

California Fish and Game Commission Meeting Binder



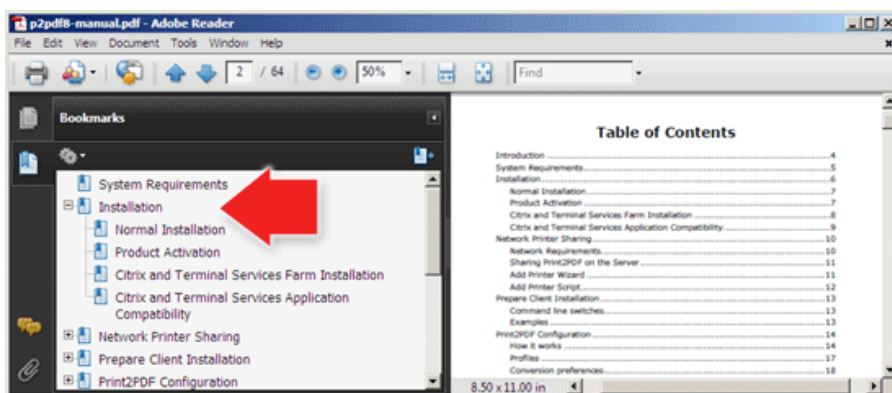
October 12-13, 2022
Kings Beach


EASY GUIDE TO USING THE BINDER

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



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



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

OVERVIEW OF CALIFORNIA FISH AND GAME COMMISSION TELECONFERENCE MEETING

- Welcome to a meeting of the California Fish and Game Commission. This is the 153rd year of operation for the Commission, in partnership with the California Department of Fish and Wildlife. Both organizations originated from the Board of Fish Commissioners and we collectively celebrated our 150th anniversary three years ago.
- The Commission's goals include preserving our wildlife heritage and conserving our natural resources through informed decision making. These meetings are vital in achieving those goals and, in that spirit, we provide the following information to be as effective and efficient toward that end.
- We are operating under the Bagley-Keene Open Meeting Act and these proceedings are being recorded and broadcast.
- In the unlikely event of an emergency, please note the location of the nearest emergency exits at your location.
- Items may be heard in any order pursuant to the determination of the presiding commissioner.
- The amount of time for each agenda item may be adjusted based on time available and the number of speakers.
- We will ask how many speakers we have before taking public comment; please be prepared and listen closely for your name or phone number to be called.
- When you speak, please state your name and any affiliation. Please be respectful and note that disruptions will not be tolerated. Time is precious so please be concise.
- To receive meeting agendas and regulatory notices about those subjects of interest to you, please visit the Commission's website, www.fgc.ca.gov, and sign up for our electronic mailing lists.
- If you want the Commission to consider a regulation change, note that all petitions for regulation change must be submitted in writing on the authorized form, FGC 1, Petition to the California Fish and Game Commission for Regulation Change, available on the Commission's website or directly from staff.
- For members of the public, if you have access to the Internet and are not planning to make public comment, you may listen to the meeting via our regular webcast by visiting the commission website at www.fgc.ca.gov (link is on right side). We ask that only those who plan to make public comment or who do not have Internet access to listen the meeting, participate by phone.
- **Reminder!** Please silence your mobile devices and computers to avoid interruptions.

INTRODUCTIONS FOR FISH AND GAME COMMISSION MEETINGS

Fish and Game Commission

Samantha Murray	President (La Jolla)
Erika Zavaleta	Vice President (Santa Cruz)
Jacque Hostler-Carmesin	Member (McKinleyville)
Eric Sklar	Member (Saint Helena)
Anthony Williams	Member (Huntington Beach)

Commission Staff

Melissa Miller-Henson	Executive Director
Rachel Ballanti	Deputy Executive Director
Mike Yaun	Legal Counsel
Susan Ashcraft	Marine Advisor
Ari Cornman	Wildlife Advisor
Chuck Striplen	Tribal Advisor and Liaison
Sherrie Fonbuena	Associate Analyst
Cynthia McKeith	Staff Services Analyst

California Department of Fish and Wildlife Staff

Chuck Bonham	Director
Wendy Bogdan	General Counsel
Chad Dibble	Deputy Director, Wildlife and Fisheries Division
David Bess	Deputy Director and Chief, Law Enforcement Division
Josh Grover	Deputy Director, Ecosystem Conservation (Acting)
Jordan Traverso	Deputy Director, Office of Communication, Education and Outreach
Scott Gardner	Chief, Wildlife Branch
Jay Rowan	Chief, Fisheries Branch
Craig Shuman	Regional Manager, Marine Region

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

Commissioners
Samantha Murray, President
La Jolla
Erika Zavaleta, Vice President
Santa Cruz
Jacque Hostler-Carmesin, Member
McKinleyville
Eric Sklar, Member
Saint Helena
Vacant, Member

STATE OF CALIFORNIA
Gavin Newsom, Governor

Melissa Miller-Henson
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www.fgc.ca.gov

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

REVISED* MEETING AGENDA **October 12-13, 2022**

Participate in Person

**North Tahoe Event Center
8318 North Lake Boulevard
Kings Beach, CA 96142**

Participate via Webinar/Teleconference

The meeting will be live streamed; visit <http://www.fgc.ca.gov> the day of the meeting to watch or listen. To provide public comment during the meeting, please join at an in-person location, via Zoom, or by telephone; [click here](#) for instructions on how to join.

Pursuant to California Government Code Section 11133, the California Fish and Game Commission is conducting this meeting by webinar/teleconference in addition to the in-person location. Commission members may participate remotely. The public may provide public comment during the public comment periods and otherwise observe remotely, consistent with the Bagley-Keene Open Meeting Act.

*** This agenda is revised to add item 23.**

Note: See important meeting deadlines and procedures, including written public comment deadlines, starting on page 9. Unless otherwise indicated, the California Department of Fish and Wildlife is identified as Department.

Invitation: The Commission invites members of the public to join commissioners and staff for a field trip currently under development that will take place the afternoon of Wednesday, October 12. Details will be made available in advance of the Commission meeting. Members of the public are welcome to join but must provide their own transportation.

