review of a project, inspection and oversight of projects, and permits necessary to conduct timber operations of those departments and boards.

(d) For transfer to the department's Forest Improvement Program for forest resources improvement grants and projects administered by the department pursuant to Chapter 1 (commencing with Section 4790) and Chapter 2 (commencing with Section 4799.06) of Part 2.5.

(e) To fund existing restoration grant programs, with priority given to the Fisheries Restoration Grant Program administered by the Department of Fish and Wildlife and grant programs administered by state conservancies.

(f)(1) As a loan to the Department of Fish and Wildlife for activities to address environmental damage occurring on forest lands resulting from marijuana cultivation. Not more than five hundred thousand dollars (\$500,000) may be loaned from the fund in a fiscal year pursuant to this paragraph. This paragraph shall become inoperative on July 1, 2017.

(2) Any funds deposited into the fund pursuant to ~~subdivision (d) or (f) of Section 12025 or subdivision (b), (c), (e), or (f) of Section 12025.1~~ Section 6384, 6386, 6392, 6394, 6558 or 6560 of the Fish and Game Wildlife Code shall be credited toward loan repayment.

(3) Moneys from the General Fund shall not be used to repay a loan authorized pursuant to this subdivision.

(g) To the department for fuel treatment grants and projects pursuant to authorities under the Wildland Fire Protection and Resources Management Act of 1978 (Article 1 (commencing with Section 4461) of Chapter 7).

(h) To the department to provide grants to local agencies responsible for fire protection, qualified nonprofits, recognized tribes, local and state governments, and resources conservation districts, undertaken on a state responsibility area (SRA) or on wildlands not in an SRA that pose a threat to the SRA, to reduce the costs of wildland fire suppression, reduce greenhouse gas emissions, promote adaptation of forested landscapes to changing climate, improve forest health, and protect homes and communities.

(i) To the Natural Resources Agency to provide a reasonable per diem for attendance at a meeting of the advisory body for the state's forest practice program by a member of the body who is not an employee of a government agency.

Comment. Paragraph (2) of subdivision (f) of Section 4629.6 is amended to reflect the recodification of the former Fish and Game Code.

Note. In the tentative recommendation, the provisions of the existing Fish and Game Code sections that are cross-referenced in the section above have been continued in several different

sections of the proposed Fish and Wildlife Code.

The Commission requests public comment on the proposed conforming revision of those provisions in the section above.

Pub. Res. Code § 4662 (amended).

SEC. _____. Section 4662 of the Public Resources Code is amended to read:

4662. The department is responsible for the establishment and development of the Sequel Demonstration State Forest and for ongoing maintenance and operations. The director shall appoint an advisory committee to assist the department in planning future management of the forest. The advisory committee shall include representatives of the Santa Cruz County Board of Supervisors, the Department of Parks and Recreation, the State Board of Forestry and Fire Protection, the Forest of Nisene Marks Advisory Committee, and the Department of Fish and Game Wildlife.

Comment. Section 4662 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 4799.10 (amended).

SEC. _____. Section 4799.10 of the Public Resources Code is amended to read:

4799.10. (a)(1) The department shall implement a program in urban forestry to encourage better tree management and planting in urban areas to increase integrated, multiple benefit projects by assisting urban areas with innovative solutions to problems, including reductions in the emissions of greenhouse gases, mitigation of public health impacts of poor air and water quality, mitigation of urban heat island effect, improved capture of stormwater and dry weather runoff, addressing water shortages, lack of green space, lack of urban parks that are accessible to pedestrians, vandalism, and insufficient tree maintenance, and to otherwise accomplish the purposes of this chapter.

(2) The department shall encourage demonstration projects that maximize the benefits of urban forests in conjunction with state and local agency programs to improve carbon sequestration, water conservation, energy conservation, stormwater capture and reuse, urban forest maintenance, urban parks and river parkways, school construction and improvements, school greening or sun-safe schoolyards, air quality, water quality, flood management, urban revitalization, solid waste prevention, and other projects.

(3) The department shall establish local or regional targets for urban tree canopy, with emphasis on disadvantaged communities that tend to be most vulnerable to urban heat island effect. These targets shall include urban forest diversity, tree species' adaptability to anticipated climate change impacts, and other relevant factors.

(4) The department shall assume the primary responsibility in carrying out the intent of this chapter in cooperation with statewide and regional urban forestry organizations or associations and arboricultural organizations or associations, other private and public entities or persons, and appropriate local, state, and federal

1 agencies, including, but not limited to, the Department of Water Resources, the
2 California Environmental Protection Agency, the Department of Fish and Game
3 Wildlife, the Department of Food and Agriculture, regional water quality control
4 boards, regional and local air districts, the University of California Cooperative
5 Extension, the Department of Parks and Recreation, the Department of
6 Transportation, resource conservation districts, and the United States Forest
7 Service.

8 (b)(1) The department shall be the agent of the state and shall have full power to
9 cooperate with those agencies of the federal government that have powers and duties
10 concerning urban forestry and shall perform all things necessary to secure the
11 benefits of federal urban forestry programs.

12 (2) To facilitate implementation of this chapter, the director may enter into
13 agreements and contracts with a public or private organization including a local
14 agency that has urban forestry-related jurisdictional responsibilities and an
15 established and operating urban forestry program. The director shall consult with
16 those agencies when carrying out this chapter in their respective areas.

17 (c) The director shall take all feasible steps to prevent or retard the introduction,
18 establishment, and spread of known or potentially damaging or devastating pests
19 and diseases. Any agreement shall ensure that the department will not need
20 additional funds to participate in the program.

21 (d) The department and the Department of Food and Agriculture shall cooperate
22 in setting quarantine boundary lines and in enforcing the provisions relating to
23 quarantine and pest abatement contained in Division 4 (commencing with Section
24 5001) of the Food and Agricultural Code when a quarantine is established to prevent
25 the spread of introduced pests and diseases affecting the state's urban forests.

26 (e) Whenever it is feasible to do so, the department may utilize inmates and wards
27 assigned to conservation camps or the California Conservation Corps or certified
28 Community Conservation Corps in implementing this chapter.

29 (f) The department may utilize available recipients of CalWORKs or the General
30 Assistance Program, who are participating in state or county work experience
31 programs for carrying out the purposes of this chapter. The participation of
32 registrants for the welfare-to-work program under the CalWORKs program, under
33 Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9
34 of the Welfare and Institutions Code, shall be consistent with their participant
35 contract requirements. A person being utilized by the department pursuant to this
36 subdivision shall not be placed in the same crew as persons utilized pursuant to
37 subdivision (e).

38 (g) The department shall develop or update regulations as necessary to implement
39 the requirements of this section.

40 **Comment.** Section 4799.10 is amended to update a reference to the former Department of Fish
41 and Game. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 4800 (amended).**

2 SEC. _____. Section 4800 of the Public Resources Code is amended to read:
3 4800. It is the intent of the Legislature, in enacting this chapter, to do all of the
4 following:

5 (a) To provide coordination on wildlife and timberland issues within the
6 Resources Agency.

7 (b) To improve and coordinate the state data bases for use in analyzing the
8 cumulative impacts of timber harvesting pursuant to the California Environmental
9 Quality Act (Division 13 (commencing with Section 21000)).

10 (c) To improve the technical basis upon which the Department of Fish and Game
11 Wildlife predicates recommendations for mitigating site-specific and cumulative
12 effects on wildlife from timber harvesting activities.

13 (d) To provide recommendations to the board concerning creation of a list of
14 species of special concern for which additional forest practices rules may be needed.

15 (e) To provide recommendations to the Fish and Game Commission concerning
16 additions to its list of species that are threatened or endangered.

17 (f) To provide authority to the state to work cooperatively with the United States
18 Forest Service, including the ability to provide and receive funding for wildlife
19 studies.

20 **Comment.** Section 4800 is amended to update a reference to the former Department of Fish and
21 Game. See Fish & Wildlife Code § 1500.

22 **Pub. Res. Code § 5003.1 (amended).**

23 SEC. _____. Section 5003.1 of the Public Resources Code is amended to read:

24 5003.1. (a) The Legislature finds and declares that it is in the public interest to
25 permit hunting, fishing, swimming, trails, camping, campsites, and rental vacation
26 cabins in certain state recreation areas, or portions thereof, when it is found by the
27 State Park and Recreation Commission that multiple use of state recreation areas
28 would not threaten the safety and welfare of other state recreation area users.
29 Hunting shall not be permitted in any unit now in the state park system and officially
30 opened to the public on or before June 1, 1961, or in any unit hereafter acquired and
31 designated by the commission as a state park, state marine reserve, state marine
32 park, state reserve, state marine conservation area, or state marine cultural
33 preservation area, and may only be permitted in new recreational areas and state
34 marine recreational management areas that are developed for that use.

35 (b) Whenever hunting or fishing is permitted in a state recreation area or state
36 marine recreational management area, and whenever fishing is permitted in a state
37 park, state marine park, state marine cultural preservation area, or state marine
38 conservation area, the Department of Fish and Game Wildlife shall enforce hunting
39 and fishing laws and regulations as it does elsewhere in the state.

40 **Comment.** Section 5003.1 is amended to update a reference to the former Department of Fish
41 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
42 designations.

1 **Pub. Res. Code § 5003.35 (amended).**

2 SEC. _____. Section 5003.35 of the Public Resources Code is amended to read:

3 5003.35. Notwithstanding Section 5003.1, waterfowl hunting shall be allowed at
4 the Lake Earl and Lake Talawa project in accordance with the existing interagency
5 agreement with the Department of Fish and Game Wildlife and with regulations of
6 the Fish and Game Commission governing waterfowl hunting at the project. The
7 agreement shall be extended until such time as the project is classified as a unit of
8 the state park system.

9 **Comment.** Section 5003.35 is amended to update a reference to the former Department of Fish
10 and Game. See Fish & Wildlife Code § 1500.

11 **Pub. Res. Code § 5006.41 (amended).**

12 SEC. _____. Section 5006.41 of the Public Resources Code is amended to read:

13 5006.41. (a) The department may enter into agreements with the Department of
14 Water Resources and the Department of Fish and Game Wildlife to plan, develop,
15 and administer real and personal property located in the vicinity of Oroville. The
16 department shall carry out a program in that unit of development, maintenance,
17 administration, and conservation of trails and areas for the recreational use of off-
18 highway vehicles. Areas for the recreational use of off-highway vehicles shall be
19 administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

20 (b) Any fees, rentals, or other returns collected by the department in its
21 administration of the unit shall be paid into the State Treasury to the credit of the
22 Off-Highway Vehicle Fund.

23 **Comment.** Section 5006.41 is amended to update a reference to the former Department of Fish
24 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
25 designations.

26 **Pub. Res. Code § 5006.6 (amended).**

27 SEC. _____. Section 5006.6 of the Public Resources Code is amended to read:

28 5006.6. (a) The department, with the approval of the Administrator of the
29 Resources Agency and the Department of Finance, is authorized to cooperate and
30 participate with the federal government pursuant to Public Law 89-161 in the
31 development of recreation facilities, or with the approval of the Department of Fish
32 and Game Wildlife, fish and wildlife enhancement facilities, or both, at Auburn
33 Dam and Reservoir, Folsom Dam and Reservoir, Nimbus Dam and Lake Natomas,
34 and County Line Dam and Reservoir, and stream areas in the immediate vicinity of
35 these facilities.

36 (b) The department, with the approval of the Administrator of the Resources
37 Agency and the Department of Finance, is authorized to administer unit land and
38 water areas for recreation or fish and wildlife enhancement, or both, and to contract
39 with the federal government for the operation, maintenance, and replacement of unit
40 facilities, to assume all costs of such operation, maintenance, and replacement, and
41 to accept transfer of unit lands or facilities by lease or exchange upon such terms

1 and conditions as will best promote the development and operation of such lands or
2 facilities in the public interest for recreation or fish and wildlife enhancement
3 purposes, or both. Any such contract entered into by the department which affects
4 the operation, maintenance or replacement of fish and wildlife enhancement features
5 is subject to approval by the Department of Fish and Game Wildlife.

6 (c) The State of California, acting by and through the department, with the
7 approval of the Administrator of the Resources Agency and the Department of
8 Finance, is authorized to enter into a contract or contracts with the federal
9 government to pay or repay one-half of the separable capital costs involved in the
10 development of the recreation or fish and wildlife enhancement features, or both, at
11 the Auburn Dam and Reservoir, Folsom Dam and Reservoir, Nimbus Dam and Lake
12 Natomas, and County Line Dam and Reservoir, and stream areas in the immediate
13 vicinity of these facilities, pursuant to the provisions of Public Law 89-161. The
14 agreement for the payment or repayment of the separable capital costs shall be
15 limited to those recreation or fish and wildlife enhancement facilities, or both,
16 specified in the contract. Such payments or repayments may be made by any or all
17 of the following methods: by legislative appropriation; by provision of lands,
18 interests therein, or facilities for the unit; or by a contract or contracts for repayment,
19 with interest, within 50 years of first use of unit recreation or fish and wildlife
20 enhancement facilities specified in the contract or contracts. The source of
21 repayment may be limited to entrance and user fees or charges collected at the unit
22 by the department if such fees or charges dedicated to repayment are established on
23 a basis calculated to achieve repayment and are made subject to review and
24 renegotiation at intervals of not more than five years. If the source of repayment is
25 so limited, revenues derived from such fees or charges shall be deposited in a special
26 account in the Special Deposit Fund in the State Treasury and used for the purpose
27 of such repayment. If not so limited, the source of repayment shall be such
28 appropriations of funds as may from time to time be made for such purpose by the
29 Legislature.

30 (d) The department shall cooperate with any local public body authorized to
31 contract with the federal government pursuant to Public Law 89-161, including, but
32 not limited to, the Counties of El Dorado, Placer, and Sacramento, in planning of
33 any proposed participation with the federal government. The state may contract with
34 any or all of such counties or other local public bodies for the operation,
35 maintenance, and replacement of unit facilities, or any portion thereof, if requested
36 by any or all such counties or other local public bodies.

37 **Comment.** Section 5006.6 is amended to update references to the former Department of Fish
38 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
39 designations.

40 **Pub. Res. Code § 5019.80 (amended).**

41 SEC. _____. Section 5019.80 of the Public Resources Code is amended to read:

1 5019.80. (a) The Marine Managed Areas Improvement Act (Chapter 7
2 (commencing with Section 36600) of Division 27) establishes a uniform
3 classification system for state marine managed areas and is incorporated herein by
4 reference. Any proposals for marine managed areas made after January 1, 2002,
5 shall follow the guidelines set forth in that act. Pursuant to Section 36750, existing
6 marine or estuarine areas within units of the state park system that have not been
7 reclassified in accordance with the Marine Life Protection Act (~~Chapter 10.5~~
8 ~~(commencing with Section 2850)~~ of Division 3 Part 2 (commencing with Section
9 60400) of Division 16 of the Fish and Game Wildlife Code) on January 1, 2002,
10 shall be reclassified by the State Interagency Coordinating Committee into one of
11 the following classifications:

12 (1) State marine reserve.

13 (2) State marine park.

14 (3) State marine conservation area.

15 (4) State marine cultural preservation area.

16 (5) State marine recreational management area.

17 (b) The process for establishing, deleting, or modifying state marine reserves,
18 state marine parks, state marine conservation areas, state marine cultural
19 preservation areas, and state marine recreational management areas shall be
20 established pursuant to that act. The restrictions and allowable uses applicable to
21 those areas are as set forth in that act.

22 **Comment.** Section 5019.80 is amended to reflect the recodification of the former Fish and Game
23 Code.

24 **Pub. Res. Code § 5075.8 (amended).**

25 SEC. _____. Section 5075.8 of the Public Resources Code is amended to read:

26 5075.8. (a) The department may convene a planning task force in order to
27 facilitate the development of a comprehensive plan for the San Joaquin River
28 Parkway.

29 The task force shall include, but not be limited to, a representative of the following
30 entities:

31 (1) State Lands Commission.

32 (2) Department of Parks and Recreation.

33 (3) Department of Fish and Game Wildlife.

34 (4) State Reclamation Board.

35 (5) County of Fresno.

36 (6) County of Madera.

37 (7) City of Fresno.

38 (8) Fresno County and City Chamber of Commerce.

39 (9) Fresno Sand and Gravel Producers.

40 (10) San Joaquin River Property Owners Association.

41 (11) Upper San Joaquin River Association.

(12) San Joaquin River Parkway and Conservation Trust.

(13) San Joaquin River Committee.

(b) The plan shall be submitted to the Legislature not later than June 1, 1991.

Comment. Section 5075.8 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 5080.39 (amended).

SEC. _____. Section 5080.39 of the Public Resources Code is amended to read:

5080.39. The department and other appropriate state and local agencies, and federal agencies to the extent permitted by federal law, with jurisdiction over inland waters are encouraged to cooperate with private groups and associations in order to do fish habitat and restoration work to implement the Adopt a Lake Program pursuant to Section ~~2003.5~~ 57775 of the Fish and ~~Game~~ Wildlife Code.

Comment. Section 5080.39 is amended to reflect the recodification of the former Fish and Game Code.

Pub. Res. Code § 5093.542 (amended).

SEC. _____. Section 5093.542 of the Public Resources Code is amended to read:

5093.542. The Legislature finds and declares that the McCloud River possesses extraordinary resources in that it supports one of the finest wild trout fisheries in the state. Portions of the river have been appropriately designated by the Fish and Game Commission, pursuant to ~~Chapter 7.2 (commencing with Section 1725) of Division 2 Chapter 1 (commencing with Section 11700) of Title 2 of Part 4 of Division 6~~ of the Fish and ~~Game~~ Wildlife Code, as wild trout waters, with restrictions on the taking, or method of taking, of fish. The Legislature has determined, based upon a review of comprehensive technical data evaluating resources and potential beneficial uses, that potential beneficial uses must be balanced, in order to achieve protection of the unique fishery resources of the McCloud River, as follows:

(a) The continued management of river resources in their existing natural condition represents the best way to protect the unique fishery of the McCloud River. The Legislature further finds and declares that maintaining the McCloud River in its free-flowing condition to protect its fishery is the highest and most beneficial use of the waters of the McCloud River within the segments designated in subdivision (b), and is a reasonable use of water within the meaning of Section 2 of Article X of the California Constitution.

(b) No dam, reservoir, diversion, or other water impoundment facility shall be constructed on the McCloud River from Algoma to the confluence with Huckleberry Creek, and 0.25 mile downstream from the McCloud Dam to the McCloud River Bridge; nor shall any such facility be constructed on Squaw Valley Creek from the confluence with Cabin Creek to the confluence with the McCloud River.

(c) Except for participation by the Department of Water Resources in studies involving the technical and economic feasibility of enlargement of Shasta Dam, no department or agency of the state shall assist or cooperate with, whether by loan,

1 grant, license, or otherwise, any agency of the federal, state, or local government in
2 the planning or construction of any dam, reservoir, diversion, or other water
3 impoundment facility that could have an adverse effect on the free-flowing
4 condition of the McCloud River, or on its wild trout fishery.

5 (d) All state agencies exercising powers under any other provision of law with
6 respect to the protection and restoration of fishery resources shall continue to
7 exercise those powers in a manner to protect and enhance the fishery of those
8 segments designated in subdivision (b). In carrying out this subdivision, any
9 exercise of powers shall be consistent with Section 5093.58.

10 (e) Nothing in this section shall prejudice, alter, affect in any way, or interfere
11 with the construction, maintenance, repair, or operation by the Pacific Gas and
12 Electric Company of the existing McCloud-Pit development (FERC 2106) under its
13 license, or prevent Pacific Gas and Electric from constructing a hydroelectric
14 generating facility by retrofitting the existing McCloud Dam if the operation of the
15 facility does not alter the existing flow regime below the dam.

16 **Comment.** Section 5093.542 is amended to reflect the recodification of the former Fish and
17 Game Code.

18 **Pub. Res. Code § 5094.1 (amended).**

19 SEC. _____. Section 5094.1 of the Public Resources Code is amended to read:

20 5094.1. (a) The Secretary of the Resources Agency, with the approval of the
21 Director of Finance and upon specific authorization by the Legislature, may indicate
22 in writing the state's intent to agree to administer any federal multiple-purpose water
23 project land and water areas for recreation or fish and wildlife enhancement, or both
24 of these purposes, as provided in Public Law 89-72. The secretary, as to each
25 proposed state participation, shall submit any proposed indication of intent, together
26 with supporting material, to the Legislature.

27 (b) The secretary, before requesting legislative authorization, shall determine that
28 the proposed state participation in the project is in compliance with all
29 comprehensive water, recreation, and fish and wildlife plans of the state.

30 (c) Notwithstanding the provisions of this section, the Department of Fish and
31 Game Wildlife may review and coordinate the development of fish and wildlife
32 enhancement features at federal water projects with fish and wildlife plans of the
33 state, irrespective of whether the state agrees to administer the project.

34 **Comment.** Section 5094.1 is amended to update a reference to the former Department of Fish
35 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
36 designations.

37 **Pub. Res. Code § 5094.2 (amended).**

38 SEC. _____. Section 5094.2 of the Public Resources Code is amended to read:

39 5094.2. With respect to each project as to which a letter of intent has been given,
40 the Resources Agency through the Department of Parks and Recreation and the
41 Department of Fish and Game Wildlife, in cooperation with affected local public

1 agencies, shall conduct an investigation and study of the project with respect to the
2 areas of interest of each and prepare plans of the proposed state participation therein.
3 The plans shall be submitted, upon request, to each affected local public agency for
4 its review and comments thereon. The comments shall be transmitted to the agency
5 by the affected local public agency within such period as determined by the
6 administrator, which period shall be not less than 30 days nor more than 60 days
7 from the date of submission to the local public agency.

8 **Comment.** Section 5094.2 is amended to update a reference to the former Department of Fish
9 and Game. See Fish & Wildlife Code § 1500.

10 **Pub. Res. Code § 5094.3 (amended).**

11 SEC. _____. Section 5094.3 of the Public Resources Code is amended to read:

12 5094.3. Upon specific authorization of state participation by the Legislature:

13 (a) The Department of Parks and Recreation and the Department of Fish and
14 Game Wildlife may cooperate and participate with the federal government pursuant
15 to Public Law 89-72 in the development of recreation and fish and wildlife
16 enhancement at federal water projects. Where both the recreation and fish and
17 wildlife enhancement functions are involved in a project the department having the
18 principal interest as designated by the Administrator of the Resources Agency shall
19 be the contracting agency with the federal government. In such case the contract
20 shall be subject to approval of the other department.

21 (b) The departments may (1) administer unit land and water areas for recreation
22 or fish and wildlife enhancement, or both, (2) contract with the federal government
23 for the operation, maintenance, and replacement of unit facilities, (3) assume all
24 costs of such operation, maintenance, and replacement, and (4) accept transfer of
25 unit lands or facilities by lease or exchange upon such terms and conditions as will
26 best promote the development and operation of such lands or facilities in the public
27 interest for recreation or fish and wildlife enhancement purposes, or both.

28 (c) The departments may enter into a contract or contracts with the federal
29 government to pay or repay one-half of the separable capital costs involved in the
30 development of the recreation or fish and wildlife enhancement features, or both, at
31 the project pursuant to the provisions of Public Law 89-72, consistent with the
32 reports provided for in Section 5094.2. The agreement for the payment or repayment
33 of the separable capital costs shall be limited to those recreation or fish and wildlife
34 enhancement facilities, or both, specified in the contract. Such payments or
35 repayments may be made by any or all of the following methods: by legislative
36 appropriation; by provision of lands, interests therein, or facilities for the project; or
37 by a contract or contracts for repayment, with interest, within 50 years of first use
38 of project recreation or fish and wildlife enhancement facilities specified in the
39 contract or contracts. The source of repayment may be limited to entrance and user
40 fees or charges collected at the project by the contracting department if such fees or
41 charges dedicated to repayment are established on a basis calculated to achieve

1 repayment and are made subject to review and renegotiation at intervals of not more
2 than five years. If the source of repayment is so limited, revenues derived from such
3 fees or charges shall be deposited in a special account in the Special Deposit Fund
4 in the State Treasury and used for the purpose of such repayment. If not so limited,
5 the source of repayment shall be such appropriations of funds as may from time to
6 time be made for such purpose by the Legislature.

7 **Comment.** Section 5094.3 is amended to update a reference to the former Department of Fish
8 and Game. See Fish & Wildlife Code § 1500.

9 **Pub. Res. Code § 5096.129 (amended).**

10 SEC. _____. Section 5096.129 of the Public Resources Code is amended to read:

11 5096.129. (a) Any project involving state funds only, pursuant to subdivisions (b),
12 (c), and (e) of Section 5096.124, shall originate by resolution of the Legislature or
13 of the State Park and Recreation Commission directing a study of the proposed
14 project or by action of the Secretary of the Resources Agency, either on his own
15 initiative, or, with respect to projects to be funded pursuant to subdivision (e) of
16 Section 5096.124, at the request of the Director of Water Resources, directing a
17 study of the proposed project.

18 (b) The costs of these project studies shall be borne by the State, Urban, and
19 Coastal Park Fund.

20 (c) Allocations for the purposes of subdivision (d) of Section 5096.124 that are
21 authorized by the Legislature and approved by the Governor shall be made from the
22 State, Urban, and Coastal Park Fund and shall be expended in accordance with the
23 provisions of the Wildlife Conservation Law of 1947 (Chapter 4 (commencing with
24 Section 1300), Division 2, Title 1 (commencing with Section 54700) of Part 2 of
25 Division 15 of the Fish and Game Wildlife Code).

26 **Comment.** Section 5096.129 is amended to reflect the recodification of the former Fish and
27 Game Code. The section is also amended to add subdivision designations.

28 **Pub. Res. Code § 5096.310 (amended).**

29 SEC. _____. Section 5096.310 of the Public Resources Code is amended to read:

30 5096.310. The proceeds of bonds issued and sold pursuant to this chapter shall be
31 deposited in the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal
32 Protection (Villaraigosa-Keeley Act) Bond Fund, which is hereby created. Unless
33 otherwise specified and except as provided in subdivision (m), the money in the
34 fund shall be available for appropriation by the Legislature, in the manner set forth
35 in this chapter, only for parks and resources improvement, in accordance with the
36 following schedule:

37 (a) The sum of five hundred two million seven hundred fifty thousand dollars
38 (\$502,750,000) to the department for the following purposes:

39 (1) To rehabilitate, restore, and improve units of the state park system that will
40 ensure that state park system lands and facilities will remain open and accessible for
41 public use.

1 (2) To develop, improve, rehabilitate, restore, enhance, and protect facilities and
2 trails at existing units of the state park system that will provide for optimal
3 recreational and educational use, activities, improved access and safety, and the
4 acquisition from a willing seller of inholdings and adjacent lands. Adjacent lands
5 are lands contiguous to, or in the immediate vicinity of, existing state park system
6 lands and that directly benefit an existing state park system unit.

7 (3) For stewardship of the public investment in the preservation of the critical
8 natural heritage and scenic features, and cultural heritage stewardship projects that
9 will preserve vanishing remnants of California's landscape, and protect and promote
10 a greater understanding of California's past, and the planning necessary to
11 implement those efforts.

12 (4) For facilities and improvements to enhance volunteer participation in the state
13 park system.

14 (5) To develop, improve, and expand interpretive facilities at units of the state
15 park system, including educational exhibits and visitor orientation centers.

16 (6) To rehabilitate and repair aging facilities at winter recreation facilities
17 pursuant to the Sno-Park program, as provided for in Chapter 1.27 (commencing
18 with Section 5091.01), that provide for improved public safety.

19 (7) For projects that improve air quality related to the state park system, including,
20 but not limited to, the purchase of low-emission or advanced technology vehicles
21 and equipment and clean fuel distribution facilities that will avoid or reduce air
22 emissions at state park facilities.

23 (b) The sum of eighteen million dollars (\$18,000,000) to the department to
24 undertake stewardship projects, including cultural resources stewardship and
25 natural resources stewardship projects, that will restore and protect the natural
26 treasures of the state park system, preserve vanishing remnants of California's
27 landscape, and protect and promote a greater understanding of California's past.

28 (c) The sum of four million dollars (\$4,000,000) to the department for facilities
29 and improvements to enhance volunteer participation in the state park system.

30 (d) The sum of twenty million dollars (\$20,000,000) to the department for grants
31 to local agencies administering units of the state park system under an operating
32 agreement with the department, for the development, improvement, rehabilitation,
33 restoration, enhancement, protection, and interpretation of lands and facilities of,
34 and improved access to, those locally operated units.

35 (e) The sum of ten million dollars (\$10,000,000) to the department for purposes
36 consistent with Section 5079.10, for competitive grants, in accordance with Section
37 5096.335.

38 (f) The sum of three hundred eighty-eight million dollars (\$388,000,000) to the
39 department for grants, in accordance with Sections 5096.332, 5096.333, and
40 5096.336, on the basis of population, for the acquisition, development,
41 improvement, rehabilitation, restoration, enhancement, and interpretation of local
42 park and recreational lands and facilities, including renovation of recreational

1 facilities conveyed to local agencies resulting from the downsizing or
2 decommissioning of federal military installations.

3 (g) The sum of two hundred million dollars (\$200,000,000) to the department for
4 grants to cities, counties, and districts for the acquisition, development,
5 rehabilitation, and restoration of park and recreation areas and facilities pursuant to
6 the Roberti-Z'berg-Harris Urban Open-Space and Recreational Program Act
7 (Chapter 3.2 (commencing with Section 5620)).

8 (h) The sum of ten million dollars (\$10,000,000) to the department for grants, in
9 accordance with Section 5096.337, for the improvement or acquisition and
10 restoration of riparian habitat, riverine aquatic habitat, and other lands in close
11 proximity to rivers and streams for river and stream trail projects undertaken in
12 accordance with Section 78682.2 of the Water Code, and for purposes of Section
13 7048 of the Water Code.

14 (i) The sum of ten million dollars (\$10,000,000) to the department for grants, in
15 accordance with Section 5096.337, for the development, improvement,
16 rehabilitation, restoration, enhancement, and interpretation of nonmotorized trails
17 for the purpose of increasing public access to, and enjoyment of, public areas for
18 increased recreational opportunities. Not less than one million five hundred
19 thousand dollars (\$1,500,000) of this amount shall be allocated toward the
20 completion of a project that links existing bicycle and pedestrian trail systems to
21 major urban public transportation systems, to promote increased recreational
22 opportunities and nonmotorized commuter usage in the City of Whittier. Of this
23 amount, no less than two hundred seventy-five thousand dollars (\$275,000) shall be
24 allocated to the East Bay Regional Park District toward the completion of the Iron
25 Horse Trail. Of this amount, not less than one million dollars (\$1,000,000) shall be
26 allocated to a regional park district for the completion of a bike trail in the City of
27 Concord.

28 (j) The sum of one hundred million dollars (\$100,000,000) to the department for
29 grants to public agencies and nonprofit organizations for park, youth center, and
30 environmental enhancement projects that benefit youth in areas that lack safe
31 neighborhood parks, open space, and natural areas, and that have significant
32 poverty.

33 (k) The sum of two million five hundred thousand dollars (\$2,500,000) to the
34 California Conservation Corps to complete capital outlay and resource conservation
35 projects and administrative costs allocable to the bond funded projects.

36 (l) The sum of eighty-six million five hundred thousand dollars (\$86,500,000) to
37 the department for the following purposes:

38 (1) The sum of seventy-one million five hundred thousand dollars (\$71,500,000)
39 for grants, in accordance with Sections 5096.339 and 5096.340, for urban
40 recreational and cultural centers, including, but not limited to, zoos, museums,
41 aquariums, and facilities for wildlife, environmental, or natural science aquatic
42 education or projects that combine curation of archaeological, paleontological, and

1 historic resources with education and basic and applied research, and that emphasize
2 specimens of California's extinct prehistoric plants and animals.

3 (2) The sum of fifteen million dollars (\$15,000,000) for grants for regional youth
4 soccer and baseball facilities operated by nonprofit organizations. Priority shall be
5 given to those grant projects that utilize existing school facilities or recreation
6 facilities and serve disadvantaged youth.

7 (m) Notwithstanding Section 13340 of the Government Code, the sum of two
8 hundred sixty-five million five hundred thousand dollars (\$265,500,000) is, except
9 as provided in Section 5096.350, hereby continuously appropriated to the Wildlife
10 Conservation Board, without regard to fiscal years, in accordance with Section
11 5096.350.

12 (n) The sum of fifty million dollars (\$50,000,000) to the California Tahoe
13 Conservancy, in accordance with Section 5096.351.

14 (o) The sum of two hundred twenty million four hundred thousand dollars
15 (\$220,400,000) to the State Coastal Conservancy, in accordance with Section
16 5096.352.

17 (p) The sum of thirty-five million dollars (\$35,000,000) to the Santa Monica
18 Mountains Conservancy, in accordance with Section 5096.353.

19 (q) The sum of five million dollars (\$5,000,000) to the Coachella Valley
20 Mountains Conservancy, in accordance with Section 5096.354.

21 (r) The sum of fifteen million dollars (\$15,000,000) to the San Joaquin River
22 Conservancy, in accordance with Section 5096.355.

23 (s) The sum of twelve million five hundred thousand dollars (\$12,500,000) to the
24 California Conservation Corps for grants for the certified local community
25 conservation corps program to complete capital outlay and resource conservation
26 projects.

27 (t) The sum of twenty-five million dollars (\$25,000,000) to the Department of
28 Conservation in accordance with Section 5096.356.

29 (u) The sum of ten million dollars (\$10,000,000) to the Department of Forestry
30 and Fire Protection for urban forestry programs in accordance with Section 4799.12.
31 The grants made pursuant to this subdivision shall be for costs associated with the
32 purchase and planting of trees, and up to three years of care which ensures the long-
33 term viability of those trees.

34 (v) Notwithstanding Section 711 3465 of the Fish and Game Wildlife Code, the
35 sum of twelve million dollars (\$12,000,000) to the Department of Fish and Game
36 Wildlife for the following purposes:

37 (1) The sum of five million dollars (\$5,000,000) for expenditure in accordance
38 with subdivision (a) of Section 5096.357.

39 (2) The sum of five million dollars (\$5,000,000) for expenditure in accordance
40 with subdivision (b) of Section 5096.357.

41 (3) The sum of two million dollars (\$2,000,000) to remove nonnative vegetation
42 harmful to ecological reserves in San Diego County.

1 (w) The sum of thirty million dollars (\$30,000,000) shall be available for purposes
2 of Chapter 4.5 (commencing with Section 31160) of Division 21. Two hundred fifty
3 thousand dollars (\$250,000) shall be allocated to Mount Diablo State Park.

4 (x) The sum of seven million dollars (\$7,000,000) to the California Integrated
5 Waste Management Board for grants to local agencies to assist them in meeting state
6 and federal accessibility standards relating to public playgrounds if the local agency
7 guarantees that 50 percent of the grant funds will be used for the improvement or
8 replacement of playground equipment or facilities through the use of recycled
9 materials and that matching funds in an amount equal to not less than 50 percent of
10 the total amount of those grant funds will be provided through either public or
11 private funds or in-kind contributions. The board may reduce this matching fund
12 requirement to not less than 25 percent if it determines that the 50-percent
13 requirement would impose an extreme financial hardship on the local agency
14 applying for the grant. The board may expend the funds allocated pursuant to this
15 subdivision, upon appropriation by the Legislature, for the purposes specified
16 herein.

17 (y) The sum of fifteen million dollars (\$15,000,000) to a city for rehabilitation,
18 restoration, or enhancement to a city park that is over 1,000 acres that serves an
19 urban area of over 750,000 population in northern California and that provides
20 recreational, cultural, and scientific resources.

21 (z)(1) The sum of six million two hundred fifty thousand dollars (\$6,250,000) to
22 the secretary to administer grants to the Sierra Nevada-Cascade Program, in
23 accordance with Section 5096.347.

24 (2) The sum of thirty-three million five hundred thousand dollars (\$33,500,000)
25 to the secretary to administer a river parkway and restoration program to assist local
26 agencies and other districts to plan, create, and conserve river parkways. The
27 secretary shall make funds available in accordance with Sections 7048 and 78682.2
28 of the Water Code, and any other applicable authority, for the following purposes:

29 (A) Twenty-five million dollars (\$25,000,000) for the acquisition or restoration
30 of public lands within the Los Angeles River Watershed, the San Gabriel River
31 Watershed, and the San Gabriel Mountains and to provide open space,
32 nonmotorized trails, bike paths, and other low-impact recreational uses and wildlife
33 and habitat restoration and protection. Ten million dollars (\$10,000,000) shall be
34 allocated for the Los Angeles River Watershed, and fifteen million dollars
35 (\$15,000,000) shall be allocated for the San Gabriel River Watershed and the San
36 Gabriel Mountains and lower Los Angeles River.

37 (B) Two million five hundred thousand dollars (\$2,500,000) for river parkway
38 projects along the Kern River between the mouth of the Kern Canyon and I-5.

39 (C) One million dollars (\$1,000,000) for land acquisition in the Santa Clarita
40 Watershed.

41 (D) Three million dollars (\$3,000,000) for watershed, riparian, and wetlands
42 restoration along the Sacramento River in Yolo, Glenn, and Colusa Counties.

1 (E) Two million dollars (\$2,000,000) for the construction of a visitor center at a
2 state recreation area encompassing a body of water along the American River.

3 (3) The sum of two million dollars (\$2,000,000) to the secretary for resource
4 conservation and urban water recycling that addresses multicounty regional
5 recreational needs, provides habitat restoration, and enjoys joint sponsorship by
6 multiple local agencies and nonprofit organizations in the County of Sonoma.

7 (4) The sum of one million one hundred thousand dollars (\$1,100,000) to the
8 secretary, one hundred thousand dollars (\$100,000) of which shall be made
9 available to fund a community center in San Benito County, one hundred thousand
10 dollars (\$100,000) of which shall be made available to fund a veterans park in San
11 Benito County, five hundred thousand dollars (\$500,000) of which shall be made
12 available to fund a community center in the City of Galt, and four hundred thousand
13 dollars (\$400,000) of which shall be made available to fund a community center in
14 the City of Gilroy.

15 (5) The sum of two million dollars (\$2,000,000) to the secretary for Camp Arroyo
16 in Alameda County.

17 (6) The sum of one million dollars (\$1,000,000) to the secretary to construct a
18 rehabilitation center for injured endangered and indigenous wild animals at the
19 Wildhaven Center in the San Bernardino Mountains.

20 **Comment.** Subdivision (v) of Section 5096.310 is amended to reflect the recodification of the
21 former Fish and Game Code. That subdivision is also amended to update a reference to the former
22 Department of Fish and Game. See Fish & Wildlife Code § 1500.

23 **Pub. Res. Code § 5096.323 (amended).**

24 SEC. _____. Section 5096.323 of the Public Resources Code is amended to read:
25 5096.323. Fifty million dollars (\$50,000,000) of the funds allocated pursuant to
26 subdivision (a) of Section 5096.310 shall be expended for the acquisition of land
27 from willing sellers that are a high priority for both the state parks system and for
28 habitat purposes, with priority given to projects that protect habitat for rare,
29 threatened, or endangered species pursuant to a natural community conservation
30 plan adopted pursuant to Chapter 10 (commencing with Section 2800) of Division
31 10 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish
32 and Game Wildlife Code, if the acquisition of the land is conducted in conjunction
33 with a natural community conservation plan approved by the Department of Fish
34 and Game Wildlife prior to January 1, 1999, or if the acquisition is approved by
35 statute. Notwithstanding paragraph (2) of subdivision (a) of Section 5096.310, those
36 land acquisitions may be for either new or existing units of the state park system.

37 **Comment.** Section 5096.323 is amended to reflect the recodification of the former Fish and
38 Game Code. The section is also amended to update a reference to the former Department of Fish
39 and Game. See Fish & Wildlife Code § 1500.

40 **Pub. Res. Code § 5096.350 (amended).**

41 SEC. _____. Section 5096.350 of the Public Resources Code is amended to read:

1 5096.350. (a) Funds appropriated pursuant to subdivision (m) of Section 5096.310
2 shall be available for expenditure by the Wildlife Conservation Board for the
3 acquisition, development, rehabilitation, restoration, and protection of real property
4 benefiting fish and wildlife, for the acquisition, restoration, or protection of habitat
5 that promotes recovery of threatened, endangered, or fully protected species,
6 maintains the genetic integrity of wildlife populations, and serves as corridors
7 linking otherwise separate habitat to prevent habitat fragmentation, and for grants
8 and related state administrative costs pursuant to the Wildlife Conservation Law of
9 1947 (~~Chapter 4 (commencing with Section 1300) of Division 2 Title 1~~
10 ~~(commencing with Section 54700) of Part 2 of Division 15~~ of the Fish and Game
11 Wildlife Code), for the following purposes:

12 (1) Ten million dollars (\$10,000,000) for the acquisition or restoration of wetland
13 habitat, as follows:

14 (A) Five million dollars (\$5,000,000) for the acquisition, preservation, restoration,
15 and establishment, or any combination thereof, of habitat for waterfowl or other
16 wetlands-associated wildlife, as provided for in the Central Valley Habitat Joint
17 Venture Component of the North American Waterfowl Management Plan and the
18 Inland Wetlands Conservation Program, notwithstanding Section 711 3465 of the
19 Fish and Game Wildlife Code. Preference shall be given to projects involving the
20 acquisition of perpetual conservation easements; habitat development projects on
21 lands which will be managed primarily as waterfowl habitat in perpetuity; waterfowl
22 habitat development projects on agricultural lands; the reduction of fishery impacts
23 resulting from supply diversions that have a direct benefit to wetlands and waterfowl
24 habitat; or programs to establish permanent buffer areas, including, but not limited
25 to, agricultural lands that are necessary to preserve the acreage and habitat values of
26 existing wetlands.

27 (B) Five million dollars (\$5,000,000) for the acquisition, development,
28 restoration, and protection of wetlands and adjacent lands, or any combination
29 thereof, located outside the Sacramento-San Joaquin Valley.

30 (2) Ten million dollars (\$10,000,000) for the development, acquisition from a
31 willing seller, or restoration of riparian habitat and watershed conservation
32 programs.

33 (3) Forty-five million dollars (\$45,000,000), upon appropriation by the
34 Legislature, for the restoration, or acquisition from a willing seller, of habitat for
35 threatened and endangered species or for the purpose of promoting the recovery of
36 those species. Five million dollars (\$5,000,000) of that amount shall be for the
37 acquisition of property along the central coast containing coastal terrace prairie,
38 federally listed spineflower, state listed San Francisco popcorn flower, and
39 candidates for federal listing including ohlone tiger beetle and opler's longhorned
40 moth. No funds may be expended pursuant to this paragraph for the acquisition of
41 real property or other actions taken pursuant to ~~Chapter 10 (commencing with~~

1 ~~Section 2800)~~ Title 2 (commencing with Section 64500) of Part 2 of Division 17 of
2 the Fish and Game Wildlife Code.

3 (4) Thirteen million dollars (\$13,000,000) for the acquisition from a willing seller,
4 or restoration of forest lands, including, but not limited to, ancient redwoods and
5 oak woodlands. Not more than five million dollars (\$5,000,000) of this amount shall
6 be expended on the federal Legacy Forest Program (16 U.S.C. Sec. 2103) to meet
7 federal matching requirements and not less than five million dollars (\$5,000,000) of
8 this amount shall be allocated for the preservation of oak woodlands. Not more than
9 five million dollars (\$5,000,000) of this amount shall be expended on the federal
10 Legacy Forest Program (16 U.S.C. Sec. 2103) to meet federal matching
11 requirements and not less than five million dollars (\$5,000,000) of this amount shall
12 be allocated for the preservation of oak woodlands.

13 (5) Eighty-two million five hundred thousand dollars (\$82,500,000), upon
14 appropriation by the Legislature, to match funds contributed by federal or local
15 agencies or nonprofit organizations for the acquisition, restoration, or protection of
16 habitat or habitat corridors that promote the recovery of threatened, endangered, or
17 fully protected species. Projects funded pursuant to this paragraph may include
18 restoration projects authorized pursuant to Public Law 105-372, the Salton Sea
19 Reclamation Act of 1998. The board shall require matching contributions of funds,
20 real property, or other resources from other public agencies, private parties, or
21 nonprofit organizations, at a level designed to obtain the maximum conservation
22 benefits to wildlife and wildlife habitat. No funds may be expended pursuant to this
23 paragraph for the acquisition of real property or other actions taken pursuant to
24 ~~Chapter 10 (commencing with Section 2800)~~ Title 2 (commencing with Section
25 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code.

26 (6) One hundred million dollars (\$100,000,000), upon appropriation by the
27 Legislature, for the purpose of funding the acquisition of real property subject to a
28 natural community conservation plan adopted pursuant to ~~Chapter 10 (commencing~~
29 ~~with Section 2800)~~ Title 2 (commencing with Section 64500) of Part 2 of Division
30 17 of the Fish and Game Wildlife Code, if the acquisition of the real property is
31 conducted in conjunction with a natural community conservation plan approved by
32 the Department of Fish and Game Wildlife prior to January 1, 1999, or if the
33 acquisition is approved by statute.

34 (7) Five million dollars (\$5,000,000) for environmental restoration projects for
35 the following purposes approved pursuant to the Salton Sea Restoration Project
36 authorized by Public Law 105-372, the Salton Sea Reclamation Act of 1998, and
37 identified in the Final Environmental Impact Statement of the Salton Sea
38 Restoration Project:

39 (A) Reduce and stabilize the overall salinity of the Salton Sea.

40 (B) Stabilize the surface elevation of the Salton Sea.

41 (C) Reclaim, in the long term, healthy fish and wildlife resources and their
42 habitats.

1 (D) Enhance the potential for recreational uses of the Salton Sea.

2 (b) Not more than 5 percent of the funds authorized for expenditure by this section
3 may be used for public access and wildlife-oriented public use projects.

4 **Comment.** Section 5096.350 is amended to reflect the recodification of the former Fish and
5 Game Code. The section is also amended to update a reference to the former Department of Fish
6 and Game. See Fish & Wildlife Code § 1500.

7 **Pub. Res. Code § 5096.352 (amended).**

8 SEC. _____. Section 5096.352 of the Public Resources Code is amended to read:

9 5096.352. Funds allocated pursuant to subdivision (o) of Section 5096.310 shall
10 be available for expenditure by the State Coastal Conservancy pursuant to Division
11 21 (commencing with Section 31000) for the acquisition from a willing seller,
12 preservation, restoration, and enhancement of real property or an interest in real
13 property in coastal areas and watersheds within its jurisdiction and the development
14 of public use facilities in those areas in accordance with the following schedule:

15 (a) Twenty-five million dollars (\$25,000,000) for projects funded pursuant to the
16 San Francisco Bay Area Conservancy Program established pursuant to Chapter 4.5
17 (commencing with Section 31160) of Division 21.

18 (b)(1) Twenty-five million dollars (\$25,000,000) shall be made available to the
19 Santa Monica Bay Restoration Project to fund grants to public entities and nonprofit
20 organizations to implement storm water and urban runoff pollution prevention
21 programs, habitat restoration, and other priority actions specified in the Santa
22 Monica Restoration Plan. The Santa Monica Bay Watershed Council shall
23 determine project eligibility and establish grant priority.

24 (2) The Santa Monica Bay Watershed Council or the State Coastal Conservancy
25 may require the grant recipient to provide a portion of matching funds for any
26 funding received. The council or the state conservancy may use the funds as
27 matching funds for federal or other grant funding.

28 (c) Sixty-four million two hundred thousand dollars (\$64,200,000) of the funds
29 available may be expended by the State Coastal Conservancy directly or as grants
30 to government entities and nonprofit organizations for the purposes of Division 21
31 (commencing with Section 31000), and for the following and related purposes,
32 including, but not limited to, the acquisition, enhancement, restoration, protection,
33 and development of coastal resources, beaches, waterfronts, and public accessways
34 in accordance with the following schedule:

35 (1) An amount not to exceed three million dollars (\$3,000,000) may be expended
36 on regional approaches to reduce beach erosion. Up to thirteen million dollars
37 (\$13,000,000) shall be made available for the restoration and protection of the
38 Upper Newport Bay Ecological Reserve.

39 (2) At least fifteen million dollars (\$15,000,000) shall be expended in coastal
40 areas north of the Gualala River.

41 (3) At least twenty-five million dollars (\$25,000,000) shall be expended within
42 Santa Cruz, Monterey, San Luis Obispo, or Santa Barbara Counties. One million

dollars (\$1,000,000) shall be allocated to the City of Monterey to fund public access and open space along the waterfront for the Window on the Bay.

(4) At least five million dollars (\$5,000,000) shall be expended on completion of the Coastal Trail.

(5) Two million dollars (\$2,000,000) shall be dedicated to projects for the Guadalupe River Trail and the San Francisco Bay Ridge Trail.

(d) Twenty-two million dollars (\$22,000,000) may be expended by the State Coastal Conservancy directly or as grants to government entities and nonprofit organizations consistent with Division 21 (commencing with Section 31000), and for administrative costs in connection therewith, for the acquisition, development, rehabilitation, restoration, enhancement, and protection of real property, or other actions that benefit fish and wildlife. At least ten million dollars (\$10,000,000) of those funds shall be expended in coastal areas north of the Gualala River. Eight hundred thousand dollars (\$800,000) shall be spent to restore the arroyo chub, partially armored stickleback, and southern steelhead fisheries to their native creeks of San Mateo Creek, and its tributary Devil Canyon Creek, and San Onofre Creek located in San Diego County.

(e) Twenty-five million dollars (\$25,000,000) shall be available, upon appropriation by the Legislature, to the State Coastal Conservancy and the Department of Fish and Game Wildlife for direct expenditure and for grants to public agencies and nonprofit organizations to protect, restore, acquire, and enhance habitat for salmon. These funds may be used to match federal funding available for those purposes.

(f) Twenty-five million dollars (\$25,000,000) of the funds shall be allocated to acquire, protect, and restore wetlands projects that are a minimum of 400 acres in size in any county with a population greater than 5,000,000.

(g) Twelve million five hundred thousand dollars (\$12,500,000) shall be allocated to acquire land needed to connect important coastal watershed and scenic areas in the Laguna Coast Wilderness Park.

Comment. Section 5096.352 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 5096.357 (amended).


SEC. _____. Section 5096.357 of the Public Resources Code is amended to read:

5096.357. (a) Funds allocated pursuant to paragraph (1) of subdivision (v) of Section 5096.310 shall be available to the Department of Fish and Game Wildlife for the development, enhancement, restoration, and preservation of land pursuant to Sections 1580 and 10503 of, and subdivision (b) of Section 1525 of, Section 58505, subdivision (a) of Section 58715, subdivision (b) of Section 60600, and Sections 60750, 60760, 60765, and 60790 of the Fish and Game Wildlife Code. The provision of these funds shall be in accordance with an expenditure plan developed

1 by the Department of Fish and Game Wildlife and approved by the Department of
2 Finance.

3 (b) Funds allocated pursuant to paragraph (2) of subdivision (v) of Section
4 5096.310 shall be made available to the Department of Fish and Game Wildlife for
5 the exclusive purpose of acquiring habitat preservation and enhancement
6 agreements on private wetlands pursuant to the California Waterfowl Habitat
7 Program—Phase II and administrative costs incurred in connection therewith.
8 Expenditure of those funds shall be consistent with the purposes identified in
9 Section 3702 30540, 30550, or 30555 of the Fish and Game Wildlife Code.

10 **Comment.** Section 5096.357 is amended to reflect the recodification of the former Fish and
11 Game Code. The section is also amended to update references to the former Department of Fish
12 and Game. See Fish & Wildlife Code § 1500.

13  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
14 sections that are cross-referenced in the section above have been continued in several different
15 sections of the proposed Fish and Wildlife Code.

16 **The Commission requests public comment on the proposed conforming revision of those**
17 **provisions in the section above.**

18 **Pub. Res. Code § 5096.372 (amended).**

19 SEC. _____. Section 5096.372 of the Public Resources Code is amended to read:

20 5096.372. (a) The Legislature hereby finds and declares that, inasmuch as the
21 proceeds from the sale of bonds authorized by this chapter are not “proceeds of
22 taxes” as that term is used in Article XIII B of the California Constitution, the
23 disbursement of these proceeds is not subject to the limitations imposed by that
24 article.

25 (b) Funds provided pursuant to this chapter, and any appropriation or transfer of
26 those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter
27 9 (commencing with Section 2780) of Division 3 Title 5 (commencing with Section
28 55800) of Part 2 of Division 15 of the Fish and Game Wildlife Code.

29 **Comment.** Section 5096.372 is amended to reflect the recodification of the former Fish and
30 Game Code.

31 **Pub. Res. Code § 5096.512 (amended).**

32 SEC. _____. Section 5096.512 of the Public Resources Code is amended to read:

33 5096.512. (a) In addition to the review by the Department of General Services
34 pursuant to Section 1348.2 54830 of the Fish and Game Wildlife Code, the appraisal
35 prepared for a major acquisition of land shall be reviewed by a qualified independent
36 appraiser retained by the acquisition agency for this purpose, and who meets the
37 following conditions:

38 (1) The review appraiser did not conduct the appraisal pursuant to Section
39 5096.510 and has no financial interest in the major acquisition.

40 (2) The review appraiser is licensed pursuant to Part 3 (commencing with Section
41 11300) of Division 4 of the Business and Professions Code.

1 (b) The review appraiser shall review the appraisal and prepare an appraisal
2 review report, in a narrative format, that does all of the following:

3 (1) Summarizes the appraisal.

4 (2) States the basis on which the value of the land was established.

5 (3) Describes the standards used to prepare the appraisal.

6 (4) Determines whether or not the appraisal meets the standards established under
7 the Uniform Standards of Professional Appraisal Practice.

8 (c) The appraisal review report need not include any proprietary information
9 provided by or on behalf of the seller or that is otherwise exempt from public
10 disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing
11 with Section 6250) of Division 7 of Title 1 of the Government Code).

12 (d)(1) If a major acquisition of conservation lands will be approved by more than
13 one acquisition agency and each acquisition agency complies with paragraph (2),
14 not more than one independent appraisal is required pursuant to Section 5096.510,
15 and not more than one appraisal review report is required pursuant to this section.

16 (2) Paragraph (1) is applicable if each acquisition agency does all of the following:

17 (A) Utilizes the independent appraisal and appraisal review report, as required by
18 this chapter.

19 (B) Makes an independent determination of whether to approve the major
20 acquisition of conservation lands.

21 (C) Complies with all of the public disclosure and independent review
22 requirements of this chapter.

23 (e) An acquisition agency shall not utilize property acreage as a categorical
24 threshold to impose an independent review of an appraisal pursuant to this section.
25 However, this prohibition does not prohibit an agency from otherwise considering
26 possible impacts from the acquisition of a large acreage property.

27 **Comment.** Section 5096.512 is amended to reflect the recodification of the former Fish and
28 Game Code.

29 **Pub. Res. Code § 5096.516 (amended).**

30 SEC. _____. Section 5096.516 of the Public Resources Code is amended to read:

31 5096.516. (a) Except as provided in subdivision (c), conservation lands may not
32 be sold to another owner, or have possession and control transferred to another
33 agency, unless all of the following occur:

34 (1) The selling or transferring agency prepares and makes available to the public
35 a detailed report that identifies why the conservation lands no longer serve a needed
36 conservation purpose.

37 (2) The selling or transferring agency holds a duly noticed public hearing to accept
38 public comment on the proposed sale or transfer of conservation lands.

39 (3) After compliance with paragraphs (1) and (2), the selling or transferring
40 agency finds, based on substantial evidence, that the property no longer serves a
41 needed conservation purpose.

(4) The sale or transfer of the land is authorized or approved as part of the annual Budget Act or pursuant to specific legislation authorizing the sale or transfer.

(b) Proceeds from the sale or transfer of conservation lands shall be used solely for one or more of the following purposes:

(1) The acquisition of conservation lands to achieve the same or equivalent objectives as the original acquisition of the property that was sold or transferred.

(2) To further the purposes of Division 21 (commencing with Section 31000).

(3) The acquisition of wildlife habitat to further the purposes of the Wildlife Conservation Law of 1947 (~~Chapter 4 (commencing with Section 1300) of Division 2 Title 1 (commencing with Section 54700) of Part 2 of Division 15 of the Fish and Game Wildlife Code~~).

(4) The acquisition of wildlife habitat to further the purposes ~~Article 2 (commencing with Section 1410) of Chapter 4.3 of Division 2 Chapter 2 (commencing with Section 57550) of Title 11 of Part 2 of Division 15 of the Fish and Game Wildlife Code~~.

(c) This section does not apply to any of the following:

(1) The sale or transfer of conservation lands solely for the purpose of boundary adjustments or consolidation of property ownership.

(2) The sale or transfer of lands subject to a conservation easement to keep lands in agricultural production.

(3) The sale or transfer to other public agencies or nonprofit organizations to improve conservation management, public access, historic preservation, or to protect or enhance the biological value of conservation lands.

(4) The sale or transfer of conservation lands by the State Coastal Conservancy when the sale or transfer of interests in land is provided for, consistent with Division 21 (commencing with Section 31000), at the time of acquisition of real property.

(5) The exchange of conservation lands for land of greater biological value as wildlife habitat.

(6) The sale or transfer of conservation lands that have a fair market value of less than one million dollars (\$1,000,000).

(d) The requirements imposed by this section are in addition to any other requirements imposed by law or regulation.

Comment. Subdivision (b) of Section 5096.516 is amended to reflect the recodification of the former Fish and Game Code.

Pub. Res. Code § 5096.650 (amended).

SEC. _____. Section 5096.650 of the Public Resources Code is amended to read:

5096.650. The one billion two hundred seventy-five million dollars (\$1,275,000,000) allocated pursuant to subdivision (c) of Section 5096.610 shall be available for the acquisition and development of land, air, and water resources in accordance with the following schedule:

(a) Notwithstanding Section 13340 of the Government Code, the sum of three hundred million dollars (\$300,000,000) is continuously appropriated to the Wildlife Conservation Board for the acquisition, development, rehabilitation, restoration, and protection of habitat that promotes the recovery of threatened and endangered species, that provides corridors linking separate habitat areas to prevent habitat fragmentation, and that protects significant natural landscapes and ecosystems such as old growth redwoods and oak woodlands and other significant habitat areas; and for grants and related state administrative costs pursuant to the Wildlife Conservation Law of 1947 (~~Chapter 4 (commencing with Section 1300) of Division 2 Title 1 (commencing with Section 54700) of Part 2 of Division 15~~ of the Fish and Game Wildlife Code). Funds scheduled in this subdivision may be used to prepare management plans for properties acquired in fee by the Wildlife Conservation Board.

(b) The sum of four hundred forty-five million dollars (\$445,000,000) to the conservancies in accordance with the particular provisions of the statute creating each conservancy for the acquisition, development, rehabilitation, restoration, and protection of land and water resources; for grants and state administrative costs; and in accordance with the following schedule:

(1)	To the State Coastal Conservancy	\$200,000,000
(2)	To the California Tahoe Conservancy	\$ 40,000,000
(3)	To the Santa Monica Mountains Conservancy	\$ 40,000,000
(4)	To the Coachella Valley Mountains Conservancy	\$ 20,000,000
(5)	To the San Joaquin River Conservancy	\$ 25,000,000
(6)	To the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	\$ 40,000,000
(7)	To the Baldwin Hills Conservancy	\$ 40,000,000
(8)	To the San Francisco Bay Area Conservancy Program	\$ 40,000,000

(c) The sum of three hundred seventy-five million dollars (\$375,000,000) shall be available for grants to public agencies and nonprofit organizations for acquisition, development, restoration, and associated planning, permitting, and administrative

1 costs for the protection and restoration of water resources in accordance with the
2 following schedule:

3 (1) The sum of seventy-five million dollars (\$75,000,000) to the secretary for the
4 acquisition and development of river parkways and for protecting urban streams.
5 The secretary shall make funds available in accordance with Sections 7048 and
6 78682.2 of the Water Code, and pursuant to any other applicable statutory
7 authorization. Not less than five million dollars (\$5,000,000) shall be available for
8 grants for the urban streams program, pursuant to Section 7048 of the Water Code.

9 (2) The sum of three hundred million dollars (\$300,000,000) shall be available for
10 the purposes of clean beaches, watershed protection, and water quality projects to
11 protect beaches, coastal waters, rivers, lakes, and streams from contaminants,
12 pollution, and other environmental threats.

13 (d)(1) The sum of fifty million dollars (\$50,000,000) to the State Air Resources
14 Board for grants to air districts pursuant to Chapter 9 (commencing with Section
15 44275) of Part 5 of Division 26 of the Health and Safety Code for projects that
16 reduce air pollution that affects air quality in state and local park and recreation
17 areas. Eligible projects shall meet the requirements of Section 16727 of the
18 Government Code and shall be consistent with Section 43023.5 of the Health and
19 Safety Code, if Assembly Bill 1390 of the 2001–02 Regular Session of the
20 Legislature is enacted on or before January 1, 2003. Each air district shall be eligible
21 for grants of not less than two hundred thousand dollars (\$200,000). Not more than
22 5 percent of the funds allocated to an air district may be used to cover the costs
23 associated with implementing the grant program.

24 (2) Allocations of funds pursuant to this subdivision to the Lower-Emission
25 School Bus Program shall be prioritized to retrofit or replace the most polluting
26 schoolbuses in small air districts first and then to medium air districts as defined by
27 the State Air Resources Board. Each allocation for this purpose shall provide enough
28 funding for at least one project to be implemented pursuant to the Lower-Emission
29 School Bus Program adopted by the State Air Resources Board. If a local air district
30 has unspent funds within six months of the expenditure deadline, the air district shall
31 work with the State Air Resources Board to transfer funds to an alternative air
32 district with existing demand.

33 (e) The sum of twenty million dollars (\$20,000,000) to the California
34 Conservation Corps for the acquisition, development, restoration, and rehabilitation
35 of land and water resources, and for grants and state administrative costs in
36 accordance with the following schedule:

37 (1) The sum of five million dollars (\$5,000,000) shall be available for resource
38 conservation activities.

39 (2) The sum of fifteen million dollars (\$15,000,000) shall be available for grants
40 to local conservation corps for acquisition and development of facilities to support
41 local conservation corps programs.

1 (f) The sum of seventy-five million dollars (\$75,000,000) shall be available for
2 grants for the preservation of agricultural lands and grazing lands, including oak
3 woodlands and grasslands.

4 (g) The sum of ten million dollars (\$10,000,000) to the Department of Forestry
5 and Fire Protection for grants for urban forestry programs pursuant to the California
6 Urban Forestry Act of 1978 (Chapter 2 (commencing with Section 4799.06) of Part
7 2.5 of Division 1).

8 **Comment.** Subdivision (a) of Section 5096.650 is amended to reflect the recodification of the
9 former Fish and Game Code.

10 **Pub. Res. Code § 5096.679 (amended).**

11 SEC. _____. Section 5096.679 of the Public Resources Code is amended to read:

12 5096.679. (a) The Legislature hereby finds and declares that, inasmuch as the
13 proceeds from the sale of bonds authorized by this chapter are not “proceeds of
14 taxes” as that term is used in Article XIII B of the California Constitution, the
15 disbursement of these proceeds is not subject to the limitations imposed by that
16 article.

17 (b) Funds provided pursuant to this chapter, and any appropriation or transfer of
18 those funds, shall not be deemed to be a transfer of funds for the purposes of ~~Chapter~~
19 ~~9 (commencing with Section 2780) of Division 3 Title 5 (commencing with Section~~
20 ~~55800) of Part 2 of Division 15~~ of the Fish and Game Wildlife Code.

21 **Comment.** Section 5096.679 is amended to reflect the recodification of the former Fish and
22 Game Code.

23 **Pub. Res. Code § 5096.821 (amended).**

24 SEC. _____. Section 5096.821 of the Public Resources Code is amended to read:

25 5096.821. Three billion dollars (\$3,000,000,000) shall be available, upon
26 appropriation to the department, for the following purposes:

27 (a) The evaluation, repair, rehabilitation, reconstruction, or replacement of levees,
28 weirs, bypasses, and facilities of the State Plan of Flood Control by all of the
29 following actions:

30 (1) Repairing erosion sites and removing sediment from channels or bypasses.

31 (2) Evaluating and repairing levees and any other facilities of the State Plan of
32 Flood Control.

33 (3) Implementing mitigation measures for a project undertaken pursuant to this
34 subdivision. The department may fund participation in a natural community
35 conservation plan pursuant to ~~Chapter 10 (commencing with Section 2800) of~~
36 ~~Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division 17~~ of the
37 Fish and Game Wildlife Code to facilitate projects authorized by this subdivision.

38 (b) Improving or adding facilities to the State Plan of Flood Control to increase
39 levels of flood prevention for urban areas, including all related costs for mitigation
40 and infrastructure relocation. Funds made available by this subdivision may be
41 expended for state financial participation in federal and state authorized flood

1 control projects, feasibility studies and design of federal flood damage reduction
2 and related projects, and reservoir reoperation and groundwater flood storage
3 projects. Not more than two hundred million dollars (\$200,000,000) may be
4 expended on a single project, excluding authorized flood control improvements to
5 Folsom Dam.

6 (c)(1) To reduce the risk of levee failure in the delta.

7 (2) The funds made available for the purpose specified in paragraph (1) shall be
8 expended for both of the following purposes:

9 (A) Local assistance under the delta levee maintenance subventions program
10 under Part 9 (commencing with Section 12980) of Division 6 of the Water Code, as
11 that part may be amended.

12 (B) Special flood protection projects under Chapter 2 (commencing with Section
13 12310) of Part 4.8 of Division 6 of the Water Code, as that chapter may be amended.

14 **Comment.** Section 5096.821 is amended to reflect the recodification of the former Fish and
15 Game Code.

16 **Pub. Res. Code § 5099.12 (amended).**

17 SEC. _____. Section 5099.12 of the Public Resources Code is amended to read:

18 5099.12. (a) Of the annual apportionment of funds received by the director
19 pursuant to this chapter, 60 percent shall be allocated for local governmental agency
20 projects and 40 percent for state agency projects. The state agency share shall be
21 disbursed to the following state agencies in the following percentages: 60 percent
22 to the Department of Parks and Recreation; 35 percent to the Wildlife Conservation
23 Board or the Department of Fish and Game Wildlife; and 5 percent to the
24 Department of Water Resources. The State Coastal Conservancy established
25 pursuant to Section 31100 is eligible to compete for grants of funds for projects of
26 an outdoor recreational nature from the 6-percent contingency fund established by
27 this section.

28 (b) If either the state or local governmental agencies are unable to utilize their
29 allocation of funds, the director shall allocate the uncommitted funds to those state
30 or local governmental agencies that are in position to take advantage of the funds
31 during the year in which they are allocated. The 60-percent allocation for local
32 governmental agency projects and the 40-percent allocation to state agency projects
33 shall not be computed until the costs of maintaining and keeping up to date the plan
34 required pursuant to Section 5099.2 and an additional 6 percent for deposit to a
35 contingency fund have been deducted.

36 **Comment.** Section 5099.12 is amended to update a reference to the former Department of Fish
37 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
38 designations.

39 **Pub. Res. Code § 5675 (amended).**

40 SEC. _____. Section 5675 of the Public Resources Code is amended to read:

1 5675. The program established by this chapter shall be administered jointly by the
2 Department of Parks and Recreation and the Department of Fish and Game Wildlife
3 and shall be funded by moneys appropriated from the Resources Account in the
4 Energy and Resources Fund to the Department of Parks and Recreation for local
5 assistance grants for urban fishing projects pursuant to category (b) of Item 379-
6 101-190 of the Budget Act of 1981 and pursuant to provisions of any budget acts
7 enacted subsequent thereto that appropriate funds for the program.

8 **Comment.** Section 5675 is amended to update a reference to the former Department of Fish and
9 Game. See Fish & Wildlife Code § 1500.

10 **Pub. Res. Code § 5676 (amended).**

11 SEC. _____. Section 5676 of the Public Resources Code is amended to read:

12 5676. The Department of Parks and Recreation shall have principal responsibility
13 for the review and approval of proposals for rehabilitating urban lakes in accordance
14 with the eligibility requirements, evaluative criteria, and procedures specified in this
15 chapter and for the administration of grants made pursuant to this chapter. The
16 Department of Fish and Game Wildlife shall be responsible for determining the
17 rehabilitative potential of lakes proposed for funding and shall serve primarily in a
18 technical and advisory capacity. The final decision to provide funding for each
19 project shall be based on the cooperative deliberation and mutual determination of
20 both departments.

21 **Comment.** Section 5676 is amended to update a reference to the former Department of Fish and
22 Game. See Fish & Wildlife Code § 1500.

23 **Pub. Res. Code § 5684 (amended).**

24 SEC. _____. Section 5684 of the Public Resources Code is amended to read:

25 5684. This chapter is not intended, nor shall it be construed, to authorize either
26 the Department of Parks and Recreation or the Department of Fish and Game
27 Wildlife to establish any additional personnel positions or create any new
28 administrative section in connection with the program established by this chapter.

29 **Comment.** Section 5684 is amended to update a reference to the former Department of Fish and
30 Game. See Fish & Wildlife Code § 1500.

31 **Pub. Res. Code § 5812 (amended).**

32 SEC. _____. Section 5812 of the Public Resources Code is amended to read:

33 5812. As used in this chapter, unless the context clearly requires a different
34 meaning, the following terms mean:

35 (a) "Agency" means the Resources Agency.

36 (b) "Departments" means the Department of Parks and Recreation, the
37 Department of Fish and Game Wildlife, and the California Coastal Conservancy.

38 **Comment.** Section 5812 is amended to update a reference to the former Department of Fish and
39 Game. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 5814 (amended).**

2 SEC. _____. Section 5814 of the Public Resources Code is amended to read:

3 5814. (a) The agency shall update all of the state's existing wetlands inventory
4 resources in order to prepare a study to accomplish the following goals:

5 (1) To identify the restoration and enhancement opportunities in the state for
6 wetlands in public ownership.

7 (2) To identify means of protecting and enhancing existing wetlands in public
8 ownership and to identify additional recreational benefits and opportunities that are
9 compatible with the primary goal of maximizing the habitat value of wetlands.

10 (3) To identify opportunities for voluntary public-private partnerships for
11 wetlands restoration, enhancement, and management on private lands.

12 (4) To identify those wetlands of particular significance in the state that are not
13 currently in public ownership for which there is believed to be a willing seller.

14 (5) To identify additional recreational benefits that can be provided on existing,
15 restored, or newly created wetlands in public ownership or for which there is a
16 cooperative agreement for public use by a private landowner and a local, state, or
17 federal agency.

18 (6) To provide a basis for the inclusion of wetlands data and information in the
19 California Continuing Resources Investment Strategy Project (CCRISP), which was
20 funded in the Budget Act of 2000.

21 (7) To identify, utilizing existing resources, wetlands on lands owned by federal
22 agencies in California and those wetlands that are protected by existing wetlands
23 management and conservation mandates imposed by federal law.

24 (8) To identify, in conjunction with the Office of Planning and Research, those
25 instances where lead agencies have adopted mitigation measures pursuant to
26 Division 13 (commencing with Section 21000), or natural community conservation
27 plans prepared pursuant to ~~Chapter 10 (commencing with Section 2800)~~ Title 2
28 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and Game
29 Wildlife Code, that utilize or reference wetland resources located on lands owned
30 by the United States Department of Defense.

31 (b) The agency shall consult and cooperate with counties, cities, other appropriate
32 state and federal agencies with an interest in wetlands resources, and willing
33 landowners in conducting the study. The study shall be submitted to the Legislature
34 not later than January 1, 2003, and shall set forth, for consideration by the
35 Legislature, a plan for the acquisition, protection, preservation, restoration, and
36 enhancement of wetlands, including funding requirements and the priority status of
37 specific proposed wetlands projects.

38 **Comment.** Section 5814 is amended to reflect the recodification of the former Fish and Game
39 Code, and to make a technical correction.

40 **Pub. Res. Code § 5817 (amended).**

41 SEC. _____. Section 5817 of the Public Resources Code is amended to read:

1 5817. Any of the departments may enter into operating agreements with cities,
2 counties, and districts for the management and control of wetlands, or interests in
3 wetlands, acquired pursuant to this chapter. However, any agreement shall ensure
4 the protection and preservation of the wetlands and ensure the right of use and
5 enjoyment of the wetlands by the people of the state. Further, any agreement entered
6 into by the Department of Fish and Game Wildlife pursuant to this section shall
7 provide that public use of lands and waters subject to the agreement shall be in
8 accordance with regulations adopted by the Fish and Game Commission.

9 **Comment.** Section 5817 is amended to update a reference to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Pub. Res. Code § 5818.1 (amended).**

12 SEC. _____. Section 5818.1 of the Public Resources Code is amended to read:

13 5818.1. The Coastal Wetlands Fund is hereby established in the State Treasury
14 and shall be an interest-bearing fund administered by the Department of Fish and
15 Game Wildlife.

16 **Comment.** Section 5818.1 is amended to update a reference to the former Department of Fish
17 and Game. See Fish & Wildlife Code § 1500.

18 **Pub. Res. Code § 5818.2 (amended).**

19 SEC. _____. Section 5818.2 of the Public Resources Code is amended to read:

20 5818.2. (a)(1) The funds in the Coastal Wetlands Fund may be expended by the
21 Department of Fish and Game Wildlife and the State Coastal Conservancy, upon
22 appropriation by the Legislature, for the maintenance of coastal wetlands property
23 owned by the state, a conservancy of the state, a local government agency, or a
24 nonprofit organization.

25 (2) The funds in the Coastal Wetlands Fund may be expended by the state
26 pursuant to this section in the form of grants.

27 (3) An applicant may apply to the State Coastal Conservancy for a grant pursuant
28 to the grant application procedures in Division 21 (commencing with Section
29 31000) to perform maintenance of coastal wetlands property owned by the state, a
30 conservancy of the state, a local government agency, or a nonprofit organization.

31 (b) The Department of Fish and Game Wildlife and the State Coastal Conservancy
32 may accept contributions to the Coastal Wetlands Fund. The sources of
33 contributions that may be accepted include, but are not limited to, private
34 individuals and organizations, nonprofit organizations, and federal, state, and local
35 agencies including special districts. The contributions accepted may include moneys
36 identified pursuant to the California Environmental Quality Act (Division 13
37 (commencing with Section 21000)) or the National Environmental Policy Act of
38 1969 (42 U.S.C. Sec. 4321 et seq.) as acceptable mitigation for development
39 projects. The Department of Fish and Game Wildlife and the State Coastal
40 Conservancy shall deposit a contribution accepted pursuant to this subdivision in
41 the Coastal Wetlands Fund, subject to the requirements of Section 5818.1.

1 **Comment.** Section 5818.2 is amended to update references to the former Department of Fish
2 and Game. See Fish & Wildlife Code § 1500.

3 **Pub. Res. Code § 5845.2 (amended).**

4 SEC. _____. Section 5845.2 of the Public Resources Code is amended to read:

5 5845.2. For purposes of this chapter, the following definitions apply:

6 (a) “Adjacent to” means downstream of the Nimbus Dam and next to or in the
7 immediate vicinity of the American River Parkway.

8 (b) “Advisory committee” means the advisory committee established pursuant to
9 Section 5845.4.

10 (c) “American River Parkway” means those portions of the area described in the
11 American River Parkway Plan between the Nimbus Dam and the confluence of the
12 American River with the Sacramento River.

13 (d) “American River Parkway Plan” has the same meaning as in subdivision (a)
14 of Section 5841.

15 (e) “Board” means the Wildlife Conservation Board established pursuant to
16 Section 1320 54750 of the Fish and Game Wildlife Code.

17 (f) “Fund” means the Lower American River Conservancy Fund established
18 pursuant to Section 5845.9.

19 (g) “Nonprofit organization” means a private, nonprofit organization, with
20 nonprofit status acknowledged by the United States Internal Revenue Service, that
21 qualifies under Section 501(c)(3) of the Internal Revenue Code, as amended, and
22 that has among its principal charitable purposes the preservation, restoration, or
23 interpretation of land for scientific, historic, educational, recreational, scenic, or
24 open-space purposes, the protection of the natural environment or biological
25 resources, or both, or the preservation or enhancement of wildlife, or both.

26 (h) “Parkway Manager” means the Sacramento County Board of Supervisors or
27 its designee.

28 (i) “Program” means the Lower American River Conservancy Program
29 established pursuant to Section 5845.3.

30 **Comment.** Section 5845.2 is amended to reflect the recodification of the former Fish and Game
31 Code.

32 **Pub. Res. Code § 5907 (amended).**

33 SEC. _____. Section 5907 of the Public Resources Code is amended to read:

34 5907. All money deposited in the fund shall be available for expenditure, in
35 accordance with Section 5921, for the purposes set forth below, in amounts not to
36 exceed the following:

37 (a) One hundred sixty-six million dollars (\$166,000,000) to the Department of
38 Parks and Recreation for grants to counties, cities, cities and counties, districts, and
39 nonprofit organizations for acquisition, development, rehabilitation, or restoration
40 of real property for parks, beaches, wildlife habitat, natural lands, recreation, or
41 preservation of historical resources, including an amount not to exceed two million

1 four hundred ninety thousand dollars (\$2,490,000) for state administrative costs, in
2 accordance with the following schedule:

3 (1) One hundred twenty million dollars (\$120,000,000) for grants to counties,
4 cities, and districts on a per capita basis for the acquisition, development,
5 rehabilitation, or restoration of real property for parks, beaches, wildlife habitat,
6 natural lands, and recreation, except that each county is entitled to not less than one
7 hundred thousand dollars (\$100,000).

8 (2) Twenty million dollars (\$20,000,000) for expenditure by the Department of
9 Parks and Recreation for the purpose of the Roberti-Z'berg-Harris Urban Open
10 Space and Recreation Program Act (Chapter 3.2 (commencing with Section 5620)
11 of Division 5 of the Public Resources Code).

12 (3) Ten million dollars (\$10,000,000) for competitive grants for park, beach, and
13 recreational purposes to public agencies which provide significant park and
14 recreational opportunities to the general public and are not eligible for grants
15 pursuant to paragraph (1).

16 (4) Eleven million dollars (\$11,000,000) for competitive grants to public agencies
17 and nonprofit organizations for acquisition, development, rehabilitation, or
18 restoration of historical or archeological resources and for historical and
19 archeological resources preservation projects and costs of planning and
20 interpretation. Not less than one million dollars (\$1,000,000) shall be used for
21 archeological resources preservation purposes.

22 (5) Five million dollars (\$5,000,000) for competitive grants to public agencies and
23 nonprofit organizations for acquisition and development of land and rights-of-way
24 for bicycle, horse, hiking, and handicapped access trails.

25 (b) Three hundred thirty-eight million seven hundred thousand dollars
26 (\$338,700,000) to the Department of Parks and Recreation for acquisition of
27 parklands, wildlife habitat, coastal, and natural lands in California, and for grants to
28 local agencies and nonprofit organizations, including an amount not to exceed five
29 million eighty thousand five hundred dollars (\$5,080,500) for state administrative
30 costs, in accordance with the following schedule:

31 (1) Ninety-eight million six hundred thousand dollars (\$98,600,000) to the
32 Department of Parks and Recreation for acquisition of real property in accordance
33 with the following schedule:

34 (A) Twelve million dollars (\$12,000,000) for acquisition of land for the California
35 Redwood State Parks, including, but not limited to, Big Basin Redwoods, Butano,
36 Calaveras Big Trees, Forest of Nisene Marks, Hendy Woods, Humboldt Lagoons,
37 Humboldt Redwoods, Jedediah Smith Redwoods, Portola, Prairie Creek Redwoods,
38 Richardson Grove, and Sinkyone Wilderness State Parks; Benbow Lake State
39 Recreation Area, Fort Ross State Historical Park, and Paul M. Dimmick State
40 Wayside Campground; provided that each dollar up to at least ten million dollars
41 (\$10,000,000) from the funds to be spent pursuant to this subparagraph shall be

1 matched with an equal amount in money or property from private gifts, city or
2 county appropriations, or alternative sources other than the State of California.

3 (B) Five million dollars (\$5,000,000) for acquisition of land within and adjacent
4 to Anza-Borrego Desert State Park.

5 (C) Nineteen million dollars (\$19,000,000) for acquisition of land in the Palm
6 Canyon and Andreas Canyon region near Palm Springs for a park for the
7 preservation of Indian heritage and of native palms.

8 (D) Seven million dollars (\$7,000,000) for acquisition of lands in accordance with
9 the general plan for the Chino Hills State Park, including the lands north of Highway
10 142.

11 (E) Ten million dollars (\$10,000,000) for acquisition of land for additions to the
12 Santa Susana Mountain Project to preserve historic and scenic sites, for hiking and
13 equestrian trails, or for wildlife habitat and migration routes; provided that all
14 acquisitions shall be located within the Rim of the Valley Corridor as defined in
15 Section 33105.5 within the Simi Hills or Santa Susana Mountains in Los Angeles
16 and Ventura Counties.

17 (F) Two million dollars (\$2,000,000) for acquisitions within and adjacent to Big
18 Basin Redwoods State Park and Castle Rock State Park in the Santa Cruz
19 Mountains.

20 (G) Three million dollars (\$3,000,000) for acquisition of lands in Santa Clara
21 County within and adjacent to Henry Coe State Park and for lands in Stanislaus
22 County within the park.

23 (H) One million dollars (\$1,000,000) for acquisition of natural lands for expansion
24 of Pescadero Marsh Natural Preserve at Pescadero State Beach.

25 (I) Twenty-five million dollars (\$25,000,000) for acquisition of land for an East
26 Bay Shoreline State Park in the Counties of Alameda or Contra Costa, or both,
27 generally in accordance with the East Bay Shoreline feasibility study.

28 (J) Four million dollars (\$4,000,000) for acquisition of natural lands within and
29 adjacent to Mt. Diablo State Park.

30 (K) Four million dollars (\$4,000,000) for implementation of the Frank's Tract
31 State Recreation Area General Plan with first priority given to the western portion,
32 providing secondary wave protection benefits to adjacent islands.

33 (L) One million six hundred thousand dollars (\$1,600,000) for acquisition of
34 wetlands in and adjacent to the Delta Meadows Project.

35 (M) Two million dollars (\$2,000,000) for acquisition of natural lands within and
36 adjacent to Robert Louis Stevenson State Park.

37 (N) One million dollars (\$1,000,000) for expansion of Anderson Marsh State
38 Historic Park.

39 (O) Two million dollars (\$2,000,000) for expansion of the South Yuba Project
40 along the South Fork of the Yuba River to protect scenic vistas and riparian habitat
41 and to provide for recreational trails.

1 (2) Fifty-four million seven hundred thousand dollars (\$54,700,000) for
2 acquisition, development, rehabilitation, or restoration of real property in the state
3 park system in accordance with the following schedule:

4 (A) Four million seven hundred thousand dollars (\$4,700,000) for acquisitions of
5 real property inside the boundaries of existing projects or units or as additions to
6 existing projects or units.

7 (B) Fourteen million dollars (\$14,000,000) for development, rehabilitation, or
8 restoration of coastal resources, other than coastal resources in or on San Francisco
9 Bay, in accordance with the following schedule:

10 (i) Eight million dollars (\$8,000,000) within San Diego County through Santa
11 Barbara County.

12 (ii) Four million dollars (\$4,000,000) within San Luis Obispo County through the
13 City and County of San Francisco.

14 (iii) Two million dollars (\$2,000,000) within Marin County through Del Norte
15 County.

16 (C) Three million dollars (\$3,000,000) for development, rehabilitation, or
17 restoration of resources in or on San Francisco Bay.

18 (D) Eight million dollars (\$8,000,000) for development, rehabilitation, or
19 restoration of inland resources.

20 (E) Two million dollars (\$2,000,000) for development, rehabilitation, or
21 restoration at lakes, reservoirs, and waterways, including the State Water Facilities,
22 as defined in paragraphs (1) to (4), inclusive, of subdivision (d) of Section 12934 of
23 the Water Code.

24 (F) One million dollars (\$1,000,000) for the repair of storm damage and
25 construction to prevent future storm damage.

26 (G) Three million dollars (\$3,000,000) for planning, development, rehabilitation,
27 restoration, or interpretive facilities in support of volunteer community action
28 projects for the state park system.

29 (H) Ten million dollars (\$10,000,000) for the increased stewardship of the public
30 investment in the protection of the most critical natural and scenic features of the
31 existing state park system.

32 (I) Five million dollars (\$5,000,000) for rehabilitation and restoration of historical
33 resources of the state park system.

34 (J) Three million dollars (\$3,000,000) for development and rehabilitation of trails
35 within the state park system or connecting units of the state park system.

36 (K) One million dollars (\$1,000,000) for acquisition and development of
37 trailheads for the Sno-Park program pursuant to Chapter 1.27 (commencing with
38 Section 5091.01) of Division 5, including access to the Tahoe Rim Trail.

39 (3) One hundred eighty-five million four hundred thousand dollars
40 (\$185,400,000) to the Department of Parks and Recreation for grants to local
41 agencies in accordance with the following schedule:

1 (A) Thirty million dollars (\$30,000,000) for a grant to San Diego County in
2 accordance with the following schedule:

3 (i) Ten million dollars (\$10,000,000) for acquisition of natural lands in the San
4 Dieguito River Valley.

5 (ii) Ten million dollars (\$10,000,000) for acquisition of natural lands in the
6 Tijuana River Valley.

7 (iii) Ten million dollars (\$10,000,000) for acquisition of San Diego County
8 resource conservation areas and urban canyons in accordance with the resource
9 element of the County General Plan.

10 (B) Ten million dollars (\$10,000,000) for a grant to the City of Laguna Beach for
11 acquisition of, and for grants by the city to nonprofit organizations for acquisition
12 of, natural lands within and contiguous to the Laguna Greenbelt as described in the
13 Orange County General Plan.

14 (C) Four million dollars (\$4,000,000) for a grant to the City of Irvine for
15 acquisition of natural lands in the open space spine designated in the City of Irvine
16 General Plan.

17 (D) Eleven million dollars (\$11,000,000) for a grant to the City of Riverside in
18 accordance with the following schedule:

19 (i) One million dollars (\$1,000,000) for acquisition of natural lands in Sycamore
20 Canyon Wilderness Park in accordance with the City of Riverside Specific Plan.

21 (ii) Ten million dollars (\$10,000,000) for acquisition of land in and near the
22 California Citrus State Historic Park located in the Arlington Heights area of
23 Riverside.

24 (E) Two million four hundred thousand dollars (\$2,400,000) for a grant to the
25 County of Riverside in accordance with the following schedule:

26 (i) Four hundred thousand dollars (\$400,000) for acquisition of land to expand
27 Hurkey Creek Park.

28 (ii) One million dollars (\$1,000,000) for acquisition of land for trails in the Santa
29 Ana River Corridor.

