

STAFF SUMMARY FOR OCTOBER 9-10, 2019

4B. EXECUTIVE DIRECTOR'S REPORT – LEGISLATIVE REPORT**Today's Item**Information Action

Review and discuss legislation and federal regulatory notices 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 |

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 have been vetoed or chaptered, or are enrolled and awaiting Governor Newsom's signature.

- AB 44 (Friedman) Fur products: prohibition (Enrolled)
- 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 (Enrolled)
- AB 1260 (Maienschein) Endangered wildlife (Enrolled)

STAFF SUMMARY FOR OCTOBER 9-10, 2019

- SB 1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019 (Vetoed)
- 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 (Enrolled)
- 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 (Enrolled)

Other state bills not in Exhibit 1 that commissioners requested be included for discussion purposes:

- SB 54 (Allen) *Solid waste: packaging and products*. Introduced 12/11/2018. Status: Asm Committee on Natural Resources: Read second time. Ordered to third reading.
- AB 1080 (Gonzalez) *Solid waste: packaging and products*. Introduced 02/21/2019. Status: 09/14/19: Sen Committee on Environmental Quality: Measure returned to Senate floor for consideration. Ordered to inactive file at the request of Senator Bradford.

Summary: These two bills are identical. Would require the California Department of Resources Recycling and Recovery (CalRecycle) to administer a regulatory program concerning use of single-use packaging and single-use products by producers, retailers, and wholesalers, and to finalize an implementation plan by January 1, 2023 and adopt regulations to that effect before January 1, 2024. The bills would additionally require CalRecycle to ensure that all single-use packaging and priority single-use products that are manufactured on or after January 1, 2030 and offered for sale, sold, distributed or imported in or into California are recyclable or compostable, and to achieve and maintain a statewide 75% reduction of the waste generated from single-use packaging and priority single-use products by January 1, 2030 (see Exhibits 2 and 3).

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.

STAFF SUMMARY FOR OCTOBER 9-10, 2019

- *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 – 07/29/2019. Committee on Natural Resources. Referred to the Subcommittee on Water, Oceans, and Wildlife.

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 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).

Federal Regulatory Notices and Other Actions

Federal scoping has been initiated for authorizing shallow-set longline gear for pelagic fishing outside of the U.S. West Coast exclusive economic zone (EEZ).

- The Pacific Fishery Management Council (PFMC) is currently revisiting authorization of pelagic shallow-set longline fishing outside of the EEZ, commencing with a scoping session scheduled for its Nov 14-20, 2019 meeting in Costa Mesa.
- Under the federal Highly Migratory Species Fishery Management Plan (FMP), shallow-set longline gear, used to target swordfish, is prohibited based on the federal Endangered Species Act (ESA) Section 7 consultation for the original FMP implementation. An FMP amendment would be required to authorize this gear type while addressing concerns associated with the current prohibition.
- Authorization was originally considered by PFMC in 2009, but it selected the no-action alternative due to bycatch concerns.
- PFMC is reconsidering its 2009 position in light of current conditions, as discussed in Sep 2018 (exhibits 4-5); conditions include West Coast landings by Hawaii-permitted shallow-set longline vessels. Vessels permitted under the Western PFMC's Pelagics Fishery Ecosystem Plan are permitted to fish with shallow-set longline gear outside the west

STAFF SUMMARY FOR OCTOBER 9-10, 2019

coast EEZ—both east and west of 150 W longitude—and land those fish in West Coast ports.

- At the Aug 2019 FGC meeting, stakeholders requested that FGC write a letter regarding potential authorization of this gear.
- In the past, FGC has expressed concern about fishery gear types that have a high bycatch level, notably of ESA species, while also expressing a desire to support more sustainable commercial fishing in California and the United States and reduce the amount of fish imported from other countries with less stringent resource protections.

Significant Public Comments

Two requests made in Aug during public comment were added to the agenda for consideration at this meeting:

1. A stakeholder highlighted SB 54 and AB 1080 related to single-use plastics and requested that FGC write a letter to Governor Newsom in support of signing SB 54 and AB 1080.
2. A stakeholder expressed concern over PFMC scoping for potential authorization of a pelagic longline fishery outside of the EEZ, and asked FGC to write letter to PFMC. The commenter suggested that the gear type is no longer appropriate to consider outside the EEZ because of continued bycatch impacts.

Recommendation

FGC staff: Authorize the executive director to work with President Sklar to draft and send comment letters to: (1) Governor Newsom and the bill authors of SB 54 and AB 1080 expressing conceptual support for the statutory language; and (2) PFMC regarding its consideration of authorizing pelagic fishing using longline gear. Provide direction on the content of the letters.

Exhibits

1. [DFW legislative report](#), dated Sep 30, 2019
2. [SB 54 as compared to today's law](#), amended Sep 10, 2019
3. [AB 1080 as compared to today's law](#), amended Sep 9, 2019
4. [PFMC's draft Swordfish Management and Monitoring Plan \(SMMP\)](#), Sep 2018
5. [National Marine Fisheries Service report on the SMMP](#), Sep 2018

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 Governor Newsom based on themes discussed today regarding support for signing Senate Bill 54 and Assembly Bill 1080.

AND

STAFF SUMMARY FOR OCTOBER 9-10, 2019

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 based on themes discussed today to the Pacific Fishery Management Council regarding its consideration of authorizing pelagic fishing using longline gear.



Department of Fish & Wildlife Legislative Report

September 2019
(as of September 30, 2019 at 9:00 a.m.)

[AB 44](#)

(Friedman D) Fur products: prohibition.

Introduced: 12/3/2018

Last Amend: 9/6/2019

Status: 9/20/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/20/2019-A. ENROLLED

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

(Aguiar-Curry D) Wildlife: California Winter Rice Habitat Incentive Program.

Introduced: 1/23/2019

Last Amend: 9/3/2019

Status: 9/24/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/24/2019-A. ENROLLED

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 wildlife 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: 9/23/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/23/2019-A. ENROLLED

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: 9/11/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/11/2019-A. ENROLLED

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-Signed by the Governor
Location: 9/27/2019-A. CHAPTERED
Summary: 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. This bill contains other related provisions and other existing laws.

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: 9/24/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/24/2019-A. ENROLLED

Summary: Would authorize a groundwater sustainability agency or local agency to apply for, and the State Water Resources Control 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. This bill contains other related provisions and other existing laws.

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-Signed by the Governor

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: 9/19/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/19/2019-A. ENROLLED

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-Signed by the Governor

Location: 9/27/2019-A. CHAPTERED

Summary: 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. The bill would require a proponent or party to a certain proposed development project within Coyote Valley to provide notice to the authority of the proposed project, and would authorize the authority to provide analysis of the environmental values and potential impacts of the proposed project. The bill would require Coyote Valley to be acknowledged as an area of statewide significance in local planning documents developed or updated on or after January 1, 2020, affecting land use within Coyote Valley. To the extent that this bill would impose new duties on local entities, it would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

AB 1013 **(Oberholte R) State agencies: grant applications.**

Introduced: 2/21/2019

Last Amend: 8/20/2019

Status: 9/11/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/11/2019-A. ENROLLED

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: 9/23/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/23/2019-A. ENROLLED

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: 9/19/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/19/2019-A. ENROLLED

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-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-Signed by the Governor

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: 9/19/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/19/2019-A. ENROLLED

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: 9/11/2019-Enrolled and presented to the Governor at 3:30 p.m.

Location: 9/11/2019-A. ENROLLED

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-Signed by the Governor

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 34

(Wiener D) Cannabis: donations.

Introduced: 12/3/2018

Last Amend: 9/6/2019

Status: 9/18/2019-Enrolled and presented to the Governor at 4 p.m.

Location: 9/18/2019-S. ENROLLED

Summary: Current administrative law prohibits a cannabis retailer licensee from providing free cannabis goods to any person or allowing individuals who are not employed by the retailer to provide free cannabis goods to any person on the licensed premises. Current administrative law provides an exception to this prohibition for specified medicinal retailer and microbusiness licensees to provide access to medicinal cannabis patients who have difficulty accessing medicinal cannabis goods, as specified. This bill, the Dennis Peron and Brownie Mary Act, would similarly authorize, on and after a specified date, licensees that are authorized to make retail sales to provide free cannabis or cannabis products to a medicinal cannabis patient or the patient's primary caregiver if specified requirements are met, including that the cannabis or cannabis products otherwise meet specified requirements of MAUCRSA.

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: 9/18/2019-Enrolled and presented to the Governor at 4 p.m.

Location: 9/18/2019-S. ENROLLED

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: 9/19/2019-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2019-S. ENROLLED

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: 9/19/2019-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2019-S. ENROLLED

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 376 **(Portantino D) Firearms: transfers.**

Introduced: 2/20/2019

Last Amend: 9/6/2019

Status: 9/19/2019-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2019-S. ENROLLED

Summary: Current law generally requires any person who sells, leases, or transfers firearms to be a licensed dealer, as specified. Current law exempts infrequent sales, leases, and transfers from this requirement. Current law generally prohibits the purchase or receipt of a firearm by, or sale, transfer, or loan of a firearm, to, a person who does not have a firearm safety certificate. Current law exempts from this requirement, the infrequent loan of a firearm. Current law defines “infrequent” for purposes of this exemption to mean less than 6 handgun transactions per calendar year, or, for firearms other than handguns, an indefinite number of transactions that are “occasional and without regularity.” This bill would redefine “infrequent” to mean less than 6 firearm transactions per calendar year, regardless of the type of firearm, and no more than 50 total firearms within those transactions

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: 9/19/2019-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2019-S. ENROLLED

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: Current law 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: 9/19/2019-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2019-S. ENROLLED

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: 9/19/2019-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2019-S. ENROLLED

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: 9/10/2019-Enrolled and presented to the Governor at 4 p.m.

Location: 9/10/2019-S. ENROLLED

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: 9/19/2019-Enrolled and presented to the Governor at 3 p.m.

Location: 9/19/2019-S. ENROLLED

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.

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)

SB-54 Solid waste: packaging and products. (2019-2020)

SECTION 1. *Section 23671 of the Business and Professions Code is amended to read:*

23671. (a) No beer importer shall purchase any beer not manufactured within the state or cause any beer to be transported into the state for sale in the state, unless the out-of-state vendor making shipment of the beer into the state holds a certificate of compliance issued by the department. A certificate of compliance shall be granted when the out-of-state vendor makes a written agreement with the department to furnish to the board, on or before the 10th day of each month, a report on a form prescribed by the board, showing the quantity of beer shipped by the out-of-state vendor to each licensed beer importer in this state during the preceding month. The out-of-state vendor shall further agree that it and its agents and all agencies within this state controlled by it will comply with all laws of this state and all rules of the department with respect to the sale of alcoholic beverages, including, but not limited to, Chapter 12 (commencing with Section 25000) of Division 9, and Section 25509, to the same extent as licensees.

(b) If any out-of-state vendor, after obtaining the certificate, fails to submit the ~~report or~~ *report, fails* to comply with Section 14575 of the Public Resources Code, ~~the~~ *or fails to comply with the provisions of Chapter 3 (commencing with Section 42040) of Part 3 of Division 30 of the Public Resources Code, the* department may suspend or revoke the certificate of compliance in the manner provided for the suspension or revocation of licenses, and after a hearing which shall be held in the City of Sacramento or in any other county seat in this state which the department determines to be convenient to the holder of the certificate. No fee shall be charged for the certificate of compliance which shall remain in effect until revoked by the department.

SEC. 2. *Chapter 3 (commencing with Section 42040) is added to Part 3 of Division 30 of the Public Resources Code, to read:*

CHAPTER 3. California Circular Economy and Pollution Reduction Act
Article 1. General Provisions

42040. *This chapter shall be known, and may be cited, as the California Circular Economy and Pollution Reduction Act.*

42041. (a) *The Legislature finds and declares all of the following:*

(1) *Annual global production of plastic has reached 335 million tons and continues to rise. The United States alone discards 30 million tons each year. Global plastic production is projected to more than triple by 2050, accounting for 20 percent of all fossil fuel consumption.*

(2) *Without action, projections estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish. A study by the University of Exeter and Plymouth Marine Laboratory in the United Kingdom found plastics in the gut of every single sea turtle examined and in 90 percent of seabirds. Additionally, plastic negatively affects marine ecosystems and wildlife, as demonstrated by countless seabirds, turtles, and marine mammals, including, but not limited to, whales and dolphins, dying from plastic ingestion or entanglement.*

(3) *Based on data from the United States Environmental Protection Agency, Institute of Scrap Recycling Industries trade statistics, and industry news source Resource Recycling, the national recycling rate for plastic is projected to sink from 9.1 percent in 2015 to 4.4 percent in 2018, and could drop to 2.9 percent in 2019. Even in California, less than 15 percent of single-use plastic is recycled.*

(4) *Before 2017, the United States was sending 4,000 shipping containers a day full of American waste to China every year, including two-thirds of California's recyclable materials. However, China has implemented the Green Fence, National Sword, and Blue Sky policies, severely restricting the amount of contaminated and poorly sorted plastics it would accept. This shift in China's policy has resulted in the loss of markets for low-value plastic packaging that was previously considered recyclable. That material is now being landfilled or burned.*

(5) Additionally, the foreign market for recycled paper has collapsed in California. Foreign exports of mixed paper fell from over 400,000 tons in the first quarter of 2017 to just 136,000 tons in the first quarter of 2018. The price of mixed paper fell from ninety-five dollars (\$95) per ton to just ten dollars (\$10) a ton in the same timeframe.

(6) The loss of markets for recyclable material has added huge costs to local governments for the disposal and diversion of material. For many cities, counties, and waste haulers in California, recycling has turned from a profitable business into an activity that actually costs local governments money. These costs are being absorbed by city general funds or by rate increases on residents for waste collection.

(7) The environmental and public health impacts of plastic pollution are devastating and the environmental externalities and public costs of cleaning up and mitigating plastic pollution are already staggering and continue to grow.

(8) Local governments in California annually spend in excess of four hundred twenty million dollars (\$420,000,000) in ongoing efforts to clean up and prevent plastic and other litter from entering our rivers and streams and polluting our beaches and oceans.

(9) Evidence now shows that even our own food and drinking water sources are contaminated with plastic. Microplastics have been found in tap water, bottled water, table salt, and fish and shellfish from local California fish markets. A growing body of research is finding plastic and associated toxins throughout the food web, including in our blood, feces, and tissues. Exposure to these toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption, and other ailments.

(10) It is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020. However, as of 2017, the state was only on track to reach 44 percent, falling far short of this important goal. Additionally, the state has done little to require businesses to reduce the amount of packaging and single-use product waste they generate in California.

(11) As the fifth largest economy in the world, California has a responsibility to lead on solutions to the growing plastic pollution crisis, and to lead in the reduction of unnecessary waste generally.

(12) Further, businesses selling products into California have a responsibility to ensure that their packaging and products are minimizing waste, including ensuring materials used are reusable, recyclable, or compostable. This responsibility includes paying for the cost of the negative externality of recovery for materials they sell in California.

(b) (1) Consistent with the policy goal established in Section 41780.01, it is the intent of the Legislature that, by 2030, producers of single-use products that are not priority single-use products achieve and maintain a statewide 75-percent reduction of the waste generated from single-use products offered for sale, sold, distributed, or imported in or into the state that are not priority single-use products through source reduction, recycling, or composting.

(2) In accordance with paragraph (1), it is the intent of the Legislature that producers of single-use products that are not priority single-use products do all of the following for single-use products that are not priority single-use products:

(A) Source reduce those products, and transition those products to reusable products, to the maximum extent feasible.

(B) Ensure those products are recyclable or compostable, as determined by the department pursuant to Section 42052.

(C) For single-use plastic products that are not priority single-use products and that are offered for sale, sold, distributed, or imported in or into California, reduce waste generation by 75 percent through combined source reduction and recycling.

