

State of California  
Fish and Game Commission  
Final Statement of Reasons for Regulatory Action

Amend Sections 550, 550.5, 551, 552, 630 and 702  
Title 14, California Code of Regulations  
Re: Public Use of Department of Fish and Wildlife Lands

I. Date of Statements of Reasons:

Initial Statement of Reasons: Date: November 13, 2019

Final Statement of Reasons: Date: April 27, 2020

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 11, 2019 Location: Sacramento

(b) Discussion Hearing

Date: February 21, 2020 Location: Sacramento

(c) Adoption Hearing

Date: April 16, 2020 Location: Teleconference

III. Update

At the Commission's April 16, 2020 meeting, the Commission approved the Department's recommended amendments, set forth in the attached Approved Regulatory Text. The Department considered input from the public on a few different topics, but the majority of input was on hunting and bicycle riding during the development of the recommended text.

IV. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

Responses to public comments, oral or written, regarding proposed regulatory changes received through April 16, 2020 are included as Attachment A.

V. Location and Index of rulemaking

A rulemaking with attached file index is maintained at:

California Fish and Game Commission  
1416 9<sup>th</sup> Street, Room 1320  
Sacramento, California 95814

VI. Location of Department files:

Department of Fish and Wildlife  
1010 Riverside Parkway  
West Sacramento, California 95605

## VII. Description of Reasonable Alternatives to Regulatory Action

### (a) Alternatives to Regulation Change

The Commission has determined that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposed action; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. (Government Code section 11346.9, subdivision (a)(4).)

### (b) No Change Alternative

Without the proposed changes, the designation of seven ecological reserves and one wildlife area would not take place. Of these ecological reserves, four will offer at least occasional public use opportunities, such as special hunts and educational activities. Three will generally be open to authorized public uses. Additional public uses that could have been considered for these properties were not included in this regulation package. The Boca, Polaris and West River Units of the Truckee River Wildlife Area will continue to be used for shooting sports, even though these units are far less appropriate for these uses from a public safety standpoint than the nearby larger units of that wildlife area. Note that in the “No Change Alternative” section of the of the ISOR (Section IV(b)), there is “placeholder” text that was inadvertently left in the document in place of the correct names of the units (i.e., the units are not named “The Bolsa, XYZ and ABC Units”). This error has no consequence or regulatory effect.

### (c) Description of Reasonable Alternatives that Would Lessen Adverse Impact on Small Business

No adverse impact on small business is expected as a result of the proposed changes to the subject regulation.

## VIII. Description of Reasonable Alternatives to Regulatory Action

### (a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of the Commission staff that would have the same desired regulatory effect. No adverse impact is anticipated for small businesses.

### (b) No Change Alternative:

Without the proposed changes, the designation of seven ecological reserves and one wildlife area would not take place. Through designating these properties, four will offer at least occasional public use opportunities, such as special hunts and educational activities. Three will generally be open to authorized public uses. Additional public uses that would be added in this regulation package on specific properties would not be allowed. The Bolsa, XYZ and ABC units of the Truckee River Wildlife Area will continue to be used for shooting sports, even though these units are far less appropriate for these uses from a public safety standpoint than the nearby larger units of that wildlife area.

(c) Description of Reasonable Alternatives That Would Lessen Adverse Impact on Small Business:

No adverse impact on small business is expected as a result of the proposed changes to the subject regulations.

IX. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States

The proposed action will not have significant statewide adverse impacts directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the regulatory actions affect undeveloped land and are not anticipated to have any net impact on recreational uses.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The proposed action will not impact the creation or elimination of jobs within the state or the creation of new businesses or the elimination of existing businesses in California because the regulatory actions affect undeveloped land and are not anticipated to have any net impact on recreational uses. No benefits to worker safety are anticipated because this regulatory action will not impact working conditions. The proposed site-specific regulation changes for certain properties are expected to benefit the health and welfare of California residents by increasing public safety and recreational opportunities and benefit the environment by improving resource protection and the management of staff resources.

