STAFF SUMMARY FOR OCTOBER 11-12, 2017

13. NON-MARINE PETITIONS FOR REGULATION CHANGE

Today's Item **Information** ☐ **Action** ☒

This is a standing agenda item for FGC to act on regulation petitions from the public that are non-marine in nature. For this meeting:

(A) Action on petitions for regulation change received at the Aug 2017 meeting.

(B) Update on pending regulation petitions referred to staff or DFW for review.

Summary of Previous/Future Actions

(A)

- Receipt of new petitions — Aug 16, 2017; Sacramento
- **Today's action on petitions** — **Oct 11-12, 2017; Atascadero**

(B)

- **Today's update and possible action on referrals** — **Oct 11-12, 2017; Atascadero**

Background

As of Oct 1, 2015, any request for FGC to adopt, amend, or repeal a regulation must be submitted on form FGC 1, "Petition to the California Fish and Game Commission for Regulation Change" (Section 662, Title 14). Petitions received at an FGC meeting are scheduled for consideration at the next business meeting, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

Petitions scheduled for consideration today under (A) were received at the Aug 2017 meeting in one of three ways: (1) submitted by the comment deadline and published as tables in the meeting binder, (2) submitted by the late comment deadline and delivered at the meeting, or (3) received during public forum. Petitions considered under (B) were scheduled for action at a previous meeting and were referred by FGC to DFW or FGC staff for for further evaluation prior to action.

(A) ***Petitions for regulation change.*** No non-marine regulation petitions are scheduled for action at this meeting.

(B) ***Pending regulation petitions.*** This item is an opportunity for staff to provide a recommendation on non-marine petitions previously referred by FGC to staff or DFW for review. FGC may act on any staff recommendations made today. Two updates on pending non-marine petitions referred to FGC staff or DFW are scheduled for action at this meeting:

I. *Petition #2015-009 (raise commercial trapping license fees):* FGC staff recommends that FGC deny the request as it requires a legislative change. Fish and Game Code does not define a commercial trapping license. Fish and Game Code Section 4006(a) only differentiates between resident, non-resident, and junior licenses. In addition, FGC is lacking evidence that all reasonable administrative and implementation costs of DFW and FGC are not currently being fully recovered; an assessment is necessary to make that determination

and has been identified as a need for future action. The petition is provided in Exhibit B1.

II. *Petition #2016-028 (clarify fire service members authorized to validate deer and elk tags):* DFW Law Enforcement Division (LED) recommends that FGC grant the request for further consideration (see petition and DFW memo in exhibits B2 and B3, respectively).

Significant Public Comments

(B) Petition #2015-009: An online petition intiated by Project Coyote requesting FGC raise trapping license fees or eliminate the fur-trapping program entirely has received over 5500 signatures since it was inititated in Jan 2017 (Exhibit B4). Since the Apr 2017 FGC discussion, FGC has also received two requests from individuals regarding commercial trapping (exhibits B5-B6).

Recommendation

(B) Adopt FGC staff recommendation for regulation petition #2015-009 and DFW LED recommendation for regulation petition #2016-028.

Exhibits

B1. Petition #2015-009: Raise commercial trapping license fees
B2. Petition #2016-028: Clarify fire service members authorized to validate deer and elk tags
B3. DFW LED memo regarding Petition #2016-028, received Sep 26, 2017
B4. Project Coyote online petition concerning Petition #2015-009, received beginning Jan 26, 2017
B5. Email from Genevieve DeGuzman regarding commercial fur trapping, received Jun 26, 2017
B6. Email from Louis Gauci regarding trapping license fees, received Sep 19, 2017

Motion/Direction

(B) Moved by _____ and seconded by _____ that the Commission adopts the staff and Department Law Enforcement Division recommendations for petitions #2015-009 and #2016-028.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on the pending petitions for regulation change, except for petition number _____ for which the action is _____.

State of California – Fish and Game Commission
PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE
FGC 1 (NEW 10/23/14) Page 1 of 3

2015-009
Tracking Number: (Click here to enter text.)

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: Jean Su on behalf of Petitioners Center for Biological Diversity and Project Coyote
   Address: 1212 Broadway St, Suite 800, Oakland, CA 94612
   Telephone number: (510) 844-7139
   Email address: jsu@biologicaldiversity.org

2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: FGC §§ 200, 202, 203, 4006(c) and 4009..