(c) It is the intent of the Legislature that any deposit-based mechanism identified pursuant to clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 42050 or implemented as a corrective action pursuant to paragraph (2) of subdivision (a) of Section 42061 ensures that consumers can conveniently receive a refund for returning single-use packaging or priority single-use products.

42042. (a) For purposes of this chapter, all of the following shall apply:

(1) "California circular economy regulatory fee" means the fee imposed by the department pursuant to Section 42080.

(2) "Packaging" means the material used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods. Packaging includes, but is not limited to, all of the following:

(A) Sales packaging or primary packaging intended to constitute a sales unit to the consumer at point of purchase and most closely contains the product, food, or beverage.

(B) Grouped packaging or secondary packaging intended to brand or display the product.

(C) Transport packaging or tertiary packaging intended to protect the product during transport.

(3) "Packaging category" means a packaging material category on the list published by the department pursuant to subdivision (c) of Section 42054.

(4) "Priority single-use products" means single-use food service ware, including plates, bowls, cups, utensils, stirrers, and straws.

(5) "Product category" means a priority single-use product material category on the list published by the department pursuant to subdivision (c) of Section 42054.

(6) (A) "Producer" means the person who manufactures the single-use packaging or priority single-use product under that person's own name or brand and who sells or offers for sale the single-use packaging or priority single-use product in the state.

(B) If there is no person who is the producer of the single-use packaging or priority single-use products for purposes of subparagraph (A), the producer is the person who imports the single-use packaging or priority single-use product as the owner or licensee of a trademark or brand under which the single-use packaging or priority single-use product is sold or distributed in the state.

(C) If there is no person who is the producer for purposes of subparagraphs (A) and (B), the producer is the person or company that offers for sale, sells, or distributes the single-use packaging or priority single-use product in the state.

(D) Notwithstanding subparagraphs (A) to (C), inclusive, for beer and malt beverages manufactured outside of the state "producer" means the person named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code.

(7) "Retailer or wholesaler" means the person who sells the single-use packaging, product packaged in single-use packaging, or priority single-use product in the state or offers to consumers the single-use packaging, product packaged in single-use packaging, or priority single-use product in the state through any means, including, but not limited to, any of the following:

(A) Remote offering, including sales outlets or catalogs.

(B) Electronically through the internet.

(C) Telephone.

(D) Mail.

(8) (A) "Single-use packaging" means the packaging of a product when the packaging is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled by the producer.

(B) Single-use packaging does not include any of the following:

(i) Reusable packaging, as determined by the department pursuant to Section 42052.

(ii) Packaging containing toxic or hazardous products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(iii) Plastic packaging containers that are manufactured for use in the shipment of hazardous materials and are prohibited from being manufactured with used material by federal packaging material specifications set forth in Sections 178.509 and 178.522 of Title 49 of the Code of Federal Regulations.

(iv) Until January 1, 2026, beverage containers subject to the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500)).

(9) "Source reduction" includes, but is not limited to, transitioning single-use packaging or a priority single-use product to refillable or reusable packaging or a reusable product. Source reduction does not include replacing a recyclable or compostable material with a nonrecyclable or noncompostable material or a material that is less likely to be recycled or composted, and does not include a shift from a nonplastic material that currently is recyclable or compostable to plastic material.

(10) "Unexpended funds" means money in a stewardship organization's accounts that the stewardship organization is not already obligated to pay pursuant to a contract, claim, or similar mechanism. "Unexpended funds" excludes regulatory fees.

(b) For purposes of this chapter, all of the following shall not be considered single-use packaging or priority single-use products:

(1) Medical products, as well as products defined as medical devices and prescription drugs as specified in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(h) and (g), and Sec. 353(b)(1)).

(2) Drugs that are used for animal medicines, including, but not limited to, parasiticide products for animals.

(3) Infant formula, as defined in Section 321(z) of Title 21 of the United States Code.

(4) Medical food as defined pursuant to Section 360ee(b)(3) of Title 21 of the United States Code.

(5) Fortified oral nutritional supplements used for persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, or other medical conditions as determined by the department.

(6) Packaging used for a product listed in paragraphs (1) to (5), inclusive.

Article 2. Single-use Packaging and Priority Single-use Products

42050. (a) Before January 1, 2024, the department shall, in consultation with relevant state agencies with jurisdiction relevant to this chapter and local jurisdictions and regional agencies charged with meeting waste diversion goals, adopt regulations that do all of the following:

(1) (A) Require producers of single-use packaging to source reduce single-use packaging to the maximum extent feasible.

(B) Require producers of single-use packaging to ensure that all single-use packaging manufactured on or after January 1, 2030, and that is offered for sale, sold, distributed, or imported in or into California is recyclable or compostable as determined by the department pursuant to Section 42052.

(2) (A) Require producers of priority single-use products to source reduce priority single-use products to the maximum extent feasible.

(B) Require producers of priority single-use products to ensure that priority single-use products manufactured on or after January 1, 2030, and that are offered for sale, sold, distributed, or imported in or into California are recyclable or compostable as determined by the department pursuant to Section 42052.

(3) Achieve and maintain, by January 1, 2030, through the regulations adopted by the department and implemented by producers pursuant to this chapter, a statewide 75-percent reduction of the waste generated from single-use packaging and priority single-use products offered for sale, sold, distributed, or imported in or into the state through source reduction, recycling, or composting.

(4) Require producers to comply with the requirements of this chapter and its implementing regulations.

(b) (1) By January 1, 2023, and before adopting the regulations, in order to increase the opportunity for public participation and to receive comments, the department shall finalize an implementation plan for meeting the requirements of this chapter.

(2) As part of the implementation plan, the department shall do all of the following:

(A) Conduct extensive outreach to stakeholders and to state and local agencies with jurisdiction relevant to this chapter, including, but not limited to, the state's waste diversion, climate, water quality, public health, and air quality goals, and the state's toxic substances regulation. This outreach shall include, but is not limited to, convening a series of public workshops throughout the state to give interested parties an opportunity to comment and a series of stakeholder meetings designed to facilitate dialogue between stakeholders representing different interest groups such as local governments, the solid waste and recycling industries, product and packaging

manufacturers, retailers and wholesalers, trade associations, and environmental organizations. These meetings shall be held throughout the state to increase the opportunity for participation and shall inform the development of regulations pursuant to this section.

(B) Evaluate all of the following:

(i) Incentives and policies to maximize and encourage in-state manufacturing using recycled material generated in California and the development of reusable packaging and products.

(ii) Economic mechanisms to reduce the distribution of single-use packaging and priority single-use products or to transition single-use packaging and priority single-use products to reusable alternatives and increase the recyclability or compostability of single-use packaging and priority single-use products. These economic mechanisms may include, but are not limited to, allowing producers to establish and operate a collection and deposit program, assess a generation-based fee, an advanced recycling fee, pay as you throw fees, or extended producer responsibility for single-use packaging and priority single-use products.

(iii) Avoiding the litter, export, or improper disposal of single-use packaging, priority single-use products, and other materials likely to harm the environment or public health in California or elsewhere in the world.

(iv) Labeling requirements regarding the recyclability, compostability, or reusability of packaging and priority single-use products. Labeling requirements may include criteria for packaging to be labeled "recyclable," "compostable," "reusable," or "refillable" based on factors including, but not limited to, whether the packaging or product can be readily recycled, composted, or reused and whether the packaging or product is likely to contaminate other recyclable or compostable material or complicate processing. In developing labeling requirements, the department shall consider national and international labeling standards and systems.

(v) Possible options for producers to implement the requirements of this chapter and reduce packaging and product waste, including, but not limited to, through implementation of effective and convenient take-back opportunities, deposit systems, reusable and refillable delivery systems, designing for recyclability or compostability, advanced disposal fees, incentive programs, or similar mechanisms. The department may allow producers to implement extended producer responsibility programs, where appropriate, consistent with the requirements of Article 4 (commencing with Section 42070).

(vi) Actions identified through the California Ocean Litter Prevention Strategy and the Statewide Microplastics Strategy.

(vii) Establishing criteria for the source reduction requirements specified in subdivision (a) and to inform the checklist specified in paragraph (3) of subdivision (h). Consideration shall include reducing weight, volume, or quantity of single-use packaging and priority single-use product material in a way that does not decrease the ability of the material to be recycled or reused.

(viii) Establishing minimum postconsumer recycled content requirements for a packaging or product category, where appropriate, in order to create or enhance markets for recycled material.

(ix) How to address technological innovations and new packaging materials or categories.

(C) Consider and provide recommendations on whether to transition or sunset existing recycling programs.

(D) Identify all of the following:

(i) Opportunities to improve and expand waste collection and processing capabilities and infrastructure, including the use of innovative new recycling and reuse technologies and secondary material recovery facilities.

(ii) Opportunities to harmonize local waste, recycling, and composting programs among local jurisdictions and barriers to cooperation and standardization of programs.

(iii) Opportunities for encouraging the use of reusable or refillable packaging.

(iv) Opportunities for public education efforts to increase recycling and composting of single-use packaging and priority single-use products and reducing litter from these items.

(v) Potential end-use markets for collected materials and policies required to stimulate domestic markets.

(vi) Opportunities for incentivizing and increasing consumer recycling.

(vii) Discussion for identifying and conducting outreach to producers.

(c) (1) The department may identify single-use packaging or priority single-use products that, while determined to be single use for purposes of this chapter, present unique challenges in complying with this chapter.

(2) For any packaging or products identified as presenting unique challenges, the department may at any point develop a plan to phase the packaging or products into the regulations.

(d) The department shall ensure that any regulations adopted pursuant to this chapter account for guidelines and regulations issued by the United States Food and Drug Administration.

(e) If the department determines at any point a type of single-use packaging or priority single-use product cannot comply with this chapter due to health and safety reasons, or because it is unsafe to recycle, the department may exempt that packaging or product from this chapter.

(f) The regulations shall establish a baseline for the 75-percent waste reduction requirement in subdivision (a) for each packaging and product category based on waste characterization studies undertaken by the department, and any other information received by the department.

(g) (1) Producers shall do both of the following:

(A) Register with the department.

(B) Report any data to the department that the department deems necessary to determine compliance with this chapter in a form, manner, and frequency determined by the department.

(2) Any confidential or proprietary market sensitive data received by the department pursuant to this chapter shall be held confidentially by the department as required by Section 40062 and any implementing regulations.

(3) The department shall create an online registration form to facilitate submitting reports pursuant to this subdivision.

(4) Producers shall submit the information required by the department pursuant to paragraph (1) using the format established by the department pursuant to paragraph (3).

(5) The department's regulations shall establish appropriate timelines to begin reporting following the adoption of regulations. The department shall consider the amount of information being reported in developing the timelines.

(h) (1) The department's regulations shall include direct source reductions of single-use packaging and priority single-use products to the maximum extent feasible, in accordance with this section.

(2) The department may consider single-use packaging and priority single-use product reductions achieved by a producer before the effective date of the regulations if the producer can demonstrate to the satisfaction of the department that the producer reduced the single-use packaging or priority single-use product in a manner consistent with this chapter.

(3) (A) The department shall develop a checklist of source reduction measures, and a producer that complies with all applicable measures on the checklist shall be in compliance with the requirement to source reduce to the maximum extent feasible pursuant to subdivision (a). The department shall also offer guidance on how to use the checklist as a means of complying with subdivision (a). The checklist measures may include, but are not limited to, ensuring the single-use packaging or priority single-use product remains recyclable or compostable, right-sizing products, eliminating excess packaging, compliance with internal or third-party certified packaging design guidelines, concentrating a product to reduce packaging, and transitioning to reusable alternatives where those alternatives are readily available.

(B) To determine which source reduction measures to include in the checklist, the department shall consider which single-use packaging and priority single-use products are prone to become litter, have readily available alternatives, make up a significant portion of the waste stream, or have established, or have the potential for, recycling or composting infrastructure.

(C) The checklist shall incorporate considerations that assist the department in evaluating whether it is feasible for a producer to implement one or more of the checklist source reduction measures, including product protection and integrity, consumer safety, shelf life, compatibility with distribution systems, and other relevant factors as the department deems appropriate.

(4) When establishing the source reduction measures, the department shall avoid incentivizing substitutions that may have a more substantial negative impact on the environment.

(5) In developing the regulations, the department shall count a producer's source reductions achieved to comply with Chapter 5.5 (commencing with Section 42300) toward compliance with this chapter.

(6) If the department believes a producer has not met its obligation to source reduce to the maximum extent feasible, or if the department believes additional source reduction is feasible when the producer believes it is not, then the producer shall be given an opportunity to explain any relevant factors that would limit its ability to meet its obligation or implement additional source reduction measures.

(i) If the department determines that early actions to source reduce certain single-use packaging and priority single-use products can further the purposes of this chapter, the department may adopt regulations to achieve those reductions. If the department adopts regulations pursuant to this subdivision, the department shall report that action to the Legislature in the next report submitted pursuant to Section 42060.

(j) In developing the regulations, the department shall consider relevant information on reduction programs and approaches in other states, localities, and nations, including, but not limited to, the European Union, India, Costa Rica, and Canada, and international standards, including, but not limited to, ISO 18602.

(k) The department may determine which actions producers may undertake to achieve the requirements of subdivision (a) based on packaging or product category.

(l) In adopting regulations pursuant to this section, the department shall consider and avoid disproportionate impacts to low-income or disadvantaged communities.

(m) The department shall not impose a recycled content requirement or any other requirement in direct conflict with a federal law or regulation, including, but not limited to, laws or regulations covering tamper-evident packaging pursuant to Section 211.132 of Title 21 of the Code of Federal Regulations, laws or regulations covering child-resistant packaging pursuant to Part 1700 of Subchapter E of Chapter II of Title 16 of the Code of Federal Regulations, or requirements for microbial contamination, structural integrity, or safety of packaging under the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), 21 U.S.C. Sec. 2101 et seq., the federal FDA Food Safety Modernization Act (21 U.S.C. Sec. 2201 et seq.), or the regulations, rules, or guidance issued pursuant to those laws.

(n) The department shall develop criteria for exemptions from the requirements of this chapter for small producers, retailers, and wholesalers.

(o) The department shall establish criteria for allowing producers to comply with the requirements of this chapter through contractual arrangements with third parties that do not otherwise meet the definition of producer in subparagraph (A) of paragraph (6) of subdivision (a) of Section 42042. The criteria shall not limit the department's ability to enforce or otherwise implement this chapter.

42051. (a) The department may adopt emergency regulations to implement and enforce all of the following:

(1) Subdivision (g) of Section 42050.

(2) Subdivision (i) of Section 42050.

(3) Subdivisions (c) and (d) of Section 42054.

(4) Section 42055.

(5) Section 42080.

(b) Emergency regulations adopted pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 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, 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, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

42052. (a) In adopting regulations pursuant to Section 42050, the department shall develop criteria to determine whether the packaging or priority single-use products are reusable, recyclable, or compostable.

(b) (1) For purposes of determining if single-use packaging or priority single-use products are recyclable, the

director shall consider, at a minimum, all of the following criteria:

(A) Whether the single-use packaging or priority single-use product is eligible to be labeled as "recyclable" in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(B) Whether the single-use packaging or priority single-use product is regularly collected, separated, and cleansed for recycling by recycling service providers.

(C) Whether the single-use packaging or priority single-use product is regularly sorted and aggregated into defined streams for recycling processes.

(D) Whether the single-use packaging or priority single-use product is regularly processed and reclaimed or recycled with commercial recycling processes.

(E) Whether the single-use packaging or priority single-use product material regularly becomes feedstock that is used in the production of new products.

(F) Whether the single-use packaging or priority single-use product material is recycled in sufficient quantity, and is of sufficient quality, to maintain a market value.

(2) For purposes of determining if single-use packaging or priority single-use products are recyclable, the director shall consider the regulations adopted pursuant to Article 10.4 (commencing with Section 25214.11) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(3) For purposes of determining if single-use packaging or priority single-use products are recyclable, de minimis amounts of nonrecyclable material of more than 3 percent of the total weight or volume of the single-use packaging or priority single-use product material is acceptable when the nonrecyclable material is required for the proper delivery, safety, sterility, stability, or use of the product or the product contained within the packaging. If the nonrecyclable material negatively affects the recyclability of the product or packaging, the material shall not be considered de minimis.