(c) Cost Impacts on a Representative Private Person or Business

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Finding to the State: Please see Form 399.

(e) Nondiscretionary Costs/Savings to Local Agencies: None

(f) Programs Mandated on Local Agencies or School Districts: None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None

(h) Effect on Housing Cost: None

## **UPDATED** Informative Digest/Policy Statement Overview

The Department proposes to designate recently acquired lands; one as a wildlife area pursuant to Fish and Game Code sections 1525 and 1526; and seven (7) as ecological reserves pursuant to Fish and Game Code section 1580. Four properties which the Department no longer possesses or manages will be removed from the regulations.

The purposes of wildlife areas are to conserve wildlife and their associated habitats, while allowing for compatible recreation. The main uses of wildlife areas include hunting, fishing, wildlife viewing, photography, environmental education and research. The purposes of ecological reserves are to conserve threatened or endangered plants and/or animals, and/or specialized habitat types, provide opportunities for the public to observe native plants and wildlife, and provide opportunities for environmental research. Recreation on ecological reserves must be compatible with the conservation of the property's biological resources.

The general public's use of Department lands is governed by regulations:

- Section 550 contains regulations that pertain to all Department lands.
- Section 550.5 contains more detailed regulations about reservations, passes, and permits used on Department lands.
- Section 551 pertains to wildlife areas only.
- Section 552 pertains to nine (9) National Wildlife Refuges where the Department manages hunting programs.
- Section 630 pertains to the Department's ecological reserves.
- Section 702 pertains to fees and forms.

If approved, these proposed regulation changes would:

Designate seven ecological reserves in subsection 630(b) and one wildlife area in subsection 551(b).

Remove one ecological reserve and three wildlife areas from, respectively, subsections 630(b) and 551(b).

Make site-specific regulation changes for certain properties to improve public safety, increase compatible recreational opportunities on certain properties, prohibit general public access on certain properties, provide natural resource protection and manage staff resources for the conservation and recreational purposes of these properties.

Improve consistency between federal regulations and the state regulations in Section 552 for nine Federal refuges on which the Department manages hunting programs and remove text that is duplicative or otherwise unnecessary in this section. These refuges are also listed as state wildlife areas in subsection 551(c).

Update information in the “Permit Application For Special Use of Department Lands” (DFW 730 (New 01/14)) which is incorporated by reference in Subsection 702(d)(1) and associated subsections of 702 to improve their clarity and consistency.

Editorial changes are also proposed to improve the clarity and consistency of the regulations and to streamline the regulations by removing unnecessary text.

### **Goals and Benefits of the Regulation:**

The increase in compatible recreational opportunities will benefit businesses that provide recreational equipment, and supplies, and local businesses that sell food or other goods to people who recreate on Department lands.

### **Non-monetary benefits to the public**

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government.

### **Consistency with State Regulations**

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Fish and Game Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to regulate the uses of Department lands (Sections 1526 and 1580, Fish and Game Code). The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Commission has searched the California Code of Regulations and finds no other State agency regulations pertaining to the designation and compatible uses of Department lands.

**At the Commission’s April 16, 2020 meeting, the Commission approved the Department’s recommended amendments, set forth in the attached Approved Regulatory Text. The Department considered input from the public on a few different topics, but the majority of input was on hunting and bicycle riding during the development of the recommended text. Section IV(b) of the ISOR had “placeholder” text that was inadvertently left in the document in place of the correct names of units of the Truckee River Wildlife Area (i.e., the units are named “Boca, Polaris and West River, not “The Bolsa, XYZ and ABC Units”). The correct names appear in Section VII(b) of the FSOR. This error has no consequence or regulatory effect.**

**Nonsubstantive revisions made to the final regulation text following Commission approval in order to correct underline/strikeout errors, grammatical errors, and**

punctuation errors, and to align the final regulation text with the text currently printed in the California Code of Regulations.