3. **Overview (Required)** - Summarize the proposed changes to regulations: Petitioners submit this petition to the California Fish and Game Commission ("the Commission") to raise commercial trapping license fees to the levels necessary for full recovery of the Commission's and Department's reasonable administrative and implementation costs of the trapping program so as to comply with section 4006(c) for the California Fish and Game Code ("FGC") and SB 1148 (Pavley). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban commercial fur trapping of fur-bearing and nongame mammals. .

4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: Based on information readily available on the Commission's and Department's websites, public statements by the Commission and Department, as well as from Public Record Act responses from the Department, it is undisputable that the Commission has failed to comply with the mandates of FGC § 4006(c) when setting trapping license fees. Prior to the Department's issuing trapping licenses for the 2016-2017 season, the Commission must either raise fees to legally-required levels, or, alternatively, implement a ban on commercial fur trapping in order to meet this legal mandate. See attached for more details.

SECTION II: Optional Information

5. Date of Petition: Dec 4, 2015

6. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
Hunting
x Other, please specify: Trapping

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

X Amend Title 14 Section(s):Proposal is to enforce FGC § 4006(c), or in the alternative, ban commercial trapping of all fur-bearing and nongame mammals.
☐ Add New Title 14 Section(s): Click here to enter text.
☐ Repeal Title 14 Section(s): Click here to enter text.

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition NA
Or X 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: Immediate.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached..

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: None.

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

NA.

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2015 DEC -4 PM 2:49

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:
☒ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority
Tracking Number

Date petitioner was notified of receipt of petition and pending action: 12/15/15

Meeting date for FGC consideration: Feb 10-11, 2016

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____
Tracking Number

☐ Granted for consideration of regulation change

BEFORE THE CALIFORNIA FISH AND GAME COMMISSION

PETITION TO RAISE TRAPPING LICENSE FEES IN COMPLIANCE WITH FEE RECOVERY MANDATE PURSUANT TO FGC § 4006(c) and SB 1148

CENTER FOR BIOLOGICAL DIVERSITY and PROJECT COYOTE

December 4, 2015

I. NOTICE OF PETITION

Pursuant to Title 14, Section 662 of the California Code of Regulations ("CCR") (*Petitions for Regulation Change*), the Center for Biological Diversity ("the Center") and Project Coyote (collectively "Petitioners") submit this petition to the California Fish and Game Commission ("the Commission") to raise commercial trapping license fees to the levels necessary for full recovery of the Commission's and Department's reasonable administrative and implementation costs of the trapping program so as to comply with section 4006(c) for the California Fish and Game Code ("FGC") and SB 1148 (Pavley). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban commercial fur trapping of fur-bearing and nongame mammals.

A. LEGAL AUTHORITY

The Commission possesses the authority to make such amendments pursuant to FGC §§ 200, 202, 203, 4006(c) and 4009.

B. PETITIONERS

The Center for Biological Diversity is a non-profit, public interest environmental organization dedicated to the protection of species and their habitats through science, policy and environmental law. The Center has over 900,000 members and online activists worldwide, including over 100,000 members and supporters in California.

Project Coyote is a national nonprofit wildlife conservation organization with more than 25,000 advocates dedicated to promoting coexistence between people and wildlife through education, science and advocacy.

Authors: Jean Su, Brendan Cummings, Center for Biological Diversity
Address: 1212 Broadway St, Suite 800, Oakland, CA 94612
Phone: (510) 844-7139
Email: jsu@biologicaldiversity.org

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

Jean Su
Staff Attorney
Center for Biological Diversity

Submitted on behalf of Petitioners
Date submitted: December 4, 2015

II. INTRODUCTION AND RECOMMENDED ACTION

Pursuant to Title 14, Section 662 of the California Code of Regulations ("CCR") (*Petitions for Regulation Change*), the Center for Biological Diversity ("the Center") and Project Coyote (collectively, "Petitioners") submit this petition to the California Fish and Game Commission ("the Commission") to raise existing fur trapping license fees to levels necessary to fully recover the Commission's and the California Department of Fish and Wildlife's ("the Department") reasonable administrative and implementation costs of commercial fur trapping programs for fur-bearing and nongame mammals, as required under FGC § 4006(c). In the alternative, in the event that program costs are determined unlikely to be fully recovered by license fee revenue, Petitioners request the Commission to ban all commercial trapping of fur-bearing and nongame mammals.