Day 1 – October 12, 2022, 9:00 AM

CALL TO ORDER/ROLL CALL TO ESTABLISH QUORUM

- 1. Consider approving agenda and order of items**

DISCUSSION AND ACTION ITEMS

2. **Western Joshua tree**

Consider the petition, the Department's status review report, and comments received to determine whether listing western Joshua tree (*Yucca brevifolia*) as threatened under CESA is warranted.

(Pursuant to sections 2075 and 2075.5, Fish and Game Code)

Note: Pursuant to Fish and Game Code Section 2075.5, the Commission, at its June 15-16, 2022 meeting, took public comment, closed the public hearing and administrative record for this item, and subsequently reopened the record for the limited issue of seeking further input from tribal nations. The Commission is not expected to take any further comment other than from tribal governments.

Note: Findings will be adopted at a future meeting.

3. **Clear Lake hitch**

Discuss ongoing conservation actions, current status, and tribal engagement to address Clear Lake hitch conservation efforts.

4. **30x30 Initiative**

Update on the California Natural Resources Agency's 30x30 initiative to conserve 30 percent of California's lands and coastal waters by the year 2030.

CONSENT ITEMS

Note: Items on the consent calendar are expected to be routine and non-controversial. After public comment, the Commission will consider approving items on the consent calendar in a single vote without discussion. The presiding commissioner may choose to remove any item from the consent calendar and allow a separate discussion and potential action on that item in response to a request by a Commission member, staff, or an interested person.

5. **Pacific leatherback sea turtle**

Consider ratifying findings for the decision to list Pacific leatherback sea turtle (*Dermochelys coriacea*) as endangered under the California Endangered Species Act (CESA).

(Pursuant to Section 2075.5, Fish and Game Code)

6. **Pink (ocean) shrimp fishery management plan implementing regulations**

Consider approving sufficiently-related changes to the regulations adopted by the Commission on June 15, 2022 for prawn or shrimp commercial trawling regulations that implement the *Pink (Ocean) Shrimp, Pandalus jordani, Fishery Management Plan*.

(Add sections 56.00 and 56.01 and amend sections 120, 120.1 and 705, Title 14, CCR)

7. **Wild trout waters**

Receive Department recommendation and consider adopting proposed amendments to the Commission Designated Wild Trout Waters Policy.

(Pursuant to Section 1727, Fish and Game Code)

8. **Southern California steelhead**

Consider approving the Department's request for a six-month extension to deliver the one-year status review report on the petition to list southern California steelhead

(*Oncorhynchus mykiss*) as endangered under CESA.

(Pursuant to Section 2074.6, Fish and Game Code)

9. Shasta snow-wreath

Consider ratifying findings for the decision to list Shasta snow-wreath (*Neviusia cliftonii*) as endangered under CESA.

(Pursuant to Section 2075.5, Fish and Game Code)

Staff will recommend this item be continued to a future meeting.

10. Conditional take of southern California steelhead

Consider adopting a 90-day extension of emergency regulations to allow take of southern California steelhead (*Oncorhynchus mykiss*) under certain circumstances.

(Pursuant to sections 399 and 2084, Fish and Game Code)

GENERAL PUBLIC COMMENT

11. General public comment for items not on the agenda

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

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

Day 2 – October 13, 2022, 8:30 AM

GENERAL PUBLIC COMMENT

12. General public comment for items not on the agenda

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

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

DISCUSSION AND ACTION ITEMS

13. Commission executive director and Department reports

Receive updates on items of note since the previous Commission meeting.

(A) Commission executive director's report

I. Justice, equity, diversity and inclusion plan

II. Resolution recognizing National Disability Employment Awareness Month

(B) Department director and Law Enforcement Division

14. Electronic display of licenses via mobile application

Consider authorizing publication of notice of intent to amend regulations to implement Assembly Bill 817 (Chapter 607, Statutes of 2021) to enable the Department to accept electronic display of licenses on a Department mobile application.

(Amend Section 700.4, Title 14, CCR)

15. Experimental fishing permit (EFP) application

Receive, consider, and potentially act on an application submitted by Johnathan Hillstrand, the Department's recommendations, and comments received for an EFP to test the feasibility of capturing king crab and other deepwater crab species using crab pots (traps).

(Pursuant to Section 91, Title 14, CCR)

16. Recreational hoop net regulations

Discuss and consider adopting emergency regulations to amend and clarify hoop net regulations in order to minimize entanglement risk of federally-protected species and to expand the current identification requirement in effect south of Pt. Arguello, Santa Barbara County, to apply statewide.

(Amend subsection 29.80(b), Title 14, CCR)

17. Recreational fishing regulations for federal groundfish and associated species

Discuss proposed changes to (a) recreational regulations for federal groundfish for consistency with federal rules in 2023 and 2024, and (b) recreational seasons, bag and depth limits for associated species.

(Amend sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, and 28.90, Title 14, CCR)

18. Commercial kelp and other aquatic plants

Consider approving sufficiently-related changes to the regulations adopted by the Commission on February 16, 2022 for commercial harvest of kelp and other aquatic plants.

(Amend sections 165 and 165.5 and add Section 705.1, Title 14, CCR)

19. Regulation change petitions

(A) *New petition*

Receive new petitions for regulation change.

(Pursuant to Section 662, Title 14, CCR)

Consideration of whether to grant, deny, or refer petitions for additional review is expected to be scheduled for the December 14-15, 2022 meeting.

(B) *Previously received petitions*

Consider whether to grant, deny, or refer for additional review, petitions for regulation change received at previous meetings. Petitions granted today will be added to the Commission's rulemaking calendar for development and future consideration.

(Pursuant to Section 662, Title 14, CCR)

I. *Petition 2021-018*: Request to establish a DFW-implemented permit system to allow the take of barred owls for management purposes.

II. *Petition 2022-06*: Request to rename the currently-designated Casino Point State Marine Conservation Area (SMCA) to the Dr. Bill Bushing SMCA at Casino Point.

III. *Petition 2022-10*: Request to authorize air guns as a method of take for deer.

IV. *Petition 2022-11*: Request to modify recreational Dungeness crab regulations related to fishery start times, crab trap stamps, and best practices for trap buoy rigging.