30 (iii) One million dollars (\$1,000,000) for acquisition of land for trails suitable for
31 equestrian and hiking uses in Riverside County, including the Temescal Canyon
32 Trail.

33 (F) Twenty million dollars (\$20,000,000) for a grant to the County of San
34 Bernardino for acquisition of land primarily through the use of conservation
35 easements within the Chino Agricultural Preserve.

36 (G) Twenty-five million dollars (\$25,000,000) for a grant to Los Angeles County
37 in accordance with the following schedule:

38 (i) Ten million dollars (\$10,000,000) for acquisition or development of
39 noncommercial visitor use and access facilities, and/or renovation of existing
40 facilities at county, state, or city beaches operated by Los Angeles County.

1 (ii) Ten million dollars (\$10,000,000) for acquisition of land for the Baldwin Hills
2 State Recreation Area in accordance with the general plan for Baldwin Hills State
3 Recreation Area.

4 (iii) Five million dollars (\$5,000,000) for acquisition of natural lands to establish
5 the Brea Heights Regional County Park.

6 (H) Seven million dollars (\$7,000,000) for a grant to the County of Santa Barbara
7 for acquisition of natural lands, wildlife habitat, wetlands, and agricultural land
8 preservation, in incorporated and unincorporated areas, in accordance with the
9 following schedule, except that expenditures for nonagricultural lands shall be
10 limited to acquisition of lands in the Coastal Zone and shall be of sufficient size to
11 be a major natural or low intensity community recreational resource:

12 (i) Four million eight hundred thousand dollars (\$4,800,000) for nonagricultural
13 lands located south of the ridge line of the Santa Ynez Mountain Range.

14 (ii) One million two hundred thousand dollars (\$1,200,000) for nonagricultural
15 lands north of the ridge line of the Santa Ynez Mountain Range.

16 (iii) One million dollars (\$1,000,000) for the preservation of agricultural land in
17 Santa Barbara County as identified for agricultural use in the Santa Barbara County
18 Comprehensive Plan. These funds shall be used primarily for the acquisition of
19 conservation easements.

20 (I) Four million dollars (\$4,000,000) for a grant to the County of Monterey for
21 acquisition of conservation easements in Monterey County on agricultural lands in
22 the Salinas and Pajaro Valleys.

23 (J) Two million dollars (\$2,000,000) for a grant to the Monterey Peninsula
24 Regional Park District to expand the Garland Ranch Regional Park and for
25 acquisition of natural lands and wildlife and riparian habitat in the Bixby Creek
26 watershed.

27 (K) One million dollars (\$1,000,000) for a grant to the County of Santa Cruz for
28 acquisition of conservation easements in Santa Cruz County on commercially viable
29 agricultural lands in the Pajaro Valley and the coastal terrace north of the City of
30 Santa Cruz, consistent with Section 2.3.1 of the Santa Cruz County General Plan.

31 (L) Fifteen million dollars (\$15,000,000) for acquisition of those greenbelt lands
32 known as the Pogonip property located in the City of Santa Cruz and the County of
33 Santa Cruz, as defined in the 1979 City of Santa Cruz Greenbelt Ordinance. This
34 acquisition shall be accomplished through grants to the following entities listed in
35 order of priority: (1) the City of Santa Cruz and (2) a park and open-space district
36 or a park and recreation district formed by the local electorate.

37 (M) Ten million dollars (\$10,000,000) for a grant to the Midpeninsula Regional
38 Open Space District for acquisition in accordance with the following schedule:

39 (i) One million dollars (\$1,000,000) for acquisition of land between property
40 managed by the district and Castle Rock State Park and Portola State Park.

1 (ii) Nine million dollars (\$9,000,000) for expansion of Rancho San Antonio,
2 Sierra Azul, El Sereno, El Corte de Madera Creek, and Windy Hill Open Space
3 Preserves and for acquisition of Teague Hill Open Space Preserve.

4 (N) Thirteen million dollars (\$13,000,000) for a grant to the East Bay Regional
5 Park District in accordance with the following schedule:

6 (i) Ten million dollars (\$10,000,000) for expenditure in accordance with the East
7 Bay Regional Park District Master Plan, for expansion of Morgan Territory
8 Regional Park and Briones Regional Park, acquisitions of natural lands along the
9 Carquinez Straits and on Pleasanton Ridge, and shoreline access and trail
10 acquisitions adjacent to the San Francisco Bay.

11 (ii) One million five hundred thousand dollars (\$1,500,000) for acquisition of
12 lands in the southern portion of Walpert Ridge in Hayward in central Alameda
13 County.

14 (iii) One million five hundred thousand dollars (\$1,500,000) for expansion of the
15 Carquinez Shoreline Park in Port Costa.

16 (O) Five million dollars (\$5,000,000) for a grant to the Marin County Open Space
17 District for acquisition of natural lands on Loma Alta Mountain, Big Rock Ridge,
18 and other wetlands, wildlife habitat, and natural lands in accordance with the
19 Environmental Quality and Open Space Elements of the Marin Countywide Plan.

20 (P) Fifteen million dollars (\$15,000,000) for a grant to the County of Marin for
21 preservation of, and for grants by the county to nonprofit organizations for
22 preservation of agricultural lands in the Marin County coastal zone and inland rural
23 corridor, in accordance with the Marin County Agricultural Land Preservation
24 Program. Funds provided in this subparagraph shall be used primarily to acquire
25 agricultural conservation easements.

26 (Q) One million six hundred thousand dollars (\$1,600,000) for a grant to the City
27 of Mill Valley for acquisition of natural lands on the Northridge and spurs of Mount
28 Tamalpais, in accordance with the Open Space Elements in the Marin Countywide
29 Plan or the Mill Valley General Plan, or both.

30 (R) One million dollars (\$1,000,000) for a grant to the City of Vacaville for
31 acquisition of natural lands along the ridgelines of the Vaca Mountains, Blue Ridge
32 Mountains, and English Hills, including Old Rocky, for a ridgeline park in
33 accordance with the Vacaville City General Plan.

34 (S) Two million dollars (\$2,000,000) for a grant to the City of Davis for
35 acquisition of, or for grants from the city to nonprofit organizations for acquisition
36 of, wildlife and riparian habitat, wetlands, and potential wetlands within the 1987
37 Davis General Plan Study Area.

38 (T) Six million dollars (\$6,000,000) for a grant to the County of Sacramento, to
39 be shared by the county with the City of Sacramento on a per capita basis, for
40 acquisition of parklands, wetlands, wildlife habitat, and related greenbelt areas in
41 the county along Morrison Creek, Dry Creek, Snodgrass Slough, Cosumnes River,

1 Laguna Creek, Sacramento River, and American River, consistent with the County
2 Park System Master Plan.

3 (U) Four hundred thousand dollars (\$400,000) for a grant to Lake County for
4 acquisition of a county park that provides wildlife habitat, riparian areas, and
5 recreational benefits near Middletown.

6 (c) Eighty-one million three hundred thousand dollars (\$81,300,000) to the
7 Wildlife Conservation Board for programs involving the acquisition of land
8 pursuant to the Wildlife Conservation Law of 1947, subject to Section 2625 55550
9 of the Fish and Game Wildlife Code and consistent with the purposes of this
10 division, and for grants to local agencies, including an amount not to exceed one
11 million two hundred nineteen thousand five hundred dollars (\$1,219,500) for state
12 administrative costs, in accordance with the following schedule:

13 (1) Thirty-eight million dollars (\$38,000,000) for projects involving the
14 acquisition, preservation, protection, restoration, enhancement, or development of
15 wetlands for wildfowl and other wildlife habitat, in accordance with the following
16 schedule:

17 (A) Thirteen million dollars (\$13,000,000) for acquisition or restoration of
18 wetlands within or adjacent to (1) the areas subject to the jurisdiction of the San
19 Francisco Bay Conservation and Development Commission or (2) the boundaries
20 of historic San Francisco Bay wetlands as designated in the 1985 United States Fish
21 and Wildlife Service National Wetland Inventory Maps for the San Francisco Bay
22 Area or in subsequent updates with not less than eight million dollars (\$8,000,000)
23 for acquisition or restoration of wetlands south of the San Mateo Bridge.

24 (B) Twenty-five million dollars (\$25,000,000) for wetlands outside the coastal
25 zone as defined in Section 30103 and other than within the area defined in
26 subparagraph (A).

27 (2) Two million dollars (\$2,000,000) for acquisition of monarch butterfly habitat.

28 (3) Ten million dollars (\$10,000,000) for acquisition of riparian habitat that drains
29 into the Pacific Ocean within the Counties of San Diego, Orange, Los Angeles, and
30 Ventura.

31 (4) Four million dollars (\$4,000,000) for acquisition of land containing Tecate
32 Cypress forest and associated rare species in Coal Canyon in Orange County.

33 (5) Five million dollars (\$5,000,000) for acquisition of wildlife habitat and natural
34 lands along the San Joaquin River between Friant Dam and Highway 99 in the
35 Counties of Fresno and Madera.

36 (6) Three hundred thousand dollars (\$300,000) for acquisition of valley oak
37 riparian forest and wetlands along the Mokelumne River near Galt in San Joaquin
38 County.

39 (7) Two million dollars (\$2,000,000) for acquisition of wetlands, riparian habitat,
40 vernal pools, and immediately adjacent natural uplands in the vicinity of the
41 Stanislaus, Tuolumne, Merced, and San Joaquin Rivers and their tributaries in

1 Stanislaus, San Joaquin, and Merced Counties for open-space, habitat protection, or
2 riparian restoration.

3 (8) Four million dollars (\$4,000,000) for acquisition of riparian habitat along the
4 Sacramento River from Shasta Dam to Collinsville.

5 (9) One million dollars (\$1,000,000) for acquisition of riparian habitat along the
6 Feather River from Oroville to the mouth of the river.

7 (10) Four million dollars (\$4,000,000) for acquisition of inland, San Pablo Bay,
8 and coastal wetlands in Sonoma County, including the Laguna de Santa Rosa.

9 (11) Two million dollars (\$2,000,000) for acquisition within the Napa Marsh and
10 associated wetlands.

11 (12) One million dollars (\$1,000,000) for acquisition of wildlife habitat in
12 northern Napa County as identified by the Department of Fish and Game Wildlife.

13 (13) Four million dollars (\$4,000,000) for acquisition of sensitive riparian areas,
14 meadows, critical wildlife habitat, and recreation lands in the Hope Valley area just
15 south of Lake Tahoe in Alpine County. Portions of these lands which could provide
16 compatible recreational opportunities may be managed by the Department of Parks
17 and Recreation under an interagency agreement with the Department of Fish and
18 Game Wildlife.

19 (14) Four million dollars (\$4,000,000) for acquisition of old growth redwoods,
20 mixed forest, and wildlife habitat near the town of Whitethorn in the Mattole River
21 watershed in Humboldt and Mendocino Counties.

22 (d) Fifty-eight million dollars (\$58,000,000) to the State Coastal Conservancy
23 pursuant to Division 21 (commencing with Section 31000), consistent with the
24 purposes of this division, for acquisition, enhancement, or restoration of natural
25 lands and development of public accessways in coastal areas and the San Francisco
26 Bay region; and for preservation of agriculture in coastal areas, and for grants to
27 local agencies and nonprofit organizations, and for related state administrative costs,
28 in accordance with the following schedule:

29 (1) Thirty-four million dollars (\$34,000,000) to the State Coastal Conservancy for
30 acquisition, enhancement, or restoration of natural lands, and development of public
31 accessways in coastal areas and the San Francisco Bay region; and for preservation
32 of agriculture in coastal areas, pursuant to Division 21 (commencing with Section
33 31000). These funds include the five million eight hundred fifty thousand dollars
34 (\$5,850,000) advanced by the Coastal Conservancy to the Santa Monica Mountains
35 Conservancy for the Circle X acquisition in the Santa Monica Mountains. Up to one
36 million five hundred thousand dollars (\$1,500,000) of the total funds available
37 pursuant to this paragraph shall be spent on expansion of the Bolsa Chica Linear
38 Park in Orange County or for disbursement to the City of Huntington Beach or other
39 appropriate agencies for this purpose, or for restoration, enhancement, or expansion
40 of the Bolsa Chica wetlands that is not otherwise required for mitigation, or both.
41 Up to four million dollars (\$4,000,000) of the total funds available pursuant to this

1 paragraph shall be spent for the purposes of paragraph (2) if the funds allocated in
2 paragraph (2) prove to be insufficient to achieve the purposes of that paragraph.

3 (2) Ten million dollars (\$10,000,000) for acquisition of natural lands to preserve
4 coastal resources in the coastal dunes and wetlands from Mussel Point to Grover
5 City west of Highway 1 in San Luis Obispo and Santa Barbara Counties. Up to
6 seven hundred fifty thousand dollars (\$750,000) may be spent for dunes restoration
7 and public access consistent with coastal resources preservation.

8 (3) One million five hundred thousand dollars (\$1,500,000) for acquisition of
9 coastal natural lands and wetlands in Monterey County between Monterey Wharf
10 #2 and the Salinas River.

11 (4) Eight million dollars (\$8,000,000) for acquisition of, and for grants to public
12 agencies or nonprofit organizations for acquisition of, coastal lands within San
13 Mateo County that meet three or more of the following criteria, with preference
14 given to lands meeting the largest number of criteria: (1) ocean frontage, (2) state
15 or county scenic corridor, (3) designated in the County General Plan as agriculture,
16 (4) sensitive habitat areas or wetlands, (5) close proximity to urban areas, or (6)
17 adjacent to other permanently dedicated public or private natural lands. These funds
18 shall not be used for urban waterfronts or for lot consolidation projects as defined
19 in Chapters 5 (commencing with Section 31200) and 7 (commencing with Section
20 31300) of Division 21.

21 (5) Four million dollars (\$4,000,000) for acquisitions in Sonoma County of
22 coastal natural lands and coastal wetlands south of Stewart Point, and for acquisition
23 of San Pablo Bay wetlands and natural lands.

24 (6) Five hundred thousand dollars (\$500,000) for acquisition of, and for grants to
25 nonprofit organizations for acquisition of, land containing old growth Douglas fir
26 on Mill Creek, a tributary of the Mattole River in Humboldt County, and for public
27 access to the lands acquired.

28 (e) Eighty-two million dollars (\$82,000,000) to the following agencies, and for
29 grants to local agencies and nonprofit organizations, including state administrative
30 costs, for the following purposes:

31 (1) Seventeen million dollars (\$17,000,000) to the Department of Fish and Game
32 Wildlife, including an amount not to exceed two hundred fifty-five thousand dollars
33 (\$255,000) for state administrative costs, in accordance with the following schedule:

34 (A) Ten million dollars (\$10,000,000) for restoration and enhancement of salmon
35 streams in accordance with the recommendations of the Commercial Salmon Stamp
36 Advisory Committee and the Advisory Committee on Salmon and Steelhead Trout.

37 (B) Six million dollars (\$6,000,000) for restoration and enhancement of wild trout
38 and native steelhead habitat; for capital outlay to design, develop, and construct an
39 experimental wild trout and native steelhead propagation facility; for acquisition of
40 land important for the perpetuation of wild trout and native steelhead; and to provide
41 public access to wild trout and native steelhead waters.

(C) One million dollars (\$1,000,000) for marine patrol boats and other equipment for enforcement of fish and game regulations to protect fish, marine birds, and marine mammals from Point Conception to Fort Bragg.

(2) Five million dollars (\$5,000,000) to the Department of Forestry for urban forestry programs, and for related state administrative costs not to exceed two hundred fifty thousand dollars (\$250,000), in accordance with Section 4799.12.

(3) Five million dollars (\$5,000,000) to the Department of Water Resources for grants to counties, cities, cities and counties, districts, and nonprofit organizations for the acquisition or restoration of natural lands which contain urban streams, creeks, and riparian areas, and for related state administrative costs not to exceed two hundred fifty thousand dollars (\$250,000), in accordance with Section 7048 of the Water Code.

(4) Thirty million dollars (\$30,000,000) to the Santa Monica Mountains Conservancy for land acquisition and for grants to nonprofit organizations for land acquisition in the Santa Monica Mountains, and for related state administrative costs, pursuant to Division 23 (commencing with Section 33000) and consistent with the purposes of this division. Five million dollars (\$5,000,000) of this amount shall be for grants to nonprofit organizations pursuant to Section 33204.2.

(5) Twenty-five million dollars (\$25,000,000) to the County of Monterey to be transferred directly to the 1988 Bond Act Account of the Big Sur Preservation Fund of Monterey County to support implementation of “critical viewshed” policies of the county’s Big Sur Coast Land Use Plan which was certified by the California Coastal Commission on April 9, 1986, as a component of the Big Sur Local Coastal Program.

The intent of this paragraph is to ensure that the exceptional vistas seen from Scenic Highway One along the Big Sur Coast in Monterey County will be preserved in a manner that ensures the continuation of existing state and local jurisdiction over the Big Sur area.

Comment. Subdivision (c) of Section 5907 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update references to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.


Note. Section 5907 was added to the Public Resources Code in 1988 by an initiative statute, Proposition 70. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 5927 (amended).

SEC. _____. Section 5927 of the Public Resources Code is amended to read:

5927. The qualification for or allocation of a grant or grants to a local agency under one subdivision, paragraph, or subparagraph of Section 5907 shall not preclude eligibility for an additional allocation of grant funds to the same local agency pursuant to another subdivision, paragraph, or subparagraph of Section 5907 or pursuant to Section 2720 55725 of the Fish and Game Wildlife Code.

Comment. Section 5927 is amended to reflect the recodification of the former Fish and Game Code.


 **Note.** Section 5927 was added to the Public Resources Code in 1988 by an initiative statute, Proposition 70. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 5930 (amended).

SEC. _____. Section 5930 of the Public Resources Code is amended to read:

5930. Bonds in the total amount of seven hundred sixty-eight million six hundred seventy thousand dollars (\$768,670,000), or so much thereof as is necessary, may be issued and sold to be used for carrying out the purposes expressed in this division and in ~~Chapter 7.5 (commencing with Section 2700) of Division 3 Title 4 (commencing with Section 55700) of Part 2 of Division 15 of the Fish and Game Wildlife Code~~ and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. A sum, not to exceed seven hundred twenty-six million dollars (\$726,000,000) of the bond proceeds, shall be deposited in the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 for the purposes of this division, and a sum, not to exceed fifty million dollars (\$50,000,000) of bond proceeds, shall be deposited in the Wildlife and Natural Areas Conservation Fund for the purposes of the Wildlife and Natural Areas Conservation Program (~~Chapter 7.5 (commencing with Section 2700) of Division 3 Title 4 (commencing with Section 55700) of Part 2 of Division 15 of the Fish and Game Wildlife Code~~). The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest as they become due and payable.

Comment. Section 5930 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** Section 5930 was added to the Public Resources Code in 1988 by an initiative statute, Proposition 70. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 5932 (amended).


SEC. _____. Section 5932 of the Public Resources Code is amended to read:

5932. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the California Wildlife, Coastal, and Park Land Conservation Program of 1988 Finance Committee is hereby created. For purposes of this division, the California Wildlife, Coastal, and Park Land Conservation Program of 1988 Finance Committee is “the committee” as that term is used in the State General Obligation Bond Law. The committee shall consist of the Controller, the Director of Finance,

and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of this division and Chapter 7.5 (commencing with Section 2700) of Division 3 Title 4 (commencing with Section 55700) of Part 2 of Division 15 of the Fish and Game Wildlife Code and the State General Obligation Bond Law, the Wildlife Conservation Board, the Department of Parks and Recreation, the Department of Water Resources, the Department of Forestry, the Department of Fish and Game Wildlife, the Santa Monica Mountains Conservancy, or the State Coastal Conservancy, depending on which agency has jurisdiction, is hereby designated as “the board.”

Comment. Section 5932 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.


 **Note.** Section 5932 was added to the Public Resources Code in 1988 by an initiative statute, Proposition 70. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 5933 (amended).

SEC. _____. Section 5933 of the Public Resources Code is amended to read:

5933. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division in order to carry out the actions specified in Section 5907 of this code and Section 2720 55725 of the Fish and Game Wildlife Code, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

Comment. Section 5933 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** Section 5933 was added to the Public Resources Code in 1988 by an initiative statute, Proposition 70. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 5936 (amended).

SEC. _____. Section 5936 of the Public Resources Code is amended to read:

5936. For the purposes of carrying out this division and Chapter 7.5 (commencing with Section 2700) of Division 3 Title 4 (commencing with Section 55700) of Part 2 of Division 15 of the Fish and Game Wildlife Code, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized to be sold for the purpose of carrying out those provisions. Any amounts withdrawn shall be

deposited in the California Wildlife, Coastal, and Park Land Conservation Fund of 1988 or the Wildlife and Natural Areas Conservation Fund, as appropriate. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds which would otherwise be deposited in that fund.

Comment. Section 5936 is amended to reflect the recodification of the former Fish and Game Code.

Note. Section 5936 was added to the Public Resources Code in 1988 by an initiative statute, Proposition 70. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 6217.1 (amended).

SEC. _____. Section 6217.1 of the Public Resources Code is amended to read:

6217.1. (a) This section and the process described in this section governs the expenditure of any funds received by the State of California from the federal government for the purposes of salmon and steelhead trout conservation and restoration, the expenditure of funds authorized for the Coastal Watershed Salmon Habitat Program pursuant to Article 7 (commencing with Section 79104.200) of Chapter 6 of Division 26 of the Water Code, and the expenditure of funds appropriated to the Department of Fish and Game Wildlife for salmon and steelhead trout conservation and restoration from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund pursuant to Article 5 (commencing with Section 5096.650) of Chapter 1.696 of Division 5 of the Public Resources Code.

(b) For purposes of this section, “project” means an activity that improves fish habitat in coastal waters utilized by salmon and anadromous trout species.

(c)(1) The Department of Fish and Game Wildlife shall grant funds from the Salmon and Steelhead Trout Restoration Account in the Resources Trust Fund, as follows:

(A) At least 87.5 percent of the funds shall be allocated as project grants through the existing grant program operated by the fisheries management program of the Department of Fish and Game Wildlife.

(B) Not more than 12.5 percent of the funds may also be used for project contract administration activities and biological support staff.

(2)(A) A project shall require the consent of a willing landowner, and emphasize the development of coordinated watershed improvement activities.

(B) Projects that restore habitat for salmon and anadromous trout species that are eligible for protection as listed or candidate species under state or federal endangered species acts shall be given top funding priority.

(C) Projects shall be cost-effective and treat causes and not symptoms of fish habitat degradation. Projects may implement instream, riparian, water quality, water

1 quantity, and watershed prescriptions and shall be designed to restore the structure
2 and function of fish habitat.

3 (3) Any grant funds allocated to a project that exceed the actual cost of completing
4 the project shall be returned to the Salmon and Steelhead Trout Restoration
5 Account.

6 (d)(1) A citizen's advisory committee shall be appointed by the Director of Fish
7 and Game Wildlife to give advice on the grant program.

8 (2) The advisory committee shall consist of seven representatives recommended
9 by the California Advisory Committee on Salmon and Steelhead Trout, one
10 representative from the agriculture industry, one representative from the timber
11 industry, one representative of public water agency interests, one academic or
12 research scientist with expertise in anadromous fisheries restoration, and three
13 county supervisors from coastal counties in which anadromous trout exist. The
14 county supervisor members shall be recommended by the California State
15 Association of Counties.

16 (3) The advisory committee shall provide oversight of, and recommend priorities
17 for, grant funding under this section. In making funding decisions, the Department
18 of Fish and Game Wildlife shall consider the project selection priorities established
19 by the advisory committee.

20 (4) Members of any advisory committee established for these purposes shall be
21 reimbursed for travel and incidental expenses related to the performance of their
22 duties under this section. Reimbursement for the advisory committee created
23 pursuant to this section shall be made from the funds designated in subparagraph
24 (B) of paragraph (1) of subdivision (c). Reimbursement for other Department of
25 Fish and Game Wildlife salmon and steelhead trout advisory committees shall be
26 funded by appropriate sources.

27 (5) If a member of the advisory committee, or a member of his or her immediate
28 family, is employed by a grant applicant, the employer of a grant applicant, or a
29 consultant or independent contractor employed by a grant applicant, the advisory
30 committee member shall make that disclosure to the other members of the
31 committee, and shall not participate in reviewing or making recommendations on
32 the grant application of that applicant.

33 (e) Except as provided in subdivision (f), the money in the Salmon and Steelhead
34 Trout Restoration Account shall be allocated as follows:

35 (1) Not less than 65 percent of the money shall be used for salmon habitat
36 protection and restoration projects. Of that amount, at least 75 percent shall be used
37 for watershed (upslope) and riparian area protection and restoration activities. These
38 activities may include, but are not limited to, grants to acquire and install fish
39 screens to protect juvenile and adult salmon and steelhead trout from entrapment in
40 water diversions, and grants to remove substandard culverts, stream crossings, and
41 bridges that constitute barriers to spawning of salmon and steelhead trout and
42 passage of fish. These funds may also be used for the acquisition, from willing

1 sellers, of conservation easements for riparian buffer strips along coastal rivers and
2 streams to protect salmon and steelhead trout habitat or for projects that protect and
3 improve water quality and quantity.

4 (2) Up to 35 percent of the money shall be allocated for any of the uses listed in
5 this paragraph.

6 (A) Watershed evaluation, assessment, and planning necessary to develop a site-
7 specific and clearly prioritized plan to implement watershed improvements.

8 (B) Multiyear grants for watershed planning and project monitoring and
9 evaluations.

10 (C) Watershed organization support and assistance.

11 (D) Project maintenance and monitoring after the project implementations are
12 complete.

13 (E) Public school watershed and fishery conservation education projects.

14 (F) Private sector technical training and education project grants, including
15 teaching private landowners about practical means of improving land and water
16 management practices that, if implemented, will contribute to the protection and
17 restoration of salmon stream habitat; scholarship funding for workshops and
18 conferences that teach restoration techniques; operation of nonprofit restoration
19 technical schools; and production of restoration training and education workshops
20 and conferences.

21 (G) Fish and wildlife habitat improvements, as defined by Section 4793, and
22 authorized under the California Forestry Incentive Program (CFIP).

23 (H) The salmon restoration project of the California Conservation Corps.

24 (I) The state's share of the federal Watershed Stewards Program.

25 (J) Monitoring projects that utilize protocols approved by the Department of Fish
26 and Game Wildlife and the National Marine Fisheries Service (NMFS) to provide
27 baseline or trend data, or both, for anadromous fish populations or the physical and
28 biological factors known to be limiting recovery.

29 (K) Artificial propagation programs designed to restore depleted stocks of
30 salmonids that comply with the directives of the joint Department of Fish and Game
31 Wildlife and NMFS Hatchery Operations Review Committee.

32 (f) The advisory committee, in any fiscal year, may make a recommendation to
33 the Department of Fish and Game Wildlife to allocate money from the Salmon and
34 Steelhead Trout Restoration Account for the purposes stated in subdivision (e), but
35 in different percentage requirements than the 65/35 split stated in paragraphs (1) and
36 (2) of that subdivision. Following that recommendation, the Director of Fish and
37 Game Wildlife may suspend the percentage requirements stated in paragraphs (1)
38 and (2) of subdivision (e) for that fiscal year only.

39 **Comment.** Section 6217.1 is amended to update references to the former Department of Fish
40 and Game, and the Director of that department. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 6217.3 (amended).**

2 SEC. _____. Section 6217.3 of the Public Resources Code is amended to read:

3 6217.3. (a) The Legislature finds and declares all of the following:

4 (1) The Safe Drinking Water, Water Quality and Supply, Flood Control, River
5 and Coastal Protection Bond Act of 2006, an initiative approved by the voters at the
6 November 7, 2006, statewide general election, makes available the sum of one
7 hundred eighty million dollars (\$180,000,000) in bond funds for bay-delta and
8 coastal fishery restoration projects.

9 (2) Of the funds made available, up to forty-five million dollars (\$45,000,000) is
10 available for coastal salmon and steelhead fishery restoration projects that support
11 the development and implementation of species recovery plans and strategies for
12 salmonid species listed as threatened or endangered under state or federal law.

13 (b) From the forty-five million dollars (\$45,000,000) available for coastal salmon
14 and steelhead fishery restoration projects pursuant to subdivision (a) of Section
15 75050, five million two hundred ninety-three thousand dollars (\$5,293,000) is
16 appropriated to the Department of Fish and Game Wildlife for the purposes of
17 coastal salmon and steelhead fishery restoration projects, including the Coastal
18 Salmonid Monitoring Plan. The Department of Fish and Game Wildlife shall not
19 allocate more than two million five hundred twenty thousand dollars (\$2,520,000)
20 of these funds for the Coastal Salmonid Monitoring Plan.

21 (c)(1) Except for the funds annually appropriated for the Coastal Salmonid
22 Monitoring Plan, and as provided in paragraph (3), the process governing the
23 expenditure of funds described in Section 6217.1 shall be applied to the expenditure
24 of funds available for coastal salmon and steelhead fishery restoration projects
25 pursuant to subdivision (a) of Section 75050 that are allocated by the Department
26 of Fish and Game Wildlife pursuant to subdivision (b).

27 (2) The funds annually allocated to the Coastal Salmonid Monitoring Plan are
28 exempt from the requirements of Section 6217.1.

29 (3) If there is a conflict between a provision of this section and a provision of
30 Division 43 (commencing with Section 75001), the provision of Division 43 shall
31 govern.

32 **Comment.** Section 6217.3 is amended to update references to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.

34 **Pub. Res. Code § 6378 (amended).**

35 SEC. _____. Section 6378 of the Public Resources Code is amended to read:

36 6378. The commission shall determine the ownership of all salmon and steelhead
37 spawning areas as designated by Section 1505 60900 of the Fish and Game Wildlife
38 Code. All areas found to be state property shall be permanently protected by the
39 state, and no sale, lease or disposal of material shall be made as to such areas, except
40 that rights-of-way and easements may be granted to, and leases entered into with,
41 public utilities for the installation, operation, and maintenance of public utility

1 facilities unless the Director of Fish and Game Wildlife shall determine that such
2 facilities would prove deleterious to fishlife.

3 **Comment.** Section 6378 is amended to reflect the recodification of the former Fish and Game
4 Code. The section is also amended to update a reference to the Director of the former Department
5 of Fish and Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 6873.5 (amended).**

7 SEC. _____. Section 6873.5 of the Public Resources Code is amended to read:

8 6873.5. (a) In carrying out the requirements of subdivision (b) of Section 6873
9 and the California Environmental Quality Act, the commission shall, prior to the
10 adoption of a form of lease for leasing offshore tide and submerged lands between
11 the mean high tide line and the three-mile jurisdictional limit, consult with the
12 Department of Fish and Game Wildlife, the National Marine Fisheries Service, and
13 representatives of the oil industry, representatives of fishermen operating within the
14 area being considered for leasing. The commission shall hold at least one hearing
15 on the draft environmental document prepared for the proposed lease in a
16 jurisdiction of a local government within the coastal zone, as defined by Section
17 30103, near the area being considered for leasing. The commission shall give at least
18 30 days' written notice regarding the public hearing to each city or county within or
19 adjacent to the proposed lease area and shall publish the notice in the manner
20 prescribed in Section 6834. The authority to hold hearings provided in this section
21 may be delegated by the commission to its officers or employees.

22 (b) The commission shall consider the potential impacts of the proposed lease on
23 the fisheries and marine habitat within the area being considered for leasing. The
24 commission shall include in its consideration:

25 (1) The environmental document prepared for the proposed lease.

26 (2) Recommendations of the Department of Fish and Game Wildlife, the National
27 Marine Fisheries Service, the oil industry, and fishermen.

28 (3) The cooperative efforts of the oil industry and fishermen to develop plans to
29 mitigate potential impacts.

30 (c) Fishery areas that should be considered for protection include established
31 fishing grounds or critical spawning or nursery grounds as indicated by records of
32 the Department of Fish and Game Wildlife.

33 (d) The commission may impose terms, conditions, or operational requirements it
34 deems necessary to protect fisheries, including, but not limited to, the exclusion of
35 specified areas from development activities.

36 (e) This section shall not be construed as a limitation on slant or directional
37 drilling under the excluded area from any location outside an excluded fishery area.

38 **Comment.** Section 6873.5 is amended to update references to the former Department of Fish
39 and Game. See Fish & Wildlife Code § 1500.

40 **Pub. Res. Code § 6890 (amended).**

41 SEC. _____. Section 6890 of the Public Resources Code is amended to read:

1 6890. (a) Prospecting permits and leases for the extraction and removal of
2 minerals, other than oil and gas or other hydrocarbon substances, from lands,
3 including tide and submerged lands belonging to the state, may be issued as
4 provided in this article and in this chapter insofar as not in conflict with this article.
5 The commission shall not issue any permit or lease under this section until it has
6 been submitted to the Attorney General and has been approved by the Attorney
7 General as to compliance with the applicable law and rules and regulations of the
8 commission. No lease or permit shall be issued which results in any net adverse
9 impact to wetlands or riparian habitat.

10 (b) Where lands, other than tide and submerged lands, belonging to the state have
11 been dedicated to a public use, the commission may issue permits and leases for the
12 exploration, extraction, and removal of minerals, other than oil and gas or other
13 hydrocarbon substances and geothermal resources, in accordance with this article.
14 Where the lands have been acquired for the use of a specific state agency, the state
15 agency, prior to issuance, shall approve the work to be performed under the
16 authority of the permit or lease and the state agency shall specify terms and
17 conditions required to ensure that the work shall be performed in a manner which is
18 not inconsistent with the purposes for which the land is owned or operated.

19 (c) If the property is a wildlife management area acquired pursuant to Section
20 ~~1525~~ 60600 of the Fish and Game Wildlife Code, the commission shall not issue
21 any permit or lease under this section unless the Department of Fish and Game
22 Wildlife determines, and reports in writing to the commission, that the proposed
23 activity will not cause a net loss of wildlife habitat value or acreage in that area
24 because privately owned land of greater total wildlife habitat value and acreage,
25 which has habitat values similar in type to the area to be permitted or leased, will be
26 acquired and dedicated to the state to replace the land of that wildlife management
27 area. The replacement land shall be located within 10 miles of the wildlife
28 management area where the lease or permit is to be issued.

29 (d) The commission shall not issue a permit or lease under this section for any
30 land under the jurisdiction of the Department of Parks and Recreation, for any
31 refuge or other protected area, as described in ~~Division 7 (commencing with Section~~
32 ~~10500) Title 3 (commencing with Section 7230) of Part 1 of Division 4, Section~~
33 ~~13950, 34060, or 34065, or Title 3 (commencing with Section 58700) of Part 1 of~~
34 ~~Division 16, of the Fish and Game Wildlife Code, or for any ecological reserve, as~~
35 ~~described in Article 4 (commencing with Section 1580) of Chapter 5 of Division 2~~
36 ~~Part 6 (commencing with Section 60750) of Division 16 of the Fish and Game~~
37 ~~Wildlife Code.~~

38 (e) Notwithstanding Section 6217, as of June 30 of each year, a sum equal to 50
39 percent of the revenue received by the state for the fiscal year ending on June 30
40 pursuant to permits and leases for the development of minerals, other than oil, gas,
41 or other hydrocarbon substances and geothermal resources, on lands which have
42 been dedicated to a public use and are administered by a state agency other than the

1 commission shall be available for appropriation by the Legislature for the support
2 of, and apportionment and transfer by the Controller to, that state agency.

3 (f) If the state agency receives a majority of its funding from a special fund
4 established for the general support of the agency, the revenue made available by
5 subdivision (e) shall be deposited in that fund and shall be available, when
6 appropriated, for the general purposes of the agency.

7 (g) Any person issued a permit or lease under subdivision (a) shall comply with
8 all existing federal, state, and local government laws.

9 **Comment.** Subdivision (c) of Section 6890 is amended to reflect the recodification of the former
10 Fish and Game Code. The section is also amended to update a reference to the former Department
11 of Fish and Game. See Fish & Wildlife Code § 1500.

12 **Pub. Res. Code § 8554 (amended).**

13 SEC. _____. Section 8554 of the Public Resources Code is amended to read:
14 8554. The Department of Fish and Game Wildlife is hereby designated the
15 “official state agency engaged in the conservation or propagation of wild life”
16 referred to in Section 9 of the act of Congress cited in Section 8551 of this code.

17 **Comment.** Section 8554 is amended to update a reference to the former Department of Fish and
18 Game. See Fish & Wildlife Code § 1500.

19 **Pub. Res. Code § 8560 (amended).**

20 SEC. _____. Section 8560 of the Public Resources Code is amended to read:

21 8560. (a) For purposes of this chapter, the following terms apply:

22 (1) “Conservation plan” means a habitat conservation plan developed pursuant to
23 Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1539)
24 and its implementing regulations, as the federal act and regulations exist as of
25 January 1, 2016, and an approved natural communities conservation plan developed
26 pursuant to the Natural Community Conservation Planning Act (~~Chapter 10~~
27 ~~(commencing with Section 2800) of Division 3 Title 2 (commencing with Section~~
28 ~~64500) of Part 2 of Division 17~~ of the Fish and Game Wildlife Code).

29 (2) “Conveyance” includes any method, including sale, donation, or exchange, by
30 which all or a portion of the right, title, and interest of the United States in and to
31 federal lands located in California is transferred to another entity.

32 (3) “Federal public land” means any land owned by the United States, including
33 the surface estate, the subsurface estate, or any improvements on those estates.

34 (4) “Infrastructure” means any development or construction that is not on or
35 appurtenant to the federal public land at the time of transfer.

36 (b)(1) Except as provided in Chapter 6 (commencing with Section 6441) of Part
37 1, it is the policy of the State of California to discourage conveyances that transfer
38 ownership of federal public lands in California from the federal government.

39 (2)(A) Except as provided in this chapter, conveyances of federal public lands in
40 California are void ab initio unless the commission was provided with the right of

1 first refusal to the conveyance or the right to arrange for the transfer of the federal
2 public land to another entity.

3 (B) The commission may seek declaratory and injunctive relief from a court of
4 competent jurisdiction to contest conveyances made to any entity unless the
5 requirements of this paragraph are met.

6 (C) The commission shall formally consider its right of first refusal or arrange for
7 the transfer of federal public lands to a third party at a public hearing.

8 (D)(i) Prior to the conveyance of federal public lands in California, if the
9 commission was provided with the right of first refusal or the right to arrange for
10 the transfer of the federal public lands to another entity, the commission shall issue
11 a certificate affirming compliance with this section.

12 (ii) The commission shall waive its right of first refusal or the right to arrange for
13 the transfer of the federal public lands to another entity, and issue a certification of
14 compliance affirming compliance with this section for a conveyance that is deemed
15 by the commission to be routine. A conveyance deemed by the commission to be
16 routine includes, but is not limited to, the exchange of lands of equal value between
17 the federal government and a private entity. The commission may adopt regulations
18 to establish a process and criteria for determining the types of conveyances it
19 considers to be routine. The executive officer of the commission shall have the
20 authority to issue certifications of compliance for conveyances made in compliance
21 with this subparagraph.

22 (E) The commission, the Wildlife Conservation Board, and the Department of
23 Fish and Wildlife shall enter into a memorandum of understanding that establishes
24 a state policy that all three agencies shall undertake all feasible efforts to protect
25 against any future unauthorized conveyance or any change in federal public land
26 designation, including, but not limited to, any change in use, classification, or legal
27 status of any lands designated as federal monuments pursuant to the federal
28 Antiquities Act of 1906 (Public Law 59-209).

29 (c) The state shall not be responsible for any costs associated with conveyed
30 federal public land that the commission did not accept, purchase, or arrange for the
31 transfer of, pursuant to this section. Costs include, but are not limited to,
32 management costs and infrastructure development costs.

33 (d) The commission may establish, through regulations or another appropriate
34 method, a process for engaging with federal land managers and potential purchasers
35 of federal public lands early in the conveyance process.

36 (e) The commission shall ensure, for any conveyed federal public land the
37 commission accepts, purchases, or arranges for the transfer of, that future
38 management of the conveyed federal public land is determined in a public process
39 that gives consideration of past recognized and legal uses of those lands. At a
40 minimum, the public process required by this subdivision shall include a noticed
41 and open meeting as required by the Bagley-Keene Open Meeting Act (Article 9

1 (commencing with Section 11120) of Division 3 of Title 2 of the Government
2 Code).

3 (f) The executive officer of the commission shall waive the commission's right of
4 first refusal or the right to arrange for the transfer of the federal public lands to
5 another entity, and issue a certification of compliance affirming compliance with
6 this section for any of the following:

7 (1) The conveyance of federal public lands pursuant to a conservation plan.

8 (2) The renewal of a lease in existence as of January 1, 2017.

9 (3) The conveyance of federal public lands to a federally recognized Native
10 American tribe or lands taken into or out of trust for a Native American tribe or
11 individual Native American.

12 (4) The conveyance of any federal public lands not managed by the federal
13 National Forest Service, the federal Bureau of Reclamation, the federal Bureau of
14 Land Management, the United States Fish and Wildlife Service, or the federal
15 National Park Service unless the land conveyed satisfies any of the following:

16 (A) Is part of a national monument or national marine sanctuary.

17 (B) Contains national conservation lands.

18 (C) Is land placed in the National Register of Historic Places.

19 (D) Is designated for preservation or conservation uses.

20 (5) The conveyance of federal public lands to the State of California.

21 (g) The provisions of this section are severable. If any provision of this section or
22 its application is held invalid, that invalidity shall not affect other provisions or
23 applications that can be given effect without the invalid provision or application.

24 **Comment.** Paragraph (1) of subdivision (a) of Section 8560 is amended to reflect the
25 recodification of the former Fish and Game Code.

26 **Pub. Res. Code § 8723 (amended).**

27 SEC. _____. Section 8723 of the Public Resources Code is amended to read:

28 8723. (a) Within 240 days of the execution of a memorandum of agreement
29 pursuant to Section 8722, the commission shall prepare and submit to the United
30 States Secretary of the Interior a proposal for land exchanges that consolidate school
31 land parcels in the California desert into contiguous holdings that are suitable for
32 large-scale renewable energy-related projects. In developing the proposal, the
33 commission shall give priority to land exchanges that will facilitate the development
34 of large-scale renewable energy projects.

35 (b) The commission's proposal shall be based on an acre-for-acre exchange with
36 the United States. If the United States is not authorized to enter into such an
37 agreement, the commission may propose an exchange based on equivalent appraised
38 values.

39 (c) Notwithstanding subdivision (b), the commission may withhold a school land
40 parcel from an exchange proposal or request additional consideration from the
41 United States Secretary of the Interior if the commission reasonably believes, based

1 on existing and reliable information, that an acre-for-acre exchange would not
2 provide the state with compensation that is equal to or greater than the fair market
3 value of the school land parcel. For the purposes of this subdivision, the commission
4 shall consider the potential renewable energy value of a parcel the commission
5 would receive in the exchange.

6 (d) In preparing the land exchange proposal, the commission shall consult with
7 the Department of Fish and Game Wildlife to identify areas in the California desert
8 that would be consistent with the proposed or adopted provisions of the Desert
9 Renewable Energy Conservation Plan and are either of the following:

10 (1) Suitable for renewable energy projects because the identified areas do not
11 support habitat or habitat corridor values for species listed as threatened,
12 endangered, or candidate species pursuant to the California Endangered Species Act
13 (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1 (commencing~~
14 ~~with Section 62000) of Division 17~~ of the Fish and Game Wildlife Code) or the
15 federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), that, in the
16 judgment of the Department of Fish and Game Wildlife, are sufficient to warrant
17 consideration of their designation as a mitigation or conservation area for these
18 species.

19 (2) Suitable as potential mitigation areas to mitigate the impacts that renewable
20 energy-related projects may have on the environment.

21 (e) The commission's costs and expenses attributable to the land exchange process
22 may be payable from the fund. Notwithstanding Section 6217.5, a portion of the
23 revenues generated from renewable energy leases pursuant to this chapter shall be
24 made available to the commission, upon appropriation by the Legislature, to cover
25 the commission's costs attributable to the land exchange process.

26 (f) The commission may consider counter land exchange proposals from the
27 United States Secretary of the Interior and make additional proposals to the extent
28 that the additional proposals achieve the goals set forth in this chapter.

29 (g) Final approval of a land exchange proposed pursuant to this chapter shall be
30 made by the commission at a properly noticed commission meeting.

31 Comment. Paragraph (1) of subdivision (d) of Section 8723 is amended to reflect the
32 recodification of the former Fish and Game Code. The section is also amended to update references
33 to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

34 **Pub. Res. Code § 9960 (amended).**

35 SEC. _____. Section 9960 of the Public Resources Code is amended to read:

36 9960. The following definitions shall govern the interpretation of this chapter:

37 (a) "Suisun Marsh" means the Suisun Marsh as defined in Section 29101.

38 (b) "Primary management area" means the primary management area as defined
39 in Section 29102.

40 (c) "Suisun Marsh Protection Plan" means the plan identified and defined in
41 Section 29113.

42 (d) "District" means the Suisun Resource Conservation District.

1 (e) "Board" means the board of directors of the district.

2 (f) "Individual ownership" means a separate privately owned parcel of land within
3 the primary management area. Contiguous parcels of land owned by the same legal
4 entity comprise a single individual ownership.

5 (g) "Department" means the Department of Fish and Game Wildlife.

6 **Comment.** Section 9960 is amended to update a reference to the former Department of Fish and
7 Game. See Fish & Wildlife Code § 1500.

8 **Pub. Res. Code § 10002 (amended).**

9 SEC. _____. Section 10002 of the Public Resources Code is amended to read:

10 10002. (a) The Director of Fish and Game Wildlife shall prepare proposed
11 streamflow requirements, which shall be specified in terms of cubic feet of water
12 per second, for each stream or watercourse identified pursuant to Section 10001. In
13 developing the requirements for each stream, the director shall consult with the
14 Director of Water Resources, the Director of Parks and Recreation and with all
15 affected local governments. The Director of Fish and Game Wildlife may also
16 consult with any private individuals, groups, or organizations as the director deems
17 advisable. Upon completion of the proposed streamflow requirements for any
18 individual stream or watercourse, the Director of Fish and Game Wildlife shall
19 transmit these proposed requirements to the State Water Resources Control Board.
20 The State Water Resources Control Board shall consider these requirements within
21 a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and
22 Game Wildlife shall complete the preparation of proposed requirements for the
23 initial streams not later than July 1, 1989.

24 (b) The Department of Fish and Game Wildlife may contract for temporary
25 services for purposes of preparing the proposed streamflow requirements.

26 **Comment.** Section 10002 is amended to update references to the former Department of Fish and
27 Game, and to the Director of that department. See Fish & Wildlife Code § 1500. The section is also
28 amended to add subdivision designations.

29 **Pub. Res. Code § 10004 (amended).**

30 SEC. _____. Section 10004 of the Public Resources Code is amended to read:

31 10004. The Department of Fish and Game Wildlife shall initiate studies to develop
32 proposed streamflow requirements for those streams or watercourses in each fiscal
33 year for which funds are appropriated and shall complete studies on each stream or
34 watercourse within three years. It is the intent of the Legislature that the department
35 develop a program that will initiate studies on at least 10 streams or watercourses in
36 each fiscal year.

37 **Comment.** Section 10004 is amended to update a reference to the former Department of Fish
38 and Game. See Fish & Wildlife Code § 1500.

39 **Pub. Res. Code § 10005 (amended).**

40 SEC. _____. Section 10005 of the Public Resources Code is amended to read:

1 10005. (a) The Department of Fish and Game Wildlife shall impose and collect a
2 filing fee of eight hundred fifty dollars (\$850) to defray the costs of identifying
3 streams and providing studies pursuant to Division 10 (commencing with Section
4 10000) of the Public Resources Code.

5 (b) The filing fee shall be proportional to the cost incurred by the Department of
6 Fish and Game Wildlife and shall be annually reviewed and adjustments
7 recommended to the Legislature in an amount necessary to pay the costs of the
8 Department of Fish and Game Wildlife as specified in subdivision (a).

9 (c) Any user of water, including a person or entity holding riparian or
10 appropriative rights, shall pay the filing fee to the Department of Fish and Game
11 Wildlife upon application to the State Water Resources Control Board for any
12 permit, transfer, extension, or change of point of diversion, place of use, or purpose
13 of use, if there is a diversion of water from any waterway where fish reside. No
14 permit, or other entitlement identified in this section is effective until the filing fee
15 is paid. The State Water Resources Control Board shall, every six months, forward
16 all fees collected to the department and provide the location for each entitlement for
17 which a filing fee has been collected.

18 (d) The fee imposed by this section shall not be imposed on the following
19 applications filed with the State Water Resources Control Board:

20 (1) Small domestic use registrations and livestock stockpond certificates
21 submitted pursuant to Article 2.7 (commencing with Section 1228) of Chapter 2 of
22 Division 2 of the Water Code.

23 (2) The first application for an extension of time for an individual permit if no
24 change in point of diversion, place of use, or purpose of use is included in the
25 application.

26 (3) Water applications which, in the opinion of the Department of Fish and Game
27 Wildlife, are filed for administrative and technical clarification purposes only.

28 (4) Water applications or petitions, the primary purpose of which is to benefit fish
29 and wildlife resources. The determination of the benefit to fish and wildlife shall be
30 made, in writing, by the Department of Fish and Game Wildlife in order to be
31 exempt from the fee.

32 (e) If an applicant or petitioner files multiple applications or petitions for the same
33 appropriation, transfer, extension, or change, and the State Water Resources Control
34 Board reviews and considers the applications or petitions together, only one filing
35 fee is required for those applications or petitions.

36 **Comment.** Section 10005 is amended to update references to the former Department of Fish and
37 Game. See Fish & Wildlife Code § 1500.

38 **Pub. Res. Code § 10332 (amended).**

39 SEC. _____. Section 10332 of the Public Resources Code is amended to read:

40 10332. As used in this division, the following terms have the following meanings:

1 (a) “Board” means the Wildlife Conservation Board created pursuant to Article 2
2 (commencing with Section 1320) of Chapter 4 of Division 20 Article 1
3 (commencing with Section 54750) of Chapter 2 of Title 1 of Part 2 of Division 15
4 of the Fish and Game Wildlife Code.

5 (b) “Conservation easement” means a conservation easement, as defined by
6 Section 815.1 of the Civil Code, that is perpetual.

7 (c) “Local public agency” means any city, county, city and county, resource
8 conservation district, district formed pursuant to Article 3 (commencing with
9 Section 5500) of Chapter 3 of Division 5, authority formed pursuant to Division 26
10 (commencing with Section 35100), or joint powers authority made up of two or
11 more local public agencies and one or more state agencies.

12 (d) “Nonprofit organization” means any nonprofit public benefit corporation
13 formed pursuant to the Nonprofit Corporation Law (Division 2 (commencing with
14 Section 5000) of Title 1 of the Corporations Code), qualified to do business in
15 California, and qualified under Section 501(c)(3) of Title 26 of the Internal Revenue
16 Code as a tax-exempt corporation that has as a principal purpose the conservation
17 of land and water resources.

18 (e) “Property” means any real property, and any perpetual interest therein,
19 including land, conservation easements, and land containing water rights.

20 (f) “Qualified property” means property that is rangeland, grazing land, or
21 grassland and is used or is suitable for grazing; is zoned for agricultural grazing, or
22 open-space use; and is used or suitable for habitat for aquatic or terrestrial wildlife
23 species or native plants.

24 (g) “State agency” means any public entity created by statute within the Resources
25 Agency.

26 **Comment.** Section 10332 is amended to reflect the recodification of the former Fish and Game
27 Code.

28 **Pub. Res. Code § 10334 (amended).**

29 SEC. _____. Section 10334 of the Public Resources Code is amended to read:
30 10334. Funds may be expended by the board for the acquisition of conservation
31 easements over qualified property pursuant to the authority granted to the board
32 under Section ~~1348~~ 54815 of the Fish and Game Wildlife Code. The board may also
33 make grants of funds to a state agency, local public agency, or nonprofit
34 organization for the acquisition of conservation easements over qualified property.

35 **Comment.** Section 10334 is amended to reflect the recodification of the former Fish and Game
36 Code.

37 **Pub. Res. Code § 10342 (amended).**

38 SEC. _____. Section 10342 of the Public Resources Code is amended to read:
39 10342. Any conservation easement, money, or other asset acquired pursuant to
40 this division shall not be deemed a transfer pursuant to Article 1 (commencing with

1 Section 2780) of Chapter 9 of Division 3 Title 5 (commencing with Section 55800)
2 of Part 2 of Division 15 of the Fish and Game Wildlife Code.

3 **Comment.** Section 10342 is amended to reflect the recodification of the former Fish and Game
4 Code.

5 **Note.** The section above refers to “a transfer pursuant to Article 1 (commencing with Section
6 2780) of Chapter 9 of Division 3” of the existing Fish and Game Code.

7 That reference appears to be erroneous, because there are no references to a “transfer” in the
8 referenced article.

9 However, there are a number of transfer-related provisions in the chapter that contains the
10 referenced article. That chapter was probably the intended object of the cross-reference. Section
11 10342 would be revised accordingly.

12 **The Commission requests public comment on whether that approach would cause any**
13 **problems.**

14 **Pub. Res. Code § 10344 (amended).**

15 SEC. _____. Section 10344 of the Public Resources Code is amended to read:
16 10344. The board may coordinate this program with the Oak Woodlands
17 Conservation Act established pursuant to Article 3.5 (commencing with Section
18 1360) of Chapter 4 of Division 2 Chapter 3 (commencing with Section 54900) of
19 Title 1 of Part 2 of Division 15 of the Fish and Game Wildlife Code, as administered
20 by the board.

21 **Comment.** Section 10344 is amended to reflect the recodification of the former Fish and Game
22 Code.

23 **Pub. Res. Code § 12252 (amended).**

24 SEC. _____. Section 12252 of the Public Resources Code is amended to read:
25 12252. The easement shall not be required as a condition of any lease, permit,
26 license, certificate, or other entitlement for use issued by one or more public
27 agencies, including, but not limited to, mitigating the significant effects on the
28 environment of a project pursuant to an approved environmental impact report or
29 mitigated negative declaration pursuant to the California Environmental Quality Act
30 (Division 13 (commencing with Section 21000)), the Z’berg-Nejedly Forest
31 Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of
32 Division 4), the California Endangered Species Act (Chapter 1.5 (commencing with
33 Section 2050) of Division 3 Part 1 (commencing with Section 62000) of Division
34 17 of the Fish and Game Wildlife Code), or pursuant to an approved environmental
35 impact statement or a finding of no significant impact under the National
36 Environmental Policy Act of 1969 (42 U.S.C.A. Sec. 4321 et seq.) or the federal
37 Endangered Species Act of 1973 (16 U.S.C.A. Sec. 1531 et seq.).

38 **Comment.** Section 12252 is amended to reflect the recodification of the former Fish and Game
39 Code.

40 **Pub. Res. Code § 21080.23 (amended).**

41 SEC. _____. Section 21080.23 of the Public Resources Code is amended to read:

1 21080.23. (a) This division does not apply to any project which consists of the
2 inspection, maintenance, repair, restoration, reconditioning, relocation,
3 replacement, or removal of an existing pipeline, as defined in subdivision (a) of
4 Section 51010.5 of the Government Code, or any valve, flange, meter, or other piece
5 of equipment that is directly attached to the pipeline, if the project meets all of the
6 following conditions:

7 (1)(A) The project is less than eight miles in length.

8 (B) Notwithstanding subparagraph (A), actual construction and excavation
9 activities undertaken to achieve the maintenance, repair, restoration, reconditioning,
10 relocation, replacement, or removal of an existing pipeline are not undertaken over
11 a length of more than one-half mile at any one time.

12 (2) The project consists of a section of pipeline that is not less than eight miles
13 from any section of pipeline that has been subject to an exemption pursuant to this
14 section in the past 12 months.

15 (3) The project is not solely for the purpose of excavating soil that is contaminated
16 by hazardous materials, and, to the extent not otherwise expressly required by law,
17 the party undertaking the project immediately informs the lead agency of the
18 discovery of contaminated soil.

19 (4) To the extent not otherwise expressly required by law, the person undertaking
20 the project has, in advance of undertaking the project, prepared a plan that will result
21 in notification of the appropriate agencies so that they may take action, if determined
22 to be necessary, to provide for the emergency evacuation of members of the public
23 who may be located in close proximity to the project.

24 (5) Project activities are undertaken within an existing right-of-way and the right-
25 of-way is restored to its condition prior to the project.

26 (6) The project applicant agrees to comply with all conditions otherwise
27 authorized by law, imposed by the city or county planning department as part of any
28 local agency permit process, that are required to mitigate potential impacts of the
29 proposed project, and to otherwise comply with the Keene-Nejedly California
30 Wetlands Preservation Act (Chapter 7 (commencing with Section 5810) of Division
31 5), the California Endangered Species Act (~~Chapter 1.5 (commencing with Section~~
32 ~~2050) of Division 3 Part 1 (commencing with Section 62000) of Division 17 of the~~
33 Fish and Game Wildlife Code), and other applicable state laws, and with all
34 applicable federal laws.

35 (b) If a project meets all of the requirements of subdivision (a), the person
36 undertaking the project shall do all of the following:

37 (1) Notify, in writing, any affected public agency, including, but not limited to,
38 any public agency having permit, land use, environmental, public health protection,
39 or emergency response authority of the exemption of the project from this division
40 by subdivision (a).

41 (2) Provide notice to the public in the affected area in a manner consistent with
42 paragraph (3) of subdivision (b) of Section 21092.

1 (3) In the case of private rights-of-way over private property, receive from the
2 underlying property owner permission for access to the property.

3 (4) Comply with all conditions otherwise authorized by law, imposed by the city
4 or county planning department as part of any local agency permit process, that are
5 required to mitigate potential impacts of the proposed project, and otherwise comply
6 with the Keene-Nejedly California Wetlands Preservation Act (Chapter 7
7 (commencing with Section 5810) of Division 5), the California Endangered Species
8 Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
9 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife
10 Code), and other applicable state laws, and with all applicable federal laws.

11 (c) This section does not apply to either of the following:

12 (1) A project in which the diameter of the pipeline is increased.

13 (2) A project undertaken within the boundaries of an oil refinery.

14 **Comment.** Section 21080.23 is amended to reflect the recodification of the former Fish and
15 Game Code.

16 **Pub. Res. Code § 21080.25 (amended).**

17 SEC. _____. Section 21080.25 of the Public Resources Code is amended to read:

18 21080.25. (a) For purposes of this section, the following definitions shall apply:

19 (1) “Antenna support structures” means lattice towers, monopoles, and roof-
20 mounts.

21 (2) “Authority” means the Los Angeles Regional Interoperable Communication
22 System Joint Powers Authority.

23 (3) “Habitat of significant value” includes all of the following:

24 (A) Wildlife habitat of national, statewide, or regional importance.

25 (B) Habitat identified as candidate, fully protected, sensitive, or species of special
26 status by a state or federal agency.

27 (C) Habitat essential to the movement of resident or migratory wildlife.

28 (4) “LA-RICS” means the Los Angeles Regional Interoperable Communications
29 System, consisting of a long-term evolution broadband mobile data system, a land
30 mobile radio system, or both.

31 (5) “LMR” means a land mobile radio system.

32 (6) “LTE” means a long-term evolution broadband mobile data system.

33 (7) “Riparian area” means an area that is transitional between terrestrial and
34 aquatic ecosystems, that is distinguished by gradients in biophysical conditions,
35 ecological processes, and biota, and that meets the following criteria:

36 (A) Is an area through which surface and subsurface hydrology connect bodies of
37 water with their adjacent uplands.

38 (B) Is adjacent to perennial, intermittent, and ephemeral streams, lakes, or
39 estuarine or marine shorelines.

40 (C) Includes those portions of terrestrial ecosystems that significantly influence
41 exchanges of energy and matter with aquatic ecosystems.

1 (8) “Wetlands” has the same meaning as defined in the United States Fish and
2 Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

3 (9) “Wildlife habitat” means the ecological communities upon which wild
4 animals, birds, plants, fish, amphibians, and invertebrates depend for their
5 conservation and protection.

6 (b) Except as provided in subdivision (d), if all the criteria specified in subdivision
7 (c) are met at the individual project site, this division does not apply to the design,
8 site acquisition, construction, operation, or maintenance of the following elements
9 of the LA-RICS:

10 (1) Antennas, including microwave dishes and arrays.

11 (2) Antenna support structures.

12 (3) Equipment enclosures.

13 (4) Central system switch facilities.

14 (5) Associated foundations and equipment.

15 (c) As a condition of the exemption specified in subdivision (b), all of the
16 following criteria shall be met at the individual project site:

17 (1) The project site is publicly owned and already contains either of the following:

18 (A) An antenna support structure and either of the following components:

19 (i) Antennas.

20 (ii) Equipment enclosures.

21 (B) A police or sheriff station or other public facility that transmits or receives
22 public safety radio signals, except a fire station.

23 (2) Construction and implementation at the project site would not have a
24 substantial adverse impact on wetlands, riparian areas, or habitat of significant
25 value, and would not harm any species protected by the federal Endangered Species
26 Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter
27 10 (commencing with Section 1900) of Division 2 Title 1 (commencing with
28 Section 53800) of Part 3 of Division 14 of the Fish and Game Wildlife Code), or
29 the California Endangered Species Act (Chapter 1.5 (commencing with Section
30 2050) of Division 3 Part 1 (commencing with Section 62000) of Division 17 of the
31 Fish and Game Wildlife Code) or the habitat of those species.

32 (3) Construction and implementation of the project at the site would not have a
33 substantial adverse impact on historical resources pursuant to Section 21084.1.

34 (4) Operation of the project at the site would not exceed the maximum permissible
35 exposure standards established by the Federal Communications Commission, as set
36 forth in Sections 1.1307 and 1.1310 of Title 47 of the Code of Federal Regulations.

37 (5) Any new LTE antenna support structures or LMR antenna support structures
38 would comply with applicable state and federal height restrictions and any height
39 restrictions mandated by an applicable comprehensive land use plan adopted by an
40 airport land use commission. The new monopoles shall not exceed 70 feet in height
41 without appurtenances and attachments, and new lattice towers shall not exceed 180
42 feet in height without appurtenances and attachments.

1 (6) Each new central system switch is located within an existing enclosed
2 structure at a publicly owned project site or is housed at an existing private
3 communications facility.

4 (d) Subdivision (b) does not apply if the individual project site is located on either
5 of the following:

6 (1) A school site.

7 (2) A cultural or sacred site, as described in Section 5097.9 or 5097.993.

8 (e)(1) Before determining that a project is not subject to this division pursuant to
9 this section, the authority shall hold a noticed public meeting in each county
10 supervisorial district in which the project is located to hear and respond to public
11 comments. The notice shall be provided at least 72 hours in advance of the meeting
12 and published no fewer times than required by Section 6061 of the Government
13 Code by the authority in a newspaper of general circulation in each county
14 supervisorial district in which the project is located.

15 (2) If the authority determines that a project is not subject to this division pursuant
16 to this section, and it determines to approve or carry out that project, the notice of
17 exemption shall be filed with the Office of Planning and Research and the county
18 clerk in the county in which the project is located in the manner specified in
19 subdivisions (b) and (c) of Section 21152. The authority shall post the notice of
20 exemption on its Internet Web site.

21 (f) The authority shall post on its Internet Web site all of the following, as
22 applicable:

23 (1) Draft and final environmental documentation in compliance with this division
24 or the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et
25 seq.).

26 (2) The date of filing of notices required pursuant to this division or the federal
27 National Environmental Policy Act of 1969.

28 (3) All notice and hearing information regarding review and approval of
29 environmental documentation by federal agencies.

30 (g) On or after January 1, 2017, the authority and its member agencies shall
31 approve use agreements for the LA-RICS in an open and noticed public meeting.

32 (h) This section shall remain in effect only until January 1, 2020, and as of that
33 date is repealed, unless a later enacted statute, that is enacted before January 1, 2020,
34 deletes or extends that date.

35 **Comment.** Paragraph (2) of subdivision (c) of Section 21080.25 is amended to reflect the
36 recodification of the former Fish and Game Code.

37 **Pub. Res. Code § 21080.29 (amended).**

38 SEC. _____. Section 21080.29 of the Public Resources Code is amended to read:

39 21080.29. (a) A project located in Los Angeles County that is approved by a
40 public agency before the effective date of the act adding this section is not in
41 violation of any requirement of this division by reason of the failure to construct a

1 roadway across the property transferred to the state pursuant to subdivision (c) and
2 to construct a bridge over the adjacent Ballona Channel in Los Angeles County,
3 otherwise required as a mitigation measure pursuant to this division, if all of the
4 following conditions apply:

5 (1) The improvements specified in this subdivision are not constructed, due in
6 whole or in part, to the project owner's or developer's relinquishment of easement
7 rights to construct those improvements.

8 (2) The easement rights in paragraph (1) are relinquished in connection with the
9 State of California, acting by and through the Wildlife Conservation Board of the
10 Department of Fish and Game Wildlife, acquiring a wetlands project that is a
11 minimum of 400 acres in size and located within the coastal zone.

12 (b) Where those easement rights have been relinquished, any municipal ordinance
13 or regulation adopted by a charter city or a general law city shall be inapplicable to
14 the extent that the ordinance or regulation requires construction of the transportation
15 improvements specified in subdivision (a), or would otherwise require reprocessing
16 or resubmittal of a permit or approval, including, but not limited to, a final recorded
17 map, a vesting tentative map, or a tentative map, as a result of the transportation
18 improvements specified in subdivision (a) not being constructed.

19 (c)(1) If the Wildlife Conservation Board of the Department of Fish and Game
20 Wildlife acquires property within the coastal zone that is a minimum of 400 acres
21 in size pursuant to a purchase and sale agreement with Playa Capital Company,
22 LLC, the Controller shall direct the trustee under the Amendment to Declaration of
23 Trust entered into on or about December 11, 1984, by First Nationwide Savings, as
24 trustee, Summa Corporation, as trustor, and the Controller, as beneficiary, known
25 as the HRH Inheritance Tax Security Trust, to convey title to the trust estate of the
26 trust, including real property commonly known as Playa Vista Area C, to the State
27 of California acting by and through the Wildlife Conservation Board of the
28 Department of Fish and Game Wildlife for conservation, restoration, or recreation
29 purposes only, with the right to transfer the property for those uses to any other
30 agency of the State of California.

31 (2) This subdivision shall constitute the enabling legislation required by the
32 Amendment to Declaration of Trust to empower the Controller to direct the trustee
33 to convey title to the trust estate under the HRH Inheritance Tax Security Trust to
34 the State of California or an agency thereof.

35 (3) The conveyance of the trust estate to the Wildlife Conservation Board
36 pursuant to this subdivision shall supersede any duty or obligation imposed upon
37 the Controller under the Probate Code or the Revenue and Taxation Code with
38 respect to the disposition or application of the net proceeds of the trust estate.

39 **Comment.** Section 21080.29 is amended to update references to the former Department of Fish
40 and Game. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 21080.35 (amended).**

2 SEC. _____. Section 21080.35 of the Public Resources Code is amended to read:

3 21080.35. (a) Except as provided in subdivision (d), this division does not apply
4 to the installation of a solar energy system on the roof of an existing building or at
5 an existing parking lot.

6 (b) For the purposes of this section, the following terms mean the following:

7 (1) “Existing parking lot” means an area designated and used for parking of
8 vehicles as of the time of the application for the solar energy system and for at least
9 the previous two years.

10 (2) “Solar energy system” includes all associated equipment. Associated
11 equipment consists of parts and materials that enable the generation and use of solar
12 electricity or solar-heated water, including any monitoring and control, safety,
13 conversion, and emergency responder equipment necessary to connect to the
14 customer’s electrical service or plumbing and any equipment, as well as any
15 equipment necessary to connect the energy generated to the electrical grid, whether
16 that connection is onsite or on an adjacent parcel of the building and separated only
17 by an improved right-of-way. “Associated equipment” does not include a
18 substation.

19 (c)(1) Associated equipment shall be located on the same parcel of the building,
20 except that associated equipment necessary to connect the energy generated to the
21 electrical grid may be located immediately adjacent to the parcel of the building or
22 immediately adjacent to the parcel of the building and separated only by an
23 improved right-of-way.

24 (2) Associated equipment shall not occupy more than 500 square feet of ground
25 surface and the site of the associated equipment shall not contain plants protected
26 by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of
27 Division 2 Title 1 (commencing with Section 53800) of Part 3 of Division 14 of the
28 Fish and Game Wildlife Code).

29 (d) This section does not apply if the associated equipment would otherwise
30 require one of the following:

31 (1) An individual federal permit pursuant to Section 401 or 404 of the federal
32 Clean Water Act (33 U.S.C. Sec. 1341 or 1344) or waste discharge requirements
33 pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing
34 with Section 13000) of the Water Code).

35 (2) An individual take permit for species protected under the federal Endangered
36 Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California Endangered
37 Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
38 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife
39 Code).

40 (3) A streambed alteration permit pursuant to ~~Chapter 6 (commencing with~~
41 Section 1600) of Division 2 Title 3 (commencing with Section 69700) of Part 4 of
42 Division 17 of the Fish and Game Wildlife Code.

1 (e) This section does not apply if the installation of a solar energy system at an
2 existing parking lot involves either of the following:

3 (1) The removal of a tree required to be planted, maintained, or protected pursuant
4 to local, state, or federal requirements, unless the tree dies and there is no
5 requirement to replace the tree.

6 (2) The removal of a native tree over 25 years old.

7 (f) This section does not apply to any transmission or distribution facility or
8 connection.

9 **Comment.** Section 21080.35 is amended to reflect the recodification of the former Fish and
10 Game Code.

11 **Pub. Res. Code § 21080.37 (amended).**

12 SEC. _____. Section 21080.37 of the Public Resources Code is amended to read:

13 21080.37. (a) This division does not apply to a project or an activity to repair,
14 maintain, or make minor alterations to an existing roadway if all of the following
15 conditions are met:

16 (1) The project is carried out by a city or county with a population of less than
17 100,000 persons to improve public safety.

18 (2)(A) The project does not cross a waterway.

19 (B) For purposes of this paragraph, “waterway” means a bay, estuary, lake, pond,
20 river, slough, or a perennial, intermittent, or ephemeral stream, lake, or estuarine-
21 marine shoreline.

22 (3) The project involves negligible or no expansion of an existing use beyond that
23 existing at the time of the lead agency’s determination.

24 (4) The roadway is not a state roadway.

25 (5)(A) The site of the project does not contain wetlands or riparian areas and does
26 not have significant value as a wildlife habitat, and the project does not harm any
27 species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec.
28 1531 et seq.), the Native Plant Protection Act (~~Chapter 10 (commencing with~~
29 ~~Section 1900) of Division 2 Title 1 (commencing with Section 53800) of Part 3 of~~
30 Division 14 of the Fish and Game Wildlife Code), or the California Endangered
31 Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
32 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife
33 Code), and the project does not cause the destruction or removal of any species
34 protected by a local ordinance.

35 (B) For the purposes of this paragraph:

36 (i) “Riparian areas” mean those areas transitional between terrestrial and aquatic
37 ecosystems and that are distinguished by gradients in biophysical conditions,
38 ecological processes, and biota. A riparian area is an area through which surface and
39 subsurface hydrology connect waterbodies with their adjacent uplands. A riparian
40 area includes those portions of terrestrial ecosystems that significantly influence
41 exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent

1 to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine
2 shorelines.

3 (ii) “Significant value as a wildlife habitat” includes wildlife habitat of national,
4 statewide, regional, or local importance; habitat for species protected by the federal
5 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California
6 Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division
7 3 Part 1 (commencing with Section 62000) of Division 17 of the Fish and Game
8 Wildlife Code), or the Native Plant Protection Act (Chapter 10 (commencing with
9 Section 1900) of Division 2 Title 1 (commencing with Section 53800) of Part 3 of
10 Division 14 of the Fish and Game Wildlife Code); habitat identified as candidate,
11 fully protected, sensitive, or species of special status by local, state, or federal
12 agencies; or habitat essential to the movement of resident or migratory wildlife.

13 (iii) “Wetlands” has the same meaning as in the United States Fish and Wildlife
14 Service Manual, Part 660 FW 2 (June 21, 1993).

15 (iv) “Wildlife habitat” means the ecological communities upon which wild
16 animals, birds, plants, fish, amphibians, and invertebrates depend for their
17 conservation and protection.

18 (6) The project does not impact cultural resources.

19 (7) The roadway does not affect scenic resources, as provided pursuant to
20 subdivision (c) of Section 21084.

21 (b) Prior to determining that a project is exempt pursuant to this section, the lead
22 agency shall do both of the following:

23 (1) Include measures in the project to mitigate potential vehicular traffic and
24 safety impacts and bicycle and pedestrian safety impacts.

25 (2) Hold a noticed public hearing on the project to hear and respond to public
26 comments. The hearing on the project may be conducted with another noticed lead
27 agency public hearing. Publication of the notice shall be no fewer times than
28 required by Section 6061 of the Government Code, by the public agency in a
29 newspaper of general circulation in the area.

30 (c) For purposes of this section, “roadway” means a roadway as defined pursuant
31 to Section 530 of the Vehicle Code and the previously graded and maintained
32 shoulder that is within a roadway right-of-way of no more than five feet from the
33 edge of the roadway.

34 (d) Whenever a local agency determines that a project is not subject to this
35 division pursuant to this section, and it approves or determines to carry out that
36 project, the local agency shall file a notice with the Office of Planning and Research,
37 and with the county clerk in the county in which the project will be located in the
38 manner specified in subdivisions (b) and (c) of Section 21152.

39 (e) This section shall remain in effect only until January 1, 2020, and as of that
40 date is repealed, unless a later enacted statute, that is enacted before January 1, 2020,
41 deletes or extends that date.

1 **Comment.** Section 21080.37 is amended to reflect the recodification of the former Fish and
2 Game Code.

3 **Pub. Res. Code § 21083.4 (amended).**

4 SEC. _____. Section 21083.4 of the Public Resources Code is amended to read:

5 21083.4. (a) For purposes of this section, “oak” means a native tree species in the
6 genus *Quercus*, not designated as Group A or Group B commercial species pursuant
7 to regulations adopted by the State Board of Forestry and Fire Protection pursuant
8 to Section 4526, and that is 5 inches or more in diameter at breast height.

9 (b) As part of the determination made pursuant to Section 21080.1, a county shall
10 determine whether a project within its jurisdiction may result in a conversion of oak
11 woodlands that will have a significant effect on the environment. If a county
12 determines that there may be a significant effect to oak woodlands, the county shall
13 require one or more of the following oak woodlands mitigation alternatives to
14 mitigate the significant effect of the conversion of oak woodlands:

15 (1) Conserve oak woodlands, through the use of conservation easements.

16 (2)(A) Plant an appropriate number of trees, including maintaining plantings and
17 replacing dead or diseased trees.

18 (B) The requirement to maintain trees pursuant to this paragraph terminates seven
19 years after the trees are planted.

20 (C) Mitigation pursuant to this paragraph shall not fulfill more than one-half of
21 the mitigation requirement for the project.

22 (D) The requirements imposed pursuant to this paragraph also may be used to
23 restore former oak woodlands.

24 (3) Contribute funds to the Oak Woodlands Conservation Fund, as established
25 under ~~subdivision (a) of Section 1363~~ Section 54925 of the Fish and Game Wildlife
26 Code, for the purpose of purchasing oak woodlands conservation easements, as
27 specified under paragraph (1) of subdivision (d) of that section and the guidelines
28 and criteria of the Wildlife Conservation Board. A project applicant that contributes
29 funds under this paragraph shall not receive a grant from the Oak Woodlands
30 Conservation Fund as part of the mitigation for the project.

31 (4) Other mitigation measures developed by the county.

32 (c) Notwithstanding ~~subdivision (d) of Section 1363~~ subdivision (a) of Section
33 54940 of the Fish and Game Wildlife Code, a county may use a grant awarded
34 pursuant to the Oak Woodlands Conservation Act (~~Article 3.5 (commencing with~~
35 ~~Section 1360)~~ of Chapter 4 of Division 2 Chapter 3 (commencing with Section
36 54900) of Title 1 of Part 2 of Division 15 of the Fish and Game Wildlife Code) to
37 prepare an oak conservation element for a general plan, an oak protection ordinance,
38 or an oak woodlands management plan, or amendments thereto, that meets the
39 requirements of this section.

40 (d) The following are exempt from this section:

41 (1) Projects undertaken pursuant to an approved Natural Community
42 Conservation Plan or approved subarea plan within an approved Natural

1 Community Conservation Plan that includes oaks as a covered species or that
2 conserves oak habitat through natural community conservation preserve designation
3 and implementation and mitigation measures that are consistent with this section.

4 (2) Affordable housing projects for lower income households, as defined pursuant
5 to Section 50079.5 of the Health and Safety Code, that are located within an
6 urbanized area, or within a sphere of influence as defined pursuant to Section 56076
7 of the Government Code.

8 (3) Conversion of oak woodlands on agricultural land that includes land that is
9 used to produce or process plant and animal products for commercial purposes.

10 (4) Projects undertaken pursuant to Section 21080.5 of the Public Resources
11 Code.

12 (e)(1) A lead agency that adopts, and a project that incorporates, one or more of
13 the measures specified in this section to mitigate the significant effects to oaks and
14 oak woodlands shall be deemed to be in compliance with this division only as it
15 applies to effects on oaks and oak woodlands.

16 (2) The Legislature does not intend this section to modify requirements of this
17 division, other than with regard to effects on oaks and oak woodlands.

18 (f) This section does not preclude the application of Section 21081 to a project.

19 (g) This section, and the regulations adopted pursuant to this section, shall not be
20 construed as a limitation on the power of a public agency to comply with this
21 division or any other provision of law.

22 **Comment.** Section 21083.4 is amended to reflect the recodification of the former Fish and Game
23 Code.

24 **Pub. Res. Code § 21089 (amended).**

25 SEC. _____. Section 21089 of the Public Resources Code is amended to read:

26 21089. (a) A lead agency may charge and collect a reasonable fee from a person
27 proposing a project subject to this division in order to recover the estimated costs
28 incurred by the lead agency in preparing a negative declaration or an environmental
29 impact report for the project and for procedures necessary to comply with this
30 division on the project. Litigation expenses, costs, and fees incurred in actions
31 alleging noncompliance with this division under Section 21167 are not recoverable
32 under this section.

33 (b) The Department of Fish and Game Wildlife may charge and collect filing fees,
34 as provided in Section 711.4 Sections 66200 through 66245, inclusive, of the Fish
35 and Game Wildlife Code. Notwithstanding Section 21080.1, a finding required
36 under Section 21081, or a project approved under a certified regulatory program
37 authorized pursuant to Section 21080.5 is not operative, vested, or final until the
38 filing fees required pursuant to Section 711.4 Sections 66200 through 66245,
39 inclusive, of the Fish and Game Wildlife Code are paid.

40 (c)(1) A public agency may charge and collect a reasonable fee from members of
41 the public for a copy of an environmental document not to exceed the cost of

reproducing the environmental document. A public agency may provide the environmental document in an electronic format as provided pursuant to Section 6253.9 of the Government Code.


(2) For purposes of this subdivision, “environmental document” means an initial study, negative declaration, mitigated negative declaration, draft and final environmental impact report, a document prepared as a substitute for an environmental impact report, negative declaration, or mitigated negative declaration under a program certified pursuant to Section 21080.5, and a document prepared under the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and used by a state or local agency in the place of the initial study, negative declaration, mitigated negative declaration, or an environmental impact report.

Comment. Section 21089 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 21104.2 (amended).

SEC. _____. Section 21104.2 of the Public Resources Code is amended to read:
21104.2. The state lead agency shall consult with, and obtain written findings from, the Department of Fish and Game Wildlife in preparing an environmental impact report on a project, as to the impact of the project on the continued existence of any endangered species or threatened species pursuant to Article 4 (commencing with Section 2090) of Chapter 1.5 of Division 3 of the Fish and Game Code.

Comment. Section 21104.2 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

 **Note.** The section above cross-refers to Article 4 (commencing with Section 2090) of Chapter 1.5 of Division 3 of the existing Fish and Game Code, which was repealed by its own terms in 1999. See 1993 Cal. Stat. ch. 337, § 1. The former article provided for consultation by the Department of Fish and Game with specified state agencies relating to the extent a proposed state project would impact endangered or threatened species.

**With the repeal of Article 4, it is not clear how Section 21104.2 should be revised.
The Commission requests public comment on that issue.**

Pub. Res. Code § 21155.1 (amended).

SEC. _____. Section 21155.1 of the Public Resources Code is amended to read:
21155.1. If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.

(a) The transit priority project complies with all of the following environmental criteria:

(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing

1 utilities, and the transit priority project applicant has paid, or has committed to pay,
2 all applicable in-lieu or development fees.

3 (2)(A) The site of the transit priority project does not contain wetlands or riparian
4 areas and does not have significant value as a wildlife habitat, and the transit priority
5 project does not harm any species protected by the federal Endangered Species Act
6 of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (~~Chapter 10~~
7 ~~(commencing with Section 1900) of Division 2 Title 1 (commencing with Section~~
8 ~~53800) of Part 3 of Division 14~~ of the Fish and Game Wildlife Code), or the
9 California Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050)~~
10 ~~of Division 3 Part 1 (commencing with Section 62000) of Division 17~~ of the Fish
11 and Game Wildlife Code), and the project does not cause the destruction or removal
12 of any species protected by a local ordinance in effect at the time the application for
13 the project was deemed complete.

14 (B) For the purposes of this paragraph, “wetlands” has the same meaning as in the
15 United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

16 (C) For the purposes of this paragraph:

17 (i) “Riparian areas” means those areas transitional between terrestrial and aquatic
18 ecosystems and that are distinguished by gradients in biophysical conditions,
19 ecological processes, and biota. A riparian area is an area through which surface and
20 subsurface hydrology connect waterbodies with their adjacent uplands. A riparian
21 area includes those portions of terrestrial ecosystems that significantly influence
22 exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent
23 to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine
24 shorelines.

25 (ii) “Wildlife habitat” means the ecological communities upon which wild
26 animals, birds, plants, fish, amphibians, and invertebrates depend for their
27 conservation and protection.

28 (iii) Habitat of “significant value” includes wildlife habitat of national, statewide,
29 regional, or local importance; habitat for species protected by the federal
30 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California
31 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division~~
32 ~~3 Part 1 (commencing with Section 62000) of Division 17~~ of the Fish and Game
33 Wildlife Code), or the Native Plant Protection Act (~~Chapter 10 (commencing with~~
34 ~~Section 1900) of Division 2 Title 1 (commencing with Section 53800) of Part 3 of~~
35 ~~Division 14~~ of the Fish and Game Wildlife Code); habitat identified as candidate,
36 fully protected, sensitive, or species of special status by local, state, or federal
37 agencies; or habitat essential to the movement of resident or migratory wildlife.

38 (3) The site of the transit priority project is not included on any list of facilities
39 and sites compiled pursuant to Section 65962.5 of the Government Code.

40 (4) The site of the transit priority project is subject to a preliminary endangerment
41 assessment prepared by an environmental assessor to determine the existence of any
42 release of a hazardous substance on the site and to determine the potential for

1 exposure of future occupants to significant health hazards from any nearby property
2 or activity.

3 (A) If a release of a hazardous substance is found to exist on the site, the release
4 shall be removed or any significant effects of the release shall be mitigated to a level
5 of insignificance in compliance with state and federal requirements.

6 (B) If a potential for exposure to significant hazards from surrounding properties
7 or activities is found to exist, the effects of the potential exposure shall be mitigated
8 to a level of insignificance in compliance with state and federal requirements.

9 (5) The transit priority project does not have a significant effect on historical
10 resources pursuant to Section 21084.1.

11 (6) The transit priority project site is not subject to any of the following:

12 (A) A wildland fire hazard, as determined by the Department of Forestry and Fire
13 Protection, unless the applicable general plan or zoning ordinance contains
14 provisions to mitigate the risk of a wildland fire hazard.

15 (B) An unusually high risk of fire or explosion from materials stored or used on
16 nearby properties.

17 (C) Risk of a public health exposure at a level that would exceed the standards
18 established by any state or federal agency.

19 (D) Seismic risk as a result of being within a delineated earthquake fault zone, as
20 determined pursuant to Section 2622, or a seismic hazard zone, as determined
21 pursuant to Section 2696, unless the applicable general plan or zoning ordinance
22 contains provisions to mitigate the risk of an earthquake fault or seismic hazard
23 zone.

24 (E) Landslide hazard, flood plain, flood way, or restriction zone, unless the
25 applicable general plan or zoning ordinance contains provisions to mitigate the risk
26 of a landslide or flood.

27 (7) The transit priority project site is not located on developed open space.

28 (A) For the purposes of this paragraph, “developed open space” means land that
29 meets all of the following criteria:

30 (i) Is publicly owned, or financed in whole or in part by public funds.

31 (ii) Is generally open to, and available for use by, the public.

32 (iii) Is predominantly lacking in structural development other than structures
33 associated with open spaces, including, but not limited to, playgrounds, swimming
34 pools, ballfields, enclosed child play areas, and picnic facilities.

35 (B) For the purposes of this paragraph, “developed open space” includes land that
36 has been designated for acquisition by a public agency for developed open space,
37 but does not include lands acquired with public funds dedicated to the acquisition
38 of land for housing purposes.

39 (8) The buildings in the transit priority project are 15 percent more energy
40 efficient than required by Chapter 6 of Title 24 of the California Code of Regulations
41 and the buildings and landscaping are designed to achieve 25 percent less water
42 usage than the average household use in the region.

(b) The transit priority project meets all of the following land use criteria:

(1) The site of the transit priority project is not more than eight acres in total area.

(2) The transit priority project does not contain more than 200 residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.

(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.

(6) The transit priority project is determined not to conflict with nearby operating industrial uses.

(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

(c) The transit priority project meets at least one of the following three criteria:

(1) The transit priority project meets both of the following:

(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).

(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.

Comment. Subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of Section 21155.1 are amended to reflect the recodification of the former Fish and Game Code.

Pub. Res. Code § 21157.7 (amended).

SEC. _____. Section 21157.7 of the Public Resources Code is amended to read:

21157.7. (a) For purposes of this section, a master environmental impact report is a document prepared in accordance with subdivision (c) for the projects described

1 in subdivision (b) that, upon certification, is followed by review of subsequent
2 projects as provided in Sections 21157.1 and 21157.5.

3 (b) A master environmental impact report may be prepared for a plan adopted by
4 the Department of Transportation for improvements to regional segments of
5 Highway 99 funded pursuant to subdivision (b) of Section 8879.23 of the
6 Government Code, to streamline, coordinate, and improve environmental review.

7 (c) The report shall include all of the following:

8 (1) A detailed statement as required by Section 21100.