Based on information readily available on the Commission's and Department's websites, public statements by the Commission and Department, as well as from Public Record Act responses from the Department, it is undisputable that the Commission has failed to comply with the mandates of FGC § 4006(c) when setting trapping license fees. Prior to the Department's issuing trapping licenses for the 2016-2017 season, the Commission must either raise fees to legally-required levels, or, alternatively, implement a ban on commercial fur trapping in order to meet this legal mandate.[1]

III. TRAPPING IN CALIFORNIA

In California, trapping of certain furbearing and nongame mammals is permitted, subject to license requirements. FGC §§ 4005, 4006. Among the most commonly trapped species are badger, beaver, coyote, gray fox, mink, muskrat, opossum, raccoon, spotted skunk, striped skunk and weasel. By regulation, the Commission has previously banned the trapping of fisher, marten, river otter, desert kit fox and red fox. *See* 14 CCR § 460. Earlier this year, the Commission banned all commercial trapping of bobcats. 14 CCR § 478(c).

Currently, a trapping license is required for both trapping for commerce in fur as well as for those engaged in trapping for depredation purposes. FGC § 4005. For administrative purposes, the Department classifies commercial fur trapping as "recreational", and for depredation purposes as "pest control". In 2014, the Department sold 860 trapping licenses, with the overwhelming majority being for pest control purposes.[2] In 2015, the Department sold 675 trapping licenses, with the overwhelming majority again being for pest control purposes. Of the 2015 licenses, 506 were for pest control purposes, 99 were for commercial fur trapping, while 70 were for both purposes.

---

[1] Given the fee-recovery mandatory of FGC § 4006 is a non-discretionary provision of law, Petitioners believe that a petition for rulemaking prior to the Commission implementing this provision should not be required. Additionally, the fee increase can be implemented administratively rather than through regulation. Nevertheless, because Plaintiffs believe that the existing fur trapping program is highly unlikely to be fiscally viable even with a mandated fee increase, Petitioners submit this petition seeking regulations prohibiting commercial fur trapping. By submitting this petition, Petitioners do not waive their right to seek immediate judicial relief to compel compliance with the requirements of FGC § 4006 and other provisions of law.

[2] Generally, data on license sales and revenues is available at http://www.dfg.ca.gov/licensing/statistics/. *See* California Department of Fish and Wildlife, "Special Permits: Fees Reported by License Year." *Available at*: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=59826&inline.

IV. JUSTIFICATION FOR RECOMMENDED ACTION

A. The Commission is legally mandated to adjust license fees to fully recover trapping program costs

Trappers in California are required to procure a trapping license. FGC § 4005. Trapping license fees are governed by FGC § 4006. FGC § 4006(a) sets a base level fee for trapping licenses and requires the Department to increase that fee based on federal inflation statistics pursuant to FGC § 713. Under this regime, trapping license fees have increased from $45 several decades ago to $117.16 for the 2015-2016 license year.

However, in addition to the inflation-related increases contemplated by FGC §§ 4006(a) and 713, FGC § 4006(c) requires that fees also be adjusted to recover the costs of the Department and Commission in managing the trapping program. Specifically, FGC § 4006(c) states:

> (c) 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.

FGC § 4006(c). This provision was added to the FGC as a result of the passage of SB1148 (Pavley) and should have been operative in California commencing with the 2013-2014 trapping season. SB 1148 specifically required the Commission to recoup program and implementation costs from fee-based programs in an effort to "enable the Department and the Commission to do a better job as public trustees for the state's fish and wildlife, and for the people they serve."[3]

