

**Appendix A. Specific Responses to Comments, 45-Day Comment Period, Section 712.5, Title 14 (Declaration of Importation)**

Responses to unique Comments received during the Public Notice period October 15 through November 29, 2021.

- *Each individual comment letter is labeled as “#” Subjects unrelated to the specifics of the regulation are not included.*
- *Comments may be paraphrased for succinctness.*

#	Commenter Name, Format, Date	Comment	Response
1	Sherman Email 10/15/2021	1a. Request for Std 399 b. Opposes this regulation because it is useless c. will cause added expense d. will cause the unnecessary growth of the department	1a. Form 399 sent 10/28/2021. b. This regulation and the updated Declaration Form fulfill the requirements of Fish and Game Code (FGC) section 2353. FGC section 2353 requires the declaration of importation of dead fish and wildlife brought into California from out of state. Specifically, FGC section 2353 provides that “birds, mammals, fish, reptiles, or amphibians shall not be imported or possessed in this state unless...a declaration is submitted to the department or a designated state or federal agency at or immediately before the time of entry, in the form and manner prescribed by the department.” The intent of this regulation and updated Declaration Form to make compliance with FGC section 2353 easier and simpler by providing an online submission option and enabling submission within 24 hours of entry to accommodate practical travel considerations. c. The Economic Analysis, required by law, indicates that there is no additional expense is incurred by the state or by affected persons. d. The requirement of FGC section 2353 has been in effect for decades and this regulation is intended to make the declaration process easier and simpler.
2	Lencioni Email 10/15/2021	2. What is the purpose of DFW 901?	2. See Response 1b.

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3	Naylor Email 10/19/2021	<p>3a. Opposed. It is the state's responsibility where the animal or fish was taken to determine the legality of take.</p> <p>b. If I legally take an animal or fish in another state I don't think California should be able to stop or monitor importation</p> <p>c. unless there is a real danger to health or the environment.</p> <p>d. California currently has Chronic Wasting Disease rules in place.</p> <p>e. I don't believe a form is going to improve compliance with rules and regulations.</p>	<p>3a. See response 1b.</p> <p>b. See Response 1b.</p> <p>c. See Response 1b.</p> <p>d. California Code of Regulation (CCR), title 14, section 712 concerns Chronic Wasting Disease (CWD). The updated Declaration Form provides an informational section about CWD for hunter awareness purposes.</p> <p>e. See Response 1b.</p>
4	Simmons Email 10/26/2021, 11/4/2021	<p>4. Requested a copy of the Std 399, Economic Impact Statement</p> <p>4a Request for Public Hearing</p>	<p>4. Form 399 sent on 10/27/2021.</p> <p>4a. A public hearing was held on 2/11/2022.</p>
5	Strain Email 10/18/2021	<p>5a. DFW 901 is a new law that California DOES NOT NEED. California passes 700-900 bills into law every year, that it does not have the people to enforce.</p> <p>b. The hunting and fishing community is just a fraction of what it was in years past. This new law will further burden the Tax paying hunters and fishermen of the state.</p> <p>c. PLEASE DO NOT PASS THIS PROPOSED LAW!!</p>	<p>5a. See response 1b.</p> <p>b. See Response 1c.</p> <p>c. See response 1b.</p>

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6	Webb Email 10/15/2021	<p>6a. Will this broad language impact people with pets? Will this be some form pet owners will have to have when they get a, say a fish, or a lizard- like tropical fish and so forth? Perhaps some verbiage specifying game animals?</p> <p>b. A little context in the proposed regulation text/language to avoid that confusion might be good: Something about tags, something about who the signer or responsible party is defined as.</p> <p>c. The form is fine in the sense A) I have no comparison, and having an easy form coming in state is a good thing. Language making it clear it is related to tags or permits is on there.</p> <p>d. Maybe a who needs to sign- the vehicle owner or importer? The Hunter the tags are registered too? (similar to proposed text).</p> <p>e. The text should help guide implementation to some degree. (when in doubt read the regs... ie. the regs should provide some answers to those moments of confusion. Devil is in the details stuff)</p>	<p>6a. The regulation and updated Declaration Form apply to only <b>dead</b> fish and wildlife, not pets or other live animals.</p> <p>b. The regulation an updated Declaration Form concern importation into the state and include the term <b>dead</b> for clarity.</p> <p>c. It is the intention of CDFW to make such forms easily accessible and easy to complete.</p> <p>d. Each person importing dead fish and wildlife needs to comply with the regulation and updated Declaration Form.</p> <p>e. CDFW believes the regulation and updated Declaration Form have made compliance with FGC section 2353 clearer and simpler.</p>
7	Louch Email 10/15/2021	<p>7. I normally have a plan to have a local butcher, cut, wrap and freeze the wild game I would get if successful. I see no place to indicate this information on the new form that is proposed. Or would steaks, roast and burger be acceptable?</p>	<p>7. The updated Declaration Form is still required for game meat harvested in another state and imported into California. Within the updated Declaration Form, you could indicate the condition of the animal(s) being imported, in this case “processed”, cut, wrapped, fresh, frozen etc.</p>