9 (2) A description of the anticipated highway improvements along Highway 99
10 that would be within the scope of the master environmental impact report, that
11 contains sufficient information about all phases of the Highway 99 construction
12 activities, including, but not limited to, all of the following:

13 (A) The specific types of improvements that will be undertaken.

14 (B) The anticipated location and alternative locations for any of the Highway 99
15 improvements, including overpasses, bridges, railroad crossings, and interchanges.

16 (C) A capital outlay or capital improvement program, or other scheduling or
17 implementing device that governs the construction activities associated with the
18 Highway 99 improvements.

19 (d) The Department of Transportation may communicate, coordinate, and consult
20 with the Resources Agency, Wildlife Conservation Board, Department of Fish and
21 ~~Game~~ Wildlife, Department of Conservation, and other appropriate federal, state, or
22 local governments, including interested stakeholders, to consider and implement
23 mitigation requirements on a regional basis for the projects described in subdivision
24 (b). This may include both of the following:

25 (1) Identification of priority areas for mitigation, using information from these
26 agencies and departments as well as from other sources.

27 (2) Utilization of existing conservation programs of the agencies or departments
28 identified in this subdivision, if mitigation under those programs for improvements
29 under this section does not supplant mitigation for a project.

30 (e) The Department of Transportation may execute an agreement, memorandum
31 of understanding, or other similar instrument to memorialize its understanding of
32 any communication, coordination, or implementation activities with other state
33 agencies for the purposes of meeting mitigation requirements on a regional basis.

34 (f) Notwithstanding any other provision of law, nothing in this section is intended
35 to interfere with or prevent the existing authority of an agency or department to
36 carry out its programs, projects, or responsibilities to identify, review, approve,
37 deny, or implement any mitigation requirements, and nothing in this section shall
38 be construed as a limitation on mitigation requirements for the project, or a
39 limitation on compliance with requirements under this division or any other
40 provision of law.

41 (g) Notwithstanding Section 21157.6, the master environmental impact report
42 shall not be used for the purposes of this section, if the certification of the master

1 environmental impact report occurred more than seven years prior to the filing of
2 an application for the subsequent project.

3 **Comment.** Section 21157.7 is amended to update a reference to the former Department of Fish
4 and Game. See Fish & Wildlife Code § 1500.

5 **Pub. Res. Code § 21159.21 (amended).**

6 SEC. _____. Section 21159.21 of the Public Resources Code is amended to read:

7 21159.21. A housing project qualifies for an exemption from this division
8 pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the
9 applicable section and all of the following criteria:

10 (a) The project is consistent with any applicable general plan, specific plan, and
11 local coastal program, including any mitigation measures required by a plan or
12 program, as that plan or program existed on the date that the application was deemed
13 complete and with any applicable zoning ordinance, as that zoning ordinance
14 existed on the date that the application was deemed complete, except that a project
15 shall not be deemed to be inconsistent with the zoning designation for the site if that
16 zoning designation is inconsistent with the general plan only because the project site
17 has not been rezoned to conform with a more recently adopted general plan.

18 (b) Community-level environmental review has been adopted or certified.

19 (c) The project and other projects approved prior to the approval of the project
20 can be adequately served by existing utilities, and the project applicant has paid, or
21 has committed to pay, all applicable in-lieu or development fees.

22 (d) The site of the project does not contain wetlands, does not have any value as
23 a wildlife habitat, and the project does not harm any species protected by the federal
24 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant
25 Protection Act (~~Chapter 10 (commencing with Section 1900) of Division 2 Title 1~~
26 (commencing with Section 53800) of Part 3 of Division 14 of the Fish and Game
27 Wildlife Code), the California Endangered Species Act (~~Chapter 1.5 (commencing~~
28 with Section 2050) of Division 3 Part 1 (commencing with Section 62000) of
29 Division 17 of the Fish and Game Wildlife Code), and the project does not cause
30 the destruction or removal of any species protected by a local ordinance in effect at
31 the time the application for the project was deemed complete. For the purposes of
32 this subdivision, “wetlands” has the same meaning as in Section 328.3 of Title 33
33 of the Code of Federal Regulations and “wildlife habitat” means the ecological
34 communities upon which wild animals, birds, plants, fish, amphibians, and
35 invertebrates depend for their conservation and protection.

36 (e) The site of the project is not included on any list of facilities and sites compiled
37 pursuant to Section 65962.5 of the Government Code.

38 (f) The site of the project is subject to a preliminary endangerment assessment
39 prepared by an environmental assessor to determine the existence of any release of
40 a hazardous substance on the site and to determine the potential for exposure of
41 future occupants to significant health hazards from any nearby property or activity.

1 (1) If a release of a hazardous substance is found to exist on the site, the release
2 shall be removed, or any significant effects of the release shall be mitigated to a
3 level of insignificance in compliance with state and federal requirements.

4 (2) If a potential for exposure to significant hazards from surrounding properties
5 or activities is found to exist, the effects of the potential exposure shall be mitigated
6 to a level of insignificance in compliance with state and federal requirements.

7 (g) The project does not have a significant effect on historical resources pursuant
8 to Section 21084.1.

9 (h) The project site is not subject to any of the following:

10 (1) A wildland fire hazard, as determined by the Department of Forestry and Fire
11 Protection, unless the applicable general plan or zoning ordinance contains
12 provisions to mitigate the risk of a wildland fire hazard.

13 (2) An unusually high risk of fire or explosion from materials stored or used on
14 nearby properties.

15 (3) Risk of a public health exposure at a level that would exceed the standards
16 established by any state or federal agency.

17 (4) Within a delineated earthquake fault zone, as determined pursuant to Section
18 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the
19 applicable general plan or zoning ordinance contains provisions to mitigate the risk
20 of an earthquake fault or seismic hazard zone.

21 (5) Landslide hazard, flood plain, flood way, or restriction zone, unless the
22 applicable general plan or zoning ordinance contains provisions to mitigate the risk
23 of a landslide or flood.

24 (i)(1) The project site is not located on developed open space.

25 (2) For the purposes of this subdivision, “developed open space” means land that
26 meets all of the following criteria:

27 (A) Is publicly owned, or financed in whole or in part by public funds.

28 (B) Is generally open to, and available for use by, the public.

29 (C) Is predominantly lacking in structural development other than structures
30 associated with open spaces, including, but not limited to, playgrounds, swimming
31 pools, ballfields, enclosed child play areas, and picnic facilities.

32 (3) For the purposes of this subdivision, “developed open space” includes land
33 that has been designated for acquisition by a public agency for developed open
34 space, but does not include lands acquired by public funds dedicated to the
35 acquisition of land for housing purposes.

36 (j) The project site is not located within the boundaries of a state conservancy.

37 **Comment.** Subdivision (d) of Section 21159.21 is amended to reflect the recodification of the
38 former Fish and Game Code.

39 **Pub. Res. Code § 25619 (amended).**

40 SEC. _____. Section 25619 of the Public Resources Code is amended to read:

1 25619. (a) For purposes of this section, “qualified counties” means the Counties
2 of Fresno, Imperial, Inyo, Kern, Kings, Los Angeles, Madera, Merced, Riverside,
3 San Bernardino, San Diego, San Joaquin, San Luis Obispo, Stanislaus, and Tulare.

4 (b) The commission shall provide up to seven million dollars (\$7,000,000) in
5 grants to qualified counties for the development or revision of rules and policies,
6 including, but not limited to, general plan elements, zoning ordinances, and a natural
7 community conservation plan as a plan participant, that facilitate the development
8 of eligible renewable energy resources, and their associated electric transmission
9 facilities, and the processing of permits for eligible renewable energy resources. The
10 commission may allocate not more than 1 percent of appropriated funds to provide
11 training to county planning staff to facilitate the siting and permitting of eligible
12 renewable energy resources. A general plan element or zoning ordinance that is
13 adopted or revised pursuant to this section shall be completed within two years of
14 receipt of the grant and shall be consistent with the conservation strategies of any
15 natural community conservation plan if one has been approved, or is under
16 development, pursuant to the Natural Community Conservation Planning Act
17 (~~Chapter 10 (commencing with Section 2800) of Division 3~~ Title 2 (commencing
18 with Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code).
19 For counties within the Desert Renewable Energy Conservation Plan planning area,
20 the commission may award a grant to a county only if the county meets one of the
21 following conditions:

22 (1) The county is a “plan participant,” as defined by paragraph (1) of subdivision
23 (j) of Section ~~2805~~ 64515 of the Fish and Game Wildlife Code, in the Desert
24 Renewable Energy Conservation Plan.

25 (2) The county enters into a memorandum of understanding with the commission
26 in which the county agrees to participate in the development of a natural community
27 conservation plan for the purpose of ensuring that the natural community
28 conservation plan can achieve the goals set forth in the planning agreement entered
29 into pursuant to ~~Section 2810~~ Sections 64555 and 64560 of the Fish and Game
30 Wildlife Code, that is dated May 2010, for the preparation of a natural community
31 conservation plan, in a manner that is consistent with the applicable policies of the
32 county.

33 (c) In its initial round of grant funding, the commission shall establish a preference
34 for a grant to a qualified county in an amount that is adequate to develop a renewable
35 energy element in its general plan that will facilitate the development and siting of
36 eligible renewable energy resources that utilize multiple renewable energy
37 technologies. The commission shall also establish a preference for a grant for those
38 counties that have experience in geothermal energy development and have adopted
39 a geothermal element, as defined in Section 25133, to its general plan.

40 (d) The commission shall only implement this section upon receiving a specific
41 appropriation for the purposes of this section by the Legislature from the Renewable
42 Resources Trust Fund or other funds from the Energy Resources Program Account.

1 **Comment.** Subdivision (b) of Section 25619 is amended to reflect the recodification of the
2 former Fish and Game Code.

3 **Pub. Res. Code § 26403 (amended).**

4 SEC. _____. Section 26403 of the Public Resources Code is amended to read:
5 26403. Programs and projects eligible for funding from the Resources Account
6 shall be limited to any of the following:

7 (1) Appropriations to the State Coastal Conservancy for grants to public and
8 private agencies for the restoration of urban waterfronts, as described in “An Urban
9 Waterfronts Program for California” required by Chapter 1040 of the Statutes of
10 1981. Appropriations to the conservancy may include, but shall not be limited to,
11 particular projects identified in that report.

12 (2) Projects under the Roberti-Z’berg Urban Open-Space and Recreation Program
13 Act (Chapter 3.2 (commencing with Section 5620) of Division 5 of the Public
14 Resources Code).

15 (3) Appropriations to the State Coastal Conservancy for grants to public and
16 private agencies for acquisition, development, rehabilitation, restoration, operation,
17 and maintenance of real property and facilities which provide public access ways to
18 or along the coast or the shoreline of San Francisco Bay.

19 (4) Wetland protection, preservation, restoration, and ~~enhancement~~ enhancement
20 projects in accordance with the Keene-Nejedly California Wetlands Preservation
21 Act (Chapter 7 (commencing with Section 5810) of Division 5 of the Public
22 Resources Code), or, in accordance with provisions governing the State Coastal
23 Conservancy (Division 21 (commencing with Section 31000) of the Public
24 Resources Code).

25 (5) Restoration, enhancement, and preservation of wildlife habitat on federal lands
26 pursuant to the Sikes Act (16 U.S.C. Sec. 670a, et seq.).

27 (6) Acquisition and development of real property for wildlife management in
28 accordance with the purposes of the Wildlife Conservation Law of 1947 (~~Chapter 4~~
29 ~~(commencing with Section 1300) of Division 2~~ Title 1 (commencing with Section
30 54700) of Part 2 of Division 15 of the Fish and Game Wildlife Code).

31 (7) Reforestation, urban forestry, and forest improvement projects in accordance
32 with the provisions of Part 2.5 (commencing with Section 4790) of Division 4 of
33 the Public Resources Code.

34 (8) Water reclamation, watershed management, water conservation, instream use,
35 and drainage management programs approved by the Director of Water Resources
36 or the State Water Resources Control Board.

37 (9) Watershed restoration, erosion control, fire hazard reduction, land
38 conservation, and fish and wildlife habitat improvement projects.

39 (10) Acquisition, restoration, and preservation of habitat for rare and endangered
40 species.

41 (11) Programs for the prevention of soil loss and soil degradation.

42 (12) Programs for the preservation and protection of prime agricultural lands.

1 (13) Shoreline erosion control projects.

2 (14) Mitigation of environmental damage resulting from gas or oil production on
3 state lands.

4 (15) Programs to develop a computer-based mapping system to store, refine,
5 analyze, and display resource data.

6 (16) Programs for development and enhancement of renewable agricultural
7 resources.

8 (17) Programs to safeguard public and environmental health from hazardous
9 materials.

10 (18) Programs for geothermal resources assessment.

11 (19) Other programs which enhance and conserve renewable and nonrenewable
12 resources.

13 **Comment.** Section 26403(6) is amended to reflect the recodification of the former Fish and
14 Game Code. The section is also amended to make a technical correction.

15 **Pub. Res. Code § 28000 (amended).**

16 SEC. _____. Section 28000 of the Public Resources Code is amended to read:

17 28000. The Legislature hereby finds and declares all of the following:

18 (a) There has long been a public concern for protecting and preserving the natural
19 resources, wildlife habitat, recreational, and other environmental values, and public
20 health at Morro Bay and its watershed, beginning with Senate Resolution 176 in
21 1966.

22 (b) In 1966, the Senate declared that the preservation of Morro Bay's fish,
23 wildlife, recreational and aesthetic resources is of great importance to the people of
24 California, and directed the Resources Agency to conduct a study of Morro Bay and
25 its watershed and to prepare a plan for the preservation of the natural resources of
26 the bay and watershed.

27 (c) The need for a management plan for Morro Bay was demonstrated in a 1966
28 study by the Department of Fish and Game Wildlife, resulting from the Senate
29 resolution, which described Morro Bay's rich natural resources and proposed the
30 formation of a multiagency planning task force to prepare a comprehensive area
31 plan for approval by the Legislature.

32 (d) The need for developing a management plan for Morro Bay was recognized
33 in 1975 by the report of an intergovernmental task force, "A Coastal Watershed
34 Environmental Management System—Morro Bay, California," which recommended
35 various models of cooperative and comprehensive planning and management of
36 Morro Bay and its watershed.

37 (e) The Morro Bay Task Force, composed of representatives of 50 government
38 agencies and interest groups, was established in 1987 and adopted as a goal the long-
39 term preservation, conservation, and enhancement of Morro Bay. It selected
40 management planning as the best means to pursue that goal.

1 (f) The need to develop and carry out a management plan for Morro Bay and its
2 watershed has been clearly recognized by the Legislature in adopting Assembly
3 Concurrent Resolution 118 in 1990 (Resolution Chapter 58 of the Statutes of 1990).

4 (g) This need is also recognized by the approval by the Governor of the
5 nomination of Morro Bay for the National Estuary Program, as developed and
6 adopted by the State Water Resources Control Board. The development of a
7 management plan for Morro Bay will improve the likelihood that Morro Bay will
8 be accepted into the National Estuary Program.

9 (h) The Congress of the United States is expected to renew and revise the Clean
10 Water Act (33 U.S.C. Sec. 1250 et seq.), and to include funding for watershed
11 management planning. Designating Morro Bay and its watershed as a management
12 planning area will increase the likelihood that Congress will allocate federal funds
13 for Morro Bay management planning.

14 (i) There is now clear and compelling evidence that Morro Bay is suffering from
15 an unnaturally rapid, undesirable, and irreversible deterioration as a unique and
16 valuable natural resource, including (1) a 1988 study, funded by the State Coastal
17 Conservancy, which determined that Morro Bay has lost over 30 percent of its
18 estuary over the last 100 years, and that it continues to be threatened by unnaturally
19 rapid sedimentation and the loss of riparian flow caused by activities on state-owned
20 and local agency-owned properties and on privately owned agricultural lands within
21 the watershed, and (2) occasional, recent measurements by the State Department of
22 Health Services of coliform content that exceed safe levels.

23 (j) The need to prevent erosion in the Morro Bay watershed, which results in
24 further sedimentation and loss of bay habitat, has been clearly recognized by the
25 commitment of over three million dollars (\$3,000,000) to watershed enhancement
26 projects, mostly through the State Coastal Conservancy.

27 (k) The Morro Bay watershed was selected as the pilot watershed for developing
28 California's nonpoint source pollution regulations to comply with the federal
29 Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et seq.).

30 (l) There are unknown factors influencing the health of Morro Bay which need
31 study, including (1) unsafe levels of nitrates in groundwater in residential areas
32 adjoining the bay, coupled with rapidly increasing coverage of intertidal mudflats
33 with algae, and (2) occasional quarantine of oyster production in Morro Bay because
34 of paralytic poisoning caused by planktonic invasion.

35 (m) Morro Bay is an essential link in the Pacific Flyway, providing the state's
36 largest waterfowl habitat south of San Francisco. Annually, Morro Bay has the
37 second or third largest Audubon count of bird species in the nation.

38 (n) Morro Bay offers many beneficial human uses, such as oyster farming,
39 harboring commercial and recreational fishing boats, recreational boating, and
40 aesthetic tourist attractions supporting a large business community. A healthy bay
41 is important for all of these activities and enterprises.

1 (o) Morro Bay remains relatively unspoiled. Action to maintain and enhance it
2 will be far less costly than restoring it after deterioration.

3 (p) Through the efforts of governmental agencies and volunteer organizations
4 communicating through the Morro Bay Task Force, strong, widespread,
5 multipartisan support for the development of a management plan has arisen.
6 Cooperative effort and the involvement of all concerned has already been
7 established as the method to follow in planning.

8 (q) It is necessary to develop a comprehensive management plan for Morro Bay
9 to conduct research, to coordinate the monitoring of sediment and water quality, to
10 promote coordinated education and public outreach programs, and to identify and
11 seek sources of funding for these activities.

12 **Comment.** Section 28000 is amended to update a reference to the former Department of Fish
13 and Game. See Fish & Wildlife Code § 1500.

14 **Pub. Res. Code § 28004 (amended).**

15 SEC. _____. Section 28004 of the Public Resources Code is amended to read:

16 28004. (a)(1) The agency shall convene the Morro Bay Management Plan Task
17 Force to develop the plan. The Central Coast Regional Water Quality Control Board
18 shall be utilized to carry out necessary administrative functions, including selecting
19 a temporary chairperson of the task force, until such time as the task force
20 establishes its own organization, leadership, and procedures. The task force shall
21 meet at least four times each calendar year. The task force shall submit the plan to
22 the San Luis Obispo County Board of Supervisors and to the Morro Bay City
23 Council for approval. Following that approval, the task force shall, on or before July
24 1, 1997, submit the plan to the Legislature.

25 (2) On and after July 1, 1997, the task force shall, on an ongoing basis, make
26 recommendations to the agency regarding the need for any revisions in the plan.

27 (3) The task force shall terminate as of June 30, 2007.

28 (b) The agency shall encourage all local, state, and federal agencies with
29 jurisdiction over parts of, or activities within, the bay and its watershed to participate
30 in the task force. The agency shall also encourage the participation of all interested
31 business and agricultural groups, commercial organizations, environmental groups,
32 and any other interested groups or individuals.

33 (1) Participating agencies may include, but are not limited to, the agency, the
34 National Guard, the Department of Parks and Recreation, the Department of Fish
35 and Game Wildlife, the Department of Corrections, the State Department of Health
36 Services, the California Coastal Commission, the State Water Resources Control
37 Board, the Central Coast Regional Water Quality Control Board, the Coastal San
38 Luis Resource Conservation District, the State Coastal Conservancy, the California
39 Conservation Corps, California Polytechnic State University San Luis Obispo, the
40 University of California Agricultural Extension, the County of San Luis Obispo,
41 and the City of Morro Bay.

1 (2) Other participants may include, but are not limited to, the Pacific Gas and
2 Electric Company, agricultural groups, commercial fishing, mariculture, and fish
3 processing groups, local chambers of commerce, and members of the tourist
4 industry.

5 (3) The costs incurred by each voluntary participant in the task force shall be
6 limited to the costs of its own participation at the meetings called by the chairperson
7 of the task force.

8 **Comment.** Section 28004 is amended to update a reference to the former Department of Fish
9 and Game. See Fish & Wildlife Code § 1500.

10 **Pub. Res. Code § 29004 (amended).**

11 SEC. _____. Section 29004 of the Public Resources Code is amended to read:
12 29004. The Legislature further finds and declares as follows:

13 (a) That the San Francisco Bay Conservation and Development Commission and
14 the Department of Fish and Game Wildlife, pursuant to the Nejedly-Bagley-Z'berg
15 Suisun Marsh Preservation Act of 1974 (former Chapter 9 (commencing with
16 Section 1850) of Division 2 of the Fish and Game Code, added by Chapter 1486 of
17 the Statutes of 1974), have made a detailed study of the Suisun Marsh; that there
18 has been extensive participation by other governmental agencies, private interests,
19 and the general public in the study; and that, based on the study, the commission
20 has prepared the Suisun Marsh Protection Plan for the orderly and long-range
21 conservation, use, and management of the natural, scenic, recreational, and
22 manmade resources of the marsh.

23 (b) That the Suisun Marsh Protection Plan contains a series of recommendations
24 which require implementation by the Legislature; and, accordingly, these
25 recommendations are implemented in the manner provided in this division.

26 **Comment.** Section 29004 is amended to clarify a cross-reference to Chapter 9 (commencing
27 with Section 1850) of Division 2 of the former Fish and Game Code. The section is also amended
28 to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

29 **Pub. Res. Code § 29107 (amended).**

30 SEC. _____. Section 29107 of the Public Resources Code is amended to read:
31 29107. "Department" means the Department of Fish and Game Wildlife.

32 **Comment.** Section 29107 is amended to update a reference to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.

34 **Pub. Res. Code § 29305 (amended).**

35 SEC. _____. Section 29305 of the Public Resources Code is amended to read:

36 29305. The Wildlife Conservation Board shall acquire title to, or a lesser right or
37 interest in, land or water that the board determines is appropriate for the purposes
38 of the protection plan. When authorized by the board, the department shall construct
39 facilities that are suitable for the purpose for which the acquisitions were made. The
40 acquisitions shall be made in accordance with the Wildlife Conservation Law of

1 1947 (~~Chapter 4 (commencing with Section 1300) of Division 2 Title 1~~
2 ~~(commencing with Section 54700) of Part 2 of Division 15 of the Fish and Game~~
3 ~~Wildlife Code~~) and the criteria specified in Section 29009 of this code.

4 **Comment.** Section 29305 is amended to reflect the recodification of the former Fish and Game
5 Code.

6 **Pub. Res. Code § 29413 (amended).**

7 SEC. _____. Section 29413 of the Public Resources Code is amended to read:

8 29413. (a) Not less than 15 days after submission of the local protection program,
9 or any component thereof, pursuant to Section 29412, the commission shall request
10 comments on the program from the Department of Fish and Game Wildlife, from
11 the State Department of Health, from all local governments, and from such other
12 governmental agencies and interested persons as the commission may determine
13 would be of assistance in reviewing the proposed program. The department or any
14 such agency or person shall provide its comments within 60 days of the
15 commission's request, and failure to provide comments within such time shall be
16 deemed to mean that the department or any such agency or person has no comments
17 to make.

18 (b) In addition to its responsibilities under subdivision (a), the department shall
19 specifically determine whether the component of the local protection program
20 prepared by the Suisun Resource Conservation District is, in the opinion of the
21 department, consistent with this division and the policies of the protection plan.

22 (c) The Director of Health shall specifically determine whether the component of
23 the local protection program prepared by the Solano County Mosquito Abatement
24 District is in conformity with the applicable provisions of the Health and Safety
25 Code.

26 **Comment.** Section 29413 is amended to update a reference to the former Department of Fish
27 and Game. See Fish & Wildlife Code § 1500.

28 **Pub. Res. Code § 30100.2 (amended).**

29 SEC. _____. Section 30100.2 of the Public Resources Code is amended to read:

30 30100.2. "Aquaculture" means a form of agriculture as defined in Section 17 225
31 of the Fish and Game Wildlife Code. Aquaculture products are agricultural
32 products, and aquaculture facilities and land uses shall be treated as agricultural
33 facilities and land uses in all planning and permit-issuing decisions governed by this
34 division.

35 **Comment.** Section 30100.2 is amended to reflect the recodification of the former Fish and Game
36 Code.

37 **Pub. Res. Code § 30170 (amended).**

38 SEC. _____. Section 30170 of the Public Resources Code is amended to read:

39 30170. In San Diego County:

1 (a) In the City of Oceanside, approximately 500 acres are excluded as specifically
2 shown on maps 30A and 31.

3 (b) In the City of Carlsbad, approximately 180 acres in the downtown area, except
4 for the Elm Street corridor, are excluded as specifically shown on map 31.

5 (c) In the City of Carlsbad, the area lying north of the Palomar Airport as generally
6 shown on maps 31 and 32 and as specifically described in this subdivision is
7 excluded.

8 Those portions of lots “F” and “G” of Rancho Agua Hedionda, part in the City of
9 Carlsbad and part in the unincorporated area of the County of San Diego, State of
10 California, according to the partition map thereof No. 823, filed in the office of the
11 county recorder of that county, November 16, 1896, described as follows:

12 Commencing at point 1 of said lot “F” as shown on said map; thence along the
13 boundary line of said lot “F” south $25^{\circ} 33' 56''$ east, 229.00 feet to point 23
14 of said lot “F” and south $54^{\circ} 40' 19''$ east, 1347.00 feet; thence leaving said
15 boundary line south $35^{\circ} 19' 44''$ west, 41.28 feet to the true point of
16 beginning, which point is the true point of beginning, of the land described in deed
17 to Japatul Corporation recorded December 8, 1975, at recorder’s file/page No.
18 345107 of official records to said county; thence along the boundary line of said
19 land south $35^{\circ} 19' 44''$ west, 2216.46 feet and north $53^{\circ} 02' 49''$ west,
20 1214.69 feet to the northeast corner of the land described in deed to Japatul
21 Corporation recorded December 8, 1975, at recorder’s file/page No. 345103 of said
22 official records; thence along the boundary lines of said land as follows: West, 1550
23 feet, more or less, to the boundary of said lot “F”; south $00^{\circ} 12' 00''$ west,
24 550 feet, more or less, to point 5 of said lot “F”; south $10^{\circ} 25' 10''$ east along
25 a straight line between said point 5 and point 14 of said lot “F,” to point 14 of said
26 lot “F”; thence along the boundary of said lot “F” south $52^{\circ} 15' 45''$ east
27 (record south $51^{\circ} 00' 00''$ east) 1860.74 feet more or less to the most westerly
28 corner of the land conveyed to James L. Hieatt, et ux, by deed recorded June 11,
29 1913, in Book 617, page 54 of deed, records of said county; thence along the
30 northwesterly and northeasterly boundary of Hieatt’s land as follows: North $25^{\circ} 00'$
31 $00''$ east, 594.00 feet and south $52^{\circ} 15' 45''$ east (record south 51°
32 $00' 00''$ east per deed) 1348.61 feet to a point of intersection with the
33 northerly line of Palomar County Airport, said point being on the boundary of the
34 land conveyed to Japatul Corporation by deed recorded December 8, 1975, at
35 recorder’s file/page No. 345107 of said official records; thence along said boundary
36 as follows: North $79^{\circ} 10' 00''$ east, 4052.22 feet north $10^{\circ} 50' 00''$
37 west, 500.00 feet; north $79^{\circ} 10' 00''$ east 262.00 feet, south $10^{\circ} 50'$
38 $00''$ east, 500.00 feet; north $79^{\circ} 10' 00''$ east, 1005 feet, more or less,
39 to the westerly line of the land conveyed to the County of San Diego by deed
40 recorded May 28, 1970, at recorder’s file/page No. 93075 of said official records;
41 thence continuing along the boundary of last said Japatul Corporation’s land north
42 $38^{\circ} 42' 44''$ west, 2510.58 feet to the beginning of a tangent 1845.00 foot

1 radius curve concave northeasterly; along the arc of said curve through a central
2 angle of 14° 25' 52″ a distance of 464.70 feet to a point of the southerly
3 boundary of the land allotted to Thalia Kelly Considine, et al., by partial final
4 judgment in partition, recorded January 18, 1963, at recorder's file/page No. 11643
5 of said official records; thence continuing along last said Japatul Corporation's land
6 south 67° 50' 28″ west, 1392.80 feet north 33° 08' 52″ west, 915.12
7 feet and north 00° 30' 53″ west, 1290.37 feet to the southerly line of said
8 land conveyed to the County of San Diego, being also the northerly line of last said
9 Japatul Corporation's land; thence along said common line north 74° 57' 25″
10 west, 427.67 feet to the beginning of a tangent 2045.00 foot radius curve concave
11 northerly; and westerly along the arc of said curve through a central angle of 16°
12 59' 24″; a distance of 606.41 feet to the true point of beginning.

13 And those properties known as assessors parcel Nos. 212-020-08, 212-020-22,
14 and 212-020-23.

15 Excepting therefrom, that portion, if any, conveyed to the County of San Diego,
16 by quitclaim deed recorded January 12, 1977, at recorder's file/page No. 012820 of
17 said official records.

18 No development may occur in the area described in this subdivision until a plan
19 for drainage of the parcel to be developed has been approved by the local
20 government having jurisdiction over the area after consultation with the commission
21 and the Department of Fish and Game Wildlife. The plan shall assure that no
22 detrimental increase occurs in runoff of water from the parcel to be developed and
23 shall require that the facilities necessary to implement the plan are installed as part
24 of the development.

25 (d) In the City of Carlsbad and adjacent unincorporated areas, approximately 600
26 acres consisting of the Palomar Airport and an adjoining industrial park are
27 excluded as specifically shown on maps 31 and 32.

28 (e) An area consisting of approximately 333 acres lying west and south of the
29 Palomar Airport and bounded on the south by Palomar Airport Road is excluded as
30 specifically shown on maps 31 and 32.

31 No development may occur in the area described in this subdivision until a plan
32 for drainage of the parcel to be developed has been approved by the local
33 government having jurisdiction over the area after consultation with the commission
34 and the Department of Fish and Game Wildlife. The plan shall assure that no
35 detrimental increase occurs in runoff of water from the parcel to be developed and
36 shall require that the facilities necessary to implement the plan are installed as part
37 of the development.

38 (f) On or before October 1, 1980, the commission shall, after public hearing and
39 in consultation with the City of Carlsbad, prepare, approve, and adopt a local coastal
40 program for the following parcels in the vicinity of Batiquitos Lagoon within the
41 City of Carlsbad: lands owned by Rancho La Costa, a registered limited partnership,
42 lands (consisting of approximately 80 acres) owned by Standard Pacific of San

1 Diego, Inc., that were conveyed by Rancho La Costa on October 8, 1977, and lands
2 owned by the Occidental Petroleum Company. Those parcels shall be determined
3 by ownership as of September 12, 1979. As used in this subdivision, “parcels”
4 means the parcels identified in this paragraph. The local coastal program required
5 by this subdivision shall include all of the following elements:

6 (1) Protection of agricultural lands and uses to the extent feasible.

7 (2) Minimization of adverse impacts from sedimentation.

8 (3) Protection of feasible public recreational opportunities.

9 (4) Provision for economically feasible development consistent with the three
10 elements specified in this subdivision.

11 The local coastal program required by this subdivision shall, after adoption by the
12 commission, be deemed certified and shall for all purposes of this division constitute
13 certified local coastal program segments for those parcels in the City of Carlsbad.
14 The segments of the city’s local coastal program for those parcels may be amended
15 pursuant to the provisions of this division relating to the amendment of local coastal
16 programs. In addition, until (i) the City of Carlsbad adopts or enacts the
17 implementing actions contained in the local coastal program, or (ii) other statutory
18 provisions provide alternately for the adoption, certification, and implementation of
19 a local coastal program for those parcels, the local coastal program required by this
20 subdivision may also be amended by the commission at the request of the owner of
21 any of those parcels. For administrative purposes, the commission may group these
22 requests in order to schedule them for consideration at a single commission hearing.
23 However, the commission shall schedule these requests for consideration at least
24 once during each four-month period, beginning January 1, 1982. After either of
25 these events occur, however, these property owners shall no longer be eligible to
26 request the commission to amend the local coastal program.

27 If the commission fails to adopt a local coastal program within the time limits
28 specified in this subdivision, those parcels shall be excluded from the coastal zone
29 and shall no longer be subject to this division. It is the intent of the Legislature in
30 enacting this subdivision that a procedure to expedite the preparation and adoption
31 of a local coastal program for those parcels be established so that the public and
32 affected property owners know as soon as possible what the permissible uses of
33 those lands are.

34 (g) In the vicinity of the intersection of Del Mar Heights Road and the San Diego
35 Freeway, approximately 250 acres are excluded as specifically shown on map 33.

36 (h) In the vicinity of the intersection of Carmel Valley Road and the San Diego
37 Freeway, approximately 45 acres are added as specifically shown on map 33.

38 In the City of San Diego, the Carmel Valley area consisting of approximately
39 1,400 acres as shown on map 33 that has been placed on file with the Secretary of
40 State on January 23, 1980, shall be excluded from the coastal zone after the City of
41 San Diego submits, and the commission certifies, a drainage plan and a
42 transportation plan for the area. The city shall implement and enforce the certified

1 drainage and transportation plans. Any amendments or changes to the underlying
2 land use plan for the area that affects drainage, or to either the certified drainage or
3 transportation plan, shall be reviewed and processed in the same manner as an
4 amendment of a certified local coastal program pursuant to Section 30514. Any land
5 use not in conformance with the certified drainage and transportation plans may be
6 appealed to the commission pursuant to the appeals procedure as provided by
7 Chapter 7 (commencing with Section 30600). The drainage plan and any
8 amendments thereto shall be prepared after consultation with the Department of Fish
9 and Game Wildlife and shall ensure that problems resulting from water runoff,
10 sedimentation, and siltation are adequately identified and resolved.

11 (i) Near the head of the south branch of Los Penasquitos Canyon, the boundary is
12 moved seaward to the five-mile limit as described in Section 30103 and as
13 specifically shown on map 33.

14 (j) In the City of San Diego, approximately 1,855 acres known as the Mount
15 Soledad and La Jolla Mesa areas are added as specifically shown on map 34.
16 However, on or before February 29, 1980, and pursuant to either subdivision (d) of
17 Section 30610 or Section 30610.5, the commission shall exclude from coastal
18 development permit requirements any single-family residence within the area
19 specified in this subdivision. No coastal development permit shall be required for
20 any improvement, maintenance activity, relocation, or reasonable expansion of any
21 commercial radio or television transmission facilities within the area specified in
22 this subdivision unless the proposed activity could result in a significant change in
23 the density or intensity of use in the area or could have a significant adverse impact
24 on highly scenic resources of public importance. However, no prior review by the
25 commission of this activity shall be required.

26 (k) In the City of San Diego, approximately 30 acres known as the Famosa Slough
27 is added as specifically shown on maps 34 and 35.

28 **Comment.** Section 30170 is amended to update references to the former Department of Fish and
29 Game. See Fish & Wildlife Code § 1500.

30 **Pub. Res. Code § 30233 (amended).**

31 SEC. _____. Section 30233 of the Public Resources Code is amended to read:

32 30233. (a) The diking, filling, or dredging of open coastal waters, wetlands,
33 estuaries, and lakes shall be permitted in accordance with other applicable
34 provisions of this division, where there is no feasible less environmentally damaging
35 alternative, and where feasible mitigation measures have been provided to minimize
36 adverse environmental effects, and shall be limited to the following:

37 (1) New or expanded port, energy, and coastal-dependent industrial facilities,
38 including commercial fishing facilities.

39 (2) Maintaining existing, or restoring previously dredged, depths in existing
40 navigational channels, turning basins, vessel berthing and mooring areas, and boat
41 launching ramps.

1 (3) In open coastal waters, other than wetlands, including streams, estuaries, and
2 lakes, new or expanded boating facilities and the placement of structural pilings for
3 public recreational piers that provide public access and recreational opportunities.

4 (4) Incidental public service purposes, including, but not limited to, burying
5 cables and pipes or inspection of piers and maintenance of existing intake and outfall
6 lines.

7 (5) Mineral extraction, including sand for restoring beaches, except in
8 environmentally sensitive areas.

9 (6) Restoration purposes.

10 (7) Nature study, aquaculture, or similar resource-dependent activities.

11 (b) Dredging and spoils disposal shall be planned and carried out to avoid
12 significant disruption to marine and wildlife habitats and water circulation. Dredge
13 spoils suitable for beach replenishment should be transported for these purposes to
14 appropriate beaches or into suitable longshore current systems.

15 (c) In addition to the other provisions of this section, diking, filling, or dredging
16 in existing estuaries and wetlands shall maintain or enhance the functional capacity
17 of the wetland or estuary. Any alteration of coastal wetlands identified by the
18 Department of Fish and Game Wildlife, including, but not limited to, the 19 coastal
19 wetlands identified in its report entitled, “Acquisition Priorities for the Coastal
20 Wetlands of California”, shall be limited to very minor incidental public facilities,
21 restorative measures, nature study, commercial fishing facilities in Bodega Bay, and
22 development in already developed parts of south San Diego Bay, if otherwise in
23 accordance with this division.

24 For the purposes of this section, “commercial fishing facilities in Bodega Bay”
25 means that not less than 80 percent of all boating facilities proposed to be developed
26 or improved, where the improvement would create additional berths in Bodega Bay,
27 shall be designed and used for commercial fishing activities.

28 (d) Erosion control and flood control facilities constructed on watercourses can
29 impede the movement of sediment and nutrients that would otherwise be carried by
30 storm runoff into coastal waters. To facilitate the continued delivery of these
31 sediments to the littoral zone, whenever feasible, the material removed from these
32 facilities may be placed at appropriate points on the shoreline in accordance with
33 other applicable provisions of this division, where feasible mitigation measures have
34 been provided to minimize adverse environmental effects. Aspects that shall be
35 considered before issuing a coastal development permit for these purposes are the
36 method of placement, time of year of placement, and sensitivity of the placement
37 area.

38 **Comment.** Section 30233 is amended to update a cross-reference to the former Department of
39 Fish and Game. See Fish & Wildlife Code § 1500.

40 **Pub. Res. Code § 30265.5 (amended).**

41 SEC. _____. Section 30265.5 of the Public Resources Code is amended to read:

1 30265.5. (a) The Governor, or the Governor's designee, shall coordinate activities
2 concerning the transport and refining of offshore oil. Coordination efforts shall
3 consider public health risks, the ability to achieve short- and long-term air emission
4 reduction goals, the potential for reducing California's vulnerability and
5 dependence on oil imports, economic development and jobs, and other factors
6 deemed important by the Governor, or the Governor's designee.

7 (b) The Governor, or the Governor's designee, shall work with state and local
8 agencies, and the public, to facilitate the transport and refining of offshore oil in a
9 manner which will promote the greatest public health and environmental and
10 economic benefits to the people of the state.

11 (c) The Governor, or the Governor's designee, shall consult with any individual
12 or organization having knowledge in this area, including, but not limited to,
13 representatives from the following:

14 (1) State Energy Resources Conservation and Development Commission.

15 (2) State Air Resources Board.

16 (3) California Coastal Commission.

17 (4) Department of Fish and ~~Game~~ Wildlife.

18 (5) State Lands Commission.

19 (6) Public Utilities Commission.

20 (7) Santa Barbara County.

21 (8) Santa Barbara County Air Pollution Control District.

22 (9) Southern California Association of Governments.

23 (10) South Coast Air Quality Management District.

24 (11) Oil industry.

25 (12) Public interest groups.

26 (13) United States Department of the Interior.

27 (14) United States Department of Energy.

28 (15) United States Environmental Protection Agency.

29 (16) National Oceanic and Atmospheric Administration.

30 (17) United States Coast Guard.

31 (d) This act is not intended, and shall not be construed, to decrease, duplicate, or
32 supersede the jurisdiction, authority, or responsibilities of any local government, or
33 any state agency or commission, to discharge its responsibilities concerning the
34 transportation and refining of oil.

35 **Comment.** Section 30265.5 is amended to update a reference to the former Department of Fish
36 and Game. See Fish & Wildlife Code § 1500.

37 **Pub. Res. Code § 30404 (amended).**

38 SEC. _____. Section 30404 of the Public Resources Code is amended to read:

39 30404. (a) The Natural Resources Agency shall periodically, in the case of the
40 State Energy Resources Conservation and Development Commission, the State
41 Board of Forestry and Fire Protection, the State Water Resources Control Board and

1 the California regional water quality control boards, the State Air Resources Board
2 and air pollution control districts and air quality management districts, the
3 Department of Fish and Game Wildlife, the Department of Parks and Recreation,
4 the California Geological Survey and the Division of Oil, Gas, and Geothermal
5 Resources in the Department of Conservation, and the State Lands Commission,
6 and may, with respect to any other state agency, submit recommendations designed
7 to encourage the state agency to carry out its functions in a manner consistent with
8 this division. The recommendations may include proposed changes in
9 administrative regulations, rules, and statutes.

10 (b) This section shall become operative on July 1, 2013.

11 **Comment.** Section 30404 is amended to update a reference to the former Department of Fish
12 and Game. See Fish & Wildlife Code § 1500.

13 **Pub. Res. Code § 30420 (amended).**

14 SEC. _____. Section 30420 of the Public Resources Code is amended to read:

15 30420. Prior to taking any action on (1) a local coastal program or any amendment
16 thereto, (2) any coastal development permit, or (3) any consistency determination
17 or certification, that relates to the disposal of hazardous substances at sea, the
18 commission shall consult with the following governmental entities:

19 (a) Department of Toxic Substances Control.

20 (b) State Lands Commission.

21 (c) State Air Resources Board and relevant air pollution control districts or air
22 quality management districts.

23 (d) Department of Fish and Game Wildlife.

24 (e) State Water Resources Control Board and relevant California regional water
25 quality control boards.

26 (f) Secretary for Environmental Protection.

27 (g) Governor's Office of Planning and Research.

28 (h) The local government located closest to the proposed activity, or within whose
29 jurisdiction the activity is proposed, or within whose jurisdiction there may be
30 effects of the proposed activity.

31 **Comment.** Section 30420 is amended to update a reference to the former Department of Fish
32 and Game. See Fish & Wildlife Code § 1500.

33 **Pub. Res. Code § 30609.5 (amended).**

34 SEC. _____. Section 30609.5 of the Public Resources Code is amended to read:

35 30609.5. (a) Except as provided in subdivisions (b) and (c), no state land that is
36 located between the first public road and the sea, with an existing or potential public
37 accessway to or from the sea, or that the commission has formally designated as part
38 of the California Coastal Trail, shall be transferred or sold by the state to any private
39 entity unless the state retains a permanent property interest in the land adequate to
40 provide public access to or along the sea. In any transfer or sale of real property by
41 a state agency to a private entity or person pursuant to this section, the instrument

1 of conveyance created by the state shall require that the private entity or person or
2 the entity or person's successors or assigns manage the property in such a way as to
3 ensure that existing or potential public access is not diminished. The instrument of
4 conveyance shall further require that any violation of this management requirement
5 shall result in the reversion of the real property to the state.

6 (b) This section shall not apply to the transfer of state land to a nonprofit
7 organization that exists for the purposes of preserving lands for public use and
8 enjoyment and meets the requirements of subdivision (b) of Section 831.5 of the
9 Government Code.

10 (c) Notwithstanding the provisions of subdivision (a), state lands between the first
11 public road and the sea, that are under the possession and control of the Department
12 of Parks and Recreation or the State Coastal Conservancy, may be transferred or
13 sold if the department or the conservancy makes one or more of the following
14 findings at a noticed public hearing relating to the transfer or sale of the property:

15 (1) The state has retained or will retain, as a condition of the transfer or sale,
16 permanent property interests on the land providing public access to or along the sea.

17 (2) Equivalent or greater public access to the same beach or shoreline area is
18 provided for than would be feasible if the land were to remain in state ownership.

19 (3) The land to be transferred or sold is an environmentally sensitive area with
20 natural resources that would be adversely impacted by public use, and the state will
21 retain permanent property interests in the land that may be necessary to protect, or
22 otherwise provide for the permanent protection of, those resources prior to or as a
23 condition of the transfer or sale.

24 (4) The land to be transferred or sold has neither existing nor potential public
25 accessway to the sea.

26 (d) Nothing in this section shall be construed to interfere with the management
27 responsibilities of state resource agencies, including, but not limited to, the
28 responsibilities to ensure public safety and implement the California Endangered
29 Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1~~
30 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife
31 Code).

32 (e) As used in this section, "state land" means any real property in which the state
33 or any state agency has an ownership interest including, but not limited to, a fee,
34 title, easement, deed restriction, or other interest in land. It does not include land in
35 which a city, county, city and county, or district has an ownership interest.

36 (f) Nothing in this section is intended to restrict a private property owner's right
37 to sell or transfer private property.

38 **Comment.** Subdivision (d) of Section 30609.5 is amended to reflect the recodification of the
39 former Fish and Game Code.

40 **Pub. Res. Code § 30921 (amended).**

41 SEC. _____. Section 30921 of the Public Resources Code is amended to read:

1 30921. (a) Upon appropriation by the Legislature for that purpose, funds may be
2 expended by the board, in consultation with the State Coastal Conservancy, the
3 California Coastal Commission, and, as appropriate, the Department of Fish and
4 Game Wildlife, to award grants, not to exceed one million dollars (\$1,000,000) per
5 project, to local public agencies and nonprofit organizations for the purposes of this
6 chapter.

7 (b) The projects funded to carry out this chapter shall demonstrate the capability
8 of contributing to sustained, long-term water quality or environmental restoration
9 or protection benefits for a period of 20 years, address the causes of degradation
10 rather than the symptoms, and be consistent with water quality control plans and
11 resource protection plans prepared, implemented, or adopted by the board, the
12 applicable regional board, the Department of Fish and Game Wildlife, and the State
13 Coastal Conservancy.

14 (c) An applicant for funds to carry out this chapter shall be required to submit to
15 the board a monitoring and reporting plan that does all of the following:

16 (1) Identifies the sources of pollution to be prevented or reduced by the project.

17 (2) Describes the baseline water quality or environmental quality to be addressed.

18 (3) Describes the manner in which the project will be effective in preventing or
19 reducing pollution and in demonstrating the desired environmental results.

20 (4) Describes the monitoring program, including, but not limited to, the
21 methodology, frequency, and duration of monitoring.

22 (d) Upon completion of the project, a recipient of funds to carry out this chapter
23 shall submit a report to the board that summarizes the completed activities and
24 indicates whether the purposes of the project have been met. The report shall include
25 information collected by the recipient in accordance with the project monitoring and
26 reporting plan, including a determination of the effectiveness of the project in
27 preventing or reducing pollution, and the results of the monitoring program. The
28 board shall make the report available to the public, watershed groups, and federal,
29 state, and local agencies.

30 (e) The board may not award more than 25 percent of a grant to carry out this
31 chapter in advance of the expenditure of funds by a grantee.

32 (f) An applicant for funds to carry out this chapter shall inform the board of any
33 necessary public agency approvals, entitlements, and permits that may be necessary
34 to implement the project. The applicant shall certify to the board, at the appropriate
35 time, that those approvals, entitlements, and permits have been granted.

36 (g) Where recovery plans for coho salmon, steelhead trout, or other threatened or
37 endangered coastal and marine aquatic species exist, projects funded to carry out
38 this chapter shall be consistent with those plans and, to the extent feasible, shall seek
39 to implement actions specified in those plans.

40 (h) The board, in consultation with the California Coastal Commission, shall
41 appoint a marine managed areas water quality task force comprised of individuals
42 representing the breadth and diversity of coastal communities, interested nonprofit

1 groups, and marine resource users. All proposals for grant funding to carry out this
2 chapter shall be reviewed by the task force. The task force may recommend projects
3 to the board for funding consideration.

4 (i) The board shall provide opportunity for public review and comment in
5 awarding funds to carry out this chapter.

6 **Comment.** Section 30921 is amended to update references to the former Department of Fish and
7 Game. See Fish & Wildlife Code § 1500.

8 **Pub. Res. Code § 31220 (amended).**

9 SEC. _____. Section 31220 of the Public Resources Code is amended to read:

10 31220. (a) In order to improve and protect coastal and marine water quality and
11 habitats, the conservancy may undertake coastal watershed and coastal and marine
12 habitat water quality, sediment management, and living marine resources protection
13 and restoration projects or award grants for those projects, consistent with this
14 chapter. Except for projects described in paragraph (7), (8), (9), or (10) of
15 subdivision (b), the conservancy shall consult with the State Water Resources
16 Control Board in the development of the project or grant to ensure consistency with
17 Chapter 3 (commencing with Section 30915) of Division 20.4 of the Public
18 Resources Code.

19 (b) The conservancy may undertake a project or award a grant for a project under
20 this section only if the project does one or more of the following:

21 (1) Reduces contamination of waters within the coastal zone or marine waters.

22 (2) Protects or restores fish and wildlife habitat within coastal and marine waters
23 and coastal watersheds, including, but not limited to, permit coordination projects
24 for watershed restoration.

25 (3) Reduces threats to coastal and marine fish and wildlife.

26 (4) Reduces unnatural erosion and sedimentation of coastal watersheds or
27 contributes to the reestablishment of natural erosion and sediment cycles.

28 (5) Provides for monitoring and mapping of coastal currents, marine habitats, and
29 marine wildlife, in order to facilitate the protection and enhancement of resources
30 within the coastal zone. A project considered under this paragraph shall be
31 implemented in consultation with the Department of Fish and Game Wildlife.

32 (6) Acquires, protects, and restores coastal wetlands, riparian areas, floodplains,
33 and other sensitive watershed lands, including watershed lands draining to sensitive
34 coastal or marine areas.

35 (7) Reduces the impact of population and economic pressures on coastal and
36 marine resources.

37 (8) Provides for public access compatible with resource protection and restoration
38 objectives.

39 (9) Provides for the construction or expansion of nature centers or research
40 facilities that emphasize conservation education or research activities focusing on
41 the marine portion of the coastal zone or the land and ocean interface.

1 (10) Provides for projects and activities consistent with Division 26.5
2 (commencing with Section 35500).

3 (c) Projects funded pursuant to this section shall include a monitoring and
4 evaluation component and shall be consistent with the following, if available and
5 relevant to the project:

6 (1) Integrated Watershed Management Program established pursuant to Section
7 30947.

8 (2) Local watershed management plans.

9 (3) Water quality control plans adopted by the State Water Resources Control
10 Board and regional water quality control boards.

11 **Comment.** Section 31220 is amended to update a reference to the former Department of Fish
12 and Game. See Fish & Wildlife Code § 1500.

13 **Pub. Res. Code § 31251.2 (amended).**

14 SEC. _____. Section 31251.2 of the Public Resources Code is amended to read:

15 31251.2. (a) In order to enhance the natural or scenic character of coastal
16 resources within the coastal zone, the conservancy may undertake a project or award
17 a grant, consistent with subdivision (a) of Section 30200 and pursuant to this
18 chapter, to enhance a watershed resource that is partly outside of the coastal zone.
19 Any of these projects or grants which involve the management of fish shall be
20 approved by the Department of Fish and ~~Game~~ Wildlife.

21 Neither the conservancy nor any other state agency shall undertake a project
22 affecting an area partly inside and partly outside the coastal zone under this chapter,
23 except at the request of the local public agency or agencies having jurisdiction over
24 the entire project area.

25 (b) Any enhancement activity carried out pursuant to this section shall not be
26 subject to any commission review, as set forth in Section 31258, for that portion of
27 the activity located outside the coastal zone. However, the commission through its
28 executive director and the Department of Fish and ~~Game~~ Wildlife may review and
29 comment on the enhancement plan's consistency with the policies and objectives of
30 Division 20 (commencing with Section 30000).

31 (c) No funds set forth in subdivision (c) of Section 5096.151 of the Public
32 Resources Code, shall be expended on enhancement activities that are outside the
33 coastal zone.

34 (d) This section shall not apply to any portion of the Santa Monica Mountains
35 Zone as set forth in Division 23 (commencing with Section 33000).

36 **Comment.** Section 31251.2 is amended to update references to the former Department of Fish
37 and Game. See Fish & Wildlife Code § 1500.

38 **Pub. Res. Code § 32301 (amended).**

39 SEC. _____. Section 32301 of the Public Resources Code is amended to read:

40 32301. The Legislature finds and declares all of the following:

1 (a) The Sacramento-San Joaquin Delta is a unique natural resource of local, state,
2 and national significance.

3 (b) At 1,300 square miles, the Delta is the largest estuary on the west coast of
4 North and South America.

5 (c) Its rivers and labyrinths of sloughs and channels are home to 750 species of
6 plants and wildlife as well as 55 species of fish, provide habitat for 700 native plant
7 and animal species, and are part of the Pacific Flyway.

8 (d) The Delta contains more than 500,000 acres of agricultural land, with unique
9 soils, and farmers who are creative and utilize innovative agriculture, such as carbon
10 sequestration crops, subsidence reversal crops, wildlife-friendly crops, and crops
11 direct for marketing to the large urban populations nearby.

12 (e) The Delta and Suisun Marsh provide numerous opportunities for recreation,
13 such as boating, kayaking, fishing, hiking, birding, and hunting. Navigable
14 waterways in the Delta are available for public access and currently make up the
15 majority of recreational opportunities. There is a need for land-based recreational
16 access points including parks, picnic areas, and campgrounds.

17 (f) The Delta's history is rich with a distinct natural, agricultural, and cultural
18 heritage. It is home to the community of Locke, the only town in the United States
19 built primarily by early Chinese immigrants. Other legacy communities include
20 Bethel Island, Clarksburg, Courtland, Freeport, Hood, Isleton, Knightsen, Rio Vista,
21 Ryde, and Walnut Grove.

22 (g) The Delta is home to more than 500,000 people and 200,000 jobs, and
23 contributes over thirty-five billion dollars (\$35,000,000,000) to the state's economy.

24 (h) In addition, the Delta provides water to more than 25 million Californians and
25 three million acres of agricultural land. It supports a four hundred billion dollar
26 (\$400,000,000,000) economy and is traversed by energy, communications, and
27 transportation facilities vital to the economic health of California.

28 (i) A Sacramento-San Joaquin Delta Conservancy can support efforts that advance
29 both environmental protection and the economic well-being of Delta residents in a
30 complementary manner, including all of the following:

31 (1) Protect and enhance habitat and habitat restoration.

32 (2) Protect and preserve Delta agriculture and working landscapes.

33 (3) Provide increased opportunities for tourism and recreation.

34 (4) Promote Delta legacy communities and economic vitality in the Delta in
35 coordination with the Delta Protection Commission.

36 (5) Increase the resilience of the Delta to the effects of natural disasters such as
37 floods and earthquakes, in coordination with the Delta Protection Commission.

38 (6) Protect and improve water quality.

39 (7) Assist the Delta regional economy through the operation of the conservancy's
40 program.

41 (8) Identify priority projects and initiatives for which funding is needed.

1 (9) Protect, conserve, and restore the region's physical, agricultural, cultural,
2 historical, and living resources.

3 (10) Assist local entities in the implementation of their habitat conservation plans
4 (HCPs) and natural community conservation plans (NCCPs).

5 (11) Facilitate take protection and safe harbor agreements under the federal
6 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California
7 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division~~
8 ~~3 Part 1 (commencing with Section 62000) of Division 17~~ of the Fish and Game
9 Wildlife Code) for adjacent landowners and local public agencies.

10 (12) Promote environmental education.

11 **Comment.** Paragraph (11) of subdivision (i) of Section 32301 is amended to reflect the
12 recodification of the former Fish and Game Code.

13 **Pub. Res. Code § 32322 (amended).**

14 SEC. _____. Section 32322 of the Public Resources Code is amended to read:

15 32322. (a) The conservancy shall act as a primary state agency to implement
16 ecosystem restoration in the Delta.

17 (b) The conservancy shall support efforts that advance environmental protection
18 and the economic well-being of Delta residents, including all of the following:

19 (1) Protect and enhance habitat and habitat restoration.

20 (2) Protect and preserve Delta agriculture and working landscapes.

21 (3) Provide increased opportunities for tourism and recreation in the Delta.

22 (4) Promote Delta legacy communities and economic vitality in the Delta, in
23 coordination with the Delta Protection Commission.

24 (5) Increase the resilience of the Delta to the effects of natural disasters such as
25 floods and earthquakes, in coordination with the Delta Protection Commission.

26 (6) Protect and improve water quality.

27 (7) Assist the Delta regional economy through the operation of the conservancy's
28 program.

29 (8) Identify priority projects and initiatives for which funding is needed.

30 (9) Protect, conserve, and restore the region's physical, agricultural, cultural,
31 historical, and living resources.

32 (10) Assist local entities in the implementation of their habitat conservation plans
33 (HCPs) and natural community conservation plans (NCCPs).

34 (11) Facilitate take protection and safe harbor agreements under the federal
35 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California
36 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division~~
37 ~~3 Part 1 (commencing with Section 62000) of Division 17~~ of the Fish and Game
38 Wildlife Code), and the Natural Community Conservation Planning Act (~~Chapter~~
39 ~~10 (commencing with Section 2800) of Division 3 Title 2 (commencing with~~
40 ~~Section 64500) of Part 2 of Division 17~~ of the Fish and Game Wildlife Code) for
41 adjacent landowners and local public agencies.

1 (12) Promote environmental education through grant funding.

2 (c) When implementing subdivision (b), the conservancy shall undertake efforts
3 to enhance public use and enjoyment of lands owned by the public.

4 **Comment.** Paragraph (11) of subdivision (b) of Section 32322 is amended to reflect the
5 recodification of the former Fish and Game Code.

6 **Pub. Res. Code § 32526 (amended).**

7 SEC. _____. Section 32526 of the Public Resources Code is amended to read:

8 32526. The conservancy shall facilitate and coordinate the activities of its
9 employees with personnel of the Department of Parks and Recreation, the
10 Department of Fish and Game Wildlife, and local law enforcement and rescue
11 agencies.

12 **Comment.** Section 32526 is amended to update a reference to the former Department of Fish
13 and Game. See Fish & Wildlife Code § 1500.

14 **Pub. Res. Code § 33700 (amended).**

15 SEC. _____. Section 33700 of the Public Resources Code is amended to read:

16 33700. (a) As used in this chapter, “mountainous lands” means all lands,
17 irrespective of their angle of slope or other natural or manmade terrain features,
18 within the territory of the conservancy that lie above the floor of the Coachella
19 Valley, if there is no alluvial fan, or that lie above any alluvial fan extending onto
20 the valley floor, as more specifically set forth in that certain map entitled “Coachella
21 Valley Mountainous Lands Map” and dated _____, 1999, and placed on file with
22 the Secretary of State, which map is hereby incorporated in this subdivision by this
23 reference. The map described in this subdivision may be combined with, and made
24 a part of, the map described in Section 33502.

25 (b) The governing board of the conservancy may adjust the boundary delineating
26 mountainous lands within the conservancy’s territory, but not by more than 100
27 yards from the boundary mapped as specified in subdivision (a), to avoid bisecting
28 any single lot or parcel in existence on January 1, 1991, or to conform the boundary
29 to more readily identifiable natural or manmade features in existence on January 1,
30 1991, if the adjustment will not jeopardize any of the resource values specified in
31 Section 33500. Any adjustment in the boundary shall be reflected in a revision to
32 the map specified in subdivision (a), which revision shall be promptly filed with the
33 Secretary of State.

34 (c) In the event of any inconsistency between the definition of “mountainous
35 lands,” as set forth in this section, and the map described in this section, the
36 definition shall control.

37 (d) As used in this chapter, “natural community conservation lands” means all
38 lands within the territory of the conservancy, the preservation of which is necessary
39 to implement a natural community conservation plan that has been approved by the
40 Department of Fish and Game Wildlife pursuant to ~~Chapter 10 (commencing with~~

1 ~~Section 2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of~~
2 ~~Division 17 of the Fish and Game Wildlife Code.~~

3 **Comment.** Section 33700 is amended to reflect the recodification of the former Fish and Game
4 Code. The section is also amended to update a reference to the former Department of Fish and
5 Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 33913 (amended).**

7 SEC. _____. Section 33913 of the Public Resources Code is amended to read:

8 33913. Land may be acquired by the department if the land is located in a
9 designated corridor of statewide or regional priority as determined pursuant to
10 Section 65081.3 of the Government Code. Proposals by other entities for the
11 acquisition of land by the department shall be submitted to the regional
12 transportation planning agency in whose jurisdiction the land is located for review
13 and recommended action, and be approved by the department. No proposal shall be
14 approved by the department pursuant to this section unless the regional
15 transportation planning agency, after a public hearing, finds that the range of
16 potential transportation facilities to be located on the land can be constructed in a
17 manner which will avoid or mitigate significant environmental impacts or values
18 identified in subdivisions (a), (b), and (c). The regional transportation planning
19 agency is not required to comply with the California Environmental Quality Act in
20 any manner, other than complying with the provisions of subdivision (a), in order
21 to make this finding, if it has prepared an environmental review of the corridor of
22 statewide or regional priority in which the land is located pursuant to Section
23 65081.3 of the Government Code. The regional transportation planning agency shall
24 base its finding on a consideration of each of the following:

25 (a) The information contained in the environmental impact report prepared
26 pursuant to Section 65081.3 of the Government Code and a document describing
27 the proposed land acquisition which includes the content of an initial study
28 described in subdivision (d) of Section 15063 of Title 14 of the California Code of
29 Regulations (California Environmental Quality Act Guidelines). However, the
30 study need not include greater specificity about the type or nature of the proposed
31 transportation project than has been provided in action by the governing body of the
32 project applicant agency.

33 (b) Review by the Department of Fish and Game Wildlife. The Department of
34 Fish and Game Wildlife shall make the results of its review of the proposed land
35 acquisition known to the regional transportation planning agency no later than 30
36 days after the acquisition is submitted to them by the regional transportation
37 planning agency for review, or its comments shall not be considered in the finding.

38 (c) Other information submitted to the regional transportation planning agency in
39 the public hearing or in writing regarding the proposed acquisition by the
40 department.

41 **Comment.** Section 33913 is amended to update references to the former Department of Fish and
42 Game. See Fish & Wildlife Code § 1500.

1 **Pub. Res. Code § 34001 (amended).**

2 SEC. _____. Section 34001 of the Public Resources Code is amended to read:

3 34001. (a) The Department of Fish and Game Wildlife may make grants to
4 nonprofit organizations, political subdivisions of the state, and Indian tribes to
5 cooperate with the department in salmon and steelhead rehabilitation along the north
6 coast of California.

7 (b) The Director of Fish and Game Wildlife may establish criteria for the awarding
8 of these grants to applicants who demonstrate the greatest expertise in
9 accomplishing the salmon and steelhead rehabilitation projects.

10 **Comment.** Section 34001 is amended to update a reference to the former Department of Fish
11 and Game, and a reference to the Director of that department. See Fish & Wildlife Code § 1500.
12 The section is also amended to add subdivision designations.

13 **Pub. Res. Code § 34002 (amended).**

14 SEC. _____. Section 34002 of the Public Resources Code is amended to read:

15 34002. The Department of Fish and Game Wildlife may provide nonprofit
16 organizations and Indian tribes partial funding of grants provided under Section
17 34001 or Section 3 of Chapter 344 of the Statutes of 1981, if in the opinion of the
18 department, any such organization meets all of the following requirements:

19 (a) Has a previously demonstrated record of successfully completing one or more
20 salmon or steelhead rehabilitation projects funded under the Cooperative North
21 Coast Salmon and Steelhead Restoration Project.

22 (b) Utilizes acceptable accounting procedures.

23 (c) Demonstrates that the project can be accomplished more efficiently and
24 economically and with partial funding provided before the project's completion.

25 **Comment.** Section 34002 is amended to update a reference to the former Department of Fish
26 and Game. See Fish & Wildlife Code § 1500.

27 **Pub. Res. Code § 35650 (amended)**

28 SEC. _____. Section 35650 of the Public Resources Code is amended to read:

29 35650. (a) The California Ocean Protection Trust Fund is established in the State
30 Treasury.

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

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

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

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

40 (B) Improve the management of fisheries through grants or loans for the
41 development and implementation of fishery management plans pursuant to Part 1.7

1 ~~(commencing with Section 7050)~~ of Division 6 Title 3 (commencing with Section
2 12100) of Part 4 of Division 6 of the Fish and Game Wildlife Code, a part of the
3 Marine Life Management Act of 1998, that promote long-term stewardship and
4 collaboration with fishery participants to develop strategies that increase
5 environmental and economic sustainability. Eligible projects and activities include,
6 but are not limited to, innovative community-based or cooperative management and
7 allocation strategies that create incentives for ecosystem improvement. Eligible
8 expenditures include, but are not limited to, costs related to activities identified in
9 subdivisions (a), (b), and (d) of Section ~~7075~~ 12400 of the Fish and Game Wildlife
10 Code, fishery research, monitoring, data collection and analysis to support adaptive
11 management, and other costs related to the development and implementation of a
12 fishery management plan developed pursuant to this subparagraph.

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

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

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

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

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

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

25 (D) Improve coastal water quality.

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

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

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

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

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

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

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

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

10 (ii) Information or activities developed under clause (i), to the extent appropriate,
11 shall provide guidance to the State Air Resources Board for the adoption of early
12 action measures for the elimination or reduction of emissions from sources or
13 categories of sources pursuant to the California Global Warming Solutions Act of
14 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety
15 Code).

16 (c) Grants or loans may be made to a private entity pursuant to this section only
17 for projects or activities that further public purposes consistent with Sections 35510,
18 35515, 35617, and 35632.

19 (d) Consistent with the purposes specified in Section 35515, and in furtherance of
20 the findings in Sections ~~7059 and 7060~~ 12165 and 12200 of the Fish and Game
21 Wildlife Code, the council, in authorizing grants or loans for projects or
22 expenditures pursuant to this section, shall promote coordination of state programs
23 and activities that protect and conserve ocean resources to avoid redundancy and
24 conflicts to ensure that the state's programs and activities are complementary.

25 **Comment.** Section 35650 is amended to reflect the recodification of the former Fish and Game
26 Code.

27 **Pub. Res. Code § 36602 (amended).**

28 SEC. _____. Section 36602 of the Public Resources Code is amended to read:
29 36602. The following definitions govern the construction of this chapter:

30 (a) "Committee" is the State Interagency Coordinating Committee established
31 pursuant to Section 36800.

32 (b) "Designating entity" is the Fish and Game Commission, State Park and
33 Recreation Commission, or State Water Resources Control Board, each of which
34 has the authority to designate specified state marine managed areas.

35 (c) "Managing agency" is the Department of Fish and Game Wildlife or the
36 Department of Parks and Recreation, each of which has the authority to manage
37 specified state marine managed areas.

38 (d) "Marine managed area" (MMA) is a named, discrete geographic marine or
39 estuarine area along the California coast designated by law or administrative action,
40 and intended to protect, conserve, or otherwise manage a variety of resources and
41 their uses. The resources and uses may include, but are not limited to, living marine

resources and their habitats, scenic views, water quality, recreational values, and cultural or geological resources. General areas that are administratively established for recreational or commercial fishing restrictions, such as seasonal or geographic closures or size limits, are not included in this definition. MMAs include the following classifications:

(1) State marine reserve, as defined in subdivision (a) of Section 36700.

(2) State marine park, as defined in subdivision (b) of Section 36700.

(3) State marine conservation area, as defined in subdivision (c) of Section 36700.

(4) State marine cultural preservation area, as defined in subdivision (d) of Section 36700.

(5) State marine recreational management area, as defined in subdivision (e) of Section 36700.

(6) State water quality protection areas, as defined in subdivision (f) of Section 36700.

(e) “Marine protected area” (MPA), consistent with the Marine Life Protection Act (~~Chapter 10.5 (commencing with Section 2850) of Division 3 Part 2 (commencing with Section 60400) of Division 16~~ of the Fish and Game Wildlife Code) is a named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law or administrative action to protect or conserve marine life and habitat. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs). MPAs include the following classifications:

(1) State marine reserve, as defined in subdivision (a) of Section 36700.

(2) State marine park, as defined in subdivision (b) of Section 36700.

(3) State marine conservation area, as defined in subdivision (c) of Section 36700.

Comment. Subdivision (e) of Section 36602 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 36725 (amended).

SEC. _____. Section 36725 of the Public Resources Code is amended to read:

36725. (a) The Fish and Game Commission may designate, delete, or modify state marine recreational management areas established by the commission for hunting purposes, state marine reserves, and state marine conservation areas. The Fish and Game Commission shall consult with, and secure concurrence from, the State Parks and Recreation Commission prior to modifying or deleting state marine reserves and state marine conservation areas designated by the State Parks and Recreation Commission. The Fish and Game Commission shall not delete or modify state marine recreational management areas designated by the State Parks and Recreation Commission.

(b) The State Parks and Recreation Commission may designate, delete, or modify state marine reserves, state marine parks, state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas. The State Parks and Recreation Commission may not designate, delete, or modify a state marine reserve, state marine park, or state marine conservation area without the concurrence of the Fish and Game Commission on any proposed restrictions upon, or change in, the use of living marine resources.

(c) If an unresolved conflict exists between the Fish and Game Commission and the State Parks and Recreation Commission regarding a state marine reserve, state marine park, or state marine conservation area, the Secretary of the Resources Agency may reconcile the conflict.

(d) The State Water Resources Control Board may designate, delete, or modify state water quality protection areas.

(e) The Fish and Game Commission, State Parks and Recreation Commission, and State Water Resources Control Board each may restrict or prohibit recreational uses and other human activities in the MMAs for the benefit of the resources therein, except in the case of restrictions on the use of living marine resources. Pursuant to this section, and consistent with Section 2860 60450 of the Fish and Game Wildlife Code, the Fish and Game Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.

(f)(1) The Department of Fish and Game Wildlife may manage state marine reserves, state marine conservation areas, state marine recreational management areas established for hunting purposes and, if requested by the State Water Resources Control Board, state water quality protection areas.

(2) The Department of Parks and Recreation may manage state marine reserves, state marine parks, state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas. Department authority over units within the state park system shall extend to units of the state MMAs system that are managed by the department.

(3) The State Water Resources Control Board and the California regional water quality control boards may take appropriate actions to protect state water quality protection areas. The State Water Resources Control Board may request the Department of Fish and Game Wildlife or the Department of Parks and Recreation to take appropriate management action.

Comment. Subdivision (e) of Section 36725 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 36750 (amended).

SEC. _____. Section 36750 of the Public Resources Code is amended to read:

36750. Any MMA in existence on January 1, 2002, that has not been reclassified in accordance with the Marine Life Protection Act (~~Chapter 10.5 (commencing with Section 2850)~~ of Division 3 Part 2 (commencing with Section 60400) of Division

1 16 of the Fish and Game Wildlife Code), shall be reclassified under the
2 classification system described in Section 36700 by January 1, 2003, based upon
3 the management purpose and level of resource protection at each site on January 1,
4 2002. Upon the reclassification of existing sites, but no later than January 1, 2003,
5 the use of all other classifications shall cease for the marine and estuarine
6 environments of the state, though the classifications may continue to be used for the
7 terrestrial and freshwater environments where applicable. The reclassification
8 process shall be the responsibility of the State Interagency Coordinating Committee
9 established pursuant to Section 36800, and shall occur to the extent feasible in
10 conjunction and consistent with the MMA master planning process created pursuant
11 to the Marine Life Protection Act (~~Chapter 10.5 (commencing with Section 2850)~~
12 ~~of Division 3 Part 2 (commencing with Section 60400)~~ of Division 16 of the Fish
13 and Game Wildlife Code).

14 **Comment.** Section 36750 is amended to reflect the recodification of the former Fish and Game
15 Code.

16 **Pub. Res. Code § 36800 (amended).**

17 SEC. _____. Section 36800 of the Public Resources Code is amended to read:
18 36800. The Secretary of the Resources Agency shall establish and chair the State
19 Interagency Coordinating Committee, whose members are representatives from
20 those state agencies, departments, boards, commissions, and conservancies with
21 jurisdiction or management interests over marine managed areas, including, but not
22 limited to, the Department of Fish and Game Wildlife, Department of Parks and
23 Recreation, California Coastal Commission, State Water Resources Control Board,
24 and State Lands Commission. The Secretary of the Resources Agency shall
25 designate additional members of the committee. The committee shall review
26 proposals for new or amended MMAs to ensure that the minimum required
27 information is included in the proposal, to determine those state agencies that should
28 review the proposal, and to ensure consistency with other such designations in the
29 state. The committee shall also serve to ensure the proper and timely routing of site
30 proposals, review any proposed site-specific regulations for consistency with the
31 state system as a whole, and conduct periodic reviews of the statewide system to
32 evaluate whether it is meeting the mission and statement of objectives.

33 **Comment.** Section 36800 is amended to update a reference to the former Department of Fish
34 and Game. See Fish & Wildlife Code § 1500.

35 **Pub. Res. Code § 36900 (amended).**

36 SEC. _____. Section 36900 of the Public Resources Code is amended to read:
37 36900. Individuals or organizations may submit a proposal to designate an MMA
38 directly through the committee or an appropriate designating entity. Proposals
39 submitted to a designating entity shall be forwarded to the committee to initiate the
40 review process. Proposals for designating, deleting, or modifying MMAs may be
41 submitted to the committee or a designating entity at any time. The committee and

1 scientific review panel established pursuant to subdivision (b) shall annually
2 consider and promptly act upon proposals until an MPA master plan is adopted
3 pursuant to ~~subdivision (b) of Section 2859 subdivisions (b) and (c) of Section~~
4 60520 of the Fish and Game Wildlife Code, and thereafter, no less than once every
5 three years. Upon adoption of a statewide MPA plan, subsequent site proposals
6 determined by the committee to be consistent with that plan shall be eligible for a
7 simplified and cursory review of not more than 45 days.

8 (a) The committee shall review proposals to ensure that the minimum required
9 information is included in the proposal, to determine those state agencies that should
10 review the proposal, and to ensure consistency with other designations of that type
11 in the state. After initial review by the coordinating committee and appropriate
12 agencies, the proposal shall be forwarded to a scientific review panel established
13 pursuant to subdivision (b).

14 (b) The Secretary of the Resources Agency shall establish a scientific review
15 panel, with statewide representation and direction from the committee, to evaluate
16 proposals for technical and scientific validity, including consideration of such things
17 as site design criteria, location, and size. This panel, to the extent practical, shall be
18 the same as the master plan team used in the process set forth in the Marine Life
19 Protection Act (~~Chapter 10.5 (commencing with Section 2850) of Division 3 Part 2~~
20 (commencing with Section 60400) of Division 16 of the Fish and Game Wildlife
21 Code). Members shall maintain familiarity with the types and effectiveness of
22 MMAs used in other parts of the world for potential application to California.
23 Members shall be reimbursed reasonable costs to participate in the activities of the
24 panel. Where feasible, advice shall be sought from the appropriate federal agencies
25 and existing regional or statewide marine research panels and advisory groups. After
26 review by the scientific review panel, the committee shall forward the proposal and
27 any recommendations to the appropriate designating entity for a public review
28 process.

29 (c) Designating entities shall establish a process that provides for public review
30 and comment in writing and through workshops or hearings, consistent with the
31 legal mandates applicable to designating entities. All input provided by the
32 committee and scientific review panel shall be made available to the public during
33 this process. Outreach shall be made to the broadest ocean and coastal constituency
34 possible, and shall include commercial and sport fishing groups, conservation
35 organizations, waterfowl groups and other recreational interests, academia, the
36 general public, and all levels of government.

37 (d) This process does not replace the need to obtain the appropriate permits or
38 reviews of other government agencies with jurisdiction or permitting authority.

39 (e) Nothing in this section shall be construed as altering or impeding the process
40 identified under the Marine Life Protection Act (~~Chapter 10.5 (commencing with~~
41 Section 2850) of Division 3 Part 2 (commencing with Section 60400) of Division

1 16 of the Fish and Game Wildlife Code) or the actions of the master plan team
2 described in that act.

3 **Comment.** Section 36900 is amended to reflect the recodification of the former Fish and Game
4 Code.

5 **Pub. Res. Code § 37002 (amended).**

6 SEC. _____. Section 37002 of the Public Resources Code is amended to read:

7 37002. As used in this division, the following terms have the following meanings:

8 (a) “Approval” or “approval for acceptance” means the board’s approval of the
9 granting of a tax credit for a donation of property pursuant to the program.

10 (b) “Board” means the Wildlife Conservation Board created pursuant to Article 2
11 (commencing with Section 1320) of Chapter 4 of Division 2 Article 1 (commencing
12 with Section 54750) of Chapter 2 of Title 1 of Part 2 of Division 15 of the Fish and
13 Game Wildlife Code.

14 (c) “Conservation easement” means a conservation easement, as defined by
15 Section 815.1 of the Civil Code, that is contributed in perpetuity.

16 (d) “Department” means any entity created by statute within the Natural
17 Resources Agency and authorized to hold title to land, or the Natural Resources
18 Agency.

19 (e)(1) “Designated nonprofit organization” means a nonprofit organization
20 qualified under Section 501(c)(3) of Title 26 of the United States Code that has as a
21 principal purpose the conservation of land and water resources and that is designated
22 by a local government or a department to accept property pursuant to this division
23 in lieu of the local government or a department. In order to be eligible to receive a
24 donation of property pursuant to this division, a nonprofit organization shall have
25 experience in land conservation.

26 (2) If bond funds are used pursuant to Chapter 7 (commencing with Section
27 37030), the designated nonprofit organization shall also meet the eligibility
28 requirements specified in the relevant provision of the applicable bond act, for a
29 nonprofit organization.

30 (f) “Donee” means any of the following:

31 (1) A department to which a donor has applied to donate property.

32 (2) A local government that has submitted a joint application with a department
33 requesting approval of a donation of property to that local government.

34 (3) A local government that has submitted an application directly to the board.

35 (4) A designated nonprofit organization.

36 (g) “Donor” means a property owner that donates, or submits an application to
37 donate, property pursuant to the program.

38 (h)(1) “Local government” means any city, county, city and county, or any
39 district, as defined in Section 5902 or in Division 26 (commencing with Section
40 35100), or any joint powers authority made up of one or more of those entities or
41 those entities and departments.

(2) If bond funds are used pursuant to Chapter 7 (commencing with Section 37030), “local government” also includes any other local governmental entity eligible to receive bond funds pursuant to the relevant provision of the applicable bond act.

(i) “Program” means the Natural Heritage Preservation Tax Credit Program authorized by this division.

(j) “Property” means any real property, and any perpetual interest therein, including land, conservation easements, and land containing water rights, as well as water rights.

(k) “Secretary” means the Secretary of the Natural Resources Agency.

Comment. Subdivision (b) of Section 37002 is amended to reflect the recodification of the former Fish and Game Code.

Pub. Res. Code § 37014 (amended).

SEC. _____. Section 37014 of the Public Resources Code is amended to read:

37014. Assets received by a donee pursuant to this division shall not be deemed transfers pursuant to ~~Chapter 9 (commencing with Section 2780) of Division 3 Title 5 (commencing with Section 55800) of Part 2 of Division 15~~ of the Fish and Game Wildlife Code. Funds from the Habitat Conservation Fund, the Environmental Enhancement and Mitigation Program Fund created pursuant to Section 164.56 of the Streets and Highways Code, the State Parks and Recreation Fund, and the Wildlife Restoration Fund, may not be used to fund the tax credit authorized pursuant to this division.

Comment. Section 37014 is amended to reflect the recodification of the former Fish and Game Code.

Pub. Res. Code § 37015 (amended).

SEC. _____. Section 37015 of the Public Resources Code is amended to read:

37015. The board shall approve only contributions of properties that meet one or more of the following criteria:

(a) The property will help meet the goals of a habitat conservation plan, multispecies conservation plan, natural community conservation plan, or any other similar plan subsequently authorized by statute that is designed to benefit native species of plants, including, but not limited to, protecting forests, old growth trees, or oak woodlands, and animals and development. In proposing and approving the acceptance of contributed property pursuant to this subdivision, the recovery benefits for listed species, the habitat value of the property, the value of the property as a wildlife corridor, and similar habitat-related considerations shall be the criteria on which the acceptance is based.

(b) The property will provide corridors or reserves for native plants and wildlife that will help improve the recovery possibilities of listed species and increase the chances that the species will recover sufficiently to be eligible to be removed from the list, or will help avoid the listing of species pursuant to the California

1 Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050)~~ of Division
2 ~~3 Part 1 (commencing with Section 62000)~~ of Division 17 of the Fish and Game
3 Wildlife Code) or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.),
4 or protect wetlands, waterfowl habitat, or river or stream corridors, or promote the
5 biological viability of important California species.

6 (c) The property interest is a perpetual conservation easement over agricultural
7 land, or is a permanent contribution of agricultural land, that is threatened by
8 development and is located in an unincorporated area certified by the secretary to
9 be zoned for agricultural use by the county. Property accepted pursuant to this
10 subdivision shall be accepted pursuant to the California Farmland Conservancy
11 Program Act established by Division 10.2 (commencing with Section 10200),
12 pursuant to the agricultural conservation program of the Coastal Conservancy, or
13 pursuant to the Bay Area Conservancy Program established pursuant to Chapter 4.5
14 (commencing with Section 31160) of Division 21.

15 (d)(1) The property interest is a water right, or land with an associated water right,
16 and the contribution of the property will help improve the chances of recovery of a
17 listed species, will reduce the likelihood that any species of fish or other aquatic
18 organism will be listed pursuant to the California Endangered Species Act (~~Chapter~~
19 ~~1.5 (commencing with Section 2050)~~ of Division 3 ~~Part 1 (commencing with~~
20 ~~Section 62000)~~ of Division 17 of the Fish and Game Wildlife Code) or the federal
21 Endangered Species Act (16 U.S.C. Sec. 1531 et seq.), will improve the protection
22 of listed species, or will improve the viability and health of fish species of economic
23 importance to the state. The donee receiving the water right, or land with an
24 associated water right, shall ensure that it shall retain title to the water right, and that
25 the water shall be used to fulfill the purposes for which the water right or land
26 associated with a water right is being accepted.

27 (2) Any contribution of a water right that includes a change in the point of
28 diversion, place of use, or purpose of use may be made only if the proposed change
29 will not injure any legal user of the water involved and is made in accordance with
30 either Chapter 10 (commencing with Section 1700), or Chapter 10.5 (commencing
31 with Section 1725), of Part 2 of Division 2 of the Water Code.

32 (e) The property will be used as a park or open space or will augment public access
33 to or enjoyment of existing regional or local park, beach, or open-space facilities, or
34 will preserve archaeological resources.

35 **Comment.** Section 37015 is amended to reflect the recodification of the former Fish and Game
36 Code.

37 **Pub. Res. Code § 71550 (amended).**

38 SEC. _____. Section 71550 of the Public Resources Code is amended to read:

39 71550. (a) The members of the board first appointed shall serve as incorporators
40 of the endowment and shall take whatever actions are necessary to establish the
41 endowment pursuant to the Nonprofit Public Benefit Corporation Law (Part 2

(commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) once a majority of the board is appointed.

(b) It is the intent of the Legislature that the endowment not be incorporated until the endowment board has received its initial notice of application from the Department of Fish and Game Wildlife, pursuant to Section ~~6610~~ 67100 of the Fish and Game Wildlife Code.

Comment. Section 71550 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 71551 (amended).

SEC. _____. Section 71551 of the Public Resources Code is amended to read:

71551. The California Endowment for Marine Preservation shall receive funds generated pursuant to the California Marine Resources Legacy Act (Article ~~2~~ (commencing with Section 6420) of Chapter 5 of Part 1 of Division 6 Title 3 (commencing with Section 25600) of Part 3 of Division 7 of the Fish and Game Wildlife Code).

Comment. Section 71551 is amended to reflect the recodification of the former Fish and Game Code.

Pub. Res. Code § 71556 (amended).

SEC. _____. Section 71556 of the Public Resources Code is amended to read:

71556. The endowment shall coordinate its activities with the Department of Fish and Game Wildlife, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, the State Lands Commission, and appropriate federal agencies, including the National Marine Fisheries Service and the Minerals Management Service of the United States Department of the Interior. Nothing in this division limits the authority and responsibility of any of these agencies.

Comment. Section 71556 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Pub. Res. Code § 71560 (amended).

SEC. _____. Section 71560 of the Public Resources Code is amended to read:

71560. (a) The endowment may receive charitable contributions or any sources of income that may be lawfully received, including loans from the state.

(b) The endowment shall administer any funds it receives in accordance with this division.

(c)(1) Except as provided in paragraph (2), the endowment shall invest and manage any funds it receives so that the investments shall provide a source of income in perpetuity and the principal amount consisting of charitable contributions and donations, including cost savings donated pursuant to Section ~~6618~~ 67265 of the Fish and Game Wildlife Code, shall not be spent. Any returns on investments

1 made by the endowment are the only funds that shall be available for expenditure
2 by the endowment.

3 (2) Ten percent of any funds received by the endowment pursuant to Section 6618
4 67265 of the Fish and Game Wildlife Code in a calendar year shall be allocated by
5 the endowment board, pursuant to Section 71552, as grants for projects or programs
6 consistent with the purpose of this chapter within 24 months of receipt of the funds.
7 The majority of these funds shall be granted to state agencies engaged in coastal and
8 ocean protection.

9 (d) The endowment shall invest and manage any funds it receives in accordance
10 with the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with
11 Section 5110) of Division 2 of Title 1 of the Corporations Code).

12 (e) The accounts of the endowment shall be audited annually in accordance with
13 generally accepted auditing standards by independent certified public accountants.

14 (f) The financial transactions of the endowment for any fiscal year may be audited
15 by the California State Auditor's Office.

16 (g) Each recipient of assistance by grant, contract, or loan pursuant to this division
17 shall keep records reasonably necessary to disclose fully the amount of the
18 assistance, the disposition of the assistance, the total cost of the project or
19 undertaking in connection with which the assistance is given or used, the amount
20 and nature of that portion of the cost of the project or undertaking supplied by other
21 sources, and other records that will facilitate an effective audit. Each recipient of a
22 fixed price contract awarded pursuant to competitive bidding procedures is exempt
23 from this subdivision.

24 (h) The endowment, or its authorized representative, and the California State
25 Auditor's Office shall have access to any records necessary for the purpose of
26 auditing and examining all funds received or expended by the recipients of
27 assistance.

28 **Comment.** Subdivision (c) of Section 71560 is amended to reflect the recodification of the
29 former Fish and Game Code.

30 **Pub. Res. Code § 72421 (amended).**

31 SEC. ____ . Section 72421 of the Public Resources Code is amended to read:

32 72421. (a) The owner or operator shall notify the California Emergency
33 Management Agency immediately, but not longer than 30 minutes, after discovery
34 of any of the following:

35 (1) A large passenger vessel release of graywater into the marine waters of the
36 state or a marine sanctuary.