As detailed below, the reality that the existing trapping program is not self-financing plainly violates SB 1147, as codified in FGC § 4006(c). The legal arguments aside, the practical implications of perpetuating an unsustainable trapping program presents an equally compelling reason to either raise fees or eliminate the program: insufficient financial resources will inevitably lead to the program's inadequate implementation. As noted by the Legislature in enacting F&G Code §§ 710-711, the Department has failed to adequately meet its regulatory mandates due, in part, to "a failure to maximize user fees and inadequate non-fee related funding", which has "prevented proper planning and manpower allocation" to carry out its "public trust responsibilities" and the "additional responsibilities placed on the Department by the Legislature." F&G Code § 710-710.5. As a result, the Department is burdened with "the inability . . . 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." F&G Code § 710.5. As a matter of public policy, the Commission should ensure that fees are raised sufficiently to cover the trapping program's costs, or if it is determined that such costs cannot realistically be recovered, to eliminate the program.

---

[3] *See* "Legislature Passes Huffman and Pavley Bills to Improve Fish & Wildlife Conservation" (Sep. 6, 2012). *Available at*: http://sd27.senate.ca.gov/news/2012-09-06-legislature-passes-huffman-and-pavley-bills-improve-fish-wildlife-conservation.

B. Current and past license fees have been woefully inadequate to recover trapping program costs and thus violate SB 1148 and FGC § 4006(c)

In spite of the cost recovery mandate of SB1148, the Commission has failed to implement FGC § 4006(c) for the past three trapping seasons, resulting in unlawfully low license fees that have failed to recoup the actual costs of the Department and Commission. As is clear from the 2015-2016 trapping license application, the Department is charging $117.16 for the resident trapping fee for the current year.[4] While the marginal increase of $3.91 over the 2014-2015 season fee may be consistent with the inflation adjustment requirements of FGC §§ 4006(a) and 713, clearly, these fee adjustments do not comply with FGC § 4006(c).

According to the 2014-15 trapping license data available, the Department issued 671 resident licenses (at $113.75/license), 3 junior licenses (at $38.25/license), and 1 non-resident license (at $570/license), recouping a total revenue of around $77,000 for the entire trapping program.[5] Based on the Department's documents released over the course of the AB 1213 rulemaking process, a single Department warden, who is fundamental to field surveillance of trap lines and investigations, costs the Department over $100,000 annually in salary and related expenses.[6] Given that the 2014-2015 license revenue of approximately $77,000 fails to cover the cost of a single full-time warden[7], it is clear that the existing fee structure fails to recoup the costs of California's entire trapping program. Moreover, this amount is for both commercial fur trappers and pest control trappers; licenses fees from purely commercial trappers total less than $12,000 for the season. Similar low fees and consequently low revenue totals for prior seasons show that the Commission has affirmatively violated FGC § 4006(c) for the past three trapping seasons, including the current one ending on June 30, 2016.

Overall, these figures demonstrate that the Commission has been and remains in gross noncompliance with the unambiguous requirements of the Fish & Game Code. It is critical that the Commission comply with code requirements for the upcoming 2016-2017 trapping season. Further violations of law should not be countenanced.

C. License fees for the upcoming 2016-2017 trapping season must be substantially raised in order to comply with cost recovery provisions of SB 1148 and FGC § 4006(c)

While the exact costs of California's trapping program are not publicly available, the extrapolation of existing data shows that license fees will need to increase substantially in order to meet the cost recovery mandate of FGC § 4006(c) and SB 1148.

---

[4] California Department of Fish and Wildlife, "2015-2016 Trapping License Application." *Available at:* https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=84525&inline.

[5] *See* https://www.wildlife.ca.gov/Licensing/Statistics. The majority of these licenses were purchased for pest-control purposes rather than for fur trapping purposes.

[6] *See* Memorandum from Charlton Bonham, Director, Cal. Dep't of Fish and Wildlife and Sonke Mastrup, Executive Director, Cal. Fish and Game Comm'n to the Assemblymember Richard Bloom, Member of the Assembly, 50th District, California, "Re: Assembly Bill 2013" (June 13, 2014). *Available at:* http://www.fgc.ca.gov/meetings/2015/Aug/Exhibits/0805_Item_20_Bobcat.pdf. Given the overlap in the fee recovery provisions of § 4006(c) and AB1213, all fee related documents before the Commission in the bobcat rulemaking should be considered part of the administrative record of the Commission's actions on this petition.