(c) For purposes of determining if single-use packaging or priority single-use products are compostable, the director shall consider, at a minimum, all of the following criteria:

(1) Whether the single-use packaging or priority single-use product will, in a safe and timely manner, break down or otherwise become part of usable compost that can be composted in a public or private compost facility designed for and capable of processing postconsumer food waste and food-soiled paper.

(2) Whether the single-use packaging or priority single-use product made from plastic is certified to meet the ASTM standard specification identified in either subparagraph (A) or (C) of paragraph (1) of subdivision (b) of Section 42356 and adopted in accordance with Section 42356.1, if applicable.

(3) Whether the single-use packaging or priority single-use product is regularly collected and accepted for processing at public and private compost facilities.

(4) Whether the single-use packaging or priority single-use product is eligible to be labeled as "compostable" in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(d) For purposes of determining if packaging or a priority single-use product is reusable, the department shall consider, at a minimum, both of the following criteria:

(1) Whether the packaging or priority single-use product is conventionally disposed of after a single use.

(2) Whether the packaging or priority single-use product is sufficiently durable, washable, and intended for multiple refills of the original product to allow for multiple uses.

(e) (1) In implementing this section, the department may consult with local governments and representatives of the solid waste industry, the recycling industry, the reuse industry, the compost industry, and single-use product and packaging manufacturers to determine if a type of packaging or priority single-use product is recyclable, reusable, or compostable.

(2) Local governments, solid waste facilities, recycling facilities, and composting facilities may provide information requested by the department pursuant to paragraph (1) to the department.

42053. (a) *In implementing this chapter, the department shall establish a Circular Economy and Waste Pollution Reduction Panel for the purpose of identifying barriers and solutions to creating a circular economy consistent with this chapter. The panel shall be composed of one or more members from each of the following disciplines, with equal representation from each discipline:*

- (1) Local government.*
- (2) Waste management.*
- (3) Environmental health or sustainability.*
- (4) Product or packaging manufacturing.*
- (5) Product or packaging design.*
- (6) Recyclers.*

(b) The department shall appoint all members to the panel on or before January 1, 2021. The department shall appoint the members for staggered three-year terms, and may reappoint a member for additional terms, without limitation.

(c) The panel shall meet as often as the department deems necessary, with consideration of available resources, but not less than twice each year. The department shall provide for staff and administrative support to the panel.

(d) The panel meetings shall be open to the public and are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(e) The panel shall provide the department with initial recommendations regarding key barriers and possible solutions to advance the objectives of increasing recovery of packaging and product materials and decreasing the leakage of plastic into the environment no later than one year after the panel's initial meeting. The department shall consider these recommendations as it evaluates what specific actions may be appropriate to advance the objectives of this chapter.

(f) The panel may take any of the following actions through written recommendations as the panel deems appropriate:

- (1) Advise the department on technical matters in support of the goals of this chapter to create a circular economy and reduce product and packaging pollution.*
- (2) Advise the department in the adoption of the implementation plan and regulations required by this chapter.*
- (3) Advise the department on any other pertinent matter in implementing this chapter, as determined by the panel or department.*

(g) The panel shall submit written recommendations to the department only if a majority or more of the panel's members endorse the recommendation. One or more panel members that do not endorse the recommendation may submit a separate written recommendation to the department reflecting the minority opinion or opinions.

42054. (a) *Single-use packaging and priority single-use products offered for sale, sold, distributed, or imported in or into California by a producer shall meet the following recycling rates:*

- (1) On and after January 1, 2026, not less than 30 percent for single-use packaging and priority single-use products manufactured on or after January 1, 2026.*
- (2) On and after January 1, 2028, not less than 40 percent for single-use packaging and priority single-use products manufactured on or after January 1, 2028.*
- (3) On and after January 1, 2030, not less than 75 percent for single-use packaging and priority single-use products manufactured on or after January 1, 2030.*

(b) (1) Notwithstanding subdivision (a), the department may, subject to paragraph (3), impose a higher or lower recycling rate for single-use packaging or priority single-use products as needed to achieve the requirements established in Section 42050.

(2) Commencing in 2024, and every two years thereafter, the department shall review, in consultation with the panel created pursuant to Section 42053, relevant data to assess whether the recycling rate required in subdivision (a) should be adjusted. The department shall make its determination and rationale available for public

review.

(3) If the department determines pursuant to a review under paragraph (2) that current unforeseen and anomalous market conditions, including, but not limited to, recycling infrastructure conditions, warrant an adjustment to the recycling rates required in subdivision (a), the department may impose a higher or lower recycling rate subject to the following conditions:

(A) The recycling rate shall not be adjusted by more than 10 percent of what is required in subdivision (a).

(B) The adjusted recycling rate shall be in effect for no more than two years.

(c) (1) Before adopting the implementation plan or regulations, the department shall establish and post on its internet website a list of packaging and product categories of single-use packaging and priority single-use products.

(2) The department may consider material types and form referenced in waste characterization studies for determining the packaging and product categories.

(d) (1) The department shall calculate and publish on its internet website the recycling rates for each packaging and product category no later than January 1, 2025. These recycling rates shall be deemed to meet the description in subdivision (g) of Section 11340.9 of the Government Code and may be filed by the department pursuant to Section 11343.8 of the Government Code.

(2) In determining a recycling rate, the department may consider data gathered pursuant to any of the following:

(A) Chapter 746 of the Statutes of 2015.

(B) Chapter 6 (commencing with Section 42370).

(C) Chapter 395 of the Statutes of 2016.

(D) Chapter 5.5 (commencing with Section 42300).

(E) Division 12.1 (commencing with Section 14500).

(F) Data voluntarily provided by local jurisdictions.

(G) Data and information received from producers.

(H) Any other relevant data and information received by the department.

(3) The department shall determine and post on its internet website whether each packaging and product category recycling rate complies with the recycling rates required pursuant to this section.

(4) For purposes of determining the recycling rate, the department shall include single-use packaging and priority single-use products that are recycled or composted.

(5) A producer may demonstrate compliance with subdivision (a) or (b) by submitting to the department evidence that the particular type of single-use packaging or priority single-use product meets the applicable recycling rate threshold established in subdivision (a) or (b) by reference to a recycling rate on the department's list or through another mechanism approved by the department.

(6) The department shall update the list at least every two years and shall regularly, but no less than once every two years, evaluate the list of recycling rates to determine whether the recycling rates are still accurate. After evaluation, the department may amend the list to remove, add, or change recycling rates. The department shall post any updates to the list on its internet website.

(7) A producer that seeks to have a recycling rate included or changed on the list, or a packaging or product category added to the list, may be required by the department to submit data for purposes of the department's determination of the recycling rate to include on the list.

(8) Development of, publication of, and updates made to the list pursuant to this subdivision are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

42054.1. *The department shall post on its internet website a list of compliant producers that are in compliance with this chapter and a list of noncompliant producers that are not in compliance with this chapter. The department shall update the list at least once every six months.*

42055. (a) A retailer and wholesaler shall register with the department and do both of the following:

(1) Report to the department the producers that provide the retailer or wholesaler with single-use packaging, products packaged in single-use packaging, or priority single-use products.

(2) Not offer for sale or sell single-use packaging, a product packaged in single-use packaging, or a priority single-use product if the producer of the single-use packaging or priority single-use product is listed as noncompliant on the department's internet website pursuant to Section 42054.1.

(b) The department may require electronic registration and reporting by retailers and wholesalers.

42056. (a) In complying with this chapter, producers, retailers, and wholesalers shall do all of the following:

(1) Upon request, provide the department with reasonable and timely access to its facilities and operations, as necessary to determine compliance with this chapter.

(2) Upon request, provide the department with relevant records necessary to determine compliance with this chapter.

(b) Provide required reports and data that are accurate and attested to under penalty of perjury as required by the department.

Article 3. Implementation and Enforcement

42060. The department shall report to the Legislature in compliance with Section 9795 of the Government Code every three years its progress in implementing this chapter. The implementation plan required by Section 42050 shall constitute a report for the purposes of this section.

42061. (a) (1) The department may issue a notice of violation to and impose an administrative civil penalty not to exceed fifty thousand dollars (\$50,000) per day per violation on any entity not in compliance with this chapter or any of the regulations the department adopts to implement this chapter.

(2) Before determining whether or not to assess a penalty, the department may require a producer to develop and submit a corrective action plan to the department detailing how the producer will come into compliance with this chapter. Corrective action plans may include, but are not limited to, actions such as shifting production away from packaging and product categories that do not meet the recycling rates required pursuant to Section 42054, reaching a minimum content standard set by the department, or establishing a take-back system or deposit fee system for single-use packaging or priority single-use products that would increase the recycling rate of the material. The department shall not assess a penalty and the producer shall remain listed as compliant pursuant to Section 42054.1 if the producer complies with the corrective action plan. A producer may request approval from the department to comply with a corrective action plan or elements of a corrective action plan through a joint venture or joint actions with other producers.

(3) The department, in determining the penalty amount and whether or not to assess a penalty, shall consider all of the following:

(A) The nature, circumstances, extent, and gravity of the violation or a condition giving rise to the violation and the various remedies and penalties that are appropriate in the given circumstances, with primary emphasis on protecting the public health and safety and the environment.

(B) Whether the violation or conditions giving rise to the violation have been corrected in a timely fashion or whether reasonable progress is being made to correct the violation or conditions giving rise to the violation.

(C) Whether the violation or conditions giving rise to the violation demonstrate a chronic pattern of noncompliance with this chapter or the regulations adopted pursuant to this chapter.

(D) Whether the violation or conditions giving rise to the violation were intentional.

(E) Whether the violation or conditions giving rise to the violation were voluntarily and promptly reported to the department before the commencement of an investigation or audit by the department.

(F) Whether the violation or conditions giving rise to the violation were due to circumstances beyond the reasonable control of the producer or were otherwise unavoidable under the circumstances, including, but not limited to, unforeseen changes in market conditions.

(G) The size and economic condition of the producer.

(4) (A) The department may extend a previously established timeframe for a producer to comply with a corrective

action plan for up to 24 months if the department sets forth steps for the producer to achieve compliance with the corrective action plan and if the producer has demonstrated that it has made a substantial effort to comply and that there are extenuating circumstances that have prevented it from complying.

(B) For purposes of this paragraph, "substantial effort" means that a producer has taken all practicable actions to comply with a corrective action plan. Substantial effort does not include circumstances in which the decisionmaking body of a producer has not taken the necessary steps to comply with a corrective action plan, including, but not limited to, a failure to provide staff resources or a failure to provide sufficient funding to ensure compliance with a correction action plan.

(b) A producer may offer for sale, sell, distribute, or import single-use packaging or priority single-use products in a packaging or product category that does not meet the recycling rates established pursuant to subdivision (a) or (b) of Section 42054 if the producer demonstrates to the department that the producer has implemented actions to achieve the recycling rates established pursuant to subdivision (a) or (b) of Section 42054 for an amount equal to the producer's market share of that packaging or product category in California.

(c) (1) The department may audit producers, retailers, and wholesalers including, but not limited to, reports submitted by a producer and demonstrations made by a producer pursuant to Section 42054.

(2) The department shall review an audit for compliance with this chapter and consistency with information reported pursuant to this chapter.

(3) The department shall notify a producer, retailer, or wholesaler of any conduct or practice that does not comply with this chapter or of any inconsistencies identified in the department's audit.

(4) A producer, retailer, or wholesaler may obtain copies of the department's audit of the producer upon request.

(5) The department shall not disclose any confidential or proprietary information that is included in the department's audit to the extent that information is protected from disclosure by existing law.

(d) Subdivision (a) does not apply to the requirements of paragraph (1) of subdivision (a) of Section 42054. The department may notify the producer of the failure to comply with the requirements of paragraph (1) of subdivision (a) of Section 42054.

Article 4. Single-use Packaging and Priority Single-use Product Stewardship

42070. *(a) The department may adopt regulations allowing producers to meet the requirements of this chapter collectively by forming a stewardship organization that adopts a stewardship plan in accordance with this article. If the department adopts those regulations, the regulations shall include all of the provisions of this article.*

(b) A producer that is a member of a stewardship organization, which is formed in accordance with this article and is in compliance with this chapter, shall not individually be subject to the requirements of this chapter for the single-use packaging and priority single-use products covered by the stewardship plan, except as specified in a stewardship plan adopted by a stewardship organization in accordance with this article.

(c) In accordance with Section 42080, a stewardship organization formed in accordance with this article shall be responsible for paying the California circular economy regulatory fee on behalf of its members and may require a member to reimburse the stewardship organization for the amount of the regulatory fee paid on behalf of the member.

42071. *(a) Producers may form a stewardship organization exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code of 1986.*

(b) A stewardship organization formed pursuant to subdivision (a) shall develop and submit to the department a stewardship plan for the source reduction, collection, and recycling of the single-use packaging or priority single-use products that the producers covered under the plan sell, offer for sale, distribute, or import in or into the state in an economically efficient and practical manner. The stewardship plan shall be consistent with the regulations adopted in accordance with Section 42050.

(c) Within 90 days after approval or conditional approval by the department of the plan, the stewardship organization shall implement the approved plan.

(d) The approved plan shall be a public record, except that financial, production, or sales data reported to the department by the stewardship organization is not a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial, production, or sales data in summary form so

the information cannot be attributable to a specific producer, retailer, wholesaler, or to any other entity.

42072. *(a) The stewardship organization shall keep minutes, books, and records that clearly reflect the activities and transactions of the stewardship organization.*

(b) The accounting books of the stewardship organization shall be audited at the stewardship organization's expense by an independent certified public accountant retained by the stewardship organization at least once each calendar year.

(c) The stewardship organization shall arrange for the audit to be delivered to the department with the annual report required pursuant to Section 42073. The department shall review the audit for compliance with this article and consistency with the plan created pursuant to this article. The department shall notify the stewardship organization of any compliance issues or inconsistencies.

(d) The department may conduct its own audit if it determines that an audit is necessary to enforce the requirements of this article and that the audit conducted pursuant to subdivision (b) is not adequate for this purpose. The stewardship organization may obtain copies of the audit upon request.

(e) The department shall not disclose any confidential or proprietary information in an audit.

42073. *The stewardship organization shall annually submit to the department and make publicly available on its internet website an annual report that describes how the organization has complied with the requirements of this chapter and its implementing regulations.*

42074. *(a) The department shall review the annual report for compliance with this article and shall approve, disapprove, or conditionally approve the report within 120 days of receipt of the annual report.*

(b) If the department disapproves the annual report, the department shall explain, in writing, how the annual report does not comply with this article, and the stewardship organization shall resubmit the report with any additional information, modifications, or corrections to the department within 30 days. If the department finds that the annual report resubmitted by the stewardship organization does not comply with the requirements of this article, the stewardship organization shall not be deemed in compliance with this article until the stewardship organization submits an annual report that the department finds compliant with the requirements of this article.

(c) The approved annual report shall be a public record, except that financial, production, or sales data reported to the department by the stewardship organization is not a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial, production, or sales data in summary form so the information cannot be attributable to a specific producer, retailer, wholesaler, or to any other entity.

42075. *(a) A stewardship organization, as part of its stewardship plan, shall set up a trust fund or an escrow account, into which it shall deposit all unexpended funds, for use in accordance with this section in the event that the stewardship plan terminates or is revoked.*

(b) If a stewardship plan terminates or is revoked, the trustee or escrow agent of a trust fund or escrow account set up pursuant to subdivision (a) shall do both of the following, starting within 30 days:

(1) Accept payments directly from producers into the trust fund or escrow account that would have been made to the stewardship organization prior to the plan's termination or revocation.

(2) Make payments from the trust fund or escrow account as the department shall direct, in writing, to implement the most recently approved stewardship plan.