37 (2) A large passenger vessel release of sewage into the marine waters of the state
38 or a marine sanctuary.

39 (3) A large passenger vessel or oceangoing ship release of hazardous waste, other
40 waste, sewage sludge, or oily bilgewater into the marine waters of the state or a
41 marine sanctuary.

1 (4) An oceangoing ship with sufficient holding tank capacity release of sewage or
2 graywater into the marine waters of the state or a marine sanctuary.

3 (b) The owner or operator shall include all of the following in the notification
4 required pursuant to subdivision (a):

5 (1) Date of the release.

6 (2) Time of the release.

7 (3) Location, by latitude and longitude, of the release.

8 (4) Volume of the release.

9 (5) Source of the release.

10 (6) Remedial action taken to prevent future releases.

11 (c) The California Emergency Management Agency shall transmit the notification
12 required by subdivision (a) to the board and the Department of Fish and Game
13 Wildlife immediately, but not longer than 30 minutes, after receiving the
14 notification.

15 **Comment.** Section 72421 is amended to update a reference to the former Department of Fish
16 and Game. See Fish & Wildlife Code § 1500.

17 **Pub. Res. Code § 72430 (amended).**

18 SEC. _____. Section 72430 of the Public Resources Code is amended to read:

19 72430. (a) A person who violates Section 72420 or 72420.2 is subject to a civil
20 penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

21 (b) The civil penalty imposed for each separate violation pursuant to this section
22 is separate from, and in addition to, any other civil penalty imposed for a separate
23 violation pursuant to this section or any other provision of law.

24 (c) In determining the amount of a civil penalty imposed pursuant to this section,
25 the court shall take into consideration all relevant circumstances, including, but not
26 limited to, the nature, circumstance, extent, and gravity of the violation. In making
27 this determination, the court shall consider the degree of toxicity and volume of the
28 release, the extent of harm caused by the violation, whether the effects of the
29 violation may be reversed or mitigated, and with respect to the defendant, the ability
30 to pay, the effect of a civil penalty on the ability to continue in business, all voluntary
31 cleanup efforts undertaken, the prior history of violations, the gravity of the
32 behavior, the economic benefit, if any, resulting from the violation, and all other
33 matters the court determines justice may require.

34 (d)(1) A civil action brought under this section may only be brought in accordance
35 with this subdivision. That civil action may be brought by the Attorney General
36 upon complaint or request by the Department of Fish and Game Wildlife or the
37 appropriate California regional water quality control board, or by a district attorney
38 or city attorney.

39 (2) Notwithstanding Section 13223 of the Water Code, a regional water quality
40 control board may delegate to its executive officer authority to request the Attorney
41 General for judicial enforcement under this section.

1 (3) If a district attorney or city attorney brings an action under this section, the
2 action shall be in the name of the people of the State of California.

3 (4) An action relating to the same violation may be joined or consolidated.

4 **Comment.** Section 72430 is amended to update a reference to the former Department of Fish
5 and Game. See Fish & Wildlife Code § 1500.

6 **Pub. Res. Code § 75050 (amended).**

7 SEC. _____. Section 75050 of the Public Resources Code is amended to read:

8 75050. The sum of nine hundred twenty eight million dollars (\$928,000,000) shall
9 be available for the protection and restoration of rivers, lakes and streams, their
10 watersheds and associated land, water, and other natural resources in accordance
11 with the following schedule:

12 (a) The sum of one hundred eighty million dollars (\$180,000,000) shall be
13 available to the Department of Fish and Game Wildlife, in consultation with the
14 department, for Bay-Delta and coastal fishery restoration projects. Of the funds
15 provided in this section, up to \$20,000,000 shall be available for the development
16 of a natural community conservation plan for the CALFED Bay-Delta Program and
17 up to \$45,000,000 shall be available for coastal salmon and steelhead fishery
18 restoration projects that support the development and implementation of species
19 recovery plans and strategies for salmonid species listed as threatened or endangered
20 under state or federal law.

21 (b) The sum of ninety million dollars (\$90,000,000) shall be available for projects
22 related to the Colorado River in accordance with the following schedule:

23 (1) Not more than \$36,000,000 shall be available to the department for water
24 conservation projects that implement the Allocation Agreement as defined in the
25 Quantification Settlement Agreement.

26 (2) Not more than \$7,000,000 shall be available to the Department of Fish and
27 Game Wildlife for projects to implement the Lower Colorado River Multi-Species
28 Habitat Conservation Plan.

29 (3) \$47,000,000 shall be available for deposit into the Salton Sea Restoration
30 Fund.

31 (c) The sum of fifty four million dollars (\$54,000,000) shall be available to the
32 department for development, rehabilitation, acquisition, and restoration costs
33 related to providing public access to recreation and fish and wildlife resources in
34 connection with state water project obligations pursuant to Water Code Section
35 11912.

36 (d) The sum of seventy two million dollars (\$72,000,000) shall be available to the
37 secretary for projects in accordance with the California River Parkways Act of 2004
38 Chapter 3.8 (commencing with Section 5750) of Division 5. Up to \$10,000,000 may
39 be transferred to the Department of Conservation for the Watershed Coordinator
40 Grant Program.

1 (e) The sum of eighteen million dollars (\$18,000,000) shall be available to the
2 department for the Urban Streams Restoration Program pursuant to Water Code
3 Section 7048.

4 (f) The sum of thirty six million dollars (\$36,000,000) shall be available for river
5 parkway projects to the San Joaquin River Conservancy.

6 (g) The sum of seventy two million dollars (\$72,000,000) shall be available for
7 projects within the watersheds of the Los Angeles and San Gabriel Rivers according
8 to the following schedule:

9 (1) \$36,000,000 to the San Gabriel and Lower Los Angeles Rivers and Mountains
10 Conservancy pursuant to Division 22.8 (commencing with Section 32600).

11 (2) \$36,000,000 to the Santa Monica Mountains Conservancy for implementation
12 of watershed protection activities throughout the watershed of the Upper Los
13 Angeles River pursuant to Section 79508 of the Water Code.

14 (h) The sum of thirty six million dollars (\$36,000,000) shall be available for the
15 Coachella Valley Mountains Conservancy.

16 (i) The sum of forty five million dollars (\$45,000,000) shall be available for
17 projects to expand and improve the Santa Ana River Parkway. Project funding shall
18 be appropriated to the State Coastal Conservancy for projects developed in
19 consultation with local government agencies participating in the development of the
20 Santa Ana River Parkway. Of the amount provided in this paragraph the sum of
21 thirty million dollars (\$30,000,000) shall be equally divided between projects in
22 Orange, San Bernardino and Riverside Counties.

23 (j) The sum of fifty four million dollars (\$54,000,000) shall be available for the
24 Sierra Nevada Conservancy.

25 (k) The sum of thirty six million dollars (\$36,000,000) shall be available for the
26 California Tahoe Conservancy.

27 (l) The sum of forty five million dollars (\$45,000,000) shall be available to the
28 California Conservation Corps for resource conservation and restoration projects
29 and for facilities acquisition, development, restoration, and rehabilitation and for
30 grants and state administrative costs, in accordance with the following schedule:


31 (1) The sum of twenty five million dollars (\$25,000,000) shall be available for
32 projects to improve public safety and improve and restore watersheds including
33 regional and community fuel load reduction projects on public lands, and stream
34 and river restoration projects. Not less than 50% of these funds shall be in the form
35 of grants to local conservation corps.

36 (2) The sum of twenty million dollars (\$20,000,000) shall be available for grants
37 to local conservation corps for acquisition and development of facilities to support
38 local conservation corps programs, and for local resource conservation activities.

39 (m) The sum of ninety million dollars (\$90,000,000) to the state board for
40 matching grants to local public agencies for the reduction and prevention of
41 stormwater contamination of rivers, lakes, and streams. The Legislature may enact
42 legislation to implement this subdivision.

(n) The sum of one hundred million dollars (\$100,000,000) shall be available to the secretary for the purpose of implementing a court settlement to restore flows and naturally-reproducing and self-sustaining populations of salmon to the San Joaquin River between Friant Dam and the Merced River. These funds shall be available for channel and structural improvements, and related research pursuant to the court settlement. The secretary is authorized to enter into a cost-sharing agreement with the United States Secretary of the Interior and other parties, as necessary, to implement this provision.

Comment. Section 75050 is amended to update references to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

 **Note.** Section 75050 was added to the Public Resources Code in 2006 by an initiative statute, Proposition 84. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 75055 (amended).

SEC. _____. Section 75055 of the Public Resources Code is amended to read:

75055. The sum of four hundred fifty million dollars (\$450,000,000) shall be available for the protection and conservation of forests and wildlife habitat according to the following schedule:

(a) Notwithstanding Section 13340 of the Government Code, the sum of one hundred eighty million dollars (\$180,000,000) is continuously appropriated to the board for forest conservation and protection projects. The goal of this grant program is to promote the ecological integrity and economic stability of California's diverse native forests for all their public benefits through forest conservation, preservation and restoration of productive managed forest lands, forest reserve areas, redwood forests and other forest types, including the conservation of water resources and natural habitats for native fish, wildlife and plants found on these lands.

(b)(1) Notwithstanding Section 13340 of the Government Code, the sum of one hundred thirty five million dollars (\$135,000,000) is hereby continuously appropriated to the board for the development, rehabilitation, restoration, acquisition and protection of habitat that accomplishes one or more of the following objectives:

- (A) Promotes the recovery of threatened and endangered species.
- (B) Provides corridors linking separate habitat areas to prevent fragmentation.
- (C) Protects significant natural landscapes and ecosystems such as old growth redwoods, mixed conifer forests and oak woodlands, riparian and wetland areas, and other significant habitat areas.

(D) Implements the recommendations of California Comprehensive Wildlife Strategy, as submitted October 2005 to the United States Fish and Wildlife Service.

(2) Funds authorized by this subdivision may be used for direct expenditures or for grants and for related state administrative costs, pursuant to the Wildlife Conservation Law of 1947, Chapter 4 (commencing with Section 1300) of Division

~~2 Title 1 (commencing with Section 54700) of Part 2 of Division 15 of the Fish and Game Wildlife Code, the Oak Woodland Conservation Act, Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 Chapter 3 (commencing with Section 54900) of Title 1 of Part 2 of Division 15 of the Fish and Game Wildlife Code, and the California Rangeland, Grazing Land and Grassland Protection Act, commencing with Section 10330 of Division 10.4. Funds scheduled in this subdivision may be used to prepare management plans for properties acquired by the Wildlife Conservation Board and for the development of scientific data, habitat mapping and other research information necessary to determine the priorities for restoration and acquisition statewide.~~

(3) Up to twenty five million dollars (\$25,000,000) may be granted to the University of California for the Natural Reserve System for matching grants for land acquisition and for the construction and development of facilities that will be used for research and training to improve the management of natural lands and the preservation of California's wildlife resources.

(c) The sum of ninety million dollars (\$90,000,000) shall be available to the board for grants to implement or assist in the establishment of Natural Community Conservation Plans, ~~Chapter 10 (commencing with Section 2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code.~~

(d) The sum of forty five million dollars (\$45,000,000) shall be available for the protection of ranches, farms, and oak woodlands according the following schedule:


(1) Grazing land protection pursuant to the California Rangeland, Grazing Land and Grassland Protection Act, commencing with Section 10330 of Division 10.4 . . . \$15,000,000.

(2) Oak Woodland Preservation pursuant to ~~Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 Chapter 3 (commencing with Section 54900) of Title 1 of Part 2 of Division 15 of the Fish and Game Wildlife Code . . . \$15,000,000.~~

(3) Agricultural land preservation pursuant to the California Farmland Conservancy Program Act of 1995, Article 1 (commencing with Section 10200) of Division 10.2 . . . \$10,000,000.

(4) To the board for grants to assist farmers in integrating agricultural activities with ecosystem restoration and wildlife protection . . . \$5,000,000.

Comment. Section 75055 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** Section 75055 was added to the Public Resources Code in 2006 by an initiative statute, Proposition 84. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Pub. Res. Code § 75077 (amended).

SEC. _____. Section 75077 of the Public Resources Code is amended to read:

1 75077. Funds provided pursuant to this division, and any appropriation or transfer
2 of those funds, shall not be deemed to be a transfer of funds for the purposes of
3 Chapter 9 (commencing with Section 2780) of Division 3 Title 5 (commencing with
4 Section 55800) of Part 2 of Division 15 of the Fish and Game Wildlife Code.

5 **Comment.** Section 75077 is amended to reflect the recodification of the former Fish and Game
6 Code.

7 **Pub. Res. Code § 75101 (amended).**

8 SEC. _____. Section 75101 of the Public Resources Code is amended to read:

9 75101. (a)(1) Costs subsequently recovered from a party responsible for the
10 contamination pursuant to Section 75025 shall be repaid to the state board and
11 deposited in the Groundwater Contamination Cleanup Project Fund, which is hereby
12 created in the State Treasury. Costs recovered shall be separately accounted for
13 within the Groundwater Contamination Cleanup Project Fund.

14 (2) Moneys in the Groundwater Contamination Cleanup Project Fund are
15 available, upon appropriation by the Legislature, to the state board for the purpose
16 of a grant to the grantee that received funds and subsequently recovered costs from
17 a responsible party and repaid those costs to the state in the following priority order:

18 (A) Projects and activities to clean up areas of groundwater contamination within
19 the grantee's jurisdiction where the initial grant awarded pursuant to Section 75025
20 is insufficient to pay for the full costs of the cleanup.

21 (B) Projects and activities to clean up additional areas of groundwater
22 contamination within the grantee's jurisdiction.

23 (3)(A) The total amount of the grant awarded pursuant to Section 75025 and the
24 amount awarded pursuant to this subdivision shall not exceed the grantee's total
25 costs to clean up contaminated groundwater or prevent the contamination of
26 groundwater.

27 (B) If costs recovered by the grantee and deposited in the Groundwater
28 Contamination Cleanup Project Fund exceed the amount that may be awarded as a
29 grant pursuant to the limit in subparagraph (A), the excess moneys shall be available
30 to the state board, upon appropriation by the Legislature, for expenditure on orphan
31 groundwater contamination cleanup projects. The state board shall consult with the
32 Department of Toxic Substances Control when considering expenditures on orphan
33 groundwater contamination cleanup projects.

34 (4) The grantee shall use an amount awarded pursuant to this subdivision for
35 groundwater contamination cleanup activities for groundwater that is a primary
36 source of drinking water, including, but not limited to, ongoing treatment and
37 remediation activities in accordance with the purposes of Section 75025.

38 (5) When seeking grant funds pursuant to paragraph (2), a grantee shall submit an
39 expenditure plan to the state board for projects consistent with this subdivision. The
40 state board shall review the submitted expenditure plan and consult with the
41 Department of Toxic Substances Control for sites where the Department of Toxic

1 Substances Control is the lead state agency. The state board shall notify the grantee
2 if the expenditure plan is approved, and if approved, the state board shall disburse
3 the funds.

4 (6) Grants awarded pursuant to this subdivision may be used for capital costs and
5 treatment and remediation activities.

6 (7) Commencing no later than July 1, 2015, and annually thereafter until the
7 grantee's funds are expended, a grantee of funds awarded pursuant to this
8 subdivision shall provide public notice, by posting a list on the grantee's Internet
9 Web site, of projects and activities that receive grant funds pursuant to this
10 subdivision and the amount of those funds.

11 (8) As used in this subdivision, "costs subsequently recovered from a party
12 responsible for the contamination" means the amount of any judgment or settlement
13 received by a grantee of funds received pursuant to Section 75025 from a
14 responsible party that is attributable to costs funded by the grant received pursuant
15 to Section 75025, less all reasonable and necessary costs of response incurred by
16 the grantee of funds received pursuant to Section 75025 to recover these funds.
17 Attorney's fees may be considered reasonable and necessary costs of response if the
18 attorney's efforts are for identifying potentially responsible parties, but not if
19 incurred in pursuit of litigation, consistent with the Comprehensive Environmental
20 Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec.
21 9601 et seq.), and *Key Tronic Corp. v. U.S.* (511 U.S. 809 (1994)).

22 (9) The state board may use moneys in the Groundwater Contamination Cleanup
23 Project Fund, upon appropriation by the Legislature, for the costs of administering
24 this subdivision.

25 (b) The state board may directly recover moneys from a party responsible for
26 contamination addressed by a loan or grant pursuant to Section 75025 in accordance
27 with the procedures described in subdivision (c) of Section 13304 of the Water
28 Code. The state board, upon appropriation by the Legislature, may use moneys in
29 the Groundwater Contamination Cleanup Project Fund for this purpose. If moneys
30 from the Groundwater Contamination Cleanup Project Fund are used for legal costs
31 pursuant to this subdivision, moneys recovered by a judgment in favor of the state
32 board shall be deposited in that fund.

33 (c) For the purposes of implementing subdivision (a) of Section 75050, the
34 Department of Fish and Wildlife, when funding a natural community conservation
35 plan, shall fund only the development of a natural community conservation plan that
36 is consistent with the Natural Community Conservation Planning Act (~~Chapter 10~~
37 ~~(commencing with Section 2800) of Division 3 Title 2 (commencing with Section~~
38 ~~64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code).~~

39 (d) The San Francisco Bay Area Conservancy may use the funds made available
40 pursuant to subdivision (c) of Section 75060 to restore the salt ponds in the south
41 San Francisco Bay and to create trails and visitor facilities for public use in that
42 area.

1 **Comment.** Subdivision (c) of Section 75101 is amended to reflect the recodification of the
2 former Fish and Game Code.

3 **Pub. Res. Code § 80028 (amended).**

4 SEC. _____. Section 80028 of the Public Resources Code is amended to read:
5 80028. Funds provided pursuant to this division, and any appropriation or transfer
6 of those funds, shall not be deemed to be a transfer of funds for the purposes of
7 ~~Chapter 9 (commencing with Section 2780) of Division 3~~ Title 5 (commencing with
8 Section 55800) of Part 2 of Division 15 of the Fish and Game Wildlife Code.

9 **Comment.** Section 80028 is amended to reflect the recodification of the former Fish and Game
10 Code.

11 **Pub. Res. Code § 80111 (amended).**

12 SEC. _____. Section 80111 of the Public Resources Code is amended to read:
13 80111. The amount available to the Wildlife Conservation Board pursuant to
14 subdivision (c) of Section 80110 is allocated as follows:

15 (a) Five million dollars (\$5,000,000) shall be available for the development of
16 regional conservation investment strategies that are not otherwise funded pursuant
17 to Section 800 of the Streets and Highways Code or any other law.

18 (b) At least fifty-two million dollars (\$52,000,000) shall be available for the
19 acquisition, development, rehabilitation, restoration, protection, and expansion of
20 habitat that furthers the implementation of natural community conservation plans
21 adopted pursuant to the Natural Community Conservation Planning Act (~~Chapter~~
22 ~~10 (commencing with Section 2800) of Division 3~~ Title 2 (commencing with
23 Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code) to
24 help resolve resource conflicts by balancing communitywide conservation,
25 planning, and economic activities or other large-scale habitat conservation plans that
26 resolve resource conflicts with provisions for conservation, planning, and economic
27 activities. Funding pursuant to this paragraph shall not be used to offset mitigation
28 obligations otherwise required, but may be used as part of a funding partnership to
29 enhance, expand, or augment conservation efforts required by mitigation.

30 (c) Up to ten million dollars (\$10,000,000) may be granted to the University of
31 California Natural Reserve System for matching grants for acquisition of land,
32 construction and development of research facilities to improve the management of
33 natural lands, for preservation of California's wildlife resources, and to further
34 research related to climate change. The Wildlife Conservation Board shall establish
35 a matching grant requirement for grants awarded pursuant to this subdivision.

36 (d) The remainder of the amount available shall be available to the Wildlife
37 Conservation Board to provide funding for the following projects:

38 (1) Projects to protect and enhance national recreation areas serving heavily
39 urbanized areas or, in coordination with the State Lands Commission, to acquire an
40 interest in federal public lands that may be proposed for sale or disposal.

(2) Projects according to the Wildlife Conservation Board's governing statutes for its specified purposes.

Comment. Section 80111 is amended to reflect the recodification of the former Fish and Game Code.

Pub. Res. Code § 80132 (amended).

SEC. _____. Section 80132 of the Public Resources Code is amended to read:

80132. (a) Of the amount made available pursuant to Section 80130, eighteen million dollars (\$18,000,000) shall be available to the Wildlife Conservation Board for direct expenditures pursuant to the Wildlife Conservation Law of 1947 (~~Chapter 4 (commencing with Section 1300) of Division 2 Title 1 (commencing with Section 54700) of Part 2 of Division 15~~ of the Fish and Game Wildlife Code) and for grants for any of the following:

(1) Projects for the acquisition, development, rehabilitation, restoration, protection, and expansion of wildlife corridors and open space, including projects to improve connectivity and reduce barriers between habitat areas. In awarding grants pursuant to this paragraph, the Wildlife Conservation Board shall give priority to projects that protect wildlife corridors, including wildlife corridors threatened by urban development.

(2) Projects for the acquisition, development, rehabilitation, restoration, protection, and expansion of habitat that promote the recovery of threatened and endangered species.

(3) Projects to improve climate adaptation and resilience of natural systems.

(4) Projects to protect and improve existing open-space corridors and trail linkages related to utility, transportation, or water infrastructure that provide habitat connectivity and public access or trails.

(5) Projects for wildlife rehabilitation facilities after consultation with the Department of Fish and Wildlife.

(6) Projects to control invasive plants or insects that degrade wildlife corridors or habitat linkages, inhibit the recovery of threatened or endangered species, or reduce the climate resilience of a natural system.

(7) Projects to enhance wildlife habitat, recognizing the highly variable habitat needs required by fish and wildlife. Eligible projects include acquisition of water or water rights from willing sellers, acquisition of land that includes water rights or contractual rights to water, short- or long-term water transfers and leases, projects that provide water for fish and wildlife, projects that improve aquatic or riparian habitat conditions, or projects to benefit salmon and steelhead.

(8) Implementation of conservation actions and habitat enhancement actions that measurably advance the conservation objectives of regional conservation investment strategies approved pursuant to ~~Chapter 9 (commencing with Section 1850) of Division 2 Title 3 (commencing with Section 64700) of Part 2 of Division 17~~ the Fish and Game Wildlife Code.

1 (9) Provision of hunting and other wildlife-dependent recreational opportunities
2 to the public through voluntary agreement with private landowners, including
3 opportunities pursuant to Section ~~1572~~ 56225, 56230, or 56240 of the Fish and
4 Game Wildlife Code.

5 (b) In implementing this section, the Wildlife Conservation Board may provide
6 matching grants for incentives to landowners for conservation actions on private
7 lands or use of voluntary habitat credit exchange mechanisms. A matching grant
8 shall not exceed 50 percent of the total cost of the incentive program.

9 (c) Of the amount made available pursuant to Section 80130, thirty million dollars
10 (\$30,000,000) shall be available for the acquisition, development, rehabilitation,
11 restoration, protection, and expansion of wildlife corridors and open space to
12 improve connectivity and reduce barriers between habitat areas and to protect and
13 restore habitat associated with the Pacific Flyway. In awarding grants pursuant to
14 this subdivision, priority may be given to projects that protect wildlife corridors. Of
15 the amount described in this subdivision, ten million dollars (\$10,000,000) shall be
16 available for the California Waterfowl Habitat Program.

17 (d) Of the amount made available pursuant to Section 80130, not less than twenty-
18 five million dollars (\$25,000,000) shall be available to the Department of Fish and
19 Wildlife for projects to restore rivers and streams in support of fisheries and wildlife,
20 including, but not limited to, reconnection of rivers with their flood plains, riparian
21 and side-channel habitat restoration activities described in subdivision (b) of Section
22 79737 of the Water Code, and restoration and protection of upper watershed forests
23 and meadow systems that are important for fish and wildlife resources. Subdivision
24 (f) of Section 79738 of the Water Code applies to this subdivision. Of the amount
25 available pursuant to this subdivision, at least five million dollars (\$5,000,000) shall
26 be available for restoration projects in the Klamath-Trinity watershed for the benefit
27 of salmon and steelhead. Priority shall be given to projects supported by
28 multistakeholder public or private partnerships, or both, using a science-based
29 approach and measurable objectives to guide identification, design, and
30 implementation of regional actions to benefit salmon and steelhead.

31 (e)(1) Of the amount made available pursuant to Section 80130, not less than sixty
32 million dollars (\$60,000,000) shall be available to the Wildlife Conservation Board
33 for construction, repair, modification, or removal of transportation or water
34 resources infrastructure to improve wildlife or fish passage.

35 (2) Of the amount subject to paragraph (1), at least thirty million dollars
36 (\$30,000,000) shall be available to the Department of Fish and Wildlife for
37 restoration of Southern California Steelhead habitat consistent with the Department
38 of Fish and Wildlife's Steelhead Restoration and Management Plan and the National
39 Marine Fisheries Service's Southern California Steelhead Recovery Plan. Projects
40 that remove significant barriers to steelhead migration and include other habitat
41 restoration and associated infrastructure improvements shall be the highest priority.


(f) Of the amount made available pursuant to Section 80130, not less than sixty million dollars (\$60,000,000) shall be available to the Wildlife Conservation Board for the protection, restoration, and improvement of upper watershed lands in the Sierra Nevada and Cascade Mountains, including forest lands, meadows, wetlands, chaparral, and riparian habitat, in order to protect and improve water supply and water quality, improve forest health, reduce wildfire danger, mitigate the effects of wildfires on water quality and supply, increase flood protection, or to protect or restore riparian or aquatic resources.

(g) Of the amount made available pursuant to Section 80130, at least thirty million dollars (\$30,000,000) shall be available to the Department of Fish and Wildlife to improve conditions for fish and wildlife in streams, rivers, wildlife refuges, wetland habitat areas, and estuaries. Eligible projects include acquisition of water from willing sellers, acquisition of land that includes water rights or contractual rights to water, short- or long-term water transfers or leases, provision of water for fish and wildlife, or improvement of aquatic or riparian habitat conditions. In implementing this section, the Department of Fish and Wildlife may provide grants under the Fisheries Restoration Grant Program with priority given to coastal waters.

(h) The Wildlife Conservation Board shall update its strategic master plan that identifies priorities and specific criteria for selecting projects pursuant to subdivision (a).

(i) Activities funded pursuant to this section shall be consistent with the state's climate adaptation strategy, as provided in Section 71153, and the statewide objectives provided in Section 71154.

Comment. Subdivision (a) of Section 80132 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** In the tentative recommendation, the provisions of existing Fish and Game Code 1572, which is cross-referenced in the section above, have been continued in several different sections of the proposed Fish and Wildlife Code.

The Commission requests public comment on the proposed conforming revision of the cross-reference to Section 1572 in the section above.

PUBLIC UTILITIES CODE

Pub. Util. Code § 7718 (amended).

SEC. ____ . Section 7718 of the Public Utilities Code is amended to read:

7718. (a) The Railroad Accident Prevention and Immediate Deployment Force is hereby created in the California Environmental Protection Agency. The force shall be responsible for providing immediate onsite response capability in the event of large-scale releases of toxic materials resulting from surface transportation accidents and for implementing the state hazardous materials incident prevention and immediate deployment plan. This force shall act cooperatively and in concert

1 with existing local emergency response units. The force shall consist of
2 representatives of all of the following:

- 3 (1) Department of Fish and ~~Game~~ Wildlife.
- 4 (2) California Environmental Protection Agency.
- 5 (3) State Air Resources Board.
- 6 (4) California Integrated Waste Management Board.
- 7 (5) California regional water quality control boards.
- 8 (6) Department of Toxic Substances Control.
- 9 (7) Department of Pesticide Regulation.
- 10 (8) Office of Environmental Health Hazard Assessment.
- 11 (9) State Department of Public Health.
- 12 (10) Department of the California Highway Patrol.
- 13 (11) Department of Food and Agriculture.
- 14 (12) Department of Forestry and Fire Protection.
- 15 (13) Department of Parks and Recreation.
- 16 (14) Public Utilities Commission.
- 17 (15) Any other potentially affected state, local, or federal agency.
- 18 (16) Office of Emergency Services.

19 (b) The California Environmental Protection Agency shall develop a state railroad
20 accident prevention and immediate deployment plan in cooperation with the State
21 Fire Marshal, affected businesses, and all of the entities listed in paragraphs (1) to
22 (17), inclusive, of subdivision (a).

23 (c) The plan specified in subdivision (b) shall be a comprehensive set of policies
24 and directions that every potentially affected state agency and business shall follow
25 if there is a railroad accident to minimize the potential damage to the public health
26 and safety, property, and the environment that might result from accidents involving
27 railroad activities in the state.

28 **Comment.** Section 7718 is amended to update a reference to the former Department of Fish and
29 Game. See Fish & Wildlife Code § 1500.

30 REVENUE AND TAXATION CODE

31 **Rev. & Tax. Code § 421 (amended).**

32 SEC. _____. Section 421 of the Revenue and Taxation Code is amended to read:

33 421. For the purposes of this article:

34 (a) “Agricultural preserve” means an agricultural preserve created pursuant to the
35 California Land Conservation Act of 1965 (Williamson Act) (Chapter 7
36 commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the
37 Government Code).

38 (b) “Contract” means a contract executed pursuant to the California Land
39 Conservation Act.

1 (c) “Agreement” means an agreement executed pursuant to the California Land
2 Conservation Act prior to the 61st day following the final adjournment of the 1969
3 Regular Session of the Legislature and that, taken as a whole, provides restrictions,
4 terms and conditions that are substantially similar or more restrictive than those
5 required by statute for a contract.

6 (d) “Scenic restriction” means any interest or right in real property acquired by a
7 city or county pursuant to Chapter 12 (commencing with Section 6950) of Division
8 7 of Title 1 of the Government Code, where the deed or other instrument granting
9 such right or interest imposes restrictions that, through limitation of their future use,
10 will effectively preserve for public use and enjoyment, the character of open spaces
11 and areas as defined in Section 6954 of the Government Code.

12 A scenic restriction shall be for an initial term of 10 years or more, and shall
13 provide for either of the following:

14 (1) A method whereby the term may be extended by mutual agreement of the
15 parties.

16 (2) That the initial term shall be subject to annual automatic one-year extensions
17 as provided for contracts in Sections 51244, 51244.5, and 51246 of the Government
18 Code, unless notice of nonrenewal is given as provided in Section 51245 of the
19 Government Code.

20 A scenic restriction may not be terminated prior to the expiration of the initial
21 term, and any extension thereof, except as provided for cancellation of contracts in
22 Sections 51281, 51282, 51283 and 51283.3 of the Government Code, and subject to
23 the provisions therein for payment of the cancellation fee.

24 (e) “Open-space easement” means an open-space easement granted to a county or
25 city pursuant to Chapter 6.5 (commencing with Section 51050) of Part 1 of Division
26 1 of Title 5 of the Government Code if the easement is acquired prior to January 1,
27 1975, or an open-space easement granted to a county, city, or nonprofit organization
28 pursuant to Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1
29 of Title 5 of the Government Code if the easement is acquired after January 1, 1975,
30 or an open-space easement granted to a regional park district, regional park and
31 open-space district, or regional open-space district under Article 3 (commencing
32 with Section 5500) of Chapter 3 of Division 5 of the Public Resources Code.

33 (f) “Wildlife habitat contract” means any contract or amended contract or
34 covenant involving, except as provided in Section 423.8, 150 acres or more of land
35 entered into by a landowner with any agency or political subdivision of the federal
36 or state government limiting the use of lands for a period of 10 or more years by the
37 landowner to habitat for native or migratory wildlife and native pasture. These lands
38 shall, by contract, be eligible to receive water for waterfowl or waterfowl
39 management purposes from the federal government.

40 (g) “Open-space land” means any of the following:

41 (1) Land within an agricultural preserve and subject to a contract or an agreement.

42 (2) Land subject to a scenic restriction.

1 (3) Land subject to an open-space easement.

2 (4) Land that has been restricted by a political subdivision or an entity of the state
3 or federal government, acting within the scope of its regulatory or other legal
4 authority, for the benefit of wildlife, endangered species, or their habitats.

5 (h) “Typical rotation period” means a period of years during which different crops
6 are grown as part of a plant cultural program. Typical rotation period does not mean
7 the rotation period of timber.

8 (i) “Wildlife” means waterfowl of every kind and any other undomesticated
9 mammal, fish, or bird, or any reptile, amphibian, insect, or plant.

10 (j) “Endangered species” means any species or subcategory thereof, as defined in
11 the California Endangered Species Act (~~Chapter 1.5 (commencing with Section~~
12 ~~2050) of Division 3 Part 1 (commencing with Section 62000) of Division 17~~ of the
13 Fish and Game Wildlife Code) or the federal Endangered Species Act (16 U.S.C.
14 Sec. 1531 et seq.), that has been classified and protected as an endangered,
15 threatened, rare, or candidate species by any entity of the state or federal
16 government.

17 **Comment.** Subdivision (j) of Section 421 is amended to reflect the recodification of the former
18 Fish and Game Code.

19 **Rev. & Tax. Code § 18741 (amended).**

20 SEC. _____. Section 18741 of the Revenue and Taxation Code is amended to read:

21 18741. (a) Any individual may designate on the tax return, under the space labeled
22 “Rare and Endangered Species Preservation Voluntary Tax Contribution Program,”
23 that a contribution in excess of the tax liability, if any, be made to the Endangered
24 and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account
25 established in the Fish and Game Preservation Fund pursuant to Section ~~1770~~ 56100
26 of the Fish and Game Wildlife Code.

27 (b) The contribution shall be in full dollar amounts and may be made individually
28 by each signatory on a joint return.

29 (c) A designation under subdivision (a) shall be made for any taxable year on the
30 original return for that taxable year, and once made shall be irrevocable.

31 (d) The Franchise Tax Board shall revise the form of the return to include a space
32 labeled “Rare and Endangered Species Preservation Voluntary Tax Contribution
33 Program” to allow for the designation permitted under subdivision (a).

34 (e) A deduction shall be allowed under Article 6 (commencing with Section
35 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision
36 (a).

37 **Comment.** Section 18741 is amended to reflect the recodification of the former Fish and Game
38 Code.

39 **Rev. & Tax. Code § 18742 (amended).**

40 SEC. _____. Section 18742 of the Revenue and Taxation Code is amended to read:

18742. (a) The Franchise Tax Board shall notify the Controller of both the amount of moneys paid by taxpayers in excess of their tax liability and the amount of refund moneys that taxpayers have designated pursuant to Section 18741 to be transferred to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account. The Controller shall transfer from the Personal Income Tax Fund to that account, an amount not in excess of the sum of the amounts reported to the Controller by the Franchise Tax Board that have been designated by individuals pursuant to Section 18741 for payment into that account.

(b) Notwithstanding Section 13340 of the Government Code, all moneys transferred to the account shall be continuously appropriated and allocated as follows:

(1) To the Franchise Tax Board and the Controller for the reimbursement of all actual and direct costs incurred by the Franchise Tax Board and the Controller in connection with the collection and administration of funds under this article.

(2) To the Department of Fish and Wildlife for the purposes specified in Section 1771 56105 of the Fish and Game Wildlife Code.

(c) The Department of Fish and Wildlife shall comply with the Internet Web site reporting requirements described in Section 18873.

Comment. Section 18742 is amended to reflect the recodification of the former Fish and Game Code.

Rev. & Tax. Code § 18749.2 (amended).

SEC. _____. Section 18749.2 of the Revenue and Taxation Code is amended to read:

18749.2. (a) Notwithstanding Section 13340 of the Government Code, all moneys transferred to the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund shall be continuously appropriated and allocated as follows:

(1) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(2) The revenues remaining, after allocation pursuant to paragraph (1), to the Department of Fish and Wildlife for the purposes specified in Article 5 (commencing with Section 1773) of Chapter 7.5 of Division 2 Chapter 5 (commencing with Section 56150) of Title 6 of Part 2 of Division 15 the Fish and Game Wildlife Code.

(b) The Department of Fish and Wildlife shall comply with the Internet Web site reporting requirements described in Section 18873.

Comment. Section 18749.2 is amended to reflect the recodification of the former Fish and Game Code.

Rev. & Tax. Code § 34019 (amended).

SEC. _____. Section 34019 of the Revenue and Taxation Code is amended to read:

34019. (a) Beginning with the 2017–18 fiscal year, the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and

1 provide those estimates to the Controller no later than June 15 of each year. The
2 Controller shall use these estimates when disbursing funds pursuant to this section.
3 Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this
4 section, the Controller shall disburse from the Tax Fund to the appropriate account,
5 without regard to fiscal year, the following:

6 (1) Reasonable costs incurred by the board for administering and collecting the
7 taxes imposed by this part; provided, however, such costs shall not exceed 4 percent
8 of tax revenues received.

9 (2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs,
10 the Department of Food and Agriculture, and the State Department of Public Health
11 for implementing, administering, and enforcing Division 10 (commencing with
12 Section 26000) of the Business and Professions Code to the extent those costs are
13 not reimbursed pursuant to Section 26180 of the Business and Professions Code.
14 This paragraph shall remain operative through the 2022–23 fiscal year.

15 (3) Reasonable costs incurred by the Department of Fish and Wildlife, the State
16 Water Resources Control Board, and the Department of Pesticide Regulation for
17 carrying out their respective duties under Division 10 (commencing with Section
18 26000) of the Business and Professions Code to the extent those costs are not
19 otherwise reimbursed.

20 (4) Reasonable costs incurred by the Controller for performing duties imposed by
21 the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit
22 required by Section 34020.

23 (5) Reasonable costs incurred by the Department of Finance for conducting the
24 performance audit pursuant to Section 26191 of the Business and Professions Code.

25 (6) Reasonable costs incurred by the Legislative Analyst’s Office for performing
26 duties imposed by Section 34017.

27 (7) Sufficient funds to reimburse the Division of Labor Standards Enforcement
28 and the Division of Occupational Safety and Health within the Department of
29 Industrial Relations and the Employment Development Department for the costs of
30 applying and enforcing state labor laws to licensees under Division 10 (commencing
31 with Section 26000) of the Business and Professions Code.

32 (b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000)
33 to a public university or universities in California annually beginning with the 2018–
34 19 fiscal year until the 2028–29 fiscal year to research and evaluate the
35 implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana
36 Act, and shall, if appropriate, make recommendations to the Legislature and
37 Governor regarding possible amendments to the Control, Regulate and Tax Adult
38 Use of Marijuana Act. The recipients of these funds shall publish reports on their
39 findings at a minimum of every two years and shall make the reports available to
40 the public. The bureau shall select the universities to be funded. The research funded
41 pursuant to this subdivision shall include but not necessarily be limited to:

1 (1) Impacts on public health, including health costs associated with cannabis use,
2 as well as whether cannabis use is associated with an increase or decrease in use of
3 alcohol or other drugs.

4 (2) The impact of treatment for maladaptive cannabis use and the effectiveness of
5 different treatment programs.

6 (3) Public safety issues related to cannabis use, including studying the
7 effectiveness of the packaging and labeling requirements and advertising and
8 marketing restrictions contained in the act at preventing underage access to and use
9 of cannabis and cannabis products, and studying the health-related effects among
10 users of varying potency levels of cannabis and cannabis products.

11 (4) Cannabis use rates, maladaptive use rates for adults and youth, and diagnosis
12 rates of cannabis-related substance use disorders.

13 (5) Cannabis market prices, illicit market prices, tax structures and rates, including
14 an evaluation of how to best tax cannabis based on potency, and the structure and
15 function of licensed cannabis businesses.

16 (6) Whether additional protections are needed to prevent unlawful monopolies or
17 anti-competitive behavior from occurring in the adult-use cannabis industry and, if
18 so, recommendations as to the most effective measures for preventing such
19 behavior.

20 (7) The economic impacts in the private and public sectors, including, but not
21 necessarily limited to, job creation, workplace safety, revenues, taxes generated for
22 state and local budgets, and criminal justice impacts, including, but not necessarily
23 limited to, impacts on law enforcement and public resources, short and long term
24 consequences of involvement in the criminal justice system, and state and local
25 government agency administrative costs and revenue.

26 (8) Whether the regulatory agencies tasked with implementing and enforcing the
27 Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with
28 the purposes of the act, and whether different agencies might do so more effectively.

29 (9) Environmental issues related to cannabis production and the criminal
30 prohibition of cannabis production.

31 (10) The geographic location, structure, and function of licensed cannabis
32 businesses, and demographic data, including race, ethnicity, and gender, of license
33 holders.

34 (11) The outcomes achieved by the changes in criminal penalties made under the
35 Control, Regulate and Tax Adult Use of Marijuana Act for cannabis-related
36 offenses, and the outcomes of the juvenile justice system, in particular, probation-
37 based treatments and the frequency of up-charging illegal possession of cannabis or
38 cannabis products to a more serious offense.

39 (c) The Controller shall next disburse the sum of three million dollars
40 (\$3,000,000) annually to the Department of the California Highway Patrol
41 beginning with the 2018–19 fiscal year until the 2022–23 fiscal year to establish and
42 adopt protocols to determine whether a driver is operating a vehicle while impaired,

1 including impairment by the use of cannabis or cannabis products, and to establish
2 and adopt protocols setting forth best practices to assist law enforcement agencies.
3 The department may hire personnel to establish the protocols specified in this
4 subdivision. In addition, the department may make grants to public and private
5 research institutions for the purpose of developing technology for determining when
6 a driver is operating a vehicle while impaired, including impairment by the use of
7 cannabis or cannabis products.

8 (d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000)
9 beginning with the 2018–19 fiscal year and increasing ten million dollars
10 (\$10,000,000) each fiscal year thereafter until the 2022–23 fiscal year, at which time
11 the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to
12 the Governor’s Office of Business and Economic Development, in consultation with
13 the Labor and Workforce Development Agency and the State Department of Social
14 Services, to administer a community reinvestments grants program to local health
15 departments and at least 50 percent to qualified community-based nonprofit
16 organizations to support job placement, mental health treatment, substance use
17 disorder treatment, system navigation services, legal services to address barriers to
18 reentry, and linkages to medical care for communities disproportionately affected
19 by past federal and state drug policies. The office shall solicit input from
20 community-based job skills, job placement, and legal service providers with
21 relevant expertise as to the administration of the grants program. In addition, the
22 office shall periodically evaluate the programs it is funding to determine the
23 effectiveness of the programs, shall not spend more than 4 percent for administrative
24 costs related to implementation, evaluation, and oversight of the programs, and shall
25 award grants annually, beginning no later than January 1, 2020.

26 (e) The Controller shall next disburse the sum of two million dollars (\$2,000,000)
27 annually to the University of California San Diego Center for Medicinal Cannabis
28 Research to further the objectives of the center, including the enhanced
29 understanding of the efficacy and adverse effects of cannabis as a pharmacological
30 agent.

31 (f) By July 15 of each fiscal year beginning in the 2018–19 fiscal year, the
32 Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and
33 (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-
34 trust accounts, which are hereby created, as follows:

35 (1) Sixty percent shall be deposited in the Youth Education, Prevention, Early
36 Intervention and Treatment Account, and disbursed by the Controller to the State
37 Department of Health Care Services for programs for youth that are designed to
38 educate about and to prevent substance use disorders and to prevent harm from
39 substance use. The State Department of Health Care Services shall enter into
40 interagency agreements with the State Department of Public Health and the State
41 Department of Education to implement and administer these programs. The
42 programs shall emphasize accurate education, effective prevention, early

1 intervention, school retention, and timely treatment services for youth, their families
2 and caregivers. The programs may include, but are not limited to, the following
3 components:

4 (A) Prevention and early intervention services including outreach, risk survey and
5 education to youth, families, caregivers, schools, primary care health providers,
6 behavioral health and substance use disorder service providers, community and
7 faith-based organizations, fostercare providers, juvenile and family courts, and
8 others to recognize and reduce risks related to substance use, and the early signs of
9 problematic use and of substance use disorders.

10 (B) Grants to schools to develop and support student assistance programs, or other
11 similar programs, designed to prevent and reduce substance use, and improve school
12 retention and performance, by supporting students who are at risk of dropping out
13 of school and promoting alternatives to suspension or expulsion that focus on school
14 retention, remediation, and professional care. Schools with higher than average
15 dropout rates should be prioritized for grants.

16 (C) Grants to programs for outreach, education, and treatment for homeless youth
17 and out-of-school youth with substance use disorders.

18 (D) Access and linkage to care provided by county behavioral health programs
19 for youth, and their families and caregivers, who have a substance use disorder or
20 who are at risk for developing a substance use disorder.

21 (E) Youth-focused substance use disorder treatment programs that are culturally
22 and gender competent, trauma-informed, evidence-based and provide a continuum
23 of care that includes screening and assessment (substance use disorder as well as
24 mental health), early intervention, active treatment, family involvement, case
25 management, overdose prevention, prevention of communicable diseases related to
26 substance use, relapse management for substance use and other cooccurring
27 behavioral health disorders, vocational services, literacy services, parenting classes,
28 family therapy and counseling services, medication-assisted treatments, psychiatric
29 medication and psychotherapy. When indicated, referrals must be made to other
30 providers.

31 (F) To the extent permitted by law and where indicated, interventions shall utilize
32 a two-generation approach to addressing substance use disorders with the capacity
33 to treat youth and adults together. This would include supporting the development
34 of family-based interventions that address substance use disorders and related
35 problems within the context of families, including parents, foster parents, caregivers
36 and all their children.

37 (G) Programs to assist individuals, as well as families and friends of drug using
38 young people, to reduce the stigma associated with substance use including being
39 diagnosed with a substance use disorder or seeking substance use disorder services.
40 This includes peer-run outreach and education to reduce stigma, anti-stigma
41 campaigns, and community recovery networks.

1 (H) Workforce training and wage structures that increase the hiring pool of
2 behavioral health staff with substance use disorder prevention and treatment
3 expertise. Provide ongoing education and coaching that increases substance use
4 treatment providers' core competencies and trains providers on promising and
5 evidenced-based practices.

6 (I) Construction of community-based youth treatment facilities.

7 (J) The departments may contract with each county behavioral health program for
8 the provision of services.

9 (K) Funds shall be allocated to counties based on demonstrated need, including
10 the number of youth in the county, the prevalence of substance use disorders among
11 adults, and confirmed through statistical data, validated assessments, or submitted
12 reports prepared by the applicable county to demonstrate and validate need.

13 (L) The departments shall periodically evaluate the programs they are funding to
14 determine the effectiveness of the programs.

15 (M) The departments may use up to 4 percent of the moneys allocated to the Youth
16 Education, Prevention, Early Intervention and Treatment Account for
17 administrative costs related to implementation, evaluation, and oversight of the
18 programs.

19 (N) If the Department of Finance ever determines that funding pursuant to
20 cannabis taxation exceeds demand for youth prevention and treatment services in
21 the state, the departments shall provide a plan to the Department of Finance to
22 provide treatment services to adults as well as youth using these funds.

23 (O) The departments shall solicit input from volunteer health organizations,
24 physicians who treat addiction, treatment researchers, family therapy and
25 counseling providers, and professional education associations with relevant
26 expertise as to the administration of any grants made pursuant to this paragraph.

27 (2) Twenty percent shall be deposited in the Environmental Restoration and
28 Protection Account, and disbursed by the Controller as follows:

29 (A) To the Department of Fish and Wildlife and the Department of Parks and
30 Recreation for the cleanup, remediation, and restoration of environmental damage
31 in watersheds affected by cannabis cultivation and related activities including, but
32 not limited to, damage that occurred prior to enactment of this part, and to support
33 local partnerships for this purpose. The Department of Fish and Wildlife and the
34 Department of Parks and Recreation may distribute a portion of the funds they
35 receive from the Environmental Restoration and Protection Account through grants
36 for purposes specified in this paragraph.

37 (B) To the Department of Fish and Wildlife and the Department of Parks and
38 Recreation for the stewardship and operation of state-owned wildlife habitat areas
39 and state park units in a manner that discourages and prevents the illegal cultivation,
40 production, sale, and use of cannabis and cannabis products on public lands, and to
41 facilitate the investigation, enforcement, and prosecution of illegal cultivation,
42 production, sale, and use of cannabis or cannabis products on public lands.

1 (C) To the Department of Fish and Wildlife to assist in funding the watershed
2 enforcement program and multiagency taskforce established pursuant to
3 subdivisions (b) and (c) of ~~Section 12029~~ Sections 72205 and 72210 of the Fish and
4 ~~Game~~ Wildlife Code to facilitate the investigation, enforcement, and prosecution of
5 these offenses and to ensure the reduction of adverse impacts of cannabis
6 cultivation, production, sale, and use on fish and wildlife habitats throughout the
7 state.

8 (D) For purposes of this paragraph, the Secretary of the Natural Resources Agency
9 shall determine the allocation of revenues between the departments. During the first
10 five years of implementation, first consideration should be given to funding
11 purposes specified in subparagraph (A).

12 (E) Funds allocated pursuant to this paragraph shall be used to increase and
13 enhance activities described in subparagraphs (A), (B), and (C), and not replace
14 allocation of other funding for these purposes. Accordingly, annual General Fund
15 appropriations to the Department of Fish and Wildlife and the Department of Parks
16 and Recreation shall not be reduced below the levels provided in the Budget Act of
17 2014 (Chapter 25 of the Statutes of 2014).

18 (3) Twenty percent shall be deposited into the State and Local Government Law
19 Enforcement Account and disbursed by the Controller as follows:

20 (A) To the Department of the California Highway Patrol for conducting training
21 programs for detecting, testing and enforcing laws against driving under the
22 influence of alcohol and other drugs, including driving under the influence of
23 cannabis. The department may hire personnel to conduct the training programs
24 specified in this subparagraph.

25 (B) To the Department of the California Highway Patrol to fund internal
26 California Highway Patrol programs and grants to qualified nonprofit organizations
27 and local governments for education, prevention, and enforcement of laws related
28 to driving under the influence of alcohol and other drugs, including cannabis;
29 programs that help enforce traffic laws, educate the public in traffic safety, provide
30 varied and effective means of reducing fatalities, injuries, and economic losses from
31 collisions; and for the purchase of equipment related to enforcement of laws related
32 to driving under the influence of alcohol and other drugs, including cannabis.


33 (C) To the Board of State and Community Corrections for making grants to local
34 governments to assist with law enforcement, fire protection, or other local programs
35 addressing public health and safety associated with the implementation of the
36 Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make
37 any grants to local governments which have banned the cultivation, including
38 personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of
39 the Health and Safety Code, or retail sale of cannabis or cannabis products pursuant
40 to Section 26200 of the Business and Professions Code or as otherwise provided by
41 law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in the 2022–23 fiscal year the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before the 2022–23 fiscal year pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in the 2027–28 fiscal year. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

Comment. Subparagraph (C) of paragraph (2) of subdivision (f) of Section 34019 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** Section 5907 was added to the Revenue and Taxation Code in 2016 by an initiative statute, Proposition 64. The Commission believes that the proposed technical revision of that section would not be an impermissible amendment. See discussion of initiative statutes *supra* at notes 5 and 6, and associated text.

Rev. & Tax. Code § 46618 (amended).

SEC. _____. Section 46618 of the Revenue and Taxation Code is amended to read:
46618. The board shall, in cooperation with the Department of Fish and Game Wildlife, the Taxpayers’ Rights Advocate, and other interested feepayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.

Comment. Section 46618 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Rev. & Tax. Code § 46751 (amended).

SEC. _____. Section 46751 of the Revenue and Taxation Code is amended to read:
46751. (a) The board shall provide any and all information obtained under this part to the Department of Fish and Game Wildlife.

(b) The Department of Fish and Game Wildlife and the board may utilize any information obtained pursuant to this part to develop data on oil spill prevention,

1 abatement, and removal within the state. Notwithstanding any other provision of
2 this section, the Department of Fish and Game Wildlife may make oil spill
3 prevention, abatement, and removal public.

4 (c) It shall be unlawful for the board, or any person having an administrative duty
5 under Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the
6 Government Code or Division 7.8 (commencing with Section 8750) of the Public
7 Resources Code to make known, in any manner whatever, the business affairs,
8 operations, or any other information pertaining to a fee payer which was submitted
9 to the board in a report or return required by this part, or to permit any report or
10 copy thereof or any book containing any abstract or particulars thereof to be seen or
11 examined by any person not expressly authorized by subdivision (a), subdivision
12 (d), and this subdivision. However, the Governor may, by general or special order,
13 authorize examination of the records maintained by the board under this part by
14 other state officers, by officers of another state, by the federal government, if a
15 reciprocal arrangement exists, or by any other person. The information so obtained
16 pursuant to the order of the Governor shall not be made public except to the extent
17 and in the manner that the order may authorize that it be made public.

18 (d) The board may furnish to any state or federal agency investigating violations
19 of or enforcing any state or federal law related to crude oil and petroleum products
20 any crude oil and petroleum products information in the possession of the board that
21 is deemed necessary for the enforcement of those laws.

22 (e) Notwithstanding subdivision (c), the successors, receivers, trustees, executors,
23 administrators, assignees, and guarantors, if directly interested, may be given
24 information regarding the determination of any unpaid fee or the amount of fees,
25 interest, or penalties required to be collected or assessed.

26 (f) Nothing in this section shall be construed as limiting or increasing the public's
27 access to information on any aspect of oil spill prevention, abatement, and removal
28 collected pursuant to other state or local laws, regulations, or ordinances.

29 **Comment.** Section 46751 is amended to update references to the former Department of Fish and
30 Game. See Fish & Wildlife Code § 1500.

31 STREETS AND HIGHWAY CODE

32 **Sts. & Hy. Code § 91.8 (amended).**

33 SEC. _____. Section 91.8 of the Streets and Highway Code is amended to read:

34 91.8. (a) The department shall, within its maintenance program, establish
35 procedures for the removal and disposal of animal carcasses on state highways.

36 (b) Notwithstanding any other provision of law, including, but not limited to,
37 prohibitions on the possession and transportation of endangered or protected
38 species, or the property rights associated with livestock and other commercially
39 valuable animals, the department may remove or relocate an animal carcass from a
40 state highway for safety purposes.

1 (c) The department shall dispose of animal carcasses in an environmentally
2 appropriate manner considering both of the following:

3 (1) The animal's probable legal status, whether as domestic or commercial
4 property, wild, feral, protected, or endangered, as follows:

5 (A) When practicable, an owner of a domestic animal shall be notified of the
6 location or disposition of the animal carcass. Unless returned to the owner, license
7 tags, nameplates, or other identification shall be retained by the department for 30
8 days.

9 (B) A branded livestock carcass shall be removed from the roadway but not
10 otherwise transported until the owner is contacted. If the owner cannot be identified,
11 the department shall notify the regional brand inspector.

12 (C) In the case of wild, feral, protected, or endangered animals, disposal shall be
13 accomplished in accordance with applicable provisions of the Fish and ~~Game~~
14 Wildlife Code.

15 (2) If disposal technologies including, but not limited to, natural decomposition,
16 burial, incineration, donation, rendering, or composting are not available or
17 practicable, the department may use any nontraditional or novel technology that
18 may be appropriate under the circumstances.

19 (d) Animal carcasses shall not be relocated to or disposed of within 150 feet of
20 waterways or drainageways that lead directly to waterways, or buried within five
21 feet of groundwater.

22 (e) The department shall maintain a record of designated disposal sites used for
23 consolidation of animal carcasses.

24 **Comment.** Section 91.8 is amended to update a cross-reference to the former Fish and Game
25 Code.

26 **Sts. & Hy. Code § 156.3 (amended).**

27 SEC. _____. Section 156.3 of the Streets and Highway Code is amended to read:

28 156.3. For any project using state or federal transportation funds programmed
29 after January 1, 2006, the department shall ensure that, if the project affects a stream
30 crossing on a stream where anadromous fish are, or historically were, found, an
31 assessment of potential barriers to fish passage is done prior to commencing project
32 design. The department shall submit the assessment to the Department of Fish and
33 ~~Game~~ Wildlife and add it to the CALFISH database. If any structural barrier to
34 passage exists, remediation of the problem shall be designed into the project by the
35 implementing agency. New projects shall be constructed so that they do not present
36 a barrier to fish passage. When barriers to fish passage are being addressed, plans
37 and projects shall be developed in consultation with the Department of Fish and
38 ~~Game~~ Wildlife.

39 **Comment.** Section 156.3 is amended to update references to the former Department of Fish and
40 Game. See Fish & Wildlife Code § 1500.

1 **Sts. & Hy. Code § 156.4 (amended).**

2 SEC. _____. Section 156.4 of the Streets and Highway Code is amended to read:

3 156.4. For any repair or construction project using state or federal transportation
4 funds that affects a stream crossing on a stream where anadromous fish are, or
5 historically were, found, the department shall perform an assessment of the site for
6 potential barriers to fish passage and submit the assessment to the Department of
7 Fish and Game Wildlife.

8 **Comment.** Section 156.4 is amended to update a reference to the former Department of Fish and
9 Game. See Fish & Wildlife Code § 1500.

10 **Sts. & Hy. Code § 800 (amended).**

11 SEC. _____. Section 800 of the Streets and Highway Code is amended to read:

12 800. (a) The Advance Mitigation Program is hereby created in the department to
13 enhance communications between the department and stakeholders to protect
14 natural resources through project mitigation, to meet or exceed applicable
15 environmental requirements, to accelerate project delivery, and to mitigate, to the
16 maximum extent required by law, environmental impacts from transportation
17 infrastructure projects. The department shall consult on all activities pursuant to this
18 article with the Department of Fish and Wildlife, including activities pursuant to
19 Chapter 9 (commencing with Section 1850) of Division 2 Title 3 (commencing with
20 Section 64700) of Part 2 of Division 17 of the Fish and Game Wildlife Code.

21 (b) Commencing with the 2017–18 fiscal year, and for a period of four years, the
22 department shall set aside no less than thirty million dollars (\$30,000,000) annually
23 for the Advance Mitigation Program from the annual appropriations for the State
24 Highway Operation and Protection Program and the State Transportation
25 Improvement Program for the planning and implementation of projects in the
26 Advance Mitigation Program. Mitigation credits or values generated or obtained
27 with these funds may be used only for transportation improvements in the State
28 Transportation Improvement Program or the State Highway Operation and
29 Protection Program, and may be transferred to another agency, but only upon full
30 reimbursement of the department pursuant to subdivision (b) of Section 800.6.

31 (c) Upon the order of the Director of Finance, the Controller shall transfer the
32 amount identified for the Advance Mitigation Program in subdivision (b), as
33 determined by the department and the Department of Finance, to the Advance
34 Mitigation Account in the State Transportation Fund.

35 (d) The annual Budget Act and subsequent legislation may establish additional
36 provisions and requirements for the program.

37 **Comment.** Section 800 is amended to reflect the recodification of the former Fish and Game
38 Code.

39 **Sts. & Hy. Code § 800.5 (amended).**

40 SEC. _____. Section 800.5 of the Streets and Highway Code is amended to read:

1 800.5. For purposes of this article, the following terms have the following
2 meanings:

3 (a) “Acquire” and “acquisition” mean, with respect to land or a waterway,
4 acquisition of fee title or purchase of a conservation easement that protects
5 conservation and mitigation values on the land or waterway in perpetuity.

6 (b) “Administrative draft natural community conservation plan” means a
7 substantially complete draft of a natural community conservation plan that is
8 released after January 1, 2016, to the general public, plan participants, and the
9 department.

10 (c) “Advance mitigation” means mitigation implemented before, and in
11 anticipation of, environmental effects of planned transportation improvements.

12 (d) “Commission” means the California Transportation Commission.

13 (e) “Conservation easement” means a perpetual conservation easement that
14 complies with Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of
15 Division 2 of the Civil Code.

16 (f) “Department” means the Department of Transportation.

17 (g) “Mitigation credit agreement” means a mitigation credit agreement pursuant
18 to Chapter 9 (commencing with Section 1850) of Division 2 Title 3 (commencing
19 with Section 64700) of Part 2 of Division 17 of the Fish and Game Wildlife Code.

20 (h) “Natural Communities Conservation Plan” means a plan developed pursuant
21 to Chapter 10 (commencing with Section 2800) of Division 3 Title 2 (commencing
22 with Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code.

23 (i) “Planned transportation improvement” means a transportation project that a
24 transportation agency has identified in a regional transportation plan, an
25 interregional transportation plan, a capital improvement program, or other approved
26 transportation planning document, excluding any project that is associated with or
27 interacting with the high-speed rail program. A planned transportation improvement
28 may include, but is not limited to, a transportation project that has been planned,
29 programmed, proposed for approval, or that has been approved.

30 (j) “Program” means the Advance Mitigation Program implemented pursuant to
31 this article.

32 (k) “Regional conservation investment strategy” means a regional conservation
33 investment strategy approved by the Department of Fish and Wildlife pursuant to
34 Chapter 9 (commencing with Section 1850) of Division 2 Title 3 (commencing with
35 Section 64700) of Part 2 of Division 17 of the Fish and Game Wildlife Code.

36 (l) “Regulatory agency” means a state or federal natural resource protection
37 agency with regulatory authority over planned transportation improvements. A
38 regulatory agency includes, but is not limited to, the Natural Resources Agency, the
39 Department of Fish and Wildlife, California regional water quality control boards,
40 the United States Fish and Wildlife Service, the National Marine Fisheries Service,
41 the United States Environmental Protection Agency, and the United States Army
42 Corps of Engineers.

1 (m) “Transportation agency” means the department, a metropolitan planning
2 organization, a regional transportation planning agency, or another public agency
3 that implements transportation improvements.

4 (n) “Transportation improvement” means a transportation capital improvement
5 project.

6 **Comment.** Section 800.5 is amended to reflect the recodification of the former Fish and Game
7 Code.

8 **Sts. & Hy. Code § 800.6 (amended).**

9 SEC. _____. Section 800.6 of the Streets and Highway Code is amended to read:

10 800.6. (a) The funds in the Advance Mitigation Account created in Section 800.7
11 shall be used only to do the following:

12 (1) Purchase, or fund the purchase of, credits from mitigation banks, conservation
13 banks, or in-lieu fee programs approved by one or more regulatory agencies. The
14 department may also establish mitigation banks, conservation banks, or in-lieu fee
15 programs, or fund the establishment of mitigation banks, conservation banks, or in-
16 lieu fee programs, in accordance with applicable state and federal standards, if the
17 department determines that those banks or in-lieu fee programs would provide
18 appropriate mitigation of the anticipated potential impacts of planned transportation
19 improvements identified pursuant to Section 800.8.

20 (2) Pay, or fund the payment of, mitigation fees or other costs or payments
21 associated with coverage for the department’s or other transportation agency’s
22 projects under natural community conservation plans approved pursuant to ~~Chapter~~
23 ~~10 (commencing with Section 2800) of Division 3 Title 2 (commencing with~~
24 ~~Section 64500) of Part 2 of Division 17~~ of the Fish and Game Wildlife Code, or
25 habitat conservation plans approved in accordance with the federal Endangered
26 Species Act. The department shall, upon commencement of a regional conservation
27 investment strategy pursuant to paragraph (3), provide written notification thereof
28 to the executive administrative officer of any administrative draft natural
29 community conservation plan, approved natural community conservation plan, or
30 approved regional federal habitat conservation plan that overlaps the proposed area
31 of the regional conservation investment strategy.

32 (3) Prepare, or fund the preparation of, regional conservation assessments and
33 regional conservation investment strategies. Where a regional conservation
34 investment strategy has been approved by the Department of Fish and Wildlife, the
35 department may do either of the following:

36 (A) Enter into, or fund the preparation of, mitigation credit agreements with the
37 Department of Fish and Wildlife; purchase credits from an established mitigation
38 credit agreement; or implement, or fund the implementation of, conservation actions
39 and habitat enhancement actions as needed to generate mitigation credits pursuant
40 to those mitigation credit agreements.

1 (B) Acquire, restore, manage, monitor, enhance, and preserve lands, waterways,
2 aquatic resources, or fisheries, or fund the acquisition, restoration, management,
3 monitoring, enhancement, and preservation of lands, waterways, aquatic resources,
4 or fisheries that would measurably advance a conservation objective in the regional
5 conservation investment strategy if the department concludes that the action or
6 actions could conserve or create environmental values that are appropriate to
7 mitigate the anticipated potential impacts of planned transportation improvements.

8 (4) Where the advance mitigation mechanisms in paragraphs (1) to (3), inclusive,
9 are not practicable, the department may implement advance mitigation, or fund the
10 implementation of advance mitigation, in accordance with a programmatic
11 mitigation plan pursuant to Section 800.9. No more than 25 percent of the funds in
12 the Advance Mitigation Account may be allocated for this purpose over a four-year
13 period.

14 (b) The department may use, or allow other transportation agencies to use,
15 mitigation credits or values generated or obtained under the program to fulfill the
16 mitigation requirements of planned transportation improvements if the applicable
17 transportation agency reimburses the program for all costs of purchasing or creating
18 the mitigation credits or values, as determined by the department. Those costs shall
19 be calculated using total cost accounting and shall include, as applicable, land
20 acquisition or conservation easement costs, monitoring and enforcement costs,
21 restoration costs, transaction costs, administrative costs, contingency costs, and land
22 management, monitoring, and protection costs.

23 (c) The department shall track all implemented advance mitigation projects to use
24 as credits for environmental mitigation.

25 (d) Projects or plans prepared pursuant to this section that overlap with any
26 approved natural community conservation plan or approved regional federal habitat
27 conservation plan, shall be consistent with that plan and shall include an explanation
28 of whether and to what extent they are consistent with any overlapping state or
29 federal recovery plan, or other state-approved or federal-approved conservation
30 strategy.

31 (e) Mitigation credits created pursuant to this section may be used for covered
32 activities under an approved natural community conservation plan only in
33 accordance with the requirements of the plan. Individuals and entities eligible for
34 coverage as a participating special entity under an approved natural community
35 conservation plan may use mitigation credits created pursuant to this section only if
36 the plan's implementing entity declines to extend coverage to the covered activity
37 proposed by the eligible individual or entity.

38 (f) By July 1, 2019, and biennially thereafter, the department, pursuant to Section
39 9795 of the Government Code, and notwithstanding Section 10231.5 of the
40 Government Code, shall submit to the Legislature a report that describes to what
41 extent the Advance Mitigation Program has accelerated the delivery of
42 transportation projects. At a minimum, the report shall include the following:

1 (1) An accounting of the Advance Mitigation Account funds.

2 (2) Identification of expected state and federal resource and regulatory agency
3 mitigation requirements for transportation projects utilizing the Advance Mitigation
4 Program.

5 (3) A discussion of the extent to which those requirements are satisfied using
6 advance mitigation credits.

7 (4) The use of funds to prepare, or to fund the preparation of, regional
8 conservation assessments and regional conservation investment strategies.

9 (5) Recommendations for maximizing the ability of the Advance Mitigation
10 Program to satisfy state and federal mitigation requirements.

11 (g) By July 1, 2018, or one year after the initial Advance Mitigation Program
12 investments have begun, whichever is earlier, and biennially thereafter, the
13 Department of Fish and Wildlife shall, pursuant to Section 9795 of the Government
14 Code, and notwithstanding Section 10231.5 of the Government Code, submit a
15 report to the Legislature that describes the extent to which the Advance Mitigation
16 Program has improved the quality and effectiveness of habitat mitigation provided
17 by the department for transportation projects and makes related recommendations
18 on how to maximize these attributes. The report shall also include recommendations
19 on how to maximize the quality and effectiveness of habitat mitigation developed
20 pursuant to the Advance Mitigation Program.

21 (h) Nothing in this article shall be construed to impose any restrictions or
22 requirements on the department for activities that do not involve the utilization of
23 Advance Mitigation Account funds. Nothing in this article shall be construed to
24 require the department to use the Advance Mitigation Program.

25 (i) Prior to making any expenditure from the Advance Mitigation Account, the
26 Director of Transportation shall make a determination and justification that the
27 proposed expenditure is likely to accelerate project delivery of specific projects.

28 (j) Any state water or transportation infrastructure agency that requests approval
29 of a regional conservation investment strategy pursuant to ~~subdivision (a) of Section~~
30 1852 Section 64935 of the Fish and Game Wildlife Code that may be used to
31 facilitate mitigation for an infrastructure project shall not be subject to the limitation
32 on the number of regional conservation investment strategies set in Section ~~1861~~
33 64810 of the Fish and Game Wildlife Code.

34 **Comment.** Section 800.6(a)(2) and (j) are amended to reflect the recodification of the former
35 Fish and Game Code.

36 VEHICLE CODE

37 **Veh. Code § 21117 (amended).**

38 SEC. ____ . Section 21117 of the Vehicle Code is amended to read:

39 21117. (a) Local authorities may, notwithstanding Section 21101 or 21101.6, by
40 written agreement approved by their legislative bodies, transfer among themselves

1 the responsibility for maintaining, operating, or controlling public access to any
2 highway under their respective jurisdictions located in or adjacent to an ecological
3 reserve or an environmentally sensitive area within their respective jurisdictions.

4 (b) An agreement entered into pursuant to subdivision (a) may authorize the local
5 authority having responsibility for the highway under the agreement to do all of the
6 following:

7 (1) Limit access by motor vehicles to the highway during certain hours of the day
8 or certain days of the week.

9 (2) Prohibit access by motor vehicles during certain hours of the day or certain
10 days of the week.

11 (3) Provide for the construction or erection of barricades or other devices designed
12 or intended to separate pedestrians from vehicles or motor vehicles.

13 (4) Establish and operate a program by which vehicular access is permitted only
14 in conjunction with specified educational programs or for disabled persons, or both.

15 (5) Issue temporary permits for special events valid for less than one day.

16 (c) As used in this section, the term “ecological reserve” has the same meaning as
17 defined in Section 1584 60755 of the Fish and Game Wildlife Code, and
18 “environmentally sensitive area” has the same meaning as defined in Section
19 30107.5 of the Public Resources Code.

20 **Comment.** Section 21117 is amended to reflect the recodification of the former Fish and Game
21 Code.

22 WATER CODE

23 **Water Code § 139.4 (amended).**

24 SEC. ____ . Section 139.4 of the Water Code is amended to read:

25 139.4. (a) The department and the Department of Fish and Game Wildlife shall
26 determine the principal options for the delta.

27 (b) The department shall evaluate and comparatively rate each option determined
28 in subdivision (a) for its ability to do the following:

29 (1) Prevent the disruption of water supplies derived from the Sacramento-San
30 Joaquin Delta.

31 (2) Improve the quality of drinking water supplies derived from the delta.

32 (3) Reduce the amount of salts contained in delta water and delivered to, and often
33 retained in, our agricultural areas.

34 (4) Maintain delta water quality for delta users.

35 (5) Assist in preserving delta lands.

36 (6) Protect water rights of the “area of origin” and protect the environments of the
37 Sacramento-San Joaquin river systems.

38 (7) Protect highways, utility facilities, and other infrastructure located within the
39 delta.

40 (8) Preserve, protect, and improve delta levees.

1 (c) The Department of Fish and Game Wildlife shall evaluate and comparatively
2 rate each option determined in subdivision (a) for its ability to restore salmon and
3 other fisheries that use the San Francisco Bay/Sacramento-San Joaquin Delta
4 Estuary.

5 (d) On or before January 1, 2008, the department and the Department of Fish and
6 Game Wildlife shall jointly report to the Legislature and Governor, in writing, with
7 regard to the results of the evaluation required by Section 139.2 and the comparative
8 ratings required by subdivisions (b) and (c).

9 **Comment.** Section 139.4 is amended to update references to the former Department of Fish and
10 Game. See Fish & Wildlife Code § 1500.

11 **Water Code § 233 (amended).**

12 SEC. _____. Section 233 of the Water Code is amended to read:

13 233. No plans or proposal for authorization of a project for construction or
14 operation by the State shall be submitted to the Legislature by the Department of
15 Water Resources unless the plans or proposal includes (1) the comments and
16 recommendations, if any, of the Department of Fish and Game Wildlife and (2)
17 provision for any water or facilities necessary for public recreation and the
18 preservation and enhancement of fish and wildlife resources that the Department of
19 Water Resources determines to be justifiable in terms of statewide interest, and
20 feasible, as a nonreimbursable cost of the project.

21 **Comment.** Section 233 is amended to update a reference to the former Department of Fish and
22 Game. See Fish & Wildlife Code § 1500.

23 **Water Code § 345 (amended).**

24 SEC. _____. Section 345 of the Water Code is amended to read:

25 345. The Department of Water Resources shall (a) plan recreation development
26 associated with state-constructed water projects in consultation with local public
27 agencies and affected state and federal agencies, (b) thereafter acquire land
28 necessary to implement and execute plans for such development pursuant to specific
29 legislative authorization. Such authorization shall specify to what extent, if any, the
30 power of eminent domain may be used.

31 It is hereby declared to be the intention of the Legislature, in enacting this section,
32 that no water resources development funds will be appropriated for the purpose of
33 acquiring land for recreation development associated with state-constructed water
34 projects, exclusive of land required for storage and conservation of water for such
35 projects.

36 In carrying out its duties under this section, the Department of Water Resources
37 may enter into contracts, leases, and agreements with other state agencies, the
38 federal government, local public agencies, and persons; and the Department of Fish
39 and Game Wildlife, the Department of Parks and Recreation and all other affected
40 state and local agencies shall cooperate with the Department of Water Resources to
41 that end.

1 **Comment.** Section 345 is amended to update a reference to the former Department of Fish and
2 Game. See Fish & Wildlife Code § 1500.

3 **Water Code § 359 (amended).**

4 SEC. _____. Section 359 of the Water Code is amended to read:

5 359. (a) Notwithstanding any other provision of law that requires an election for
6 the purpose of authorizing a contract with the United States, or for incurring the
7 obligation to repay loans from the United States, and except as otherwise limited or
8 prohibited by the California Constitution, a public water agency, as an alternative
9 procedure to submitting the proposal to an election, upon affirmative vote of four-
10 fifths of the members of the governing body thereof, may apply for, accept, provide
11 for the repayment together with interest thereon, and use funds made available by
12 the federal government pursuant to Public Law 95-18, pursuant to any other federal
13 act subsequently enacted during 1977 that specifically provides emergency drought
14 relief financing, or pursuant to existing federal relief programs receiving budget
15 augmentations in 1977 for drought assistance, and may enter into contracts that are
16 required to obtain those federal funds pursuant to the provisions of those federal acts
17 if the following conditions exist:

18 (1) The project is undertaken by a state, regional, or local governmental agency.

19 (2) As a result of the severe drought now existing in many parts of the state, the
20 agency has insufficient water supply needed to meet necessary agricultural,
21 domestic, industrial, recreational, and fish and wildlife needs within the service area
22 or area of jurisdiction of the agency.

23 (3) The project will develop or conserve water before October 31, 1978, and will
24 assist in mitigating the impacts of the drought.

25 (4) The agency affirms that it will comply, if applicable, with Sections 1602, 1603,
26 and 1605 Title 3 (commencing with Sections 69700) of Part 4 of Division 17 of the
27 Fish and Game Wildlife Code.

28 (5) The project will be completed on or before the completion date, if any,
29 required under the federal act providing the funding, but not later than March 1,
30 1978.

31 (b) Any obligation to repay loans shall be expressly limited to revenues of the
32 system improved by the proceeds of the contract.

33 (c) No application for federal funds pursuant to this section shall be made on or
34 after March 1, 1978.


35 (d) Notwithstanding the provisions of this section, a public agency shall not be
36 exempt from any provision of law that requires the submission of a proposal to an
37 election if a petition requesting such an election signed by 10 percent of the
38 registered voters within the public agency is presented to the governing board within
39 30 days following the submission of an application for federal funds.

40 (e) Notwithstanding the provisions of this section, a public water agency that
41 applied for federal funds for a project before January 1, 1978, may make application
42 to the Director of the Drought Emergency Task Force for extension of the required

completion date specified in paragraph (5) of subdivision (b). Following receipt of an application for extension, the Director of the Drought Emergency Task Force may extend the required completion date specified in paragraph (5) of subdivision (b) to a date not later than September 30, 1978, if the director finds that the project has been delayed by factors not controllable by the public water agency. If the Drought Emergency Task Force is dissolved, the Director of Water Resources shall exercise the authority vested in the Director of the Drought Emergency Task Force pursuant to this section.

(f) For the purposes of this section, “public water agency” means a city, district, agency, authority, or any other political subdivision of the state, except the state, that distributes water to the inhabitants thereof, is otherwise authorized by law to enter into contracts or agreements with the federal government for a water supply or for financing facilities for a water supply, and is otherwise required by law to submit those agreements or contracts or any other project involving long-term debt to an election within that public water agency.

Comment. Paragraph (4) of subdivision (a) of Section 359 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** In the tentative recommendation, Fish and Game Code Section 1602 would be continued in proposed Sections 69710, 69750, 69785, 70155, and 70165; Section 1603 would be continued in proposed Sections 69795, 69805, 69810, and 70050 through 70070; Section 1605 would be continued as proposed Sections 69850 through 69880. The proposed cross-reference revision above would refer to the title that contains all of those sections, rather than referring to the sections individually. That seems unproblematic, because the entire title relates to the substance of the referenced provisions.

The Commission requests public comment on whether that simplified reference would cause any problems.

Water Code § 1013 (amended).

SEC. _____. Section 1013 of the Water Code is amended to read:

1013. (a) The Imperial Irrigation District, acting under a contract with the United States for diversion and use of Colorado River water or pursuant to the California Constitution or to this chapter, or complying with an order of the Secretary of the Interior, a court, or the board, to reduce through conservation measures, the volume of the flow of water directly or indirectly into the Salton Sea, shall not be held liable for any effects to the Salton Sea or its bordering area resulting from the conservation measures.

(b) For the purposes of this section, and during the term of the Quantification Settlement Agreement as defined in subdivision (a) of Chapter 617 of the Statutes of 2002, “land fallowing conservation measures” means the generation of water to be made available for transfer or for environmental mitigation purposes by fallowing land or removing land from agricultural production regardless of whether the fallowing or removal from agricultural production is temporary or long term, and regardless of whether it occurs in the course of normal and customary agricultural production, if both of the following apply:

1 (1) The measure is part of a land fallowing conservation plan that includes
2 mitigation provisions adopted by the Board of Directors of the Imperial Irrigation
3 District.

4 (2) Before the Imperial Irrigation District adopts a land fallowing conservation
5 plan, the district shall consult with the Board of Supervisors of the County of
6 Imperial and obtain the board's assessment of whether the proposed land fallowing
7 conservation plan includes adequate measures to avoid or mitigate unreasonable
8 economic or environmental impacts in the County of Imperial.

9 (c) In order to minimize impacts on the environment, during the term of the
10 Quantification Settlement Agreement and for six years thereafter, in any evaluation
11 or assessment of the Imperial Irrigation District's use of water, it shall be
12 conclusively presumed that any water conserved, or used for mitigation purposes,
13 through land fallowing conservation measures has been conserved in the same
14 volume as if conserved by efficiency improvements, such as by reducing canal
15 seepage, canal spills, or surface or subsurface runoff from irrigation fields.

16 (d) If a party to the Quantification Settlement Agreement engages in water
17 efficiency conservation measures or land fallowing conservation measures to carry
18 out a Quantification Settlement Agreement transfer or to mitigate the environmental
19 impacts of a Quantification Settlement Agreement transfer, there may be no
20 forfeiture, diminution, or impairment of the right of that party to use of the water
21 conserved.

22 (e) During the period that the Quantification Settlement Agreement is in effect
23 and the Imperial Irrigation District is meeting its water delivery obligations under
24 the Quantification Settlement Agreement and its water delivery obligations under
25 ~~subdivision (c) of Section 2081.7~~ subdivision (b) of Section 63305 of the Fish and
26 Game Wildlife Code, no person or local agency, as defined in Section 21062 of the
27 Public Resources Code, may seek to obtain additional conserved Colorado River
28 water from the district, voluntarily or involuntarily, until the district has adopted a
29 resolution offering to make conserved Colorado River water available.

30 (f) During the initial term in which the Quantification Settlement Agreement is in
31 effect, any water transferred by the Imperial Irrigation District shall be subject to an
32 ecosystem restoration fee established by the Department of Fish and Game Wildlife,
33 in consultation with the board, to cover the proportional impacts to the Salton Sea
34 of the additional water transfer. The fee shall not exceed 10 percent of the amount
35 of any compensation received for the transfer of the water. The fee shall be
36 deposited in the Salton Sea Restoration Fund. This fee shall not apply to the
37 following transfers:

38 (1) Transfers to meet water delivery obligations under the Quantification
39 Settlement Agreement and related agreements, as defined in that agreement.

40 (2) Transfers to comply with ~~subdivision (c) of Section 2081.7~~ subdivision (b) of
41 Section 63305 of the Fish and Game Wildlife Code.

1 (3) Transfers pursuant to a Defensive Transfer Agreement as defined in the
2 Agreement for Acquisition of Conserved Water between the Imperial Irrigation
3 District and the Metropolitan Water District of Southern California.

4 (g) Subdivisions (c), (d), (e), and (f) shall not become operative unless the parties
5 have executed the Quantification Settlement Agreement on or before October 12,
6 2003.

7 (h) This section may not be construed to exempt the Imperial Irrigation District
8 from any requirement established under the California Environmental Quality Act
9 (Division 13 (commencing with Section 21000) of the Public Resources Code).

10 **Comment.** Subdivisions (e) and (f) of Section 1013 are amended to reflect the recodification of
11 the former Fish and Game Code. The section is also amended to update a reference to the former
12 Department of Fish and Game. See Fish & Wildlife Code § 1500.

13 **Water Code § 1275 (amended).**

14 SEC. _____. Section 1275 of the Water Code is amended to read:

15 1275. After an application has been perfected, the board may request additional
16 information reasonably necessary to clarify, amplify, correct, or otherwise
17 supplement the information required to be submitted under Article 2 (commencing
18 with Section 1260) or Article 3 (commencing with Section 1270). The board shall
19 provide a reasonable period for submitting the information. The additional
20 information may include, but is not limited to, any of the following:

21 (a) Information needed to demonstrate that unappropriated water is available for
22 appropriation.

23 (b) Information needed to comply, or demonstrate compliance with, any
24 applicable requirements of the Fish and Game Wildlife Code or the federal
25 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

26 (c) Information needed to comply with Division 13 (commencing with Section
27 21000) of the Public Resources Code.

28 **Comment.** Section 1275 is amended to reflect the recodification of the former Fish and Game
29 Code.

30 **Water Code § 1701.3 (amended).**

31 SEC. _____. Section 1701.3 of the Water Code is amended to read:

32 1701.3. (a) After a petition is filed, the board may request additional information
33 reasonably necessary to clarify, amplify, correct, or otherwise supplement the
34 information required to be submitted under this chapter. The board shall provide a
35 reasonable period for submitting the information.

36 (b) The additional information may include, but need not be limited to, any of the
37 following:

38 (1) Information needed to demonstrate that the change will not injure any other
39 legal user of water.

(2) Information needed to demonstrate that the change will comply with any applicable requirements of the Fish and Game Wildlife Code or the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

(3) Information needed to comply with Division 13 (commencing with Section 21000) of the Public Resources Code.

Comment. Section 1701.3 is amended to reflect the recodification of the former Fish and Game Code.

Water Code § 6500 (amended).

SEC. _____. Section 6500 of the Water Code is amended to read:

6500. Whenever an application for approval of plans and specifications for a new dam, or for the enlargement of any dam, in any stream in this State state, is filed pursuant to Part 1 of this division, a copy of the application shall be filed with the Fish and Game Commission as required by the Fish and Game Wildlife Code.

Comment. Section 6500 is amended to reflect the recodification of the former Fish and Game Code. The section is also amended to make a technical correction.

Water Code § 6501 (amended).

SEC. _____. Section 6501 of the Water Code is amended to read:

6501. The provisions for the installation of fishways over or around dams and for the protection and preservation of fish in streams obstructed by dams are contained in Chapter 3 (commencing with Section 5900), Part 1, Division 6 Title 1 (commencing with Section 68000) and Chapter 1 (commencing with Section 69500) of Title 2 of Part 4 of Division 17 of the Fish and Game Wildlife Code.

Comment. Section 6501 is amended to reflect the recodification of the former Fish and Game Code.

Water Code § 8539 (amended).

SEC. _____. Section 8539 of the Water Code is amended to read:

8539. The Legislature hereby finds and declares that there is an urgent need for channel clearing and desnagging in many California waterways, and that these snags pose a severe danger and cause unnecessary erosion of banks.

The board, other state agencies, cities, counties, and districts are hereby authorized to cooperate with one another and with agencies of the United States in the performance of channel clearing and desnagging work within the Sacramento and San Joaquin Rivers and their tributaries, and may furnish money, services, equipment, and other property to that end. The board, as appropriate, shall consult with the Department of Water Resources, the State Lands Commission, and the Department of Fish and Game Wildlife in carrying out its responsibilities pursuant to this section.

Comment. Section 8539 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

1 **Water Code § 8610 (amended).**

2 SEC. _____. Section 8610 of the Water Code is amended to read:

3 8610. The board shall offer to lease to the Department of Fish and Game Wildlife,
4 or to an appropriate public resource protection or public conservation agency or
5 organization approved by the Department of Fish and Game Wildlife and the board,
6 any lands it acquires as replacement habitat as mitigation for adverse environmental
7 impacts of its projects. The lease agreement shall ensure that these lands are
8 managed to provide the mitigation for which they were acquired and shall include,
9 but not be limited to, provisions for funding management of those lands. Funds for
10 management of those lands may include, but are not limited to, funds appropriated
11 by the Legislature to the Department of Water Resources, the Reclamation Board,
12 or the Department of Fish and Game Wildlife, and funds available from local
13 entities. The lease agreement shall reserve the authority of the board to carry out
14 necessary flood control activities and mitigate adverse environmental impacts.

15 **Comment.** Section 8610 is amended to update references to the former Department of Fish and
16 Game. See Fish & Wildlife Code § 1500.

17 **Water Code § 8611 (amended).**

18 SEC. _____. Section 8611 of the Water Code is amended to read:

19 8611. (a) Except as provided in subdivision (b), prior to construction at a site of a
20 flood control, channel clearance, or bank stabilization project, the board, in
21 consultation with the Department of Fish and Game Wildlife, shall prepare and
22 adopt a mitigation plan which shall be implemented as part of the project. A
23 mitigation plan shall include, but not be limited to, all of the following:

24 (1) A description of the actions that the board proposes to take to ensure that the
25 project will meet all mitigation standards required by law with the objective of
26 ensuring that the project causes no net loss of riparian, fishery, or wildlife habitat.

27 (2) A designation of the agency or agencies responsible for implementing and
28 maintaining each mitigation element of the plan.

29 (3) A schedule for implementation of the mitigation ensuring that the mitigation
30 measures will be accomplished prior to, or concurrent with, construction of the
31 project, unless the board determines that to do so would be impracticable.