- V. *Petition 2022-12: Request to establish a slot limit for recreational take of striped bass in marine waters.*
- VI. *Petition 2022-13: Request to modify methods of take and bag and possession limits for trout at Willow Creek, upstream from the confluence of West Fork of Carson River (Alpine Co.).*

20. Non-regulatory requests from previous meetings

Consider and potentially act on requests for non-regulatory action received from members of the public at previous meetings.

21. Committee and Department reports

Receive updates on items of note since the previous Commission meeting from Commission committees and Department divisions.

(A) ***Marine Resources Committee***

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on November 17, 2022.

(B) ***Department Marine Region***

(C) ***Tribal Committee***

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting on December 13, 2022.

(D) ***Wildlife Resources Committee***

Receive summary and consider approving recommendations from the September 15, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

(E) ***Department Wildlife and Fisheries Division, and Department Ecosystem Conservation Division***

22. Commission administrative items

(A) ***Legislation and other agency regulations***

(B) ***Rulemaking timetable updates***

(C) ***Discuss and consider adopting changes to 2023 meeting dates and locations***

(D) ***Future meeting agenda items***

23. Items of interest from previous meetings

These items are generally updates on agenda topics recently heard before the Commission.

(A) ***Wild Pig in California Forum held September 22, 2022***

Adjourn

EXECUTIVE SESSION

(Not Open to Public)

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

- (A) Pending litigation to which the Commission is a Party
 - I. Almond Alliance of California et al. v. California Fish and Game Commission and California Department of Fish and Wildlife (bumble bees California Endangered Species Act determination)
 - II. The Ballona Wetlands Land Trust v. California Fish and Game Commission (Ballona Wetlands Ecological Reserve petition for regulation change)
 - III. Fall River Conservancy and California Trout v. California Fish and Game Commission and California Department of Fish and Wildlife (California Environmental Quality Act determination regarding amendments to inland trout regulations)
 - IV. United Water Conservation District v. California Fish and Game Commission (southern California steelhead “may be warranted” determination under the California Endangered Species Act and regulation authorizing limited take under Fish and Game Code Section 2084)
- (B) Possible litigation involving the Commission
- (C) Staffing
- (D) Deliberation and action on license and permit items

California Fish and Game Commission Meeting Schedule

Note: As meeting dates and locations can change, please visit www.fgc.ca.gov for the most current list of meeting dates and locations. All Commission meetings will include a webinar/teleconference option for attendance and every effort will be made to ensure that committee meetings include the same.

Meeting Date	Commission Meeting	Committee Meeting
November 1	Teleconference	
November 17		Marine Resources Handlery Hotel San Diego (Pending) 950 Hotel Circle North San Diego, CA 92108
December 13		Tribal San Diego area
December 14-15	Handlery Hotel San Diego (Pending) 950 Hotel Circle North San Diego, CA 92108	
January 12		Wildlife Resources Los Angeles area
February 8-9	Sacramento	
March 16		Marine Resources Monterey/Santa Cruz area
April 18		Tribal Fresno or Bakersfield area
April 19-20	Fresno or Bakersfield area	
May 17	Teleconference	
May 17		Wildlife Resources
June 14-15	TBD	
July 20		Marine Resources Sonoma/SF Bay area
August 15		Tribal Smith River area/north coast
August 16-17	Smith River area/north coast	
September 21		Wildlife Resources Chico area

Meeting Date	Commission Meeting	Committee Meeting
October 11-12	San Jose area	
November 16		Marine Resources San Diego area
December 12		Tribal San Diego area
December 13-14	San Diego area	

Other Meetings of Interest

Association of Fish and Wildlife Agencies

- September 23-27; 2023 – Calgary, Alberta, Canada

Pacific Fishery Management Council

- November 2-8, 2022 – Orange County, CA
- March 2023 – Seattle, WA
- April 2023 – Foster City, CA
- June 2023 – Vancouver, WA
- September 2023 – Spokane, WA
- November 2023 – Garden Grove, CA

Pacific Flyway Council

- February 2023 – Location TBD
- August 2023 – Location TBD

Western Association of Fish and Wildlife Agencies

- Jan 4-10, 2023 – Santa Ana Pueblo, NM
- July 9-14, 2023 – Santa Fe, NM

Wildlife Conservation Board

- November 17, 2022 – Sacramento, CA
- February 2023 – Sacramento, CA
- May 2023 – Sacramento, CA
- August 2023 – Sacramento, CA
- November 2023 – Sacramento, CA

Important Commission Meeting Procedures Information

Welcome to a Meeting of the California Fish and Game Commission

This year marks the 153rd year of operation of the Commission in partnership with the California Department of Fish and Wildlife. Our goal is the preservation of our heritage and conservation of our natural resources through informed decision making; Commission meetings are vital in achieving that goal and we provide this information to be as effective and efficient toward that end. Welcome, and please let us know if you have any questions.

Persons with Disabilities

Persons with disabilities needing reasonable accommodation to participate in public meetings or other Commission activities are invited to contact the Department's Equal Employment Opportunity (EEO) Office at EEO@wildlife.ca.gov. Accommodation requests for facility and/or meeting accessibility and requests for American Sign Language interpreters should be submitted at least two weeks prior to the event. Requests for real-time captioners should be submitted at least four weeks prior to the event. These timeframes are to help ensure that the requested accommodation is met. If a request for an accommodation has been submitted but is no longer needed, please contact the EEO Office immediately.

Stay Informed

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

Submitting Written Comments

The public is encouraged to comment on any agenda item. Submit written comments by one of the following methods: E-mail to fgc@fgc.ca.gov; mail to California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090; deliver to California Fish and Game Commission, 715 P Street, 16th Floor, Sacramento, CA 95814 (you must call at least one business day in advance to arrange delivery). Materials provided to the Commission may be made available to the general public.

Comment Deadlines

The **Comment Deadline** for this meeting is **5:00 p.m. on September 29, 2022**. Written comments received at the Commission office by this deadline will be made available to Commissioners prior to the meeting.

The **Supplemental Comment Deadline** for this meeting is **noon on October 7, 2022**. Comments received by this deadline will be made available to Commissioners at the meeting.

Written comments will not be accepted after the supplemental comment deadline.