(c) If a new stewardship plan has not been approved by the department within one year after termination or revocation, the department may make modifications to the previously approved plan, as it deems necessary, and continue to direct payments from the trust fund or escrow account in accordance with paragraph (2) of subdivision (b) to implement the modified stewardship plan.

(d) A trustee or escrow agent in possession of stewardship funds shall, as directed by the department, transfer those funds to a successor stewardship organization with an approved stewardship plan.

42076. *(a) Except as provided in subdivision (c), an action specified in subdivision (b) that is taken by a stewardship organization or its members is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4*

(commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code).

(b) Subdivision (a) shall apply to all of the following actions taken by a stewardship organization or its members:

(1) The creation, implementation, or management of a stewardship plan approved by the department pursuant to this article and the types or quantities of single-use packaging or priority single-use products managed pursuant to a stewardship plan.

(2) The cost and structure of an approved stewardship plan.

(3) The establishment, administration, collection, or disbursement of any charges associated with funding the implementation of this article.

(c) Subdivision (a) shall not apply to an agreement that does any of the following:

(1) Fixes a price of or for single-use packaging or priority single-use products, except for an agreement related to costs or charges associated with participation in a stewardship plan approved or conditionally approved by the department and otherwise in accordance with this article.

(2) Fixes the output of production of single-use packaging or priority single-use products.

(3) Restricts the geographic area in which, or customers to whom, single-use packaging or priority single-use products will be sold.

Article 5. California Circular Economy Regulatory Fee

42080. (a) (1) The department shall establish, and a producer shall pay, a California circular economy regulatory fee. The amount of the fee shall be established and adjusted by the department based on the factors specified in paragraph (3). The department shall set this fee to collect no more than is necessary for the regulatory costs of this chapter for the following fiscal year, including a prudent reserve, as specified in subparagraph (B) of paragraph (3).

(2) A producer shall remit the fee assessed pursuant to this subdivision to the department on a quarterly schedule for deposit into the California Circular Economy Fund, which is hereby created in the State Treasury. The revenue from the fee shall be tracked separately by the department and shall not be used for activities other than those described in this subdivision.

(3) Before establishing or adjusting the fee, the department shall review at a public hearing all of the following factors:

(A) A projection of the amount necessary to fund the reasonable regulatory costs incurred by the department incident to audits, inspections, administrative activities, adjudications, or other regulatory activities associated with single-use packaging and priority single-use products pursuant to this chapter, taking into account any revenue received from entities agreeing to corrective action plans.

(B) The sufficiency of revenues in the California Circular Economy Fund for the department to administer, enforce, and promote its regulatory activities regarding single-use packaging and priority single-use products, including the regulatory aspects of the programs established pursuant to this chapter, plus a prudent reserve.

(C) Whether additional revenues are necessary to preserve the department's ability to conduct regulatory activities in the following fiscal year.

(D) If the actual regulatory costs incurred by the department are lower than the projected costs, whether, at the end of the fiscal year, a sufficient net fund balance remains in the California Circular Economy Fund to reduce the fee.

(4) An adjustment to the fee shall become effective on January 1 of the year following its adoption.

(5) The department may adopt regulations to establish and adjust the fee. Regulations to adjust the fee shall be deemed to meet the description in subdivision (g) of Section 11340.9 of the Government Code and may be filed by the department pursuant to Section 11343.8 of the Government Code.

(b) (1) The amount of the fee imposed on a producer shall be proportionate to the cost of regulating that producer based on whether the producer is complying with this chapter individually or collectively as a member of a stewardship organization. If a producer is a member of a stewardship organization, the stewardship

organization shall be responsible for paying the fee on behalf of the producer. A stewardship organization may require a member to reimburse the stewardship organization for the amount of the regulatory fee paid on behalf of the member.

(2) The amount of the fee imposed on a producer shall be proportionate to the cost of regulating that producer based on whether the producer is a producer of single-use packaging or priority single-use products.

(3) If a fee paid by a producer pursuant to the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500)) or any other programs relevant to this chapter results in reduced costs of regulating that producer under this chapter, the department shall account for that reduced cost of regulation when determining the amount of the California circular economy regulatory fee to impose on that producer.

(c) If the state loans money from a fund to the California Circular Economy Fund for managing single-use packaging or priority single-use products in the state, moneys in the California Circular Economy Fund may be used toward repaying a loan that was made before January 1, 2020, or any other loan of public funds made for the purposes set forth in this section.

SEC. 3. Chapter 6 (commencing with Section 48710) is added to Part 7 of Division 30 of the Public Resources Code, to read:

CHAPTER 6. Local Agency Regulation of Food Packaging Material

48710. (a) For purposes of this chapter, the following definitions apply:

(1) "Curbside program" means a recycling or composting program that picks up waste material from individual or multiple family residences, or both, with the intent to recycle or compost the waste material, operated by, or pursuant to a contract with, a local agency, or is acknowledged, in writing, by a local agency.

(2) "Grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry, and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood counter.

(3) "Local agency" means a city, county, city and county, or other local public agency.

(b) A local agency shall not require a grocery store to use a certain type of food packaging for any food sold in the grocery store unless the majority of residential households within the jurisdiction of the local agency have access to a curbside program that accepts the material from which that food packaging is made.

(c) A local agency shall not require a grocery store to use a food packaging container that does not meet an ASTM standard specification, as defined pursuant to subdivision (b) of Section 42356, or the compostability criteria developed pursuant to Section 42052.

(d) (1) Except as provided in paragraph (2), a local agency shall not enforce or implement an ordinance, resolution, regulation, or rule, or make any amendment to an ordinance, resolution, regulation, or rule, that violates or is in conflict with subdivision (b) or (c).

(2) A local agency that, as of September 15, 2019, has an ordinance, resolution, regulation, or rule that violates or is in conflict with subdivision (b) or (c) may continue to implement and enforce that ordinance, resolution, regulation, or rule.

(e) This chapter does not prohibit a local agency from requiring a grocery store to use a certain type of food packaging that is refillable or reusable.

(f) This chapter shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 4. The Legislature finds and declares that Section 1 of this act, which adds Chapter 3 (commencing with Section 42040) to Part 3 of Division 30 of the Public Resources Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the proprietary information of producers, retailers, and wholesalers of single-use packaging and priority single-use products, it is necessary that financial, production, and sales data reported by producers, retailers, and wholesalers of single-use packaging and priority single-use products be kept confidential.

SEC. 5. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-1080 Solid waste: packaging and products.** (2019-2020)**SECTION 1.** *Section 23671 of the Business and Professions Code is amended to read:*

23671. (a) No beer importer shall purchase any beer not manufactured within the state or cause any beer to be transported into the state for sale in the state, unless the out-of-state vendor making shipment of the beer into the state holds a certificate of compliance issued by the department. A certificate of compliance shall be granted when the out-of-state vendor makes a written agreement with the department to furnish to the board, on or before the 10th day of each month, a report on a form prescribed by the board, showing the quantity of beer shipped by the out-of-state vendor to each licensed beer importer in this state during the preceding month. The out-of-state vendor shall further agree that it and its agents and all agencies within this state controlled by it will comply with all laws of this state and all rules of the department with respect to the sale of alcoholic beverages, including, but not limited to, Chapter 12 (commencing with Section 25000) of Division 9, and Section 25509, to the same extent as licensees.

(b) If any out-of-state vendor, after obtaining the certificate, fails to submit the ~~report or~~ *report, fails* to comply with Section 14575 of the Public Resources Code, ~~the or fails to comply with the provisions of Chapter 3 (commencing with Section 42040) of Part 3 of Division 30 of the Public Resources Code, the~~ department may suspend or revoke the certificate of compliance in the manner provided for the suspension or revocation of licenses, and after a hearing which shall be held in the City of Sacramento or in any other county seat in this state which the department determines to be convenient to the holder of the certificate. No fee shall be charged for the certificate of compliance which shall remain in effect until revoked by the department.

SEC. 2. *Chapter 3 (commencing with Section 42040) is added to Part 3 of Division 30 of the Public Resources Code, to read:*

CHAPTER 3. California Circular Economy and Pollution Reduction Act
Article 1. General Provisions

42040. *This chapter shall be known, and may be cited, as the California Circular Economy and Pollution Reduction Act.*

42041. (a) *The Legislature finds and declares all of the following:*

(1) *Annual global production of plastic has reached 335 million tons and continues to rise. The United States alone discards 30 million tons each year. Global plastic production is projected to more than triple by 2050, accounting for 20 percent of all fossil fuel consumption.*

(2) *Without action, projections estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish. A study by the University of Exeter and Plymouth Marine Laboratory in the United Kingdom found plastics in the gut of every single sea turtle examined and in 90 percent of seabirds. Additionally, plastic negatively affects marine ecosystems and wildlife, as demonstrated by countless seabirds, turtles, and marine mammals, including, but not limited to, whales and dolphins, dying from plastic ingestion or entanglement.*

(3) *Based on data from the United States Environmental Protection Agency, Institute of Scrap Recycling Industries trade statistics, and industry news source Resource Recycling, the national recycling rate for plastic is projected to sink from 9.1 percent in 2015 to 4.4 percent in 2018, and could drop to 2.9 percent in 2019. Even in California, less than 15 percent of single-use plastic is recycled.*

(4) *Before 2017, the United States was sending 4,000 shipping containers a day full of American waste to China every year, including two-thirds of California's recyclable materials. However, China has implemented the Green Fence, National Sword, and Blue Sky policies, severely restricting the amount of contaminated and poorly sorted plastics it would accept. This shift in China's policy has resulted in the loss of markets for low-value plastic packaging that was previously considered recyclable. That material is now being landfilled or burned.*

(5) Additionally, the foreign market for recycled paper has collapsed in California. Foreign exports of mixed paper fell from over 400,000 tons in the first quarter of 2017 to just 136,000 tons in the first quarter of 2018. The price of mixed paper fell from ninety-five dollars (\$95) per ton to just ten dollars (\$10) a ton in the same timeframe.

(6) The loss of markets for recyclable material has added huge costs to local governments for the disposal and diversion of material. For many cities, counties, and waste haulers in California, recycling has turned from a profitable business into an activity that actually costs local governments money. These costs are being absorbed by city general funds or by rate increases on residents for waste collection.

(7) The environmental and public health impacts of plastic pollution are devastating and the environmental externalities and public costs of cleaning up and mitigating plastic pollution are already staggering and continue to grow.

(8) Local governments in California annually spend in excess of four hundred twenty million dollars (\$420,000,000) in ongoing efforts to clean up and prevent plastic and other litter from entering our rivers and streams and polluting our beaches and oceans.

(9) Evidence now shows that even our own food and drinking water sources are contaminated with plastic. Microplastics have been found in tap water, bottled water, table salt, and fish and shellfish from local California fish markets. A growing body of research is finding plastic and associated toxins throughout the food web, including in our blood, feces, and tissues. Exposure to these toxins has been linked to cancers, birth defects, impaired immunity, endocrine disruption, and other ailments.

(10) It is the policy goal of the state that not less than 75 percent of solid waste generated be source reduced, recycled, or composted by the year 2020. However, as of 2017, the state was only on track to reach 44 percent, falling far short of this important goal. Additionally, the state has done little to require businesses to reduce the amount of packaging and single-use product waste they generate in California.

(11) As the fifth largest economy in the world, California has a responsibility to lead on solutions to the growing plastic pollution crisis, and to lead in the reduction of unnecessary waste generally.

(12) Further, businesses selling products into California have a responsibility to ensure that their packaging and products are minimizing waste, including ensuring materials used are reusable, recyclable, or compostable. This responsibility includes paying for the cost of the negative externality of recovery for materials they sell in California.

(b) (1) Consistent with the policy goal established in Section 41780.01, it is the intent of the Legislature that, by 2030, producers of single-use products that are not priority single-use products achieve and maintain a statewide 75-percent reduction of the waste generated from single-use products offered for sale, sold, distributed, or imported in or into the state that are not priority single-use products through source reduction, recycling, or composting.

(2) In accordance with paragraph (1), it is the intent of the Legislature that producers of single-use products that are not priority single-use products do all of the following for single-use products that are not priority single-use products:

(A) Source reduce those products, and transition those products to reusable products, to the maximum extent feasible.

(B) Ensure those products are recyclable or compostable, as determined by the department pursuant to Section 42052.

(C) For single-use plastic products that are not priority single-use products and that are offered for sale, sold, distributed, or imported in or into California, reduce waste generation by 75 percent through combined source reduction and recycling.

(c) It is the intent of the Legislature that any deposit-based mechanism identified pursuant to clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of Section 42050 or implemented as a corrective action pursuant to paragraph (2) of subdivision (a) of Section 42061 ensures that consumers can conveniently receive a refund for returning single-use packaging or priority single-use products.

42042. (a) For purposes of this chapter, all of the following shall apply:

(1) "California circular economy regulatory fee" means the fee imposed by the department pursuant to Section 42080.

(2) "Packaging" means the material used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods. Packaging includes, but is not limited to, all of the following:

(A) Sales packaging or primary packaging intended to constitute a sales unit to the consumer at point of purchase and most closely contains the product, food, or beverage.

(B) Grouped packaging or secondary packaging intended to brand or display the product.

(C) Transport packaging or tertiary packaging intended to protect the product during transport.

(3) "Packaging category" means a packaging material category on the list published by the department pursuant to subdivision (c) of Section 42054.

(4) "Priority single-use products" means single-use food service ware, including plates, bowls, cups, utensils, stirrers, and straws.

(5) "Product category" means a priority single-use product material category on the list published by the department pursuant to subdivision (c) of Section 42054.

(6) (A) "Producer" means the person who manufactures the single-use packaging or priority single-use product under that person's own name or brand and who sells or offers for sale the single-use packaging or priority single-use product in the state.

(B) If there is no person who is the producer of the single-use packaging or priority single-use products for purposes of subparagraph (A), the producer is the person who imports the single-use packaging or priority single-use product as the owner or licensee of a trademark or brand under which the single-use packaging or priority single-use product is sold or distributed in the state.

(C) If there is no person who is the producer for purposes of subparagraphs (A) and (B), the producer is the person or company that offers for sale, sells, or distributes the single-use packaging or priority single-use product in the state.

(D) Notwithstanding subparagraphs (A) to (C), inclusive, for beer and malt beverages manufactured outside of the state "producer" means the person named on the certificate of compliance issued pursuant to Section 23671 of the Business and Professions Code.

(7) "Retailer or wholesaler" means the person who sells the single-use packaging, product packaged in single-use packaging, or priority single-use product in the state or offers to consumers the single-use packaging, product packaged in single-use packaging, or priority single-use product in the state through any means, including, but not limited to, any of the following:

(A) Remote offering, including sales outlets or catalogs.

(B) Electronically through the internet.

(C) Telephone.

(D) Mail.

(8) (A) "Single-use packaging" means the packaging of a product when the packaging is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled by the producer.

(B) Single-use packaging does not include any of the following:

(i) Reusable packaging, as determined by the department pursuant to Section 42052.

(ii) Packaging containing toxic or hazardous products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(iii) Plastic packaging containers that are manufactured for use in the shipment of hazardous materials and are prohibited from being manufactured with used material by federal packaging material specifications set forth in Sections 178.509 and 178.522 of Title 49 of the Code of Federal Regulations.

(iv) Until January 1, 2026, beverage containers subject to the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500)).

(9) "Source reduction" includes, but is not limited to, transitioning single-use packaging or a priority single-use product to refillable or reusable packaging or a reusable product. Source reduction does not include replacing a recyclable or compostable material with a nonrecyclable or noncompostable material or a material that is less likely to be recycled or composted, and does not include a shift from a nonplastic material that currently is recyclable or compostable to plastic material.

(10) "Unexpended funds" means money in a stewardship organization's accounts that the stewardship organization is not already obligated to pay pursuant to a contract, claim, or similar mechanism. "Unexpended funds" excludes regulatory fees.

(b) For purposes of this chapter, all of the following shall not be considered single-use packaging or priority single-use products:

(1) Medical products, as well as products defined as medical devices and prescription drugs as specified in the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(h) and (g), and Sec. 353(b)(1)).