32 (4) A financing plan for the mitigation identifying the source or sources of funds
33 for the mitigation, the share of mitigation costs attributable to each source, and a
34 schedule of when the funds are to be provided.

35 The plan may take into consideration the environmental benefits of restoring,
36 maintaining, or increasing the sustainable diversity of native species and habitat
37 which may result from the project, if these benefits have been approved by the
38 Department of Fish and Game Wildlife. The Department of Fish and Game Wildlife
39 may submit a review of the plan and its recommendations to the board for inclusion
40 in the plan.

1 (b) No mitigation plan is required when the board is responding to an emergency
2 where no mitigation is required.

3 (c) For any project authorized pursuant to Section 12668, the agreement set forth
4 in subdivision (a) shall provide for the mitigation of the project with the objective
5 of providing a net long-term enhancement of the riparian habitat and fishery in the
6 project area. The degree of net enhancement required for each phase or part of the
7 project shall not be so great as to cause the project to be infeasible.

8 **Comment.** Section 8611 is amended to update references to the former Department of Fish and
9 Game. See Fish & Wildlife Code § 1500.

10 **Water Code § 11901 (amended).**

11 SEC. _____. Section 11901 of the Water Code is amended to read:

12 11901. (a) It is the purpose of this chapter to provide for the planning and
13 construction of water storage, conservation, and regulation facilities and associated
14 fish and wildlife and recreation features consistent with this declaration and to make
15 provision for funds therefor on a continuing basis, and to provide for the operation
16 and maintenance of such fish and wildlife and recreation features.

17 (b) In enacting this chapter, however, it is not the intent of the Legislature to
18 diminish any existing powers of the Department of Water Resources, the
19 Department of Parks and Recreation, or the Department of Fish and Game Wildlife,
20 but rather to provide specifically for the preservation and enhancement of fish and
21 wildlife resources and for a system of public recreation facilities at state water
22 projects as part of a coordinated plan for multipurpose use of these projects.

23 **Comment.** Section 11901 is amended to update a reference to the former Department of Fish
24 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
25 designations.

26 **Water Code § 11910 (amended).**

27 SEC. _____. Section 11910 of the Water Code is amended to read:

28 11910. There shall be incorporated in the planning and construction of each
29 project those features (including, but not limited to, additional storage capacity) that
30 the department, after giving full consideration to any recommendations which may
31 be made by the Department of Fish and Game Wildlife, the Department of Parks
32 and Recreation, any federal agency, and any local governmental agency with
33 jurisdiction over the area involved, determines necessary or desirable for the
34 preservation of fish and wildlife, and necessary or desirable to permit, on a year-
35 round basis, full utilization of the project for the enhancement of fish and wildlife
36 and for recreational purposes to the extent that those features are consistent with
37 other uses of the project, if any. It is the intent of the Legislature that there shall be
38 full and close coordination of all planning for the preservation and enhancement of
39 fish and wildlife and for recreation in connection with state water projects by and
40 between the Department of Water Resources, the Department of Parks and

1 Recreation, the Department of Fish and Wildlife, and all appropriate federal and
2 local agencies.

3 **Comment.** Section 11910 is amended to update a reference to the former Department of Fish
4 and Game. See Fish & Wildlife Code § 1500.

5 **Water Code § 11915.5 (amended).**

6 SEC. _____. Section 11915.5 of the Water Code is amended to read:

7 11915.5. (a) For the purpose of furthering recreation in any project of the
8 department, the department may exchange any real property it has acquired for
9 property in the state owned by the United States which is of substantially equal
10 value, whether or not such real property of the United States is adjacent to or needed
11 for any project of the department. Such title or rights as the department deems
12 necessary for the proper operation and maintenance of the water conservation, flood
13 control or power features of any water project shall not be included in any exchange
14 consummated under this section.

15 (b) Any such exchange involving real property acquired by the department solely
16 for recreation shall be concurred in by the Department of Parks and Recreation. Any
17 such exchange involving property acquired by the department solely for fish and
18 wildlife purposes shall be concurred in by the Department of Fish and ~~Game~~
19 Wildlife. Any such exchange involving property acquired solely for fish, wildlife
20 and recreational purposes shall be concurred in by the Department of Fish and ~~Game~~
21 Wildlife and the Department of Parks and Recreation. Real property of the United
22 States not necessary for a project of the department shall be acquired by the
23 department by exchange under this section only if another agency of state
24 government has agreed to acquire such real property from the department for the
25 actual cost to the department of the real property which is to be given in exchange
26 therefor; provided, that any amount appropriated to the department to reimburse it
27 for prior expenditures for acquisition of such land shall be deducted from the actual
28 cost.

29 **Comment.** Section 11915.5 is amended to update references to the former Department of Fish
30 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
31 designations.

32 **Water Code § 11917 (amended).**

33 SEC. _____. Section 11917 of the Water Code is amended to read:

34 11917. The Department of Fish and ~~Game~~ Wildlife shall manage fish and wildlife
35 resources at state water projects, including any such additional resources as are
36 created by such projects, in a manner compatible with the other uses of such
37 projects.

38 **Comment.** Section 11917 is amended to update a reference to the former Department of Fish
39 and Game. See Fish & Wildlife Code § 1500.

1 **Water Code § 12307 (amended).**

2 SEC. _____. Section 12307 of the Water Code is amended to read:

3 12307. (a) The Resources Agency, the department, the Reclamation Board, and
4 the Department of Fish and Game Wildlife shall enter into a memorandum of
5 understanding to coordinate the implementation of the programs subject to this
6 chapter.

7 (b) The memorandum of understanding shall provide that the Department of Fish
8 and Game Wildlife shall enforce any mitigation requirements involving programs
9 subject to this chapter.

10 **Comment.** Section 12307 is amended to update references to the former Department of Fish and
11 Game. See Fish & Wildlife Code § 1500.

12 **Water Code § 12314 (amended).**

13 SEC. _____. Section 12314 of the Water Code is amended to read:

14 12314. (a) Guided by the approved priority list developed pursuant to Section
15 12313, the department shall develop project plans to accomplish the needed flood
16 protection work in cooperation with the local public agency, the public beneficiary,
17 and the Department of Fish and Game Wildlife.

18 (b) The plans shall be subject to the approval of the appropriate local public
19 agency or agencies and subject to any cost-sharing agreement the department may
20 have entered into under Section 12312. Project plans may include, or be a
21 combination of, the improvement, rehabilitation, or modification of existing levees,
22 and the conveyance of interests in land to limit or to modify land management
23 practices which have a negative impact on flood control facilities.

24 (c) Project plans shall include provision for the protection of fish and wildlife
25 habitat determined to be necessary by the Department of Fish and Game Wildlife
26 and not injurious to the integrity of flood control works. The Department of Fish
27 and Game Wildlife shall consider the value of the riparian and fisheries habitat and
28 the need to provide greater flood protection in preparing its requirements, and shall
29 not approve any plan which calls for the use of channel islands or berms with
30 significant riparian communities as borrow sites for levee repair materials, unless
31 fully mitigated, or any plans that will result in a net long-term loss of riparian,
32 fisheries, or wildlife habitat.

33 (d) After the memorandum of understanding required pursuant to Section 12307
34 is amended as required by Section 78543, the Department of Fish and Game
35 Wildlife shall also make a written determination as part of its review and approval
36 of a plan or project pursuant to this section and Section 12987 that the proposed
37 expenditures are consistent with a net long-term habitat improvement program and
38 have a net benefit for aquatic species in the delta. The memorandum of
39 understanding in effect prior to the amendments required by Section 78543 shall
40 remain in effect with regard to levee projects and plans until the memorandum of
41 understanding is amended.

1 **Comment.** Section 12314 is amended to update references to the former Department of Fish and
2 Game. See Fish & Wildlife Code § 1500.

3 **Water Code § 12511 (amended).**

4 SEC. _____. Section 12511 of the Water Code is amended to read:
5 12511. The board consists of eight members appointed by the Governor as
6 provided in this chapter, two of whom shall be public members appointed by the
7 Governor, and the Director of Water Resources and the Director of Fish and Game
8 Wildlife or their designees.

9 **Comment.** Section 12511 is amended to update a reference to the Director of the former
10 Department of Fish and Game. See Fish & Wildlife Code § 1500.

11 **Water Code § 12525 (amended).**

12 SEC. _____. Section 12525 of the Water Code is amended to read:
13 12525. The board shall elect from among its members, other than the Director of
14 Water Resources or the Director of Fish and Game Wildlife or their designees, a
15 chairman chair who is ex officio the “Colorado River Commissioner.” The chairman
16 chair shall serve at the pleasure of the board.

17 **Comment.** Section 12525 is amended to update a reference to the Director of the former
18 Department of Fish and Game. See Fish & Wildlife Code § 1500. The section is also amended to
19 make the text gender neutral.

20 **Water Code § 12565 (amended).**

21 SEC. _____. Section 12565 of the Water Code is amended to read:
22 12565. The two hundred million dollars (\$200,000,000) made available to the
23 director pursuant to subdivision (a) of Section 12562 may be expended solely for
24 the lining of the All American Canal and the Coachella Branch of the All American
25 Canal and only if all of the following requirements have been met:

26 (a) The Salton Sea Authority commissions a study of seepage and subsurface
27 inflows to the Salton Sea from the All American Canal and the Coachella Branch of
28 the All American Canal, and that study is completed. The study shall determine the
29 nature of subsurface and drainage canal water movements from the unlined canals
30 to the Salton Sea and to existing adjacent wetlands, and shall quantify the amount
31 of water that may be lost to the Salton Sea and to those wetlands due to the canal
32 lining projects. The Salton Sea Science Subcommittee shall review the requests for
33 proposals for the study and shall be consulted in selecting the contractor responsible
34 for conducting the study.

35 (b) Environmental documentation and permits required by the California
36 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
37 Public Resources Code), the National Environmental Policy Act of 1969 (42
38 U.S.C.A. Sec. 4321 et seq.), and any other applicable state and federal
39 environmental laws are approved and certified for the All American Canal Lining
40 Project or the Coachella Branch Lining Project.

(c) Pursuant to its responsibilities as a trustee agency under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the Director of Fish and Game Wildlife makes a finding that a canal lining project that is the subject of a request for funding pursuant to this chapter will avoid or mitigate all significant effects of the project on fisheries and other wildlife. The finding shall be accompanied by a statement from the United States Secretary of the Interior certifying that measures for the replacement of incidental fish and wildlife values adjacent to the All American Canal and the Coachella Branch of the All American Canal foregone as a result of the lining of the canal, or the mitigation of resulting impacts on fish and wildlife resources from the construction of a new canal, or a portion thereof, meet the statutory requirements of Section 203(a)(2) of Public Law 100-675. These mitigation measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with the construction of the canal lining project.

Comment. Subdivision (c) of Section 12565 is amended to update a reference to the Director of the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Water Code § 12582 (amended).

SEC. _____. Section 12582 of the Water Code is amended to read:

12582. Fish and wildlife values, both economic and recreational, shall be given consideration in any flood control or water conservation program. In the design, construction, and operation of projects, when engineering and economic features of the project make it practicable, adequate provisions shall be made for the protection of migratory fishes, and the designs for structures and facilities required for such protection shall be prepared in cooperation with the United States Fish and Wildlife Service and the California Department of Fish and Game Wildlife.

Comment. Section 12582 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Water Code § 12608 (amended).

SEC. _____. Section 12608 of the Water Code is amended to read:

12608. At any hearing by or on behalf of the department any county, city, state agency, including the Department of Fish and Game Wildlife, public district, association, or any person affected by or interested in the control, storage, and use of water resources, involved in the hearing may appear and present any petition, evidence, testimony, plan, data, information, or opinion bearing on the subject matter of the hearing including an evaluation of loss and damage to fish and other natural resources.

Comment. Section 12608 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

Water Code § 12846 (amended).

SEC. _____. Section 12846 of the Water Code is amended to read:

1 12846. The Department of Fish and Game Wildlife shall be responsible for the
2 management of all fish and wildlife resources at any project subject to the provisions
3 of this chapter.

4 **Comment.** Section 12846 is amended to update a reference to the former Department of Fish
5 and Game. See Fish & Wildlife Code § 1500.

6 **Water Code § 12882.4 (amended).**

7 SEC. _____. Section 12882.4 of the Water Code is amended to read:

8 12882.4. A copy of each application, except applications for loans for the
9 preparation of proposed feasibility reports, shall be transmitted by the department
10 to the Department of Parks and Recreation and to the Department of Fish and Game
11 Wildlife.

12 **Comment.** Section 12882.4 is amended to update a reference to the former Department of Fish
13 and Game. See Fish & Wildlife Code § 1500.

14 **Water Code § 12929.40 (amended).**

15 SEC. _____. Section 12929.40 of the Water Code is amended to read:

16 12929.40. In developing its recommendations for the appropriation of funds
17 pursuant to this chapter, the department shall consult with the Department of Fish
18 and Game Wildlife and other appropriate local, state, and federal agencies and
19 interested private groups and members of the public.

20 **Comment.** Section 12929.40 is amended to update a reference to the former Department of Fish
21 and Game. See Fish & Wildlife Code § 1500.

22 **Water Code § 12987 (amended).**

23 SEC. _____. Section 12987 of the Water Code is amended to read:

24 12987. (a) Local agencies maintaining project or nonproject levees shall be
25 eligible for reimbursement pursuant to this part upon submission to and approval by
26 the board of plans for the maintenance and improvement of the project or nonproject
27 levees, including plans for the annual routine maintenance of the levees, in
28 accordance with the criteria adopted by the board.

29 (b) The nonproject plans shall also be compatible with the plan for improvement
30 of the delta levees as set forth in Bulletin No. 192-82 of the department, dated
31 December 1982, and as approved in Section 12225. Both project and nonproject
32 plans shall include provisions to acquire easements along levees that allow for the
33 control and reversal of subsidence in areas where the department determines that
34 such an easement is desirable to maintain structural stability of the levee. The
35 easement shall (1) restrict the use of the land to open-space uses, nontillable crops,
36 the propagation of wildlife habitat, and other compatible uses, (2) provide full
37 access to the local agency for levee maintenance and improvement purposes, and
38 (3) allow the owner to retain reasonable rights of ingress and egress as well as
39 reasonable rights of access to the waterways for water supply and drainage. The
40 local agency cost of acquisition of the easements shall be reimbursable by the

1 department from moneys appropriated pursuant to paragraph (1) of subdivision (b)
2 of Section 12300, or any other sources appropriated by the Legislature for purposes
3 of this part.

4 (c) The plans shall also include provision for protection of the fish and wildlife
5 habitat determined to be necessary by the Department of Fish and Game Wildlife
6 and not injurious to the integrity of the levee. The Department of Fish and Game
7 Wildlife shall consider the value of the riparian and fisheries habitat and the need to
8 provide safe levees in preparing its requirements. The Department of Fish and Game
9 Wildlife shall not approve any plan which calls for the use of channel islands or
10 berms with significant riparian communities as borrow sites for levee repair
11 material, unless fully mitigated, or any plans which will result in a net long-term
12 loss of riparian, fisheries, or wildlife habitat.

13 (d) After the memorandum of understanding required pursuant to Section 12307
14 is amended as required by Section 78543, the Department of Fish and Game
15 Wildlife shall also make a written determination as part of its review and approval
16 of a plan or project pursuant to Section 12314 and this section that the proposed
17 expenditures are consistent with a net long-term habitat improvement program and
18 have a net benefit for aquatic species in the delta. The memorandum of
19 understanding in effect prior to the amendments required by Section 78543 shall
20 remain in effect with regard to levee projects and plans until the memorandum of
21 understanding is amended.

22 (e) The plans shall also take into account the most recently updated Delta Master
23 Recreation Plan prepared by the Resources Agency.

24 (f) Upon approval of the plans by the board, the local agencies shall enter into an
25 agreement with the board to perform the maintenance and improvement work,
26 including the annual routine maintenance work, specified in the plans. If
27 applications for state funding in any year exceed the state funds available, the board
28 shall apportion the funds among those levees or levee segments that are identified
29 by the department as most critical and beneficial, considering the needs of flood
30 control, water quality, recreation, navigation, habitat improvements, and fish and
31 wildlife.

32 **Comment.** Section 12987 is amended to update references to the former Department of Fish and
33 Game. See Fish & Wildlife Code § 1500.

34 **Water Code § 12994 (amended).**

35 SEC. _____. Section 12994 of the Water Code is amended to read:

36 12994. (a) The Legislature finds and declares all of the following:

37 (1) The CALFED Bay-Delta Program has identified as a core action the need for
38 emergency levee management planning for delta levees to improve system
39 reliability.

40 (2) Even with active levee maintenance, the threat of delta levee failures from
41 earthquake, flood, or poor levee foundation, will continue to exist.

1 (3) Because of this threat of failure, and the potential need to mobilize people and
2 equipment in an emergency to protect delta levees and public benefits, the
3 department needs authority that will enable it to act quickly.

4 (b) The department may do all of the following:

5 (1) In an emergency, as defined by Section 21060.3 of the Public Resources Code,
6 that requires immediate levee work to protect public benefits in the delta, the
7 department may use funds pursuant to this part without prior approval of a plan by
8 the board or the Department of Fish and Wildlife, in which case the requirements of
9 Sections 12314 and 12987, and the memorandum of understanding pursuant to
10 Section 12307, shall be carried out as soon as possible.

11 (A) The amount of funds that may be expended each year on emergency levee
12 work under this section shall not be greater than two hundred thousand dollars
13 (\$200,000) and the amount that may be expended per emergency levee site shall not
14 be greater than fifty thousand dollars (\$50,000). The local agency shall fund 25
15 percent of the total costs of the emergency repair at a site or shall fund an appropriate
16 share of the costs as approved by the board and based upon information of the local
17 agency's ability to pay for the repairs.

18 (B) Department contracts executed for emergency levee work under this section
19 shall be exempted from Department of General Services approval required under
20 the Public Contract Code.

21 (C) As soon as feasible after the emergency repair, the department shall submit a
22 report to the board describing the levee work, costs incurred, and plans for future
23 work at the site, including any necessary mitigation.

24 (D) This section is intended to supplement emergency services provided by the
25 state or the United States. Nothing in this section overrides or supersedes the
26 authority of the Director of Emergency Services under the California Emergency
27 Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2
28 of the Government Code) or the Disaster Assistance Act (Chapter 7.5 (commencing
29 with Section 8680) of Division 1 of Title 2 of the Government Code).

30 (2) Prepare and submit to the board for adoption a delta emergency response plan
31 for levee failures. The plan is exempt from Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The plan may
33 include recommendations of the multiagency response team established pursuant to
34 paragraph (3) and may include, but not be limited to, the following:

35 (A) Standardized contracts for emergency levee work to be executed by the
36 department, local agencies, or other appropriate entities.

37 (B) Criteria for eligible emergency levee work.

38 (C) Definition of an emergency levee site.

39 (D) Documentation requirements.

40 (E) Proposals for complying with the federal Endangered Species Act of 1973 (16
41 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5

1 ~~(commencing with Section 2050) of Division 3 Part 1 (commencing with Section~~
2 ~~62000) of Division 17 of the Fish and Game Wildlife Code)~~ in an emergency.

3 (F) Stages of emergency response that may occur in various situations.

4 (3) Establish a multiagency emergency response team, consisting of
5 representatives from the department, the board, the Department of Fish and
6 Wildlife, the California Conservation Corps, the Office of Emergency Services, the
7 Federal Emergency Management Agency, the United States Army Corps of
8 Engineers, and the United States Fish and Wildlife Service to advise on methods to
9 ensure that levee emergencies will be resolved as quickly and safely as possible.

10 **Comment.** Paragraph (2) of subdivision (b) of Section 12994 is amended to reflect the
11 recodification of the former Fish and Game Code.

12 **Water Code § 12999 (amended).**

13 SEC. ____ . Section 12999 of the Water Code is amended to read:

14 12999. (a) The department, in collaboration with the Department of Food and
15 Agriculture, the Department of Fish and Game Wildlife, and the Colorado River
16 Board of California may cooperate with the federal government, the other Colorado
17 River Basin states, and other entities for the purpose of preparing a plan to control
18 or eradicate tamarisk in the Colorado River watershed. The department, the
19 Department of Food and Agriculture, the Department of Fish and Game Wildlife,
20 and the Colorado River Board of California shall seek to collaborate with affected
21 California water agencies and other appropriate entities in that preparation. The plan
22 shall include the reestablishment of native vegetation and the identification of
23 potential federal and nonfederal funding sources for implementation pursuant to
24 subdivision (b).

25 (b) The department, in collaboration with the Department of Food and
26 Agriculture, the Department of Fish and Game Wildlife, the Colorado River Board
27 of California, and appropriate federal agencies, shall implement the plan within
28 California upon the appropriation of funds for that purpose. The department, the
29 Department of Food and Agriculture, the Department of Fish and Game Wildlife,
30 and the Colorado River Board of California shall seek to collaborate with affected
31 California water agencies and other appropriate entities in the implementation of the
32 plan.

33 (c) This section does not preclude the department or any other entity from
34 expending bond funds or nonstate funds for the control or eradication of tamarisk in
35 the Colorado River watershed.

36 **Comment.** Section 12999 is amended to update references to the former Department of Fish and
37 Game. See Fish & Wildlife Code § 1500.

38 **Water Code § 14901 (amended).**

39 SEC. ____ . Section 14901 of the Water Code is amended to read:

40 14901. The Legislature finds and declares as follows:

1 (a) A report on the San Joaquin Valley Drainage Program entitled, “A
2 Management Plan for Agricultural Subsurface Drainage and Related Problems on
3 the Westside San Joaquin Valley,” has identified 75,000 acres of irrigated
4 agricultural lands that should be retired by the year 2040 primarily due to
5 characteristics of low productivity, poor drainability, and high levels of selenium in
6 shallow groundwater.

7 (b) Federal, state, and local water organizations and officials should consider the
8 management plan and adopt those parts appropriate for their long-term strategy of
9 contributing to the management or solution of the drainage problems of the west
10 side of the San Joaquin Valley.

11 (c) The United States Department of the Interior and the State of California should
12 jointly develop a technical assistance program to ameliorate the drainage problems.

13 (d) The people of the state are concerned with the continued leaching of harmful
14 elements from these lands.

15 (e) Continued irrigation of these lands could create significant drainage and
16 environmental problems.

17 (f) Implementing solutions to the drainage and environmental problems
18 associated with these lands will be very costly.

19 (g) The department is responsible for water planning and development activities
20 throughout the state, has participated in the development of the plan for the
21 management of subsurface drainage problems, and shall take an active leadership
22 role in implementing the plan, including the land retirement element of the plan.

23 (h) Local agencies have decisionmaking authority, and are subject to court
24 judgments, and statutory and contractual obligations, relating to water use and
25 distribution. The department shall coordinate its activities under this chapter with
26 those local agencies.

27 (i) The federal government has ongoing statutory and contractual obligations to
28 provide drainage service to the lands within the San Luis Unit of the Central Valley
29 Project. The department shall recognize those obligations and shall coordinate land
30 retirement activities with appropriate federal agencies.

31 (j) The Department of Fish and ~~Game~~ Wildlife is responsible for the stewardship
32 of the state’s fish and wildlife resources and the habitat on which they depend, and
33 can offer its considerable expertise to the department on matters relating to the
34 management of lands in accordance with this chapter and shall be consulted
35 concerning the management of the lands acquired pursuant to this chapter and
36 managed as fish and wildlife habitat.

37 (k) The Department of Conservation is responsible for administering programs to
38 conserve the state’s agricultural lands and has information on the state’s soil and
39 farmlands and shall be consulted for the purpose of identifying agricultural lands
40 that may be acquired pursuant to this chapter.

41 **Comment.** Subdivision (j) of Section 14901 is amended to update a reference to the former
42 Department of Fish and Game. See Fish & Wildlife Code § 1500.

1 **Water Code § 14903 (amended).**

2 SEC. _____. Section 14903 of the Water Code is amended to read:

3 14903. (a) The San Joaquin Valley Drainage Relief Program is hereby established
4 in the department.

5 (b) The department shall carry out the program and may develop, in consultation
6 with the state board, the Department of Conservation, and the Department of Fish
7 and Game Wildlife, a land retirement demonstration program.

8 (c) The department may adopt regulations to carry out the program.

9 (d) The purpose of the program is to encourage the cessation of irrigation of
10 retirement land and to otherwise assist in the resolution of the agricultural
11 subsurface drainage problems in the San Joaquin Valley through the coordinated
12 efforts of federal, state, and local agencies, nonprofit organizations, and private
13 landowners who elect to participate in the program.

14 **Comment.** Section 14903 is amended to update a reference to the former Department of Fish
15 and Game. See Fish & Wildlife Code § 1500.

16 **Water Code § 14905 (amended).**

17 SEC. _____. Section 14905 of the Water Code is amended to read:

18 14905. The department may enter into agreements with the state board, the
19 Department of Fish and Game Wildlife, the Department of Conservation, possessors
20 of water rights, and other appropriate public agencies and nonprofit organizations
21 to provide for the purchase and management of retirement land and water pursuant
22 to this chapter.

23 **Comment.** Section 14905 is amended to update a reference to the former Department of Fish
24 and Game. See Fish & Wildlife Code § 1500.

25 **Water Code § 14906 (amended).**

26 SEC. _____. Section 14906 of the Water Code is amended to read:

27 14906. Property acquired pursuant to this chapter shall be managed as upland
28 habitat, wetlands, riparian habitat, or nonirrigated agricultural land, as appropriate.
29 The department shall coordinate with the Department of Fish and Game Wildlife to
30 ensure that adequate funding is available for management of the retirement land and
31 use of water for environmental purposes.

32 **Comment.** Section 14906 is amended to update a reference to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.

34 **Water Code § 14953 (amended).**

35 SEC. _____. Section 14953 of the Water Code is amended to read:

36 14953. (a) If a commercial shellfish growing area is threatened by point or
37 nonpoint source pollution, as specified in Section 14954, the regional board shall
38 form a technical advisory committee, within 90 days of the effective date of this act,
39 devoted solely to the threatened area. A technical advisory committee shall be
40 formed for any subsequently threatened area within 90 days of the date the threat is

1 identified pursuant to Section 14954. The technical advisory committee shall advise
2 and assist that board in developing a strategy for appropriate investigation and
3 remediation pursuant to Sections 14955 and 14956 to reduce pollution affecting that
4 area. The regional board shall give public notice of the formation of the technical
5 advisory committee. All meetings of the technical advisory committee shall be
6 public.

7 (b) For the purpose of subdivision (a), the technical advisory committee shall
8 include both of the following:

9 (1) One commercial shellfish grower from the threatened area, one representative
10 from the State Department of Health Services, one representative from the
11 Department of Fish and Game Wildlife, one representative from the California
12 Coastal Commission, one representative from each category of potential pollution
13 source, one representative from a local environmental group, and one representative
14 from the local health department.

15 (2) Additional members and a chairperson appointed by the regional board.

16 (c) Members of the technical advisory committee established pursuant to
17 subdivision (a) shall not receive a per diem or other compensation, and shall not be
18 reimbursed for any expenses.

19 **Comment.** Section 14953 is amended to update a reference to the former Department of Fish
20 and Game. See Fish & Wildlife Code § 1500.

21 **Water Code § 14954 (amended).**

22 SEC. _____. Section 14954 of the Water Code is amended to read:

23 14954. For the purpose of Section 14953, a commercial shellfish growing area is
24 threatened if any of the following applies:

25 (a) The State Department of Health Services downgrades the classification
26 applicable to the commercial shellfish growing area.

27 (b) The commercial shellfish growing area is subjected to harvest closure for more
28 than 30 days per calendar year during the previous three years.

29 (c) The State Department of Health Services classifies the commercial shellfish
30 growing area as restricted.

31 (d) The regional board, the Department of Fish and Game Wildlife, or the
32 California Coastal Commission determines that the commercial shellfish growing
33 area is threatened.


34 **Comment.** Section 14954 is amended to update a reference to the former Department of Fish
35 and Game. See Fish & Wildlife Code § 1500.

36 **Water Code § 31162 (amended).**

37 SEC. _____. Section 31162 of the Water Code is amended to read:

38 31162. The operation of all facilities and appliances permitted by Section 31161
39 shall be in accordance with rules and regulations applicable thereto adopted by the
40 board subject to the provisions of Section 531 68315 of the Fish and Game Wildlife
41 Code.

Comment. Section 31162 is amended to reflect the recodification of the former Fish and Game Code.

 **Note.** Section 31162 refers to Fish and Game Code Section 531. There is no such provision. However, Section 31162 was enacted in 1949. See 1949 Cal. Stat. ch. 274. At that time, the referenced provision did exist. It read: “The owner of a dam shall accord to the public for the purpose of fishing, the right of access to the waters impounded by the dam during the open season for the taking of fish in such stream or river, subject to the rules and regulations of the commission.” See 1933 Cal. Stat. ch. 73.

That language was continued in Fish and Game Code Section 5943. However, Section 5943 was amended in 1996 to provide that the fishing access rule “does not apply to any impoundment of water by a dam that is wholly located on privately owned land that is primarily agricultural or residential in nature if the impounded waters are from a stream or river that is not naturally frequented by fish and if the dam does not prevent the free passage of fish over or around the dam. The Legislature finds and declares that this subdivision is intended to be declaratory of existing law.” See 1996 Cal. Stat. ch. 273, § 1.

Section 31162 would be revised to refer to the rule as amended in 1996.

The Commission requests public comment on whether that approach would cause any problems.

Water Code § 78501 (amended).

SEC. _____. Section 78501 of the Water Code is amended to read:

78501. Unless the context otherwise requires, the following definitions govern the construction of this division:

(a) “Bay-delta” means the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

(b) “Board” means the State Water Resources Control Board.

(c) “CALFED” refers to a consortium of five state agencies, including the Resources Agency, the department, the Department of Fish and Game Wildlife, the California Environmental Protection Agency, and the board, and five federal agencies, including the United States Department of Interior, the United States Bureau of Reclamation, the United States Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service, with management and regulatory responsibilities in the bay-delta.

(d) “Clean Water Act” means the federal Clean Water Act (33 U.S.C.A. Sec. 1251 et seq.) and includes any amendments thereto.

(e) “Committee” means the Safe, Clean, Reliable Water Supply Finance Committee created pursuant to Section 78693.

(f) “Delta” means the Sacramento-San Joaquin Delta.

(g) “Department” means the Department of Water Resources.

(h) “Fund” means the Safe, Clean, Reliable Water Supply Fund created pursuant to Section 78505.

Comment. Section 78501 is amended to update a reference to the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

1 **Water Code § 78531 (amended).**

2 SEC. ____ . Section 78531 of the Water Code is amended to read:

3 78531. (a) Notwithstanding Section 13340 of the Government Code, the money
4 in the subaccount is hereby continuously appropriated, without regard to fiscal
5 years, to the Controller, to be allocated to pay the state's share of the costs for fish
6 and wildlife restoration measures required by Section 3406 of the Central Valley
7 Project Improvement Act (P.L. 102-575), in accordance with subdivisions (b) and
8 (c).

9 (b) Funds appropriated pursuant to subdivision (a) shall be allocated to the
10 Department of Fish and Game Wildlife or the department for expenditure pursuant
11 to the terms of the cost-sharing agreement between the United States and the State
12 of California as required by subsection (h) of Section 3406 of the Central Valley
13 Project Improvement Act, or any agreements supplemental thereto, for the payment
14 of costs allocated to the state for the protection and restoration of fish and wildlife
15 resources and habitat pursuant to Section 3406 of that federal act.

16 (c) The money in the subaccount may be used for both of the following purposes:

17 (1) To pay for the state's cost-sharing allocations or for actions directly
18 undertaken by the department or the Department of Fish and Game Wildlife relating
19 to fish and wildlife restoration actions required by Section 3406 of the Central
20 Valley Project Improvement Act (P.L. 102-575). For purposes of this paragraph,
21 and consistent with Attachment C of the "Principles for Agreement on Bay-Delta
22 standards between the State of California and the Federal Government," dated
23 December 15, 1994, preference for the screening of diversions shall be given to
24 projects, and projects within programs, identified in the Central Valley Project
25 Improvement Act (P.L. 102-575) for which deadlines have been established by state
26 or federal agencies, or by a state or federal court. Any preference established under
27 this paragraph shall be revised if the deadlines are extended or eliminated.

28 (2) To pay for administrative costs incurred in connection with the
29 implementation of this section by the department and the Department of Fish and
30 Game Wildlife related to fish and wildlife restoration measures undertaken pursuant
31 to Section 3406 of the Central Valley Project Improvement Act (P.L. 102-575), as
32 follows:

33 (A) Not more than 3 percent of the total amount deposited in the subaccount for
34 the use of the department may be used to pay the costs incurred in connection with
35 the administration of this article by the department.

36 (B) Not more than 3 percent of the total amount deposited in the subaccount for
37 the use of the Department of Fish and Game Wildlife may be used to pay the costs
38 incurred in connection with the administration of this article by the Department of
39 Fish and Game Wildlife.

40 **Comment.** Section 78531 is amended to update references to the former Department of Fish and
41 Game. See Fish & Wildlife Code § 1500.

1 **Water Code § 78543 (amended).**

2 SEC. _____. Section 78543 of the Water Code is amended to read:

3 78543. (a) No expenditure of funds may be made under this article unless the
4 Department of Fish and Game Wildlife makes a written determination as part of its
5 review and approval of a plan or project pursuant to Section 12314 or 12987 that
6 the proposed expenditures are consistent with a net long-term habitat improvement
7 program, and have a net benefit for aquatic species in the delta. The Department of
8 Fish and Game Wildlife shall make its determination in a reasonable and timely
9 manner following the submission of the project or plan to that department. For the
10 purposes of this article, an expenditure may include more than one levee project or
11 plan.

12 (b) The memorandum of understanding entered into pursuant to Section 12307
13 shall be amended to require, in accordance with this section, that projects or plans
14 be consistent with a net long-term habitat improvement program in the delta. The
15 memorandum of understanding shall define the term “net long-term habitat
16 improvement program in the delta” for purposes of this section. The memorandum
17 of understanding in effect prior to the amendment required by this section shall
18 continue to apply to levee projects and plans until the memorandum of
19 understanding is amended.

20 **Comment.** Section 78543 is amended to update references to the former Department of Fish and
21 Game. See Fish & Wildlife Code § 1500.

22 **Water Code § 78551 (amended).**

23 SEC. _____. Section 78551 of the Water Code is amended to read:

24 78551. (a) Notwithstanding Section 13340 of the Government Code, the money
25 in the subaccount is hereby continuously appropriated, without regard to fiscal
26 years, to the department, to pay the costs incurred by the department that are not
27 attributable to the State Water Project’s or the Central Valley Project’s share of costs
28 for the South Delta Barriers Program, and for the administration of this article.

29 (b) The costs identified in subdivision (a) include costs incurred for the purpose
30 of mitigating non-State Water Project or non-Central Valley Project impacts and for
31 the purpose of environmental enhancement in the delta.

32 (c) No funds shall be expended under this article unless the Department of Fish
33 and Game Wildlife determines, in writing, that a net habitat benefit will result.

34 **Comment.** Section 78551 is amended to update a reference to the former Department of Fish
35 and Game. See Fish & Wildlife Code § 1500.

36 **Water Code § 78647.2 (amended).**

37 SEC. _____. Section 78647.2 of the Water Code is amended to read:

38 78647.2. (a) The board shall administer a program under which a county, or a joint
39 powers authority in which a county is a participant, may submit an application to
40 the board for an eligible project requesting financial or technical assistance for the
41 purpose of developing a voluntary, incentive-based watershed rehabilitation project.

1 The board shall consult with other federal and state resource agencies, including,
2 but not limited to, the Department of Fish and Game Wildlife and the Department
3 of Forestry and Fire Protection, in the administration of the program. The Resources
4 Agency shall make a written recommendation to the board regarding each
5 application. The board shall consider the recommendations of the Resources
6 Agency and include, when appropriate, the recommendation in the board's final
7 decision.

8 (b) Notwithstanding subdivision (a), if a county, or a joint powers authority in
9 which a county is a participant, after a request to do so by a local public agency,
10 declines to submit an application for an eligible project for a watershed that is all or
11 in part within the boundaries of the county, a local public agency other than the
12 county or that joint powers agency may submit an application in accordance with
13 subdivision (a).

14 **Comment.** Section 78647.2 is amended to update a reference to the former Department of Fish
15 and Game. See Fish & Wildlife Code § 1500.

16 **Water Code § 78682.2 (amended).**

17 SEC. _____. Section 78682.2 of the Water Code is amended to read:

18 78682.2. The money in the subaccount shall be made available, upon
19 appropriation by the Legislature, for the acquisition and restoration of riparian
20 habitat, riverine aquatic habitat, and other lands in close proximity to rivers and
21 streams and for river and stream trail projects undertaken in accordance with any of
22 the following provisions:

23 (a) ~~Chapter 4 (commencing with Section 1300) Title 1 (commencing with Section~~
24 ~~54700) of Part 2 of Division 15 and Chapter 4.1 (commencing with Section 1385)~~
25 ~~of Division 2 Title 12 (commencing with Section 57700) Part 2 of Division 15~~ of
26 the Fish and Game Wildlife Code.

27 (b) Chapter 5 (commencing with Section 31200), Chapter 6 (commencing with
28 Section 31251), and Chapter 9 (commencing with Section 31400), of Division 21
29 of the Public Resources Code.

30 (c) Division 22.5 (commencing with Section 32500) of the Public Resources
31 Code.

32 (d) Urban river park acquisition and restoration projects undertaken pursuant to
33 Division 23 (commencing with Section 33000) of the Public Resources Code.

34 (e) River parkway projects undertaken by a state agency, city, county, city and
35 county, or pursuant to a joint powers agreement between two or more of these
36 entities.

37 **Comment.** Section 78682.2 is amended to reflect the recodification of the former Fish and Game
38 Code.

39 **Water Code § 79038 (amended).**

40 SEC. _____. Section 79038 of the Water Code is amended to read:

1 79038. (a) For the purposes of this article, the department shall give highest
2 priority to projects that include either of the following:

3 (1) Projects that have been assigned high priority for completion by the
4 department for flood protection purposes and by the Department of Conservation
5 for purposes of preserving agricultural land in accordance with the Agricultural
6 Land Stewardship Program Act of 1995 (Division 10.2 (commencing with Section
7 10200) of the Public Resources Code).

8 (2) Projects that have been assigned high priority for completion by the
9 department for flood protection purposes and by the Department of Fish and Game
10 Wildlife for wildlife habitat protection or restoration purposes.

11 (b) For restoration, enhancement, and protection projects, the services of the
12 California Conservation Corps or community conservation corps shall be used
13 whenever feasible.

14 **Comment.** Section 79038 is amended to update a reference to the former Department of Fish
15 and Game. See Fish & Wildlife Code § 1500.

16 **Water Code § 79050 (amended).**

17 SEC. _____. Section 79050 of the Water Code is amended to read:

18 79050. (a) No expenditure of funds may be made under this article unless the
19 Department of Fish and Game Wildlife makes a written determination as part of its
20 review and approval of a plan or project pursuant to Section 12314 or 12987. The
21 Department of Fish and Game Wildlife shall make its determination in a reasonable
22 and timely manner following the submission of the project or plan to that
23 department.

24 (b) For the purposes of this article, an expenditure may include more than one
25 levee project or plan.

26 **Comment.** Section 79050 is amended to update references to the former Department of Fish and
27 Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
28 designations.

29 **Water Code § 79068.8 (amended).**

30 SEC. _____. Section 79068.8 of the Water Code is amended to read:

31 79068.8. No expenditures of state funds may be made under this article until the
32 department or the Reclamation Board determines that all of the following
33 requirements have been met:

34 (a) There is a final environmental document prepared pursuant to the California
35 Environmental Quality Act (commencing with Section 21000 of the Public
36 Resources Code).

37 (b) The project is in compliance with the California Endangered Species Act
38 (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1 (commencing~~
39 ~~with Section 62000) of Division 17~~ of the Fish and Game Wildlife Code), as
40 demonstrated by documentation such as comments received from the Department

1 of Fish and Game Wildlife, a permit obtained from the Department of Fish and
2 Game Wildlife, or other appropriate evidence.

3 (c) The local project proponent agrees to pay at least that portion of the nonfederal
4 capital costs of the project required by Section 12585.5.

5 (d) The local project proponent agrees to operate and maintain the completed
6 project.

7 (e) The local project proponent enters into an agreement indemnifying and
8 holding the state, its agencies, officers and employees free and harmless from any
9 and all liability arising out of the design, construction, operation and maintenance
10 of the project.

11 (f) The project is recommended for implementation by the department or the
12 Reclamation Board.

13 **Comment.** Section 79068.8 is amended to reflect the recodification of the former Fish and Game
14 Code, and to update references to the former Department of Fish and Game. See Fish & Wildlife
15 Code § 1500. The section is also amended to make a technical correction.

16 **Water Code § 79068.14 (amended).**

17 SEC. _____. Section 79068.14 of the Water Code is amended to read:

18 79068.14. (a) Twenty million dollars (\$20,000,000) in the subaccount, upon
19 appropriation to the Department of Fish and Game Wildlife, may be used by that
20 department, if it determines that any flood control project undertaken pursuant to
21 this article would result in a reduction of, or damage to, fish, wildlife, or riparian
22 habitat, to protect, improve, restore, create, or enhance fish, wildlife, and riparian
23 habitat of a comparable type to that which was reduced or damaged.

24 (b) Any land acquired pursuant to this section shall be acquired from willing
25 sellers.

26 **Comment.** Section 79068.14 is amended to update a reference to the former Department of Fish
27 and Game. See Fish & Wildlife Code § 1500.

28 **Water Code § 79104.204 (amended).**

29 SEC. _____. Section 79104.204 of the Water Code is amended to read:

30 79104.204. The money in the subaccount, upon appropriation by the Legislature
31 to the Department of Fish and Game Wildlife, shall be used by the Department of
32 Fish and Game Wildlife for direct expenditure and for grants to public agencies and
33 nonprofit organizations to protect, restore, acquire, and enhance habitat for salmon.
34 These funds may be used to match federal funding available for those purposes.

35 **Comment.** Section 79104.204 is amended to update references to the former Department of Fish
36 and Game. See Fish & Wildlife Code § 1500.

37 **Water Code § 79563.5 (amended).**

38 SEC. _____. Section 79563.5 of the Water Code is amended to read:

39 79563.5. (a) The board, to the extent that funds are appropriated pursuant to
40 Section 79563 of the Water Code for purposes that are consistent with this section,

1 shall fund the development of one or more integrated coastal watershed
2 management plans.

3 (b) The plans shall be designed to allow for the integration of projects funded by
4 the State Coastal Conservancy pursuant to Chapter 5.5 (commencing with Section
5 31220) of Division 21 of the Public Resources Code, and projects funded by the
6 board pursuant to Chapter 3 (commencing with Section 30915) and Article 5
7 (commencing with Section 30945) of Chapter 4, of Division 20.4 of the Public
8 Resources Code, within one or more coastal regions.

9 (c) The planning areas shall be selected by the board in consultation with the State
10 Coastal Conservancy and the Department of Fish and Game Wildlife and shall
11 include coastal watersheds that influence water quality in areas of special biological
12 significance.

13 (d) The board may only expend funds for the purposes of this section to the extent
14 the board determines that the expenditures are consistent with the requirements of
15 this chapter.

16 **Comment.** Section 79563.5 is amended to update a reference to the former Department of Fish
17 and Game. See Fish & Wildlife Code § 1500.

18 **Water Code § 79736 (amended).**

19 SEC. _____. Section 79736 of the Water Code is amended to read:

20 79736. Of the funds authorized by Section 79730, four hundred seventy-five
21 million dollars (\$475,000,000) shall be available to the Natural Resources Agency
22 to support projects that fulfill the obligations of the State of California in complying
23 with the terms of any of the following:

24 (a) Subsection (d) of Section 3406 of the Central Valley Project Improvement Act
25 (Title 34 of Public Law 102-575).

26 (b) Interstate compacts set forth in Section 66801 of the Government Code
27 pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.

28 (c) Intrastate or multiparty water quantification settlement agreement provisions,
29 including ecosystem restoration projects, as set forth in Chapters 611, 612, 613, and
30 614 of the Statutes of 2003.

31 (d) The settlement agreement referenced in Section 2080.2 63350 of the Fish and
32 Game Wildlife Code.

33 (e) Any intrastate or multiparty settlement agreement related to water acted upon
34 or before December 31, 2013. Priority shall be given to projects that meet one or
35 more of the following criteria:

36 (1) The project is of statewide significance.

37 (2) The project restores natural aquatic or riparian functions, or wetlands habitat
38 for birds and aquatic species.

39 (3) The project protects or promotes the restoration of endangered or threatened
40 species.

(4) The project enhances the reliability of water supplies on a regional or interregional basis.

(5) The project provides significant regional or statewide economic benefits.

Comment. Section 79736 is amended to reflect the recodification of the former Fish and Game Code.

Water Code § 85032 (amended).

SEC. _____. Section 85032 of the Water Code is amended to read:

85032. This division does not affect any of the following:

(a) The Natural Community Conservation Planning Act (~~Chapter 10 (commencing with Section 2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and Game Wildlife Code~~).

(b) The California Endangered Species Act (~~Chapter 1.5 (commencing with Section 2050) of Division 3 Part 1 (commencing with Section 62000) of Division 17 of the Fish and Game Wildlife Code~~).

(c) The Fish and Game Wildlife Code.

(d) The Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000)).

(e) Chapter 8 (commencing with Section 12930) of Part 6 of Division 6.

(f) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(g) Section 1702.

(h) The application of the public trust doctrine.

(i) Any water right.

(j) The liability of the state for flood protection in the Delta or its watershed.

Comment. Section 85032 is amended to reflect the recodification of the former Fish and Game Code.

Water Code § 85034 (amended).

SEC. _____. Section 85034 of the Water Code is amended to read:

85034. (a) (1) The council shall administer all contracts, grants, easements, and agreements made or entered into by the California Bay-Delta Authority under Division 26.4 (commencing with Section 79400), as that division read on December 31, 2009.

(2) The exercise of the authority described in paragraph (1) is not subject to review or approval by the Department of General Services.

(3) A contract, lease, license, or any other agreement to which the California Bay-Delta Authority is a party is not void or voidable as a result of the implementation of this subdivision, but shall continue in full force and effect until the end of its term.

(b) The council shall be the successor to and shall assume from the California Bay-Delta Authority all of the administrative rights, abilities, obligations, and duties of that authority.

1 (c) The council shall have possession and control of all records, papers,
2 equipment, supplies, contracts, leases, agreements, and other property, real or
3 personal, connected with the administration of Division 26.4 (commencing with
4 Section 79400), as that division read on December 31, 2009, or held for the benefit
5 or use of the California Bay-Delta Authority.

6 (d) The council shall assume from the California Bay-Delta Authority all
7 responsibility to manage, in accordance with Chapter 5 (commencing with Section
8 85280) of Part 3, the science program element that was required to be undertaken
9 by Division 26.4 (commencing with Section 79400), as that division read on
10 December 31, 2009.

11 (e) Consistent with the responsibilities and duties assumed by the council pursuant
12 to this section, all staff, resources, and funding within the Natural Resources Agency
13 and the Department of Forestry and Fire Protection for the support of the CALFED
14 Bay-Delta Program are hereby transferred to, and may be expended for the purposes
15 of, the council. The executive officer of the council shall confer with the Director
16 of Fish and Game Wildlife, the director of the department, and the executive director
17 of the board regarding possible reallocation of the staff and resources. The status,
18 position, and rights of any officer or employee shall not be affected by this transfer
19 and all officers and employees shall be retained pursuant to the State Civil Service
20 Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the
21 Government Code).

22 **Comment.** Subdivision (e) of Section 85034 is amended to update a reference to the Director of
23 the former Department of Fish and Game. See Fish & Wildlife Code § 1500.

24 **Water Code § 85084.5 (amended).**

25 SEC. _____. Section 85084.5 of the Water Code is amended to read:

26 85084.5. The Department of Fish and Game Wildlife, in consultation with the
27 United States Fish and Wildlife Service and the National Marine Fisheries Service
28 and based on the best available science, shall develop and recommend to the board
29 Delta flow criteria and quantifiable biological objectives for aquatic and terrestrial
30 species of concern dependent on the Delta. The recommendations shall be
31 developed no later than 12 months after the date of enactment of this division.

32 **Comment.** Section 85084.5 is amended to update a reference to the former Department of Fish
33 and Game. See Fish & Wildlife Code § 1500.

34 **Water Code § 85085 (amended).**

35 SEC. _____. Section 85085 of the Water Code is amended to read:

36 85085. The department shall do all of the following:

37 (a) Coordinate with the Department of Fish and Game Wildlife, the board, the
38 California regional water quality control boards, and the State Lands Commission
39 efforts to cooperate with the United States Bureau of Reclamation to construct and
40 implement the Two-Gates Fish Protection Demonstration Project by December 1,
41 2010.

- 1 (b) Evaluate the effectiveness of the Three Mile Slough Barrier project.
2 (c) Expeditiously move ahead with other near term actions as identified in the
3 Strategic Plan.
4 (d) Assist in implementing early action ecosystem restoration projects, including,
5 but not limited to, Dutch Slough tidal marsh restoration and Meins Island tidal
6 marsh restoration.

7 **Comment.** Section 85085 is amended to update a reference to the former Department of Fish
8 and Game. See Fish & Wildlife Code § 1500.

9 **Water Code § 85087 (amended).**

10 SEC. _____. Section 85087 of the Water Code is amended to read:

11 85087. The board, by December 31, 2010, shall submit to the Legislature a
12 prioritized schedule and estimate of costs to complete instream flow studies for the
13 Delta and for high priority rivers and streams in the Delta watershed, not otherwise
14 covered by Section 85086, by 2012, and for all major rivers and streams outside the
15 Sacramento River watershed by 2018. In developing this schedule, the board shall
16 consult with the Department of Fish and Game Wildlife as to the timing of its
17 submission of recommendations for instream flow needs.

18 **Comment.** Section 85087 is amended to update a reference to the former Department of Fish
19 and Game. See Fish & Wildlife Code § 1500.

20 **Water Code § 85320 (amended).**

21 SEC. _____. Section 85320 of the Water Code is amended to read:

22 85320. (a) The Bay Delta Conservation Plan (BDCP) shall be considered for
23 inclusion in the Delta Plan in accordance with this chapter.

24 (b) The BDCP shall not be incorporated into the Delta Plan and the public benefits
25 associated with the BDCP shall not be eligible for state funding, unless the BDCP
26 does all of the following:

27 (1) ~~Complies with Chapter 10 (commencing with Section 2800) of Division 3~~
28 ~~Title 2 (commencing with Section 64500) of Part 2 of Division 17~~ of the Fish and
29 Game Wildlife Code.

30 (2) Complies with Division 13 (commencing with Section 21000) of the Public
31 Resources Code, including a comprehensive review and analysis of all of the
32 following:

33 (A) A reasonable range of flow criteria, rates of diversion, and other operational
34 criteria required to satisfy the criteria for approval of a natural community
35 conservation plan as provided in subdivision (a) of ~~Section 2820~~ 64580 of the Fish
36 and Game Wildlife Code, and other operational requirements and flows necessary
37 for recovering the Delta ecosystem and restoring fisheries under a reasonable range
38 of hydrologic conditions, which will identify the remaining water available for
39 export and other beneficial uses.

1 (B) A reasonable range of Delta conveyance alternatives, including through-
2 Delta, dual conveyance, and isolated conveyance alternatives and including further
3 capacity and design options of a lined canal, an unlined canal, and pipelines.

4 (C) The potential effects of climate change, possible sea level rise up to 55 inches,
5 and possible changes in total precipitation and runoff patterns on the conveyance
6 alternatives and habitat restoration activities considered in the environmental impact
7 report.

8 (D) The potential effects on migratory fish and aquatic resources.

9 (E) The potential effects on Sacramento River and San Joaquin River flood
10 management.

11 (F) The resilience and recovery of Delta conveyance alternatives in the event of
12 catastrophic loss caused by earthquake or flood or other natural disaster.

13 (G) The potential effects of each Delta conveyance alternative on Delta water
14 quality.

15 (c) The department shall consult with the council and the Delta Independent
16 Science Board during the development of the BDCP. The council shall be a
17 responsible agency in the development of the environmental impact report. The
18 Delta Independent Science Board shall review the draft environmental impact report
19 and submit its comments to the council and the Department of Fish and Game
20 Wildlife.

21 (d) If the Department of Fish and Game Wildlife approves the BDCP as a natural
22 community conservation plan pursuant to Chapter 10 (~~commencing with Section~~
23 ~~2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division~~
24 17 of the Fish and Game Wildlife Code, the council shall have at least one public
25 hearing concerning the incorporation of the BDCP into the Delta Plan.

26 (e) If the Department of Fish and Game Wildlife approves the BDCP as a natural
27 community conservation plan pursuant to Chapter 10 (~~commencing with Section~~
28 ~~2800) of Division 3 Title 2 (commencing with Section 64500) of Part 2 of Division~~
29 17 of the Fish and Game Wildlife Code and determines that the BDCP meets the
30 requirements of this section, and the BDCP has been approved as a habitat
31 conservation plan pursuant to the federal Endangered Species Act (16 U.S.C.
32 Section 1531 et seq.), the council shall incorporate the BDCP into the Delta Plan.
33 The Department of Fish and Game's Wildlife's determination that the BDCP has
34 met the requirements of this section may be appealed to the council.

35 (f) The department, in coordination with the Department of Fish and Game
36 Wildlife, or any successor agencies charged with BDCP implementation, shall
37 report to the council on the implementation of the BDCP at least once a year,
38 including the status of monitoring programs and adaptive management.

39 (g) The council may make recommendations to BDCP implementing agencies
40 regarding the implementation of the BDCP. BDCP implementing agencies shall
41 consult with the council on these recommendations. These recommendations shall

1 not change the terms and conditions of the permits issued by state and federal
2 regulatory agencies.

3 **Comment.** Section 85320 is amended to reflect the recodification of the former Fish and Game
4 Code. The section is also amended to update references to the former Department of Fish and Game.
5 See Fish & Wildlife Code § 1500.

6 **Water Code § 85322 (amended).**

7 SEC. _____. Section 85322 of the Water Code is amended to read:

8 85322. This chapter does not amend, or create any additional legal obligation or
9 cause of action under, ~~Chapter 10 (commencing with Section 2800) of Division 3~~
10 Title 2 (commencing with Section 64500) of Part 2 of Division 17 of the Fish and
11 Game Wildlife Code or Division 13 (commencing with Section 21000) of the Public
12 Resources Code.

13 **Comment.** Section 85322 is amended to reflect the recodification of the former Fish and Game
14 Code.

15 WELFARE AND INSTITUTIONS CODE

16 **Welf. & Inst. Code § 256 (amended).**

17 SEC. _____. Section 256 of the Welfare and Institutions Code is amended to read:

18 256. Subject to the orders of the juvenile court, a juvenile hearing officer may
19 hear and dispose of any case in which a minor under the age of 18 years as of the
20 date of the alleged offense is charged with (1) any violation of the Vehicle Code,
21 except Section 23136, 23140, 23152, or 23153 of that code, not declared to be a
22 felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a
23 violation of the Fish and Game Wildlife Code not declared to be a felony, (4) a
24 violation of any of the equipment provisions of the Harbors and Navigation Code
25 or the vessel registration provisions of the Vehicle Code, (5) a violation of any
26 provision of state or local law relating to traffic offenses, loitering or curfew, or
27 evasion of fares on a public transportation system, as defined by Section 99211 of
28 the Public Utilities Code, (6) a violation of Section 27176 of the Streets and
29 Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a
30 violation of the rules and regulations established pursuant to Sections 5003 and 5008
31 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public
32 Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the
33 Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of
34 the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code,
35 involving defacing property with paint or any other liquid, (13) a violation of
36 subdivision (b), (d), or (e) of Section 594.1 of the Penal Code, (14) a violation of
37 subdivision (b) of Section 11357 of the Health and Safety Code, (15) any infraction,
38 (16) any misdemeanor for which the minor is cited to appear by a probation officer
39 pursuant to subdivision (f) of Section 660.5, or (17) a violation of subdivision (b) of

1 Section 601 that is due to having four or more truancies, as described in Section
2 48260 of the Education Code, within one school year.

3 **Comment.** Section 256 is amended to reflect the recodification of the former Fish and Game
4 Code.

5 **Welf. & Inst. Code § 258 (amended).**

6 SEC. _____. Section 258 of the Welfare and Institutions Code is amended to read:

7 258. (a) Upon a hearing conducted in accordance with Section 257, and upon
8 either an admission by the minor of the commission of a violation charged, or a
9 finding that the minor did in fact commit the violation, the judge, referee, or juvenile
10 hearing officer may do any of the following:

11 (1) Reprimand the minor and take no further action.

12 (2) Direct that the probation officer undertake a program of supervision of the
13 minor for a period not to exceed six months, in addition to or in place of the
14 following orders.

15 (3) Order that the minor pay a fine up to the amount that an adult would pay for
16 the same violation, unless the violation is otherwise specified within this section, in
17 which case the fine shall not exceed two hundred fifty dollars (\$250). This fine may
18 be levied in addition to or in place of the following orders and the court may waive
19 any or all of this fine, if the minor is unable to pay. In determining the minor's ability
20 to pay, the court shall not consider the ability of the minor's family to pay.

21 (4) Subject to the minor's right to a restitution hearing, order that the minor pay
22 restitution to the victim, in lieu of all or a portion of the fine specified in paragraph
23 (3). The total dollar amount of the fine, restitution, and any program fees ordered
24 pursuant to paragraph (9) shall not exceed the maximum amount which may be
25 ordered pursuant to paragraph (3). This paragraph shall not be construed to limit the
26 right to recover damages, less any amount actually paid in restitution, in a civil
27 action.

28 (5) Order that the driving privileges of the minor be suspended or restricted as
29 provided in the Vehicle Code or, notwithstanding Section 13203 of the Vehicle
30 Code or any other provision of law, when the Vehicle Code does not provide for the
31 suspension or restriction of driving privileges, that, in addition to any other order,
32 the driving privileges of the minor be suspended or restricted for a period of not to
33 exceed 30 days.

34 (6) In the case of a traffic related offense, order the minor to attend a licensed
35 traffic school, or other court approved program of traffic school instruction pursuant
36 to Chapter 1.5 (commencing with Section 11200) of Division 5 of the Vehicle Code,
37 to be completed by the juvenile within 60 days of the court order.

38 (7) Order that the minor produce satisfactory evidence that the vehicle or its
39 equipment has been made to conform with the requirements of the Vehicle Code
40 pursuant to Section 40150 of the Vehicle Code if the violation involved an
41 equipment violation.

1 (8) Order that the minor perform community service work in a public entity or
2 any private nonprofit entity, for not more than 50 hours over a period of 60 days,
3 during times other than his or her hours of school attendance or employment. Work
4 performed pursuant to this paragraph shall not exceed 30 hours during any 30-day
5 period. The timeframes established by this paragraph shall not be modified except
6 in unusual cases where the interests of justice would best be served. When the order
7 to work is made by a referee or a juvenile hearing officer, it shall be approved by a
8 judge of the juvenile court.

9 For purposes of this paragraph, a judge, referee, or juvenile hearing officer shall
10 not, without the consent of the minor, order the minor to perform work with a private
11 nonprofit entity that is affiliated with any religion.

12 (9) In the case of a misdemeanor, order that the minor participate in and complete
13 a counseling or educational program, or, if the offense involved a violation of a
14 controlled substance law, a drug treatment program, if those programs are available.
15 Fees for participation shall be subject to the right to a hearing as the minor's ability
16 to pay and shall not, together with any fine or restitution order, exceed the maximum
17 amount that may be ordered pursuant to paragraph (3).

18 (10) Require that the minor attend a school program without unexcused absence.

19 (11) If the offense is a misdemeanor committed between 10 p.m. and 6 a.m.,
20 require that the minor be at his or her legal residence at hours to be specified by the
21 juvenile hearing officer between the hours of 10 p.m. and 6 a.m., except for a
22 medical or other emergency, unless the minor is accompanied by his or her parent,
23 guardian, or other person in charge of the minor. The maximum length of an order
24 made pursuant to this paragraph shall be six months from the effective date of the
25 order.

26 (12) Make any or all of the following orders with respect to a violation of the Fish
27 and Game Wildlife Code which is not charged as a felony:

28 (A) That the fishing or hunting license involved be suspended or restricted.

29 (B) That the minor work in a park or conservation area for a total of not to exceed
30 20 hours over a period not to exceed 30 days, during times other than his or her
31 hours of school attendance or employment.

32 (C) That the minor forfeit, pursuant to Section ~~12157~~ 4570 of the Fish and Game
33 Wildlife Code, any device or apparatus designed to be, and capable of being, used
34 to take birds, mammals, fish, reptiles, or amphibians and that was used in committing
35 the violation charged. The judge, referee, or juvenile hearing officer shall, if the
36 minor committed an offense that is punishable under Section ~~12008 or 12008.1~~
37 5320, 5400, 5600, 5900, 5950, 6202, or 6204 of the Fish and Game Wildlife Code,
38 order the device or apparatus forfeited pursuant to Section ~~12157~~ 4570 of the Fish
39 and Game Wildlife Code.

40 (13) If the violation charged is of an ordinance of a city, county, or local agency
41 relating to loitering, curfew, or fare evasion on a public transportation system, as
42 defined by Section 99211 of the Public Utilities Code, or is a violation of Section

1 640 or 640a of the Penal Code, make the order that the minor shall perform
2 community service for a total time not to exceed 20 hours over a period not to exceed
3 30 days, during times other than his or her hours of school attendance or
4 employment.

5 (b) If the minor is before the court on the basis of truancy, as described in
6 subdivision (b) of Section 601, all of the following procedures and limitations shall
7 apply:

8 (1) The judge, referee, or juvenile hearing officer shall not proceed with a hearing
9 unless both of the following have been provided to the court:

10 (A) Evidence that the minor's school has undertaken the actions specified in
11 subdivisions (a), (b), and (c) of Section 48264.5 of the Education Code. If the school
12 district does not have an attendance review board, as described in Section 48321 of
13 the Education Code, the minor's school is not required to provide evidence to the
14 court of any actions the school has undertaken that demonstrate the intervention of
15 a school attendance review board.

16 (B) The available record of previous attempts to address the minor's truancy.

17 (2) The court is encouraged to set the hearing outside of school hours, so as to
18 avoid causing the minor to miss additional school time.

19 (3) Pursuant to paragraph (1) of subdivision (a) of Section 257, the minor and his
20 or her parents shall be advised of the minor's right to refuse consent to a hearing
21 conducted upon a written notice to appear.

22 (4) The minor's parents shall be permitted to participate in the hearing.

23 (5) The judge, referee, or juvenile hearing officer may continue the hearing to
24 allow the minor the opportunity to demonstrate improved attendance before
25 imposing any of the orders specified in paragraph (6). Upon demonstration of
26 improved attendance, the court may dismiss the case.

27 (6) Upon a finding that the minor violated subdivision (b) of Section 601, the
28 judge, referee, or juvenile hearing officer shall direct his or her orders at improving
29 the minor's school attendance. The judge, referee, or juvenile hearing officer may
30 do any of the following:

31 (A) Order the minor to perform community service work, as described in Section
32 48264.5 of the Education Code, which may be performed at the minor's school.

33 (B) Order the payment of a fine by the minor of not more than fifty dollars (\$50),
34 for which a parent or legal guardian of the minor may be jointly liable. The fine
35 described in this subparagraph shall not be subject to Section 1464 of the Penal Code
36 or additional penalty pursuant to any other law. The minor, at his or her discretion,
37 may perform community service, as described in subparagraph (A), in lieu of any
38 fine imposed under this subparagraph.

39 (C) Order a combination of community service work described in subparagraph
40 (A) and payment of a portion of the fine described in subparagraph (B).


41 (D) Restrict driving privileges in the manner set forth in paragraph (5) of
42 subdivision (a). The minor may request removal of the driving restrictions if he or

1 she provides proof of school attendance, high school graduation, GED completion,
2 or enrollment in adult education, a community college, or a trade program. Any
3 driving restriction shall be removed at the time the minor attains 18 years of age.

4 (c)(1) The judge, referee, or juvenile hearing officer shall retain jurisdiction of the
5 case until all orders made under this section have been fully complied with.

6 (2) If a minor is before the judge, referee, or juvenile hearing officer on the basis
7 of truancy, jurisdiction shall be terminated upon the minor attaining 18 years of age.

8 **Comment.** Paragraph (12) of subdivision (a) of Section 258 is amended to reflect the
9 recodification of the former Fish and Game Code.

10  **Note.** In the tentative recommendation, the provisions of the existing Fish and Game Code
11 sections cross-referenced in paragraph (12) of subdivision (a) of the section above have been
12 continued in several different sections of the proposed Fish and Wildlife Code.

13 **The Commission requests public comment on the proposed conforming revision of those**
14 **provisions in the section above.**

15 **Welf. & Inst. Code § 1760.5 (amended).**

16 SEC. _____. Section 1760.5 of the Welfare and Institutions Code is amended to
17 read:

18 1760.5. (a) The director may require persons committed to the authority to
19 perform work necessary and proper to be done by the Department of Forestry and
20 Fire Protection, the Department of Water Resources, the Department of Parks and
21 Recreation, and the Department of Fish and Game Wildlife, by the Division of State
22 Lands, by the United States Department of Agriculture, and by the federal officials
23 and departments in charge of national forests and parks within this state.

24 (b) For the purposes of this section, the director, with the approval of the
25 Department of General Services, may enter into contracts with federal and state
26 officials and departments. All moneys received by the director pursuant to any of
27 those contracts shall be paid into the State Treasury to the credit and in augmentation
28 of the current appropriation for the support of the authority. The director may
29 provide, from those moneys, for the payment of wages to the wards for work they
30 do pursuant to any of those contracts, the wages to be paid into the Indemnity Fund
31 created pursuant to Section 13967 of the Government Code, or to the parents or
32 dependents of the ward, or to the ward in the manner and in those proportions as the
33 Department of the Youth Authority directs.

34 **Comment.** Section 1760.5 is amended to update a reference to the former Department of Fish
35 and Game. See Fish & Wildlife Code § 1500. The section is also amended to add subdivision
36 designations.



Department of Fish & Wildlife End-of-Year Legislative Report

November 2019

[AB 44](#)

([Friedman D](#)) Fur products: prohibition.

Introduced: 12/3/2018

Last Amend: 9/6/2019

Status: 10/12/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 764, Statutes of 2019.

Location: 10/12/2019-A. CHAPTERED

Summary: Would make it unlawful to sell, offer for sale, display for sale, trade, or otherwise distribute for monetary or nonmonetary consideration a fur product, as defined, in the state. The bill would also make it unlawful to manufacture a fur product in the state for sale. The bill would exempt from these prohibitions used fur products, as defined, fur products used for specified purposes, and any activity expressly authorized by federal law. The bill would require a person that sells or trades any fur product exempt from this prohibition to maintain records of each sale or trade of an exempt fur product for at least one year, except as provided.

[AB 202](#)

([Mathis R](#)) Endangered species: conservation: California State Safe Harbor Agreement Program Act.

Introduced: 1/14/2019

Last Amend: 2/26/2019

Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was N.R. & W. on 4/24/2019)(May be acted upon Jan 2020)

Location: 7/10/2019-S. 2 YEAR

Summary: Would delete the January 1, 2020, repeal date of the California State Safe Harbor Agreement Program Act, thereby extending the operation of the act indefinitely. Because submission of false, inaccurate, or misleading information on an application for a state safe harbor agreement under the act would be a crime, this bill would extend the application of a crime, thus imposing a state-mandated local program.

[AB 231](#)

([Mathis R](#)) California Environmental Quality Act: exemption: recycled water.

Introduced: 1/17/2019

Status: 5/9/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 2/7/2019)(May be acted upon Jan 2020)(Recorded 4/26/2019)

Location: 2/7/2019-A. 2 YEAR

Summary: Would exempt from CEQA a project to construct or expand a recycled water pipeline for the purpose of mitigating drought conditions for which a state of emergency was proclaimed by the Governor if the project meets specified criteria. Because a lead agency would be required to determine if a project qualifies for this exemption, this bill would impose a state-mandated local program. The bill would also exempt from CEQA the development and approval of building standards by state agencies for recycled water systems.

[AB 243](#)

([Kamlager-Dove D](#)) Implicit bias training: peace officers.

Introduced: 1/18/2019

Last Amend: 4/22/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/12/2019)(May be acted upon Jan 2020)

Location: 8/30/2019-S. 2 YEAR

Summary: Current law requires every peace officer to participate in expanded training prescribed by the Commission on Peace Officer Standards and Training that includes and examines evidence-based patterns, practices, and protocols that make up racial and identity profiling, including implicit bias. Once basic training is completed, current law requires specified peace officers to complete a refresher course on racial and identity profiling at least every 5 years. This bill would require those peace officers currently required to take the refresher course every 5 years, and additional peace officers, as specified, to instead take refresher training on racial and identity profiling, including the understanding of implicit bias and the promotion of bias-reducing strategies, at least every 2 years.

AB 255 **(Limón D) Coastal resources: oil spills: grants.**

Introduced: 1/23/2019

Status: 7/12/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 84, Statutes of 2019.

Location: 7/12/2019-A. CHAPTERED

Summary: The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act authorizes the administrator for oil spill response to offer grants to a local government with jurisdiction over or directly adjacent to waters of the state to provide oil spill response equipment to be deployed by a certified local spill response manager, as provided. This bill would provide that Native American tribes and other public entities are also eligible to receive those grants.

AB 256 **(Aquiar-Curry D) Wildlife: California Winter Rice Habitat Incentive Program.**

Introduced: 1/23/2019

Last Amend: 9/3/2019

Status: 10/2/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 420, Statutes of 2019.

Location: 10/2/2019-A. CHAPTERED

Summary: Current law requires the lessees of the rice lands to have the owners of record execute the contracts and defines “productive agricultural rice lands that are winter-flooded” for these purposes. Current law requires each contract to include, among other things, an agreement by the owner and any lessee to restore, enhance, and protect the waterfowl habitat character of the described land. This bill would no longer require the lessees of the rice lands to have the owners of record execute the contracts and would revise the definition of “productive agricultural rice lands that are winter-flooded.” The bill would revise that agreement to instead require an agreement by the owner or the lessee to restore, enhance, and protect the waterfowl habitat character of an established number of acres of described land that may be annually rotated provided that the minimum contracted acreage amount is achieved for each of the contracted winter flooding seasons.

AB 273 **(Gonzalez D) Fur-bearing and nongame mammals: recreational and commercial fur trapping: prohibition.**

Introduced: 1/24/2019

Last Amend: 3/5/2019

Status: 9/4/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 216, Statutes of 2019.

Location: 9/4/2019-A. CHAPTERED

Summary: Would prohibit the trapping of any fur-bearing mammal or nongame mammal for purposes of recreation or commerce in fur and would prohibit the sale of the raw fur of any fur-bearing mammal or nongame mammal otherwise lawfully taken pursuant to the Fish and Game Code or regulations adopted pursuant to that code. Because a violation of these provisions would

be a crime, this bill would impose a state-mandated local program. The bill would also make other conforming changes.

AB 284 (Frazier D) Junior hunting licenses: eligibility: age requirement.

Introduced: 1/28/2019

Status: 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/3/2019)(May be acted upon Jan 2020)

Location: 5/17/2019-A. 2 YEAR

Summary: Current law requires the Department of Fish and Wildlife to issue various types of hunting licenses, including a discounted hunting license known as a junior hunting license, upon payment of a certain fee from an eligible applicant. Current law, until July 1, 2020, expands the eligibility for a junior hunting license from persons who are under 16 years of age on July 1 of the licensing year to persons who are under 18 years of age on July 1 of the licensing year, as specified, and makes conforming changes related to that expanded eligibility. This bill would extend, this expanded eligibility, for a junior hunting license indefinitely.

AB 286 (Bonta D) Taxation: cannabis.

Introduced: 1/28/2019

Last Amend: 4/3/2019

Status: 5/16/2019-In committee: Held under submission.

Location: 5/1/2019-A. APPR. SUSPENSE FILE

Summary: The Control, Regulate and Tax Adult Use of Marijuana Act imposes duties on the Bureau of Cannabis Control in the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health with respect to the creation, issuance, denial, suspension and revocation of commercial cannabis licenses, and imposes an excise tax commencing January 1, 2018, on the purchase of cannabis and cannabis products at the rate of 15% of the average market price of any retail sale by a cannabis retailer. Commencing January 1, 2018, AUMA also imposes a cultivation tax upon all cultivators on all harvested cannabis that enters the commercial market, at specified rates per dry-weight ounce of cannabis flowers and leaves. This bill would reduce that excise tax rate to 11% on and after the operative date of this bill until July 1, 2022, at which time the excise tax rate would revert back to 15%.

AB 298 (Mathis R) Housing: home purchase assistance program: first responders: Legislative Analyst: study and report.

Introduced: 1/28/2019

Status: 5/3/2019-Failed Deadline pursuant to Rule 61(a)(3). (Last location was H. & C.D. on 2/15/2019)(May be acted upon Jan 2020)

Location: 5/3/2019-A. 2 YEAR

Summary: Would require the Legislative Analyst to conduct a study, and present the findings thereof to the Legislature, to inform the creation of a low-interest loan program for first responders. The bill would require the report to be submitted on or before January 1, 2024. The bill would require the report to include a recommendation as to which state department is best suited to administer the program, an estimation of the amount of funding that would be necessary to conduct the program, and recommendations for qualifications for participation in the program.

AB 312 (Cooley D) State government: administrative regulations: review.

Introduced: 1/29/2019

Status: 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/3/2019)(May be acted upon Jan 2020)

Location: 5/17/2019-A. 2 YEAR

Summary: Would require each state agency to, on or before January 1, 2022, review its regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, revise those identified regulations, as provided, and report its findings and actions taken to the

Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2023.

AB 352 (Garcia, Eduardo D) Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.

Introduced: 2/4/2019

Last Amend: 8/14/2019

Status: 8/14/2019-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on EQ.

Location: 8/14/2019-S. E.Q.

Summary: Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,920,000,000 pursuant to the State General Obligation Bond Law to finance a wildfire prevention, safe drinking water, drought preparation, and flood protection program. The bill would provide for the submission of these provisions to the voters at the November 3, 2020, statewide general election. The bill would provide that its provisions are severable.

AB 392 (Weber D) Peace officers: deadly force.

Introduced: 2/6/2019

Last Amend: 5/23/2019

Status: 8/19/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 170, Statutes of 2019.

Location: 8/19/2019-A. CHAPTERED

Summary: Would redefine the circumstances under which a homicide by a peace officer is deemed justifiable to include when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless the person is immediately apprehended.

AB 394 (Obernolte R) California Environmental Quality Act: exemption: egress route projects: fire safety.

Introduced: 2/6/2019

Last Amend: 9/6/2019

Status: 10/2/2019-Vetoed by Governor.

Location: 10/2/2019-A. VETOED

Summary: Would, until January 1, 2025, exempt from CEQA egress route projects undertaken by a public agency that are specifically recommended by the State Board of Forestry and Fire Protection that improve the fire safety of an existing subdivision if certain conditions are met. The bill would require the lead agency to hold a noticed public meeting to hear and respond to public comments before determining that a project is exempt. The bill would require the lead agency, if it determines that a project is not subject to CEQA and approves or carries out that project, to file a notice of exemption with the Office of Planning and Research and with the clerk of the county in which the project will be located.

AB 430 (Gallagher R) Housing development: Camp Fire Housing Assistance Act of 2019.

Introduced: 2/7/2019

Last Amend: 8/27/2019

Status: 10/11/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 745, Statutes of 2019.

Location: 10/11/2019-A. CHAPTERED

Summary: Current law authorizes a development proponent to submit an application for a

development permit that is subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies specified objective planning standards, including that the development is a multifamily housing development that contains 2 or more residential units. This bill would authorize a development proponent to submit an application for a residential development, or mixed-use development that includes residential units with a specified percentage of space designated for residential use, within the territorial boundaries or a specialized residential planning area identified in the general plan of, and adjacent to existing urban development within, specified cities that is subject to a similar streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies specified objective planning standards.

AB 431 **(Gallagher R) California Environmental Quality Act: exemptions: projects in Town of Paradise and Butte County.**

Introduced: 2/7/2019

Last Amend: 3/19/2019

Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 2/15/2019)(May be acted upon Jan 2020)

Location: 4/26/2019-A. 2 YEAR

Summary: Would exempt from CEQA projects or activities related to the provision of sewer treatment or water service to the Town of Paradise or related to the improvement of evacuation routes in the Town of Paradise. The bill would also exempt from CEQA projects or activities undertaken by the Paradise Irrigation District related to the provision of water service.

AB 441 **(Eggman D) Water: underground storage.**

Introduced: 2/11/2019

Last Amend: 3/27/2019

Status: 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/24/2019)(May be acted upon Jan 2020)

Location: 5/17/2019-A. 2 YEAR

Summary: Under current law, the right to water or to the use of water is limited to that amount of water that may be reasonably required for the beneficial use to be served. Current law provides for the reversion of water rights to which a person is entitled when the person fails to beneficially use the water for a period of 5 years. Current law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made. This bill would instead provide that any diversion of water to underground storage constitutes a diversion of water for beneficial use for which an appropriation may be made if the diverted water is put to beneficial use, as specified.

AB 448 **(Garcia, Eduardo D) Water rights: stockponds.**

Introduced: 2/11/2019

Last Amend: 4/3/2019

Status: 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/24/2019)(May be acted upon Jan 2020)

Location: 5/17/2019-A. 2 YEAR

Summary: Would provide that the owner of a stockpond built prior to January 1, 2019, that does not have a capacity greater than 10 acre-feet may obtain a right to appropriate water for the principal purpose of watering livestock if that person files a claim for a water right with the State Water Resources Control Board accompanied by a fee not later than December 31, 2021, with certain exceptions. Upon the issuance of a certificate by the board for an appropriation of water obtained under the bill's provisions, the bill would require the board to provide in writing conditions to which the appropriation is subject.

- AB 454** **(Kalra D) Migratory birds: California Migratory Bird Protection Act.**
Introduced: 2/11/2019
Last Amend: 5/16/2019
Status: 9/27/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 349, Statutes of 2019.
Location: 9/27/2019-A. CHAPTERED
Summary: Current federal law, the Migratory Bird Treaty Act, provides for the protection of migratory birds, as specified. The federal act also authorizes states and territories of the United States to make and enforce laws or regulations that give further protection to migratory birds, their nests, and eggs. Current state law makes unlawful the taking or possession of any migratory nongame bird, or part of any migratory nongame bird, as designated in the federal act, except as provided by rules and regulations adopted by the United States Secretary of the Interior under provisions of the federal act. This bill, the California Migratory Bird Protection Act, would instead, until January 20, 2025, make unlawful the taking or possession of any migratory nongame bird designated in the federal act before January 1, 2017, any additional migratory nongame bird that may be designated in the federal act after that date, or any part of those migratory nongame birds, except as provided by rules and regulations adopted by the United States Secretary of the Interior under the federal act before January 1, 2017, or subsequent rules or regulations adopted pursuant to the federal act, unless those rules or regulations are inconsistent with the Fish and Game Code.
- AB 467** **(Boerner Horvath D) Competitions on state property: prize compensation: gender equity.**
Introduced: 2/11/2019
Last Amend: 6/14/2019
Status: 9/9/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 276, Statutes of 2019.
Location: 9/9/2019-A. CHAPTERED
Summary: Would require the Department of Parks and Recreation, the State Lands Commission and the California Coastal Commission to include in permit or lease conditions, for a competition event to be held on land under the jurisdiction of the entity, as described, and that awards prize compensation, as defined, to competitors in gendered categories, a requirement that the prize compensation be identical between the gendered categories at each participant level.
- AB 527** **(Voepel R) Importation, possession, or sale of endangered wildlife.**
Introduced: 2/13/2019
Last Amend: 4/22/2019
Status: 6/4/2019-Failed Deadline pursuant to Rule 61(a)(8). (Last location was APPR. on 4/23/2019)
Location: 6/4/2019-A. 2 YEAR
Summary: Would delay the commencement of the prohibition on importing into the state for commercial purposes, possessing with intent to sell, or selling within the state, the dead body, or a part or product thereof, of a crocodile or alligator until January 1, 2030. The bill would also require a specified disclosure on all products sold in the state prior to January 1, 2030, failure to do so being punishable as a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.
- AB 559** **(Arambula D) Millerton Lake State Recreation Area: acquisition of land.**
Introduced: 2/13/2019
Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 2/25/2019)(May be acted upon Jan 2020)
Location: 4/26/2019-A. 2 YEAR
Summary: Would require the Department of Parks and Recreation to effectively manage lands currently within its jurisdiction in the Millerton Lake State Recreation Area adjacent to the San Joaquin River, and would authorize the department to enter into an agreement with the

conservancy to manage lands acquired by the conservancy adjacent to the state recreation area, as specified.

AB 584 **(Gallagher R) Sport fishing licenses.**

Introduced: 2/14/2019

Status: 5/3/2019-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/14/2019)(May be acted upon Jan 2020)

Location: 5/3/2019-A. 2 YEAR

Summary: Current law requires every person 16 years of age or older who takes any fish, reptile, or amphibian for any purpose other than profit to first obtain a sport fishing license for that purpose, with specified exceptions, and to have that license on their person or in their immediate possession when engaged in carrying out any activity authorized by the license. This bill would make nonsubstantive changes to this provision.

AB 658 **(Arambula D) Water rights: water management.**

Introduced: 2/15/2019

Last Amend: 7/11/2019

Status: 10/9/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 678, Statutes of 2019.

Location: 10/9/2019-A. CHAPTERED

Summary: Would authorize a groundwater sustainability agency or local agency to apply for, and the board to issue, a conditional temporary permit for diversion of surface water to underground storage for beneficial use that advances the sustainability goal of a groundwater basin, as specified.

AB 719 **(Rubio, Blanca D) Endangered wildlife: crocodiles and alligators.**

Introduced: 2/19/2019

Last Amend: 8/13/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/19/2019)(May be acted upon Jan 2020)

Location: 8/30/2019-S. 2 YEAR

Summary: Current law makes it a misdemeanor to import into the state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or a part or product thereof, of a polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf, zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin, porpoise, Spanish lynx, or elephant. This bill would require manufacturers of products that use the hides of crocodiles or alligators, after consultation with the Department of Fish and Wildlife, to submit to the Director of Fish and Wildlife proposals for technologies or processes that allow for the tracking or tracing of the source of origin of crocodile or alligator hides used to manufacture products sold in this state and require humane treatment of farmed crocodiles and alligators, as well as humane slaughtering techniques. The bill would require the director, on or before March 30, 2021, to approve technologies or processes that meet those requirements.

AB 782 **(Berman D) California Environmental Quality Act: exemption: public agencies: land transfers.**

Introduced: 2/19/2019

Last Amend: 5/28/2019

Status: 8/30/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 181, Statutes of 2019.

Location: 8/30/2019-A. CHAPTERED

Summary: CEQA requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. This bill would exempt from CEQA the

acquisition, sale, or other transfer of interest in land by a public agency for certain purposes, or the granting or acceptance of funding by a public agency for those purposes.

AB 834 (Quirk D) Freshwater and Estuarine Harmful Algal Bloom Program.

Introduced: 2/20/2019

Last Amend: 8/30/2019

Status: 9/27/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 354, Statutes of 2019.

Location: 9/27/2019-A. CHAPTERED

Summary: Would require the State Water Resources Control Board to establish a Freshwater and Estuarine Harmful Algal Bloom Program to protect water quality and public health from harmful algal blooms. The bill would require the state board, in consultation with specified entities, among other things, to coordinate immediate and long-term algal bloom event incident response, as provided, and conduct and support algal bloom field assessment and ambient monitoring at the state, regional, watershed, and site-specific waterbody scales.

AB 855 (McCarty D) Department of Justice: law enforcement policies on the use of deadly force.

Introduced: 2/20/2019

Last Amend: 3/19/2019

Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was PUB. S. on 3/18/2019)(May be acted upon Jan 2020)

Location: 4/26/2019-A. 2 YEAR

Summary: Would require the Attorney General to convene a task force, as specified, to study the use of deadly force by law enforcement officers and to develop recommendations, including a model written policy, for law enforcement agencies.

AB 883 (Dahle R) Fish and wildlife: catastrophic wildfires: report.

Introduced: 2/20/2019

Status: 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/24/2019)(May be acted upon Jan 2020)

Location: 5/17/2019-A. 2 YEAR

Summary: Would require the Department of Fish and Wildlife, in consultation with the Department of Forestry and Fire Protection, on or before December 31, 2020, and by December 31 each year thereafter, to study, investigate, and report to the Legislature on the impacts on wildlife and wildlife habitat resulting from any catastrophic wildfire, as defined, that occurred during that calendar year, including specified information on a catastrophic wildfire's impact on ecosystems, biodiversity, and protected species in the state.

AB 889 (Maienschein D) Animal research.

Introduced: 2/20/2019

Last Amend: 4/1/2019

Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was HEALTH on 3/4/2019)(May be acted upon Jan 2020)

Location: 4/26/2019-A. 2 YEAR

Summary: Current law prohibits the keeping or use of animals for diagnostic purposes, education, or research without approval by the State Department of Public Health. Current law authorizes the department to prescribe rules under which persons who wish to keep or use animals for those purposes may obtain approval from the department, and to promulgate regulations governing the use of animals for those purposes. Current law exempts certain persons from those requirements, including persons who use or keep animals for animal training and animal cosmetics, among other things. This bill would define "animal" for purposes of these provisions as any live vertebrate nonhuman animal used for diagnostic purposes, education, or research, as specified.