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8	Eickhoff Email 10/15/2021	<p>8a. There is no reason for anyone to fill out a form that states they are doing legal activities.</p> <p>b. There IS a cost to this.</p> <p>c. regulation that creates confusion and potential for breaking the law if you are simply ignorant of the proper form to fill out.</p> <p>d. The section on goals and benefits is almost self-contradictory in stating that it is a "benefit" to fill out a form and do extra paperwork.</p>	<p>8a. See Response 1b.</p> <p>b. See Response 1c.</p> <p>c. By incorporating the declaration form into a regulation, and by adopting the proposed regulation, CDFW expects to increase public awareness about the updated form and the requirement to declare importation of fish and wildlife.</p> <p>d. The purpose of the regulation is to provide more and easier opportunities to comply with FGC section 2353 and submit the updated Declaration Form. At this time only by printing, filling, and mailing is possible. The regulation will enable the updated Declaration Form to be submitted online and within 24 hours of entry into the state. The updated Declaration Form is also an opportunity for people to keep a record of their lawful importations.</p>
9	Amador Email 10/15/2021	<p>9a. Would it be possible to include some kind of article or provision that can be written in to the DFW declaration allowing for animals to be brought in and declared that are legally harvested or obtained in another state?</p> <p>b. Including banned species that cannot be hunted in CA, bobcat for example cannot be hunted anymore in CA but can I possess one legally taken in another state and declare it?</p> <p>c. Std. 399 requested.</p>	<p>9a. See Response 1b.</p> <p>b. This regulation concerns the importation of dead fish and wildlife legally taken out of state and imported into state.</p> <p>c. Form 399 sent 10/28/2021.</p>
10	Bradford Email 10/15/2021	<p>10. California should not allow the convenient declaration of out of state species of fish into California.</p>	<p>10. See Response 1b.</p>

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11	Raymundo Email 10/15/2021	11. Would it be possible to make form DFW 901 all web accessible?	11. The updated Declaration Form will be accessible and submittable online (by smart phone or computer).
12	Gaines Email 10/16/2021	12a. Does this form also apply to taxidermy animals being brought into the state? b. What about African species that are legally being brought in that already have a massive paper-trail?	12a. This regulation applies to the importation of dead fish and wildlife, including parts. See Response 1b. b. This regulation applies to any importation of dead fish and wildlife from outside of the state. See Response 1b.
13	Medina Email 10/16/2021	13a. There is no need for this information capturing deceptive “form”. b. Every State in our Union does plenty to ensure fish and or game is legally taken. Any nonresident outside of CA must already show legal proof he or she can legally hunt or fish. c. A form was not needed then, no form has been needed since CA was established.	13a. See Response 1b b. See Response 1b. c. See Response 1b.

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14	Bryan Email 10/17/2021	<p>14a. This is another unnecessary law that will be an additional burden to hunters and fisherman.</p> <p>b. Most hunters and fisherman are law-abiding citizens. A lost tag or license will make these citizens criminals.</p> <p>c. The state's [CA] environment may have a slight benefit from prohibiting the importation of illegal take.</p> <p>d. Why do we need another unnecessary law for a slight benefit for another state. Why is California enforcing other state game laws?</p>	<p>14a. See Response 1b.</p> <p>b. This regulation concerns the declaration of imported dead fish and wildlife. See Response 1b.</p> <p>c. Comment noted.</p> <p>d. See Response 1b.</p>
15	Camacho Email 10/17/2021	<p>15a. 24hrs is not enough time, considering holidays, weekends and other factors. 72 hours is much more appropriate and doable.</p> <p>b. Training for the personnel at the port of entry. I have printed and submitted the form on entry and they have no idea what it is and what to do with it.</p> <p>c. Instead of mailing it, an email address or online submittal page would be more efficient and timelier.</p>	<p>15a. CDFW believes that declaration within 24 hours enables sufficient time for practical travel considerations.</p> <p>b. This is a good point and underscores the benefit of the online submission option. See Response 11.</p> <p>c. See Response 11.</p>
16	Stedman Email 10/17/2021	<p>16. This new proposal 901 import form thing is c--p we are not bringing animals from a different country.</p>	<p>15. See Response 1b</p>

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17	Bocock Email 10/18/2021	<p>17a. I am AGAINST the Department of Fish &amp; Game adding a new section 712.5 to Title 14, California Code of Regulations (CCR) which will require a new Form DFW 901 Declaration of Importation of Fish and Wildlife.</p> <p>b. This form requirement now would impose addition cost &amp; time to hunters and fishermen re-entering California. In addition it will increase the current bureaucracy of CDFW.</p>	<p>17a. Comment noted.</p> <p>b. See Response 1c.</p>
18	Mashburn Email 10/15/2021	<p>18a. Having reviewed the form, the form does not provide options for documenting adequate clarity for bringing processed and packaged meat back into the state. The form is focused on unprocessed meat and does not allow for the distinction of the meat processed by a butcher (sealed and frozen) in contrast with someone with a quartered animal in the back of a truck.</p> <p>b. This type of transport applies to fish, as well. As the normal form of transport for fish taken in places like Alaska is to have it processed, sealed, and frozen.</p> <p>c. Additionally, we know that the risk for spreading CWD is nullified when the meat has been properly processed and packaged. Being able to clearly document this should be an important distinction.</p>	<p>18a. See Response 7.</p> <p>b. FGC section 2353 and this regulation apply to dead fish and wildlife imported from out of state. See Response 1b.</p> <p>c. The regulation addressing Chronic Wasting Disease is CCR, title 14, section 712. See response 3d.</p>

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19	Stimmann Email 10/18/2021	<p>19a. What if I come back to California on a plane from Alaska with frozen salmon, halibut, rockfish, etc? The 'vehicle license #' section of the form will not be filled out?</p> <p>b. Or I need the tail number of the aircraft? Or it can be "N/A"? A lot of hunters and fishermen go up there every year as there is plentiful wildlife</p> <p>c. Also, what is the motivation for this form? Is it to catch poachers where DFW is unsure of the origin of things they find while doing searches, or keep track of out of state hunting, or what?</p> <p>d. On a broad note, I do appreciate all that the DFW does to preserve and enhance wildlife in California!</p>	<p>19a. FGC section 2353 and this regulation apply to dead fish and wildlife. If the vehicle license information is not relevant leave blank or input Not Applicable, or if imported via air state that.</p> <p>b. State that the imported fish or wildlife came with you by air.</p> <p>c. See Response 1b.</p> <p>d. Comment noted.</p>
20	Sturm Email 10/15/2021	<p>20. The new form requests the out of state hunting license number and out of state tag number. If hunting feral hogs in Texas on private property a Texas hunting license is not needed so would the appropriate response be "N/A" and would this draw an inquiry from CDFW to the hunter since there is not out of state license number or tag number?</p>	<p>20. State the 'no license required in Texas' on the updated Declaration Form.</p>
21	Lindquist Email 10/15/2021	<p>21 For what reason do I need to notify the CA Govt. that I caught a salmon in Alaska and I'm bringing it back to CA?</p>	<p>21. See Response 1b.</p>