(2) Drugs that are used for animal medicines, including, but not limited to, parasiticide products for animals.

(3) Infant formula, as defined in Section 321(z) of Title 21 of the United States Code.

(4) Medical food as defined pursuant to Section 360ee(b)(3) of Title 21 of the United States Code.

(5) Fortified oral nutritional supplements used for persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, or other medical conditions as determined by the department.

(6) Packaging used for a product listed in paragraphs (1) to (5), inclusive.

Article 2. Single-use Packaging and Priority Single-use Products

42050. (a) Before January 1, 2024, the department shall, in consultation with relevant state agencies with jurisdiction relevant to this chapter and local jurisdictions and regional agencies charged with meeting waste diversion goals, adopt regulations that do all of the following:

(1) (A) Require producers of single-use packaging to source reduce single-use packaging to the maximum extent feasible.

(B) Require producers of single-use packaging to ensure that all single-use packaging manufactured on or after January 1, 2030, and that is offered for sale, sold, distributed, or imported in or into California is recyclable or compostable as determined by the department pursuant to Section 42052.

(2) (A) Require producers of priority single-use products to source reduce priority single-use products to the maximum extent feasible.

(B) Require producers of priority single-use products to ensure that priority single-use products manufactured on or after January 1, 2030, and that are offered for sale, sold, distributed, or imported in or into California are recyclable or compostable as determined by the department pursuant to Section 42052.

(3) Achieve and maintain, by January 1, 2030, through the regulations adopted by the department and implemented by producers pursuant to this chapter, a statewide 75-percent reduction of the waste generated from single-use packaging and priority single-use products offered for sale, sold, distributed, or imported in or into the state through source reduction, recycling, or composting.

(4) Require producers to comply with the requirements of this chapter and its implementing regulations.

(b) (1) By January 1, 2023, and before adopting the regulations, in order to increase the opportunity for public participation and to receive comments, the department shall finalize an implementation plan for meeting the requirements of this chapter.

(2) As part of the implementation plan, the department shall do all of the following:

(A) Conduct extensive outreach to stakeholders and to state and local agencies with jurisdiction relevant to this chapter, including, but not limited to, the state's waste diversion, climate, water quality, public health, and air quality goals, and the state's toxic substances regulation. This outreach shall include, but is not limited to, convening a series of public workshops throughout the state to give interested parties an opportunity to comment and a series of stakeholder meetings designed to facilitate dialogue between stakeholders representing different interest groups such as local governments, the solid waste and recycling industries, product and packaging

manufacturers, retailers and wholesalers, trade associations, and environmental organizations. These meetings shall be held throughout the state to increase the opportunity for participation and shall inform the development of regulations pursuant to this section.

(B) Evaluate all of the following:

(i) Incentives and policies to maximize and encourage in-state manufacturing using recycled material generated in California and the development of reusable packaging and products.

(ii) Economic mechanisms to reduce the distribution of single-use packaging and priority single-use products or to transition single-use packaging and priority single-use products to reusable alternatives and increase the recyclability or compostability of single-use packaging and priority single-use products. These economic mechanisms may include, but are not limited to, allowing producers to establish and operate a collection and deposit program, assess a generation-based fee, an advanced recycling fee, pay as you throw fees, or extended producer responsibility for single-use packaging and priority single-use products.

(iii) Avoiding the litter, export, or improper disposal of single-use packaging, priority single-use products, and other materials likely to harm the environment or public health in California or elsewhere in the world.

(iv) Labeling requirements regarding the recyclability, compostability, or reusability of packaging and priority single-use products. Labeling requirements may include criteria for packaging to be labeled "recyclable," "compostable," "reusable," or "refillable" based on factors including, but not limited to, whether the packaging or product can be readily recycled, composted, or reused and whether the packaging or product is likely to contaminate other recyclable or compostable material or complicate processing. In developing labeling requirements, the department shall consider national and international labeling standards and systems.

(v) Possible options for producers to implement the requirements of this chapter and reduce packaging and product waste, including, but not limited to, through implementation of effective and convenient take-back opportunities, deposit systems, reusable and refillable delivery systems, designing for recyclability or compostability, advanced disposal fees, incentive programs, or similar mechanisms. The department may allow producers to implement extended producer responsibility programs, where appropriate, consistent with the requirements of Article 4 (commencing with Section 42070).

(vi) Actions identified through the California Ocean Litter Prevention Strategy and the Statewide Microplastics Strategy.

(vii) Establishing criteria for the source reduction requirements specified in subdivision (a) and to inform the checklist specified in paragraph (3) of subdivision (h). Consideration shall include reducing weight, volume, or quantity of single-use packaging and priority single-use product material in a way that does not decrease the ability of the material to be recycled or reused.

(viii) Establishing minimum postconsumer recycled content requirements for a packaging or product category, where appropriate, in order to create or enhance markets for recycled material.

(ix) How to address technological innovations and new packaging materials or categories.

(C) Consider and provide recommendations on whether to transition or sunset existing recycling programs.

(D) Identify all of the following:

(i) Opportunities to improve and expand waste collection and processing capabilities and infrastructure, including the use of innovative new recycling and reuse technologies and secondary material recovery facilities.

(ii) Opportunities to harmonize local waste, recycling, and composting programs among local jurisdictions and barriers to cooperation and standardization of programs.

(iii) Opportunities for encouraging the use of reusable or refillable packaging.

(iv) Opportunities for public education efforts to increase recycling and composting of single-use packaging and priority single-use products and reducing litter from these items.

(v) Potential end-use markets for collected materials and policies required to stimulate domestic markets.

(vi) Opportunities for incentivizing and increasing consumer recycling.

(vii) Discussion for identifying and conducting outreach to producers.

(c) (1) The department may identify single-use packaging or priority single-use products that, while determined to be single use for purposes of this chapter, present unique challenges in complying with this chapter.

(2) For any packaging or products identified as presenting unique challenges, the department may at any point develop a plan to phase the packaging or products into the regulations.

(d) The department shall ensure that any regulations adopted pursuant to this chapter account for guidelines and regulations issued by the United States Food and Drug Administration.

(e) If the department determines at any point a type of single-use packaging or priority single-use product cannot comply with this chapter due to health and safety reasons, or because it is unsafe to recycle, the department may exempt that packaging or product from this chapter.

(f) The regulations shall establish a baseline for the 75-percent waste reduction requirement in subdivision (a) for each packaging and product category based on waste characterization studies undertaken by the department, and any other information received by the department.

(g) (1) Producers shall do both of the following:

(A) Register with the department.

(B) Report any data to the department that the department deems necessary to determine compliance with this chapter in a form, manner, and frequency determined by the department.

(2) Any confidential or proprietary market sensitive data received by the department pursuant to this chapter shall be held confidentially by the department as required by Section 40062 and any implementing regulations.

(3) The department shall create an online registration form to facilitate submitting reports pursuant to this subdivision.

(4) Producers shall submit the information required by the department pursuant to paragraph (1) using the format established by the department pursuant to paragraph (3).

(5) The department's regulations shall establish appropriate timelines to begin reporting following the adoption of regulations. The department shall consider the amount of information being reported in developing the timelines.

(h) (1) The department's regulations shall include direct source reductions of single-use packaging and priority single-use products to the maximum extent feasible, in accordance with this section.

(2) The department may consider single-use packaging and priority single-use product reductions achieved by a producer before the effective date of the regulations if the producer can demonstrate to the satisfaction of the department that the producer reduced the single-use packaging or priority single-use product in a manner consistent with this chapter.

(3) (A) The department shall develop a checklist of source reduction measures, and a producer that complies with all applicable measures on the checklist shall be in compliance with the requirement to source reduce to the maximum extent feasible pursuant to subdivision (a). The department shall also offer guidance on how to use the checklist as a means of complying with subdivision (a). The checklist measures may include, but are not limited to, ensuring the single-use packaging or priority single-use product remains recyclable or compostable, right-sizing products, eliminating excess packaging, compliance with internal or third-party certified packaging design guidelines, concentrating a product to reduce packaging, and transitioning to reusable alternatives where those alternatives are readily available.

(B) To determine which source reduction measures to include in the checklist, the department shall consider which single-use packaging and priority single-use products are prone to become litter, have readily available alternatives, make up a significant portion of the waste stream, or have established, or have the potential for, recycling or composting infrastructure.

(C) The checklist shall incorporate considerations that assist the department in evaluating whether it is feasible for a producer to implement one or more of the checklist source reduction measures, including product protection and integrity, consumer safety, shelf life, compatibility with distribution systems, and other relevant factors as the department deems appropriate.

(4) When establishing the source reduction measures, the department shall avoid incentivizing substitutions that may have a more substantial negative impact on the environment.

(5) In developing the regulations, the department shall count a producer's source reductions achieved to comply with Chapter 5.5 (commencing with Section 42300) toward compliance with this chapter.

(6) If the department believes a producer has not met its obligation to source reduce to the maximum extent feasible, or if the department believes additional source reduction is feasible when the producer believes it is not, then the producer shall be given an opportunity to explain any relevant factors that would limit its ability to meet its obligation or implement additional source reduction measures.

(i) If the department determines that early actions to source reduce certain single-use packaging and priority single-use products can further the purposes of this chapter, the department may adopt regulations to achieve those reductions. If the department adopts regulations pursuant to this subdivision, the department shall report that action to the Legislature in the next report submitted pursuant to Section 42060.

(j) In developing the regulations, the department shall consider relevant information on reduction programs and approaches in other states, localities, and nations, including, but not limited to, the European Union, India, Costa Rica, and Canada, and international standards, including, but not limited to, ISO 18602.

(k) The department may determine which actions producers may undertake to achieve the requirements of subdivision (a) based on packaging or product category.

(l) In adopting regulations pursuant to this section, the department shall consider and avoid disproportionate impacts to low-income or disadvantaged communities.

(m) The department shall not impose a recycled content requirement or any other requirement in direct conflict with a federal law or regulation, including, but not limited to, laws or regulations covering tamper-evident packaging pursuant to Section 211.132 of Title 21 of the Code of Federal Regulations, laws or regulations covering child-resistant packaging pursuant to Part 1700 of Subchapter E of Chapter II of Title 16 of the Code of Federal Regulations, or requirements for microbial contamination, structural integrity, or safety of packaging under the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), 21 U.S.C. Sec. 2101 et seq., the federal FDA Food Safety Modernization Act (21 U.S.C. Sec. 2201 et seq.), or the regulations, rules, or guidance issued pursuant to those laws.

(n) The department shall develop criteria for exemptions from the requirements of this chapter for small producers, retailers, and wholesalers.

(o) The department shall establish criteria for allowing producers to comply with the requirements of this chapter through contractual arrangements with third parties that do not otherwise meet the definition of producer in subparagraph (A) of paragraph (6) of subdivision (a) of Section 42042. The criteria shall not limit the department's ability to enforce or otherwise implement this chapter.

42051. (a) The department may adopt emergency regulations to implement and enforce all of the following:

(1) Subdivision (g) of Section 42050.

(2) Subdivision (i) of Section 42050.

(3) Subdivisions (c) and (d) of Section 42054.

(4) Section 42055.

(5) Section 42080.

(b) Emergency regulations adopted pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 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, 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, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

42052. (a) In adopting regulations pursuant to Section 42050, the department shall develop criteria to determine whether the packaging or priority single-use products are reusable, recyclable, or compostable.

(b) (1) For purposes of determining if single-use packaging or priority single-use products are recyclable, the

director shall consider, at a minimum, all of the following criteria:

(A) Whether the single-use packaging or priority single-use product is eligible to be labeled as "recyclable" in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(B) Whether the single-use packaging or priority single-use product is regularly collected, separated, and cleansed for recycling by recycling service providers.

(C) Whether the single-use packaging or priority single-use product is regularly sorted and aggregated into defined streams for recycling processes.

(D) Whether the single-use packaging or priority single-use product is regularly processed and reclaimed or recycled with commercial recycling processes.

(E) Whether the single-use packaging or priority single-use product material regularly becomes feedstock that is used in the production of new products.

(F) Whether the single-use packaging or priority single-use product material is recycled in sufficient quantity, and is of sufficient quality, to maintain a market value.

(2) For purposes of determining if single-use packaging or priority single-use products are recyclable, the director shall consider the regulations adopted pursuant to Article 10.4 (commencing with Section 25214.11) of Chapter 6.5 of Division 20 of the Health and Safety Code.

(3) For purposes of determining if single-use packaging or priority single-use products are recyclable, de minimis amounts of nonrecyclable material of more than 3 percent of the total weight or volume of the single-use packaging or priority single-use product material is acceptable when the nonrecyclable material is required for the proper delivery, safety, sterility, stability, or use of the product or the product contained within the packaging. If the nonrecyclable material negatively affects the recyclability of the product or packaging, the material shall not be considered de minimis.

(c) For purposes of determining if single-use packaging or priority single-use products are compostable, the director shall consider, at a minimum, all of the following criteria:

(1) Whether the single-use packaging or priority single-use product will, in a safe and timely manner, break down or otherwise become part of usable compost that can be composted in a public or private compost facility designed for and capable of processing postconsumer food waste and food-soiled paper.

(2) Whether the single-use packaging or priority single-use product made from plastic is certified to meet the ASTM standard specification identified in either subparagraph (A) or (C) of paragraph (1) of subdivision (b) of Section 42356 and adopted in accordance with Section 42356.1, if applicable.

(3) Whether the single-use packaging or priority single-use product is regularly collected and accepted for processing at public and private compost facilities.

(4) Whether the single-use packaging or priority single-use product is eligible to be labeled as "compostable" in accordance with the uniform standards contained in Article 7 (commencing with Section 17580) of Chapter 1 of Part 3 of Division 7 of the Business and Professions Code.

(d) For purposes of determining if packaging or a priority single-use product is reusable, the department shall consider, at a minimum, both of the following criteria:

(1) Whether the packaging or priority single-use product is conventionally disposed of after a single use.

(2) Whether the packaging or priority single-use product is sufficiently durable, washable, and intended for multiple refills of the original product to allow for multiple uses.

(e) (1) In implementing this section, the department may consult with local governments and representatives of the solid waste industry, the recycling industry, the reuse industry, the compost industry, and single-use product and packaging manufacturers to determine if a type of packaging or priority single-use product is recyclable, reusable, or compostable.

(2) Local governments, solid waste facilities, recycling facilities, and composting facilities may provide information requested by the department pursuant to paragraph (1) to the department.

42053. (a) *In implementing this chapter, the department shall establish a Circular Economy and Waste Pollution Reduction Panel for the purpose of identifying barriers and solutions to creating a circular economy consistent with this chapter. The panel shall be composed of one or more members from each of the following disciplines, with equal representation from each discipline:*

- (1) Local government.*
- (2) Waste management.*
- (3) Environmental health or sustainability.*
- (4) Product or packaging manufacturing.*
- (5) Product or packaging design.*
- (6) Recyclers.*

(b) The department shall appoint all members to the panel on or before January 1, 2021. The department shall appoint the members for staggered three-year terms, and may reappoint a member for additional terms, without limitation.

(c) The panel shall meet as often as the department deems necessary, with consideration of available resources, but not less than twice each year. The department shall provide for staff and administrative support to the panel.

(d) The panel meetings shall be open to the public and are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(e) The panel shall provide the department with initial recommendations regarding key barriers and possible solutions to advance the objectives of increasing recovery of packaging and product materials and decreasing the leakage of plastic into the environment no later than one year after the panel's initial meeting. The department shall consider these recommendations as it evaluates what specific actions may be appropriate to advance the objectives of this chapter.

(f) The panel may take any of the following actions through written recommendations as the panel deems appropriate:

- (1) Advise the department on technical matters in support of the goals of this chapter to create a circular economy and reduce product and packaging pollution.*
- (2) Advise the department in the adoption of the implementation plan and regulations required by this chapter.*
- (3) Advise the department on any other pertinent matter in implementing this chapter, as determined by the panel or department.*

(g) The panel shall submit written recommendations to the department only if a majority or more of the panel's members endorse the recommendation. One or more panel members that do not endorse the recommendation may submit a separate written recommendation to the department reflecting the minority opinion or opinions.