- AB 935** (**Rivas, Robert** D) **Oil and gas: facilities and operations: monitoring and reporting.**
Introduced: 2/20/2019
Last Amend: 3/21/2019
Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 3/21/2019)(May be acted upon Jan 2020)
Location: 4/26/2019-A. 2 YEAR
Summary: Under current law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. Current law defines various terms for those purposes, including "production facility. This bill "Would define the term "sensitive production facility" for those purposes to mean a production facility that is located within certain areas, including, among others, an area containing a building intended for human occupancy that is located within 2,500 feet of the production facility.
- AB 936** (**Rivas, Robert** D) **Oil spills: response and contingency planning.**
Introduced: 2/20/2019
Last Amend: 9/6/2019
Status: 10/12/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 770, Statutes of 2019.
Location: 10/12/2019-A. CHAPTERED
Summary: Would define "nonfloating oil" for purposes of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act. The bill would require the administrator to hold, on or before January 1, 2022, a technology workshop that shall include the topic of technology for addressing nonfloating oil spills, and, in fulfilling specified duties, to consider information gained from technology workshops, as well as available scientific and technical literature concerning nonfloating oil spill response technology. The bill would require the administrator to include in the revision to the California oil spill contingency plan due on or before January 1, 2023, provisions addressing nonfloating oil.
- AB 948** (**Kalra** D) **Coyote Valley Conservation Program.**
Introduced: 2/20/2019
Last Amend: 8/12/2019
Status: 9/27/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 356, Statutes of 2019.
Location: 9/27/2019-A. CHAPTERED
Summary: Current law creates the Santa Clara Valley Open-Space Authority, and prescribes the jurisdiction and functions and duties of the authority. Current law authorizes the authority, among other things, to acquire, hold, and dispose of real and personal property, within the authority's jurisdiction, necessary to the full exercise of its powers. This bill would authorize the authority to establish and administer the Coyote Valley Conservation Program to address resource and recreational goals of the Coyote Valley, as defined. The bill would authorize the authority to collaborate with state, regional, and local partners to help achieve specified goals of the program. The bill would authorize the authority to, among other things, acquire and dispose of interests and options in real property.
- AB 1013** (**Obernolte** R) **State agencies: grant applications.**
Introduced: 2/21/2019
Last Amend: 8/20/2019
Status: 10/3/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 498, Statutes of 2019.
Location: 10/3/2019-A. CHAPTERED
Summary: Current law authorizes various state agencies to award grant money for various purposes. This bill would prohibit a state agency from permitting an evaluator to review a discretionary grant application submitted by an organization or a person for which the evaluator

was a representative, voting member, or staff member within the 2-year period preceding receipt of that application.

AB 1040 **(Muratsuchi D) Protection of cetaceans: unlawful activities.**

Introduced: 2/21/2019

Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/7/2019)(May be acted upon Jan 2020)

Location: 4/26/2019-A. 2 YEAR

Summary: Current law makes it unlawful to hold in captivity an orca, whether wild caught or captive bred, for any purpose, including for display, performance, or entertainment purposes; to breed or impregnate an orca held in captivity; to export, collect, or import the semen, other gametes, or embryos of an orca held in captivity for the purpose of artificial insemination; or to export, transport, move, or sell an orca located in the state to another state or country. Current law creates certain exceptions to these provisions, including an exception that authorizes an orca located in the state on January 1, 2017, to continue to be held in captivity for its current purpose and, after June 1, 2017, to continue to be used for educational presentations. This bill would expand these provisions to include cetaceans, which the bill would define to mean a whale, dolphin, and porpoise in the order Cetacea.

AB 1117 **(Grayson D) Peace officers: peer support.**

Introduced: 2/21/2019

Last Amend: 9/6/2019

Status: 10/8/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 621, Statutes of 2019.

Location: 10/8/2019-A. CHAPTERED

Summary: The California Emergency Services Act also authorizes the governing body of a city, county, city and county, or an official designated by ordinance adopted by that governing body, to proclaim a local emergency, as defined. This bill would enact the Law Enforcement Peer Support and Crisis Referral Services Program. The bill would authorize a local or regional law enforcement agency to establish a peer support and crisis referral program to provide an agencywide network of peer representatives available to aid fellow employees on emotional or professional issues. The bill would, for purposes of the act, define a "peer support team" as a team composed of law enforcement personnel, as defined, who have completed a peer support training course, as specified.

AB 1149 **(Fong R) California Environmental Quality Act: record of proceedings.**

Introduced: 2/21/2019

Last Amend: 4/23/2019

Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 3/25/2019)(May be acted upon Jan 2020)

Location: 4/26/2019-A. 2 YEAR

Summary: CEQA requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. In an action or proceeding alleging the lead agency violated the act, the act requires the lead agency to prepare and certify the record of proceedings and requires the parties to pay any reasonable costs or fees imposed for the preparation of the record of proceedings, as specified.

AB 1160 **(Dahle R) Forestry: timber operations: sustained yield plans.**

Introduced: 2/21/2019

Last Amend: 4/11/2019

Status: 7/12/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 108, Statutes of 2019.

Location: 7/12/2019-A. CHAPTERED

Summary: The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations, as defined, unless a timber harvesting plan prepared by a registered professional forester has been submitted to, and approved by, the Department of Forestry and Fire Protection. The act requires the State Board of Forestry and Fire Protection to adopt district forest practice rules and regulations, as provided, and requires a sustained yield plan that is prepared and approved in accordance with these rules and regulations to be effective for a period of no more than 10 years. This bill would instead require the sustained yield plan to be effective for a period of no more than 20 years.

AB 1184 (Gloria D) Public records: writing transmitted by electronic mail: retention.

Introduced: 2/21/2019

Last Amend: 8/30/2019

Status: 10/13/2019-Vetoed by Governor.

Location: 10/13/2019-A. VETOED

Summary: Would, unless a longer retention period is required by statute or regulation, or established by the Secretary of State pursuant to the State Records Management Act, require a public agency, for purposes of the California Public Records Act, to retain and preserve for at least 2 years every public record, as defined, that is transmitted by electronic mail.

AB 1190 (Irwin D) Unmanned aircraft: state and local regulation: limitations.

Introduced: 2/21/2019

Last Amend: 5/1/2019

Status: 6/19/2019-Referred to Com. on RLS.

Location: 5/24/2019-S. RLS.

Summary: Would, among other things, prohibit a state or local agency from adopting any law or regulation that bans the operation of an unmanned aircraft system. The bill would also authorize a local agency to adopt regulations to enforce FAA regulations regarding the operation of unmanned aircraft systems and would authorize local agencies to regulate the operation of unmanned aircraft and unmanned aircraft systems within their jurisdictions, as specified. The bill would also authorize a local agency to require an unmanned aircraft operator to provide proof of federal, state, or local registration to licensing or enforcement officials.

AB 1197 (Santiago D) California Environmental Quality Act: exemption: City of Los Angeles: supportive housing and emergency shelters.

Introduced: 2/21/2019

Last Amend: 9/6/2019

Status: 9/26/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 340, Statutes of 2019.

Location: 9/26/2019-A. CHAPTERED

Summary: The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. This bill would, until January 1, 2025, exempt from the requirements of CEQA certain activities approved or carried out by the City of Los Angeles and other eligible public agencies, as defined, related to supportive housing and emergency shelters, as defined.

AB 1237 (Aguiar-Curry D) Greenhouse Gas Reduction Fund: guidelines.

Introduced: 2/21/2019

Last Amend: 8/13/2019

Status: 9/27/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 357, Statutes of 2019.

Location: 9/27/2019-A. CHAPTERED

Summary: Current law requires the Department of Finance to annually submit a report to the appropriate committees of the Legislature on the status of the projects funded with moneys from the Greenhouse Gas Reduction Fund. This bill, no later than January 1, 2021, would require an agency that receives an appropriation from the Greenhouse Gas Reduction Fund to post on the internet website of the agency's program from which moneys from the fund are being allocated the guidelines, as specified, for how moneys from the fund are allocated for competitive financing programs, as specified.

AB 1244 **(Fong R) Environmental quality: judicial review: housing projects.**

Introduced: 2/21/2019

Status: 5/3/2019-Failed Deadline pursuant to Rule 61(a)(3). (Last location was NAT. RES. on 3/11/2019)(May be acted upon Jan 2020)

Location: 5/3/2019-A. 2 YEAR

Summary: Would, in an action or proceeding seeking judicial review under the California Environmental Quality Act, prohibit a court from staying or enjoining a housing project for which an environmental impact report has been certified, unless the court makes specified findings.

AB 1254 **(Kamlager-Dove D) Bobcats: take prohibition: hunting season: management plan.**

Introduced: 2/21/2019

Last Amend: 9/5/2019

Status: 10/12/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 766, Statutes of 2019.

Location: 10/12/2019-A. CHAPTERED

Summary: Current law authorizes nongame mammals, among other specified species, that are found to be injuring growing crops or other property to be taken at any time or in any manner by specified persons in accordance with the Fish and Game Code and regulations adopted pursuant to that code. Current law authorizes the department to enter into cooperative agreements with any state or federal agency for the purpose of controlling harmful nongame mammals. Current law also authorizes the department to enter into cooperative contracts with the United States Fish and Wildlife Service for the control of nongame mammals. This bill would make it unlawful to hunt, trap, or otherwise take a bobcat, except under specified circumstances, including under a depredation permit. The bill, upon appropriation of funds by the Legislature for this purpose, commencing January 1, 2025, would authorize the commission to open a bobcat hunting season in any area determined by the commission to require a hunt, as specified.

AB 1260 **(Maienschein D) Endangered wildlife.**

Introduced: 2/21/2019

Last Amend: 4/11/2019

Status: 10/12/2019-Approved by the Governor. Chaptered by Secretary of State - Chapter 767, Statutes of 2019.

Location: 10/12/2019-A. CHAPTERED

Summary: Would, commencing January 1, 2022, make it a misdemeanor to import into the state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body or other part or product of an iguana, skink, caiman, hippopotamus, or a Teju, Ring, or Nile lizard. By creating a new crime, the bill would impose a state-mandated local program.

AB 1305 **(Obernolte R) Junior hunting licenses: eligibility: age requirement.**

Introduced: 2/22/2019

Last Amend: 6/18/2019

Status: 6/19/2019-Withdrawn from committee. Re-referred to Com. on RLS.

Location: 6/19/2019-S. RLS.

Summary: Current law requires the Department of Fish and Wildlife to issue various types of hunting licenses, including a discounted hunting license known as a junior hunting license, upon payment of a certain fee from an eligible applicant. Current law provides that, until July 1, 2020, a person is eligible for a junior hunting license if the person is under 18 years of age on July 1 of the licensing year. Existing law provides that, on and after July 1, 2020, a person is eligible for a junior hunting license if the person is under 16 years of age on July 1 of the licensing year. Current law makes conforming changes to certain other types of hunting licenses as a result of the age change for a junior hunting license. This bill would extend the eligibility for a junior hunting license to a person who is under 18 years of age on July 1 of the licensing year until July 1, 2021.

AB 1387 (Wood D) Sport fishing licenses: 12-consecutive-month licenses.

Introduced: 2/22/2019

Last Amend: 5/20/2019

Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was N.R. & W. on 6/12/2019)(May be acted upon Jan 2020)

Location: 7/10/2019-S. 2 YEAR

Summary: Current law requires a resident or a nonresident, 16 years of age or older, upon payment of a specified fee, to be issued a sport fishing license for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof. Existing law also requires the issuance of shorter term licenses upon payment of a specified lesser fee. This bill, in addition to sport fishing licenses for the periods specified above, would require a sport fishing license to be issued to a resident or nonresident for the period of 12 consecutive months, upon payment of a fee that is equal to 130% of the fees for issuance of resident or nonresident calendar-year sport fishing licenses, as applicable.

AB 1472 (Stone, Mark D) California Dungeness Crab Commission.

Introduced: 2/22/2019

Last Amend: 6/19/2019

Status: 9/15/2019-Failed Deadline pursuant to Rule 61(a)(15). (Last location was INACTIVE FILE on 9/12/2019)(May be acted upon Jan 2020)

Location: 9/15/2019-A. 2 YEAR

Summary: Would create the California Dungeness Crab Commission. The bill would specify the membership, powers, duties, and responsibilities of the commission. The commission would be authorized to approve the payment of a stipend to commission members, as specified. The commission also would be authorized to carry out programs of education, public information, promotion, marketing, and research relating to Dungeness crab. The bill would authorize the commission to levy an assessment, as specified, on Dungeness crab fishers, as defined, and would authorize the expenditure of those moneys for the purposes of carrying out the commission's powers, duties, and responsibilities, thereby making an appropriation.

AB 1549 (O'Donnell D) Wildlife: deer: Santa Catalina Island: report.

Introduced: 2/22/2019

Last Amend: 3/21/2019

Status: 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/24/2019)(May be acted upon Jan 2020)

Location: 5/17/2019-A. 2 YEAR

Summary: Would require the Department of Fish and Wildlife to develop, by January 1, 2022, a report, in consultation with other relevant state agencies, local governments, federal agencies, nongovernmental organizations, landowners, and scientific entities, to inform and coordinate management decisions regarding deer on Santa Catalina Island that includes, among other things, estimates of the historic, current, and future deer population on the island and an assessment of the overall health of the deer population on the island.

- AB 1561** (**Rubio, Blanca** D) **Endangered wildlife: crocodiles and alligators.**
Introduced: 2/22/2019
Last Amend: 9/6/2019
Status: 9/9/2019-Read second time. Ordered to third reading. Re-referred to Com. on RLS. pursuant to Senate Rule 29.10(c).
Location: 9/9/2019-S. RLS.
Summary: Would delay the commencement of the prohibition on importing into the state for commercial purposes, possessing with intent to sell, or selling within the state, the dead body, or a part or product thereof, of a crocodile or alligator until January 1, 2021. This bill contains other related provisions.
- AB 1612** (**Quirk** D) **Department of Fish and Wildlife: Invasive Species Response Fund.**
Introduced: 2/22/2019
Last Amend: 3/28/2019
Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W., P. & W. on 3/28/2019)(May be acted upon Jan 2020)
Location: 4/26/2019-A. 2 YEAR
Summary: Would establish the Invasive Species Response Fund in the State Treasury and would continuously appropriate money deposited in the fund to the Department of Fish and Wildlife to respond to nonnative vertebrate species invasions in coordination with other relevant government agencies. The bill would require any money received by the department from the federal government for the purpose of controlling and eradicating nonnative vertebrate species to be deposited in the fund.
- AB 1657** (**Garcia, Eduardo** D) **Salton Sea: Office of the Salton Sea: Salton Sea Oversight Committee.**
Introduced: 2/22/2019
Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was N.R. & W. on 6/12/2019)(May be acted upon Jan 2020)
Location: 7/10/2019-S. 2 YEAR
Summary: The Salton Sea Restoration Act requires the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. This bill would establish an Office of the Salton Sea within the Natural Resources Agency. The bill would require the secretary to establish a Salton Sea Oversight Committee.
- AB 1788** (**Bloom** D) **Pesticides: use of anticoagulants.**
Introduced: 2/22/2019
Last Amend: 6/24/2019
Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. on 7/9/2019)(May be acted upon Jan 2020)
Location: 8/30/2019-S. 2 YEAR
Summary: Current law prohibits the use of any pesticide that contains one or more of specified anticoagulants in wildlife habitat areas, as defined. Current law exempts from this prohibition the use of these pesticides for agricultural activities, as defined. Existing law requires the director, and each county agricultural commissioner under the direction and supervision of the director, to enforce the provisions regulating the use of pesticides. This bill would create the California Ecosystems Protection Act of 2019 and expand this prohibition against the use of a pesticide containing specified anticoagulants in wildlife habitat areas to the entire state.
- AB 1798** (**Levine** D) **California Racial Justice Act: death penalty.**
Introduced: 2/22/2019
Last Amend: 3/21/2019

Status: 5/17/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/1/2019)(May be acted upon Jan 2020)

Location: 5/17/2019-A. 2 YEAR

Summary: Would prohibit a person from being executed pursuant to a judgment that was either sought or obtained on the basis of race if the court makes a finding that race was a significant factor in seeking or imposing the death penalty. The bill would provide that a finding that race was a significant factor would include statistical evidence or other evidence that death sentences were sought or imposed significantly more frequently upon persons of one race than upon persons of another race or that race was a significant factor in decisions to exercise preemptory challenges during jury selection.

SB 1

(Atkins D) California Environmental, Public Health, and Workers Defense Act of 2019.

Introduced: 12/3/2018

Last Amend: 9/10/2019

Status: 9/27/2019-Vetoed by the Governor. In Senate. Consideration of Governor's veto pending.

Location: 9/27/2019-S. VETOED

Summary: Current state law regulates the discharge of air pollutants into the atmosphere. The Porter-Cologne Water Quality Control Act regulates the discharge of pollutants into the waters of the state. The California Safe Drinking Water Act establishes standards for drinking water and regulates drinking water systems. The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and generally prohibits the taking of those species. This bill would, until January 20, 2025, require specified agencies to take prescribed actions regarding certain federal requirements and standards pertaining to air, water, and protected species, as specified. By imposing new duties on local agencies, this bill would impose a state-mandated local program.

SB 4

(McGuire D) Housing.

Introduced: 12/3/2018

Last Amend: 4/10/2019

Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was GOV. & F. on 4/2/2019)(May be acted upon Jan 2020)

Location: 4/26/2019-S. 2 YEAR

Summary: Would authorize a development proponent of a neighborhood multifamily project or eligible transit-oriented development (TOD) project located on an eligible parcel to submit an application for a streamlined, ministerial approval process that is not subject to a conditional use permit. The bill would define a "neighborhood multifamily project" to mean a project to construct a multifamily unit of up to 2 residential dwelling units in a nonurban community, as defined, or up to 4 residential dwelling units in an urban community, as defined, that meets local height, setback, and lot coverage zoning requirements as they existed on July 1, 2019.

SB 19

(Dodd D) Water resources: stream gages.

Introduced: 12/3/2018

Last Amend: 6/11/2019

Status: 9/27/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 361, Statutes of 2019.

Location: 9/27/2019-S. CHAPTERED

Summary: Would require the Department of Water Resources and the State Water Resources Control Board, upon an appropriation of funds by the Legislature, to develop a plan to deploy a network of stream gages that includes a determination of funding needs and opportunities for modernizing and reactivating existing gages and deploying new gages, as specified. The bill would require the department and the board, in consultation with the Department of Fish and Wildlife, the Department of Conservation, the Central Valley Flood Protection Board, interested stakeholders, and, to the extent they wish to consult, local agencies, to develop the plan to

address significant gaps in information necessary for water management and the conservation of freshwater species.

SB 45

(Allen D) Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020.

Introduced: 12/3/2018

Last Amend: 9/10/2019

Status: 9/10/2019-Senate Rule 29.3(b) suspended. (Ayes 29. Noes 8.) From committee with author's amendments. Read second time and amended. Re-referred to Com. on APPR.

Location: 4/25/2019-S. APPR.

Summary: Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$4,189,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

SB 50

(Wiener D) Planning and zoning: housing development: streamlined approval: incentives.

Introduced: 12/3/2018

Last Amend: 6/4/2019

Status: 6/4/2019-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/13/2019)(May be acted upon Jan 2020)

Location: 6/4/2019-S. 2 YEAR

Summary: Would authorize a development proponent of a neighborhood multifamily project located on an eligible parcel to submit an application for a streamlined, ministerial approval process that is not subject to a conditional use permit. The bill would define a "neighborhood multifamily project" to mean a project to construct a multifamily structure on vacant land, or to convert an existing structure that does not require substantial exterior alteration into a multifamily structure, consisting of up to 4 residential dwelling units and that meets local height, setback, and lot coverage zoning requirements as they existed on July 1, 2019.

SB 62

(Dodd D) Endangered species: accidental take associated with routine and ongoing agricultural activities: state safe harbor agreements.

Introduced: 1/3/2019

Last Amend: 4/3/2019

Status: 7/30/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 137, Statutes of 2019.

Location: 7/30/2019-S. CHAPTERED

Summary: The California Endangered Species Act requires the Department of Fish and Wildlife to adopt regulations for the issuance of incidental take permits. The act also provides, until January 1, 2020, that the accidental take of candidate, threatened, or endangered species resulting from an act that occurs on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by the act. This bill would extend this exception to January 1, 2024, and would limit this exception to an act by a person acting as a farmer or rancher, a bona fide employee of a farmer or rancher, or an individual otherwise contracted by a farmer or rancher.

SB 69

(Wiener D) Ocean Resiliency Act of 2019.

Introduced: 1/9/2019

Last Amend: 7/11/2019

Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/21/2019)(May be acted upon Jan 2020)

Location: 8/30/2019-A. 2 YEAR

Summary: Current law requires the Fish and Game Commission to establish fish hatcheries for the purposes of stocking the waters of California with fish, and requires the Department of Fish

and Wildlife to maintain and operate those hatcheries. This bill would require the department to develop and implement a plan, in collaboration with specified scientists, experts, and representatives, as part of its fish hatchery operations for the improvement of the survival of hatchery-produced salmon, and the increased contribution of the hatchery program to commercial and recreational salmon fisheries.

- SB 85** (Committee on Budget and Fiscal Review) **Public resources: omnibus trailer bill.**
Introduced: 1/10/2019
Last Amend: 6/11/2019
Status: 6/27/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 31, Statutes of 2019.
Location: 6/27/2019-S. CHAPTERED
Summary: Would require the Controller to continue to annually transfer \$30,000,000 from the General Fund, less any amount transferred to the Habitat Conservation Fund from specified accounts and funds, to the Habitat Conservation Fund until June 30, 2030, and would continuously appropriate that amount on an annual basis in the same proportions to the specified entities until July 1, 2030. The bill would also make conforming and nonsubstantive changes.
- SB 183** (Borgeas R) **Property: wild animals.**
Introduced: 1/29/2019
Status: 2/6/2019-Referred to Com. on RLS.
Location: 1/29/2019-S. RLS.
Summary: Current law provides that animals that are wild by nature may be the subject of ownership while those animals are living only in specified circumstances. This bill would make nonsubstantive changes to that provision of law.
- SB 195** (Nielsen R) **Sierra Nevada Conservancy.**
Introduced: 1/31/2019
Status: 2/13/2019-Referred to Com. on RLS.
Location: 1/31/2019-S. RLS.
Summary: Current law establishes the Sierra Nevada Conservancy and prescribes the functions and duties of the conservancy with regard to the preservation of specified lands in the Sierra Nevada Region, as defined. Current law makes specified findings and declarations relating to the importance and significance of the Sierra Nevada Region and the need to protect, conserve, restore, and enhance lands within the region. This bill would make nonsubstantive changes in those findings and declarations.
- SB 198** (Bates R) **California Environmental Quality Act: historical resources.**
Introduced: 1/31/2019
Status: 2/13/2019-Referred to Com. on RLS.
Location: 1/31/2019-S. RLS.
Summary: CEQA provides that a project may have a significant effect on the environment if the project may cause a substantial adverse change in the significance of a historical resource. This bill would make nonsubstantive changes in the provision relating to historical resources.
- SB 226** (Nielsen R) **Watershed restoration: wildfires: grant program.**
Introduced: 2/7/2019
Last Amend: 7/3/2019
Status: 8/30/2019-Failed Deadline pursuant to Rule 61(a)(12). (Last location was APPR. SUSPENSE FILE on 8/14/2019)(May be acted upon Jan 2020)
Location: 8/30/2019-A. 2 YEAR
Summary: Would, upon appropriation by the Legislature, require the National Resources Agency to develop and implement a watershed restoration grant program, as provided, for purposes of awarding grants to eligible counties, as defined, to assist them with watershed restoration on

watersheds that have been affected by wildfire, as specified. The bill would require the agency to develop guidelines for the grant program, as provided. The bill would require an eligible county receiving funds pursuant to the grant program to submit annually to the agency a report regarding projects funded by the grant program, as provided.

SB 230 **(Caballero D) Law enforcement: use of deadly force: training: policies.**

Introduced: 2/7/2019

Last Amend: 9/3/2019

Status: 9/13/2019-Chaptered by Secretary of State. Chapter 285, Statutes of 2019.

Location: 9/12/2019-S. CHAPTERED

Summary: Would, by no later than January 1, 2021, require each law enforcement agency to maintain a policy that provides guidelines on the use of force, utilizing deescalation techniques and other alternatives to force when feasible, specific guidelines for the application of deadly force, and factors for evaluating and reviewing all use of force incidents, among other things. The bill would require each agency to make their use of force policy accessible to the public. By imposing additional duties on local agencies, this bill would create a state-mandated local program.

SB 243 **(Borgeas R) San Joaquin River Conservancy.**

Introduced: 2/11/2019

Status: 2/21/2019-Referred to Com. on RLS.

Location: 2/11/2019-S. RLS.

Summary: Current law establishes the San Joaquin River Conservancy and prescribes the functions and responsibilities of the conservancy with regard to the protection and conservation of public lands in the San Joaquin River Parkway, as described. Current law requires the conservancy to administer any funds appropriated to it and any revenue generated by member agencies of the conservancy for the parkway and contributed to the conservancy, and authorizes the conservancy to expend those funds for capital improvements, land acquisitions, or support of the conservancy's operations. This bill would make a nonsubstantive change in that provision requiring the conservancy to administer those funds.

SB 247 **(Dodd D) Wildland fire prevention: vegetation management.**

Introduced: 2/11/2019

Last Amend: 9/3/2019

Status: 10/2/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 406, Statutes of 2019.

Location: 10/2/2019-S. CHAPTERED

Summary: Would require an electrical corporation, within one month of the completion of each substantial portion of the vegetation management requirements in its wildfire mitigation plan, to notify the Wildfire Safety Division of the completion. The bill would require the division to audit the completed work and would require the audit to specify any failure of the electrical corporation to fully comply with the vegetation management requirements. The bill would require the division to provide the audit to the electrical corporation and to provide the electrical corporation a reasonable time period to correct and eliminate deficiencies specified in the audit.

SB 262 **(McGuire D) Marine resources: commercial fishing and aquaculture: regulation of operations.**

Introduced: 2/12/2019

Last Amend: 9/3/2019

Status: 10/2/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 472, Statutes of 2019.

Location: 10/2/2019-S. CHAPTERED

Summary: Current law regulating commercial fishing imposes, or authorizes the imposition of, various license, permit, and registration fees. Current law requires specified persons to pay

landing fees relating to the sale of fish quarterly to the Department of Fish and Wildlife, based on a rate schedule applicable to listed aquatic species. Current law authorizes the department to assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold, not to exceed the rates provided in the rate schedule applicable to wild-caught aquatic species. This bill would make that landing fee rate schedule applicable to the 2020 calendar year, and require that the schedule be adjusted annually thereafter pursuant to that specified federal index.

SB 307 (Roth D) Water conveyance: use of facility with unused capacity.

Introduced: 2/15/2019

Last Amend: 4/30/2019

Status: 7/31/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 169, Statutes of 2019.

Location: 7/31/2019-S. CHAPTERED

Summary: Current law prohibits the state or a regional or local public agency from denying a bona fide transferor of water from using a water conveyance facility that has unused capacity for the period of time for which that capacity is available, if fair compensation is paid for that use and other requirements are met. This bill would, notwithstanding that provision, prohibit a transferor of water from using a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands, as defined, that is in the vicinity of specified federal lands or state lands to outside of the groundwater basin unless the State Lands Commission, in consultation with the Department of Fish and Wildlife and the Department of Water Resources, finds that the transfer of the water will not adversely affect the natural or cultural resources of those federal or state lands, as provided.

SB 313 (Hueso D) Animals: prohibition on use in circuses.

Introduced: 2/15/2019

Last Amend: 8/12/2019

Status: 10/12/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 768, Statutes of 2019.

Location: 10/12/2019-S. CHAPTERED

Summary: Would prohibit a person from sponsoring, conducting, or operating a circus, as defined, in this state that uses any animal other than a domestic dog, domestic cat, or domesticated horse. The bill would prohibit a person from exhibiting or using any animal other than a domestic dog, domestic cat, or domesticated horse in a circus in this state. The bill would authorize a civil penalty against a person who violates these prohibitions pursuant to an action brought by the Attorney General, the Department of Fish and Wildlife, the Department of Food and Agriculture, a district attorney, a city attorney, or a city prosecutor.

SB 395 (Archuleta D) Wild game mammals: accidental taking and possession of wildlife: collision with a vehicle: wildlife salvage permits.

Introduced: 2/20/2019

Last Amend: 9/6/2019

Status: 10/13/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 869, Statutes of 2019.

Location: 10/13/2019-S. CHAPTERED

Summary: Would, upon appropriation by the Legislature, authorize the Fish and Game Commission to establish, in consultation with specified public agencies and stakeholders, a pilot program no later than January 1, 2022, for the issuance of wildlife salvage permits through a user-friendly and cell-phone-friendly web-based portal developed by the Department of Fish and Wildlife to persons desiring to recover, possess, use, or transport, for purposes of salvaging wild game meat for human consumption of, any deer, elk, pronghorn antelope, or wild pig that has been accidentally killed as a result of a vehicle collision on a roadway within California.

- SB 402** **(Borgeas R) Vehicles: off-highway vehicle recreation: County of Inyo.**
Introduced: 2/20/2019
Last Amend: 5/13/2019
Status: 8/30/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 211, Statutes of 2019.
Location: 8/30/2019-S. CHAPTERED
Summary: Current law, until January 1, 2020, authorizes the County of Inyo to establish a pilot project that would exempt specified combined-use highways in the unincorporated area in the County of Inyo from this prohibition to link together existing roads in the unincorporated portion of the county to existing trails and trailheads on federal Bureau of Land Management or United States Forest Service lands in order to provide a unified linkage of trail systems for off-highway motor vehicles, as prescribed. Current law requires the County of Inyo, in consultation with the Department of the California Highway Patrol, the Department of Transportation, and the Department of Parks and Recreation, to prepare and submit to the Legislature a report evaluating the effectiveness of the pilot project by January 1, 2019, as specified. This bill would extend the operation of that pilot project until January 1, 2025, and would require the County of Inyo, in consultation with the above-mentioned entities, to submit an additional evaluation report to the Legislature by January 1, 2024.
- SB 410** **(Nielsen R) Hunting and fishing guides.**
Introduced: 2/20/2019
Status: 4/26/2019-Failed Deadline pursuant to Rule 61(a)(2). (Last location was N.R. & W. on 2/28/2019)(May be acted upon Jan 2020)
Location: 4/26/2019-S. 2 YEAR
Summary: Currentlaw requires a person who engages in the business of guiding or packing, or who acts as a guide for any consideration or compensation, to first obtain a guide license from the Department of Fish and Wildlife before engaging in those activities. Current law requires an application for a guide license to contain specified information and requires an applicant to submit proof of having obtained a surety bond in the amount of not less than \$1,000 as a condition of receiving a license. Under current law, a guide license is valid from February 1 to January 31 of the succeeding year or, if issued after February 1, for the remainder of the license year. This bill would change the valid period of a guide license to the period of a calendar year, as provided, and would make related conforming changes.
- SB 416** **(Hueso D) Employment: workers' compensation.**
Introduced: 2/20/2019
Last Amend: 9/5/2019
Status: 9/15/2019-Failed Deadline pursuant to Rule 61(a)(15). (Last location was DESK on 9/13/2019)(May be acted upon Jan 2020)
Location: 9/15/2019-A. 2 YEAR
Summary: Current law establishes a workers' compensation system to compensate employees for injuries sustained arising out of and in the course of their employment. Existing law designates illnesses and conditions that constitute a compensable injury for various employees, such as members of the Department of the California Highway Patrol, firefighters, and certain peace officers. These injuries include, but are not limited to, hernia, pneumonia, heart trouble, cancer, meningitis, and exposure to biochemical substances, when the illness or condition develops or manifests itself during a period when the officer or employee is in service of the employer, as specified. Would expand the coverage of the above provisions relating to compensable injuries to include all persons defined as peace officers under certain provisions of law, except as specified. This bill contains other related provisions and other existing laws.
- SB 474** **(Stern D) The California Wildlife Protection Act of 1990: Habitat Conservation Fund.**
Introduced: 2/21/2019
Last Amend: 5/21/2019

Status: 7/10/2019-Failed Deadline pursuant to Rule 61(a)(10). (Last location was W.,P. & W. on 6/6/2019)(May be acted upon Jan 2020)

Location: 7/10/2019-A. 2 YEAR

Summary: Would establish the Wildlife Protection Subaccount in the Habitat Conservation Fund and would require the Controller, if an appropriation is made for this purpose in any fiscal year, to transfer \$30,000,000 from the General Fund to the subaccount, less any amount transferred from specified accounts and funds, to be expended by the board for the acquisition, enhancement, or restoration of wildlife habitat.

SB 518 (**Wieckowski D**) **Civil actions: settlement offers.**

Introduced: 2/21/2019

Last Amend: 6/20/2019

Status: 10/12/2019-Vetoed by the Governor. In Senate. Consideration of Governor's veto pending.

Location: 10/12/2019-S. VETOED

Summary: Current law, in a civil action to be resolved by trial or arbitration, authorizes a party to serve an offer in writing on any other party to the action to allow judgment to be taken or an award to be entered in accordance with the terms and conditions stated at the time. Existing law shifts specified postoffer costs to a plaintiff who does not accept a defendant's offer if the plaintiff fails to obtain a more favorable judgment or award. Current law also authorizes a court or arbitrator to order a party who does not accept the opposing party's offer and fails to obtain a more favorable judgment or award to cover the postoffer costs for the services of expert witnesses, as specified. Current law exempts certain actions from those provisions, including any labor arbitration filed pursuant to a memorandum of understanding under the Ralph C. Dills Act. This bill would also exempt from those provisions any action to enforce the California Public Records Act.

SB 542 (**Stern D**) **Workers' compensation.**

Introduced: 2/22/2019

Last Amend: 9/6/2019

Status: 10/1/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 390, Statutes of 2019.

Location: 10/1/2019-S. CHAPTERED

Summary: Under current law, a person injured in the course of employment is generally entitled to receive workers' compensation on account of that injury. Current law provides that, in the case of certain state and local firefighting personnel and peace officers, the term "injury" includes various medical conditions that are developed or manifested during a period while the member is in the service of the department or unit, and establishes a disputable presumption in this regard. This bill would provide, only until January 1, 2025, that in the case of certain state and local firefighting personnel and peace officers, the term "injury" also includes post-traumatic stress that develops or manifests itself during a period in which the injured person is in the service of the department or unit. The bill would apply to injuries occurring on or after January 1, 2020.

SB 566 (**Borgeas R**) **Fish and Game Commission.**

Introduced: 2/22/2019

Status: 3/7/2019-Referred to Com. on RLS.

Location: 2/22/2019-S. RLS.

Summary: The California Constitution establishes the 5-member Fish and Game Commission, with members appointed by the Governor and approved by the Senate. Current statutory law states the intent of the Legislature to encourage the Governor and the Senate Committee on Rules to consider certain minimum qualifications in selecting, appointing, and confirming commissioners to serve on the commission. This bill would make a nonsubstantive change to this provision.

- [SB 587](#) (Monning D) California Sea Otter Fund.**
Introduced: 2/22/2019
Last Amend: 8/12/2019
Status: 8/12/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS.
Location: 2/22/2019-S. RLS.
Summary: Current law, until January 1, 2021, establishes the California Sea Otter Fund and allows individuals to designate on their personal income tax returns that a specified amount in excess of their tax liability be transferred to the fund. Current law requires money in that fund, upon appropriation by the Legislature, to be allocated to the Department of Fish and Wildlife for the purposes of establishing a sea otter fund to be used for sea otter conservation, and to the State Coastal Conservancy for competitive grants and contracts for research, projects, and programs related to the Federal Sea Otter Recovery Plan or improving the nearshore ocean ecosystem. This bill would extend the operation of these provisions to January 1, 2026.
- [SB 632](#) (Galgiani D) California Environmental Quality Act: State Board of Forestry and Fire Protection: vegetation treatment program: final program environmental impact report.**
Introduced: 2/22/2019
Last Amend: 7/11/2019
Status: 10/2/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 411, Statutes of 2019.
Location: 10/2/2019-S. CHAPTERED
Summary: Current law establishes the State Board of Forestry and Fire Protection and vests the board with authority over wildland forest resources. This bill would require the board, as soon as practicably feasible, but by no later than February 1, 2020, to complete its environmental review under CEQA and certify a specific final program environmental impact report for a vegetation treatment program. The bill would repeal these provisions on January 1, 2021.
- [SB 744](#) (Caballero D) Planning and zoning: California Environmental Quality Act: permanent supportive housing.**
Introduced: 2/22/2019
Last Amend: 7/11/2019
Status: 9/26/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 346, Statutes of 2019.
Location: 9/26/2019-S. CHAPTERED
Summary: CEQA requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. Current law authorizes the court, upon the motion of a party, to award attorney's fees to a prevailing party in an action that has resulted in the enforcement of an important right affecting the public interest if 3 conditions are met. This bill would specify that a decision of a public agency to seek funding from, or the department's awarding of funds pursuant to, the No Place Like Home Program is not a project for purposes of CEQA.
- [SB 757](#) (Allen D) Fish and Game Code: name change.**
Introduced: 2/22/2019
Status: 3/14/2019-Referred to Com. on RLS.
Location: 2/22/2019-S. RLS.
Summary: Current law establishes the Fish and Game Code. This bill would rename the Fish and Game Code as the Fish and Wildlife Code and would require that any reference to the Fish and Game Code in that code or any other code means the Fish and Wildlife Code.

SB 761 (Jones R) Forestry: exemptions: emergency notices: reporting.

Introduced: 2/22/2019

Status: 3/14/2019-Referred to Com. on RLS.

Location: 2/22/2019-S. RLS.

Summary: Current law authorizes a registered professional forester in an emergency to file, on behalf of a timber owner or operator, a specified emergency notice with the department that allows for the immediate commencement of timber operations. Current law requires the Department of Forestry and Fire Protection and State Board of Forestry and Fire Protection, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, commencing December 31, 2019, and annually thereafter, to review and submit a report to the Legislature on the trends in the use of, compliance with, and effectiveness of, these exemptions and emergency notice provisions, as specified. This bill would make nonsubstantive changes in that reporting requirement.

SB 785 (Committee on Natural Resources and Water) Public resources: parklands, freshwater resources, and coastal resources: off-highway motor vehicles: public lands.

Introduced: 3/11/2019

Last Amend: 9/3/2019

Status: 10/2/2019-Approved by the Governor. Chaptered by Secretary of State. Chapter 469, Statutes of 2019.

Location: 10/2/2019-S. CHAPTERED

Summary: Current law, until January 1, 2020, generally prohibits a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid mussels, and authorizes the Director of Fish and Wildlife or the director's designee to engage in various enforcement activities with regard to dreissenid mussels. Among those activities, current law authorizes the director to conduct inspections of waters of the state and facilities located within waters of the state that may contain dreissenid mussels and, if those mussels are detected or may be present, order the closure of the affected waters or facilities to conveyances or otherwise restrict access to the affected waters or facilities, with the concurrence of the Secretary of the Natural Resources Agency. This bill would extend to January 1, 2030, the repeal date of those provisions.

For more information call:

Clark Blanchard, CDFW Acting Deputy Director at (916) 651-7824

Julie Oltmann, CDFW Legislative Representative at (916) 653-9772

Kristin Goree, CDFW Legislative Coordinator at (916) 653-4183

You can also find legislative information on the web at <http://leginfo.legislature.ca.gov/> and follow the prompts from the 'bill information' link.

116TH CONGRESS
1ST SESSION

H. R. 3399

To amend the Nutria Eradication and Control Act of 2003 to include California in the program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2019

Mr. HARDER of California (for himself, Mr. COSTA, Mr. COX of California, and Mr. GARAMENDI) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Nutria Eradication and Control Act of 2003 to include California in the program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. NUTRIA ERADICATION IN CALIFORNIA.**

4 The Nutria Eradication and Control Act of 2003
5 (Public Law 108–16) is amended—

6 (1) in section 2—

7 (A) in subsection (a)—

8 (i) in paragraph (2), by striking
9 “Maryland and Louisiana” and inserting

1 “Maryland, Louisiana, and California”;
2 and

3 (ii) in paragraph (3), by striking
4 “Louisiana. Consequently, marsh loss is
5 accelerating.” and inserting “Louisiana
6 and California. Consequently, marsh loss,
7 loss of public and private wetlands, and
8 loss of agricultural lands are accel-
9 erating.”; and

10 (B) in subsection (b), by striking “the
11 State of Maryland and the State of Louisiana”
12 and inserting “Maryland, Louisiana, and Cali-
13 fornia”; and
14 (2) in section 3—

15 (A) by amending subsection (a) to read as
16 follows:

17 “(a) GRANT AUTHORITY.—The Secretary of the Inte-
18 rior (referred to in this Act as the ‘Secretary’), subject
19 to the availability of appropriations, may provide financial
20 assistance to Maryland, Louisiana, and California for a
21 program to implement measures to eradicate or control
22 nutria and restore marshland, public and private wetlands,
23 and agricultural lands damaged by nutria.”;

24 (B) by amending subsection (b) to read as
25 follows:

1 “(b) GOALS.—The goals of the program shall be to—

2 “(1) eradicate nutria in Maryland and Cali-
3 fornia;

4 “(2) eradicate or control nutria in Louisiana;
5 and

6 “(3) restore marshland, public and private wet-
7 lands, and agricultural lands damaged by nutria.”;
8 and

9 (C) in subsection (f), by striking “State of
10 Maryland” and all that follows and inserting
11 “Maryland program, \$2,000,000 for the Lou-
12 isiana program, and \$7,000,000 for the Cali-
13 fornia program for each of fiscal years 2020
14 through 2025.”

○

STAFF SUMMARY FOR **AUGUST 22-23, 2018****17. STRATEGIC PLANNING****Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for 2018-19 FGC meetings as FGC develops a new strategic plan. Today's discussion and potential action will take place in a workshop format.

Summary of Previous/Future Actions

- | | |
|--------------------------------------------------------------------------|---------------------------------|
| • First FGC strategic planning meeting | Feb 22, 2018; Sacramento |
| • Discussion held over to Jun meeting | Apr 18-19, 2018; Ventura |
| • Discussion of mission, vision, core values | Jun 20-21, 2018; Sacramento |
| • Today's discussion of potential mission, vision and core values | Aug 22-23, 2018; Fortuna |
| • Consider adopting mission, vision and core values | Oct 17-18, 2018; Fresno |

Background

FGC created its current strategic plan in 1998, which includes a mission statement and a vision statement. Over the ensuing 20 years, much has changed, not the least of which is a commission with broader authorities and a more ecosystem-based approach to addressing fish and wildlife issues. With the upcoming 150-year anniversary of FGC, the time is right to reassess its mission and vision statements, and to potentially adopt a set of core values or a core values statement.

At its Feb 22, 2018 strategic planning kickoff meeting, FGC discussed the overall goals of a new strategic plan and the type of strategic planning process in which to engage. FGC determined that it is seeking a streamlined planning process, given that there is significant information and input on which to build a new strategic plan, including the 2012 "California Fish and Wildlife Strategic Vision: Recommendations for Enhancing the State's Fish and Wildlife Management Agencies."

Today's meeting marks the second focused on potential changes to FGC's mission and vision (Exhibit 6) and a potential statement of core values. As requested during the Jun 2018 FGC meeting, staff has prepared a document that provides samples of mission and vision statements for other fish and game commissions in the United States as well as the U.S. Fish and Wildlife Service; in some cases, there is not a separate fish and game commission from the state's wildlife management agency (Exhibit 1).

After the Jun 2018 discussion, some commissioners were able to provide feedback on the current mission and vision statements, as well as potential core values (Exhibit 2) to help facilitate additional discussion during today's workshop. In addition, to complement the work of FGC, staff has reviewed and discussed potential changes to the mission and vision statements and identified potential core values (exhibits 3-5). These exhibits are meant to help facilitate an engaging discussion with commissioners to develop thoughtful and forward-thinking strategic planning documents.

STAFF SUMMARY FOR AUGUST 22-23, 2018

Today's discussion is being held in a workshop format so that commissioners, staff and stakeholders can have a direct dialogue about the ideas generated to date, to develop additional ideas, and provide guidance to staff on potential changes to the mission and vision statements and on potential core values. FGC is scheduled to consider adopting the mission, vision and core values at its Oct 17-18, 2018 meeting.

Significant Public Comments (N/A)**Recommendation (N/A)****Exhibits**

1. Samples of mission and vision statements and core values from other states, dated Aug 10, 2018
2. Input from commissioners on potential mission, vision and core values, dated Aug 13, 2018
3. Input from FGC staff on FGC vision, dated Aug 14, 2018
4. Input from FGC staff on FGC mission, dated Aug 14, 2018
5. Input from FGC staff on FGC potential core values, dated Aug 14, 2018
6. Current FGC mission and vision statements, adopted in 1998

Motion/Direction

Provide staff with direction on potential changes to the mission and vision statements, as well as core values.

California Fish and Game Commission

Commission Mission, Vision and Core Values

Adopted December 13, 2018

Mission

The mission of the California Fish and Game Commission, in partnership with the California Department of Fish and Wildlife, is to provide leadership for transparent and open dialogue where information, ideas and facts are easily available, understood and discussed to ensure that California will have abundant, healthy, and diverse fish and wildlife that thrive within dynamic ecosystems, managed with public confidence and participation, through actions that are thoughtful, bold, and visionary in an ever-changing environment.

We recognize our responsibility to hold California's fish and wildlife and their habitats in the public trust, as well as their cultural and intrinsic value, and therefore work collaboratively with other federal, tribal, state and local government agencies, non-governmental organizations and the people of California to establish scientifically-sound policies and regulations to protect, enhance and restore California's native fish and wildlife in their natural habitats, and to secure a rich and sustainable outdoor heritage for all generations to experience and enjoy through both consumptive and non-consumptive activities.

Vision

The vision of the California Fish and Game Commission is a healthy and biodiverse, natural California in which an array of native fish and wildlife thrive within dynamic ecosystems and inspire human interaction and enjoyment.

Core Values

Integrity

We hold ourselves to the highest ethical and professional standards, pledging to transparently fulfill our duties and deliver on our commitments to protect and hold California's fish and wildlife and their ecosystems in the public trust, to ensure consistency of expectations and outcomes. We ensure that our choice or order of decision-making does not arbitrarily prioritize one interest group over others. We hold ourselves accountable to act in accordance with our values and code of ethics, even when it is difficult. Our actions reflect honesty, truthfulness, respect and accuracy.

Transparency

We recognize the important and wide-ranging impacts the Commission's decisions have on California's wildlife, wildlife habitat and residents, and that these decisions should be made based on a variety of inputs in an open, inclusive and public process that solicits a diverse set of perspectives. We strive to communicate with our partners, our stakeholders and the public responsively and openly about how and why decisions are made. We use adaptive processes and consistently gather as much information as possible to ensure the Commission is best informed for thoughtful decision-making, while acknowledging that decisions are most often made with incomplete information.

Innovation

We respond to the ever-changing natural and human environments by evaluating the efficiency and effectiveness of our decisions and processes, identifying new ideas that challenge conventional wisdom and historical biases, and seeking opportunities for innovation. We recognize that innovation always involves some element of risk, and that creative problem-solving and implementing forward-thinking solutions where value is added is key to meeting the constantly evolving needs of our stakeholders and California's fish and wildlife. We take time to frame challenges, adapt, and execute new and useful ideas, including applying advances in sound science, evolving concepts of wildlife management, and public values toward wildlife in new and bold ways. We encourage novelty, creativity and flexibility as we proactively meet challenges and problem-solve.

Collaboration

We value collaboration, including teamwork and partnerships, in problem-solving and in developing policies and regulations. Teamwork is actively fostered and is one of the main ways we function. Collaborative efforts extend beyond the Commission and its staff to empower a diversity of stakeholders, other federal, tribal, state and local agencies, non-governmental organizations, and the people of California to participate in our problem-solving and decision-making processes and, where appropriate, engage in working groups that are inclusive and transparent.

We pursue productive and considerate partnerships, rather than relationships solely based on a formal legal agreement, and celebrate one another's successes as we take them to the next level together. A partnership is a mutually beneficial arrangement that leverages resources to achieve shared goals between and among the partners, based on mutual respect, open-mindedness, trust, and genuine appreciation of one another's contribution. Our primary partner is our sister agency, the California Department of Fish and Wildlife.

Excellence

We pursue quality, proactively assessing performance and striving to continuously improve the delivery of fair and accessible services, work products and decisions, as well as the efficiency and cost-effectiveness with which these are delivered. We are committed to being and delivering the best, and are diligent about creating better ways of doing what we do. We take pride in our efforts and what we make possible. We approach every challenge with an expectation and determination to succeed.

Stewardship

We hold the state's wildlife and their habitats and ecosystems in trust for the public, respecting that they have intrinsic value and are essential to the well-being of all California residents. We give attention to the environmental and human stressors, including climate change, development and other threats, that affect the resilience and health of our wildlife and their habitats and ecosystems. We use credible science, evolving concepts of wildlife management, and public values toward wildlife to evaluate programs, policies and regulations that will help achieve our stewardship goals. We recognize the dynamic nature of and stay abreast of changes in science, and that it should include the evaluation principles of relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation and peer review of information as appropriate.

STAFF SUMMARY FOR AUGUST 7-8, 2019

15. STRATEGIC PLANNING

Today's Item

Information ☒Action ☐

This is a standing agenda item for 2018-19 FGC meetings as FGC develops a new strategic plan. Today's discussion and potential action will take place in a workshop format, to receive input on a series of strategic planning questions that will help guide development of draft goals.

Summary of Previous/Future Actions

- | | |
|----------------------------------------------------|----------------------------------|
| • First FGC strategic planning meeting | Feb 22, 2018; Sacramento |
| • Discussion of draft mission, vision, core values | Jun, Aug, Oct 2018; various |
| • Adopted mission, vision, and core values | Dec 12-13, 2018; Oceanside |
| • Received updates | Feb, Apr, Jun 2019; various |
| • Today's input on seven key questions | Aug 7-8, 2019; Sacramento |

Background

In anticipation of FGC's upcoming 150-year anniversary in 2020, a strategic planning process was initiated in early 2018 (see Exhibit 1 for background). In the first of a three-phase process, FGC reassessed its mission and vision, and developed a set of core values, in concert with staff and stakeholders. Adopted in Dec 2018, the revised mission, vision, and new core values (Exhibit 2) are serving to guide a forward-thinking update to the strategic plan.

In Jun 2019, staff reported that the second phase of the planning process was ramping up, to consist primarily of data gathering and synthesis with staff, stakeholders and commissioners. Staff has been reviewing strategic plans developed by other wildlife-focused organizations, assessing surveys conducted through other strategic planning processes, developing a series of questions for an online survey as well as in-person and phone interviews, and creating lists of participants for the survey and interviews. The information gathered during this phase will be analyzed and used to help guide development of draft goals for FGC consideration.

This agenda item will be held in a workshop format, where commissioners can receive input from members of the public on seven key questions:

1. Briefly describe, in a few words or sentences, how you and/or your organization perceive FGC.
2. What do you believe are FGC's three greatest strengths?
3. What are FGC's three areas in greatest need of improvement?
4. What are the three greatest opportunities available to FGC as it moves forward over the next five years?
5. What are the three greatest obstacles FGC is facing in the next five years?
6. In the next five years, what goals do you believe should be the highest priority for FGC?

STAFF SUMMARY FOR AUGUST 7-8, 2019

7. What is your level of trust that FGC leaders are responsible stewards of the resources under their authority?

This item will begin at 3:00 p.m. or 30 minutes after the last agenda item heard today, whichever is later.

Significant Public Comments (N/A)

Recommendation

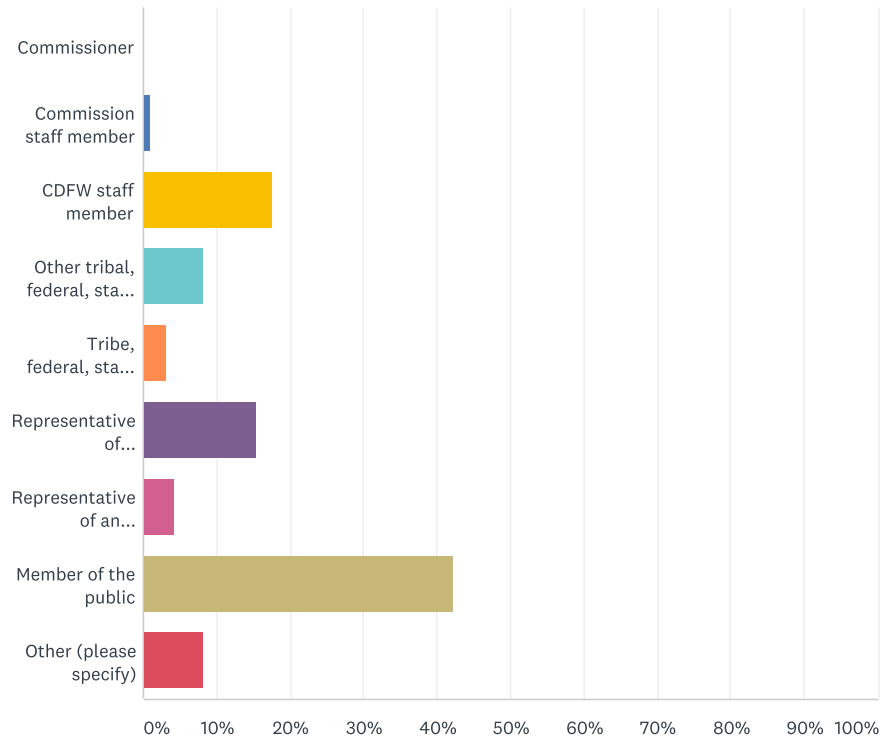
Exhibits

1. Staff summary from Agenda Item 23, Strategic Planning, June 12-13, 2019 (for background only)
2. FGC mission, vision and core values, adopted Dec 13, 2018

Motion/Direction (N/A)

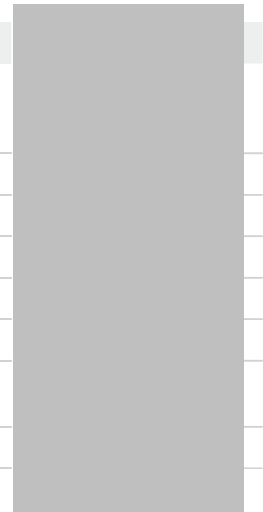
Q1 My primary (current or most recent) experience with the commission is/was as a:

Answered: 97 Skipped: 1



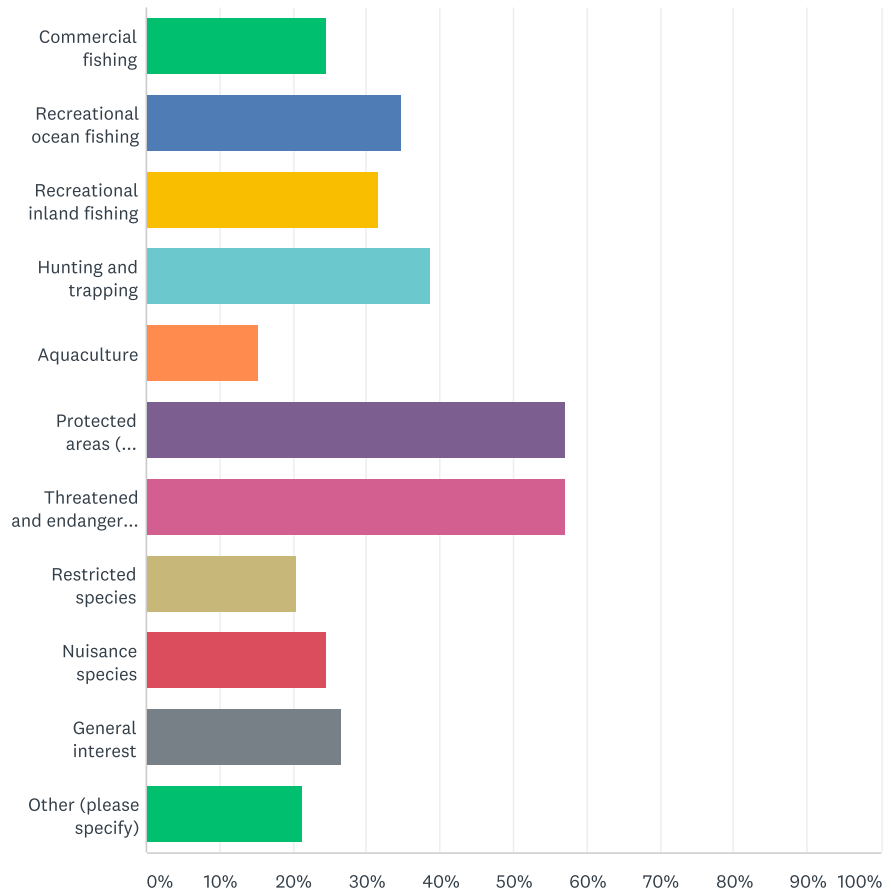
ANSWER CHOICES	RESPONSES	
Commissioner	0.00%	0
Commission staff member	1.03%	1
CDFW staff member	17.53%	17
Other tribal, federal, state, or local government agency staff member	8.25%	8
Tribe, federal, state, or local policymaker (legislator, legislative staff, council member, board member, etc.)	3.09%	3
Representative of non-government organization	15.46%	15
Representative of an ocean-dependent industry	4.12%	4
Member of the public	42.27%	41
Other (please specify)	8.25%	8
TOTAL		97

#	OTHER (PLEASE SPECIFY)
1	Fly Fishing Club interested in regulation changes in order to better save Coho Salmon and Steelhead populations. Please eliminate bait angling in the Steelhead season regulations.
2	County Fish and Game Commissioner
3	Biological Monitor - [REDACTED]
4	Fishing / hiking resort owner and avid fisherman
5	University faculty
6	Marine scientist
7	Those in charge of the poisoning of Lake Davis and the attorneys they hired to defend the lawsuit by 30-some damaged private businesses in Plumas County
8	Hunter Education Instructor



Q2 What subjects under the authority of the Commission are of greatest interest to you or your organization?

Answered: 98 Skipped: 0



ANSWER CHOICES	RESPONSES	
Commercial fishing	24.49%	24
Recreational ocean fishing	34.69%	34
Recreational inland fishing	31.63%	31
Hunting and trapping	38.78%	38
Aquaculture	15.31%	15
Protected areas (wildlife areas, ecological reserves, marine protected areas)	57.14%	56
Threatened and endangered species	57.14%	56
Restricted species	20.41%	20
Nuisance species	24.49%	24
General interest	26.53%	26
Other (please specify)	21.43%	21
Total Respondents: 98		

#	OTHER (PLEASE SPECIFY)	
1	1602 permitting	
2	Fish and Wildlife Public Education Programs - Especially in the Public School System	
3	Birds of Special Concern	
4	Changes within the Department regarding hatchery infrastructure and the upgrade of the stocking for all inland waters for anglers, we pay a good price the 3rd highest in the US for our fishing licenses and the return is minimal.	
5	Access to important mineral resources within protected areas.	
6	Abalone	
7	Timberland Conservation	
8	laws passed about hunting and fishing you never saw first.	
9	Recreational multi-use trail opportunity on public lands	
10	Purple Urchin Barren/ Kelp Forest Crisis	
11	Water Use	
12	Habitat protection from vineyard development.	
13	foraging wood off the beaches	
14	Scuba diving and Abalone diving	
15	Ensuring wildlife exists for and is accessible to all.	
16	Marine fisheries management	
17	Habitat restoration and preservation	
18	Poisoning of CA Lakes to eradicate Pike or invasive species.	
19	Tribal Traditional subsistence and ceremonial fishing, gathering and uses	
20	Wildlife conservation in general	
21	re-establish native species	

Q3 What do you believe are the Commission's greatest strengths? (List up to three)

Answered: 89 Skipped: 9

#	RESPONSES
1	I'm not sure yet. Need to focus on protecting the water supply for steelhead and coho, and the habitat they live in.
2	Hunting and fishing regulations
3	Transparency and availability of briefing documents, ISORs etc.
4	unknown
5	1. Listening to all concerned parties. 2. Decisions based on best science. 3. Transparency.
6	Being from the public sector.
7
8	Calling the public's attention to issues. Protecting wildlife and endangered species. Keeping wild areas accessible to me, my children and grandchildren.
9	Setting Policy For The Dept. of Fish and Wildlife
10	Have had good staff work.
11	N/A
12	Current leadership, diversity, long history of wildlife conservation and management direction
13	Management of species Preservation of ecosystems Arbitrator between, commercial, recreational and environmental groups
14	Budget recommendations regarding F&G in California
15	The ability to combine policy and science into meaningful decision-making.
16	Hopefully they include fishing and hunting not just the copious amounts of conservation and special interests within what the DFW has aligned themselves with that you must protect. I would like to see more info on their Bio's as to their fishing and hunting interests, so I'm lacking in their strengths.
17	changing venues to allow the public to attend without having to travel great distances to voice opinions and participate.
18	Open to listening to the greater outdoor community
19	Involvement with CDFW planning and resource protection.
20	i don't know.
21	Make sound decisions based on peer reviewed science and management practices
22	the amount of lands owned
23	not sure
24	Their greatest strength is coming up with fair bag limits for fishing and hunting.
25	The support of the commercial fishing industry.
26	1) Responsiveness to Stakeholders 2) Knowledgeable personnel 3) Collaboration with professionals from other agencies
27	not sure looks like the special interest groups have more control over wild life management than you do.
28	1. statutory authority 2. independence 3. public transparency
29	Communication with the public & tribes seems to be good.
30	The power it could have for change
31	The commission has the ability, if left to do its job, to increase the health of wildlife and habitat both inshore and offshore as well as the proper science based wildlife management of CA diverse habitat.

32	Preservation
33	There are none. Worst state agency we've ever dealt with.
34	None. The commission continues to ignore all public comments. They continue to submit meeting documents stating no substantial public input when this is far from the truth
35	In my limited experience, staff was competent. I saw leadership from the Chair.
36	1) The commission's openness and respect when speaking to the public is by far one of its greatest strength. It has not always been so, and as a woman who represents an NGO, I can say with confidence that I have always felt heard and respected when speaking at meetings. 2) The commissions clear interest in protecting our state's vulnerable species is an obvious strength, and I hope to see it continue to strengthen.
37	Ability to weigh access with protection
38	Information gathering Information analysis Environmental recovery
39	The ability to both have a public forum for discussion of relevant issues, and to utilize the expertise of the Department of Fish and Wildlife staff.
40	They are in California.
41	Grant program
42	None right now
43	Unknown
44	Providing venues for constructive public input on ocean/land management for recreational hunting, harvesting (especially of red abalone) and fishing.
45	reliance on latest science representation of hunters and fishers listen to all sides in meetings
46	The ability to protect our resources. The ability to protect our wildlife and the authority to do it
47	don't know
48	No idea
49	Set regulations to best ensure viable and healthy fish and wildlife populations to insure a resource that will thrive.
50	not acting on marine issues
51	Political correctness
52	Big game management Trout planting program
53	I don't know if there are any--I've been a local commissioner and feel like policy is set in a vacuum.
54	Ability to work cooperatively with California Fish and Wildlife Department
55	Members of the public; non-partisan; ability to translate the science of the DFW into actions understood by the public.
56	You have thousands of people who pay you to do your job of insuring hunting and fishing for future generations.
57	Open discussion of issues
58	Represent a diversity of backgrounds Provide a check on CDFW
59	Protecting species and their habitats Supporting research and conservation Promoting ecological stewardship within the public sector
60	Ability to add public input on DFW decisions
61	Ability to protect land and species.
62	None that I can think of.
63	regulatory and protection,
64	Using science to guide action. Planning for the future. Communication.
65	Ability to help guide policy
66	Directing funding

67	Kicking the can down the road Being responsive to special wealthy interests
68	The ability to properly manage the recreational fishing impact on our ocean resources. The ability to have foresight into the potential impact on ESA listed species; ie vertical line and whale interaction. (primarily crabbing) Maintaining equality with user groups.
69	Ability to address needs of the environment and listen to the needs of the environmentalist
70	I'm not at all happy about anything the commissions doing right now
71	1) Communication (including providing for public participation and input); 2) Transparency, particularly with meeting notices, meeting streaming, and meeting notes.
72	opportunity to protect threatened and endangered habitat and species.
73	Independence from the DFW; practical experience; interest in protecting the interests of the public users of wildlife areas
74	Unsure, but hope it can bring up policy needs to staff for review.
75	Knowledgeable, passion, dedication to conservation
76	allowing public comment
77	None None None
78	Wildlife Management Protecting wildlife habitats from the illegal use of OUR public lands. Delovping access to public land that is land locked by private ownership.
79	attempting to protect the ecosystem
80	Responsiveness, agility and foresight
81	Protection of resources while maintaining public access to said resources.
82	N/A
83	Ability to manage the wildlife in regards to the North American Wildlife Model . To apply scientific wildlife management not legislative feel good management with no scientific background.
84	Ability to respond to regulatory needs without direct legislative action Use of Commissioners to adjudicate and resolve controversial issues
85	Response to public.
86	Providing protection for ALL fish and wildlife in California and California state ocean waters.
87	Coordination between private and public lands Using science-based decisions in management policy Including the public
88	Staff's accessibility
89	A history of conservation and wildlife management

Q4 What do you believe are the Commission's areas in greatest need of improvement? (List up to three)

Answered: 91 Skipped: 7

#	RESPONSES
1	Protecting coastal waters historically home to Steelhead and Coho Salmon. Increasing flow requirements for City Water agencies to provide more flow from July-September at critical growth periods and highest use periods Approve elimination of Bait angling during Steelhead season
2	Invasive species management, listed species recovery and water resources management, alignment with other state resource agency departments
3	Taking Commission Meetings to the Central Coast of CA, as well as other areas, where their topics will be of interest.
4	better contact (and associated input mechanisms) from the Hunting and fishing public. We need to know how AND WHEN YOU WANT TO HEAR OUR INPUT AND CONCERNS.
5	1. Before wildlife are harmed, excellent population and mortality accounting should be required from the department. Need greater insistence to stakeholders to provide scientific evidence when they argue for decisions to harm wildlife. 2. When information is lacking, decisions should default to highest wildlife conservation value, rather than stakeholder desires. 3. Would like to see a better understanding that maintaining the status quo is a decision. Proponents of current policies and regulations have an advantage unrelated to the value of their position, and this should be countered with additional opportunities for those proposing changes to policy.
6	Should have more hunting and fishing experience. Listen to staff more, public less.
7	The Commission's purpose and goal's seem to be shrouded by some over commitment to paperwork. For example, in an attempt to plant trees as mitigation, the Commission is nit-picking every little detail of a 4 acre, 0.2 mi long plot. We want to plant trees. I thought the Commission wanted us to plant trees. Instead we are sending over the serial number of the hand tools that will be used (mcleods, post-hole diggers). If the result of one 1602 agreement (3 year process) is for mitigation, and that mitigation requires 1602 (3 year process) then it would seem the Commission has lost all values, purpose, and goals.
8	Having the power to actually get things done
9	Public Relations - Getting The Commission's Resource Protection Role Out To The Public And Land Use Industries.
10	1. Qualifications of members. Should have sufficient biological background to understand science and issues. 2. In past, some commissioners have disregarded scientific information and legal requirements and arbitrarily made decisions to not list species (e.g., Tricolored Blackbird in previous considerations).
11	N/A
12	Less catering to the "blast and cast" community
13	transparency better marketing and communication with public balancing public access and use
14	Simplified regulations
15	Size of staffing relative to size of workload.
16	Work on areas that need culling i.e., protection of certain mammals that are predatory. More time at the meetings for the public to voice. Better understanding of what is needed for the Department, and not the government. This should be a free standing Commission not influenced by the Governor.
17	focusing on science-based work instead of emotional pleas; improving their relationship with legislators to prevent (or at least lessen) laws inconsistent with best practice land & animal management; establish the reputation as the go-to resource for all fish and game management in the United States.
18	At times, ruling according to political agendas rather than what's good for Californians. Need to respect all viewpoints equally. The change in focus from protecting hunting and fishing to limiting hunting and fishing opportunities

19	Although I do think the that the Commission needs to change their name to align with DFW name.
20	Need to consider all economic benefit related to other resources, e.g., minerals, when making determinations that would affect access to minerals.
21	Receive and act on recreational consumptive fisherman's feedback and observations. Hold the DFW accountable for poor management practices and unsubstantiated data Replace or rotate biologists within the DFW staff.
22	more access to hunting locatons. being able to access the land that is available
23	applying science based decesions
24	Their greatest weakness is not using science and best practices to make decisions based on wildlife management. They listen to groups of animal activists or base decisions based on people's feelings instead of facts. Another huge weakness is the management and follow up of MLPAs. Once again, they do not use science or facts to warrant many of the closures.
25	Dealing with Environmental Organizations.
26	fight for science based wildlife management over any other means. Reverse the lead ammo ban. Spend dollars from pittman robertson (PR) act on properties that allow hunting and directly involve hunting, so to encourage more hunters and thus more PR dollars.
27	1) The CESA definition of Take is biologically deficient 2) Allowing some CDFW personnel to act as activists rather than as scientists 3) Lack of training for CDFW personnel regarding the above
28	Ask the Governor not to sign any bill about wildlife management or public access till the commission reviews it first.
29	Allowing the public more opportunities on public land.
30	Scientific expertise and lack of staffing commensurate to mission/responsibilities too much workload for volunteer commissioners inability to direct DFW as per statute
31	N/A
32	It needs to act on urgent matters in a more timely matter instead of conducting research for five years and then acting on a ecological issue when it's too late to actually solve the issue. The commission needs to not prioritize commercial fisherman's need to harvest as much product as possible and instead focus on keeping fisheries sustainable and healthy above all else
33	Follow science based wildlife management policies as a rule and consider heart/feeling based policies as a last resort. fight the legislature and senate who want to take your governing recommendations away from you and put in in the hands of people who do not understand the North American Model of Wildlife Conservation and are acting in bad faith for non-hunting organizations.
34	Nicer attitude when dealing with boaters and hikers.
35	Completely devoid of ethics. Zero accountability. Severely incompetent staff.
36	Listening to fishermen not CDFW staff members
37	Needs to be proactive in protecting species and habitat. It should initiate CESA listings.
38	1) Diversity, equity and environmental justice is the number one area of improvement. The commission and their staff need to better represent the people of California, and currently do not. Additionally, environmental justice should be a top priority for the commission. 2) The second area of improvement for the commission should be timeliness in release of agenda item information. At this time, staff reports of agenda items are released so close to the written comment deadline, that putting together comprehensive written commentary is very difficult.
39	Ability to weigh access with protection - access seems to be taking higher priority. Addressing sea level rise issues will become highest priority very quickly.
40	Public contact and outreach
41	Update on the operation model of the Commission meetings (should every issue be afforded hearing time or are there other means of dealing with issues). Focus on general interest wildlife and future thinking.
42	They are people trying to do a difficult job.

43	Provide grants for Water Wardens to investigate stream and creek destruction.
44	Manage the abalone/urchin situation better
45	Think about lowering recreational fishing licenses cost for senior citizens. It cost nearly \$100 for us for fishing licenses this year. It is the one outdoor recreation that the 2 of us do together and becoming unaffordable on our frozen low income at 76 and 78 years of age.
46	Recognizing ALL evidence presented at meetings Moving on the constructive input provided at said venues.
47	work with tribal entities post agendas earlier improve enforcement of regulations
48	The commission needs to transition commercial fishing into a sustainable smaller, better regulated industry It needs to change to an emphasis on restoring our wildlife resources for future generations.
49	don't know
50	No idea
51	?
52	The purple Urchin situation
53	Protecting bio-diversity of our coastal ocean areas
54	Urchin removal programs
55	-Climate change policy with regards to streamflow and listed species; __Reform the permitting process--get State to give CDFW enough funding to run their programs without soaking the restoration community for reducing sediment delivery to salmonid streams though inflated fees; --Provide the political clout to get money on the ground sooner--grant programs are a waste of time--block grants should be considered.
56	!.Need to increase contact and communication with the Pacific Fishery Management Council 2. Commission needs to familiarize itself more with the California commercial and recreational fishing community.
57	Establishing independence of the appointing authority; using the scientific/technical input from DFW & others but still using independent judgement in serving the public good;
58	DFW needs to remember the original vision and purpose of the department.
59	Incorporating science in decision making
60	Commission needs to act more proactively Commission needs to act even when CDFW is dragging its feet
61	Developing a more holistic ecosystem approach to species conservation,protection, and restoration efforts. Public outreach and education to better understand human impacts on ecosystems. Networking with private sector scientists and restoration specialists.
62	Better independent science evaluation of policy decisions
63	Ability to protect land and species.
64	Public perception of poisoning and destroying local rural economies in the name of Pike.
65	getting rid of " red tape ", more grant money,
66	Staffing levels. Educating the public.
67	The lack of using real, data-driven science to make decisions! Decisions are often made by opinion rather than fact.
68	More staff for wardens to protect the wildlife
69	Timely engagement with external stakeholders Reasonable data needs vs making decisions- staff don't seem to be able to make decisions or implement plans without excessive studies, often studies with little or no value
70	Get the CDFW back into the field and hire more biologists and less public relations
71	What I listed above are both the strengths and needs I see in the industry.
72	Listening to staff and the conservationists
73	Stop taxing the commercial fisherman if they can't fish.

74	Collaborating with other relevant Boards or Commissions (particularly the Board of Forestry and Fire Protection--there are a number of old joint policies between the Fish and Game Commission and the Board of Forestry and Fire Protection that have not been revisited in decades despite their continued relevance.)
75	include Tribes in decision-making and advisory committees, include Tribal beneficial uses instead of just commercial and sports-fishing what about Tribal subsistence fishing and cultural considerations.
76	Independence from the DFW - the ability to disagree when the administrative agency pursues a policy convenient to it or consistent with current executive policy, but not legislative authority.
77	Need to more critically assess staff report, as on state listing of NSO, and listen and weight more heavily the input of public and non govt advocacy organizations with expertise on small landowner impact of state listing as with NSO listing. Recognize we travel far to be heard for 3 minutes and appreciate your taking that as evidence we have serious problems and hope for your help with them.
78	With the limited number of Commissioners, it is difficult to make sure all communities, and interests, across the state are represented. Particularly in regards to human-wildlife-conflict in urban areas (it is difficult for the Commission to devote the time needed for this issue given all their other priorities and needs)
79	Movement away from special interest groups - and back to the sportsmen that support the DFW
80	Actually fish Touch, feel, catch fish, communicate with anglers on the water several times a week. WATER QUALITY, CAUSES OF HAB
81	See question #3
82	enforcement of polluters, including cattle grazers enforcement of poaching (hunting and fishing) need more wardens (increasing pay could help) reestablish deer herds through predator control and habitat restoration set deer seasons later in the year, move them all 1 month later
83	Public engagement, long range mission, proactive for the betterment of recreational hunting and fishing
84	1. Act with the interest of all areas of California. 2. Supporting Southern California needs above those of the rest of the state. 3. Management of Deer populations by allowing doe hunts.
85	Currently the commission needs to stop "feel good" issues from being approved. Their duty is to protect our hunting and fishing rights with the use of wildlife management science.
86	Some Commissioners represent agendas rather than facts and do the bidding of special interest groups over what may actually be best for the resource and CA citizens
87	Consider animal welfare more.
88	Favoring game species over non game species
89	Oversight of private land management ranches in using best science that aligns with public land management. Review your mission periodically to make sure it aligns with the latest science Incorporate ethics into your mission and management strategies
90	1. A balanced approach that is focused on science and not politics. 2. Lack of fishery/hunting experience. 3. Transparency (special interests have unfair access to Commissioners)
91	Preserving the history of conservation and wildlife management

Q5 What do you believe are the greatest opportunities available to the Commission as it moves forward? (List up to three)

Answered: 91 Skipped: 7

#	RESPONSES
1	Protecting coastal waters historically home to Steelhead and Coho Salmon. Increasing flow requirements for City Water agencies to provide more flow from July-September at critical growth periods and highest use periods Approve elimination of Bait angling during Steelhead season
2	Leveraging the County fish and game commissions to provide more connectivity to statewide resource management and stakeholder engagement, ability to help legislators understand natural resource management issues better and use the legislative process better for wildlife and overall environmental management
3	Building consensus among consumptive and non-consumptive use advocates
4	Become more like AZ. Track their efforts, progress, community outreach/input. Defend and foster the sports of hunting and fishing in the usually antagonistic news media. Try to get past their efforts to villify the taking of fish and game.
5	1. Outreach to broader communities. 2. Refocusing on fish and wildlife conservation opportunities rather than consumptive opportunities. 3. More effective explanation to stakeholders about norms of conduct and the value of various kinds of content representing their position.
6	Fix the horribly run department, very cost ineffective and very poor results.
7	Stop pushing underground regulations Focus on law intent rather than paperwork Identify values that the Commission can propagate within itself.
8	Protecting threatened and endangered species. Protecting our rivers, bays and ocean. Keeping wild areas and rivers accessible.
9	More Interaction With Private Landowners To Adopt CDFW Policies That Encourage Best Land Use Management Practices Including "Set Asides".
10	Advocate for increased funding for conservation programs
11	N/A
12	Continued reliance on the Department's excellent and dedicated staff professionals; ostensibly a wildlife-friendly governor's administration and legislature (opportunities for updating outdated laws/regulations/policies/programs?); new and innovative technologies
13	prove to the public that adaptive management goes both ways in management and decision making use truthful science to inform decision making help to increase participation in hunting and fishing
14	Promote recreational hunting and fishing and commit funds to improve hunting and fishing.
15	Interaction with new stakeholders who have not previously heard of or worked with the Commission.
16	See #4
17	educate the legislature on their abilities and capabilities to manage wildlife, improve social media presence, and improve networking with other state's DFG agencies.
18	Decide to review all the pertinent facts and science before falling prey to political agendas and/or influences. Reach out more to rural communities and rural stakeholders.
19	Ability to direct staff and policy to protect our natural resources. Increase wildlife and lands protection staff.
20	I don't know.
21	Make sound decisions for managing recreational ocean fisheries
22	to teach the benefits of hunting
23	Using more science and facts to make decisions. Not throwing science and facts out

	the window based on some people's feelings about animals.
24	Gaining more support from the commercial fishing industry.
25	improve access to hunting area
26	1) Improvement of CESA by re-defining take in an ecologically pertinent manner (upgrade to the federal definition of take) 2) Improvement of CDFW through improved training of personnel 3) Hire trained scientists instead of untrained activists
27	Listen to the science based wildlife management and not special interest groups please.
28	Public in-put Listening to the communities their decision affects Understand public land is for the public; not just the resources
29	gain authority to hire/fire Director of DFW utilize statute to direct DFW
30	More collaboration with tribal nations.
31	Act on the purple urchin barren issue. Work to preserve and protect the last kelp and red abalone on the north coast
32	To keep hunting and fishing as a way of life in this state
33	Take input from consumptive users and non-government organizations such as the Hunting and Conservation Coalition to increase the opportunities for hunting and fishing in CA while maintaining good habitat and wildlife numbers.
34	To keep an eye on toxin, pesticide run-off, etc. and any links to declines in species. To work more closely with volunteer groups to help habitat fro critters and fish.
35	The commission should be dissolved and replaced with something accountable to the public that actually has our best interests at heart.
36	Only opportunities they can benefit from is to listen to seasoned fishermen
37	Sustainable fisheries Ending by bycatch Using CESA effectively
38	1) Working with the public, specifically populations that are traditionally undeserved and underrepresented, to increase the reach and the equity of the commissions decision-making process
39	Ability to weigh access with protection (the human population is continuing to rise, so now is the time to protect the coast, or it will be too late. Adding sea level rise issues to that makes addressing coastal protection even more critical.
40	Coordinate better with the DFW Service Based Budget proceedings and the WCB to create a more comprehensive focus for the future of wildlife.
41	They have some latitude to move the state forward.
42	local information al presentations around the state.
43	Bring back abalone season
44	Taking care of seniors who want to fish but can't afford the \$\$\$
45	Work closely with the public
46	open to public comment chance to address climate change build resilience in wildlife management
47	To preserve our unique wildlife. To transition from a harvesting mode to a preservation mode.
48	don't know
49	No idea
50	Work with outside organizations that have a "stake" in this resource.
51	Rotating closed mpa areas
52	Working/leading the public in a public private enterprise the revive abalone stocks.
53	Working with recreational and commercial fishermen to help remove/abate invasive purple urchin
54	-Reform CDFW's antiquated operations and streamline restoration and permitting;
55	Combining environmental awareness and concern with the need to supply needed protein and recreational opportunity to California's citizens. Now that many fish stocks are rebuilt, we need to find a way to harvest them without depleting their

	populations. Also hope that the Commission can influence water agencies to allow sufficient flows to rebuild depleted salmon populations.	
56	The FGC needs to find ways to serve all residents not just those who hunt, fish, hike, kayak, or in some way intentionally engage with wildlife. Many people, esp urban residents, would greatly benefit from enriched natural areas and wildlife populations close to their homes - they don't have the luxury of making special time/plans to engage, they need opportunities close at hand. They could benefit physically, emotionally, medically and educationally if they had more frequent wildlife encounters as they simply lived their lives, not needing to make extraordinary efforts to do so. I know the Commission's statutory duties don't offer lots of opportunities to do this but I believe they are there if sought.	
57	Sport hunting Commercial fishing As long as the commissions actions are influenced by people's need to make money and/or need for glutinous hunting. You'll never make the right decision.	
58	The greatest opportunity of the DFW is the support of those whom they serve, those who buy licenses and tags. Each person pays to be an advocate. If you have a need, just ask, and help is on the way.	
59	Try some management experiments when appropriate and evaluate outcomes	
60	Stakeholders, fishermen and scientists want to actively engage with management. Need to be open to partnerships	
61	Working and networking with private sector scientists, restoration practitioners, and cultural experts for ecosystem management, protection, and conservation. The climate crisis is a motivating platform for public education, awareness, and motivation for promoting ecosystem conservation and human impacts at home and throughout the state.	
62	Be more directed by independent science rather than just here say or DFW recommendations	
63	Protection of endangered species. Protection of habitat. Limiting commercial fishing, to protect species.	
64	Stock our Lakes with non-contaminated fish and pay local communities for economic hardships caused by their actions.	
65	developing aquaculture/research centres on the north coast,	
66	Climate change will radically change habitats and species populations and ranges. Getting on top of the changes, predicting and responding to them.	
67	To be a guiding and helping resource for the commercial fishing community.	
68	Work with external agencies and stakeholders as well as local public who often know and understand resources as well or better than commission or CDFW staff.	
69	Saving our state's wildlife for future generations	
70	Communication and public outreach are a must — both written and broadcasted.	
71	Working more with HEI's about hunter issues	
72	Not sure, saying commercial crab fisherman are killing whales but allowing sport fisherman to continue crabbing is insane. Since the commercial fisherman are paying huge and highly regulated	
73	Working with other regulatory Boards to address issues that impact both natural resources and human health and safety. For example, fuel reduction projects that could improve native species' habitats or could completely remove habitat.	
74	Tribal Commission, tribal subsistence and cultural considerations, co-management with Tribes and learning from Tribes about traditional management strategies.	
75	Continue to preserve public access to public lands for hunting, fishing, and general "multiple use" recreation; balanced with preserving the resource.	
76	Small private forest landowners need economic incentives and a stop to economic punishment for our stewardship of threatened/ endangered species. Also, urge DFG to streamline and better coordinate with other agencies to enable rapid fuel reduction efforts especially on small private lands, to prevent catastrophic wildfire statewide. Offer generous and quick easy funding to individual/non industrial small forest landowners to support the above. Don't just give grants to environmental NGOs .	
77	Hold more of the commission meetings in southern California. Engage community members and CDFW staff in more informal forums. (The formal Commission meetings can be a bit intimidating for citizens to participate in)	

78	Return to the sportsmen opportunity to hunt and fish Simplification of regulations
79	One must spend more time fishing & hunting. Without the real experiences you have nothing to go on. Biologists lie, manipulate data & books aren't what's in the real world.
80	Developing youth involvement by easier access to the resources of this state i.e. calendar year fishing licenses, etc.. Using the biologist and there studies to make discussions in managing of the wildlife in this state instead of the political motivated system that has plagued this state in past years.
81	stocking and reestablishing native fish capable of reproducing; not triploid. enforce take regulations establish more catch and release angling have more deer hunts with muzzleloader have crossbow
82	Updating big game hunting seasons to reflect climate change impacts, focusing on more ways to re-invigorate the public interest in the outdoors
83	Provide programs to get youths to be more involved in outdoor activities. Stock more fish in the lakes
84	We open closed Cow cod Closed18 years to Rebuilt
85	Start to use Wildlife Management Science not Feel good preservation management.
86	We need to use Commission authority to review and execute the PEIR for aquaculture development so that California can help establish for the nation practical and sustainable standards for marine aquaculture that will feed our citizens, generate and alternative to harmful commercial fishing and conserve precious natural resources.
87	The commission should uplift modern and technological advancements in fishing.
88	To engage the general public more.
89	Incorporating sustainability into all decisions
90	1. Opportunity to support sustainable, vibrant and viable recreational and commercial opportunities. 2. Need to rebuild trust with the consumptive user groups. 3. Move from being a political body to a science based and science driven body (unbiased science that is)
91	opening up the public lands to a new generation of hunters and fishers.