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22	Steele Email 10/15/2021	22a. I fish often out of commercial boats out of San Diego. Will this impact the local fisherman or will the reporting stay at the boat.  b. How do they deal with fish caught in Mexico for example.	22a. FGC Section 2353 and this regulation apply to declaration of imported dead fish and wildlife from out of state, not within state waters.  b. FGC Section 2353 and this regulation apply to declaration of any imported dead fish and wildlife from out of state.
23	Howell Email 10/15/2021	23. Please tell me that it will be formatted so you could fill it in on a smart phone or online and not required to print out? I don't carry a printer with me.	23. See Response 11.
24	Oxford Email 10/15/2021	24a. Why are California residents presumed guilty until they state their innocence? Anyone who is breaking the law is not going to file anything to start with. And anyone 'not sure" is not going to take the chance.  b. Additionally, the documentation provided on the website is riddled with massive government overreach, and logic holes, and requirements which are onerous enough to dissuade compliance.  c. The hunting and fishing community is already very heavily burdened with laws and regulations - further loss of these licenses and purchase of sporting gear is going to remove funding for many wildlife programs.	24a. This regulation aids in the compliance with FGC section 2353.  b. See Response 6e.  c. See Response 1c.
25	Yi Email 10/15/2021	25. What does this new regulation mean for out of state animals?	25. FGC section 2353 and this regulation apply to declaration of imported dead fish and wildlife from out of state.

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26	Mcguirk Email 10/15/2021	<p>26a. There may be a new form required to declare fish or game entering California.</p> <p>b. Does this apply to fish legally taken in Cabo San Lucas Mexico and flown to Los Angeles California?</p> <p>c. And how is this fish and form declared upon arrival at LAX?</p>	<p>26a. See Response 1b.</p> <p>b. See Response 22b and 19b.</p> <p>c. See Response 11.</p>
27	Braico Email 10/15/2021	<p>27a. I don't see how this curbs actual illegal importation of game or wildlife. This only ensures that the people who have a current CA license and read the regulations will not be penalized for following the laws they most likely are already following. The ones who are committing the wildlife crimes aren't going to self-report and therefore this additional form won't stop them from importing illegally.</p> <p>b. Also, if someone legally takes game in another state (including fish) and return to CA, but don't have a CA license they most likely won't even know about this requirement. So by default, they are in violation.</p> <p>c. This seems like another item that money will be wasted on with no real benefit other than to add more burden to law abiding anglers and hunters in order to prove they are committing with the law. And yes this costs money. Someone needs to review, interpret, and compile the information in a database which will need to be maintained.</p>	<p>27a. See Response 1b.</p> <p>27b. This regulation concerns the declaration of imported dead fish and wildlife. By incorporating the declaration form into a regulation, and by adopting the proposed regulation, CDFW expects to increase public awareness about the updated form and the requirement to declare importation of fish and wildlife. See Response 1b.</p> <p>27c. See Response 1c.</p>

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28	Rider Email 10/15/2021	<p>28a. 99% of the time if a harvest from another state comes into California it will have been processed and packaged into its cuts of meat and Frozen and brought in.</p> <p>b. At what point does California need to know about this?</p>	<p>28a. This regulation concerns the declaration of importation of dead fish and wildlife, including parts.</p> <p>b. See Response 1b.</p>

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<p><b>29</b></p>	<p>Smith Email 10/15/2021</p>	<p>29a. It was not at fully clear what the intent of the current requirement was, or how people were to originally comply with the current requirement. The notice seems deficient in this regard because it is very difficult to understand fully the impact of the change or what the true intentions are. It also seems that the new rules would effectively create new requirements that did not previously actually exist and possibly were never intended.</p> <p>b. Filing forms and retaining additional documents every time someone hunts or fishes outside of California seems like one more burden of being a resident of California. This does not appear convenient at all.</p> <p>c. It seems like it also sets up a new way to cite people for failing to file the obscure, newly required papers, creating an enforcement trap for an inconvenient requirement.</p> <p>d. Further, it seems impractical for people who may be coming out of remote areas to complete such a form before or at time of entry. They should have their tags and other information to support the legal take, but filing a form adds burden without significant additional benefit to the state of California.</p> <p>e. This is one more example of government over-reach and additional requirements that make being a Californian an excessive burden.</p> <p>f. Rather than requiring another form to be filed, it seems that the Californian should be required to declare if asked or an appropriate opportunity exists (such as agriculture checkpoints), and retain the original tags,</p>	<p>29a. See Response 1b.</p> <p>b. See Responses 1b,11.</p> <p>c. See Response 1b.</p> <p>d. See Response 11.</p> <p>e. See Response 1b.</p> <p>f. See Response 1b.</p>
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#	Commenter Name, Format, Date	Comment	Response
		licenses and details about the take to provide if requested. Illegal take would still be illegal, and a self-certified form does not change that.	
30	Letourneau Email 10/15/2021	30. Regulators make regulations until the world is unlivable... No wonder people [leave] California!	30. See Response 1b.
31	Krauel Email 10/15/2021	<p>31a. We will have to fill out this form and submit it for ANY wildlife we bring into this state? So, for example, I go crabbing with my brother who lives in Oregon and bring home a couple Dungeness crab. I have to fill out this form, submit it, etc?</p> <p>b. Can you please explain the purpose of doing this? I can understand efforts to control chronic wasting disease, but even this form would not help to prevent this (since it is submitted after the animal has already entered the state).</p> <p>c. I live on the California/Oregon border and Crappie fish 30 miles from my house in Oregon. It would be a huge inconvenience to do this.</p>	<p>31a. FGC section 2353 and this regulation apply to declaration of imported dead fish and wildlife from out of state. See Response 1b.</p> <p>b. See Response 1b. The regulation regarding Chronic Wasting Disease is CCR, title 14, section 712. See response 3d.</p> <p>c. See Response 1b.</p>
32	Carlton Email 10/15/2021	32. Could you send me a link to the current form 901 to see what the proposed changes do.	32. Link sent 10/28/2021.