Petitions for Regulation Change

Any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1, *Petition to the California Fish and Game Commission for Regulation Change* (as required by Section 662, Title 14, CCR), available at <https://fgc.ca.gov/Regulations/Petition-for-Regulation-Change>. To be received by the Commission at this meeting, petition forms must be delivered by the **Supplemental Comment Deadline** (or delivered in person at the meeting during the regulation change petitions agenda item). Petitions received at this meeting will be scheduled for consideration at the next

regularly scheduled business meeting, unless the petition is rejected under staff review pursuant to subsection 662(b), Title 14, CCR.

Non-Regulatory Requests

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

Speaking at the Meeting

To speak on an agenda item in-person, please complete a “speaker card” and provide it to the designated staff member before the agenda item is announced. Please complete one speaker card per item. Cards will be available near the entrance of the meeting room.

To speak on an agenda item by webinar/teleconference, please “raise” your hand either through the Zoom function or by pressing *9 once on your phone when prompted at the beginning of the agenda item.

1. In-person speakers will be identified in groups; please line up when your name is called. Speakers by webinar/teleconference will be identified by your Zoom display name or last three digits of your phone number; please pay attention to when your name or number is called.
2. When addressing the Commission, please give your name and the name of any organization you represent, and provide your comments on the item under consideration.
3. If there are several speakers with the same concerns, please appoint a spokesperson and avoid repetitive testimony.
4. The presiding commissioner will allot between one and three minutes per speaker per agenda item, subject to the following exceptions:
 - a. The presiding commissioner may allow up to five minutes to an individual speaker if a minimum of three individuals who are present when the agenda item is called have ceded their time to the designated spokesperson, and the individuals ceding time forfeit their right to speak to the agenda item.
 - b. In-person participants ceding their time shall complete a speaker card and approach the staff table with the spokesperson so that staff may confirm the presence of those ceding their time. If you are participating via Zoom and ceding your time to another speaker, please notify the Commission at fgc@fgc.ca.gov prior to the start of the agenda item, including to whom you are ceding your time, and be present on Zoom during the agenda item.
 - c. Individuals may receive advance approval for additional time to speak if requests for additional time to speak are received by email or delivery to the Commission office by the **Supplemental Comment Deadline**. The president or designee will approve or deny the request no later than 5:00 p.m. two days prior to the meeting.
 - d. An individual requiring an interpreter is entitled to at least twice the allotted time pursuant to Government Code Section 11125.7(c).
 - e. An individual may receive additional time to speak to an agenda item at the request of any commissioner.

Agenda items may be heard in any order and on either day pursuant to the discretion of the presiding commissioner.

Visual Presentations/Materials

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

1. Electronic presentations must be provided by email to fgc@fgc.ca.gov. If the presentation file is too large to send via email, contact staff to identify an alternative method for submitting the file.
2. All electronic formats must be Windows PC compatible.
3. If presenting at the in-person meeting location, it is recommended that a print copy of any electronic presentation be submitted in case of technical difficulties.

STAFF SUMMARY FOR OCTOBER 12-13, 2022

2. WESTERN JOSHUA TREE**Today's Item****Information** ☐**Action** ☒

Consider the petition, DFW's status review report, and comments received to determine whether listing western Joshua tree (*Yucca brevifolia*) as threatened under the California Endangered Species Act (CESA) is warranted.

Note: Pursuant to California Fish and Game Code Section 2075.5, FGC, at its June 15-16, 2022 meeting, took public comment, closed the public hearing and administrative record for this item, and subsequently reopened the record expressly for the limited issue of seeking further input from tribal nations. FGC is not expected to take any further comment other than from tribal leaders or tribal representatives authorized to speak on behalf of their tribes.

Summary of Previous/Future Actions

- | | |
|--|---|
| • Received petition | Mar 15, 2019 |
| • Transmitted petition to DFW | Mar 22, 2019 |
| • Published notice of receipt of petition | Apr 19, 2019 |
| • FGC determined petitioned action may be warranted | Sep 22, 2020; Webinar/Teleconference |
| • Approved DFW's request for six-month extension | Jun 16-17, 2021; Webinar/Teleconference |
| • Closed the public hearing and administrative record, and continued deliberations to Oct 2022 meeting | Jun 15-16, 2022; Los Angeles/Trinidad |
| • Today, potentially determine if listing is warranted | Oct 12-13, 2022; Kings Beach |

Background

In Oct 2019, FGC received a petition from the Center for Biological Diversity to list western Joshua tree (WJT) as threatened under CESA. At its Apr 2022 meeting, FGC formally received DFW's completed status review report for western Joshua tree (WJT), a species that was petitioned for listing under CESA in Oct 2019. The status review report represents DFW's final written review of the status of WJT and delineates each of the categories of information required for a petition, evaluates the sufficiency of the available scientific information for each of the required components, and incorporates additional relevant information that DFW possessed or received during its review. Based on the information provided, possessed, or received, DFW concluded that the petitioned action to list WJT as threatened under CESA is not warranted at this time.

FGC scheduled a public hearing on the petition for its Jun 2022 meeting following the public release of the status report, pursuant to sections 2075 and 2075.5 of the Fish and Game Code. At its Jun meeting, FGC took public comment and received presentations from DFW, the petitioner, and several other organizations. After oral testimony concluded on the first day

STAFF SUMMARY FOR OCTOBER 12-13, 2022

of the meeting, FGC discussed the item and closed the public hearing and administrative record pursuant to Fish and Game Code Section 2075.5.

On the second day of the meeting, several motions were made and voted upon. Most notable, FGC voted on a motion to list WJT; the motion resulted in a tie vote and, therefore, did not result in a final decision on the listing. FGC then reopened the record pursuant to 2075.5 to proactively seek and allow for additional input from tribal nations and continued its deliberations to today's meeting. In a separate motion, FGC requested that DFW report on potential legislation regarding a range-wide conservation plan for WJT.

At today's meeting, FGC is anticipated to receive DFW staff's reflections on tribal outreach and engagement that has occurred since June, and may determine if listing WJT is warranted.

Synopsis of Considerations

In its deliberation about whether listing is warranted at its Jun 2022 meeting, FGC considered a number factors, including climate change impacts and WJT distribution, abundance, and adaptability. Because of the nature of WJT decline, the time scales involved, WJT's unusual life history, and the nature of the evidence for WJT's future status, the considerations for this decision are fundamentally different in character than most other CESA listings FGC has considered.