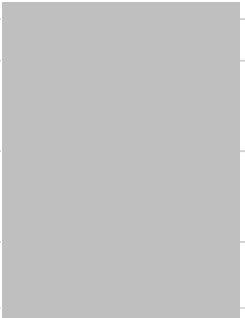
Q6 What do you believe are the greatest obstacles or challenges the Commission is facing? (List up to three)

Answered: 89 Skipped: 9

#	RESPONSES
1	Growth, Development that is demanding water that doesn't exist. Finding a way to put the 8 million gallons of water the city dumps in the ocean - back into the aquifer Stopping the growth and development
2	Too much attachment to cultural sensitivities regarding wildlife issues, climate change, population
3	Perceived or real conflicts of interest of Commissioners. Lack of consumptive use representation.
4	see above... the media penchant to villify hunting (and fishing to some lesser degree)
5	1. Prioritizing petitions based on conservation impact, developing methods for reducing demands on the department. 2. Clarification of expectations about when and how stakeholders should approach the commission vs. seeking legislation. 3. Including broader public participation.
6	Poorly run department. Appointments of people who don't know anything about fishing and hunting. Communicating with the public.
7	Somehow the Commission has turned an blind eye to employees who bastardize the process of protecting the environment. The greatest obstacle the Commission faces is maintaining any relevance as the Commission allows such behavior. The Millennials are growing up and they won't be bullied by oppressive regulators.
8	Government interference, neglect, and underfunding. Citizens' apathy and unawareness.
9	Educating Landowners to "Do The Right Thing" As Stewards of The States' Fish and Wildlife Resources.
10	1. Complacency regarding the adequacy of existing programs and funding 2. Lack of support from the legislature 3. Excessive influence from vested interests
11	N/A
12	climate change (good luck, pikas!), varying support/opposition to fish and wildlife conservation and management through transitioning administrations, public support and funding for fish and wildlife conservation and support
13	litigation legislation bureaucracy
14	Public pressure from people who don't understand nature.
15	An increase in authority without an increase in staffing capacity.
16	Not let outside influences make your decisions. Also, see #4.
17	Reduced number of fishers and hunters; lack of respect from legislators.
18	Increased pressure from anti-hunting forces.
19	I don't know.
20	Anthropomorphic and emotional public views for management. Decisions based on an abundance of caution instead of sound peer reviewed science
21	educating the public on the benefits of hunting
22	They need to go back to making science based decisions about wildlife. Just because some people in our state do not enjoy fishing, hunting, and outdoor activities based on their beliefs it does not mean those things should be limited or restricted to others.
23	Whale Entanglements, Changing Climate, CBD.
24	Do not allow the legislature to take over the commissions duties.
25	1) Lack of a biologically-sound definition of take 2) Lack of quality training for CDFW personnel 3) Lack of trained scientists & too many untrained activists within the ranks of CDFW personnel

26	The take over of special interest groups to get legislators to pass laws not base on good science based findings.
27	Depending on staff's recommendations too much and dismissing or not openly listening and understanding the public's view point
28	authority, funding, staffing
29	N/A
30	To keep hunting and fishing as a way of life in this state Nutria eradication Wildlife population surveys
31	CA Legislators who take campaign contributions to forward the non-hunting legislation which has popped up over the last few year which removes your purpose from the wildlife management equation.
32	Rampant corruption within the department. Extreme and excessive regulatory bloat that serves no purpose other than the enrich their own bureaucratic empire. Total disregard for the public is supposedly serves.
33	Negligence to further investigate CDFW requests and the validity of the request as it pertains to resource management, stakeholder input and compliance with the MLMA
34	Economic interests that interfere with science and regulation in the larger public interest
35	Successfully hearing from all parties that need to be involved in the decision-making process in a timely and efficient manner.
36	Influence by well-financed access advocates.
37	Climate change
38	Narrow special interest focus.
39	The political environment. Loud, uneducated people.
40	Big wine money and lack of on the ground aggressive wardens.
41	The urchin takeover
42	Unknown
43	The snail's pace that "research" takes and the anxiousness of the public to have restrictions lifted (red abalone) Collecting data and then actually implementing action-based decisions that include ALL the data
44	resistance to change circumventing regulations while fishing or hunting illegal harvest for commercial use
45	Backlash from an ingrained, entitled industry/public that feels if an animal/fish is there, it should be available for harvest with no thought for the future
46	too many environmental restrictions....restrictions are good and useful...too many of them are not.
47	No idea
48	Politics.
49	poor scientific data
50	Organizational inertia Keeping pace with the rest of the world
51	--People are not hunting or fishing like they did in the past--the model of a fee-supported organization is outdated. Fund CDFW for climate change, protection of critical habitats, and restoration.
52	Sacramento and San Joaquin valley salmon populations need to be rebuilt. Can only be done by improving water flows in the Central Valley. Northern California coastal watersheds also need much improvement to assist salmon recovery. Climate change and development in Southern California is also threatening native aquatic species.
53	Incorporating climate change science into the complex of regulations and decisions the FGC makes annually; balancing the often competing interests/needs of resource users (hunters, anglers, hikers), ensuring healthy wildlife populations, protecting wildlife for their intrinsic/spiritual values, while also allowing reasonable/responsible economic use; and like most things in the public policy arena, dealing with false information in the era of social media.
54	Irresponsible people who kill for sport and money

55	The greatest obstacle is forgetting the original vision and purpose on which the department was founded, and listening and adopting the philosophies of other groups who don't share that original vision.
56	Dealing with climate change Navigating state/federal management issues
57	CDFW Antiquated regulations Non-nimble policy processes
58	The current administration and "leadership". An ecosystem and ecologically disconnected general public. Climate change.
59	Political interference resulting from vested financial interest in how DFW and Resources Agency decisions are made. The recent veto of SB 1 is an example of financial political interference in decision making.
60	Republicans.
61	Credibility.
62	controlling the black market fishing
63	Politics, vested interests, illegal take.
64	Fear of legal action from any group that does not agree with a decision, a desire to be "liked" rather than respected and an inability to make hard decisions
65	Funding
66	Empowerment of staff to do the right thing
67	To much influence from public / private funding which buys policy for special interest group's agendas unfairly.
68	Public sediment about management actions. Appropriate follow up to any management action; enforcement.
69	The commission is faces challenges in the sense that the state is becoming anti-gun and more pro environmental, by doing this conservation of the states wildlife and fisheries will suffer.
70	Taking away hardworking people s jobs
71	Making informed decisions about species in the light of climate change.
72	Shifting mind so that Tribes are included more integrated.
73	Lack of independent staff resources (apart from DFW staff); DFW's lack of adequate resources to administer wildlands; the attempted paradigm shift from "lands are open for use unless restricted for specific reasons after a public process" to "lands are closed unless opened upon a determination of adequate administrative resources.
74	Equating environmental organizations' request for candidacy for listing and what's best for the environment. Slowness of decision making cycle especially on urgent public safety issues like the intersection of wildfire prevention and timber harvest rules regarding species protection. Need for legislative education on issues DFG commission deals with.
75	Urban human-wildlife conflict Representing the interests of 40 million people with only a handful of commissioners
76	Allowing special non consumption groups to write regulations
77	Getting out of the office & into the great outdoors. What might work for one body of water doesn't work for all bodies of water.
78	Polical influence period.
79	funding going to appropriate areas establishing later hunting seasons spend less on stocking triploid trout and more in establishing native fishers where appropriate.
80	Pressure from narrowly focused special interest groups, lawsuits designed to harass the commission, public disconnect from the natural environment
81	excess regulation
82	Don't take so long to fix things
83	The continued obstruction by organization like PITA, FUNDS for Animals, Center For Bio Diversity that try to block all issues of wildlife scientific management.
84	Again, Commissioners representing political agendas rather than what may be best for the resource.
85	The Commission still acts as if we are living in the 20th century. 21st Century

	pressure on wildlife must be recognized.	
86	Limits imposed by state legislation.	
87	The Commission seems to me to be too responsive to consumptive users like hunters, ranchers and fisherman without the science to back up such things as hunting quotas and ethics need to be incorporated into all policies	
88	1. A lack of requisite knowledge and experience with what they are charged to manage. 2. Public perception - distrust and ulterior motives. 3. Preconceived biases and/or opinions	
89	dealing with the vocal, angry , non-paying activist class that wants to do away with classic conservation/wildlife management	

Q7 Of the items you have identified in questions 3-6, which do you believe should be the highest priority for the Commission in the near-term?

Answered: 89 Skipped: 9

#	RESPONSES
1	Eliminate Bait angling on Steelhead waters. Leave more water in the Rivers - San Lorenzo, Soquel, Aptos
2	Working more in alignment with other state resource agency departments
3	Consensus building.
4	N/A
5	Clarification of expectations about when and how stakeholders should approach the commission vs. seeking legislation.
6	Re organization of the department to become more effective.
7	Values and Purpose. With values comes purpose. If the Commission actually believes in these then there will be buy-in throughout the Commission and unnecessarily oppressive regulations will not need to be propagated.
8	Making the public more aware. Pressuring governments to increase funding and enforce appropriate laws.
9	Number 4
10	Advocate for increased funding for conservation programs
11	N/A
12	identifying long-term funding strategies for fish and wildlife conservation and management, especially in the face of declining revenues from hunting and fishing; utilizing new technologies
13	better marketing and communication to the public use of truthful science in decision making transparency
14	simplification of regulations
15	Identifying and obtaining additional staff positions.
16	The highest priority should be not to open up all the waters within CA to year-round fishing with a 5 fish limit. Making sure there is good SCIENCE behind any decision they make on any water. Reassess all the reasons the special regs in certain water were put their and for what reason, obviously the protection of the resource.
17	significantly improve their standing in the eyes of the legislature.
18	Decide to review all the pertinent facts and science before falling prey to political agendas and/or influences.
19	protect CA natural resources, esp water.
20	I don't know.
21	The Abalone fishery
22	providing hunters with more opportunities and places to hunt
23	They should be expanding fishing and hunting opportunities in our state. There are many people that would like to eat organic meat, but they do not know where to start in learning about hunting and fishing.
24	Communicating with the commercial fishing industry.
25	Define CESA take in a manner that is biologically pertinent (i.e., upgrade to the federal definition)
26	All of them!!!!
27	Opportunities for the public to access and recreate on public lands
28	effective policy management over DFW

29	Notifying tribes of changes and/or opportunities for collaboration.
30	Help the coastal ecosystem!!! Our ocean is hurting, the ecosystem isn't healthy and is not balanced. Bring back the kelp forest, help stop purple urchin barrens and help to keep the kelp forest ecosystem healthy for abalone and young rockfish
31	To keep hunting and fishing as a way of life in this state
32	Science Based Wildlife Management
33	Ending the corrupt, unethical and excessive bureaucracy that dictates current policy.
34	Seek input from seasoned fishermen and FOLLOW the MLMA. Input from seasoned fishermen should be a large portion for the commission when it comes to changes in regs or implementing new processes. Encourage LED to implement and follow through with a review of current regs with at least 1 member of each port. Request meetings for MRC be attended by more than the regular 3 people when asking for votes on topics scheduled for commission meetings. Meetings are not held correctly to obtain wide stakeholder input. Make smaller meetings available via teleconference
35	Being proactive
36	Incorporation of environmental equity and justice into strategic plan and all decision making.
37	Better interpretive signage where the public is allowed in areas where there are sensitive resources.
38	Climate change
39	Coordination with other state agencies (policy, budget and vision).
40	Wolves.
41	Provide local wTer warden for Napa County to respond quickly to environmental damage.
42	Bringing back abalone season
43	Discounted or free Sr. Fishing licenses
44	Applying action-based research that includes not only the department and its granted university-related research but also citizen observations and data.
45	protecting natural resources
46	The willingness of the commission to place moratoriums on the taking of certain species to allow for the recovery of the system.
47	don't know
48	No idea
49	#5
50	purple urchin eradication
51	Transformation of the organization
52	Urchin removal
53	Climate change-- advocacy for addressing ways to mitigate the impacts; -Stop the fee-based model, it really discourages landowners from doing restoration and thus impacts species on the verge of extinction.
54	Rebuild depleted and environmentally threatened salmon populations.
55	1) Incorporating climate change science and considerations and 2) exploring the needs and ways to serve the general population.
56	Protect our environment from people. Get another job and find new hobbies.
57	Remember and keep the original vision and purpose of the DFG.
58	state/federal issues
59	Commercial Fisheries management
60	Climate change is a real crisis. A more ecological ecosystem approach to species management, conservation, and protection is needed now more than ever. However, if deleterious anthropogenic activities are to continue these efforts will not be enough. Public awareness of their collective and individual contributions to the climate crisis is needed to enact change.

61	Use independent science, peer reviewed, to make decisions
62	Protection of ecosystems from encroachment.
63	Financially restore communities to their heights when DFG caused the hardships faced still today from their actions.
64	Responding to the effects of climate change.
65	Making decisions using real, data driven science rather than opinion!
66	Funding
67	Working with other stakeholders and allowing their opinions to carry equal weight
68	Hire biologists
69	To manage recreational impacts on ocean resources.
70	Working towards more open conversations with hunters about land conservation
71	To protect the commercial dungeons fisherman and prove that it's not crab pots killing whales it is most likely deeper fishing like long line fishing and ships killing whales out deep and they float iinto the gear.
72	Collaborating with the Board of Forestry and Fire Protection to update Joint Policies.
73	Tribal participation.
74	Protecting public rights to use public lands (see FGC 1528, 1745, sec. 25 art. I Cal. Const.) in the face of demands by environmentalists, water developers, and flood control (generally that public use be restricted inorder to accommodate environmental/habitat concerns traceable to the reallocation of water by water marketers and the narrow concerns of flood control entities to be free of the public.
75	Wildfire prevention facilitation of funding for small non industrial forest landowners to save existing wildlife.
76	Finding more ways to engage citizens outside of formal commission meetings.
77	Simplification of regulations
78	Realizing that not all areas are the same, such as changing the fishing season at Eagle Lake to last thru feb 28th. No bathrooms are open, no water available, roads not plowed, lake iced over with thin spots, no rescue available, no enforcement available, no sheriff available & roads impassible or gated & locked. The lack of bathroom facilities alone would kill a recreational area Come May with frozen poop everywhere that eventually would drain into the lake. Sub zero temperatures would kill anyone who would fall thru the ice & rescue is 45 minutes away on a good day but without ice rescue equipment. Good for the goose but not the gander. Each lak and body of water is unique. It's not a one size fit all.
79	Biological based decisions instead of the politically driven management that we see today.
80	law enforcement, especially poaching and polution
81	Re-igniting public interest and reviewing/ adjusting big game seasons
82	Managing deer populations
83	Use of Scientific Conservation Wildlife Management to set up policy. I don't think it is possible to change currently because of the structure of the commission's curren appointments and the constant threat of the groups that will threaten lawsuits and go to the legislature if they don't like the commissions policies.
84	Approve the PEIR for marine aquaculture
85	Changing focus from "enough to keep animals from going extinct" to "protecting current populations and expanding those populations."
86	Protection of endangered species.
87	Incorporating the latest and best science Ethics
88	Rebuilding trust! This could be done by ensuring that minimum qualifications for a Commissioner. Knowledge of fishing and hunting activities should be a prerequisite for membership - not political favor
89	5

Q8 Are there specific emerging issues on which the Commission should place greater focus?

Answered: 91 Skipped: 7

#	RESPONSES
1	Water and too much development. Soon the San Lorenzo will be a trickle with no fish. Who will care?
2	The current hysteria around fuel management and lack of emphasis on land use planning and building codes is something the commission should get involved in. Additionally, invasive species management is woefully inadequate in the state and there is constant pressure on our natives from them. Finally, recognizing that the state's residents are by and large and increasingly conservationists and not hunters and fishers and having the commission focus its efforts accordingly would be good.
3	Invasive species eradication, especially Striped Bass on the Central to South Coast, where they were not historically present and are affecting T&E Steelhead. SB impacts on the coast are not the 'red herring' that they are in the Delta.
4	- Elimination of bear hunt. Refocus on reducing conflicts. - Depredation regulations: improve population and mortality accounting and data collection to reduce conflicts. Emphasis on solutions that are scientifically proven to work long-term, and evaluation of long term impacts of lethal methods. - Focus on biological and ecosystem impacts of hunting. - Improve reporting on take, hunter outcomes, mortality accounting generally. - Provision of scientific information on why certain populations are declining or increasing. Specifically - Where and why are ungulate and sheep herds declining, and how that can be mitigated.
5	Decline in habits. Decline in game species. Poor pr., Especially wardens.
6	Tackling the issues of underground regulation within the Commission. You know the saying "fix yourself before trying to fix others"? Ya, go do that.
7	Use of rodent poisons and weed killers that affect bees, butterflies, and small and large mammals.
8	The Loss Of Critical Habitats.
9	1. Effects of pesticides, especially neonicotinoids, on wildlife species. 2. Climate change impacts on habitats and species
10	N/A
11	Perhaps something surrounding increasing megafires and the associated loss of habitat?
12	marine special planning for all groups increase in restricted fishing areas ocean acidification and pollution
13	Consider privatizing trout hatcheries and stocking programs.
14	Continue to focus on tribal perspectives.
15	See #7 - Special Regs leave along in Eastern Sierra. Focus on your job and not trying to make a benchmark for 150 years, I don't believe anyone is really interested; we are all interested in a sustainable inland hatchery program that will keep the majority of anglers happy and also keep the "Natural born trout" in existence.
16	again, establishing a stronger voice & position with the state legislature.
17	All issues are important
18	Water habitat.
19	yes. Habitat preservation has been affected without consideration for access to important economic resources (e.g., minerals). Although the State has abundant high quality aggregate resources, urban expansion and habitat preservation measures have been allowed without consideration for accessing important resources. We should re-look at our habitat conservation areas with an eye towards limited mineral resource development within close economic range of our market areas.
20	Recreational efforts to control the urchin population to reduce pressure on the red abalone population

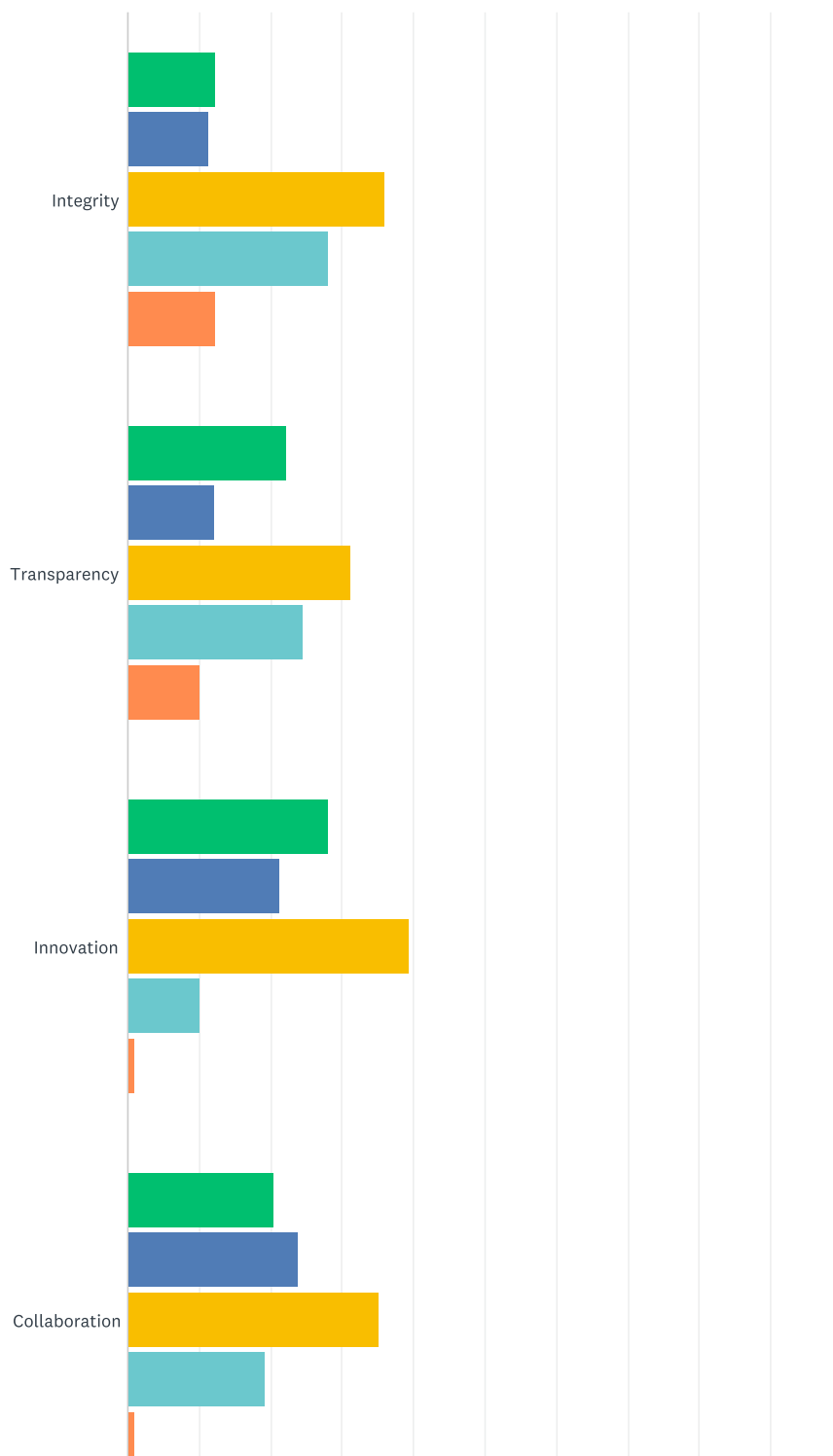
21	hunting restriction on newly acquired land
22	They should be expanding opportunities for hunting and fishing.
23	Climate Change.
24	The definition of CESA take is not biologically sufficient for conservation and too many CDFW personnel perform as activists rather than as scientists.
25	Talk to the Governor if he appointed you to do a job tell him to let you do it.
26	Helping to get resource management plans completed in a timely manner. Staff has kept lands closed for many, 10+ yrs. using the excuse there is no management plan. Either don't have the funding or time. Poor excuse when you see their other priority projects get approved in very short timelines.
27	protecting habitat and species populations vs. setting bag limits for diminishing populations
28	N/A
29	The urchin crisis and the dying abalone
30	Nutria eradication Sound population surveys
31	Including the hunting and angling Californians and their heritage in your mission statements and objectives
32	We're very concerned about the urchin barrens in the Channel Islands and off the CA north coast. The urchins can consume the kelp which fosters so many other creatures, then filter feed so the abalone and competitors have no chance.
33	Vindictive actions against rural residents in regards to water use and environmental impact. People should not have to pay out large sums of money to a useless agency to simply exist on their property.
34	Yes, removing the 96 hour pull interval. Spiny lobster decline in value over the past 2 years. Not allowing a snap shoot of fisheries in order to produce fishery management in lieu of scientific data
35	Loss of federal ESA protections Lack of state funds to buy habitat - must get Greenhouse Gas Reduction Funds to WCB in the Working and Natural Lands portfolio.
36	Commercial aquaculture in state waters
37	Population growth, sea level rise
38	MLPs and urchin barrens
39	Climate shift and the impacts on species.
40	Wolves.
41	Ground water overdrought reducing surface flows.
42	The urchins taking over
43	Unknown
44	Red Abalone. Issues related to climate change as related to species protection and harvest.
45	climate change coastal resilience MPAs as oceans warm may need to move
46	The warming of the Pacific and the impact on resource management.
47	include the influx of population on the coast coupled with any one or more issues, such as encroachment on habitats, preservation of habitats
48	No idea
49	Stay focused on the mission and need.
50	restoring the kelp forests
51	Not protecting the ways of the past
52	Urchin removal
53	- Water policy--quit sending water to SoCal and wasteful farm practices _ Climate Action-incentivize best practices for meeting the challenges of climate disaster projections - Fund programs that offset impacts from cannabis and incentivize those who practice BMPs.
54	Review regulations regarding rebuilt fish populations in California coastal waters.

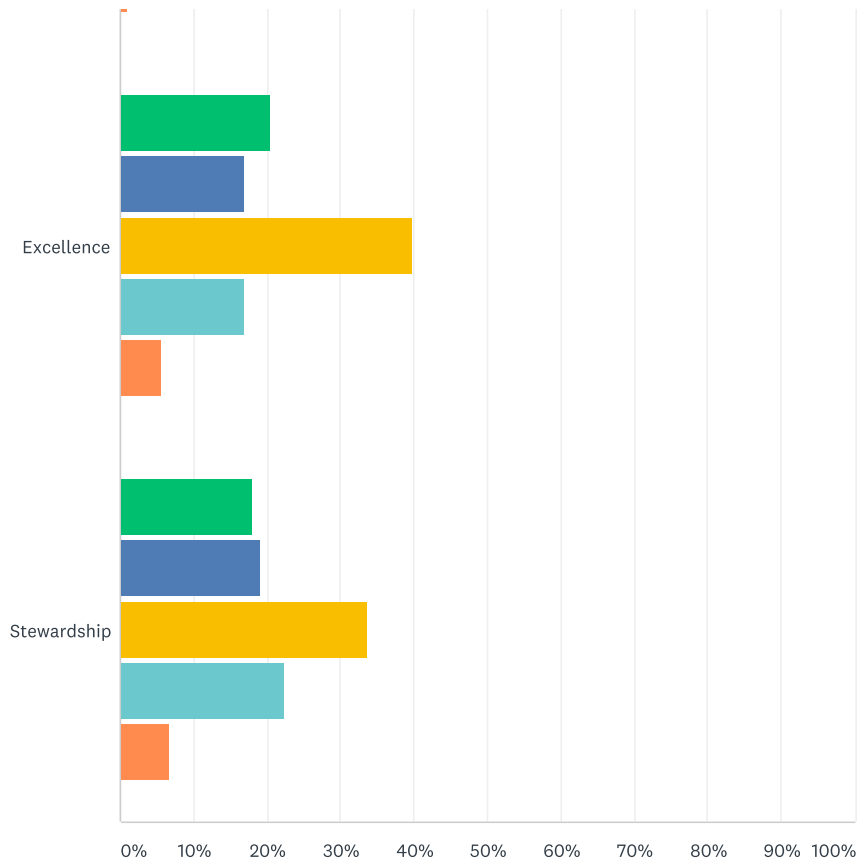
55	na
56	Purple urchin
57	The Commission needs to regain and preserve relations with those who buy licenses and tags, who's interests have been replaced with the interest of researchers and special interest groups. License holders are not stepchildren, they are the funding and the job.
58	Ocean acidification Management using spatial techniques and harvest rights
59	Climate change
60	Climate change.
61	Protection of S.F. Bay-Delta fish & wildlife from abusive water extraction. Support the CWRCB's new flow requirements for San Joaquin inflows. Do not agree with settlement flows if they are not as high as Water Board's recommendations.
62	Protection of ecosystems.
63	Restore damaged communities to their heights by investing in bringing tourists back to the region to their heydays.
64	Purple urchin overbloom and the loss of kelp forests.
65	Guiding policy that is common-sense and science based!
66	The loss of seaweed and kelp forests and their associated animal species
67	Programmatic agreements with external stakeholders
68	Stop the selling out of our states wildlife resources in order to sell more fishing and hunting licenses for revenue in the false concept that this will pay off in any way. The FFF is a joke!
69	Whale entanglement with recreational crab gear is very important to all of us. There needs to be a concerted effort to bring everyone on board with the issues.
70	Engaging and communication with local authorities
71	Yes protecting the commercial crab fisherman.
72	Fire is a huge topic for which the Fish and Game Commission should dedicate some time and discussion. The Governor has prioritized fire prevention projects which alter vegetation throughout the landscape and may affect fish and wildlife in a variety of ways. Additionally, large scale, high intensity fires may remove important habitat. The Fish and Game Commission should at least be informed about fire-related issues and possibly enact regulations or policies where appropriate.
73	ocean and inland aquatic habitat collapse.
74	Lands owned by the state and therefore subject to the right to fish; lands formerly owned by the state and expressly subject to the reservation of the right to fish; lands formerly owned by the state, conveyed out after 11/8/1910, by an instrument without and express reservation of the right to fish; the ongoing obligation of state agencies to reserve in the people the absolute right to fish upon the sale or transfer of state-owned land (see section 25, article I, Cal. Const.; People v San Luis Obispo Sportsmans Assc., (1978) 22 Cal. 3d 440).
75	Aligning rules with new EPA focus. Wildfire prevention and associated wildlife habitat protection. This takes big money and small Forest landowners are only eligible for CFIP.
76	As a CDFW staff member, I work a lot on human-coyote conflicts in Southern California. One thing that we are finding is that coyotes fall between the gaps in the State's wildlife regs (they are not a game species, and not a protected species). There is a lot of misinformation about coyote management and conservation and several grassroots organizations are pressuring their local cities to make new rules about lethal control of coyotes based on this misinformation.
77	Elk Management statewide - Rebuff special Mountain Lion zones -
78	The restoration of the native spawn of Eagle Lake rainbow trout. Improving water quality issues and controlling/eliminating the cause of the last 2 years of Cyanobacteria. Which Eagle Lake never had to the current extremes before.
79	R-3 get the youth invoked.
80	do not open sensitive angling areas to take by any method
81	Innovating public recruitment and emphasizing the importance of hunting and fishing, protecting hunting and fishing. Make it as easy as possible to learn how to address the commission

82	wildfire intervention, controlled burns to remove excess under growth
83	Wildlife connectivity, increasing area of conserved lands, more investment into conservation
84	All water issues in the Sacramento River Delta
85	North American Model of Wildlife Management Model to manage our wildlife.
86	Approve the PEIR for marine aquaculture
87	Fisheries and the fact that we are emptying our oceans. At some point, the Commission will have to send the bad news to fisheries that they can't keep going like they always have.
88	Gray wolf and gray wolf habitat protection. Protection of natural wildlife migrations corridors.
89	Climate change needs to drive management policies in addition to an ethical component. If you fail to address climate change, we will jus speed up extinction rates of many species of fish and animals.
90	Yes! Participation in recreational and commercial fishing and recreational hunting activities. Focus on real science and not paid for science (or opinions masqueraded as science)
91	Wolves, wolves & cougar population explosions.

Q9 The Commission recently adopted six core values to guide its work and the work of its staff. On a scale of 1 to 5, how well do you think the Commission and its staff is currently doing in meeting these core values? A score of 1 represents unsatisfactory performance and a score of 5 represents excellent performance.

Answered: 90 Skipped: 8



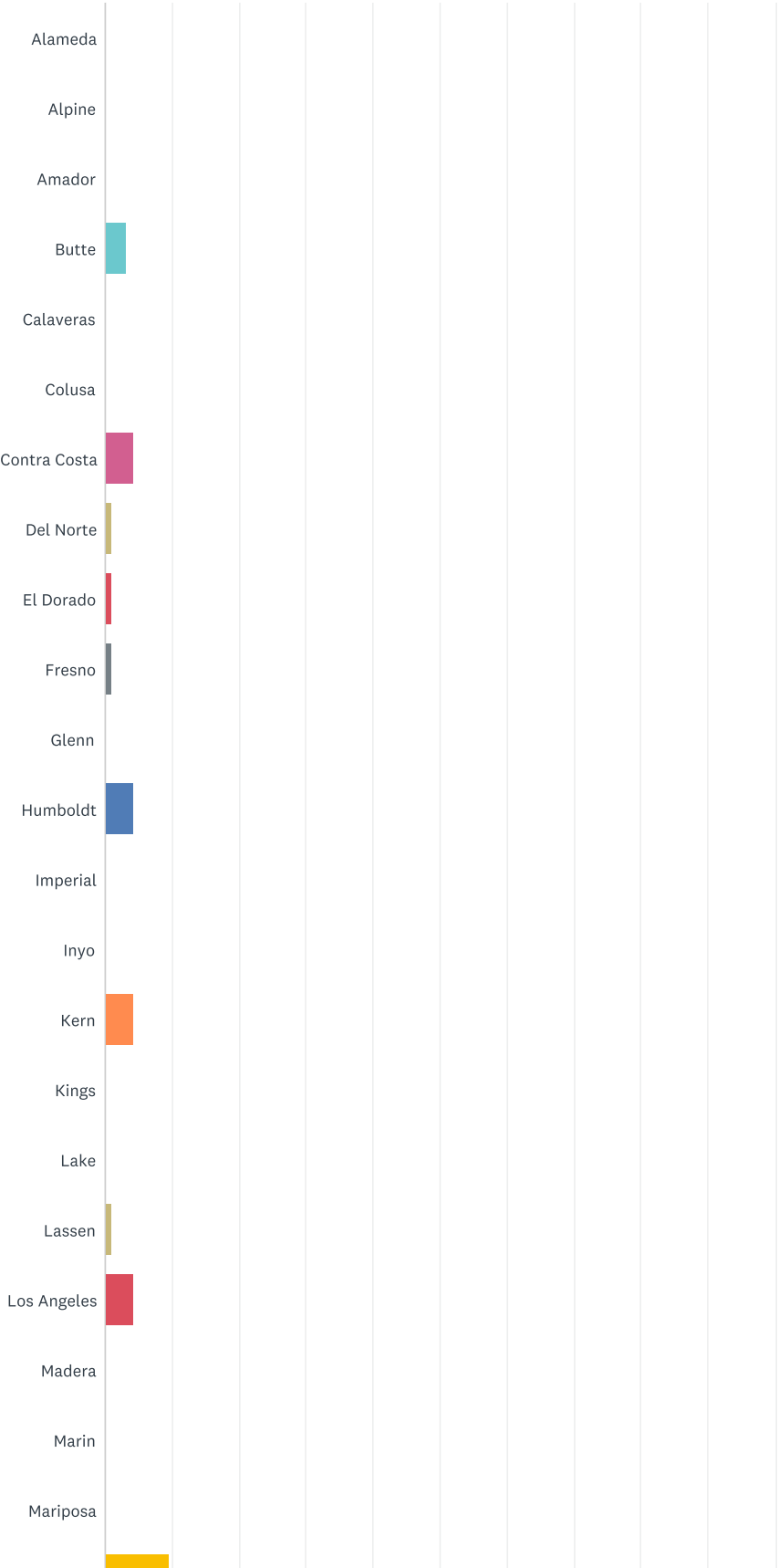


1 2 3 4 5

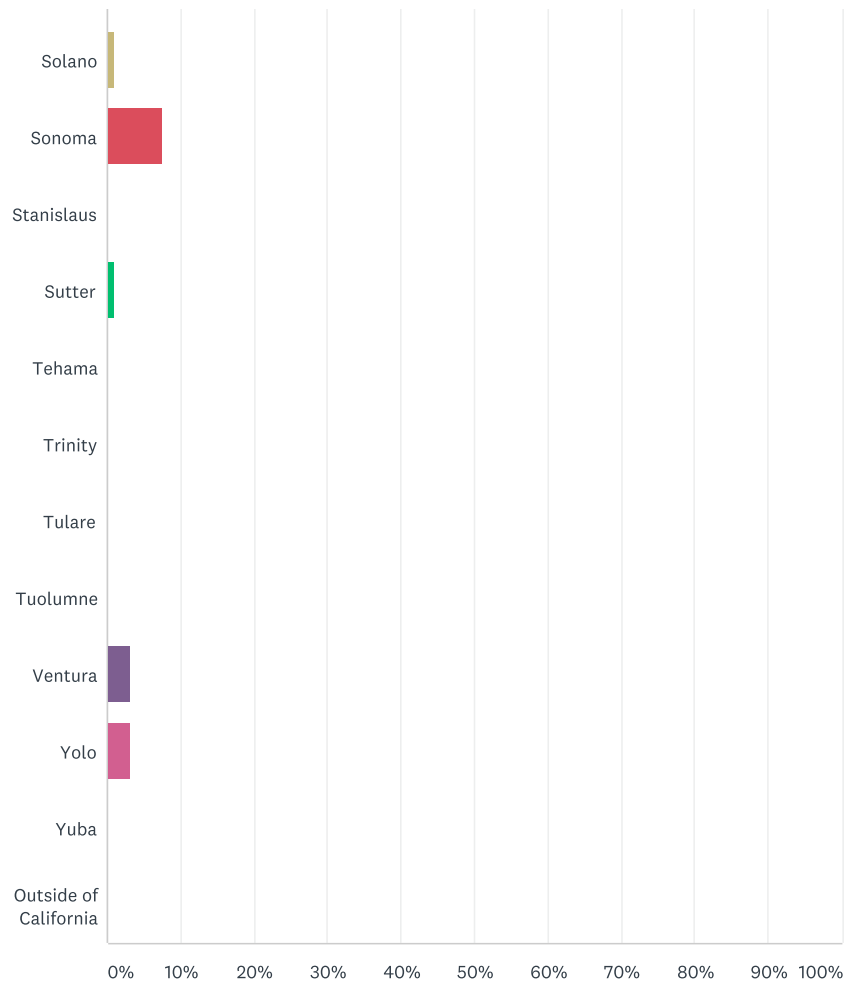
	1	2	3	4	5	TOTAL	WEIGHTED AVERAGE
Integrity	12.36% 11	11.24% 10	35.96% 32	28.09% 25	12.36% 11	89	3.17
Transparency	22.22% 20	12.22% 11	31.11% 28	24.44% 22	10.00% 9	90	2.88
Innovation	28.09% 25	21.35% 19	39.33% 35	10.11% 9	1.12% 1	89	2.35
Collaboration	20.45% 18	23.86% 21	35.23% 31	19.32% 17	1.14% 1	88	2.57
Excellence	20.45% 18	17.05% 15	39.77% 35	17.05% 15	5.68% 5	88	2.70
Stewardship	17.98% 16	19.10% 17	33.71% 30	22.47% 20	6.74% 6	89	2.81

Q10 In what county do you currently reside?

Answered: 94 Skipped: 4







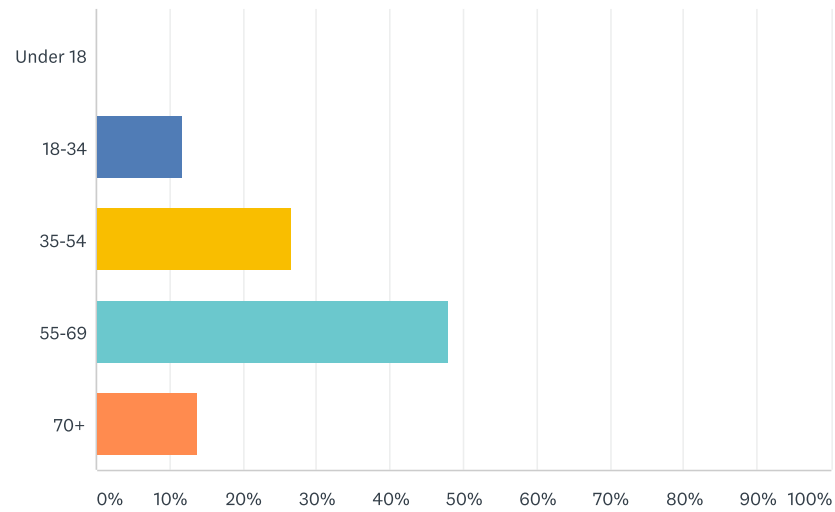
ANSWER CHOICES	RESPONSES	
Alameda	0.00%	0
Alpine	0.00%	0
Amador	0.00%	0
Butte	3.19%	3
Calaveras	0.00%	0
Colusa	0.00%	0
Contra Costa	4.26%	4
Del Norte	1.06%	1
El Dorado	1.06%	1
Fresno	1.06%	1
Glenn	0.00%	0
Humboldt	4.26%	4
Imperial	0.00%	0
Inyo	0.00%	0
Kern	4.26%	4
Kings	0.00%	0
Lake	0.00%	0

Lassen	1.06%	1
Los Angeles	4.26%	4
Madera	0.00%	0
Marin	0.00%	0
Mariposa	0.00%	0
Mendocino	9.57%	9
Merced	0.00%	0
Modoc	0.00%	0
Mono	1.06%	1
Monterey	4.26%	4
Napa	3.19%	3
Nevada	0.00%	0
Orange	2.13%	2
Placer	1.06%	1
Plumas	1.06%	1
Riverside	0.00%	0
Sacramento	12.77%	12
San Benito	0.00%	0
San Bernardino	0.00%	0
San Diego	14.89%	14
San Francisco	0.00%	0
San Joaquin	1.06%	1
San Luis Obispo	1.06%	1
San Mateo	1.06%	1
Santa Barbara	3.19%	3
Santa Clara	0.00%	0
Santa Cruz	2.13%	2
Shasta	1.06%	1
Sierra	0.00%	0
Siskiyou	0.00%	0
Solano	1.06%	1
Sonoma	7.45%	7
Stanislaus	0.00%	0
Sutter	1.06%	1
Tehama	0.00%	0
Trinity	0.00%	0
Tulare	0.00%	0
Tuolumne	0.00%	0
Ventura	3.19%	3
Yolo	3.19%	3

Yuba	0.00%	0
Outside of California	0.00%	0
TOTAL		94

Q11 Please indicate your age:

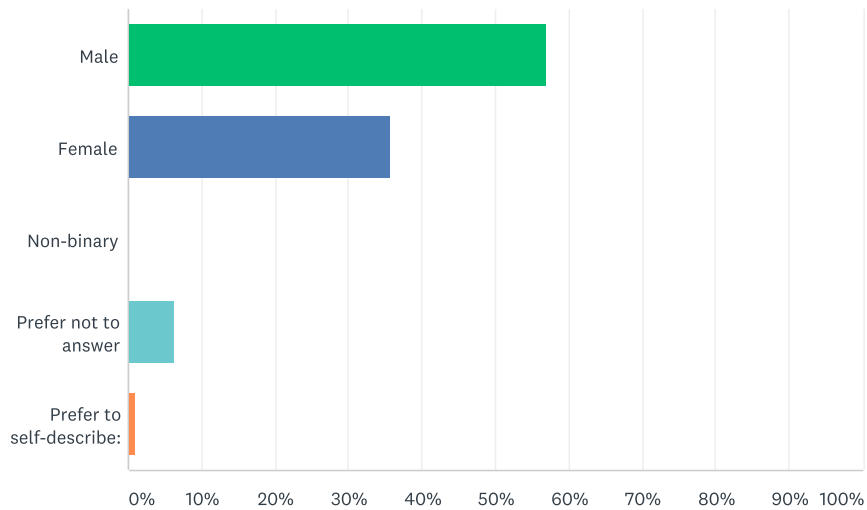
Answered: 94 Skipped: 4



ANSWER CHOICES	RESPONSES	
Under 18	0.00%	0
18-34	11.70%	11
35-54	26.60%	25
55-69	47.87%	45
70+	13.83%	13
TOTAL		94

Q12 To which gender identity do you most identify?

Answered: 95 Skipped: 3



ANSWER CHOICES		RESPONSES	
Male		56.84%	54
Female		35.79%	34
Non-binary		0.00%	0
Prefer not to answer		6.32%	6
Prefer to self-describe:		1.05%	1
TOTAL			95

#	PREFER TO SELF-DESCRIBE:	DATE
1	Really?	

Q13 Is there anything else you wish to communicate to the Commission?

Answered: 64 Skipped: 34

#	RESPONSES
1	I can help.
2	I know you have your work cut out for you so please don't take criticism as anything other than my attempt to provide data to help you improve in your unenviable task of managing our natural resources.
3	No
4	...
5	Best Wishes From A Former F&G Executive Secretary.
6	N/A
7	Good luck with the new strategic planning effort. The more you can engage the public and keep the process transparent, the better the outcome and buy-in will be. This survey is a great start.
8	The hunting and fishing community believe in conservation and environmental stewardship. But every day our right to enjoy our favorite sports seem to get harder and harder to enjoy. We all want a sustainable future, but over regulation is not always the answer. The commission was put in place to help us have a future, not to overregulate us out of existence.
9	Consider a special Sierra Trout Stamp to fund improvements to hatcheries. Also, consider creating tight standards and contracting with private sector to operate hatcheries.
10	N/A
11	See #4 and #7, and keep up the good work, we need more support from the Commissioners and a strong back-bone.
12	Thank you for all your work to improve the management of our natural resources.
13	Continue to reach out to communities and make sure everyone is heard
14	I am worried many people in our state are missing out on opportunities to harvest their own fish and game.
15	Support and communicate with commercial fishermen.
16	The definition of CESA take is insufficient to effect conservation of listed species and too many CDFW personnel perform as activists rather than as scientists.
17	please stand up and do your job.
18	The CA Department of Fish and Wildlife is one of the most frustrating agencies to deal. Both in my professional life working for the County and as a private citizen and volunteer.
19	N/A
20	I hope as a commission you will listen to hunters and anglers ideas or opposition on new legislation. The feeling of people who utilize the outdoors for food and recreation is that as a commission you only listen to groups who want to see the end to hunting and fishing in this state.
21	Keep fighting the fight against the houses removing your purpose for being there.
22	The commission has failed on every conceivable level. It has failed to protect the environment by imposing idiotic irrational policies that cause additional environmental harm. It has failed the people of California by imposing draconian fees, regulations and penalties. It has failed the government of California by creating a bureaucratic monster that does nothing but waste tax dollars. Nothing good has come from the Commission and nothing ever will. It needs to be disbanded and done away with as soon as possible for the good of every living creature in the state of California.
23	I encourage them to communicate with a large variety of commercial fishermen, have a more open dialogue, put the breaks on certain regs instead of making deals

	solely to acquire funds rather than what is best for a fishery
24	Integrity is a key principle
25	Gratitude for their hard work, I know it isn't easy!
26	I appreciate the difficulty of your position and wish you well.
27	No
28	Thank you for the difficult job that you do.
29	Please we need water warden . Our local warden is not prepared to address deforestation and creek destruction.
30	No
31	no
32	no
33	?
34	raise money for abalone restoration/ urchin eradication
35	Listen to citizen scientist
36	Be more vocal and visit the communities you serve.
37	Please remember that fishing and hunting licenses as well as commercial landing taxes supply a large amount of the Commission and Department's funding. Less fishing and hunting in California equates to less funding for needed environmental projects.
38	My 30 years experience with the Commission (first as a Dept employee and then a representative of interested organizations) it seems to me the Commission is frequently seen as simply choosing between hunting/fishing and environmental/animal rights interests. I realize people connected with those views are the people who most frequently appeal to the Commission but some tools to go beyond that framework need to be used to ensure the public interest is served.
39	No
40	Stop involving the DFW in things like gender issues, that is another department.
41	Stewardship is a life long practice having live most my life being as self sufficient as possible, living very close to the land in remote areas. As a fisheries biologist and aquatic ecologist I have been fortunate to practice ecological stewardship in all areas of my life. I support and value the commissions continued work and efforts to promote stewardship and ecological principals, for the valuable ecosystems in California through conservation, protection, and management. Thank you for the opportunity to participate in this survey.
42	Don't know the new commission values, so didn't respond on that.
43	No
44	Stay out of our counties when you do them NO Good. You destroyed my business by poisoning Lake Davis in 1997 and 2007. The US govt added to it with ill conceived Depressions of 2003 and 2008. Then they allowed the Twin Towers to be bombed in 2001. All of these events destroyed Eastern Plumas County's economy and we have yet to recover. But what do you care? I wonder?
45	Thank you.
46	Stop thinking what you believe is true and work beyond to seek truth in matters.
47	I am a member of many state and federal committees; The Dungeness Crab Gear working group, TriState Crab commission, Cordell Bank Advisory Council, California Salmon Council, to name a few. I am also a commercial fishing who has to provide for his family and crew. I love this ocean and want to see the resource remain for generations to come. Please help all of us attain this. Thank you very much,
48	No
49	Thank you for providing this opportunity to give my input! I know these sorts of processes are time consuming and your responses will likely range all over the map. I appreciate you taking the time to review my responses and consider all your stakeholders' input.
50	In your "goals" you identify "stewardship." Most readers would see this as the obligation to protect the underlying resource, the plants, animals, and lands subject to your jurisdiction. This seems to improperly minimize your obligation to encourage

	public use of public lands (GFC 1528, 1745)
51	Please urge too staff to share the rumored NSO policy changes with all staff and stakeholders in advance of oct 23 NSO Forum. And urge them to coordinate with USFWS to full extent possible and urge them to be transparent about rumored statewide SHA on NSOs, in advance of oct 23 NSO forum, with DFG NSO Forum advisorv committee members. Thank you, [REDACTED]
52	As a CDFW employee, I appreciate all the work the Commission is doing to help manage and conserve California's wildlife. It is a big order/challenge to do so in a state that is as ecologically and socially diverse as California. Thank you.
53	Wildlife management by politics is not sound science.
54	Realize that many of your field And office employees are worthless and on the agendas set forth by good old boys and doing nothing to protect or serve their token waters properly. .
55	Question 11 lends it self to profiling your participates and it should be removed.
56	I have a proposal to adjust the dates of deer hunting in A zone. How do I approach this with the commission?
57	Access for mobility challenged people
58	We are in need of bold and forward thinking leadership in conservation and wildlife mgmt. We should be a world leader and model. We have more work to do.
59	Have a nice day!
60	n/a
61	Thank you for doing a great job of protecting fish and wildlife in California.
62	No
63	I entered 4 under stewardship; but feel that an explanation is required. I think the FGC goes overboard in this role - erring on the side of preservation or over-caution will further reduce participation in these outdoor activities.
64	Defend that constituency that has always protected California lands and waters: Hunters and fisherman

Q14 If you are interested in potentially providing additional input, please indicate your name and email address:

Answered: 45 Skipped: 53

ANSWER CHOICES	RESPONSES	
Name	100.00%	45
Company	0.00%	0
Email Address	100.00%	45

California Fish and Game Commission

Key Themes from Strategic Planning Public Survey Results

December 5, 2019

Background

In anticipation of the California Fish and Game Commission's (Commission) upcoming 150-year anniversary in April 2020, a strategic planning process was initiated in early 2018. In the first of a three-phase process, the Commission reassessed its mission and vision, and developed a set of core values, in concert with staff and stakeholders. In June 2019, staff began the second phase of the planning process, consisting primarily of data gathering and synthesis with staff, stakeholders and commissioners.

In October 2019, staff solicited broader input on key questions through an online survey sent to a randomly selected subset of the Commission's mailing lists; nearly 100 respondents participated in the survey. In this document, results for responses to questions about strengths, areas in need of improvement, opportunities, and obstacles or challenges, as well as a question on top priorities for the Commission, are categorized and summarized. Respondents were asked to provide a maximum of three items per question for the first four questions, and one item for the priority question.

It should be noted that a number of the responses to all questions conflated the work done by the Commission and the work of the California Department of Fish and Wildlife, consistent with the experience of Commission staff. Recognizing and keeping in mind the often imperfect distinction between the two organizations, staff has summarized survey responses to the open-ended questions.

What do you believe are the Commission's greatest strengths?

The top areas the public listed as the Commission's greatest strengths were:

- stakeholder engagement,
- work in wildlife and land conservation,
- the Commission's level of authority and power to enact regulations, and
- a strong use of science in decision-making.

Other strengths included commissioner background or personal qualities, good management of resources, adequate public access for resources, transparency, staff qualities, and partner collaboration.

What do you believe are the Commission's areas in greatest need of improvement?

The top areas the public listed as in greatest need of improvement are:

- public engagement,
- the apparent lack of the use of science in decision-making, and
- wildlife and lands conservation.

Other areas mentioned frequently include commissioner background (more specific knowledge and understanding of hunting, fishing, science, etc.) or level of engagement, work with tribes and partners, and proactive management.

Additionally, areas mentioned by more than two individuals include enforcing regulations, political interference, the need for more precautionary management, the number of hunting/fishing opportunities, public lands access, need for predator management, water management, more staff, slow processes, and managing urchins/abalone.

What do you believe are the greatest opportunities available to the Commission as it moves forward?

The top areas the public listed as greatest opportunities are:

- greater outreach and public engagement,
- increase wildlife and lands conservation,
- creating hunting and fishing opportunities, and
- better use of science in decision-making.

Many respondents also listed more sustainable fisheries, greater collaboration with tribes and stakeholders, and soliciting more public input into decision making.

Other areas which received more than two responses include improving the functioning of the California Department of Fish and Wildlife, coordinating with other agencies or states, improving access to lands and resources, better coordination with the California State Legislature, and protecting kelp and abalone.

What do you believe are the greatest obstacles or challenges the Commission is facing?

The top area the public listed as the Commission's greatest obstacles or challenges was:

- outside or non-scientific influences in decision-making, either from the public, non-governmental organizations and other activists, or from political pressures.

Many respondents also included climate change, qualities or backgrounds of the commissioners, and lack of funding as obstacles.

Other obstacles receiving more than two responses include a lack of enforcement, a lack of public knowledge or interest, a resistance to change, slow processes, growth and development, and a lack of legislative support.

Of the items you have identified in the above questions, which do you believe should be the highest priority for the Commission in the near-term?

Asked to identify a top priority of the issues already discussed, the public listed collaborations – either with tribes, stakeholders or other agencies – as the top priority. A greater focus on conservation and stronger use of science in decision-making were also top priorities. Greater public engagement, addressing climate change, greater funding, and an examination of values were also listed.



Wildlife Officers Shut Down Illegal Cannabis Grows on CDFW Property

November 15, 2019

Trash, poached deer and numerous environmental violations discovered

In October, wildlife officers at the California Department of Fish and Wildlife (CDFW) shut down several illegal cannabis grows in Kern and Tehama counties. The properties are owned by CDFW and set aside as protected wildlife habitat.

Support for the different missions was provided by several entities, including the California Department of Justice, the National Guard, the Kern County Sheriff's Office and the Tehama County Sheriff's Office.

In Kern County, wildlife officers eradicated nearly 10,000 illegal cannabis plants. One grow was discovered on the [Allensworth Ecological Reserve](#) with approximately 509 plants. Four subjects were arrested for felony cultivation, conspiracy, possession of methamphetamine, possession of a stolen firearm and numerous environmental violations. During the course of

that investigation, officers located and eradicated another two plots adjacent to the ecological reserve with another 6,799 plants.

A third illegal grow site was discovered on CDFW land in western Kern County. Approximately 2,270 plants were eradicated and six search warrants were served all within a quarter mile of each other. There were no suspects at the locations.

“Sadly, discovering thousands of illegal plants on CDFW property demonstrates the extent those involved in illegal cultivation will go to grow their product,” said David Bess, CDFW Deputy Director and Chief of the Law Enforcement Division. “Those individuals engaged in this egregious behavior have no respect for the unique species of plants and wildlife that depend on these protected areas to live and thrive.”

In Tehama County, an illegal grow was discovered along Antelope Creek in the **Tehama Wildlife Area**. Approximately 2,500 fully budded plants were eradicated and nearly 250 lbs. of processed cannabis was seized. Evidence of a poached deer was also discovered. No suspects were onsite or arrested. Each property contained numerous environmental violations including litter, pollution, habitat destruction, illegal water diversions, alteration of a streambed, sediment discharge and other serious environmental crimes.

All these illegal cannabis grows were located in counties with sensitive wildlife habitat which are home to several important species of plants, birds, mammals and fish found nowhere else in the world.

CDFW encourages the public to report illegal cannabis cultivation and environmental crimes such as water pollution, water diversions and poaching to the CalTIP hotline by calling (888) 334-2258 or texting information to “TIP411” (847411).

###

Media Contact:

Janice Mackey, CDFW Communications, (916) 207-7891



New Wildlife Care Fund Established for Animals at Wildlife Waystation

November 25, 2019

After 40 years of caring for abandoned and surrendered exotic and domestic animals in Southern California, the Wildlife Waystation closed its doors earlier this year.

With the aid of the California Department of Fish and Wildlife (CDFW), nearly half of the 500 animals at the Waystation have found homes at other sanctuaries, including grizzly bears, black bears, African lions, tigers, bison, hyenas, primates, exotic small cats, birds, reptiles and horses.

But the remaining animals – including 39 chimpanzees that will need to be kept together in a number of family units – are in critical need of help. Thanks to a partnership with the Santa Monica-based non-profit Seventh Generation Advisors (SGA), a new fund has been established to accept tax-deductible donations from members of the public who would like to contribute to the costs for vital veterinary care, feeding and housing for the wild animals that are still at the Wildlife Waystation.

CDFW assumed oversight of the care and placement of the wild animals on-site when Wildlife Waystation's board of directors voluntarily surrendered its restricted species permits in August 2019. CDFW and Los Angeles County, in coordination with remaining Wildlife Waystation staff and board members, are collaborating to rehome the animals and ensure that they are being properly cared for in the interim.

However, there are particular challenges for about five dozen magnificent animals that require very specific handling. In some cases, specialized sanctuaries have agreed to take the animals, but will need time to build additional enclosures. The animals may remain at the Waystation for many months until those facilities are ready.

“Many members of the public have indicated they would like to commit specifically to the animals who are still waiting for permanent homes,” said Wildlife Waystation board member Kate Thompson. “We are grateful for SGA’s expertise in receiving and managing public donations, and we hope that their involvement will help ensure that the animals’ transition goes smoothly and they receive the resources they need without delay.”

CDFW, SGA and the Wildlife Waystation board would like to recognize the dedication of existing Wildlife Waystation staff, who have developed relationships with the animals over the decades and have continued to report to work since the permits were surrendered in August.

“These are animals that are used to being around humans to some degree, and that continuity of care is key to their safety and comfort,” said Ed Pert, CDFW’s South Coast Region Manager. “There is definitely no shortage of concern for their welfare, but until now, we lacked the ability to meet the growing public desire to provide financial support for these animals. With SGA’s participation, each entity can focus on the role for which they’re best suited, and donors can be confident that their contributions will be earmarked for the direct care of the animals.”

“We are pleased to help by establishing this special Wildlife Rescue Fund and providing services at no cost to the teams that are protecting these animals and ensuring their care and wellbeing in their new homes,” said Terry Tamminen, SGA President.

SGA, Wildlife Waystation and CDFW are coordinating closely to identify and meet the animals’ most pressing needs and to approve all expenditures from the new Wildlife Rescue Fund. Seventh Generation Advisors is a 501c3 non-profit corporation (Tax ID: 20-8771636). Donations are tax-deductible to the extent provided by state and federal law and no goods or services will be provided to donors in return for contributions.

More information about the chimps at Wildlife Waystation can be found on SGA’s website. If you would like to make a donation toward the care of Wildlife Waystation animals, please visit <https://7thgenerationadvisors.org> or email SGA Programs Director Kristina Haddad at kristina@sgadvisors.org.

###

Media Contacts:

Kristina Haddad, Seventh Generation Advisors, (310) 770-0665

Kirsten Macintyre, California Department of Fish and Wildlife, (916) 322-8988

Kate Thompson, Wildlife Waystation

California Fish and Game Commission Tribal Committee
Work Plan: Topics and Timeline for Items Referred to TC from FGC
Updated November 2019

Topic	Type / Lead	Goal(s)	2019	2020	'20
			Oct 9	Jan 17	Aug 18
			San Diego	Los Angeles	Fortuna Area
Special Projects					
Co-management	TC Project	Develop a definition for co-management	X	X/R	
Regulatory/Legislative					
Kelp and algae harvest management regulations	DFW Project and Regulation Change	Updates; then recommendation and guidance	X	X/R	
Simplification of statewide inland fishing regulations	DFW Project and Regulation Change	Updates; then recommendation and guidance	X	X	
Operating principles/practices and add TC to FGC meeting procedures	Regulation Change	Amend Section 665, Title 14, California Code of Regulations	X/R		
DFW-managed lands	DFW Project and Regulation Change	Amend Section 550, 550.5, and 551, Title 14, California Code of Regulations	X/R		
Developing Management Issues					
FGC climate policy	FGC Policy	During development of a policy for FGC, make recommendations and provide guidance			
Coastal fishing Communities Project	MRC Project	Updates and guidance	X	X	
Management Plans					
Sheep, deer, antelope, trout, abalone, kelp/seaweed	DFW	Updates and guidance (timing as appropriate for each plan)	X	X	X
Informational Topics					
Poseidon, a web-based data collection and analysis tool	The Nature Conservancy	Learn more about a new tool under development to aid in data collection and analysis for harvested species	X		
Status of abalone in California	DFW	Update			
Commercial seaweed and kelp harvest	DFW	Understand current levels of commercial kelp and seaweed harvest (how much, which species, where, etc.)		X	
Kelp recovery efforts	DFW	Update (as requested)			
Studies of pinnipeds and California's fisheries	DFW	Understand what studies have been conducted on pinnipeds, how they affect California's fisheries, and options for addressing impacts		X	
Cross-pollination with MRC and WRC	FGC Committee Coordination	Identify tribal concerns and common themes with WRC and MRC	X	X	X
Annual tribal planning meeting for coordination and consultation, pursuant to Commission's tribal consultation policy	FGC Policy	(1) Share anticipated regulatory and policy topics to be considered this year, (2) identify tribal priorities from within topics, (3) develop collaborative interests, (4) contribute to planning logistics for annual meeting, and (5) review progress on topics discussed at annual meeting.	X	X	X
Marine Protected Areas Statewide Leadership Team	OPC Project	Update on tribal participation in the Marine Protected Areas Statewide Leadership Team and implementation of the leadership team work plan	X	X	X
Proposition 64 (cannabis)	DFW/LED	Update on implementation (as requested)			
Wildfire impacts and state response	DFW	Update (as requested)			
FGC regulatory calendar	FGC	Update	X	X	X

X = Discussion scheduled X/R = Discussion with recommendation developed and moved to FGC

FGC = California Fish and Game Commission TC = FGC's Tribal Committee

MRC = FGC's Marine Resources Committee WRC = FGC's Wildlife Resources Committee

DFW = California Department of Fish and Wildlife LED = DFW's Law Enforcement Division

Wildlife Resources Committee (WRC) 2019-20 Work Plan
Scheduled Topics and Timeline for
Items Referred to WRC by the California Fish and Game Commission
Updated December 5, 2019

Topic	Category	2019	2020		
		SEP	JAN	MAR*	MAY
		Santa Rosa	Los Angeles Area	Sacramento	Santa Rosa
Annual Regulations					
Upland (Resident) Game Birds	Annual	X			
Sport Fishing	Annual				
Mammal Hunting	Annual	X/R			X
Waterfowl	Annual	X/R			X
Central Valley Salmon Sport Fishing	Annual	X/R			X
Klamath River Basin Sport Fishing	Annual	X/R			X
Regulations & Legislative Mandates					
Falconry	Referral for Review				
Simplification of Statewide Inland Fishing Regulations	Regulatory	X	X	X/R	
Special Projects					
American Bullfrog and Non-native Turtle Stakeholder Engagement Project	Referral for Review	X	X		X

KEY: X Discussion scheduled X/R Recommendation developed and moved to FGC

* Note: The March meeting is an additional meeting that was added by FGC.

State of California
Department of Fish and Wildlife

Memorandum

Date: November 7, 2019

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submittal of Initial Statement of Reasons to Amend Sections 360, 361, 362, 364, and 364.1, Title 14, California Code of Regulations (CCR)**

The Department of Fish and Wildlife (Department) requests the Fish and Game Commission (Commission) authorize publication of notice of its intent to amend Sections 360, 361, 362, 364, and 364.1, Title 14, CCR. The Department proposes the following changes to the existing mammal hunting regulations for the 2020-21 season:

1. Section 360 Deer:
 - a. Modify the number of deer tags in hunt zones in Subsection 360(c) by presenting ranges, recommendations for which will be finalized prior to adoption
 - b. Modify season dates in subsection 360(c)(5) for Additional Hunts G-8 (Fort Hunter Liggett Antlerless Deer Hunt) and in subsection 360(c)(32) J-10 (Fort Hunter Liggett Junior Either-Sex Deer Hunt) to account for the annual calendar shift
2. Section 361 Archery Deer Hunting:
 - a. Modify the number of deer tags in hunt zones in subsection 361(b) by presenting ranges, recommendations for which will be finalized prior to adoption
 - b. Modify season dates in subsection 361(b)(28) for Archery Hunt A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt) to account for the annual calendar shift
 - c. Minor editorial changes in subsection 361(b)(26) for Archery Hunt A-31 (Los Angeles Archery Either-Sex Deer Hunt) to reference the correct definition for either-sex deer provided in Section 351, Title 14, CCR.
3. Section 362 Bighorn Sheep:
 - a. Modify the number of desert bighorn sheep tags in hunt zones in subsection 362(d) by presenting ranges, recommendations for which will be finalized prior to adoption
4. Section 364 Elk:
 - a. Modify the number of elk tags in hunt zones in subsections 364(r) through (aa) by presenting ranges, recommendations for which will be finalized prior to adoption

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 7, 2019
Page 2

- b. Modify season dates in subsections 364(u)(12)(C) for Department Administered General Methods Tule Elk Hunts, 364(v)(7)(A) for Department Administered Apprentice Hunts, and 364(w)(6)(B) for Department Administered Archery Only Hunts to account for the annual calendar shift
- 5. Section 364.1 SHARE Elk:
 - a. Modify the number of SHARE elk tags in hunt zones in subsections 364.1(i) through (l) by presenting ranges, recommendations for which will be finalized prior to adoption

If you have any questions regarding this item, please contact Kari Lewis, Wildlife Branch Chief, at (916) 445-3789. The public notice for this rulemaking should identify Environmental Program Manager, Brad Burkholder as the Department's point of contact. He can be reached at (916) 445-1829 or via email at:
Brad.Burkholder@wildlife.ca.gov.

Attachment

cc: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Kari Lewis, Chief
Wildlife Branch
Kari.Lewis@wildlife.ca.gov

Brad Burkholder
Game Program Manager
Wildlife Branch
Brad.Burkholder@wildlife.ca.gov

Nathan Graveline
Big Game Program Supervisor
Wildlife Branch
Nathan.Graveline@wildlife.ca.gov

Julie Garcia
Deer Program Coordinator
Wildlife Branch
Julie.Garcia@wildlife.ca.gov

Victoria Barr
SHARE Program Coordinator
Wildlife Branch
Victoria.Barr@wildlife.ca.gov

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 7, 2019
Page 3

Regina Vu
Bighorn Sheep Program Coordinator
Wildlife Branch
Regina.Vu@wildlife.ca.gov

Kristin Denryter
Elk and Pronghorn Programs Coordinator
Wildlife Branch
Kristin.Denryter@wildlife.ca.gov

David Bess, Chief
Law Enforcement Division
David.Bess@wildlife.ca.gov

Patrick Foy, Captain
Law Enforcement Division
Patrick.Foy@wildlife.ca.gov

Michelle Selmon
Environmental Program Manager
Regulations Unit
Wildlife and Fisheries Division
Michelle.Selmon@wildlife.ca.gov

Mike Randall, Analyst
Regulations Unit
Wildlife and Fisheries Division
Mike.Randall@wildlife.ca.gov

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

DRAFT**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON Margaret.Duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4674
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Mammal Regulations for 2020-2021			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|----------------------------------------------------------------|---------------------------------------------------------------------------|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Minor amendments to hunting regulations with no private sector costs.***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
 - a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - d. Describe other economic costs that may occur: _____
2. If multiple industries are impacted, enter the share of total costs for each industry: _____
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
 If YES, enter the annual dollar cost per housing unit: \$ _____
 Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
 Explain the need for State regulation given the existence or absence of Federal regulations: _____
 Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
 Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY

DATE

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



DRAFT

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Subsection 360(c)
Title 14, California Code of Regulations
Re: Deer: Additional Hunts

I. Date of Initial Statement of Reasons: November 13, 2019

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing	Date:	December 11, 2019
	Location:	Sacramento, CA
(b) Discussion Hearing	Date:	February 6, 2020
	Location:	Sacramento, CA
(c) Adoption Hearing	Date:	April 16, 2020
	Location:	Sacramento, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in establishing deer regulations. Subsection 360(c) provides definitions, hunting zone descriptions, season opening and closing dates, and tag quotas for Additional Hunts of deer.

In order to maintain appropriate harvest levels and hunting quality it is necessary to periodically adjust tag quotas (total number of hunting tags to be made available) in response to dynamic environmental and biological conditions. Current regulations in subsection 360(c) specify deer license tag quotas for each hunt zone in accordance with management goals and objectives.

The specific recommended regulation changes are:

1. Number of Tags

Existing regulations provide for the number of deer hunting tags in the Additional Hunts. The proposed action initially provides a range (e.g., [0 - 100]) of tag numbers for each zone from which a final number will be determined based on the post-winter status of each deer herd. The maximum number of tags available in the proposed range is at or below the number of tags analyzed in the 2007 Final Environmental Document regarding Deer Hunting and the approved deer herd management plans. Ranges are necessary at this time because the final number of tags cannot be determined until spring herd data are collected in March/April and analyzed. A low-end quota range of zero (0) tags is used in the event final tag quotas need to be reduced. Hunts may be cancelled due to events such as fire, disease or other factors.

In early spring, surveys of deer herds are conducted to determine the proportion of fawns that have survived the winter. This information is used in conjunction with the prior year harvest and fall herd composition data to estimate overall herd size, sex and age ratios, and the predicted allowable deer harvest (ADH) for next season. The number of bucks and does needs to be estimated prior to the hunting season to determine how many surplus deer are likely to exist over and above the number required to maintain the desired buck to doe ratio objectives stated in approved deer herd management plans.

Actual tag numbers for each affected zone will be reflected in the Final Statement of Reasons and will be selected from the range of values recommended in this proposal. The recommended number of tags is intended to allow an appropriate level of hunting opportunity and harvest of bucks and does in the population, while achieving or maintaining buck to doe ratios at, or near, objective levels set forth in approved deer herd management plans. The final recommendations for the number of tags to be issued will be based upon findings from the annual harvest and herd composition counts.

The current tag quota of zero (0) for additional deer hunt G-9 (Camp Roberts Antlerless Deer Hunt) reflects the Base's closure to hunting while construction was under way on the base. Construction was scheduled for completion in 2013; however, the timetable for resumption of base hunting programs has not been determined. The Department is currently in meetings with base command, and a decision regarding tag quotas is anticipated prior to the April 2020 Fish and Game Commission meeting. At this time, the current tag quota of zero (0) has been modified to the former tag quota of thirty (30) in anticipation of the possible resumption of deer hunting activities by the Base in the 2020/2021 season. However, if Base operations take precedence over conducting the G-9 hunt, the tag quota will be reduced to zero (0) and reflected in the Final Statement of Reasons.

2. Modify Additional Hunt G-8 (Fort Hunter Liggett Antlerless Deer Hunt)

Existing regulations for Additional Hunt G-8 provide for hunting to begin on October 7 and October 14, and continue for 3 and 2 days respectively, including the Columbus Day holiday, in order to accommodate Base operations and other hunt opportunities. Tags are split between military and the public.

The current proposal would modify the season to account for the annual calendar shift by changing the season dates to open on October 3 and continue for two (2) consecutive days, including the Columbus Day holiday, and reopen on October 10 and continue for three (3) consecutive days. No loss of hunter opportunity would result from this action and the proposal is consistent with existing deer herd management plan recommendations.

The tag split will be deleted, and the tags will be available to any hunter, military or public.

3. Modify Additional Hunt J-10

Existing regulations for Additional Hunt J-10 (Fort Hunter Liggett Junior Either-Sex Deer Hunt) provide for hunting to begin on October 7 and October 14, and continue for 3 and 2 days respectively, including the Columbus Day holiday, in order to accommodate Base operations and other hunt opportunities. Tags are split between military and the public.

The current proposal would modify the season to account for the annual calendar shift by changing the season dates to open on October 3 and continue for two (2) consecutive

days, including the Columbus Day holiday, and reopen on October 10 and continue for three (3) consecutive days. No loss of hunter opportunity would result from this action and the proposal is consistent with existing deer herd management plan recommendations.

The tag split will be deleted, and the tags will be available to any hunter, military or public.

(b) Goals and Benefits of the Regulation

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

(c) Authority and Reference

Authority: Section(s) 200, 203, 265, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code.

Reference: Section(s) 200, 203, 203.1, 255, 265, 458, 459, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None

(e) Identification of Reports or Documents Supporting Regulation Change: None

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

Fish and Game Commission Wildlife Resources Committee meetings held in Sacramento on May 16, 2019, and in Santa Rosa on September 10, 2019.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

1. Number of Tags

There is no reasonable alternative to the proposed action.

2. Modify Season for Additional Hunt G-8

There is no reasonable alternative to the proposed action.

3. Modify Season Additional Hunt J-10

There is no reasonable alternative to the proposed action.

(b) No Change Alternative

1. Number of Tags

The "No Change Alternative" was considered and found inadequate to attain the project objectives. Retaining the current number of tags for the hunts listed may not be responsive to changes in the status of the herds. The deer herd management plans specify objective levels for the proportion of bucks to does in the herds. These ratios are maintained and managed in part by modifying the number of tags. The "No Change Alternative" would not allow management of the desired proportion of bucks stated in the approved deer herd management plans.

2. Modify Additional Hunt G-8

The “No Change Alternative” was considered and found inadequate to attain the project objectives. Retaining the current season length and timing would be unresponsive to Base operations, scheduled activities and unnecessarily restrict hunter opportunity.

3. Modify Additional Hunt J-10

The “No Change Alternative” was considered and found inadequate to attain the project objectives. Retaining the current season length and timing would be unresponsive to Base operations, scheduled activities and/or unnecessarily restrict hunter opportunity.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed. The maximum number of tags available in the proposed range is at or below the number of tags analyzed in the 2007 Final Environmental Document regarding Deer Hunting and the approved deer herd management plans.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas for existing hunts and modifies season dates for hunts on military land. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

The proposed action will not have significant impacts on the creation or elimination of jobs or the creation of new businesses or the elimination of existing businesses within California because it is unlikely to result in a change in hunting effort. The proposed action does not provide benefits to worker safety because it does not address working conditions.

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California’s environment by the future stewards of the State’s resources. The Commission anticipates benefits to the State’s environment in the sustainable management of natural resources.

(c) Cost Impacts on a Representative Private Person or Business

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs Mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None
- (h) Effect on Housing Costs: None

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The regulation will not affect the creation or elimination of jobs because no significant changes in hunting activity levels are anticipated.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The regulation will not impact the creation of new businesses or the elimination of businesses because no significant changes in hunting activity levels are anticipated.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The regulation will not affect the expansion of businesses currently doing business within the State because no significant changes in hunting activity levels are anticipated.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The proposed regulation will benefit the health and welfare of California residents by maintaining sustainable deer populations and providing opportunities for the public to participate in a healthy outdoor activity.

(e) Benefits of the Regulation to Worker Safety

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment

It is the policy of the State to encourage the conservation, maintenance, and utilization of the State's living resources. The proposed action will further this core objective.

Informative Digest/Policy Statement Overview

Existing regulations provide for the number of deer hunting tags in subsection 360(c) Additional Hunts. The proposed action provides a recommended range of tag numbers for each hunt from which a final number will be determined, based on the post-winter status of each deer herd. These ranges are necessary at this time because the final number of tags cannot be determined until spring herd data are collected in March/April and analyzed.

The proposed action changes the number of tags for all existing hunts (except those on military installations) to a series of ranges as indicated in the table below.

Deer: § 360(c) Additional Hunts			
Tag Allocations			
§	Hunt Number (and Title)	Current 2019	Proposed 2020 [Range]
(1)	G-1 (Late Season Buck Hunt for Zone C-4)	2,710	[0 - 5,000]
(2)	G-3 (Goodale Buck Hunt)	25	[0 – 50]
(3)	G-6 (Kern River Deer Herd Buck Hunt)	50	[0 – 100]
(4)	G-7 (Beale Either-Sex Deer Hunt)	20 Military*	[20 Military*]
(5)	G-8 (Fort Hunter Liggett Antlerless Deer Hunt)	10 Military* & 10 Public	[20*]
(6)	G-9 (Camp Roberts Antlerless Deer Hunt)	0	[30*]
(7)	G-10 (Camp Pendleton Either-Sex Deer Hunt)	250 Military*	[250 Military*]
(8)	G-11 (Vandenberg Either-Sex Deer Hunt)	0	[0 – 500]
(9)	G-12 (Gray Lodge Shotgun Either-Sex Deer Hunt)	30	[0 – 50]
(10)	G-13 (San Diego Antlerless Deer Hunt)	300	[0 – 300]
(11)	G-19 (Sutter-Yuba Wildlife Areas Either-Sex Deer Hunt)	25	[0 – 50]
(12)	G-21 (Ventana Wilderness Buck Hunt)	25	[0 – 100]
(13)	G-37 (Anderson Flat Buck Hunt)	25	[0 – 50]

	Deer: § 360(c) Additional Hunts Tag Allocations		
§	Hunt Number (and Title)	Current 2019	Proposed 2020 [Range]
(14)	G-38 (X-10 Late Season Buck Hunt)	300	[0 – 300]
(15)	G-39 (Round Valley Late Season Buck Hunt)	2	[0 – 150]
(16)	M-3 (Doyle Muzzleloading Rifle Buck Hunt)	20	[0 – 75]
(17)	M-4 (Horse Lake Muzzleloading Rifle Buck Hunt)	10	[0 – 50]
(18)	M-5 (East Lassen Muzzleloading Rifle Buck Hunt)	5	[0 – 50]
(19)	M-6 (San Diego Muzzleloading Rifle Either-Sex Deer Hunt)	80	[0 – 100]
(20)	M-7 (Ventura Muzzleloading Rifle Either-Sex Deer Hunt)	150	[0 – 150]
(21)	M-8 (Bass Hill Muzzleloading Rifle Buck Hunt)	20	[0 – 50]
(22)	M-9 (Devil's Garden Muzzleloading Rifle Buck Hunt)	15	[0 – 100]
(23)	M-11 (Northwestern California Muzzleloading Rifle Buck Hunt)	20	[0 – 200]
(24)	MA-1 (San Luis Obispo Muzzleloading Rifle/Archery Either-Sex Deer Hunt)	150	[0 – 150]
(25)	MA-3 (Santa Barbara Muzzleloading Rifle/Archery Buck Hunt)	150	[0 – 150]
(26)	J-1 Lake Sonoma Apprentice Either-Sex Deer Hunt)	25	[0 – 25]
(27)	J-3 (Tehama Wildlife Area Apprentice Buck Hunt)	15	[0 – 30]
(28)	J-4 Shasta-Trinity Apprentice Buck Hunt)	15	[0 – 50]

	Deer: § 360(c) Additional Hunts Tag Allocations		
§	Hunt Number (and Title)	Current 2019	Proposed 2020 [Range]
(29)	J-7 (Carson River Apprentice Either-Sex Deer Hunt)	0	[0 – 50]
(30)	J-8 (Daugherty Hill Wildlife Area Apprentice Either-Sex Deer Hunt)	15	[0 – 20]
(31)	J-9 (Little Dry Creek Apprentice Shotgun Either-Sex Deer Hunt)	5	[0 – 10]
(32)	J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt)	25 Military & 60 Public	[30*]
(33)	J-11 (San Bernardino Apprentice Either-Sex Deer Hunt)	40	[0 – 50]
(34)	J-12 (Round Valley Apprentice Buck Hunt)	10	[0 – 20]
(35)	J-13 (Los Angeles Apprentice Either-Sex Deer Hunt)	40	[0 – 100]
(36)	J-14 (Riverside Apprentice Either-Sex Deer Hunt)	30	[0 – 75]
(37)	J-15 (Anderson Flat Apprentice Buck Hunt)	10	[0 – 30]
(38)	J-16 (Bucks Mountain-Nevada City Apprentice Either-Sex Deer Hunt)	75	[0 – 75]
(39)	J-17 (Blue Canyon Apprentice Either-Sex Deer Hunt)	25	[0 – 25]
(40)	J-18 (Pacific-Grizzly Flat Apprentice Either-Sex Deer Hunt)	75	[0 – 75]
(41)	J-19 (Zone X-7a Apprentice Either-Sex Deer Hunt)	25	[0 – 40]
(42)	J-20 (Zone X-7b Apprentice Either-Sex Deer Hunt)	20	[0 – 20]
(43)	J-21 (East Tehama Apprentice Either-Sex Deer Hunt)	50	[0 – 80]

* Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs. Military only tags are designated for Department of Defense and eligible personnel as authorized by the Installation Commander.

Existing regulations for Additional Hunts G-8 (Fort Hunter Liggett Antlerless Deer Hunt) and J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt) provide for hunting to begin on October 7 and continue for three consecutive days and reopen on October 14 and continue for two consecutive days, including the Columbus Day holiday. -The proposal would modify the season to account for the annual calendar shift. The proposal would change the season dates to open on October 3 and October 10, for two and three consecutive days respectively and include the Columbus Day holiday.

Benefits of the regulations

Deer herd management plans specify objective levels for the proportion of bucks to does in the herds. These ratios are maintained and managed in part by annually modifying the number of hunting tags. The final recommended values for the license tag numbers will be based upon findings from the annual harvest and herd composition counts. Adjusting tag allocations in response to current deer herd conditions contributes to the sustainable management of healthy deer populations and the maintenance of continued hunting opportunities.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Consistency and Compatibility with State Regulations

The Fish and Game Commission, pursuant to Fish and Game Code sections 200 and 203, has the sole authority to regulate deer hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to deer tag allocations are consistent with sections 360, 702, 708.5 and 708.6 of Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

Proposed Regulatory Language

Subsection (c), Section 360, Title 14 CCR, is amended to read:

§360. Deer

(c) Additional Hunts.

(1) G-1 (Late Season Buck Hunt for Zone C-4).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~2,740~~ [0 - 5,000].

(2) G-3 (Goodale Buck Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~25~~ [0 - 50].

(3) G-6 (Kern River Deer Herd Buck Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~50~~ [0 - 100].

(4) G-7 (Beale Either Sex Hunt).

. . . *[No changes to subsections (A) through (E)]*

(5) G-8 (Fort Hunter Liggett Antlerless Deer Hunt).

. . . *[No changes to subsection (A)]*

(B) Season: The season for additional hunt G-8 (Fort Hunter Liggett Antlerless Deer Hunt) shall open on October ~~7~~ 3 and extend for ~~3~~ 2 consecutive days and reopen on October ~~14~~ 10 and extend for ~~2~~ 3 consecutive days, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

. . . *[No changes to subsections (C)]*

(D) Number of Tags: ~~20 (10 military and 10 general public)~~.

. . . *[No changes to subsections (E)]*

(6) G-9 (Camp Roberts Antlerless Deer Hunt).

. . . *[No changes to subsections (A) through (E)]*

(7) G-10 (Camp Pendleton Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (E)]*

(8) G-11 (Vandenberg Either-Sex Deer Hunt).

. . . *[No changes to subsection (A) through (E)]*

(9) G-12 (Gray Lodge Shotgun Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~30~~ [0 - 50].

. . . *[No changes to subsection (E)]*

(10) G-13 (San Diego Antlerless Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

- (D) Number of Tags: ~~300~~ [0 - 300].
- (11) G-19 (Sutter-Yuba Wildlife Areas Either-Sex Deer Hunt).
... *[No changes to subsections (A) and (C)]*
- (D) Number of Tags: ~~25~~ [0 - 50].
... *[No changes to subsection (E)]*
- (12) G-21 (Ventana Wilderness Buck Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~25~~ [0 - 100].
- (13) G-37 (Anderson Flat Buck Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~25~~ [0 - 50].
- (14) G-38 (X-10 Late Season Buck Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~300~~ [0 - 300].
- (15) G-39 (Round Valley Late Season Buck Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~2~~ [0 - 150].
- (16) M-3 (Doyle Muzzleloading Rifle Buck Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~20~~ [0 - 75].
... *[No changes to subsection (E)]*
- (17) M-4 (Horse Lake Muzzleloading Rifle Buck Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~40~~ [0 - 50].
... *[No changes to subsection (E)]*
- (18) M-5 (East Lassen Muzzleloading Rifle Buck Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~5~~ [0 - 50].
... *[No changes to subsection (E)]*
- (19) M-6 (San Diego Muzzleloading Rifle Either-Sex Deer Hunt).
... *[No changes to subsections (A) through (C)]*
- (D) Number of Tags: ~~80~~ [0 - 100].
... *[No changes to subsection (E)]*
- (20) M-7 (Ventura Muzzleloading Rifle Either-Sex Deer Hunt).
... *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~150~~ [0 - 150].

. . . [No changes to subsection (E)]

(21) M-8 (Bass Hill Muzzleloading Rifle Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~20~~ [0 - 50].

. . . [No changes to subsection (E)]

(22) M-9 (Devil's Garden Muzzleloading Rifle Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~45~~ [0 - 100].

. . . [No changes to subsection (E)]

(23) M-11 (Northwestern California Muzzleloading Rifle Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~20~~ [0 - 200].

. . . [No changes to subsection (E)]

(24) MA-1 (San Luis Obispo Muzzleloading Rifle/Archery Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~150~~ [0 - 150].

. . . [No changes to subsection (E)]

(25) MA-3 (Santa Barbara Muzzleloading Rifle/Archery Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~150~~ [0 - 150].

. . . [No changes to subsection (E)]

(26) J-1 (Lake Sonoma Apprentice Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~25~~ [0 - 25].

. . . [No changes to subsection (E)]

(27) J-3 (Tehama Wildlife Area Apprentice Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~45~~ [0 - 30].

. . . [No changes to subsection (E)]

(28) J-4 (Shasta-Trinity Apprentice Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~45~~ [0 - 50].

. . . [No changes to subsection (E)]

(29) J-7 (Carson River Apprentice Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 0 [0 - 50].

. . . [No changes to subsection (E)]

(30) J-8 (Daugherty Hill Wildlife Area Apprentice Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 15 [0 - 20].

. . . [No changes to subsection (E)]

(31) J-9 (Little Dry Creek Apprentice Shotgun Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 5 [0 - 10].

. . . [No changes to subsection (E)]

(32) J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt).

. . . [No changes to subsection (A)]

(B) Season: The season for additional hunt J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt) shall open on October 7 3 and extend for 3 2 consecutive days and reopen on October 14 10 and extend for 2 3 consecutive days, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

. . . [No changes to subsection (C)]

(D) Number of Tags: ~~85~~ 30 (~~25 military and 60 general public~~).

. . . [No changes to subsection (E)]

(33) J-11 (San Bernardino Apprentice Either-Sex Deer Hunt).

. . . [No changes for subsections (A) through (C)]

(D) Number of Tags: 40 [0 - 50].

. . . [No changes to subsection (E)]

(E) Special Conditions:

(34) J-12 (Round Valley Apprentice Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 40 [0 - 20].

. . . [No changes to subsection (E)]

(35) J-13 (Los Angeles Apprentice Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 40 [0 - 100].

. . . [No changes to subsection (E)]

(36) J-14 (Riverside Apprentice Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 30 [0 - 75].

. . . [No changes to subsection (E)]

(37) J-15 (Anderson Flat Apprentice Buck Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~40~~ [0 - 30].

. . . *[No changes to subsection (E)]*

(38) J-16 (Bucks Mountain-Nevada City Apprentice Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~75~~ [0 - 75].

. . . *[No changes to subsection (E)]*

(39) J-17 (Blue Canyon Apprentice Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~25~~ [0 - 25].

. . . *[No changes to subsection (E)]*

(40) J-18 (Pacific-Grizzly Flat Apprentice Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~75~~ [0 - 75].

. . . *[No changes to subsection (E)]*

(41) J-19 (Zone X-7a Apprentice Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~25~~ [0 - 40].

. . . *[No changes to subsection (E)]*

(42) J-20 (Zone X-7b Apprentice Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~20~~ [0 - 20].

. . . *[No changes to subsection (E)]*

(43) J-21 (East Tehama Apprentice Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: ~~50~~ [0 - 80].

. . . *[No changes to subsection (E)]*

(44) Conditions for Additional Hunts.

. . . *[No changes to subsections (A) and (B)]*

Note: Authority: Sections 200, 203, 265, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code. Reference: Sections 200, 203, 203.1, 255, 265, 458, 459, 460, 3051, 3452, 3453, 3953 and 4334, Fish and Game Code.

DRAFT

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Subsection 361(b)
Title 14, California Code of Regulations
Re: Archery Deer Hunting

I. Date of Initial Statement of Reasons: November 13, 2019

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing	Date:	December 11, 2019
	Location:	Sacramento, CA
(b) Discussion Hearing	Date:	February 6, 2020
	Location:	Sacramento, CA
(c) Adoption Hearing	Date:	April 16, 2020
	Location:	Sacramento, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in establishing deer regulations. Subsection 361(b) provides definitions, hunting zone descriptions, season opening and closing dates, and tag quotas for Archery Deer Hunting.

In order to maintain appropriate harvest levels and hunting quality it is necessary to periodically adjust tag quotas (total number of hunting tags to be made available) in response to dynamic environmental and biological conditions. Current regulations in subsection 361(b) specify deer license tag quotas for each hunt zone in accordance with management goals and objectives.

The specific recommended regulation changes are:

1. Number of Tags

Existing regulations provide for the number of deer hunting tags for area-specific archery hunts. The proposed action initially provides a range (e.g., [0- 100]) of tag numbers for each zone from which a final number will be determined based on the post-winter status of each deer herd. The maximum number of tags available in the proposed range is at or below the number of tags analyzed in the 2007 Final Environmental Document regarding Deer Hunting and the approved deer herd management plans. Ranges are necessary at this time because the final number of tags cannot be determined until spring herd data are collected in March/April and analyzed. A low-end quota range of zero (0) tags is used in the event final tag quotas need to be reduced. Hunts may be cancelled due to events such as fire, disease or other factors.