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33	Brothers Email 10/15/2021	<p>33a. If I understand DFW 901 correctly it is a method to satisfy the method of reporting the importation of Fish and Wildlife in Chapter 4 Article 1 section 2353 (3). How important can this be if it has taken the CDFW 13 years to finally write the language and build a form to report the importation. All I see is another law to hold law abiding sportsmen accountable for errors in record keeping. People who break laws will never fill out form 901 just like criminals will never follow gun laws. This is just another attack on law abiding citizens. If you legally take fish and wildlife in another state you will have the tags or report cards issued by that state. What good is another layer of regulations.</p> <p>b. If you are concerned about CWD, address that problem specifically and don't just create overreaching laws that make law bidding sportsmen vulnerable to mistakes in paperwork.</p> <p>c. Correct me if I am wrong but in the case of traveling to the Rogue River on a day trip to fish for springers I have to fill out form 901 and email or snail mail it before I cross back into California, which may be sometime in the middle of the night. Ridiculous!</p>	<p>33a. This regulation and updated Declaration Form aim to make the declaration process simpler and easier to understand and enables an online submission option within 24 hours of entry into the state.</p> <p>b. See Response 1b. The regulation concerning Chronic Wasting Disease is CCR, title 14, section 712. See Response 3d.</p> <p>c. See Response 11.</p>
34	Oates Email 11/17/2021	<p>34. I am not in favor of yet another requirement and infringement upon the hunting community in California.</p>	<p>34. See Response 1b.</p>

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35	Hauptman Email 10/15/2021	35a. My question would be about fishing per say out of state like flaming gorge and bring back fish to California? b Does this apply to this Importation status? c. Or do you have some information which better describes what this intel's.	35a. This regulation applies to the declaration of imported dead fish and wildlife from out of state. b. r. This regulation specifically applies to importation; it concerns the declaration of imported dead fish and wildlife from out of state. c. The Public Notice website contains all information available, go to <a href="http://www.wildlife.ca.gov/Notices/Regulations">www.wildlife.ca.gov/ Notices/Regulations</a> .
36	Goss US Assoc. of Reptile Keepers Email 10/15/2021	36a. Does this mean that any animal being imported into California must be reported to CDFW, or will this only apply to actual hunting and fishing take? If someone buys a captive-bred pet corn snake, parrot, tropical fish, hamster, etc. in another state and either has it shipped overnight or drives it back, does he have to report that? b. Essentially, I would like to know how broad this reaches (i.e. into the pet community) or will it only affect hunters and fishermen driving back into California with their take?	36a. This regulation applies to the declaration of imported <b>dead</b> fish and wildlife from out of state, not live animals or pets. b. This regulation applies to the declaration of imported dead fish and wildlife from out of state. See Response 1b.
37	Jones, PIJAC Email 10/15/2021	37. Director of Government Affairs for Pet Industry Joint Advisory Council. Can you confirm that this proposed regulation will not impact businesses dealing in animals for the pet trade and is focused solely on addressing the fishing and hunting public?	37. This regulation applies to the declaration of imported <b>dead</b> fish and wildlife from out of state, not pets or live animals.

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38	Gilbrech Email 10/15/2021	<p>38a. Is this requirement limited to Fish and Game caught in other states and brought into the state? Does this include both dead and alive game?</p> <p>b. Does it apply to fish I purchase (at a market, etc)?</p> <p>c. Does it apply to fish I purchase and have shipped for the purposes of keeping in an aquarium (such as tropical fish or other fish currently noted in the regulations that may be imported for the purposes of a hobby whereby the fish are kept captive in a manner that they cannot unintentionally be released into the wild)?</p>	<p>38a. This regulation applies to the declaration of imported <b>dead</b> fish and wildlife from out of state, not live animals.</p> <p>b. This regulation concerns importation.</p> <p>c. This regulation applies to the declaration of imported <b>dead</b> fish and wildlife from out of state, not live animals or pets.</p>
39	Hirsche Email 10/15/2021	No comment provided	



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40	Fenaroli Email 10/31/2021	<p>a. Request for Public Hearing on Notice of Proposed Rulemaking: Declaration of Importation of Fish and Wildlife Form (DFW 901) October 15, 2021</p> <p>b. I reviewed your proposed Form DFW 901 for declaring hunting take with growing alarm as it presumes criminality of the hunt instead of innocence, and asks the hunter to unknowingly incriminate themselves without warning that the information could be used against themselves. Further the State statute referenced does not give the CDFW enforcement authority.</p> <p>c. I have attached a list of interested parties that you should notify about the hearing date and time.</p>	<p>a. See Response 4b.</p> <p>b. See Response 1b.</p> <p>c. The list provided was sent a Notice of the hearing.</p>
41	Moses Email 11/21/2021	<p>This email is stated as a notice of proposal for the form DFW 901. If you do not want budgetary cuts that effect your individual jobs and accounts then I highly advise you implement the following guidelines to citizens or non-citizens residing in and around wildlife land and rivers as well as people who use, rent and utilizes the territory.</p>	<p>Comment not related to the subject regulation.</p>