[7] *Id.*

Total Cost of Trapping Program

During the administrative rulemaking process for AB 1213, the Department stated that existing enforcement, management, and administrative costs of implementing the bobcat trapping program alone amounted to $161,000.[8] This total figure included enforcement costs consisting of salaries and vehicle mileage of 12 officers spending approximately 2,000 hours on field patrols over the course of the bobcat trapping season alone. As we demonstrated in the bobcat rulemaking, this cost estimate is unreasonably low. Nevertheless, given bobcats were only one of a dozen species targeted by commercial trappers in California, program costs for the enforcement, management and administration of the overall commercial trapping program likely greatly exceed the figure generated by the Department for just bobcats. A reasonable estimate is likely at least $200,000, and more likely substantially greater than that. Additionally, enforcement, management, and administrative costs related to pest control trapping likely also exceed the costs attributable to the commercial bobcat trapping program.

Number of Trappers

The critical factor in determining an appropriate license fee is an accurate estimate of the number of trappers who will purchase the license. According to Department license statistics, the total number of trapping licenses issued in the 2014-2015 trapping season was 675, with 506 licenses obtained for pest control only purposes, 99 licenses for commercial fur trapping, and 70 for both purposes.[9] Given the different purposes as well as logistical, administrative, management and enforcement costs between commercial fur trapping and pest control trapping, Petitioners believe that setting fees separately for these two groups of trappers is appropriate.[10]

To accurately estimate the number of commercial fur trappers who will purchase trapping licenses for the 2016-2017 trapping season and beyond, the Commission must reduce the total number of trappers to exclude those trappers primarily trapping bobcats in prior years, as it can be assumed that these individuals will no longer purchase trapping licenses given the implementation of the statewide commercial bobcat trapping ban. Given a maximum of 169 individuals who bought licenses for purposes of fur-trapping in the 2014-2015 season, the number seeking fur trapping licenses for 2016-2017 will likely be fewer than 150, and most likely fewer than 100. Absent a substantial fee increase, the number of pest control trappers would presumably remain roughly the same.

Trapping License Cost

Assuming a total commercial fur trapping program cost of $200,000 (again, likely an underestimate) and the number of fur trappers to be 100 (again, likely an overestimate), a resident trapping license fee would be approximately $2,000—seventeen times the license fee for the 2015-2016 trapping season. Even if 150 fur trappers were expected to purchase a license, the fee would need to be set at $1,333. At the very least, these numbers illustrate that the existing license fee of $117 for the 2015-2016 season will need to be exponentially increased to meet the cost recovery mandate of the trapping program.

---

[8] *See* "Initial Statement of Reasons for Regulatory Action re: Implementation of the Bobcat Protection Act of 2013" (herein, "AB 1213 ISOR"), at 16. *Available at:* http://www.fgc.ca.gov/regulations/2015/478isor.pdf.

[9] *See* https://www.wildlife.ca.gov/Licensing/Statistics.

[10] Through this petition, Petitioners at this stage seek that the Commission only address fees for, and/or termination of, the trapping program for commercial (*i.e.* "recreational") trappers. Setting lawful fees for pest control trappers is likely best done through a separate process.

Given the costs of administering and enforcing the commercial fur trapping program and relatively low number of current fur trappers, we do not see how the program can ever be self-funding. The average income of trappers in the 2014-2015 trapping season was $1,239, but that figure includes income from bobcat trapping. Absent bobcat trapping, the average income per trapper was well below $1,000. At a program cost of $200,000 and 150 trappers paying a $1,333 trapping fee, the average trapper would still make less from trapping than necessary to pay for the cost of the license. Given this difficulty of breaking even, it is not rational to expect 150 individuals to pay a license fee so as to engage in a commercial enterprise when that enterprise generates on average less money than the cost of the fee. Consequently, the number of trappers supporting the program would be fewer and the fee would need to be raised accordingly. At 50 trappers, the fee would be $4,000, an amount likely none would be willing to pay.