The Earth's climate is warming, and among the primary causes are greenhouse gas emissions and deforestation. Climate change represents the chief threat to WJT and is widely recognized as one of the top threats to wildlife populations in California. Growing scientific consensus indicates that desert ecosystems, especially their botanical constituents, may be particularly vulnerable to climate change effects because of their dependence on precipitation patterns, subsistence at the limits of biological tolerance, sensitivity to human perturbation, and their adaptive capacity.

Collectively many vulnerability assessments, using different, complementary methods of analysis indicate high climate vulnerability to WJT and its habitat, both categorically and specifically. WJT is inherently susceptible to adverse effects cause by climate change, and there is high confidence those effects will be rapid and significant. Further, WJT adaptive capacity is extremely low. WJT life history attributes, including dispersal ability (movement ability, establishment, proliferation) and evolvability (generation time, ability to sexually reproduce) all point to low adaptability and poor range mobility. Given that effective, timely, in situ adaptation is unlikely for WJT, the ability for the species to persist into the future likely will depend entirely on its ability to expand northward to colonize new geographies with suitable and stable conditions.

While WJT may in fact be numerous now, there are likely few areas of active recruitment, especially in the southern population, as characterized by areas in Joshua Tree National Park. WJT relies on wet years to boost seedling survival, and is depressed in dry years. Future decreased precipitation and prolonged drought spells will severely hamper recruitment over and above current levels. The result is a species characterized by robust representatives in older age classes with effectively little to no fecundity to facilitate replacement.

STAFF SUMMARY FOR OCTOBER 12-13, 2022

The extent to which WJT can adapt to these changes is central to the CESA listing decision. If WJT can adapt to these changes by effectively shifting its range or rapidly evolving to withstand new climate conditions, then WJT may stave off extinction. Augmenting WJT range migration with tree planting may become necessary if natural recruitment cannot keep pace with shifting habitat conditions. However, researchers remain skeptical about the wisdom of managed translocation of plant species, citing unknown species interactions and underdeveloped methodological approaches. With WJT specifically, the very traits that may call for assisted migration as a mitigation tactic (e.g., poor diffusion, long lifecycle, low competitive ability), may preclude that approach from serious consideration.

In a CESA-listing context, abundance (or, more properly, evaluations of abundance in the foreseeable future) must be evaluated in a context of threat magnitude and significance to determine the true extinction risk. Abiotic threats such as increasing temperatures, decreasing precipitation, and increasing drought; as well as biological threats, such as changes in rodent abundance and effects, alterations of yucca moth behavior and distribution, and invasive species are not necessarily localized, potentially affecting the entire species despite its apparent abundance. Urbanization and wildfire can also affect large portions of WJT range and habitat. These threats can have major interactions that substantially heighten the significance of the threats individually.

Traditionally, CESA listing decisions have been based largely on demographic trend data (indicating increasing scarcity of the organism over time). With WJT, available trend analyses are mixed and localized, including multiple studies demonstrating a downward trend in WJT abundance in some local populations, while other studies indicate stable populations in parts of its range. To date, no range-wide, long-term, comprehensive study of WJT demographic trends has been conducted and, unlike species considered for listing under CESA in the past, WJT appears relatively widespread and abundant at this time. The long WJT life span, combined with the decades-long time spans under which climate change impacts unfold, make it problematic to obtain reliable widespread, long-term trend data for such a species. Given the variability of WJT conditions across its range, arithmetically extrapolating these local studies to the entire species or range may not be appropriate – but robust statistical modeling can be performed to reveal potential or likely future trends and conditions, as was done in this case.

Because of the limited trend data, the key information concerning the future of WJT populations rests in a portfolio of predictive scientific models. Models can have limitations, such as sometimes lacking inclusion of important environmental factors or stressors, or not adequately accounting for localized conditions. However, modeling is an important tool that can help inform decisions. Based on modeling and other observations, there is a general consensus that indicates southern WJT populations face graver threats than the northern WJT populations. Several independent models of WJT future distribution predict significant to drastic reductions in WJT range, abundance, and condition – strongly suggesting that WJT future reductions may be serious and substantial. The horizon of these models' predictions, and inferences that may be made beyond those timeframes (year 2100 and beyond), may seem remote, but are within medium-to-high confidence levels. Climate change, WJT life span, and evolutionary adaptation all work on long time scales that are challenging to predict with high certainty; modeling may be the only tool that can inform decisions far enough in advance as to permit timely and effective mitigation or management actions.

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This synopsis does not encapsulate all the details involved in the CESA listing decision for WJT. FGC regulation [subsection 670.1(i)] states that FGC must determine whether WJT's continued existence is in serious danger or is threatened by any one or any combination of factors. CESA dictates that the decision is made based on FGC's complete administrative record. CESA does not require perfect knowledge of either the issues highlighted in this summary or any of the elements of the WJT listing decision; what CESA does oblige FGC to do is utilize the best available scientific information in its decision.

Significant Comments

The administrative record for this item was closed at the June 2022 FGC meeting. The record was then reopened expressly to seek greater input from Native American tribal governments; any correspondence or other documents outside of that specific subject have not been included in this summary of significant comments or the materials for this meeting.

Listening Session

A tribal listening session was convened on August 23, 2022, jointly hosted by DFW Director Chuck Bonham and FGC Executive Director Melissa Miller-Henson; it was attended by six tribal representatives and several DFW and FGC staff.

Tribal representatives in attendance spoke to the spiritual, ceremonial, utilitarian, ecological, and cultural value of WJT, and noted that the species was traded to other tribal communities outside of range and is owed respect and protection. The species provides medicine, food, protection and other resources needed for survival, and there are important cultural relationships with the species that cannot be adequately communicated either in the English language or summarized in written form.

Tribal representatives were concerned about the destruction of WJT for development and the insufficient protections for the species prior to candidacy under CESA. Some believe the lack of protection has resulted in large-scale destruction of WJT populations. After the species was petitioned, some tribal citizens observed a marked increase in the pace of destruction of the species before candidacy protections could go into effect. In a few cases, tribal partners have been able to help save or use impacted trees; however, they believe it should not be the sole responsibility of tribes to do so. Concern was expressed regarding the footprint of solar projects and their impacts to delicate desert land and resources, including WJT.