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42A	Simmons Written 11/28/21	42a. The new form (revision) referenced above states the form “ <i>shall be completed...prior to entry</i> ” into the state, which is contrary to “ <i>upon entry</i> ” as stated above. Additionally, it contradicts Section 2353(a)(3) listed below that states “ <i>at or immediately</i> ” before entry into the state. Furthermore, the Notice stated that the proposed regulations “ <i>are neither inconsistent nor incompatible with existing State Regulations.</i> ” This is obviously false.	42a. CDFW finds that the most prudent interpretation of FGC section 2353 would require adoption of the declaration form as a regulation, and it is reasonable to interpret “at or immediately before the time of entry” to mean “prior to or at the time (within 24 hours) of entry” to accommodate practical travel considerations. The proposed regulation provides flexible interpretation of “upon” or “at” entry, allowing submission within 24 hours of entry, both are more flexible and longer submission times than instructions on previous iterations of the declaration form.
42A	Simmons Written 11/28/21	42b. FGC section 2353 does not require a declaration form or revision to a declaration form to be in regulation so why is this revision being promulgated via a new regulation.	42b. FGC section 2353 requires that “a declaration is submitted to CDFW or a designated state or federal agency at or immediately before the time of entry, in the form and manner prescribed by the department.” CDFW agrees that this provision does not explicitly direct CDFW to adopt a regulation, but CDFW has determined that the most prudent interpretation of the code and best way to prescribe the “form and manner” of the declaration is to incorporate the declaration into a regulation via an (updated) form for the public to use.
42A	Simmons Written 11/28/21	42c. Why has the form not been in regulation for the past 13/28 years?	42c. It recently came to the attention of CDFW that this course of action is the most prudent.

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42A	Simmons Written 11/28/21	42d. California residents who enter the state with any fish or game legally taken in another state may be cited for not having the form filled out “prior to entry.” Residents of other states could be cited too.	42d. By incorporating the declaration form into a regulation, and by adopting the proposed regulation, CDFW expects to increase public awareness about the updated form and the requirement to declare importation of fish and wildlife.
42A	Simmons Written 11/28/21	42e. People won’t know about the new regulation; not every hunter knows all the regulations, and usually just for the state that they are hunting in. Many other states don’t have similar regulations.	42e. FGC requires importations to be declared, and for CDFW to prescribe the form and manner of the declaration. See also responses 42b and 42d.
42A	Simmons Written 11/28/21	42f. The new regulation does not state how it will be enforced.	42f. CDFW expects rates of voluntary compliance to be high, however, this regulation is enforceable by peace officers in the same manner as any other regulation implementing the FGC.
42A	Simmons Written 11/28/21	42g. Commenter alleges that this proposed regulation could generate revenue by citations due to half a million hunting and fishing licensees who do not receive emails about needing to complete the form prior to entry.	42g. Licensees can elect to receive notifications by email. As stated in the Amended ISOR, the notice of the proposed regulation to update the form DFW 901 for streamlined electronic submission was sent to all hunters (900,000) with email addresses on file. See Response 42d.
42A	Simmons Written 11/28/21	42h. Commenter alleges similarity of proposed Section 712.5 to Section 712, Title 14, CCR. Many other states don’t have similar regulations. Law abiding citizens, unknowingly violating the form law without <u>intent</u> , should not be cited.	42h. This regulation concerns declaration of imported dead fish and wildlife. A separate regulation, CCR, title 14, section 712 concerns Chronic Wasting Disease. Violations of the Fish and Game Code and its implementing regulations are generally considered to be strict liability offenses, and they do not include an intent component. It would be inconsistent and unnecessary to include an intent component in the proposed regulation.

**Appendix A. Specific Responses to Comments, 45-Day Comment Period, Section 712.5, Title 14 (Declaration of Importation)**

#	Commenter Name, Format, Date	Comment	Response
42A	Simmons Written 11/28/21	42 i-j. Enforcement of new regulation should include written or verbal warnings and will there be a grace period.	42 i-j. CDFW appreciates public input on how it might implement the new regulation, but this subject is beyond the scope of the rulemaking.
42A	Simmons Written 11/28/21	42k-l. Both CA and NV have no documented cases of Chronic Wasting Disease (CWD), so why need this form when it would be easy to mislead based on hunting location.	42k-l. This regulation concerns the declaration of imported dead fish and wildlife. There is a separate regulation regarding Chronic Wasting Disease, CCR, title 14, section 712. See response 3d.
42A	Simmons Written 11/28/21	42m. The revised form is not as convenient as the previous versions. It is not convenient to need to submit the form within 24 hours of entering the state or needing to fill out multiple versions.	42m. This regulation enables online submission of the updated Declaration Form and enables submission within 24 hours of entry, both are more flexible and longer submission times than instructions on previous iterations of the declaration form. This regulation also includes clearer instructions on the updated Declaration Form. See response 11.

**Appendix A. Specific Responses to Comments, 45-Day Comment Period, Section 712.5, Title 14 (Declaration of Importation)**

#	Commenter Name, Format, Date	Comment	Response
42A	Simmons Written 11/28/21	<p>42o. Recommendations</p> <p>1) Explain why it is now necessary to implement the requirements of Section 2353(a)(3), whereas the effective date was 13 years earlier on January 1, 2008. Did CDFW fail to comply for over 13 years for this alleged (necessary/as directed) requirement?</p> <p>2) Eliminate proposed Section 712.5.</p> <p>3) Eliminate “prior to entry” of the proposed form.</p> <p>4) Disclose in the chronic wasting disease section of the proposed form that violations of Section 712 will result in a criminal misdemeanor citation and arraignment in Superior Court.</p>	<p>42o.</p> <p>1) See response 42b.</p> <p>2) CDFW has concluded that the best way to prescribe the form and manner of the declaration is by adoption of the proposed regulation. See response 42b. 3) FGC section 2353 states “at or immediately before the time of entry.” This regulation incorporates the requirements of the guiding statute and also provides for additional flexibility by allowing submission within 24 hours of entry.</p> <p>4) Although there are some exceptions, FGC section 12000 generally provides that violations of regulations implementing the Fish and Game Code are punishable as misdemeanors. It would be unnecessary and duplicative for every regulation to provide how it may be enforced on the proposed regulation during the first public comment period.</p>

Appendix A. Specific Responses to Comments, 45-Day Comment Period, Section 712.5, Title 14 (Declaration of Importation)