42054. (a) *Single-use packaging and priority single-use products offered for sale, sold, distributed, or imported in or into California by a producer shall meet the following recycling rates:*

- (1) On and after January 1, 2026, not less than 30 percent for single-use packaging and priority single-use products manufactured on or after January 1, 2026.*
- (2) On and after January 1, 2028, not less than 40 percent for single-use packaging and priority single-use products manufactured on or after January 1, 2028.*
- (3) On and after January 1, 2030, not less than 75 percent for single-use packaging and priority single-use products manufactured on or after January 1, 2030.*

(b) (1) Notwithstanding subdivision (a), the department may, subject to paragraph (3), impose a higher or lower recycling rate for single-use packaging or priority single-use products as needed to achieve the requirements established in Section 42050.

(2) Commencing in 2024, and every two years thereafter, the department shall review, in consultation with the panel created pursuant to Section 42053, relevant data to assess whether the recycling rate required in subdivision (a) should be adjusted. The department shall make its determination and rationale available for public

review.

(3) If the department determines pursuant to a review under paragraph (2) that current unforeseen and anomalous market conditions, including, but not limited to, recycling infrastructure conditions, warrant an adjustment to the recycling rates required in subdivision (a), the department may impose a higher or lower recycling rate subject to the following conditions:

(A) The recycling rate shall not be adjusted by more than 10 percent of what is required in subdivision (a).

(B) The adjusted recycling rate shall be in effect for no more than two years.

(c) (1) Before adopting the implementation plan or regulations, the department shall establish and post on its internet website a list of packaging and product categories of single-use packaging and priority single-use products.

(2) The department may consider material types and form referenced in waste characterization studies for determining the packaging and product categories.

(d) (1) The department shall calculate and publish on its internet website the recycling rates for each packaging and product category no later than January 1, 2025. These recycling rates shall be deemed to meet the description in subdivision (g) of Section 11340.9 of the Government Code and may be filed by the department pursuant to Section 11343.8 of the Government Code.

(2) In determining a recycling rate, the department may consider data gathered pursuant to any of the following:

(A) Chapter 746 of the Statutes of 2015.

(B) Chapter 6 (commencing with Section 42370).

(C) Chapter 395 of the Statutes of 2016.

(D) Chapter 5.5 (commencing with Section 42300).

(E) Division 12.1 (commencing with Section 14500).

(F) Data voluntarily provided by local jurisdictions.

(G) Data and information received from producers.

(H) Any other relevant data and information received by the department.

(3) The department shall determine and post on its internet website whether each packaging and product category recycling rate complies with the recycling rates required pursuant to this section.

(4) For purposes of determining the recycling rate, the department shall include single-use packaging and priority single-use products that are recycled or composted.

(5) A producer may demonstrate compliance with subdivision (a) or (b) by submitting to the department evidence that the particular type of single-use packaging or priority single-use product meets the applicable recycling rate threshold established in subdivision (a) or (b) by reference to a recycling rate on the department's list or through another mechanism approved by the department.

(6) The department shall update the list at least every two years and shall regularly, but no less than once every two years, evaluate the list of recycling rates to determine whether the recycling rates are still accurate. After evaluation, the department may amend the list to remove, add, or change recycling rates. The department shall post any updates to the list on its internet website.

(7) A producer that seeks to have a recycling rate included or changed on the list, or a packaging or product category added to the list, may be required by the department to submit data for purposes of the department's determination of the recycling rate to include on the list.

(8) Development of, publication of, and updates made to the list pursuant to this subdivision are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

42054.1. *The department shall post on its internet website a list of compliant producers that are in compliance with this chapter and a list of noncompliant producers that are not in compliance with this chapter. The department shall update the list at least once every six months.*

42055. (a) A retailer and wholesaler shall register with the department and do both of the following:

(1) Report to the department the producers that provide the retailer or wholesaler with single-use packaging, products packaged in single-use packaging, or priority single-use products.

(2) Not offer for sale or sell single-use packaging, a product packaged in single-use packaging, or a priority single-use product if the producer of the single-use packaging or priority single-use product is listed as noncompliant on the department's internet website pursuant to Section 42054.1.

(b) The department may require electronic registration and reporting by retailers and wholesalers.

42056. (a) In complying with this chapter, producers, retailers, and wholesalers shall do all of the following:

(1) Upon request, provide the department with reasonable and timely access to its facilities and operations, as necessary to determine compliance with this chapter.

(2) Upon request, provide the department with relevant records necessary to determine compliance with this chapter.

(b) Provide required reports and data that are accurate and attested to under penalty of perjury as required by the department.

Article 3. Implementation and Enforcement

42060. The department shall report to the Legislature in compliance with Section 9795 of the Government Code every three years its progress in implementing this chapter. The implementation plan required by Section 42050 shall constitute a report for the purposes of this section.

42061. (a) (1) The department may issue a notice of violation to and impose an administrative civil penalty not to exceed fifty thousand dollars (\$50,000) per day per violation on any entity not in compliance with this chapter or any of the regulations the department adopts to implement this chapter.

(2) Before determining whether or not to assess a penalty, the department may require a producer to develop and submit a corrective action plan to the department detailing how the producer will come into compliance with this chapter. Corrective action plans may include, but are not limited to, actions such as shifting production away from packaging and product categories that do not meet the recycling rates required pursuant to Section 42054, reaching a minimum content standard set by the department, or establishing a take-back system or deposit fee system for single-use packaging or priority single-use products that would increase the recycling rate of the material. The department shall not assess a penalty and the producer shall remain listed as compliant pursuant to Section 42054.1 if the producer complies with the corrective action plan. A producer may request approval from the department to comply with a corrective action plan or elements of a corrective action plan through a joint venture or joint actions with other producers.

(3) The department, in determining the penalty amount and whether or not to assess a penalty, shall consider all of the following:

(A) The nature, circumstances, extent, and gravity of the violation or a condition giving rise to the violation and the various remedies and penalties that are appropriate in the given circumstances, with primary emphasis on protecting the public health and safety and the environment.

(B) Whether the violation or conditions giving rise to the violation have been corrected in a timely fashion or whether reasonable progress is being made to correct the violation or conditions giving rise to the violation.

(C) Whether the violation or conditions giving rise to the violation demonstrate a chronic pattern of noncompliance with this chapter or the regulations adopted pursuant to this chapter.

(D) Whether the violation or conditions giving rise to the violation were intentional.

(E) Whether the violation or conditions giving rise to the violation were voluntarily and promptly reported to the department before the commencement of an investigation or audit by the department.

(F) Whether the violation or conditions giving rise to the violation were due to circumstances beyond the reasonable control of the producer or were otherwise unavoidable under the circumstances, including, but not limited to, unforeseen changes in market conditions.

(G) The size and economic condition of the producer.

(4) (A) The department may extend a previously established timeframe for a producer to comply with a corrective

action plan for up to 24 months if the department sets forth steps for the producer to achieve compliance with the corrective action plan and if the producer has demonstrated that it has made a substantial effort to comply and that there are extenuating circumstances that have prevented it from complying.

(B) For purposes of this paragraph, "substantial effort" means that a producer has taken all practicable actions to comply with a corrective action plan. Substantial effort does not include circumstances in which the decisionmaking body of a producer has not taken the necessary steps to comply with a corrective action plan, including, but not limited to, a failure to provide staff resources or a failure to provide sufficient funding to ensure compliance with a correction action plan.

(b) A producer may offer for sale, sell, distribute, or import single-use packaging or priority single-use products in a packaging or product category that does not meet the recycling rates established pursuant to subdivision (a) or (b) of Section 42054 if the producer demonstrates to the department that the producer has implemented actions to achieve the recycling rates established pursuant to subdivision (a) or (b) of Section 42054 for an amount equal to the producer's market share of that packaging or product category in California.

(c) (1) The department may audit producers, retailers, and wholesalers including, but not limited to, reports submitted by a producer and demonstrations made by a producer pursuant to Section 42054.

(2) The department shall review an audit for compliance with this chapter and consistency with information reported pursuant to this chapter.

(3) The department shall notify a producer, retailer, or wholesaler, of any conduct or practice that does not comply with this chapter or of any inconsistencies identified in the department's audit.

(4) A producer, retailer, or wholesaler may obtain copies of the department's audit of the producer upon request.

(5) The department shall not disclose any confidential or proprietary information that is included in the department's audit to the extent that information is protected from disclosure by existing law.

(d) Subdivision (a) does not apply to the requirements of paragraph (1) of subdivision (a) of Section 42054. The department may notify the producer of the failure to comply with the requirements of paragraph (1) of subdivision (a) of Section 42054.

Article 4. Single-use Packaging and Priority Single-use Product Stewardship

42070. *(a) The department may adopt regulations allowing producers to meet the requirements of this chapter collectively by forming a stewardship organization that adopts a stewardship plan in accordance with this article. If the department adopts those regulations, the regulations shall include all of the provisions of this article.*

(b) A producer that is a member of a stewardship organization, which is formed in accordance with this article and is in compliance with this chapter, shall not individually be subject to the requirements of this chapter for the single-use packaging and priority single-use products covered by the stewardship plan, except as specified in a stewardship plan adopted by a stewardship organization in accordance with this article.

(c) In accordance with Section 42080, a stewardship organization formed in accordance with this article shall be responsible for paying the California circular economy regulatory fee on behalf of its members and may require a member to reimburse the stewardship organization for the amount of the regulatory fee paid on behalf of the member.

42071. *(a) Producers may form a stewardship organization exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code of 1986.*

(b) A stewardship organization formed pursuant to subdivision (a) shall develop and submit to the department a stewardship plan for the source reduction, collection, and recycling of the single-use packaging or priority single-use products that the producers covered under the plan sell, offer for sale, distribute, or import in or into the state in an economically efficient and practical manner. The stewardship plan shall be consistent with the regulations adopted in accordance with Section 42050.

(c) Within 90 days after approval or conditional approval by the department of the plan, the stewardship organization shall implement the approved plan.

(d) The approved plan shall be a public record, except that financial, production, or sales data reported to the department by the stewardship organization is not a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial, production, or sales data in summary form so

the information cannot be attributable to a specific producer, retailer, wholesaler, or to any other entity.

42072. *(a) The stewardship organization shall keep minutes, books, and records that clearly reflect the activities and transactions of the stewardship organization.*

(b) The accounting books of the stewardship organization shall be audited at the stewardship organization's expense by an independent certified public accountant retained by the stewardship organization at least once each calendar year.

(c) The stewardship organization shall arrange for the audit to be delivered to the department with the annual report required pursuant to Section 42073. The department shall review the audit for compliance with this article and consistency with the plan created pursuant to this article. The department shall notify the stewardship organization of any compliance issues or inconsistencies.

(d) The department may conduct its own audit if it determines that an audit is necessary to enforce the requirements of this article and that the audit conducted pursuant to subdivision (b) is not adequate for this purpose. The stewardship organization may obtain copies of the audit upon request.

(e) The department shall not disclose any confidential or proprietary information in an audit.

42073. *The stewardship organization shall annually submit to the department and make publicly available on its internet website an annual report that describes how the organization has complied with the requirements of this chapter and its implementing regulations.*

42074. *(a) The department shall review the annual report for compliance with this article and shall approve, disapprove, or conditionally approve the report within 120 days of receipt of the annual report.*

(b) If the department disapproves the annual report, the department shall explain, in writing, how the annual report does not comply with this article, and the stewardship organization shall resubmit the report with any additional information, modifications, or corrections to the department within 30 days. If the department finds that the annual report resubmitted by the stewardship organization does not comply with the requirements of this article, the stewardship organization shall not be deemed in compliance with this article until the stewardship organization submits an annual report that the department finds compliant with the requirements of this article.

(c) The approved annual report shall be a public record, except that financial, production, or sales data reported to the department by the stewardship organization is not a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and shall not be open to public inspection. The department may release financial, production, or sales data in summary form so the information cannot be attributable to a specific producer, retailer, wholesaler, or to any other entity.

42075. *(a) A stewardship organization, as part of its stewardship plan, shall set up a trust fund or an escrow account, into which it shall deposit all unexpended funds, for use in accordance with this section in the event that the stewardship plan terminates or is revoked.*

(b) If a stewardship plan terminates or is revoked, the trustee or escrow agent of a trust fund or escrow account set up pursuant to subdivision (a) shall do both of the following, starting within 30 days:

(1) Accept payments directly from producers into the trust fund or escrow account that would have been made to the stewardship organization prior to the plan's termination or revocation.

(2) Make payments from the trust fund or escrow account as the department shall direct, in writing, to implement the most recently approved stewardship plan.

(c) If a new stewardship plan has not been approved by the department within one year after termination or revocation, the department may make modifications to the previously approved plan, as it deems necessary, and continue to direct payments from the trust fund or escrow account in accordance with paragraph (2) of subdivision (b) to implement the modified stewardship plan.

(d) A trustee or escrow agent in possession of stewardship funds shall, as directed by the department, transfer those funds to a successor stewardship organization with an approved stewardship plan.

42076. *(a) Except as provided in subdivision (c), an action specified in subdivision (b) that is taken by a stewardship organization or its members is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4*

(commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code).

(b) Subdivision (a) shall apply to all of the following actions taken by a stewardship organization or its members:

(1) The creation, implementation, or management of a stewardship plan approved by the department pursuant to this article and the types or quantities of single-use packaging or priority single-use products managed pursuant to a stewardship plan.

(2) The cost and structure of an approved stewardship plan.

(3) The establishment, administration, collection, or disbursement of any charges associated with funding the implementation of this article.

(c) Subdivision (a) shall not apply to an agreement that does any of the following:

(1) Fixes a price of or for single-use packaging or priority single-use products, except for an agreement related to costs or charges associated with participation in a stewardship plan approved or conditionally approved by the department and otherwise in accordance with this article.

(2) Fixes the output of production of single-use packaging or priority single-use products.

(3) Restricts the geographic area in which, or customers to whom, single-use packaging or priority single-use products will be sold.

Article 5. California Circular Economy Regulatory Fee

42080. (a) (1) The department shall establish, and a producer shall pay, a California circular economy regulatory fee. The amount of the fee shall be established and adjusted by the department based on the factors specified in paragraph (3). The department shall set this fee to collect no more than is necessary for the regulatory costs of this chapter for the following fiscal year, including a prudent reserve, as specified in subparagraph (B) of paragraph (3).

(2) A producer shall remit the fee assessed pursuant to this subdivision to the department on a quarterly schedule for deposit into the California Circular Economy Fund, which is hereby created in the State Treasury. The revenue from the fee shall be tracked separately by the department and shall not be used for activities other than those described in this subdivision.

(3) Before establishing or adjusting the fee, the department shall review at a public hearing all of the following factors:

(A) A projection of the amount necessary to fund the reasonable regulatory costs incurred by the department incident to audits, inspections, administrative activities, adjudications, or other regulatory activities associated with single-use packaging and priority single-use products pursuant to this chapter, taking into account any revenue received from entities agreeing to corrective action plans.

(B) The sufficiency of revenues in the California Circular Economy Fund for the department to administer, enforce, and promote its regulatory activities regarding single-use packaging and priority single-use products, including the regulatory aspects of the programs established pursuant to this chapter, plus a prudent reserve.

(C) Whether additional revenues are necessary to preserve the department's ability to conduct regulatory activities in the following fiscal year.

(D) If the actual regulatory costs incurred by the department are lower than the projected costs, whether, at the end of the fiscal year, a sufficient net fund balance remains in the California Circular Economy Fund to reduce the fee.

(4) An adjustment to the fee shall become effective on January 1 of the year following its adoption.

(5) The department may adopt regulations to establish and adjust the fee. Regulations to adjust the fee shall be deemed to meet the description in subdivision (g) of Section 11340.9 of the Government Code and may be filed by the department pursuant to Section 11343.8 of the Government Code.