Tribal representatives discussed co-management of the species with the state, as well as the use of traditional ecological knowledge in conservation and restoration planning. The discussion invited collaboration in determining use of the WJT mitigation fund to support conservation of the species. Tribal representatives also recommended that scientific studies related to WJT look at the landscape as a whole instead of one individual plant or population, and to integrate traditional ecological knowledge into study designs.

Additional Outreach to Tribes Potentially Affected

Consistent with FGC direction to formally and affirmatively engage tribes in this subject, subsequent to the listening session FGC and DFW staff reached out to each of the 58 tribes initially identified by the Native American Heritage Commission as having cultural and traditional

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affiliation to the area of potential effect. Staff spoke to tribal contacts, left messages, and provided information via email to ensure that tribal nations were notified and aware of the potential listing of WJT and had the opportunity to participate in the FGC's process. Tribal contacts were referred to the FGC's tribal advisor and liaison for additional questions.

Written Comments

Since the Jun 2022 meeting, FGC received four letters from Native American tribes before the standard comment deadline for this meeting:

1. The Twenty-Nine Palms Band of Mission Indians expresses that western Joshua tree is an iconic California native species and an important symbol of the Mojave Desert, and believes that protection and preservation is best achieved by thoughtful regulations and ordinances at the local level.
2. The Cahuilla Band of Indians expresses its nation's support for maintaining local control, especially local tribal control, over non-reservation lands. It supports the Twenty-Nine Palms Band of Mission Indians' position regarding local control. The Cahuilla Band of Indians sees the direct benefits of localized policies regarding natural resources that also emphasize tribal contributions to management efforts.
3. The San Manuel Band of Mission Indians requests that, if WJT is listed under CESA, the tribe be included in the development of any conservation strategies or mitigation efforts to protect the tree. It also requests that the tribe be included in any regional conservation efforts that are done in coordination with FGC and DFW on ancestral lands.
4. The Colorado River Indian Tribes express support for listing WJT as threatened under CESA. The tribes are concerned with the cultural and ecological connectivity of the ancestral desert landscape and have long opposed the potential removal of cultural artifacts from the area and the corresponding destruction of the tribes' footprint on the landscape. The tribes also oppose the wholesale destruction of the desert ecosystem through grading and removal of existing vegetation.

Recommendation

FGC staff: Determine whether the hearing should be continued to obtain any additional analysis on the information in the administrative record and/or to continue deliberation. If the hearing is not continued, determine whether to list WJT as threatened under CESA.

DFW: Determine that listing WJT as threatened under CESA is not warranted.

Exhibits

1. [Staff summary from Jun 15-16, 2022 FGC meeting \(for background purposes only\)](#)
2. [Letter from Hon. Darrel Mike, Chairman, Twenty-Nine Palms Band of Mission Indians, received Jul 26, 2022](#)
3. [Letter from Hon. Daniel Salgado, Sr., Chairman, Cahuilla Band of Indians, received Aug 15, 2022](#)
4. [Letter from Hon. Lynn R. Valbuena, Chairwoman, San Manuel Band of Mission Indians, received Sep 28, 2022](#)

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5. [Letter from Hon. Amelia Flores, Chairwoman, Colorado River Indian Tribes, received Sep 29, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2075.5 of the California Fish and Game Code, finds the information contained in the petition to list western Joshua tree (*Yucca brevifolia*), and the other information in the record before the Commission, **does warrant** listing western Joshua tree as threatened under the California Endangered Species Act. Findings will be adopted at a future meeting.

OR

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2075.5 of the California Fish and Game Code, finds the information contained in the petition to list western Joshua tree (*Yucca brevifolia*), and the other information in the record before the Commission, **does not warrant** listing western Joshua tree under the California Endangered Species Act, consistent with the Department recommendation.

OR

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2075.5 of the California Fish and Game Code, closes the public hearing and administrative record for the Commission's decision and continues its deliberation and decision to a future meeting.

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3. CLEAR LAKE HITCH**Today's Item****Information** ☒**Action** ☐

Discuss ongoing conservation actions, current status, and tribal engagement to address Clear Lake hitch conservation efforts.

Summary of Previous/Future Actions

- | | |
|--|-------------------------------------|
| • Determined listing Clear Lake hitch as threatened under CESA is warranted | Aug 6, 2014; San Diego |
| • Adopted regulations to add Clear Lake hitch to the list of threatened species | Feb 11, 2016; Sacramento |
| • Received presentation from Clear Lake tribes and requested a report from DFW | Aug 17, 2022; Loleta |
| • Today receive update on DFW's recent tribal engagement and ongoing conservation actions | Oct 12-13, 2022; Kings Beach |

Background

At its Aug 2014 meeting, FGC determined that listing Clear Lake hitch as threatened under the California Endangered Species Act (CESA) was warranted, and subsequently adopted regulations listing the fish at its Feb 2016 meeting.

At FGC's Aug 2022 meeting, representatives from several Clear Lake tribes reported their great concern about the current status of Clear Lake hitch, citing climate change, severe drought conditions, chronic pollution, and overuse of existing water resources. Since that meeting, the tribes have held government-to-government consultation with DFW regarding CLH. Per FGC's request, DFW will report any outcomes from that meeting and any ongoing, proposed, or projected actions designed to conserve Clear Lake hitch and support its survival (Exhibit 1).

Significant Public Comments

The Big Valley Band of Pomo Indians reiterates the crisis-level status of Clear Lake hitch and its causes; reports on ongoing government-to-government coordination and collaboration with DFW; summarizes tribal requests for interagency actions and co-management; and expresses gratitude for recent FGC and DFW engagement with tribes (Exhibit 2).

Recommendation (N/A)**Exhibits**

1. [DFW presentation, received Sep 29, 2022](#)
2. [Letter from Sarah Ryan, Environmental Director, Big Valley Band of Pomo Indians, dated Sep 23, 2022](#)

Motion (N/A)

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4. 30X30 INITIATIVE**Today's Item****Information** ☒**Action** ☐

Update on the California Natural Resources Agency's (CNRA's) 30x30 Initiative to conserve 30 percent of California's lands and coastal waters by the year 2030.