#	Commenter Name, Format, Date	Comment	Response
42		<p>42o cont.</p> <p>5) Rewrite the proposed action information, eliminating any false and misleading statements, including unrealistic favorable statements and expectations regarding the benefits to the California public.</p> <p>6) Disclose how violations will be enforced, including any grace period.</p> <p>7) Following any changes to the proposed action, hold a public hearing that is actually open to the public and not just those who requested it.</p> <p>8) Place announcements in local newspapers regarding the proposed action and public hearing, such as the Sac Bee.</p>	<p>5) CDFW appreciates public input on how it might improve this regulation, however it believes this regulation to be beneficial to the public and does not believe this regulation to contain false or misleading statements.</p> <p>6) See response 42i-j</p> <p>7) Pursuant to Government Code section 11346.8, upon request from a member of the public, CDFW held a public hearing, open to the public on February 11, 2022.</p> <p>8) CDFW provided notice of the hearing on its webpage under the Notices/Rulemakings section, notified parties included on CDFW's rulemaking notification list, and notified parties that had provided comments</p>
42B	<p>Simmons Written 11/22/21</p>	<p>42B a. The new form (revision) referenced above states the form "<i>shall be completed...prior to entry</i>" into the state, which is contrary to "<i>upon entry</i>" as stated above. Additionally, it contradicts Section 2353(a)(3) listed below that states "<i>at or immediately</i>" before entry into the state.</p> <p>b. It is not convenient to need to submit the form within 24 hours of entering the state or needing to fill out multiple versions.</p>	<p>42B a. See Response 42A-a.</p> <p>42B b. See Response 42m.</p>

**STATE OF CALIFORNIA  
DEPARTMENT OF FISH AND WILDLIFE  
TRANSCRIPT SUMMARY OF THE PUBLIC HEARING**

**Subject:** Add Section 712.5, Title 14, California Code of Regulations, Declaration of Importation of Dead Fish and Wildlife

Date: February 11, 2022

Time: 1:30 p.m. – 3:30 p.m.

Format: Virtual Hearing via Zoom (link and access information posted to: <https://wildlife.ca.gov/Notices/Regulations/Import>)

**CDFW staff attending:** Chris Stoots, Assistant Chief, Law Enforcement Division; Nathan Goedde, Assistant Chief Counsel; Lauren Goodmiller, Attorney; Ona Alminas, Regulations Unit Manager; Mike Randall, Regulations Unit Analyst; Rose Dodgen, Regulations Unit Analyst.

**Members of the public attending:** Steven Simmons

**Presentation on the proposed regulations**

Chris Stoots, Assistant Chief, Law Enforcement Division: Hello, welcome, I'm Chris Stoots, Law Enforcement Division Assistant Chief. I'll be providing a presentation for today's meeting. This is a public hearing on the proposed adoption of California Code of Regulation Title 14 Section 712.5. And I'll give a couple more minutes in case anybody's running a little bit late, thank you for being here.

I'm going to shut off my camera for the sake of not being a distraction or a confusion and I'll start my presentation.

So again, my name is Chris Stoots, Law Enforcement Division Assistant Chief and I'll be providing a presentation today on public hearing on the proposed adoption of California Code of Regulations Title 14 Section 712.5. Today is February 11th and it's a little after 1:30. Thank you for coming today and we'll begin.

So the purpose of today's hearing is to receive public comments on the proposed regulation. The Department's response to all written and verbal public comments will be included in the Final Statement of Reasons, also known as the FSOR. We ask that you keep your phone or computer muted until is your turn to speak, respect others, and try to be concise with your comments so we have time for everyone to provide comments. This hearing is being recorded for transcript and to capture the comments. In addition, because this is a virtual meeting, you will need to use the raise hand feature to make us aware that you're interested in speaking, at which point a host will call upon you and either give you directions or unmute your mic.

**Background on this process:** Fish and Game Code Section 2353 is a long standing State law concerning dead fish and wildlife, providing that birds, mammals, fish, reptiles, or amphibians shall not be imported or possessed in the State unless a declaration is submitted to the Department or a designated state or federal agency at or immediately before the time of entry, in the form and manner prescribed by the Department. For decades, the Department, CDFW, has provided a declaration form on its website to comply with Fish and Game Code Section 2353. The current declaration form on CDFW's website requires multiple copies to be filled out by hand and the current declaration form looks

as follows. The purpose of this proposed regulation is to provide the public with an updated declaration form that is easier to use.

Background on the process: draft regulatory documents and an Initial Statement of Reasons, ISOR, at the 45 day public comment period was previously issued October 15 with the 45 days of it ending November 29 2021. Due to amendments to the ISOR in response to public comments received, a 15 day additional public comment period January 27 to today's date February 11 was created.

Further background purpose of this rulemaking was to create and also so that not only the ease of reporting like we had earlier mentioned but to also create an online submission option. Current form, as earlier mentioned, required a hand filing of multiple hard copies, which also required the printing of multiple copies of one form because it was not a triplicate type item. The purpose of this proposed regulation is to also provide that submission can occur within the first 24 hours of entry to accommodate practical travel considerations, to put an updated declaration form into Regulation, to promote consistent compliance with Fish and Game Code 2353. It was not the purpose of this regulation to create a new requirement but only to make a declaration form submission process easier.

The proposed new section 712.5 in Title 14, California Code of Regulations looks and reads as follows.

*It shall be unlawful to import any dead birds, mammals, fish, reptiles, or amphibians into this state or to possess any imported dead birds, mammals, fish, reptiles, or amphibians within the state, unless the dead birds, mammals, fish, reptiles, or amphibians are accompanied by a completed Department of Fish and Wildlife Declaration of Importation of Dead Fish or Wildlife Form DFW 901 (New 01/01/2022), incorporated by reference herein, and a copy of the declaration is submitted to the department by mail or online prior to the time (within 24 hours) of entry, as described on the form.*

This section does not apply to dead birds, mammals, fish, reptiles, or amphibians imported into the state in a shipment handled by a common carrier under a bill of lading.