(b) (1) The amount of the fee imposed on a producer shall be proportionate to the cost of regulating that producer based on whether the producer is complying with this chapter individually or collectively as a member of a stewardship organization. If a producer is a member of a stewardship organization, the stewardship

organization shall be responsible for paying the fee on behalf of the producer. A stewardship organization may require a member to reimburse the stewardship organization for the amount of the regulatory fee paid on behalf of the member.

(2) The amount of the fee imposed on a producer shall be proportionate to the cost of regulating that producer based on whether the producer is a producer of single-use packaging or priority single-use products.

(3) If a fee paid by a producer pursuant to the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500)) or any other programs relevant to this chapter results in reduced costs of regulating that producer under this chapter, the department shall account for that reduced cost of regulation when determining the amount of the California circular economy regulatory fee to impose on that producer.

(c) If the state loans money from a fund to the California Circular Economy Fund for managing single-use packaging or priority single-use products in the state, moneys in the California Circular Economy Fund may be used toward repaying a loan that was made before January 1, 2020, or any other loan of public funds made for the purposes set forth in this section.

SEC. 3. Chapter 6 (commencing with Section 48710) is added to Part 7 of Division 30 of the Public Resources Code, to read:

CHAPTER 6. Local Agency Regulation of Food Packaging Material

48710. (a) For purposes of this chapter, the following definitions apply:

(1) "Curbside program" means a recycling or composting program that picks up waste material from individual or multiple family residences, or both, with the intent to recycle or compost the waste material, operated by, or pursuant to a contract with, a local agency, or is acknowledged, in writing, by a local agency.

(2) "Grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry, and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood counter.

(3) "Local agency" means a city, county, city and county, or other local public agency.

(b) A local agency shall not require a grocery store to use a certain type of food packaging for any food sold in the grocery store unless the majority of residential households within the jurisdiction of the local agency have access to a curbside program that accepts the material from which that food packaging is made.

(c) A local agency shall not require a grocery store to use a food packaging container that does not meet an ASTM standard specification, as defined pursuant to subdivision (b) of Section 42356, or the compostability criteria developed pursuant to Section 42052.

(d) (1) Except as provided in paragraph (2), a local agency shall not enforce or implement an ordinance, resolution, regulation, or rule, or make any amendment to an ordinance, resolution, regulation, or rule, that violates or is in conflict with subdivision (b) or (c).

(2) A local agency that, as of September 15, 2019, has an ordinance, resolution, regulation, or rule that violates or is in conflict with subdivision (b) or (c) may continue to implement and enforce that ordinance, resolution, regulation, or rule.

(e) This chapter does not prohibit a local agency from requiring a grocery store to use a certain type of food packaging that is refillable or reusable.

(f) This chapter shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 4. The Legislature finds and declares that Section 1 of this act, which adds Chapter 3 (commencing with Section 42040) to Part 3 of Division 30 of the Public Resources Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the proprietary information of producers, retailers, and wholesalers of single-use packaging and priority single-use products, it is necessary that financial, production, and sales data reported by producers, retailers, and wholesalers of single-use packaging and priority single-use products be kept confidential.

SEC. 5. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

PACIFIC FISHERY MANAGEMENT COUNCIL
Swordfish Management and Monitoring Plan
DRAFT
September 2018

1 Introduction

The Pacific Fishery Management Council (Council) manages targeting of swordfish on the West Coast under its Fishery Management Plan for West Coast Fisheries for Highly Migratory Species (HMS FMP). A variety of gears are being used to catch swordfish on the West Coast (i.e., swordfish fishery), including large drift gillnet (DGN), harpoon, pelagic longline, and deep-set buoy gear (DSBG) (See Appendix A). Pelagic longline gear cannot be used within the U.S. Exclusive Economic Zone (EEZ) of the West Coast (three to 200 nautical miles) and shallow-set longline fishing (SSLL) to target swordfish cannot be conducted both east and west of 150 degrees W. longitude. However, there is a general interest in exploring use of pelagic longline gear on the West Coast. Bycatch¹ of non-target finfish species and incidental take of protected species while targeting swordfish remains an ongoing concern for the Council because protected species, including whales, dolphins, pinnipeds (e.g., seals, sea lions), sea turtles, and seabirds have special status under Federal statutes. Therefore, the Council is required to monitor these fisheries, and reduce or minimize bycatch of these animals to the extent practicable.

Under the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA), various mitigation measures that substantially reduced bycatch of protected species were instituted; however, there has also been a coincidental decline in participation in these fisheries, resulting in a decline in landings as well. In addition, West Coast fishery participants are testing other gears (e.g. DSBG) to target swordfish with minimal bycatch. These topics motivated the Council to consider the swordfish fishery with a more holistic approach. Therefore, in 2015, the Council developed a draft Swordfish Management and Monitoring Plan (SMMP) to articulate the Council's vision and future actions for the West Coast swordfish fishery as a subplan under the Council's HMS FMP.

2 Purpose of the Plan

This SMMP serves as a guide for the Council to manage the West Coast swordfish fishery based on four fishery management goals:

1. Reduce protected species bycatch to the extent practicable in the swordfish fishery through mitigation, gear innovation, and individual accountability.
2. Reduce unmarketable and prohibited finfish catch to the extent practicable in the swordfish fishery through mitigation, gear innovation, and individual accountability.
3. Support the economic viability of the swordfish fishery so that it can meet demand for a fresh, high quality, locally-caught product and reduce reliance on imported seafood.
4. Promote and support a wide range of harvest strategies for swordfish off the West Coast.

¹ The Magnuson-Stevens Act includes a definition of bycatch as fish that are discarded (not sold or kept for personal use). The Act defines "fish" broadly to cover all forms of marine life except marine mammals and seabirds. The term "take" is used in protected species statutes to refer to interactions which may or may not be lethal. For simplicity, the term bycatch will be used in this SMMP more broadly than the MSA to refer to the capture and release of all forms of marine life, including marine mammals and seabirds.

DRAFT

These goals will be achieved through a variety of mitigation and management measures outlined in this SMMP (See Section 3).

The Council intends to minimize non-target finfish and protected species (including sea turtles, marine mammals, and seabirds) bycatch in the West Coast swordfish fishery as a whole to be consistent with National Standard 9 and Section 303 of the Magnuson-Stevens Act to “(a) minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.”

The Council will continue to minimize bycatch and bycatch mortality of finfish and protected species to the extent practicable while ensuring that the West Coast swordfish fishery remains economically viable. Economic viability encompasses support for a swordfish fishery conducted by vessels with West Coast homeports and increased availability of locally-caught swordfish in the market.

In addition, the Council intends to better integrate fishery management under the HMS FMP with enhanced protection of ESA-listed species and other protected species (e.g. non-ESA-listed seabirds and marine mammals) while promoting and supporting a wide range of harvest strategies that include new or modified gear, and area management considerations.

In 2014, the Council began to consider the best method to develop this SMMP. Initially it was intended as a roadmap for transiting DGN fishery participants to the use of other gear types. But the Plan was broadened to reflect the Council’s intent to look at all feasible gear types for targeting swordfish in light of a bycatch reduction goal, including DGN. In June 2014, the Council agreed on a list of policy objectives intended to guide management of the West Coast swordfish fishery with the dual goals of reducing bycatch while maintaining or enhancing its economic viability ([See Agenda Item E2](#) and [Council Decision Summary](#)).

Elements of this Plan have appeared in Highly Migratory Species Management Team (HMSMT) Reports for the March and June 2015 Council meetings which also included alternatives and analyses for proposed actions for bycatch reduction in the DGN fishery. The Council reviewed the Plan in September 2015 and again in June and September 2018. Finalization of this Plan will not only facilitate implementation of the actions described below in Section 3, but will also provide an administrative record on the Council’s vision going forward for a sustainable swordfish fishery off of the West Coast. It’s intended that actions in this plan may be updated or revised by the Council in the future, as needed, to meet the fishery management goals of this SMMP.

3 Actions to Be Taken Under This Plan

A. Reduce bycatch in the DGN fishery through hard caps and performance standards

1. Consider hard caps to limit takes of loggerhead and leatherback sea turtles in the DGN fishery. For example, if a hard cap is reached or exceeded during a fishing season, or during a specified period, a specific time-area closures could go into effect.
2. Continue to review bycatch estimates against performance standards for specified marine mammals, sea turtles, and finfish. The Council may periodically review the efficacy of bycatch estimation methods used to judge performance, and the species for which performance standards are set. Based on trends of bycatch compared to specified performance standards, the Council may recommend additional management measures, as appropriate.
3. Work with NMFS to increase fishery monitoring with the goal of monitoring all vessels by means of either human observers or electronic monitoring technology. Initially, the Council desires a 30% coverage rate across all vessels. For vessels that are unobservable by humans, electronic monitoring (EM) should be used to meet the coverage rate goal.

DRAFT

4. In the absence of 100% monitoring, use the best available statistical methods to estimate rare event bycatch.
5. Explore the use of dynamic ocean modeling tools, such as EcoCast, as part of an individual accountability-based management strategy.²

B. Develop deep-set buoy gear

1. Evaluate the results of fishing under EFPs, including deep-set linked buoy gear, recommended by the Council and issued by NMFS.
2. Complete HMS FMP amendment and regulatory processes to authorize a DSBG fishery.
3. As part of fishery authorization, consider a Federal limited entry program for DSBG including qualification criteria, taking into account current participation in the West Coast swordfish fishery.

C. Limit fishing effort in the DGN fishery

1. Explore ways to leverage Federal DGN fishery limited entry permits to reduce bycatch, noting that implementation of the Federal permit may result in some natural attrition of permit holders. For example, as of June 2018, only two-thirds of state limited entry permit holders had applied for the Federal limited entry permit.
2. Determine the appropriate number of Federal limited entry permits based on the fishery management goals within this SMMP. Explore mechanisms to retire excess permits, including compensating holders for retiring permits. For example, a minimum landings requirement during some recent time-period could be required to retain a permit.
3. Explore use of the Federal limited entry permit to encourage DGN fishery participants to utilize other gear types. For example, the Federal limited entry permit regulations could be amended to include permit endorsements for other gear types such as pelagic longline and/or DSBG (if managed through limited entry) or to encourage swapping a DGN permit for a limited entry permit for another fishery/gear type.

D. Allow DGN vessels to access the PLCA

1. The Pacific Leatherback Conservation Area (PLCA) was implemented in 2001 to mitigate takes of endangered Pacific leatherback sea turtles. It covers an area of the EEZ from Monterey Bay in California to the central Oregon coast and is closed to DGN fishing each year from August 15 to November 15. Based on exempted fishing permit (EFP) performance within the PLCA, consider allowing access to the PLCA with individual vessel and/or fishery accountability for bycatch using limits such as hard caps on leatherback sea turtles.
2. Explore the use of dynamic ocean modeling tools, such as EcoCast, as part of an individual accountability based management regime that would allow DGN vessels to fish in specified areas within the boundaries of the current PLCA.

E. Develop longline fisheries

1. Revisit the 2009 proposed action to authorize a SSSL fishery outside the West Coast EEZ in light of current conditions including West Coast landings by Hawaii-permitted SSSL vessels.
2. Revisit the current FMP prohibition on the use of pelagic longline gear inside the West Coast EEZ.

² EcoCast is a fisheries sustainability tool that helps fishers and managers evaluate how to spatially allocate fishing effort to maintain target fish catch while minimizing bycatch of protected or threatened species.

DRAFT

3. Consider qualification criteria for a Federal limited entry SSL permit in the context of Federal permitting for other swordfish gear types.
4. Explore the feasibility of, through exempted fishing permits, new pelagic longline gear designs or management strategies.

4 Road Map for Implementing Actions under this Plan

Actions related to this Plan that are included in Council's "Year-at-a-Glance" planning document (Agenda Item C.11, Supplemental Attachment 3, June 2018) are listed below. The Council may decide to supplement this section of the Plan by identifying additional actions over a longer time frame.

September 2018

1. Review updates to this Swordfish Monitoring and Management Plan
2. Consider proposed changes to the DGN performance metrics methodology

November 2018

1. Scoping of FMP amendment authorizing a SSL fishery outside the EEZ
2. Review new proposed performance metrics based on new methodology (tentative)

March 2019

1. Adopt a range of alternatives for FMP amendment authorizing a SSL fishery outside the EEZ
2. Final action on authorizing a DSBG fishery

June 2019

1. Adopt a preliminary preferred alternative for FMP amendment authorizing a SSL fishery outside the EEZ
2. DGN performance metrics annual report
3. Ongoing EFP update
4. Initial EFP proposal review and recommendation

September 2019

1. Adopt a final preferred alternative for FMP amendment authorizing a SSL fishery outside the EEZ
2. EFP proposal final recommendation

DRAFT
APPENDIX A

There are three commercial gear types currently used on the West Coast, in the U.S. Exclusive Economic Zone (EEZ) to harvest swordfish: drift gillnet, harpoon, deep-set buoy gear and linked deep-set buoy gear. Pelagic longline gear cannot be used within the EEZ of the West Coast (three to 200 nautical miles) and shallow-set longline fishing (SSLL, setting gear in less than 100 meters) to target swordfish cannot be conducted east and west of 150 degrees W. longitude to target swordfish. However, there is a general interest in exploring use of pelagic longline gear on the West Coast. Vessels permitted with a Hawaii longline limited access permit land on the West Coast with some vessels consistently operating from the West Coast; therefore, these swordfish landings are reported as pelagic longline. These gear types and their relevance to the West Coast swordfish fishery are summarized below. Current landings and revenue are summarized in Table 1.

Based on work by Gjertsen, et al. these four gear types can be grouped as follows: pelagic longline and DGN are capable of larger catch volume but result in relatively higher bycatch versus deep-set buoy gear and harpoon with low catch volume and little or no bycatch. Thus, the mix of gear types used in the swordfish fishery will reflect a tradeoff between the total amount of swordfish that could be landed on the West Coast, product quality, and bycatch impacts.

Table 1. Total number of vessels that made swordfish landings, metric tons of swordfish landed, inflation adjusted ex-vessel revenue (\$1,000s), and inflation adjusted average price per pound, 2013-2017. (Source: PacFIN, 6/20/18)

Fishery	Total Number of Vessels	Total landings (mt)	Total Inflation Adjusted Ex-Vessel Revenue (\$1,000s)	Average Inflation Adjusted Price Per Pound*
Pelagic Longline**	23	2,173	\$11,362	\$2.37
DGN	28	693	\$4,332	\$2.84
DSBG†	7	93	\$962	\$4.69
Harpoon	32	67	\$795	\$5.40

*Computed as total inflation-adjusted ex-vessel revenue divided by total landings in pounds.

**Hawaii permitted vessels.

†DSBG landings 2015-2017.

Large Mesh Drift Gillnet

- The DGN fishery began in the late 1970s and expanded in the 1980s, initially targeting thresher sharks but switching the principal target to swordfish after the mid-1980s.
- Landings and participation peaked in the mid-1980s and have been steadily declining since that time.
- Fishing occurs mainly in the fall and winter; the fishery is closed February 1-April 30. Little if any fishing occurs May 1-August 14 when fishing is prohibited within 75 nm from the mainland shore.
- Landings averaged 139 mt for calendar years 2013-2017 (Table 1) while participation averaged 19 vessels per year.
- Takes of leatherback sea turtles and large whales are of particular concern in this fishery. Other marine mammal species are caught in this fishery.
- Take/bycatch mitigation measures have been implemented for this fishery under the HMS FMP, the ESA, and the MMPA. These include gear modifications (pingers and net extenders) and time-area closures. The PLCA is the largest time-area closure, covering waters from Monterey north, August 15 to November 15 each year.

DRAFT

- Based on Council and NMFS action, Federal DGN limited entry permit was implemented in 2018. This permit, in addition to the California LE DGN permit, is required to fish with DGN in Federal waters and land in California. All current California LE DGN permit holders are eligible to apply for, and receive, a Federal LE DGN permit. State permit-holders have until March 31, 2019, to obtain their Federal permits, and three months after that to appeal if they miss the deadline. If any permit holder does not obtain their Federal permit by this deadline, they will lose their opportunity to do so, subject to any decisions resulting from an appeal process. The state LE DGN permit alone will not authorize harvest and landing of swordfish with DGN.