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

On Oct 7, 2020 Governor Newsom signed Executive Order N-82-20 (Exhibit 1), to combat the climate and biodiversity crises. The order included a commitment to conserve at least 30 percent of California's land and coastal waters by 2030 and directed CNRA to, in consultation with relevant state agencies and the California Biodiversity Collaborative, develop and report strategies for achieving this goal to the Governor.

In Apr 2022, CNRA released its *Pathways to 30x30: Accelerating Conservation in California's Nature* (Exhibit 2). The strategy identifies three key objectives: (1) protect and restore biodiversity; (2) expand access to nature; and (3) mitigate and build resilience to climate change – and three core commitments: (1) advance justice equity, diversity, and inclusion; (2) strengthen tribal partnerships; and (3) sustain our economic prosperity, clean energy resources, and food supply. Additionally, the plan delineates ten pathways, or strategies, toward achieving the 30x30 goal.

California's 30x30 Initiative is part of an international effort and is aligned with a federal executive order to restore, connect, and conserve 30 percent of lands and waters by 2030. More information regarding California's 30x30 Initiative can be found at <https://www.californianature.ca.gov/pages/30x30>.

Today, CNRA representatives will provide an update on progress toward the 30x30 goals.

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

1. [Executive Order N-82-20, dated Oct 7, 2020](#)
2. [Pathways to 30x30: Accelerating Conservation in California's Nature, dated Apr 22, 2022](#) (click on "Read the Final Pathways to 30x30 Strategy")

Motion (N/A)

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6. PINK (OCEAN) SHRIMP FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS (CONSENT)**Today's Item****Information** ☐**Action** ☒

Consider approving sufficiently related changes to additions and amendments to prawn or shrimp commercial trawling regulations that were adopted by FGC on Jun 15, 2022 to implement the *Pink (Ocean) Shrimp*, *Pandalus jordani*, *Fishery Management Plan* (FMP).

Summary of Previous/Future Actions

- | | |
|--|---|
| • Notice hearing | Feb 16-17, 2022; Webinar/Teleconference |
| • Discussion and adoption hearing for implementing regulations | Jun 15-16, 2022; Los Angeles/Trinidad |
| • Published 15-day notice | Sep 22, 2022 |
| • Today's adoption hearing | Oct 12-13, 2022; Kings Beach |

Background

At its Dec 2021 meeting, FGC received a draft pink shrimp FMP prepared pursuant to the Marine Life Management Act (MLMA). In Apr 2022, FGC adopted the FMP and certified it as the functional equivalent of an environmental impact report under the California Environmental Quality Act (see Exhibit 1 for background). In Jun 2022, FGC adopted regulations to implement the FMP as described in an initial statement of reasons for the regulation change (see Exhibit 2 for background).

On Jul 15, FGC submitted the rulemaking package to the Office of Administrative Law (OAL) for review and approval. In response to clarity and consistency concerns identified by OAL, FGC withdrew the rulemaking file on Aug 24. On Sep 22, FGC published a notice of additional proposed revisions (Exhibit 3) for a 15-day public comment period, including revisions to the proposed regulatory language (Exhibit 6) and documents incorporated by reference. Revisions of note include:

- The adopted "Northern Pink Shrimp Trawl Vessel Permit Transfer Application DFW 1419 (New 01/01/22)" is being repealed and replaced with a newer version: "Northern Pink Shrimp Trawl Vessel Permit Transfer Application DFW 1419 (New 09/01/22)" (exhibits 4 and 5); the modified form updates certification language for the current and new owner permit holders and adds a privacy notice to comply with the Information Practices Act.
- The pink shrimp FMP, published and adopted by FGC in Apr 2022 (Exhibit 7), was not available to the public when the notice of proposed rulemaking was published in Mar 2022. The draft pink shrimp FMP, published Nov 2021, was the document available to the public at that time. The proposed revisions clarify that the Apr 2022 final version of the FMP will be incorporated by reference.

The 15-day comment period ends on Oct 7, 2022; at the time of this writing, no public comments have been received.

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

FGC staff: Approve the proposed additional changes to the regulations as reflected in exhibits 3,5, 6 and 7.

Exhibits

1. [Background document: Staff summary from Apr 20-21, 2022 FGC meeting, Item 7](#)
2. [Background document: Staff summary from Jun 15-16, 2022 FGC meeting, Item 9](#)
3. [15-day notice of proposed changes, dated Sep 22, 2022](#)
4. [Previously-proposed form DFW 1419 \(New 01/01/22\), now being replaced](#)
5. [Modified proposed form, DFW 1419 \(09/01/22\)](#)
6. [Modified proposed regulatory language](#)
7. [Pink \(Ocean\) Shrimp, *Pandalus jordani*, Fishery Management Plan, adopted April 20, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 5 through 10 on the consent calendar.

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

Receive DFW recommendation and consider adopting proposed amendments to FGC's Commission Designated Wild Trout Waters Policy.

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

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

California Fish and Game Code Section 1727(b) requires that DFW annually submit to FGC a list of no less than 25 miles of stream or stream segments and at least one lake deemed suitable for designation as "wild trout waters." Fish and Game Code Section 1727(c) allows the Commission to remove designated wild trout waters from the wild trout program, but mandates that an equivalent number of miles are added.

DFW proposes that FGC add two new waters as wild trout waters:

1. North Fork Mokelumne River from Salt Springs Reservoir to the downstream-most lake of Highland Lakes, excluding tributaries (Alpine, Amador and Calaveras counties), and
2. Silver Lake (Tulare County).

DFW proposes that FGC further designate Silver Lake as a heritage trout water.

DFW also proposes minor edits to the policy text to correct a misspelling, correct a location longitudinal reference, and add Wolf Creek to the list of wild trout waters. Wolf Creek was added to the policy as a heritage trout water in 2020, but was inadvertently not added to the list of wild trout waters at the same time.

Exhibit 1 provides more detail on the proposed changes. Exhibit 2 is the policy text with proposed amendments, and Exhibit 3 provides maps of the proposed waters.

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

FGC staff: Under a motion to adopt the consent calendar, approve amendments to the Commission Designated Wild Trout Waters Policy as described in this staff summary and the DFW proposal, and modify the title of the policy to read "Commission-Designated Wild Trout Waters" for grammatical purposes.