1. **Sec. 550, Subds. (h), (cc)(2), (cc)(3)(B), (cc)(3)(F)**. Corrected existing references to subsection “550(b)(11)” in four locations due to paragraph numbering change.
2. **Sec. 550.5, Subd. (d)(2)(B)**. To clarify the explanation in the ISOR, “entire permit fee” means the fee listed in Section 702, and not any additional costs. Sometimes applicants send in only part of the permit and argue that the department should start processing their permit application. Processing the permit involves reviewing the application, reviewing site specific regulations, conditions or concerns, coming to an agreement with the applicant about conditions for issuing a permit if the activity can be compatible with the management of the property, and upper-level staff approving the conditions. The Regional Manager can sign off on the permit as long as the applicant has agreed that additional costs and/or a deposit must be paid per Sections 550.5(d)(6)(A) and (B) and instructions on the permit application. As such, the “additional costs and/or deposits” discussed in the ISOR are not considered a part of the “entire permit fee.”
3. **Sec. 550.5, Subd. (d)(2)(B)1**. Provided clarity regarding revision of “approved activities” to “permitted activities” to align with proposed subdivision (b)(2)(B)2.
4. **Sec. 550.5, Subd. (d)(2)(B)2**. Provided clarity of the reference to “designee” in order to align with Form DFW 730.
5. **Sec. 550.5, Subd. (d)(6)(A) and (B)**. Deletion of references to “fees” and “charges” in order to align with Form DFW 730.
6. **Sec. 551, Subd. (j)(4)**. To clarify the explanation in the ISOR, referring to the route as the public access easement may help maintain the mutual understanding between the Department, local entities, and constituent groups regarding the location of authorized recreational activities on the Southern Crossing Unit. This may be especially helpful further in the future when current staff for each entity are no longer involved.
7. **Sec. 552, Subd. (a)(3)(D)**. Amended “cripples” to “crippled birds” to align with 50 CFR 32.24.
8. **Sec. 552, Subd. (a)(9)(G)**. Added the word “authorized” for consistency with surrounding text.
9. **Sec. 702, Subds. (d)(1)(B), (C), (D)**. Added the specific fee calculations into the FSOR:

California Department of Fish and Wildlife Budget Office  
Lands Special Use Permit Fee Update  
Indexed Fee Report: 2017 to 2020 Inflation Adjustment Special Use Permits

IPD 2018 Index Rate = 0.029136

IPD 2019 Index Rate = 0.032491

IPD 2020 Index Rate = 0.022111

<b>Permit Type</b>	<b>2017 Fee</b>	<b>Fee Increase</b>	<b>2018 Fee</b>	<b>Fee Increase</b>	<b>2019 Fee</b>	<b>Fee Increase</b>	<b>2020 Fee</b>
Type 1	\$122.50	\$3.50	\$126.00	\$4.00	\$130.00	\$2.75	\$132.75
Type 2	\$462.50	\$13.50	\$476.00	\$15.50	\$491.50	\$10.75	\$502.25
Type 3	\$536.00	\$15.50	\$551.50	\$18.00	\$569.50	\$12.50	\$582.00

**Pursuant to Section 20, Title 1, CCR, the Fish and Game Commission has already incorporated by reference form DFW 730, as it is cumbersome and impractical to publish the form in the California Code of Regulations, and that the form DFW 730 was made available upon request and reasonable and was reasonably available on the Fish and Game Commission’s website.**

**The ISOR contained several errors in the titles of the documents relied upon. The affected titles are corrected as follows:**

- a. Attachment 2: California Department of Fish and Wildlife. 2019. Department of Fish and Game Land Management Summaries November 2019.**
- b. Attachment 7: United States Fish and Wildlife Service. October 2019. Letter from Polly Wheeler, Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, to Lands Program, California Department of Fish and Wildlife, Sacramento CA.**
- c. Attachment 8: California Department of Fish and Wildlife. 2016. Canada de San Vicente Vol 1: Final Land Management Plan. Prepared by the Southern Service Center, California Department of Parks and Recreation (Excerpt, 3 pages).**