The updated declaration form, DFW 901, looks like this (PowerPoint slide). The instruction boxes at the top, links to filing online, and additional information provided on the form. The gist of the form and the various boxes in categories are consistent with the old form but are in a cleaner, easier to follow, and easier to use format.

As an example, we've provided what a completed form would look like. In this example Mike Smith from Hanford, California is declaring the importation of a pronghorn antelope buck from Humboldt County, Nevada and he's indicated that the carcass or part types that he's importing includes by the codes at the bottom meat cuts and hide.

This is a rulemaking timeline. Initial documents, the ISOR, 45 day comment period so October through November 2021, the amended ISOR 15 day comment period it's January, February 2022, final documents, FSOR, anticipated for spring 2022, publication anticipated spring of 2022, and effective date and updated declaration form to be online anticipated for summer of 2022.

Thank you for listening, we will now receive public comments. Again, if you're interested in making a public comment, please use the raise hand feature. The purpose of this hearing, one more time, is to receive public comments. We will incorporate your questions as part of the public comments received. Yeah, we will begin taking public comments.

Oh, and if anybody's joining us by phone, I believe that you press star six to use the raise hand feature.

## **Public Comment**

Alright, I see Steve Simmons has a hand raised. I will call on Steve Simmons now.



Steve Simmons: Can you hear me Chris?

Chris Stoots: Yes.

#### **44. PUBLIC COMMENTS GIVEN AT HEARING 2/11/2022**

Note: Mr. Simmons' verbal comments are numbered [43-44 a, b, etc.] when coinciding with the letter (Comment 43) submitted February 9, 2022.

Steve Simmons: Okay, thank you, I just tried to dial in. I have numerous questions. First of all, 43-44 j. how was, [when you guys write a citation is it going to be 712.5, or is it going to be 2353(a)(3)?]

Nathan Goedde: Mr. Simmons this is Nathan Goedde, attorney with OGC. This is the time for public comments. This is your opportunity to ask us questions, but this is not an opportunity for a dialogue.

Steve Simmons: I just, I just asked you a question regarding the enforcement, if it will be 712.5 or 2353(a)(3).

Nathan Goedde: Exactly, you asked us to question, but this is actually your time to comment on the proposed regulation. We're not doing a q and a.

43-44 k. Steve Simmons: Oh-kay. Alright, well, my comments regarding this. [ I was concerned about your initial proposed comments, where the form stated, "prior to entry". I was concerned, and this is one of the reasons I requested, you know, a public hearing, because it was contrary to 2353] so that was something that I put in my, my comments.

43-44 a. [The other concern that I have is that in your updated ISOR you guys stated [Fish and Game Code Section 2353 does not explicitly require you to adopt, the Department to adopt a new regulation, and that was my comments earlier is that 2353(a)(3) does not dictate a new regulation, nowhere do I see that, so it appears that it has been corrected. But then in your proposed regulation, and then, when you, contrary to stating that it does not require the Department to adopt a regulation, you guys go on to say the proposed regulation is necessary to implement the requirements of Section 2353 so that was very concerning.] You know, on one hand you're saying it's not necessary and on the other one you're saying it is, and then you further say in the ISOR that it is necessary, oh I've lost my place, to implement the requirements of Section 2353, so I'm a little confused.

Still with me?

Chris Stoots: Still here yeah, thank you for your comments. We'll incorporate them and we'll make notes of your comments.

Steve Simmons: Okay, that was that was a concern me because, on one hand, and that was why when this first came out, you know, I was really concerned, you know I'm reviewing this, this information and it's saying it's necessary, it's as directed, and I'm looking at, you know, 2353(a), and it's like, it doesn't say that. It does, you know, allow you guys pick whatever, you know, update your forms and all that, so 43-44 a. this is what I've, I've struggled with. [ I like that you did change the form, you know and did "upon entry", but you know what I had a hard time with was when it was initially drafted, why the form would say "prior to entry" ]. I mean I just, you know, I just don't understand how drafting that, that new form that someone would say we contradict so I was concerned, I, for me personally, I felt a lot of this was just horribly written.

Okay, I had a question and it's something to comment on further, seems that you're not doing Q and A, 43-44 e. [is that whether now that you're incorporating a new form is every time you change form are you going to be submitting another one of these for a new regulation? ]

And then I did, you know, I do have concerns about citations. You know, I would love for you guys to  
43-44 i. [address whether this is going to be an infraction or whether this is going to be a criminal offense].  
And what got me going on this thing is because I received a citation for 712 in 2019 and it was very  
unsettling to me because the last time I had taken a deer was in 20 years previously. So, it's  
concerning to me that, you know, that there's like a half a million people that don't even get your guys  
emails, and if they cross over, you know, whether you guys are going to be heavy handed on this and  
you're going to end up being arraigned in criminal court like I was and paying \$3,000 attorney fees, you  
know, whether that is just going to be an infraction. So I don't know if they're going to be heavy handed,  
if they're going to, what level this is going to rise to. There's no comment if there's going to be any kind  
of grace period, you know, for, for this regulation.

44/. And the other concerns I had is, [how is this going to be enforced?] I mean I've been way through the  
Truckee check station, you know, late at, late at night, I mean, how would you guys possibly know, you  
know, whether I was bringing in trout from, from Nevada or not, so I was concerned about that.

Also, one of my friends is an outfitter, he hunts out, he guides out in Nevada. You know my concern is  
That when you guys go review the books, you can start looking at these successful hunters and then  
43-44 h. compare to people that have submitted online. [And then, it opens the door for taxidermists. Are  
you guys going to be, I know you routinely visit taxidermists. Is that going to be where you guys, you  
know, review their records and, you know, when someone brings it in are you going to cross  
references, cross reference it, to the people that have submitted online?] So I just think those are things  
that should be, you know, addressed in the future.  
Yeah I'm sorry, I had a list of things that I wanted to ask.