D. Implementing a statewide ban on all commercial fur trapping is a compelling alternative solution to meeting the cost recovery mandate

This basic economic analysis, based on logical assumptions of cost and viable number of trappers, plainly illustrates that much higher prices of trapping licenses need to be set in order to recover the costs of a commercial fur trapping program in accordance with F&G Code § 4006(c). It is also clear, though, that setting such fees at the required levels would result in a far lower number of trappers (likely approaching zero) willing to pay such fees, leading to a cost-recovery shortfall. Yet setting fees at a level low enough that significant numbers of trappers will pay the fees will simply not recoup program costs. This is also legally impermissible.

In short, given the substantial administrative and enforcement costs associated with fur trapping, and the relatively low numbers of commercial trappers operating in the state, such trapping simply cannot continue in California without a substantial subsidy. Consequently, operating as it must under the cost recovery mandates of F&G Code § 4006(c), we do not see how the Commission can lawfully adopt fees that allows continued commercial fur trapping in California. A statewide ban on commercial and recreational trapping is a compelling alternative and practical solution to meet the statutory cost recovery mandate.

E. The existing trapping fee schedule perpetuates a pattern of fiscal irresponsibility that the Legislature has cautioned against

The reality that the existing trapping program is not self-financing plainly violates SB 1147, as codified in FGC § 4006(c). The legal arguments aside, the practical implications of perpetuating an unsustainable trapping program presents an equally compelling reason to raise fees: insufficient financial resources will inevitably lead to the program's inadequate implementation. As noted by the Legislature in enacting F&G Code §§ 710-711, the Department has failed to adequately meet its regulatory mandates due, in part, to "a failure to maximize user fees and inadequate non-fee related funding", which has "prevented proper planning and manpower allocation" to carry out its "public trust responsibilities" and the "additional responsibilities placed on the Department by the Legislature." F&G Code § 710-710.5. As a result, the Department is burdened with "the inability . . . 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." F&G Code § 710.5. As a matter of public policy, the Commission should ensure that fees are raised accordingly for, at the bare minimum, the subsequent trapping season 2016-2017.

V. CONCLUSION

The Commission, presumably by oversight rather than design, is in clear noncompliance with unambiguous requirements of the Fish and Game Code. To rectify these violations, the Department and Commission should perform a cost analysis of the fur trapping program and implement license fees that adequately recoup the cost of that program. However, should the Commission determine that license fees are unlikely to generate sufficient revenue to cover the costs of the program, Petitioners urge the Commission to implement a state-wide ban on all commercial trapping of fur-bearing and nongame mammals.

Respectfully submitted on behalf of Petitioners,

Jean Su
Staff Attorney
Center for Biological Diversity
1212 Broadway Street, Suite 800
Oakland, California 94612
Phone: (510) 844-7139
jsu@biologicaldiversity.org

State of California – Fish and Game Commission
PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION FOR REGULATION CHANGE
FGC 1 (NEW 10/23/14) Page 1 of 3

Tracking Number: 2016-028 (~~Click here to enter text.~~)

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: Sean Campbell
   Address: 631 9th Street, Arcata, CA 95521
   Telephone number: 707-825-2000
   Email address: scampbell@arcatafire.org

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: Fish and Game Code, Section 4341

3. **Overview (Required) -** Summarize the proposed changes to regulations: I believe the new wording could be as follows: ***On duty firefighter of any rank, working for a recognized fire agency within the State of California (Local government Firefighter, Special District Firefighter, County Firefighter, State Firefighter, and Federal Firefighter)***

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: The code lists a *County fireman at or above the class of foreman* is an approved person to validate deer and elk. This language is outdated and no longer used in the California Fire Service. I believe the intent of this language is to allow on duty firefighters be allowed to validate deer and elk in their fire stations. Our department has been validating deer and elk for over 30 years but has recently discontinued this practice because we are not "County Fireman" and don't have "Foreman's" in our rank structure. We asked our local Wardens and received mixed answers on whether we were allowed to validate deer and elk. There is confusion amongst the response we received. Some believe the intent of the code allows us to validate, while others believe we would be violating the code if we are not County Fireman. If the language was updated, our department would likely continue with the service of deer/elk validation at our fire stations. This is a service that our community appreciated because our personnel were easy to contact and our facilities are centrally located within the community.

SECTION II: Optional Information

5. Date of Petition: 10-26-16

6. Category of Proposed Change

- ☐ Sport Fishing
- ☐ Commercial Fishing
- ☒ Hunting
- ☐ Other, please specify: Click here to enter text.