Harpoon

- Harpoon gear is used to catch swordfish while they are basking on the surface during the day and generally requires calm sea conditions to be effective.
- Most fishing occurs in the summer months, when environmental conditions are favorable.
- Because it is a highly selective gear, harpoon is effectively free of non-target catch. However, swordfish do occasionally break free and their fate is unknown.
- This is a low volume fishery with a higher ex-vessel price per pound for swordfish compared to DGN and SSSL (Table 1). Because of the operating costs and low volume, this fishery is not usually the sole source of income for participants. In the five years 2013-2017, landings averaged 13 mt annually (Table 1). Participation averaged 15 vessels annually, 2013-2017, with a total of 32 unique vessels making landings during this period (Table 1).

Standard Deep-Set Buoy Gear (DSBG) and Linked Deep-Set Buoy Gear (LBG)

- The Pflieger Institute of Environmental Research (PIER) began design and testing of DSBG off the West Coast in 2011. In 2015, based on the Council recommendation, NMFS issued exempted fishing permits to PIER to allow cooperative fishers to test the commercial viability of the gear under PIER's supervision.
- Between 2015 and 2017, seven vessels landed a total of 93 mt of swordfish under these EFPs (Table 1).
- Standard DSBG is deployed during daytime using a vertical line suspended from a buoy with hooks set deep. Weight on the terminal end of the vertical line ensures a rapid sink rate to the desired depth. A strike indicator and active tending allows catch to be retrieved quickly, reducing bycatch mortality. The configuration is limited to no more than 10 pieces of gear to allow active tending. These characteristics are intended to minimize bycatch and bycatch mortality, especially of protected species.
- This gear is expected to complement/supplement harpoon gear, because of its similarity in terms of vessel requirements, catch volume, and high product price.
- PIER also developed and in 2016 trialed LBG. LBG has the same characteristics as the standard configuration in terms of setting deep during the daytime to avoid bycatch and strike detection to allow quick retrieval. With the LBG configuration, up to three hooks are deployed along a horizontal line set at depth between two vertical lines suspended from floats in the same fashion as the standard configuration. Up to 10 of these pieces are then linked by horizontal lines that allow each piece to be independently retrieved.
- LBG is intended to produce larger catch volume from larger vessels and thus could complement or supplement DGN.
- Between June 2016 and March 2018, the Council reviewed more than 50 EFP applications to test these gear types and made recommendations to NMFS on issuance. NMFS began issuing EFPs based on Council recommendations in the summer of 2018.

Pelagic Longline

DRAFT

- Shallow-set longline (SSLL) gear is distinguished by the deepest point of the main line set at depths shallower than 100 m.
- Sea turtle takes (specifically loggerhead and leatherback sea turtles) have been a focus of concern with this gear type but the use of large circle hooks and mackerel type bait has been shown to substantially reduce takes, serious injuries, and mortality.
- Seabird interactions are also a concern with all types of longline gear. Seabird mitigation measures for pelagic longline gear are required in Federal regulations (see 660 CFR 712(c)).
- SSLL vessels were operated seasonally and intermittently from West Coast ports until 2004.
- SSLL is currently prohibited under the HMS FMP and ESA regulations.³
 - Pelagic longline is prohibited in the West Coast EEZ (50 CFR 660.712(a)(1))
 - SSLL is prohibited west of 150°W longitude and north of the equator (50 CFR 660.712(a)(2)).
 - SSLL is prohibited east of 150°W longitude and north of the equator under ESA regulations (50 CFR 223.206(d)(9))
- In partially disapproving the SSLL provisions in the HMS FMP, NMFS encouraged the Council to consider an FMP amendment to require circle hooks/mackerel type bait and a limited entry program in order to authorize a SSLL fishery addressing ESA concerns.
- The Council last considered authorizing an SSLL fishery in 2009 but decided not to move forward because of bycatch concerns.
- Hawaii-permitted SSLL vessels that fish outside the EEZ are allowed to make landings on the West Coast.
- In the five years 2013-2017, a total of 23 Hawaii permitted vessels annually averaged 435 mt of swordfish landings to the West Coast effectively making it the largest swordfish fishery on the West Coast by volume and revenue (Table 1).
- Hawaii-permitted SSLL landings on the West Coast mostly occur between November and March when swordfish are more abundant in waters closer to the West Coast than to Hawaii.

³ Hawaii-permitted SSLL vessels are not subject to these prohibitions except for fishing inside the West Coast EEZ.

NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT ON THE SWORDFISH
MANAGEMENT AND MONITORING PLAN (SMMP)

Following review of [Agenda Item H.6, Attachment 1: Pacific Fishery Management Council \(Council\) Draft Swordfish Management and Monitoring Plan \(SMMP\)](#), NMFS offers some comments for the Council and its advisory bodies to take into account when reviewing and adopting a draft SMMP for public review. These comments specifically pertain to *Section 3: Actions to be Taken Under This Plan* and *Section 4: Road Map for Implementing Actions Under this Plan*. Below, NMFS addresses Actions listed in the SMMP and updates to the Road Map in Section 4. Appendix A includes an annotated list of the Actions identified in Section 3, as well as the Measures listed therein, and relates them to the agenda items listed in Section 4. NMFS notes that some Measures have cross-cutting goals that may be addressed in tandem.

Action A. Reduce Bycatch in the Drift Gillnet (DGN) fishery

NMFS offers a few comments and updates regarding the bycatch estimation methodology for the DGN fishery, as well as continued Council evaluation and recommendations related to the performance of the DGN fishery. As stated in previous NMFS reports (e.g., [Supplemental NMFS Report 1 G.7.a, June 2018](#)), NMFS maintains that the regression tree method produces the best scientific information available (BSIA) for estimating rare-event bycatch. Regardless of the outcomes of the Science and Statistical Committee (SSC)'s review of the regression-tree method, NMFS plans to continue using this method for estimating DGN bycatch for the purposes of completing marine mammal stock assessment reports. NMFS has determined that the regression-tree methodology accurately estimates rare-event bycatch by incorporating data from multiple fishing seasons, instead of relying on the smaller number of sets used in single-season ratio estimates. The forthcoming bycatch estimates based on the regression tree method will incorporate data from over 9,000 observed sets over 28 seasons. Further, the ongoing work of the Eastern Pacific Professional Specialty Group (EP PSG) to integrate fishery data from multiple sources should also improve these estimates (e.g., by providing a better understanding of the timing and location of unobserved fishing effort). If, during annual reporting of DGN performance, the Council identifies a need for performance management measures, NMFS expects that the Council would add consideration of such recommendations to a future meeting agenda, as opposed to recommending new management measures at a single Council meeting.

On June 20, 2018, the Council notified the NMFS West Coast Region (WCR) Regional Administrator of its preferred alternative for increasing monitoring in the DGN fishery and its interest in receiving updates on proposed and ongoing initiatives to enhance DGN fishery monitoring. As reported in June, the WCR Observer Program has submitted a Fisheries Information System Program proposal to place flywire electronic monitoring systems on DGN vessels for the 2019 season. The results of the proposal should be announced over next few months. Additionally, NMFS plans to re-assess all unobservable DGN vessels this year to evaluate potential observability. If a vessel can make changes to accommodate an observer, NMFS will request that those changes be made. However, bunk space and vessel safety issues are likely to continue to result in classifying some vessels as unobservable. Additionally, the EP PSG has made progress this year on integrating observer data, logbooks, landings, and vessel monitoring system

(VMS) data from the DGN fishery. This integrated data is being used to assess potential observer bias (i.e., differences in fishing practices between observed and unobserved sets). The results of this work will be incorporated into the new Biological Opinion for the DGN fishery. If gaps in coverage which are likely to increase bycatch risk are identified, observer placement and deployment may be modified. NMFS will continue to keep the Council informed on these developments via NMFS Reports. Therefore, NMFS does not see a need to add Council discussion of Measures related to DGN monitoring to the Road Map in the SMMP, or to the Council’s Year-At-A Glance Summary (YAG), at this time.

Lastly, NMFS seeks clarity on the Council’s interest in considering hard caps for loggerhead and leatherback sea turtles. It is unclear whether this Measure should be viewed independent of, or in relation to, either the performance monitoring Measure or the Action to allow DGN vessels to access the Pacific Leatherback Conservation Area (PLCA). Additionally, the Council could clarify whether it is considering a revision to the withdrawn hard caps proposed rule (i.e., an effort to make the proposed regulations consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Fishery Management Plan (FMP), and other applicable laws). A better understanding of the Council’s interest in this measure would be useful in considering whether the hard cap Measure should appear on the Road Map.

Action B. Develop Deep-set Buoy Gear (DSBG)

NMFS has issued approximately 20 deep-set buoy gear (DSBG), and 10 deep-set linked buoy gear (DSLBG) exempted fishing permits (EFPs). Issuance and activation of some EFPs are pending as applicants either have not yet signed the permits, or have not attended the required protected species workshop. All vessels that requested Observer Program inspections have been inspected. Additional protected species workshops are tentatively scheduled for August 31 and September 7, 2018. See Table 1 below for additional information on EFP activity to-date.

Table 1. Information on DSBG and LBG EFPs in 2018 As of August 27, 2018

Metric	DSBG	LBG
Vessels fished so far in 2018	12	0
Number of Trips Observed	38	0
Number of Fishing Days Observed	154	0
Protected Species Interactions	1 Northern Elephant Seal - Released Alive 1 Loggerhead Sea Turtle* - Released Alive (Entangled in Surface Gear)	N/A

*The loggerhead sea turtle interaction consisted of a turtle entangled in surface buoy array lines. NMFS is currently reviewing the information from the interaction and discussing the likelihood of additional interactions.

NMFS is concerned about the adequacy of Council discussions to-date regarding the range of alternatives (ROA) for authorizing deep-set buoy gear. At this time, the Council has yet to adopt alternatives for qualifying criteria for the limited entry (LE) options being considered, which is critical for completing a thorough NEPA analysis and documenting necessary considerations under MSA Section 303(b)(6) of the MSA. Consistent with previous requests (e.g. [Agenda Item C.5.a., Supplemental NMFS Report](#)), NMFS encourages the Council to schedule its adoption of a preliminary or final preferred alternative (PPA or FPA) two meetings following adoption of the Council's final ROA, to leave adequate time for an analysis of the alternatives. Additionally, NMFS encourages the Council to specify the need for a LE approach to DSBG authorization and to identify qualification criteria for the LE options in the ROA adopted during the June 2018 meeting, prior to Council selection of an FPA (especially selection of a LE option). It may be possible to complete these steps prior to March 2019, when the FPA is scheduled. The HMSMT identified and the HMSAS commented on potential qualifying criteria in previous reports to the Council (see [Agenda Item H.3.a, HMSMT Report](#), [Agenda Item J.6.a, HMSMT Report 1](#), and [J.6.a, Supplemental HMSAS Report 1](#)). However, delaying Council selection of an FPA until more data is obtained from the recently issued DSBG and DSLBG EFPs may also help to further inform an evaluation of the ROA and Council discussion of qualifying criteria for LE options.

Action C. Limit Fishing Effort in the DGN Fishery

Now that the federal LE DGN permit program has been created, the Council can consider additional measures for limiting effort in the fishery. However, Council discussion of this has yet to be added to the Council's YAG or Road Map in Section 4 of the SMMP. Given the cross-cutting nature of some of the Measures identified under this Action (e.g., incentivizing use of non-DGN gear or compensating DGN permit holders for retiring permits), it would be useful to scope potential changes to the federal LE permit program (i.e., currently for DGN) prior to a Council recommendation to establish a LE program for another gear type. This could help streamline Council recommendations on multiple Measures, as well as NMFS's implementation workload.

D. Allow DGN Vessels to Access the PLCA

NMFS intends to keep the Council updated on the status of the Alliance of Communities for Sustainable Fisheries' (ACSF) application to fish with modified DGN gear in the PLCA. However, NMFS cannot recommend a timeframe for Council consideration of allowing DGN vessels access to the PLCA. As stated in [Agenda Item G.7.a, Supplemental NMFS Report 1](#), NMFS will communicate further with the ACSF regarding concerns with their EFP application, as raised by NMFS Protected Resources Division. It is unclear at this time whether this EFP can be issued.

E. Develop Longline Fisheries

Both the Road Map in Section 4 of the SMMP and the Council's YAG call for revisiting authorization of shallow-set longline (SSLL) on the high seas. As conveyed during the June meeting, NMFS is prepared to support the Council in evaluating alternatives for this Measure. NMFS can also assist in coordination with the Pacific Islands region or Western Pacific Regional Fishery Management Council or both. NMFS has repeatedly requested that scoping for this Measure appear on the Council's November meeting agenda, so that interested stakeholders (many of whom are based in southern California) can travel to the meeting in San Diego.

Despite our interest in starting these Council discussions in November, NMFS regards the current schedule for Council discussion of this Measure as aggressive. Rather, NMFS would like to see more meeting time given to developing a ROA for analysis. Experience indicates that one Council meeting has been insufficient time for developing a final ROA, especially when the ROA includes LE options. Similar to requests for scheduling the Measure to authorize DSBG, NMFS would like to see the final ROA and PPA for this Measure scheduled two meetings apart, to provide adequate time for analysis of the alternatives.

With respect to authorizing longline gear in the U.S. West Coast exclusive economic zone (EEZ), NMFS expects that results from the longline EFPs currently in consideration would help inform Council discussion. It may be useful to include testing of longline EFPs as a specific Measure in the SMMP (as is the case for DSBG).

Appendix A. Road Map as proposed in Agenda Item H.6., Attachment 1: Council's Draft Swordfish Management and Monitoring Plan (SMMP)					
Short Description of Actions and Measures in Section 3 of SMMP	Sept. 2018	Nov. 2018	Mar. 2019	Jun. 2019	Sept. 2019
A. Reduce bycatch in DGN fishery					
1. Consider hard caps for loggerheads & leatherbacks					
2. Continue to monitor bycatch against performance standards. Review estimation methods. Council may recommend measures based on trends.		Review perf. metrics based on new methodology		Review perf. metrics (annual report)	
3. Target 30% coverage for all vessels; increase monitoring with goal of monitoring all vessels through observers or EM					
4. In absence of 100 % monitoring, use best available statistical methods to estimate rare-event bycatch	Consider changes to perf. metrics methodology				
5. Explore DOM, such as EcoCast, as part of individual accountability strategy					
B. Develop DSBG					
1. Evaluate results of EFPs, including DSLBG				Ongoing EFP update & Initial EFP review/recommendation	EFP proposal final recommendation
2. Complete FMP amendment and regulatory process to authorize DSBG			FPA to authorize DSBG fishery		
3. As part of authorization, consider a LE for DSBG, including qualifying criteria					
C. Limit fishing effort in DGN fishery					
1. Explore ways to leverage Fed LE permits to reduce bycatch, noting natural attrition may occur					
2. Determine # of LE permits based on goals within SMMP. Explore retiring excess permits, including compensating permit holders					
3. Explore use of LE permits to encourage DGN participants to use other gear types, such as gear endorsements or swapping DGN for an another gear type					
D. Allow DGN vessels access to the PLCA					
1. Based on EFP performance within PLCA, consider allowing access to the PLCA with accountability for bycatch using limits (e.g., hard caps for leatherbacks)					
2. Explore use of DOM tools as part of individual accountability regime to allow DGN vessels to fish within the boundaries of the PLCA					
E. Develop longline fisheries					
1. Revisit proposed action to authorize SSLL fishery on the high seas		Scoping to authorize SSLL on high seas	ROA to authorize SSLL on high seas	PPA to authorize SSLL on high seas	FPA to authorize SSLL on high seas
2. Revisit current FMP prohibition on use of longline gear in West Coast EEZ					