43-44 c. I'm a little confused, [in your initial 712.5 proposed language you guys reference the authority  
cited as section 2353, and then in the amended proposed regulatory section, or language, you guys  
reference section 80 and 2353. So I was a little confused about why that was included in there and not  
in prior, and when I read it, it just talks about the whole animal applies the part of the animal, so I don't  
know how that possibly supports a new regulation.]

So, anyway, I would love to have gotten some feedback from you from you guys on these areas. So,  
anyway, that's all I can think of as far as comments.

Chris Stoots: Thank you again for your, for your comments.

Steve Simmons: Thanks Chris.

Chris Stoots: Hey Steve, if you don't mind I'm going to mute you and lower your hand for now. We'll be  
here if you want additional time.

Steve Simmons: Additional. Okay. Am I the only commenter?

Chris Stoots: If you're trying to get back in or need anything just use the same process for the hand  
raising.

Steve Simmons: No, I'm good.

[No further public comments were received during the remaining time.]

Chris Stoots: Okay it's 3:30. That concludes the public comment portion of today's public hearing.  
Thank you for listening. Thank you for participating, additional details can be found at the  
wildlife.ca.gov/notices/regulations/importation. Please submit all written comments by the end of today  
at 11:59 pm to the regulations@wildlife.ca.gov. Thank you again.

**Appendix C. Specific Responses to Comments, 15-day Comment Period and Public Hearing 2/11/2022**

Responses to unique Comments received during the 15-day continuation period January 27 – February 11, 2022

- Each individual comment letter is labeled as “#” Subjects unrelated to the specifics of the regulation are not included.
- Comments may be paraphrased for succinctness.

#	Commenter Name, Format, Date	Comment	Response
43	Simmons Written 2/9/22	43-44a. Section 2353 allows for a type of form as prescribed by CDFW, but doesn't direct CDFW to create a new section 712.5 in Title 14. This seems to contradict the Informative Digest, which states that this is necessary to implement FGC 2353, but commenter alleges that it is not necessary to implement another revision of form 901. Other sections of the regulatory documents appear to conflict with one another.	43-44a. See response to comment 42b in Appendix A.
44	Verbal 2/11/22	<i>Note: Those verbal comments made at the Public Hearing, 2-11-2022, (transcript 44), that are similar to the written comment (43), are joined together with the same numbering 43-44 a, b, etc.</i>	
43	Simmons Written 2/9/22	43b. How has prior forms not been compliant with Section 2353 nearly 28 years ago?	43b. See response to comment 42c in Appendix A.
43	Simmons Written 2/9/22	43-44c. Why is FGC section 80 cited as an authority?	43-44c. FGC section 80 provides that a provision related to a “whole animal also applies to a part of the animal” and such is relevant to the subject of this regulation that concerns importation of fish and wildlife and fish wildlife parts. FGC section 80 is included as a reference citation, not an authority citation. Reference citations include FGC sections that are relevant to the subject of the regulation, whereas authority citations include FGC sections that provide authority for promulgating the regulation.
43	Simmons Written 2/9/22	43d. Why does FGC Section 2353 need further explanation, no where in this section does it state the formalization of the declaration process is necessary, but does state “in the form and manner prescribed by	43a. See response to comment 42b in Appendix A.

**Appendix C. Specific Responses to Comments, 15-day Comment Period and Public Hearing 2/11/2022**

#	Commenter Name, Format, Date	Comment	Response
		the department, and NOT the creation of a new regulation.	
43  44	Simmons Written 2/9/22  Verbal 2/11/22	43-44e. Will there be a new regulation every time the declaration form is revised in the future?	43-44e. Yes.
43	Simmons Written 2/9/22	43f. Multiple versions of form 901 have existed but CDFW has now concluded it would be “most prudent” to incorporate it into the regulations after all these years – and appears to be enforcement motivated to “assist the public with fully complying with that statute.”	43f. Yes, see also response to comment 42b in Appendix A.
43	Simmons Written 2/9/22	43g. Does CDFW really believe “it is also a beneficial tool for the public to keep records of their lawful importations of fish and wildlife.”	43g. Yes.
43  44	Simmons Written 2/9/22  Verbal 2/11/22	43-44h. Will wildlife officers be visiting taxidermist and cross referencing if their items have a related declaration form submitted.	43-44h. The requirement under FGC section 2353 to declare fish and wildlife imported to the state is a requirement upon the importer. See response 12, Appendix A.
43  44	Simmons Written 2/9/22  Verbal 2/11/22	43-44i. Will citations be infractions or a criminal misdemeanor offense.	43-44i. Misdemeanors. Although there are some exceptions, FGC section 12000 generally provides that violations of regulations implementing the Fish and Game Code are punishable as misdemeanors. See response #8, Appendix A.

**Appendix C. Specific Responses to Comments, 15-day Comment Period and Public Hearing 2/11/2022**

#	Commenter Name, Format, Date	Comment	Response
43  44	Simmons Witten 2/9/22  Verbal 2/11/22	43-44j. Will the citations list a violation of FGC section 2353(a)(3), T14 section 712.5, or both?	43-44j. Both options are generally viable, but the decision of whether to file a criminal case and what charges to file are made by the prosecutor. See response #8.
43  44	Simmons Witten 2/9/22  Verbal 2/11/22	43-44k. Why did the previous draft say the form needs to be submitted 'prior to entry' when FGC section 2353 says 'upon entry'?	43-44k. FGC section 2353 states "at or immediately before the time of entry." The first draft of the updated declaration form in the initial public comment period stated: within 24 hours of importation. The second draft of the updated declaration form in the second public comment period stated: prior to or upon entry (within 24 hours). CDFW developed the most recent version of the text to comply with the requirements of FGC section 2353 and to also accommodate practical travel considerations for the public traveling into California by enabling submission up to 24 hours to after entry.
44	Verbal 2/15/22	44 <i>l</i> . How is this going to be enforced?	44 <i>l</i> . See response 42f, Appendix A.