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):708.6 (c)(1.)(C)(1.)
- ☐ Add New Title 14 Section(s): Click here to enter text.
- ☐ Repeal Title 14 Section(s): Click here to enter text.

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: It would be a benefit to have this change occur before the 2017 Regulations guide is published.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Not Applicable

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: None

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

None

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

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

Tracking Number

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

Meeting date for FGC consideration: _____

RECEIVED
CALIFORNIA
FISH AND GAME
COMMISSION
2016 OCT 26 PM 2:20
AM 10:01

FGC action:

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

State of California
Department of Fish and Wildlife

Memorandum

Date: September 26, 2017

To: Valerie Termini, Executive Director
Fish and Game Commission

From: David Bess, Deputy Director
Law Enforcement Division

Subject: Petition 2016-028

The California Department of Fish and Wildlife Law Enforcement Division has reviewed the petition (tracking #2016-028) regarding California Code of Regulations Code Section 708.6 (c)(1)(C)(1) which specifies persons authorized to validate or countersign deer and elk tags. The petition identifies outdated language causing confusion for the public and public safety agencies listed.

The law enforcement division recommends granting and accepting the above-mentioned petition for review and evaluation for proposed changes.

Letter to

California Fish & Game Commission

Re: Fish & Game Commission's Legal Authority to Modify Trapping License Fees without Commission Petition Process

I am writing to compel the California Fish and Game Commission to come into compliance with state law requiring that the Commission raise trapping license fees to cover program and implementation costs. The Commission has failed to comply with this straightforward requirement for four years now. We cannot stand for a fifth year of non-compliance.

If the Commission cannot ensure that trapping license fees are raised to a level that would realistically cover the state's trapping program implementation costs, the Commission should eliminate the fur-trapping program altogether.

Fewer than 100 Californians engage in commercial trapping for the fur trade. As public trustees of California's wildlife, the Commission should require licensing fees that are in line with the true costs incurred by this tiny minority of people who enjoy trapping animals for fun and profit.

OK

End All Commercial Fur Trapping in California

Genevieve DeGuzman

Mon 6/26/2017 6:03 PM

To:FGC <FGC@fgc.ca.gov>;

Valerie Termini, Executive Director
California Fish and Game Commission

Dear Ms. Termini,

I am writing to urge the California Fish and Game Commission to support ending of all commercial fur trapping in California. I was outraged to learn that the commission has for multiple years knowingly allowed an illegal subsidy for commercial fur trapping to continue. As a taxpayer, I strongly oppose my tax dollars being used to illegally support this appalling practice.

Given it is unlikely that the state could ever bring in enough money from trappers to cover the costs of the trapping program, the simplest -- and the only lawful -- option is to ban commercial fur trapping in California. Doing so is also consistent with the values of the overwhelming majority of Californians who appreciate our wildlife alive, not as commodities to be killed and exported for the benefit of a handful of trappers.

You made the right choice in 2015 by banning the cruel practice of commercial bobcat trapping--thank you!; now's your chance to end commercial fur trapping of all other species in California, bringing the state into the 21st century of wildlife management.

PLEASE do the right thing and ban commercial fur trapping!

Thank you for taking my comment.

Sincerely,

Genevieve DeGuzman

CA Fish & Game Commission Comply with State Law

louis gauci

Tue 9/19/2017 3:07 PM

To:FGC <FGC@fgc.ca.gov>;

Cc:info@projectcoyote.org

California Fish & Game Commission,

I am writing to compel the California Fish and Game Commission to come into compliance with state law requiring that the Commission raise trapping license fees to cover program and implementation costs. The Commission has failed to comply with this straightforward requirement for four years now. We cannot stand for a fifth year of non-compliance.

If the Commission cannot ensure that trapping license fees are raised to a level that would realistically cover the state's trapping program implementation costs, the Commission should eliminate the fur-trapping program altogether.

Fewer than 100 Californians engage in commercial trapping for the fur trade. As public trustees of California's wildlife, the Commission should require licensing fees that are in line with the true costs incurred by this tiny minority of people who enjoy trapping animals for fun and profit.

Sincerely,

Louis