In early spring, surveys of deer herds are conducted to determine the proportion of fawns that have survived the winter. This information is used in conjunction with the prior year

harvest and fall herd composition data to estimate overall herd size, sex and age ratios, and the predicted allowable deer harvest (ADH) for next season. The number of bucks and does needs to be estimated prior to the hunting season to determine how many surplus deer are likely to exist over and above the number required to maintain the desired buck to doe ratio objectives stated in the approved deer herd management plans.

Actual tag numbers for each affected zone will be reflected in the Final Statement of Reasons and will be selected from the range of values recommended in this proposal. The recommended number of tags is intended to allow an appropriate level of hunting opportunity and harvest of bucks and does in the population, while achieving or maintaining the buck to doe ratios at, or near, objective levels set forth in approved deer herd management plans. These final recommendations for the number of tags to be issued will be based upon findings from the annual harvest and herd composition counts.

2. Modify hunt A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt)

Existing regulations for A-33 provide for hunting to open beginning the first Saturday in October and continuing through November 12, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31. Tags are split between military and the public.

The current proposal would modify the season to account for the annual calendar shift by changing the season dates to open beginning the first Saturday in October and continuing through November 11, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

The tag split will be deleted, and the tags will be available to any hunter, military or public.

3. Minor non-substantive correction for A-31 (Los Angeles Archery Either-Sex Deer Hunt). Existing regulations incorrectly reference a definition for either-sex deer, it should be subsection 351(c), not (b).

(b) Goals and Benefits of the Regulation

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

(c) Authority and Reference

Authority: Section(s) 200, 203, 265, 3453, and 4370, Fish and Game Code.

Reference: Section(s) 200, 203, 203.1, 255, 265, and 4370, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change. None

(e) Identification of Reports or Documents Supporting Regulation Change: None

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

Fish and Game Commission Wildlife Resources Committee meetings held in Sacramento on May 16, 2019 and in Santa Rosa on September 10, 2019.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified.

(b) No Change Alternative

1. Number of Tags

The “No Change Alternative” was considered and found inadequate to attain the project objectives. Retaining the current number of tags for the hunts listed may not be responsive to changes in the status of the herds. The deer herd management plans specify objective levels for the proportion of bucks to does in the herds. These ratios are maintained and managed in part by modifying the number of tags. The “No Change Alternative” would not allow management of the desired proportion of bucks stated in the approved deer herd management plans.

2. Modify hunt for A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt)

The “No Change Alternative” was considered and found inadequate to attain the project objectives. Retaining the current season length and timing would be unresponsive to Base operations, scheduled activities and unnecessarily restrict hunter opportunity.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed. The maximum number of tags available in the proposed range is at or below the number of tags analyzed in the 2007 Final Environmental Document regarding Deer Hunting and the approved deer herd management plans.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

The proposed action will not have significant impacts on the creation or elimination of jobs or the creation of new businesses or the elimination of existing businesses within California

because it is unlikely to result in a change in hunting effort. The proposed action does not provide benefits to worker safety because it does not address working conditions.

The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

(c) Cost Impacts on a Representative Private Person or Business

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State. None

(e) Nondiscretionary Costs/Savings to Local Agencies. None

(f) Programs Mandated on Local Agencies or School Districts. None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code. None

(h) Effect on Housing Costs. None

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The regulation will not affect the creation or elimination of jobs because no significant changes in hunting activity levels are anticipated.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The regulation will not impact the creation of new businesses or the elimination of businesses because no significant changes in hunting activity levels are anticipated.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The regulation will not affect the expansion of businesses currently doing business within the State because no significant changes in hunting activity levels are anticipated.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The proposed regulation will benefit the health and welfare of California residents by maintaining sustainable deer populations and providing opportunities for the public to participate in a healthy outdoor activity.

(e) Benefits of the Regulation to Worker Safety

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment

It is the policy of the State to encourage the conservation, maintenance, and utilization of the State's living resources. The proposed action will further this core objective.

Informative Digest/Policy Statement Overview

Existing regulations provide for the number of deer hunting tags for existing area-specific archery hunts. The proposed action provides a recommended range of tag numbers for each hunt from which a final number will be determined, based on the post-winter status of each deer herd. These ranges are necessary at this time because the final number of tags cannot be determined until spring herd data are collected and analyzed in March/April and analyzed.

The proposed action changes the number of tags for all existing hunts (except those on military installations) to a series of ranges as indicated in the table below.

Archery Deer Hunting: § 361(b)			
Tag Allocations			
§	Hunt Number (and Title)	Current 2019	Proposed 2020 [Range]
(1)	A-1 (C Zones Archery Only Hunt)	1,945	[0 - 3,000]
(2)	A-3 (Zone X-1 Archery Hunt)	100	[0 - 1,000]
(3)	A-4 (Zone X-2 Archery Hunt)	10	[0 - 100]
(4)	A-5 (Zone X-3a Archery Hunt)	40	[0 - 300]
(5)	A-6 (Zone X-3b Archery Hunt)	70	[0 - 400]
(6)	A-7 (Zone X-4 Archery Hunt)	120	[0 - 400]
(7)	A-8 (Zone X-5a Archery Hunt)	15	[0 - 100]
(8)	A-9 (Zone X-5b Archery Hunt)	5	[0 - 100]
(9)	A-11 (Zone X-6a Archery Hunt)	50	[0 - 200]
(10)	A-12 (Zone X-6b Archery Hunt)	90	[0 - 300]
(11)	A-13 (Zone X-7a Archery Hunt)	45	[0 - 200]
(12)	A-14 (Zone X-7b Archery Hunt)	25	[0 - 100]
(13)	A-15 (Zone X-8 Archery Hunt)	40	[0 - 100]
(14)	A-16 (Zone X-9a Archery Hunt)	140	[0 - 500]
(15)	A-17 (Zone X-9b Archery Hunt)	300	[0 - 500]

Archery Deer Hunting: § 361(b) Tag Allocations			
§	Hunt Number (and Title)	Current 2019	Proposed 2020 [Range]
(16)	A-18 (Zone X-9c Archery Hunt)	350	[0 - 500]
(17)	A-19 (Zone X-10 Archery Hunt)	100	[0 - 200]
(18)	A-20 (Zone X-12 Archery Hunt)	100	[0 - 500]
(19)	A-21 (Anderson Flat Archery Buck Hunt)	25	[0 - 100]
(20)	A-22 (San Diego Archery Either-Sex Deer Hunt)	1,000	[0 - 1,500]
(21)	A-24 (Monterey Archery Either-Sex Deer Hunt)	100	[0 - 200]
(22)	A-25 (Lake Sonoma Archery Either-Sex Deer Hunt)	35	[0 - 75]
(23)	A-26 (Bass Hill Archery Buck Hunt)	30	[0 - 100]
(24)	A-27 (Devil's Garden Archery Buck Hunt)	5	[0 - 75]
(25)	A-30 (Covelo Archery Buck Hunt)	40	[0 - 100]
(26)	A-31 (Los Angeles Archery Either-Sex Deer Hunt)	1,000	[0 - 1,500]
(27)	A-32 (Ventura/Los Angeles Archery Late Season Either-Sex Deer Hunt)	250	[0 - 300]
(28)	A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt)	50* (25 Military & 25 Public)	50*

* Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs. Military only tags are designated for Department of Defense and eligible personnel as authorized by the Installation Commander.

Existing regulations for Hunt A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt) provide for hunting to open beginning the first Saturday in October and continue through November 12, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31. The current proposal would modify the season to account for the annual calendar shift by changing the season dates to open beginning the first Saturday in October

and continue through November 11, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

Benefits of the regulations

Deer herd management plans specify objective levels for the proportion of bucks to does in the herds. These ratios are maintained and managed in part by annually modifying the number of hunting tags. The final recommended values for the license tag numbers will be based upon findings from the annual harvest and herd composition counts. Adjusting tag allocations in response to current deer herd conditions contributes to the sustainable management of healthy deer populations and the maintenance of continued hunting opportunities.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Consistency and Compatibility with State Regulations

The Fish and Game Commission, pursuant to Fish and Game Code sections 200 and 203, has the sole authority to regulate deer hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to deer tag allocations are consistent with sections 361, 702, 708.5 and 708.6 of Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

Proposed Regulatory Language

Subsection (b) of Section 361, Title 14, CCR is amended to read:

§361. Archery Deer Hunting.

(b) Archery Hunting With Area-specific Archery Tags. Deer may be taken only with archery equipment specified in Section 354, only during the archery seasons as follows:

(1) A-1 (C Zones Archery Only Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~1,945~~ [0 - 3,000] A-1 (C Zones Archery Only Hunt) tags are valid in Zones C-1, C-2, C-3, and C-4 only during the archery season as specified above in subsections 361(b)(1)(B)1 through 4.

(2) A-3 (Zone X-1 Archery Hunt)

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~400~~ [0 - 1,000].

(3) A-4 (Zone X-2 Archery Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~40~~ [0 – 100].

(4) A-5 (Zone X-3a Archery Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~40~~ [0 – 300].

(5) A-6 (Zone X-3b Archery Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~70~~ [0 – 400].

(6) A-7 (Zone X-4 Archery Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~120~~ [0 - 400].

(7) A-8 (Zone X-5a Archery Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~40~~ [0 - 100].

(8) A-9 (Zone X-5b Archery Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~5~~ [0 - 100].

(9) A-11 (Zone X-6a Archery Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: ~~50~~ [0 - 200].

(10) A-12 (Zone X-6b Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 90 [0 - 300].

(11) A-13 (Zone X-7a Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 45 [0 - 200].

(12) A-14 (Zone X-7b Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 25 [0 - 100].

(13) A-15 (Zone X-8 Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 40 [0 - 100].

(14) A-16 (Zone X-9a Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 30 [0 - 500].

(15) A-17 (Zone X-9b Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 240 [0 - 500].

(16) A-18 (Zone X-9c Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 350 [0 - 500].

(17) A-19 (Zone X-10 Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 400 [0 - 200].

(18) A-20 (Zone X-12 Archery Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 40 [0 - 500].

(19) A-21 (Anderson Flat Archery Buck Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 25 [0 - 100].

(20) A-22 (San Diego Archery Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 4,000 [0 - 1,500].

(21) A-24 (Monterey Archery Either-Sex Deer Hunt).

. . . *[No changes to subsections (A) through (C)]*

(D) Number of Tags: 400 [0 - 200].

(22) A-25 (Lake Sonoma Archery Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 35 [0 - 75].

. . . [No changes to subsection (E)]

(23) A-26 (Bass Hill Archery Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 30 [0 - 100].

(24) A-27 (Devil's Garden Archery Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 40 [0 - 75].

(25) A-30 (Covelo Archery Buck Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 40 [0 - 100].

(26) A-31 (Los Angeles Archery Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (B)]

(C) Bag and Possession Limit: One either-sex deer (see subsection 351-(b)-(c)) per tag.

(D) Number of Tags: 1,000 [0 - 1,500].

(27) A-32 (Ventura/Los Angeles Late Season Archery Either-Sex Deer Hunt).

. . . [No changes to subsections (A) through (C)]

(D) Number of Tags: 250 [0 - 300].

(28) A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt).

. . . [No changes to subsection (A)]

(B) Season: The season for hunt A-33 (Fort Hunter Liggett Late Season Archery Either-Sex Deer Hunt) shall be open beginning the first Saturday in October and continuing through November 12-11, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

. . . [No changes to subsection (C)]

(D) Number of Tags: 50 (25 military and 25 general public).

. . . [No changes to subsection (E)]

Note: Authority cited: Sections 200, 203, 265, 3453, and 4370, Fish and Game Code.

Reference: Sections 200, 203, 203.1, 255, 265 and 4370, Fish and Game Code.

DRAFT

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Section 362
Title 14, California Code of Regulations
Re: Nelson Bighorn Sheep

I. Date of Initial Statement of Reasons: November 13, 2019

II. Dates and Locations of Scheduled Hearings

- | | |
|------------------------|-----------------------------------------------------|
| (a) Notice Hearing | Date: December 11, 2019
Location: Sacramento, CA |
| (b) Discussion Hearing | Date: February 6, 2019
Location: Sacramento, CA |
| (c) Adoption Hearing | Date: April 16, 2019
Location: Sacramento, CA |

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

In accordance with management goals and objectives, and in order to maintain hunting quality, it is necessary to periodically consider tag quotas for hunting. Current regulations specify the number of bighorn sheep hunting tags for the 2019 season. The proposed action initially provides a range of tag numbers from which a final number will be determined based on the post-winter status. A low-end quota range of zero (0) tags is used in the event final tag quotas need to be reduced.

Preliminarily, the tag numbers are presented as ranges (e.g., [0-3]) in the table in subsection 362(d) of the amended Regulatory Text. Final tag quota recommendations for each zone will be identified and presented to the Fish and Game Commission and interested and affected parties prior to the adoption hearing.

Final tag quotas for bighorn sheep cannot be determined until surveys are completed and all data are analyzed. Surveys and analyses are scheduled for completion by Spring 2020. Final tag quotas will recommend a biologically appropriate harvest of bighorn sheep. Due to the timing of administrative procedures and requirements of the Fish and Game Code, the Department submits proposed regulatory changes to the Fish and Game Commission prior to completion of all surveys, necessitating a proposed range of tags. Monitoring continues and final tag quotas for each zone will be recommended in the Preadoption Statement of Reasons based upon findings from 2019-2020 fall/winter surveys.

(b) Goals and Benefits of the Regulation

The goals and benefits of the regulations are to provide for the conservation and maintenance of bighorn sheep populations to ensure their persistence. It is the policy of this State to

encourage the preservation, conservation and maintenance of wild resources under the jurisdiction and influence of the state including, but not limited to sections 1801 and 4900 of the Fish and Game Code.

(c) Authority and Reference

Authority: Sections 200, 203, 265, 1050, and 4902, Fish and Game Code

Reference: Sections 1050, 3950, and 4902, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change. None

(e) Identification of Reports or Documents Supporting Regulation Change. None

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

Fish and Game Commission's Wildlife Resources Committee meeting held on May 16, 2019 in Sacramento and on September 10, 2019 in Santa Rosa, California.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified.

(b) No Change Alternative

The no-change alternative was considered and rejected because it would not attain project objectives of providing for hunting opportunities while maintaining bighorn sheep populations within desired population objectives. Retaining the current tag quota for each zone may not be responsive to biologically-based changes in the status of various herds. The no-change alternative would not allow for adjustment of tag quotas in response to changing environmental/biological conditions.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed. The maximum number of tags available in the proposed range is at or below the number of tags analyzed in the 2019 Final Environmental Document regarding bighorn sheep hunting.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations adjust tag quotas for existing hunts to provide public recreational opportunity and could result in minor increases or decreases in hunting days and hunter

spending on equipment, fuel, food, and accommodations. Given the number of tags available and the area over which they are distributed, the proposed regulations are anticipated to be economically neutral for business.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment.

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. Minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state.

The Commission anticipates benefits to the health and welfare of California residents because hunting is an outdoor activity that can provide exercise, a greater awareness of the connections between wildlife and habitat, and fresh game to eat. The proposed regulation will not affect worker safety. The Commission anticipates benefits to the state's environment through the maintenance of sufficient populations of bighorn sheep to ensure their continued existence.

- (c) Cost Impacts on a Representative Private Person or Business

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State. None.

- (e) Nondiscretionary Costs/Savings to Local Agencies. None.

- (f) Programs Mandated on Local Agencies or School Districts. None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code. None.

- (h) Effect on Housing Costs. None.

VII. Economic Impact Assessment

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

No impacts on the creation or elimination of jobs within businesses that provide services to bighorn sheep hunters may result from the adoption of the proposed bighorn sheep hunting regulations for the 2020-21 hunt season.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The proposed variations in bighorn sheep tag quotas are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage bighorn sheep populations, and consequently, the long-term viability of various businesses that serve recreational bighorn sheep hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment

As set forth in Fish and Game Code section 1801, it is the policy of the state to encourage the conservation, maintenance, and utilization of wildlife resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of bighorn sheep to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based bighorn sheep seasons and tag quotas provides for the maintenance of sufficient bighorn sheep populations to ensure those objectives are met. The fees that hunters pay for licenses and tags fund big game conservation.

Informative Digest/Policy Statement Overview

The current regulation in Section 362, Title 14, CCR, provides for limited hunting of Nelson bighorn rams in specified areas of the State. The proposed change is intended to adjust the number of tags available for the 2020 season based on bighorn sheep fall/winter population surveys conducted by the Department. Final tag quota recommendations will be made pending completion of all surveys and data analyses. quota recommendations will be made pending completion of all surveys and data analyses.

HUNT ZONE	NUMBER OF TAGS [proposed range]
Zone 1 – Marble/Clipper Mountains	[0-5]
Zone 2 - Kelso Peak/Old Dad Mountains	[0-4]
Zone 3 - Clark/Kingston Mountain Ranges	[0-4]
Zone 4 - Orocopia Mountains	[0-2]
Zone 5 - San Gorgonio Wilderness	[0-3]
Zone 6 - Sheep Hole Mountains	[0-2]
Zone 7 - White Mountains	[0-6]
Zone 8 - South Bristol Mountains	[0-3]
Zone 9 – Cady Mountains	[0-4]
Zone 10 – Newberry, Rodman, Ord Mountains	[0-6]
Open Zone Fund-Raising Tag	[0-1]
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	[0-1]
Cady Mountains Fund-Raising Tag	[0-1]
TOTAL	[0-42]

Benefits of the regulations

The benefits of the proposed regulations are consistency with statute and the sustainable management of the State's wildlife resources.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate wildlife hunting regulations.

Proposed Regulatory Language

Section 362, Title 14 CCR, is amended to read:

§362 Nelson Bighorn Sheep

. . . [*No changes to subsections (a) through (c)]*

(d) Number of License Tags:

<i>Nelson Bighorn Sheep Hunt Zones</i>	<i>Tag Allocation</i>
Zone 1 - Marble/Clipper Mountains	5 [0-5]
Zone 2 - Kelso Peak/Old Dad Mountains	0 [0-4]
Zone 3 - Clark/Kingston Mountain Ranges	4 [0-4]
Zone 4 - Orocopia Mountains	4 [0-2]
Zone 5 - San Gorgonio Wilderness	0 [0-3]
Zone 6 - Sheep Hole Mountains	0 [0-2]
Zone 7 - White Mountains	6 [0-6]
Zone 8 - South Bristol Mountains	2 [0-3]
Zone 9 - Cady Mountains	2 [0-4]
Zone 10 - Newberry, Rodman, Ord Mountains	6 [0-6]
Open Zone Fund-Raising Tag	4 [0-1]
Marble/Clipper/South Bristol Mountains Fund-Raising Tag	4 [0-1]
Cady Mountains Fund-Raising Tag	4 [0-1]
Total:	29 [0-42]

. . . [*No changes to subsection (e)*]

Note: Authority cited: Sections 200, 203, 265, 1050 and 4902, Fish and Game Code. Reference: Sections 1050, 3950 and 4902, Fish and Game Code.

DRAFT

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action
Amend Section 364
Title 14, California Code of Regulations
Re: Elk

I. Date of Initial Statement of Reasons: November 14, 2019

II. Dates and Locations of Scheduled Hearings

- | | | |
|------------------------|-----------|-------------------|
| (a) Notice Hearing | Date: | December 11, 2019 |
| | Location: | Sacramento, CA |
| (b) Discussion Hearing | Date: | February 6, 2020 |
| | Location: | Sacramento, CA |
| (c) Adoption Hearing | Date: | April 16, 2020 |
| | Location: | Sacramento, CA |

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in establishing elk regulations. Section 364 provides definitions, hunting zone descriptions, season opening and closing dates, and tag quotas for elk.

In order to maintain appropriate harvest levels and hunting quality it is necessary to periodically adjust tag quotas (total number of hunting tags to be made available) in response to dynamic environmental and biological conditions. Current regulations in Section 364 specify elk license tag quotas for each hunt zone in accordance with management goals and objectives.

The specific recommended regulation changes are:

1) Number of Tags

Proposed amendments to Section 364 will establish new tag quotas to adjust for periodic fluctuations in elk population numbers. Proposed tag quotas are presented as ranges shown in brackets, e.g. [0-4], in the tables of the amended Regulatory Text (subsections 364 (r) through (aa)) attached to this Initial Statement of Reasons. The ranges allow the final number of tags to be determined based on analysis of survey and harvest data from the 2019-20 hunt season. These results are anticipated in the spring of 2020 and a final analysis will support the Department's recommendation for the number of tags to be allocated to each hunt prior to the Commission's adoption hearing in April 2020.

2) Modify Season Dates on Fort Hunter Liggett

Due to military use constraints at Fort Hunter Liggett, hunt dates are annually subject to change, and may be adjusted or cancelled by the Commanding Officer. There are several changes to the hunt openers on the Fort Hunter Liggett Military Base. The changes to the 2020 season openers will be.

(u) Department Administered General Methods Tule Elk Hunts

(12)(C) Fort Hunter Liggett General Public: Shall open on the fourth Tuesday in December and continue for 13 consecutive days.

(v) Department Administered Apprentice Hunts

(7)(A) General method Apprentice: Shall open on the fourth Tuesday in December and continue for 13 consecutive days.

(w) Department Administered Archery Only Hunt

(6)(B) Shall open on the First Saturday in November and continue for 9 consecutive days.

(b) Goals and Benefits of the Regulation

The proposed regulations will contribute to the sustainable management of elk populations in California. Existing elk herd management goals specify objective levels for the proportion of bulls to cows in the herds. These ratios are maintained and managed in part by periodically modifying the number of tags. The final recommended number of tags will be based upon findings from annual harvest, herd composition counts, and population estimates where appropriate.

(c) Authority and Reference

Authority: Section(s) 200, 203, 203.1, 265, 332 and 1050, Fish and Game Code.

Reference: Section(s) 332, 1050, 1570, 1571, 1572, 1573 and 1574, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None

(e) Identification of Reports or Documents Supporting Regulation Change: None

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

This proposal was discussed at Wildlife Resources Committee Meetings on May 16, 2019, in Sacramento and September 10, 2019 in Santa Rosa.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified.

(b) No Change Alternative

1. Number of Tags

The “no-change alternative” was considered and rejected because it would not meet project objectives. Elk hunts and opportunity must be adjusted periodically in response to a variety of environmental and biological conditions.

2. Modify Season Dates on Fort Hunter Liggett

The “no-change alternative” was considered and found inadequate to meet project objectives. Retaining current season length and timing would be unresponsive to Base operations, scheduled activities, and/or unnecessarily restrict hunter opportunity.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed. The maximum number of tags available in the proposed range is at or below the number of tags analyzed in the 2010 Environmental Document, and its 2019 Final Supplemental Environmental Document regarding elk hunting.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Considering the relatively small number of tags issued over the entire state, this proposal is economically neutral to business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State’s Environment

The Commission anticipates no to minor positive impacts on the creation or elimination of jobs within the state, and no impact on the creation of new business, the elimination of existing businesses or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state. The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California’s environment by the future stewards of the State’s resources. The proposed action will not provide benefits to worker safety. The Commission anticipates benefits to the State’s environment in the sustainable management of natural resources.

(c) Cost Impacts on a Representative Private Person or Business

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs Mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None

(h) Effect on Housing Costs: None

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

No impact to minor positive impacts on the creation of jobs within businesses that provide services to elk hunters may result from the adoption of the proposed elk hunting regulations for the 2020-21 season.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The proposed minor variations in elk tag quotas are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage elk populations, and consequently, the long-term viability of various businesses that serve recreational elk hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment

As set forth in Fish and Game Code section 1801, it is the policy of the state to encourage the conservation, maintenance, and utilization of fish and wildlife resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of elk to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically based elk seasons and tag quotas provides for the maintenance of sufficient elk

populations to ensure those objectives are met. The fees that hunters pay for licenses and tags fund wildlife conservation.

(g) Other Benefits of the Regulation

Hunting seasons provide incentives for private landowners to maintain habitats that benefit elk and other forest and upland dependent species.

Informative Digest/Policy Statement Overview

Current regulations in Section 364, Title 14, CCR, provide definitions, hunting zone descriptions, season dates, and elk license tag quotas. In order to achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas, seasons, hunt areas and other criteria in response to dynamic environmental and biological conditions. The proposed amendments to Section 364 will establish the 2020 tag quotas, season dates, and tag distribution within each hunt adjusting for annual fluctuations in populations.

Proposed Amendments: The proposed ranges of elk tags for 2020 are presented in the Proposed Regulatory Text of Section 364.

1. Subsections 364(r) through (aa) specify elk license tag quota ranges for each hunt in accordance with management goals and objectives.
2. Modify Season Dates. Due to military use constraints at Fort Hunter Liggett, hunt dates are annually subject to change and may be adjusted or cancelled by the Commanding Officer.

Benefits of the regulations

The proposed regulations will contribute to the sustainable management of elk populations in California. Existing elk herd management goals specify objective levels for the proportion of bulls to cows in the herds. These ratios are maintained and managed in part by periodically modifying the number of tags. The final recommended number of tags will be based upon findings from annual harvest, herd composition counts, and population estimates where appropriate.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate elk hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to elk tag allocations are consistent with Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

PROPOSED REGULATORY TEXT

Section 364 is amended to read as follows:

§364. Elk Hunts, Seasons, and Number of Tags.

. . . [No changes subsections (a) through (q)]

§	Hunt	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags
		5. Season			
(r) Department Administered General Methods Roosevelt Elk Hunts					
(1)(A)	Siskiyou	20 <u>[0-38]</u>	20 <u>[0-42]</u>		
		Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.			
(2)(A)	Northwestern	15 <u>[0-44]</u>	0 <u>[0-58]</u>	3 <u>[0-3]</u>	
		Shall open on the first Wednesday in September and continue for 23 consecutive days.			
(3)(A)	Marble Mountains	35 <u>[0-70]</u>	40 <u>[0-30]</u>		
		Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.			
(s) Department Administered General Methods Rocky Mountain Elk Hunts					
(1)(A)	Northeastern California	15 <u>[0-30]</u>			
	Bull	The bull season shall open on the Wednesday preceding the third Saturday in September and continue for 12 consecutive days			
(B)	Northeastern California		40 <u>[0-10]</u>		
	Antlerless	The antlerless season shall open on the second Wednesday in November and continue for 12 consecutive days.			

(t) Department Administered General Methods Roosevelt/Tule Elk Hunts					
(1)(A)	Mendocino	2 [0-4]	0 [0-4]		
		The season shall open on the Wednesday preceding the fourth Saturday in September and continue for 12 consecutive days.			
(u) Department Administered General Methods Tule Elk Hunts					
(1)(A)	Cache Creek Bull	2 [0-4]			
		The Bull season shall open on the second Saturday in October and continue for 16 consecutive days.			
(B)	Antlerless		2 [0-4]		
		The Antlerless season shall open on the third Saturday in October and continue for 16 consecutive days.			
(2)(A)	La Panza Period 1	6 [0-12]	5 [0-10]		
		Shall open on the second Saturday in October and extend for 23 consecutive days			
(B)	Period 2	6 [0-12]	6 [0-12]		
		Shall open on the second Saturday in November and extend for 23 consecutive days.			
(3)(A)	Bishop Period 3	0 [0-10]	0 [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(B)	Period 4	0 [0-10]	0 [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(C)	Period 5	0 [0-10]	0 [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(4)(A)	Independence Period 2	4 [0-10]	4 [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	4 [0-10]	4 [0-30]		

		Shall open on the third Saturday in October and extend for 9 consecutive days.
--	--	--------------------------------------------------------------------------------

(C)	Period 4	\emptyset [0-10]	4 [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(5)(A)	Lone Pine Period 2	4 [0-10]	4 [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	4 [0-10]	4 [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(C)	Period 4	\emptyset [0-10]	4 [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(6)(A)	Tinemaha Period 2	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(C)	Period 4	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(7)(A)	West Tinemaha Period 1	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			

(B)	Period 2	θ [0-10]	θ [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(C)	Period 3	θ [0-10]	θ [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days.			
(D)	Period 4	θ [0-10]	θ [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(E)	Period 5	θ [0-10]	θ [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(8)(A)	Tinemaha Mountain Period 1	θ [0-8]			
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(B)	Period 2	θ [0-8]			
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(C)	Period 3	θ [0-8]			
		Shall open on the third Saturday in October and extend for 9 consecutive days			
(D)	Period 4	θ [0-8]			
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(E)	Period 5	θ [0-8]			
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(9)(A)	Whitney Period 2	θ [0-4]	4 [0-10]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(B)	Period 3	θ [0-4]	θ [0-10]		
		Shall open on the third Saturday in October and extend for 9 consecutive days			

(C)	Period 4	\emptyset [0-4]	\emptyset [0-10]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(D)	Period 5	\emptyset [0-4]	\emptyset [0-10]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(10)(A)	Goodale Period 1	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(B)	Period 2	\emptyset [0-10]	4 [0-30]		
		Shall open on the first Saturday in October and extend for 9 consecutive days.			
(C)	Period 3	\emptyset [0-10]	4 [0-30]		
		Shall open on the third Saturday in October and extend for 9 consecutive days			
(D)	Period 4	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in November and extend for 9 consecutive days.			
(E)	Period 5	\emptyset [0-10]	\emptyset [0-30]		
		Shall open on the first Saturday in December and continue for 9 consecutive days.			
(11)(A)	Grizzly Island Period 1	\emptyset [0-3]	6 [0-12]		\emptyset [0-6]
		Shall open on the second Tuesday after the first Saturday in August and continue for 4 consecutive days.			
(B)	Period 2	\emptyset [0-3]	2 [0-12]		-4 [0-6]
		Shall open on the first Thursday following the opening of period one and continue for 4 consecutive days.			
(C)	Period 3	\emptyset [0-3]	6 [0-12]		\emptyset [0-6]
		Shall open on the first Tuesday following the opening of period two and continue for 4 consecutive days			
(D)	Period 4	\emptyset [0-3]	-4 [0-12]		2 [0-6]
		Shall open on the first Thursday following the opening of period three and continue for 4 consecutive days.			

(E)	Period 5	0 [0-3]	8 [0-12]		0 [0-6]
		Shall open on the first Tuesday following the opening of period four and continue for 4 consecutive days			
(F)	Period 6	0 [0-3]	0 [0-12]		0 [0-6]
		Shall open on the first Thursday following the opening of period five and continue for 4 consecutive days.			
(G)	Period 7	0 [0-3]	8 [0-12]		0 [0-6]
		Shall open on the first Tuesday following the opening of period six and continue for 4 consecutive days			
(H)	Period 8	0 [0-3]	0 [0-12]		6 [0-6]
		Shall open on the first Thursday following the opening of period seven and continue for 4 consecutive days.			
(I)	Period 9	0 [0-3]	8 [0-12]		0 [0-6]
		Shall open on the first Tuesday following the opening of period eight and continue for 4 consecutive days.			
(J)	Period 10	0 [0-3]	0 [0-12]		0 [0-6]
		Shall open on the first Thursday following the opening of period nine and continue for 4 consecutive days.			
(K)	Period 11	0 [0-3]	8 [0-12]		0 [0-6]
		Shall open on the first Tuesday following the opening of period ten and continue for 4 consecutive days.			
(L)	Period 12	3 [0-3]			0 [0-6]
		Shall open on the first Thursday following the opening of period eleven and continue for 4 consecutive days.			
(M)	Period 13	0 [0-3]	8 [0-12]		0 [0-6]
		Shall open on the first Tuesday following the opening of period twelve and continue for 4 consecutive days.			
(12)(A)	Fort Hunter Liggett General Public Period 1	0	0 [0-16]		
		Shall open on the first Thursday in November and continue for 9 consecutive days.			
(B)	Period 2	0	0 [0-16]		

		Shall open November 22- <u>25</u> and continue for 9 consecutive days.
--	--	------------------------------------------------------------------------

(C)	Period 3	0 [0-14]	0		
		Shall open on the third Saturday <u>fourth Tuesday</u> in December and continue for 12-13 consecutive days.			
(13)(A)	East Park Reservoir	2 [0-4]	2 [0-8]		
		Shall open the first Saturday in September and continue for 27 consecutive days.			
(14)(A)	San Luis Reservoir	0 [0-10]	0 [0-10]	5 [0-10]	
		Shall open on the first Saturday in October and continue for 23 consecutive days.			
(15)(A)	Bear Valley	2 [0-4]	4 [0-2]		
		Shall open on the second Saturday in October and continue for 9 consecutive days.			
(16)(A)	Lake Pillsbury Period 1		-4 [0-4]		
		Shall open on the Wednesday preceding the second Saturday in September and continue for 10 consecutive days.			
(B)	Period 2	2 [0-4]			
		Shall open Monday following the fourth Saturday in September and continue for 10 consecutive days.			
(17)(A)	Santa Clara	0 [0-4]	0		
		Shall open on the second Saturday in October and continue for 16 consecutive days.			
(18)(A)	Alameda	0 [0-4]	0		
		Shall open on the second Saturday in October and continue for 16 consecutive days.			
(v) Department Administered Apprentice Hunts					
(1)(A)	Marble Mountain			-4 [0-4]	
	General Methods Roosevelt Elk Apprentice	Shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.			

(2)(A)	Northeast California			2 [0-4]	
	General Methods Rocky Mountain Elk Apprentice	Shall open on the Wednesday preceding the third Saturday in September and continue for 12 consecutive days			
(3)(A)	Cache Creek	4 [0-2]	0 [0-2]		
	General Methods Tule Elk Apprentice	Shall open on the second Saturday in October and continue for 16 consecutive days.			
(4)(A)	La Panza	0 [0-2]	4 [0-2]		
	General Methods Tule Elk Apprentice	Shall open on the second Saturday in October and extend for 23 consecutive days.			
(5)(A)	Bishop	0 [0-10]	0 [0-30]		
	General Methods Tule Elk Apprentice Period 2	Shall open on the first Saturday in October and extend for 9 consecutive days.			
(6)(A)	Grizzly Island		3 [0-4]		0 [0-4]
	General Methods Tule Elk Apprentice Period 1	Shall open on the second Tuesday after the first Saturday in August and continue for 4 consecutive days			
(B)	Period 2		0 [0-4]		2 [0-4]
		Shall open on the first Thursday following the opening of period one and continue for 4 consecutive days.			
(C)	Period 3		3 [0-4]		0 [0-4]
		Shall open on the first Tuesday following the opening of period two and continue for 4 consecutive days.			

(D)	Period 4		0 [0-4]		2 [0-4]
		Shall open on the first Thursday following the opening of period three and continue for 4 consecutive days.			
(7)(A)	Fort Hunter Liggett	0 [0-2]	0 [0-8]		
	General Public General Methods Apprentice	Shall open on the third Saturday <u>fourth Tuesday</u> in December and continue for 12 <u>13</u> consecutive days.			
(w) Department Administered Archery Only Hunts					
(1)(A)	Northeast California Archery Only	0	0	10 [0-20]	
		Shall open on the Wednesday preceding the first Saturday in September and continue for 12 consecutive days.			
(2)(A)	Owens Valley Multiple Zone Archery Only	3 [0-10]	0 [0-5]		
		Shall open on the second Saturday in August and extend for 9 consecutive days.			
(3)(A)	Lone Pine Archery Only Period 1	0 [0-10]	1 [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(4)(A)	Tinemaha Archery Only Period 1	0 [0-10]	0 [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(5)(A)	Whitney Archery Only Period 1	0 [0-10]	0 [0-30]		
		Shall open on the second Saturday in September and extend for 16 consecutive days.			
(6)(A)	Fort Hunter Liggett			3 [0-10]	
	General Public Archery Only Either Sex	Shall open on the last Saturday in July and continue for 9 consecutive days.			
(B)	Fort Hunter Liggett		-4 [0-10]		

	General Public Archery Only Antlerless	Shall open on the Second <u>First</u> Saturday in November and continue for 9 consecutive days.			
(x) Department Administered Muzzleloader Only Tule Elk Hunts					
(1)(A)	Bishop Muzzleloader Only Period 1	0 <u>[0-10]</u>	0 <u>[0-30]</u>		
	Shall open on the second Saturday in September and extend for 16 consecutive days.				
(2)(A)	Independence Muzzleloader Only Period 1	4 <u>[0-10]</u>	0 <u>[0-10]</u>		
	Shall open on the second Saturday in September and extend for 16 consecutive days.				
(3)(A)	Goodale Muzzleloader Only Period 1	0 <u>[0-10]</u>	4 <u>[0-10]</u>		
	Shall open on the second Saturday in September and extend for 16 consecutive days.				
(4)(A)	Fort Hunter Liggett General Public Muzzleloader Only	-4 <u>[0-10]</u>	0 <u>[0-10]</u>		
	Shall open on the fourth Saturday in November and continue for 9 consecutive days.				
(y) Department Administered Muzzleloader/Archery Only Hunts					
(1)(A)	Marble Mountain Muzzleloader/Archery Roosevelt Elk			40 <u>[0-20]</u>	
	Shall open on the last Saturday in October and extend for 9 consecutive days.				
(z) Fund Raising Elk tags					
		1			

(1)(A)	Multi-zone Fund Raising Tags	Siskiyou and Marble Mountains Roosevelt Elk Season shall open on the Wednesday preceding the first Saturday in September and continue for 19 consecutive days. Northwestern Roosevelt Elk Season shall open on the last Wednesday in August and continue for 30 consecutive days. Northeastern Rocky Mountain Elk Season shall open on the Wednesday preceding the last Saturday in August and continue for 33 consecutive days. La Panza Tule Elk Season shall open on the first Saturday in October and extend for 65 consecutive days.			
(2)(A)	Grizzly Island Fund Raising Tags	1			
		Shall open on the first Saturday in August and continue for 30 consecutive days.			
(3)(A)	Owens Valley Fund Raising Tags	1			
		Shall open on the last Saturday in July and extend for 30 consecutive days.			
(aa) Military Only Tule Elk Hunts					
(1)(A)	Fort Hunter Liggett Military Only General Methods Early Season	0 [0-2]	0 [0-2]		
		The early season shall open on the second Monday in August and continue for 5 consecutive days and reopen on the fourth Monday in August and continue for 5 consecutive days			
(B)	Period 1		0 [0-16]		
		Shall open on the first Thursday in November and continue for 9 consecutive days.			
(C)	Period 2		0 [0-14]		
		Shall open November 22 and continue for 9 consecutive days.			
(D)	Period 3	0 [0-16]			
		Shall open on the third Saturday in December and continue for 12 consecutive days.			
(2)(A)		0 [0-2]	0 [0-8]		

	Fort Hunter Liggett Military Only General Methods Apprentice	Shall open on the third Saturday in December and continue for 12 consecutive days.			
(3)(A)	Fort Hunter Liggett Military Only			3 [0-6]	
	Archery Only Either sex	Shall open on the last Saturday in July and continue for 9 consecutive days.			
(B)	Antlerless		4 [0-10]		
		Shall open on the Second Saturday in November and continue for 9 consecutive days.			
(4)(A)	Fort Hunter Liggett Military Only	4 [0-6]			
	Muzzleloader Only	Shall open on the third Saturday in November and continue for 9 consecutive days.			

Note: Authority cited: Sections 200, 203, 203.1, 265, 332 and 1050, Fish and Game Code.
Reference: Sections 332, 1050, 1570, 1571, 1572, 1573 and 1574, Fish and Game Code.

DRAFT

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Section 364.1
Title 14, California Code of Regulations
Re: SHARE Elk Hunts

I. Date of Initial Statement of Reasons: November 13, 2019

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing	Date:	December 11, 2019
	Location:	Sacramento, CA
(b) Discussion Hearing	Date:	February 6, 2020
	Location:	Sacramento, CA
(c) Adoption Hearing	Date:	April 16, 2020
	Location:	Sacramento, CA

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Fish and Game Commission (Commission) periodically considers the recommendations of the Department of Fish and Wildlife (Department) in establishing elk regulations. Section 364.1 identifies hunting zones, season opening and closing dates, and tag quotas for SHARE Elk Hunts.

In order to maintain appropriate harvest levels and hunting quality it is necessary to periodically adjust tag quotas (total number of hunting tags to be made available) in response to dynamic environmental and biological conditions. Current regulations in Section 364.1 specify elk license tag quotas for each hunt zone in accordance with management goals and objectives.

1. Number of Tags

Proposed amendments to Section 364.1 will establish new tag quotas to adjust for periodic fluctuations in elk populations. The proposed tag quotas are presented within ranges shown in brackets, e.g. [0-4], in the tables of the amended Regulatory Text (subsections 364.1(i) through (l)) attached to this Initial Statement of Reasons. The ranges allow the final number of tags to be determined based on the analysis of survey and harvest data from the 2019-20 hunt season. These results are anticipated in the spring of 2020 and a final analysis will support the Department's recommendation for the number of tags to be allocated to each hunt prior to the Commission's adoption hearing in April 2020.

The Shared Habitat Alliance for Recreational Enhancement (SHARE) Program private property elk hunts correspond with elk hunt zones identified in Section 364. These regulations authorize

SHARE elk hunts with separate seasons and tag quotas. The SHARE program will issue tags under the Department's existing tag distribution procedures.

(b) Goals and Benefits of the Regulation:

The proposed regulations will contribute to the sustainable management of elk populations and to relieve depredation damage to landowners in California. The final values for the license tag numbers will be based upon findings from annual harvest and herd composition counts where appropriate.

(c) Authority and Reference:

Authority: Sections 332 and 1050, Fish and Game Code.

Reference: Sections 332, 1050 and 1574, Fish and Game Code.

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None

(f) Public Discussions of Proposed Regulations Prior to Notice Publication:

Fish and Game Commission's Wildlife Resources Committee meetings held on May 16, 2019 in Sacramento and on September 10, 2019 in Santa Rosa.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change:

No alternatives were identified

(b) No Change Alternative:

The no-change alternative was considered and rejected because it would not attain the project objectives. Elk hunts and opportunity must be adjusted periodically in response to a variety of environmental and biological conditions including forage availability, population structure, and over-winter survival rates. Elk populations have increased, and landowner conflicts have also escalated in several areas. Adjusting tag quotas provides for appropriate harvest levels within the hunt zones.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed. The maximum number of tags available in the proposed range is at or below the number of tags analyzed in the 2010 Environmental Document, and its 2019 Final Supplemental Environmental Document regarding elk hunting.

VI. Impact of Regulatory Action

This proposed action adjusts tag quotas in an effort to meet management goals and provide hunting opportunities for the public. Given the number of tags available, and the area over which they are distributed, this proposal is economically neutral to business.

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission anticipates no to minor positive impacts on the creation or elimination of jobs within the state, and no impact on the creation of new business, the elimination of existing businesses or the expansion of businesses in California as minor variations in hunting regulations are, by themselves, unlikely to provide a substantial enough economic stimulus to the state. The Commission anticipates benefits to the health and welfare of California residents. Hunting provides opportunities for multi-generational family activities and promotes respect for California's environment by the future stewards of the State's resources. The proposed action will not provide benefits to worker safety. The Commission anticipates benefits to the State's environment in the sustainable management of natural resources.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

- (h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

The proposed action will have no statewide economic or fiscal impact because the proposed action would not constitute a significant change from the 2019 elk season. The number of tags to be set in regulation for 2020 is intended to achieve or maintain the levels set forth in the approved management plans and environmental documents to sustainably manage elk populations and maintain hunting opportunities in subsequent seasons.

- (a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Little to minor positive impacts on the creation of jobs within businesses that provide services to elk hunters may result from the adoption of the proposed SHARE elk hunting regulations for the 2020-21 season.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the

elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed SHARE elk tag quotas are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage elk populations, and consequently, the long-term viability of various businesses that serve recreational elk hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat, and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety:

The proposed regulation will not affect worker safety.

(f) Benefits of the Regulation to the State's Environment:

As set forth in Fish and Game Code section 1800, it is the policy of the state to encourage the conservation, maintenance, and utilization of fish and wildlife resources for the benefit of all the citizens of the state. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of elk to ensure their continued existence and the maintenance of a sufficient resource to support recreational opportunity. Adoption of scientifically-based elk seasons and tag quotas provides for the maintenance of sufficient elk populations to ensure those objectives are met. The fees that hunters pay for licenses and tags fund wildlife conservation

(g) Other Benefits of the Regulation:

The SHARE Program provides incentives to private landowners to allow public access.

Informative Digest/Policy Statement Overview

Current regulations in Section 364.1, SHARE Elk Hunts, T14, CCR, specify elk tag quotas for each hunt area. In order to achieve elk herd management goals and objectives and maintain hunting quality, it is periodically necessary to adjust quotas in response to dynamic environmental and biological conditions.

Preliminary tag quota ranges are indicated pending final 2020 tag allocations in accordance with elk management goals and objectives. Survey data collected between August 2019, and March 2020, will be the basis for the final tag numbers recommended to the Commission at the April 2020 adoption hearing.

The preliminary tag quota ranges for 2020 are found in the attached proposed Regulatory Text of Section 364.1.

Benefits of the regulations:

The proposed regulations will contribute to the sustainable management of elk populations and to relieve depredation damage to landowners in California. The final values for the license tag numbers will be based upon findings from annual harvest and herd composition counts where appropriate.

Non-monetary benefits to the public:

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

Evaluation of Incompatibility with existing regulations:

The Fish and Game Commission, pursuant to Fish and Game Code Sections 200 and 203, has the sole authority to regulate elk hunting in California. Commission staff has searched the California Code of Regulations and has found the proposed changes pertaining to elk tag allocations are consistent with Title 14. Therefore, the Commission has determined that the proposed amendments are neither inconsistent nor incompatible with existing State regulations.

Proposed Regulatory Language

Section 364.1, Title 14, CCR is amended to read:

§ 364.1. Department Administered Shared Habitat Alliance for Recreational Enhancement (SHARE) Elk Hunts.

. . . [No changes subsections (a) through (h)]

§	(A) Hunts	1. Bull Tags	2. Antlerless Tags	3. Either-Sex Tags	4. Spike Tags
		(B) Area			
(i) Department Administered SHARE Roosevelt Elk Hunts					
(1)	Siskiyou	2 [0-10]	2 [0-10]		
		(B) Area: The tag shall be valid in the area described in subsection 364(a)(1)(A).			
(2)	Northwestern	13 [0-44]	34 [0-58]	0 [0-3]	
		(B) Area: The tag shall be valid in the area described in subsection 364(a)(2)(A).			
(3)	Marble Mountain	0 [0-10]	0 [0-15]		
		(B) Area: The tag shall be valid in the area described in subsection 364(a)(3)(A).			
(j) Department Administered General Methods SHARE Rocky Mountain Elk Hunts					
(1)	Northeast California	2 [0-10]	0 [0-10]	2 [0-10]	
		(B) Area: The tag shall be valid in the area described in subsection 364(b)(1)(A).			
(k) Department Administered SHARE Roosevelt/Tule Elk Hunts					
(1)	Mendocino	2 [0-4]	4 [0-4]		
		(B) Area: The tag shall be valid in the area described in subsection 364(c)(1)(A).			
(l) Department Administered SHARE Tule Elk Hunts					
(1)	Cache Creek	4 [0-2]	4 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(1)(A).			
(2)	La Panza	5 [0-10]	40 [0-10]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(2)(A).			

(3)	Bishop	\emptyset [0-2]	\emptyset [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(3)(A).			
(4)	Independence	\emptyset [0-2]	\emptyset [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(4)(A).			
(5)	Lone Pine Period 2	\emptyset [0-2]	\emptyset [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(5)(A).			
(6)	Tinemaha	\emptyset [0-2]	\emptyset [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(6)(A).			
(7)	West Tinemaha	\emptyset [0-2]	\emptyset [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(7)(A).			
(8)	Tinemaha Mountain	\emptyset [0-2]			
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(8)(A).			
(9)	Whitney	\emptyset [0-2]	\emptyset [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(9)(A).			
(10)	Goodale	\emptyset [0-2]	\emptyset [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(10)(A).			
(11)	Grizzly Island	\emptyset [0-2]	\emptyset [0-10]		\emptyset [0-10]
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(11)(A).			
(12)	Fort Hunter Liggett	\emptyset [0-4]	\emptyset [0-4]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(12)(A).			
(13)	East Park Reservoir	4 [0-6]	4 [0-6]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(13)(A).			
(14)	San Luis Reservoir	2 [0-5]	3 [0-5]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(14)(A).			
(15)	Bear Valley	4 [0-2]	4 [0-2]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(15)(A).			

(16)	Lake Pillsbury	θ [0-4]	θ [0-4]		
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(16)(A).			
(17)	Santa Clara	θ [0-2]			
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(17)(A).			
(18)	Alameda	θ [0-2]			
		(B) Area: The tag shall be valid in the area described in subsection 364(d)(18)(A).			

Note: Authority cited: Sections 332 and 1050, Fish and Game Code. Reference: Sections 332, 1050 and 1574, Fish and Game Code.

State of California
Department of Fish and Wildlife

Memorandum

Date: November 13, 2019

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submittal of Initial Statement of Reasons to Amend Sections 502 and 507, Title 14, California Code of Regulations (CCR), Waterfowl, Migratory, American Coot and Common Moorhen**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend sections 502 and 507 Title 14, CCR. The Department is proposing seven changes to the existing waterfowl regulations for the 2020-21 season:

1. Open the duck season on the fourth Saturday of October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone;
2. Open the duck season on the second Saturday in October and close January 20 in subsection 502(d)(1)(B) for the Northeastern Zone;
3. Open the regular goose season on the fourth Saturday in October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone;
4. Open the Late Season for geese on the weekend after the Youth Hunt Days in subsection 502(d)(5)(B) for the Balance of State Zone and in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area. If item 5 is enacted, the Late Season for geese would occur after the Veterans and Active Military Personnel Waterfowl Hunting Days;
5. Create a new subsection 502(f) to designate two days as Veterans and Active Military Personnel Waterfowl Hunting Days for the Northeastern, Southern San Joaquin Valley, Southern California, Colorado River and Balance of State zones;
6. Allow up to five days of falconry-only season in new subsections 502(g)(1)(B)2 for the Balance of State Zone, 502(g)(1)(B)3 for the Southern San Joaquin Valley Zone, and 502(g)(1)(B)4 for the Southern California Zone;
7. Delete reference to "No. BB in lead" in subsection 507(a)(4).

Melissa Miller-Henson, Executive Director
Fish and Game Commission
November 13, 2019
Page 2

The 2020 draft Environmental Document for Migratory Game Bird Hunting is under development and will be provided to the Commission prior to the discussion hearing.

If you have any questions regarding this item, please contact Kari Lewis, Wildlife Branch Chief, at (916) 445-3789. The public notice for this rulemaking should identify Senior Environmental Scientist, Melanie Weaver as the Department's point of contact. She can be reached at (916) 445-3717 or via email at Melanie.Weaver@wildlife.ca.gov.

Attachment

cc: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@wildlife.ca.gov

Kari Lewis, Chief
Wildlife Branch
Wildlife and Fisheries Division
Kari.Lewis@wildlife.ca.gov

Brad Burkholder
Game Program Manager
Wildlife Branch
Brad.Burkholder@wildlife.ca.gov

Melanie Weaver
Waterfowl Program Leader
Wildlife Branch
Melanie.Weaver@wildlife.ca.gov

Michelle Selmon, Program Manager
Regulations Unit
Wildlife and Fisheries Division
Michelle.Selmon@wildlife.ca.gov

Mike Randall, Analyst
Regulations Unit
Wildlife and Fisheries Division
Mike.Randall@wildlife.ca.gov

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

DRAFT**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Wildlife Commission	CONTACT PERSON Margaret.Duncan	EMAIL ADDRESS @wildlife.ca.gov	TELEPHONE NUMBER 916-653-4674
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Section 502, Title 14, CCR, waterfowl hunting 2020-21 season			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|----------------------------------------------------------------|---------------------------------------------------------------------------|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

The proposed waterfowl regulations do not impact private sector costs.***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
 - a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____
- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY

DATE

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



DRAFT

State of California
Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 502 and 507
Title 14, California Code of Regulations
Re: Waterfowl, Migratory; American Coot and Common Moorhen (Common Gallinule)

I. Date of Initial Statement of Reasons: November 13, 2019

II. Dates and Locations of Scheduled Hearings

- | | |
|------------------------|-----------------------------------------------------|
| (a) Notice Hearing | Date: December 11, 2019
Location: Sacramento, CA |
| (b) Discussion Hearing | Date: February 6, 2020
Location: Sacramento, CA |
| (c) Adoption Hearing | Date: April 16, 2020
Location: Sacramento, CA |

III. Description of Regulatory Action

- (a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The U.S. Fish and Wildlife Service (Service) annually establishes federal regulation frameworks (Frameworks) for migratory bird hunting. California must set its waterfowl hunting regulations within the Frameworks. The Frameworks describe the earliest dates that waterfowl hunting seasons may open, the maximum number of days hunting can occur, the latest dates that hunting seasons must close, and the maximum daily bag limit. The proposed hunting season Frameworks for a given year are developed in the fall of the prior year for a majority of species and populations. For example, the breeding populations (including the California Breeding Population Survey) and habitat conditions observed in 2019 and the regulatory alternatives selected for the 2019 hunting season will be used to develop the Frameworks for the 2020-21 season.

States may make recommendations to change the Frameworks. These recommendations are made to flyway councils in August or September. The councils may elect to forward recommendations to the Service. The Service may elect to incorporate proposed changes in the Frameworks. The Service considers these and other recommendations at the Service's Regulation Committee public meeting held in late October. Proposed season Frameworks are typically published in the Federal Register by mid-December and final Frameworks published by late February.

Section 355 of the Fish and Game Code authorizes the Fish and Game Commission (Commission) to adopt annual regulations pertaining to the hunting of migratory birds that conform with, or further restrict, the regulations prescribed by the Service pursuant to its

authority under the Migratory Bird Treaty Act. The Commission selects and establishes in State regulations the specific hunting season dates and daily bag limits within the Frameworks.

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. The proposed Frameworks for the 2020-21 season were approved by the flyway councils and were considered for adoption at the Service's Regulations Committee meeting October 8-9, 2019. The proposed Frameworks allow for a liberal duck season which includes: a 107-day season; 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 2 scaup (during an 86 day season; daily bag limit decrease from 3 to 2); and closing no later than January 31. Duck daily bag limit ranges and duck season length ranges are provided to allow the Commission flexibility.

A range of season length and bag limit (zero bag limit represents a closed season) are also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2020. The regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The regulatory package will be prescribed per the Black Brant Harvest Strategy pending results of the survey, well before the Commission's adoption meeting. See the table in the Informative Digest for the range of season and bag limits. Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The Department recommended changes to Section 502 are:

- 1) Open the duck season on the second Saturday in October and close January 20 in subsection 502(d)(1)(B) for the Northeastern Zone. This recommendation reduces the duck season length to 103 days.

The existing duck season length in this zone is 105 days and closes on a Friday. The Northeastern Zone is considered a staging area and the habitat becomes unavailable to waterfowl by late fall, typically, so the season opens sooner than the rest of the zones. The Friday closure was allowed because the Youth Hunt Days occur before the season to allow youth hunters opportunity commensurate with waterfowl occurrence and to provide as many days to hunters as possible in this zone because of habitat conditions. Two days need to be removed to allow for the Veterans and Active Military Personnel Day recommendation, see item 5 below.

- 2) Open the duck season on the fourth Saturday of October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone. This recommendation reduces the duck season length to 100 days.

The existing duck season length for the referenced zones is 105 days. In the prior year rulemaking, the Commission adopted a later season closing date of January 31 in these zones because Frameworks were changed to allow a later closing date. Historically, the latest closing date in the Frameworks was the last Sunday in January. Closing on January 31 and maintaining a traditional opening Saturday in later October results in an

annual adjustment to the season length; from 105 to 100 days for the upcoming season. This annual adjustment also results in modifications to the regular and Late Goose seasons, Youth Hunt Days and Falconry seasons, see below.

- 3) Open the regular goose season on the fourth Saturday in October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone. This recommendation reduces the season length to 100 days.

The existing goose season length for the referenced zones is 105 days. See item 1 above for the justification. This annual adjustment also results in modifications to Late Goose, Youth Hunt Days and Falconry seasons.

- 4) Open the Late Season for geese on the weekend after the Youth Hunt Days in subsection 502(5)(B) for the Balance of State Zone and in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area. If item 5 (below) is enacted, the Late Season for geese would occur after the Veterans and Active Military Personnel Waterfowl Hunting Days.

The existing regulation opens the Late Season for geese on the same weekend as the Youth Hunt Days in these referenced areas. The proposed change is intended to allow greater flexibility for those wanting to participate in the Youth Hunt Days and or the Late Seasons for geese.

- 5) Designate two days as Veterans and Active Military Personnel Waterfowl Hunting Days (VAMP Days hereafter) for the Northeastern, Southern San Joaquin Valley, Southern California, and Balance of State zones. This recommendation creates a new subsection, 502(f)(1)(A)(B)(C)1-4 and renumbering will occur for the subsequent section (Falconry Take of Ducks subsection becomes 502(g)(1)).

Federal legislation was passed to allow up to two days designated as VAMP Days if states choose. These days may coincide with the Youth Hunt Days or held separately and must occur with 14 days of the regular duck season opening and closing dates. VAMP Days can be held on weekdays, unlike the Youth Hunt Days. Both the Youth Hunt and VAMP Days can be held concurrently with Late Goose seasons. The Department is recommending creating two VAMP Days to occur after the Youth Hunt Days in all zones except the Northeastern Zone where the VAMP Days will occur on the weekend after the close of the general waterfowl season; the Youth Hunt Days in this zone occur prior to the opening of the season. Allowable species include Ducks, American Coots, Common Moorhens, and Geese for the Southern San Joaquin Valley, Southern California, and Colorado River zones because not all 107 days (per Frameworks) will be used as recommended. However, in the Northeastern and Balance of State zones all 107 days for geese have been used as recommended in the Regular and Late Seasons to address crop depredation complaints. Persons participating in this special hunt must possess and present upon demand verification of eligibility to participate in this hunt. Verification for veterans includes: A Veterans Affairs issued Veterans ID Card; or State issued driver's license or Identification Card with Veteran Designation. Active Duty and Retired must present a current Military Identification Card. Veterans can apply for a Veteran ID card at: <https://www.va.gov/records/get-veteran-id-cards/vic/>.

- 6) Allow up to five days of falconry-only season in subsection 502(g)(1)(B)2 for the Balance of State Zone, in subsection 502(g)(1)(B)3 for the Southern San Joaquin Valley Zone and in subsection 502(g)(1)(B)4 for the Southern California Zone.

The existing regulation uses all available days for Duck, Goose, and Youth Hunt Day seasons in these zones. The recommended opening and closing days (Items 1-3) do not use all allotted days for ducks or geese, depending on the zone. The length of the falconry-only season is contingent upon enactment and placement of the VAMP Days.

Current regulations in Section 507(a)(4), Title 14, CCR, describe the shotgun size and shot shell type authorized for the taking of migratory game birds.

The Department is recommending deleting the reference to lead and No BB:

- 1) Shotgun shells may not be used or possessed that contain shot size larger than ~~No BB in lead~~ or T shot in steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service. All shot shall be loose in the shell.

This section is being corrected to comply with legislation in effect regarding the use of non-lead ammunition when taking any wildlife with a firearm in California and improve clarity of the regulation.

(b) Goals and Benefits of the Regulation

The goals and benefits of the regulations are to provide for the conservation and maintenance of sufficient waterfowl populations to ensure their continued existence.

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

(c) Authority and Reference

Authority: Section(s) 265 and 355, Fish and Game Code

Reference: Section(s) 265, 355, and 356, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change: None.

(e) Identification of Reports or Documents Supporting Regulation Change: None.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

This proposal was discussed at the Commission's Wildlife Resources Committee meeting held on September 10, 2019 and a public scoping session will be held in late October or early November 2019.

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No other alternatives were identified.

(b) No Change Alternative

- 1) The No Change Alternative would not open the duck season on the second Saturday in October and close January 20 in the Northeastern Zone.
- 2) The No Change Alternative would not open duck season on the fourth Saturday of October and close January 31 in the Southern San Joaquin Valley, Southern California, and Balance of State zones.
- 3) The No Change Alternative would not open the regular goose season on the fourth Saturday in October and close January 31 for the Southern San Joaquin Valley and Southern California zones.
- 4) The No Change Alternative would not open the Late Season for geese on the weekend after the Youth Hunt Days in the Balance of State Zone and the Imperial County Special Management Area; or after the Veterans and Active Military Personnel Waterfowl Hunting Days, if enacted.
- 5) The No Change Alternative would not designate two days as Veterans and Active Military Personnel Waterfowl Hunting Days.
- 6) The No Change Alternative would not allow up to five days of falconry-only season in the Balance of State, Southern San Joaquin Valley and the Southern California zones.
- 7) The No Change Alternative would not delete the reference to No. BB in lead.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulations would provide additional recreational opportunity to the public and could result in minor increases in hunting days and hunter spending on equipment, fuel, food and accommodations.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The proposed waterfowl regulations will set the 2020-21 waterfowl hunting season dates and bag limits within the federal Frameworks. Little to minor positive impacts to jobs and/or businesses that provide services to waterfowl hunters may result from the proposed regulations for the 2020-21 waterfowl hunting season.

The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife-associated recreation for California, estimated that migratory bird hunters contributed about \$169,115,000 to businesses in California during the 2011 migratory bird hunting season. The impacted businesses are generally small businesses employing a few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of the same small businesses.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

Little to minor positive impacts on the creation of jobs within businesses that provide services to waterfowl hunters may result from the adoption of the proposed waterfowl hunting regulations for the 2020-21 season. The most recent U.S. Fish and Wildlife national survey of fishing, hunting, and wildlife-associated recreation for California, estimated that waterfowl hunters contributed about \$169,115,000 to small businesses in California during the 2011 waterfowl hunting season. The impacted businesses are generally small businesses employing few individuals and, like all small businesses, are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of the same small businesses. The 2011 report is posted on the U.S. Department of Commerce website https://wsfrprograms.fws.gov/Subpages/NationalSurvey/2011_Survey.htm.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The proposed regulation is not anticipated to prompt the creation of new businesses or the elimination of existing businesses within the state. Minor variations in regulations pertaining to hunting are, by themselves, unlikely to stimulate the creation of new businesses or cause the elimination of existing businesses. The number of hunting trips and the economic contributions from the trips are not expected to change substantially.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The proposed minor variations in waterfowl bag limits are, by themselves, unlikely to stimulate substantial expansion of businesses currently doing business in the state. The long-term intent of the proposed regulations is to sustainably manage waterfowl populations, and consequently, the long-term viability of various businesses that serve recreational waterfowl hunters.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

Hunting is an outdoor activity that can provide several health and welfare benefits to California residents. Hunters and their families benefit from fresh game to eat, and from the benefits of outdoor recreation, including exercise. People who hunt have a special connection with the outdoors and an awareness of the relationships between wildlife, habitat and humans. With that awareness comes an understanding of the role humans play in being caretakers of the environment. Hunting is a tradition that is often passed from one generation to the next, creating a special bond between family members and friends.

(e) Benefits of the Regulation to Worker Safety:

The regulations will not affect worker safety because they do not address working conditions.

(f) Benefits of the Regulation to the State's Environment:

As set forth in Fish and Game Code section 1801, it is the policy of the state to encourage the preservation, conservation, and maintenance of waterfowl resources for all citizens of the state. The objectives of this policy include, but are not limited to, maintenance of sufficient populations and their habitats, provide for beneficial use and enjoyment, to perpetuate the waterfowl resource for their intrinsic and ecological values, and to maintain diversified recreation use including sport hunting consistent with the status of this resource. Adoption of scientifically based waterfowl hunting regulations provides for the maintenance of sufficient waterfowl populations to ensure these objectives are met. Further, the fees that hunters pay for licenses and stamps fund wildlife conservation.

(g) Other Benefits of the Regulation:

Hunting seasons provide an incentive for private landowners to maintain waterfowl habitat, mainly wetlands, that benefit waterfowl and other wetland dependent wildlife.

Informative Digest/Policy Statement Overview

Current regulations in Section 502, Title 14, California Code of Regulations (CCR), provide definitions, hunting zone descriptions, season opening and closing dates, and daily bag and possession limits. The proposed Frameworks for the 2020-21 season were approved by the flyway councils and will be considered for adoption at the Service's Regulations Committee meeting October 8-9, 2019. The proposed Frameworks allow for a liberal duck season which includes: a 107-day season, 7 daily duck limit including 7 mallards but only 2 hen mallards, 1 pintail, 2 canvasback, 2 redheads, and 2 scaup (during an 86 day season; daily bag limit decrease from 3 to 2); and closing no later than January 31. Duck daily bag limit ranges and duck season length ranges are provided to allow the Commission flexibility.

A range of season length and bag limit (zero bag limit represents a closed season) is also provided for black brant. The range is necessary, as the black brant Framework cannot be determined until the Pacific Flyway Winter Brant Survey is conducted in January 2020. The regulatory package is determined by the most current Winter Brant Survey, rather than the prior year survey. The regulatory package will be prescribed per the Black Brant Harvest Strategy pending results of the survey, well before the Commission's adoption meeting. See the table in the Informative Digest for the range of season and bag limits. Lastly, Federal regulations require that California's hunting regulations conform to those of Arizona in the Colorado River Zone and those of Oregon in the North Coast Special Management Area.

The Department recommended changes to Section 502 are:

- 1) Open the duck season on the second Saturday in October and close January 20 in subsection 502(d)(1)(B) for the Northeastern Zone. This recommendation reduces the duck season length to 103 days.
- 2) Open the duck season on the fourth Saturday of October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone, in subsection 502(d)(3)(B) for the Southern California Zone, and in subsection 502(d)(5)(B) for the Balance of State Zone. This recommendation reduces the duck season length to 100 days.
- 3) Open the regular goose season on the fourth Saturday in October and close January 31 in subsection 502(d)(2)(B) for the Southern San Joaquin Valley Zone and in subsection 502(d)(3)(B) for the Southern California Zone. This recommendation reduces the season length to 100 days.
- 4) Open the Late Season for geese on the weekend after the Youth Hunt Days in subsection 502(5)(B) for the Balance of State Zone and in subsection 502(d)(6)(A)9 for the Imperial County Special Management Area. If item 5 (below) is enacted, the Late Season for geese would occur after the Veterans and Active Military Personnel Waterfowl Hunting Days.
- 5) Designate two days as Veterans and Active Military Personnel Waterfowl Hunting Days (VAMP Days hereafter) for the Northeastern, Southern San Joaquin Valley, Southern California, and Balance of State zones. This recommendation creates a new

subsection, 502(f)(1)(A)(B)(C)1-4 and renumbering will occur for the subsequent section (Falconry Take of Ducks subsection becomes 502(g)(1)).

- 6) Allow up to five days of falconry-only season in subsection 502(g)(1)(B)2. for the Balance of State Zone, in subsection 502(g)(1)(B)3. for the Southern San Joaquin Valley Zone and in subsection 502(g)(1)(B)4. for the Southern California Zone.

Current regulations in Section 507(a)(4), Title 14, CCR, describe the shotgun size and shot shell type authorized for the taking of migratory game birds.

The Department is recommending deleting the reference to lead and No BB:

- 1) ... Shotgun shells may not be used or possessed that contain shot size larger than ~~No-
BB in lead or~~ T shot in steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service. All shot shall be loose in the shell.

Minor editorial changes are also proposed to clarify and simplify the regulations and to comply with existing federal Frameworks.

Benefits of the regulations

The benefits of the proposed regulations are consistency with federal law and the sustainable management of the State's waterfowl resources. Positive impacts to jobs and/or businesses that provide services to waterfowl hunters will be realized with the continued adoption of waterfowl hunting seasons in 2020-21.

Non-monetary benefits to the public

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations in Title 14, CCR, and conducted a search of other regulations on this topic and has concluded that the proposed amendments to Sections 502 and 507 are neither inconsistent nor incompatible with existing State regulations. No other State agency has the authority to promulgate waterfowl hunting regulations.

Summary of Proposed Waterfowl Hunting Regulations for 2020-21			
AREA	SPECIES	SEASONS	DAILY BAG & POSSESSION LIMITS
Statewide	Coots & Moorhens	Concurrent w/duck season	25/day. 75 in possession
Northeastern Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup, Dark Geese and White Geese. White geese and dark geese may be split 3-ways.</i>	Ducks	No longer than 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 2 scaup. Possession limit triple the daily bag.
	Scaup	No longer than 86 days	
	Geese	No longer than 105 days except for Canada geese which cannot exceed 100 days or beyond Jan 17	30/day, which may include: 20 white geese, 10 dark geese, no more than 2 Large Canada geese. Possession limit triple the daily bag.
Southern San Joaquin Valley Zone <i>Season may be split for Ducks, Pintail, Canvasback and scaup</i>	Ducks	No longer than 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 2 scaup. Possession limit triple the daily bag.
	Scaup	No longer than 86 days	
	Geese	No longer than 105 days	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.
Southern California Zone <i>Season may be split for Ducks, Pintail, Canvasback and Scaup</i>	Ducks	No longer than 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 2 scaup. Possession limit triple the daily bag.
	Scaup	No longer than 86 days	
	Geese	No longer than 105 days	23/day, which may include: 20 white geese, 3 dark geese. Possession limit triple the daily bag.
Colorado River Zone <i>Season may be split for Ducks, Pintail, Canvasback and Scaup</i>	Ducks	No longer than 105 days	7/day, which may include: 7 mallards no more than 2 females or Mexican-like ducks. 1 pintail, 2 canvasback, 2 redheads, 2 scaup. Possession limit triple the daily bag.
	Scaup	No longer than 86 days	
	Geese	No longer than 105 days	24/day, up to 20 white geese, up to 4 dark geese. Possession limit triple the daily bag.
Balance of State Zone <i>Season may be split for Ducks, Pintail, Canvasback, Scaup and Dark and White Geese.</i>	Ducks	No longer than 105 days	[4-7]/day, which may include: [3-7] mallards no more than [1-2] females. 1 pintail, 2 canvasback, 2 redheads, 2 scaup. Possession limit triple the daily bag.
	Scaup	No longer than 86 days	
	Geese	Early Season: 5 days (Canada goose only) Regular Season: no longer than 100 days Late Season: 5 days (whitefronts and white geese)	30/day, which may include: 20 white geese, 10 dark geese. Possession limit triple the daily bag.

SPECIAL MANAGEMENT AREAS	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
North Coast <i>Season may be split</i>	All Canada Geese	No longer than 105 days except for Large Canada geese which cannot exceed 100 days or extend beyond the last Sunday in Jan	10/day, only 1 may be a Large Canada goose. Possession limit triple the daily bag. Large Canada geese are closed during the Late Season.
Humboldt Bay South Spit (West Side)	All species	Closed during brant season	
Klamath Basin	Dark and white geese	105 days except for Canada geese which cannot exceed 100 days or extend beyond Janu 17	30/day, which may include: 20 white geese, 10 dark geese only 2 may be a Large Canada goose. Possession limit triple the daily bag.
Sacramento Valley	White-fronted geese	Open concurrently with general goose season through Dec 21	3/day. Possession limit triple the daily bag.
Morro Bay	All species	Open in designated areas only	Waterfowl season opens concurrently with brant season.
Martis Creek Lake	All species	Closed until Nov 16	
Northern Brant	Black Brant	No longer than 37 days and closing no later than Dec 14.	[0-2]/day. Possession limit triple the daily bag.
Balance of State Brant	Black Brant	No longer than 37 days and closing no later than Dec 15.	[0-2]/day. Possession limit triple the daily bag.
Imperial County <i>Season may be split</i>	White Geese	No longer than 105 days	20/day. Possession limit triple the daily bag.
YOUTH WATERFOWL HUNTING DAYS	(NOTE: To participate in these Youth Waterfowl Hunts, federal regulations require that hunters must be 17 years of age or younger and must be accompanied by a non-hunting adult 18 years of age or older.)		
	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Same as regular season	The Saturday fourteen days before the opening of waterfowl season extending for 2 days.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Southern California Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Colorado River Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
Balance of State Zone	Same as regular season	The first Saturday in February extending for 2 days.	Same as regular season
VETERANS AND ACTIVE MILITARY PERSONNEL WATERFOWL HUNTING DAYS	(NOTE: Veterans (as defined in Section 101 of Title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than training), may participate.)		
	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Ducks, Coots, and Moorhens	No longer than 2 days.	Same as regular season
Balance of State Zone	Ducks, Coots, and Moorhens	No longer than 2 days.	Same as regular season
Southern San Joaquin Valley Zone	Same as regular season	No longer than 2 days.	Same as regular season
Southern California Zone	Same as regular season	No longer than 2 days.	Same as regular season
FALCONRY	SPECIES	SEASON	DAILY BAG & POSSESSION LIMITS
Northeastern Zone	Ducks, Coots, and Moorhens	No longer than 107 days.	3/day. Possession limit 9
Balance of State Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Southern San Joaquin Valley Zone	Ducks, Coots, and Moorhens	No longer than 107 days.	3/day. Possession limit 9
Southern California Zone	Same as regular season	No longer than 107 days.	3/day. Possession limit 9
Colorado River Zone	Ducks, Coots, and Moorhens	No longer than 107 days.	3/day. Possession limit 9

Proposed Regulatory Language

Section 502, Title 14 CCR, is amended to read:

§502. Waterfowl, Migratory; American Coot and Common Moorhen (Common Gallinule).

... [No changes to subsections (a) through (b)]

(c) Seasons and Bag and Possession Limits for American Coots, and Common Moorhens.		
(1) Statewide Provisions.		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
American Coot and Common Moorhen	Concurrent with duck season(s)	Daily bag limit: 25, either all of one species or a mixture of these species. Possession limit: triple the daily bag limit.
(d) Seasons and Bag and Possession Limits for Ducks and Geese by Zone.		
(1) Northeastern California Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers)	From the first Saturday in October extending for 105 days. Scaup: from the first Saturday in October extending for a period of 58 days and from the third Saturday in December extending for a period of 28 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31.</u> <u>Season may be split into two segments and no longer than 105 days except for scaup season can be no longer than 86 days.]</u>	Daily bag limit: 7 <u>[4-7]</u> Daily bag limit may include: • 7 <u>[3-7]</u> mallards, but not more than 2 [1-2] females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 <u>2</u> scaup (either sex). Possession limit: triple the daily bag limit.
Geese	Regular Season: Small and Large Canada Geese: from the first Saturday in October extending for 100 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 17.</u> <u>Season will be no longer than 100 days.]</u> White-fronted and white geese from the first Saturday in October	Daily bag limit: 30 Daily bag limit may include: • 20 white geese. • 10 dark geese but not more than 2 Large Canada geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.

	<p>extending for a period of 58 days and from the first Saturday in January extending for a period of 14 days.</p> <p><u>[opening no earlier than the Saturday closest to October 1 and closing no later than January 31.</u></p> <p><u>Season may be split into two segments and no longer than 100 days.]</u></p> <p>Late Season: White-fronted and white geese from February 7 extending for 33 days. <u>[Season will be no longer than 38 days and closing no later than March 10.]</u></p> <p>During the Late Season, hunting is only permitted on Type C wildlife areas listed in Section 550-552, navigable waters, and private lands with the permission of the land owner under provisions of Section 2016, Fish and Game Code. Hunting is prohibited on Type A and Type B wildlife areas, the Klamath Basin National Wildlife Refuge Complex, the Modoc National Wildlife Refuge, and any waters which are on, encompassed by, bounded over, flow over, flow through, or are adjacent to any Type A and Type B wildlife areas, the Klamath Basin National Wildlife Refuge Complex, or the Modoc National Wildlife Refuge.</p>	
(2) Southern San Joaquin Valley Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers)	<p>From the third Saturday in October extending for 105 days.</p> <p>Scaup: from November 7 extending for 86 days.</p> <p><u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31.</u></p> <p><u>Season may be split into two segments and no longer than 105</u></p>	<p>Daily bag limit: 7-[4-7]</p> <p>Daily bag limit may include:</p> <ul style="list-style-type: none"> • 7-[3-7] mallards, but not more than 2-[1-2] females. • 2-1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3-2 scaup (either sex). <p>Possession limit: triple the daily bag limit.</p>

	<u>days except for scaup season can be no longer than 86 days.]</u>	
Geese	From the third Saturday in October extending for 105 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31. Season will be no longer than 105 days.]</u>	Daily bag limit: 30 Daily bag limit may include: • 20 white geese. • 10 dark geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.

(3) Southern California Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers)	From the third Saturday in October extending for 105 days. Scaup: from November 7 extending for 86 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31.</u> <u>Season may be split into two segments and no longer than 105 days except for scaup season can be no longer than 86 days.]</u>	Daily bag limit: 7 <u>[4-7]</u> Daily bag limit may include: • 7 <u>[3-7]</u> mallards, but not more than 2 <u>[1-2]</u> females. • 2 <u>1</u> pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 <u>2</u> scaup (either sex). Possession limit: triple the daily bag limit.
Geese	From the third Saturday in October extending for 105 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31. Season will be no longer than 105 days.]</u>	Daily bag limit: 23 Daily bag limit may include: • 20 white geese. • 3 dark geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.

(4) Colorado River Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers).	From the third Friday in October extending for 101 days. Scaup: from the first Saturday in November extending for 86 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31.</u> <u>Season may be split into two segments and no longer than 105</u>	Daily bag limit: 7 Daily bag limit may include: • 7 mallards, but not more than 2 females or Mexican-like ducks. • 2 <u>1</u> pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 <u>2</u> scaup (either sex).

	<u>days except for scaup season can be no longer than 86 days.]</u>	Possession limit: triple the daily bag limit.
Geese	From the third Friday in October extending for 101 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31. Season will be no longer than 105 days.]</u>	Daily bag limit: 24 Daily bag limit may include: • 20 white geese. • 4 dark geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.
(5) Balance of State Zone (NOTE: SEE SUBSECTION 502(d)(6) BELOW FOR SPECIAL SEASONS AND CLOSURES.)		
<i>(A) Species</i>	<i>(B) Season</i>	<i>(C) Daily Bag and Possession Limits</i>
Ducks (including Mergansers).	From the third Saturday in October extending for 105 days. Scaup: from November 7 extending for 86 days. <u>[Opening no earlier than the Saturday closest to October 1 and closing no later than January 31. Season may be split into two segments and no longer than 105 days except for scaup season can be no longer than 86 days.]</u>	Daily bag limit: 7 <u>[4-7]</u> Daily bag limit may include: • 7 <u>[3-7]</u> mallards, but not more than 2 <u>[1-2]</u> females. • 2 <u>1</u> pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 <u>2</u> scaup (either sex). Possession limit: triple the daily bag limit.
Geese	Early Season: Large Canada geese only from the Saturday closest to October 1 for a period of 5 days EXCEPT in the North Coast Special Management Area where Large Canada geese are closed during the early season. Regular Season: Dark and white geese <u>[opening no earlier than the Saturday closest to October 1 and closing no later than January 31]</u> from the third Saturday in October extending for 100 days EXCEPT in the Sacramento Valley Special Management Area where the white-fronted goose season will close after December 21. Late Season: White-fronted and white geese from the second <u>third</u>	Daily bag limit: 30 Daily bag limit may include: • 20 white geese. • 10 dark geese EXCEPT in the Sacramento Valley Special Management Area where only 3 may be white-fronted geese (see definitions: 502(a)). Possession limit: triple the daily bag limit.

		<p>Saturday in February extending for a period of 5 days EXCEPT in the Sacramento Valley Special Management Area where the white-fronted goose season is closed.</p> <p>During the Late Season, hunting is not permitted on wildlife areas listed in Sections 550-552 EXCEPT on Type C wildlife areas in the North Central and Central regions.</p>	
(6) Special Management Areas (see descriptions in 502(b)(6))			
	(A) Species	(B) Season	(C) Daily Bag and Possession Limits
1. North Coast	All Canada Geese	<p>From November 6 extending for a period of 87 days (Regular Season) and from February 22 extending for a period of 18 days (Late Season). <u>[Season may be split and no longer than 105 days.]</u> During the Late Season, hunting is only permitted on private lands with the permission of the landowner under provisions Section 2016, Fish and Game Code.</p>	<p>Daily bag limit: 10 Canada Geese of which only 1 may be a Large Canada goose (see definitions: 502(a)), EXCEPT during the Late Season, the bag limit on Large Canada geese is zero.</p> <p>Possession limit: triple the daily bag limit.</p>
2. Humboldt Bay South Spit (West Side)	All Species	Closed during brant season	
3. Klamath Basin	Geese	<p>Small and Large Canada Geese from the first Saturday in October extending for 100 days. <u>[opening no earlier than the Saturday closest to October 1 and closing no later than January 17]</u> extending for 100 days.</p> <p>White-fronted and white geese from the first Saturday in October <u>[opening no earlier than the Saturday closest to October 1 and closing no later than January 31]</u> extending for 105 days.</p>	<p>Daily bag limit: 30 Daily bag limit may include:</p> <ul style="list-style-type: none"> • 20 white geese. • 10 dark geese but not more than 2 Large Canada geese (see definitions: 502(a)). <p>Possession limit: triple the daily bag limit.</p>
4.	White-	Open concurrently with the	Daily bag limit: 3

Sacramento Valley	Fronted Geese	goose season through December 21, and during Youth Waterfowl Hunting Days.	white-fronted geese. Possession limit: triple the daily bag limit.
5. Morro Bay	All species	Open in designated area only from the opening day of brant season through the remainder of waterfowl season.	
6. Martis Creek Lake	All species	Closed until November 16.	
7. Northern Brant	Black Brant	From November 8 extending for 37 days. <u>[Season will be between 0 and 37 days, closing no later than December 14.]</u>	Daily bag limit: 2 Possession limit: triple the daily bag limit.
8. Balance of State Brant	Black Brant	From November 9 extending for 37 days. <u>[Season will be between 0 and 37 days, closing no later than December 15.]</u>	Daily bag limit: 2 Possession limit: triple the daily bag limit.
9. Imperial County	White Geese	From November 7 extending for a period of 86 days (Regular Season) and from the second Saturday in February extending for a period of 19 days (Late Season). <u>[Season may be split and no longer than 105 days.]</u> During the Late Season, hunting is only permitted on private lands with the permission of the landowner under provisions of Section 2016, Fish and Game Code.	Daily bag limit: 20 Possession limit: triple the daily bag limit.

(e) Youth Waterfowl Hunting Days Regulations (NOTE: To participate in these Youth Waterfowl Hunts, federal regulations require that hunters must be 17 years of age or younger and must be accompanied by a non-hunting adult 18 years of age or older.)

(1) Statewide Provisions.

(A) Species	(B) Season	(C) Daily Bag Limit
Ducks (including Mergansers), American Coot, Common Moorhen, Black Brant, Geese	1. Northeastern California Zone: The Saturday fourteen days before the opening of waterfowl season extending for 2 days. 2. Southern San Joaquin Valley Zone:	Same as regular season.

<p>The second-first Saturday in February extending for 2 days.</p> <p>3. Southern California Zone: The second-first Saturday in February extending for 2 days.</p> <p>4. Colorado River Zone: The Saturday following the closing of waterfowl season extending for 2 days.</p> <p>5. Balance of State Zone: The second-first Saturday in February extending for 2 days.</p>		
<p><u>(f) Veterans Active Military Personnel Waterfowl Hunting Days Regulations</u> NOTE: Veterans (as defined in Section 101 of Title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than training), may participate. Persons participating in this special hunt must possess and present upon demand verification of eligibility to participate in this hunt. Verification includes: Veteran's ID Card and/or Military ID Card for active duty, or a State issued driver's license or Identification Card with Veteran Designation.</p>		
<u>(1) Statewide Provisions.</u>		
<u>(A) Species</u>	<u>(B) Season</u>	<u>(C) Daily Bag Limit</u>
<u>Ducks (including Mergansers),</u> <u>Geese, American Coot,</u> <u>Common Moorhen</u>	<p>1. <u>Northeastern California Zone: The Saturday following the closing of the regular duck season extending for 2 days. Goose hunting in this zone is not permitted during these days.</u></p> <p>2. <u>Southern San Joaquin Valley Zone: The second Saturday in February extending for 2 days.</u></p> <p>3. <u>Southern California Zone: The second Saturday in February extending for 2 days.</u></p>	Same as regular season.

	4. Balance of State Zone: The second Saturday in February extending for 2 days. <u>Goose hunting in this zone is not permitted during these days.</u>	
(f)-(g) Falconry Take of Ducks (including Mergansers), Geese, American Coots, and Common Moorhens.		
(2) Statewide Provisions		
(A) Species	(B) Season	(C) Daily Bag and Possession Limits
Ducks (including Mergansers), Geese, American Coot and Common Moorhen	<p>1. Northeastern California Zone. Open concurrently with duck season through January 12, 2020. <u>[No longer than 107 days.]</u></p> <p>2. Balance of State Zone. Open concurrently with duck season and February 8-9, 2020 <u>[No longer than 107 days]</u> EXCEPT in the North Coast Special Management Area where the falconry season for geese runs concurrently with the season for Small Canada geese (see 502(d)(6)).</p> <p>3. Southern San Joaquin Valley Zone. Open concurrently with duck season and February 8-9, 2020. <u>[No longer than 107 days.]</u> Goose hunting in this zone by means of falconry is not permitted.</p>	<p>Daily bag limit: 3 Daily bag limit makeup: • Either all of 1 species or a mixture of species allowed for take.</p> <p>Possession limit: 9</p>

4. Southern California Zone. ~~Open concurrently with duck season and February 8-9, 2020.~~ [No longer than 107 days] EXCEPT in the Imperial County Special Management Area where the falconry season for geese runs concurrently with the season for white geese.

5. Colorado River Zone. ~~Open concurrently with duck season and January 27-30, 2020.~~ [No longer than 107 days.] Goose hunting in this zone by means of falconry is not permitted. Federal regulations require that California's hunting regulations conform to those of Arizona, where goose hunting by means of falconry is not permitted.

Note: Authority cited: Sections 265 and 355, Fish and Game Code. Reference: Sections 265, 355 and 356, Fish and Game Code.

Proposed Regulatory Language

Section 507, Title 14 CCR, is amended to read:

§ 507. Provisions Related to the Taking of Migratory Game Birds.

. . . *[No changes to subsections (a)(1) through (3)]*

(4) Shotguns 10 Gauge or Smaller. Shotguns 10 gauge or smaller using shot shells only and incapable of holding more than three shells in the magazine and chamber combined may be used. except no shotgun larger than 12 gauge shall be used in areas open to hunting on, over or adjacent to the waters of Morro Bay, San Luis Obispo County. If a plug is used to reduce the capacity of a magazine to fulfill the requirements of this section, the plug must be of one piece construction incapable of removal without disassembling the gun. Shotgun shells may not be used or possessed that contain shot size larger than ~~No. BB in lead or~~ T shot in steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service. All shot shall be loose in the shell.

. . . *[No changes to subsections (b) through (d)]*

Note: Authority cited: Section 355, Fish and Game Code. Reference: Sections 355, 356 and 3005, Fish and Game Code.