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DFW: Approve the recommended amendments.

Exhibits

1. [DFW memo, received Sep 20, 2022](#)
2. [Proposed policy text, received Sep 20, 2022](#)
3. [Maps of waters for removal and designation, received Sep 20, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 5-10 on the consent calendar.

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8. SOUTHERN CALIFORNIA STEELHEAD (CONSENT)**Today's Item**Information ☐Action ☒

Consider approving the Department's request for a six-month extension to deliver its one-year status review report on the petition to list southern California steelhead (*Oncorhynchus mykiss*) as endangered under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

- | | |
|---|---|
| • Received petition | Jun 14, 2021 |
| • Transmitted petition to DFW | Jun 23, 2021 |
| • Published notice of receipt of petition | Jul 16, 2021 |
| • Received DFW 90-day evaluation report | Dec 15-16, 2021; Webinar/Teleconference |
| • FGC determined petitioned action may be warranted | Apr 20-21, 2022; Monterey/Santa Cruz area |
| • Today consider granting six-month extension to complete status review report | Oct 12-13, 2022; Kings Beach |

Background

On Jun 14, 2021, FGC received a petition from California Trout to list southern California steelhead as endangered under CESA.

At its Apr 2022 meeting, FGC determined that the petition contains sufficient information to indicate that the petitioned action may be warranted. FGC published a notice of its determination on May 6, 2022. Upon publication of the notice, California Fish and Game Code dictates that southern California steelhead receives protection as a candidate species until the conclusion of the listing process. Pursuant to Fish and Game Code Section 2074.6, DFW has one year from the date of notice to complete a status review, unless FGC grants an extension of time.

Today, FGC will consider a request by DFW for a six-month extension to complete its status review to further analyze and evaluate the available science, to undergo the peer review process, and to complete its status review (Exhibit 1). FGC must receive the DFW status review report before FGC can make a final listing decision.

Significant Public Comments

1. Ventura Water provides information for the status review and includes three letters previously submitted regarding the potential listing of southern California steelhead.
2. The Association of California Water Agencies (ACWA) states that it and its members are invested in healthy watersheds and habitats that support robust populations of native fish and wildlife. ACWA is concerned about the potential impacts of listing southern California steelhead to public water agencies and their ability to reliably

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provide water, and asks that DFW incorporate information provided by water agencies into its status review report and conduct a robust peer review.

Recommendation

FGC staff: Approve request for a six-month extension to complete the status review report for southern California steelhead under a motion to adopt the consent calendar.

DFW: Approve request for a six-month extension to complete the status review report for southern California steelhead.

Exhibits

1. [DFW memo, received Jun 1, 2022](#)
2. [Letter from Gina Dorrington, General Manager, Ventura Water, received Sep 28, 2022](#)
3. [Letter from Soren Nelson, Regulatory Advocate, Association of California Water Agencies, received Sep 29, 2022](#)

Motion

Moved by _____ and seconded by _____, that the Commission adopts the staff recommendations for items 5 through 10 on the consent calendar.

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

Consider ratifying findings for the decision to list Shasta snow-wreath (*Neviusia cliftonii*) as endangered under the California Endangered Species Act.

This item is not ready for FGC consideration. Staff recommends continuing this item to a future meeting.

Summary of Previous/Future Actions (N/A)

Background (N/A)

Significant Public Comments (N/A)

Recommendation

FGC staff: Under Agenda Item 1 for this meeting, continue this item to the December meeting.

Exhibits (N/A)

Motion (N/A)

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10. CONDITIONAL TAKE OF SOUTHERN CALIFORNIA STEELHEAD (CONSENT)**Today's Item**Information ☐Action ☒

Discuss and consider adopting a 90-day extension of emergency regulation to allow take of southern California steelhead (*Oncorhynchus mykiss*) under certain circumstances.

Summary of Previous/Future Actions

- Adopted emergency regulation Apr 20-21, 2022; Monterey
- **Today's potential emergency re-adoption** **Oct 12-13, 2022; Kings Beach**

Background

In Apr 2022, FGC accepted for consideration a CESA petition requesting to list southern California steelhead as endangered under CESA; which resulted in the species receiving candidate species status. As a candidate species, take of southern California steelhead is prohibited unless otherwise authorized by FGC.

California Fish and Game Code Section 2084 provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise consistent with CESA. FGC may adopt a regulation under Section 2084 on an emergency basis when it determines that a situation exists that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

At its Apr 2022 meeting, FGC adopted an emergency regulation to temporarily authorize the take of southern California steelhead in certain situations, adding the regulation to Section 749.13 (see Exhibit 1 for background). FGC found that an emergency exists because of the immediate, serious harm to the public peace, public health, or safety that would be caused by work delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or projects or activities that relate to the diversion, impoundment, or discharge of water and provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses.

The emergency regulation went into effect on May 16, 2022 for a period of 180 days; if not extended by FGC, the emergency regulation will remain in effect until Nov 15, 2022. For today's meeting, DFW provided a draft finding of emergency and a draft statement of proposed emergency regulatory action for FGC to consider re-adopting the emergency regulation (exhibits 2 and 3).

Section 749.13 Implementation

DFW has provided written confirmation of take authorization for four projects under Section 749.13 since its adoption: three County of Santa Barbara Public Works Department flood control maintenance projects and one Caltrans road widening project already under

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construction. DFW expects less than five5 additional potential project submissions as the southern California steelhead migration season approaches. Additionally, unforeseen emergency maintenance projects may require take coverage.

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

FGC staff: FGC staff recommends that FGC find, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation is necessary for the immediate preservation of the public peace, health, or safety.

FGC staff recommends that FGC further determine, pursuant to Section 11346.1 of the Government Code, that an emergency situation still exists and find the proposed regulation is necessary to address the emergency.

Therefore, FGC staff recommends that the Commission adopt a 90-day extension for the southern California steelhead emergency regulation as recommended by DFW.

Exhibits

1. [Staff summary from Apr 20-21, 2022 \(for background purposes only\)](#)
2. [DFW memo for Section 749.13, received Sep 9, 2022](#)
3. [Draft statement of proposed emergency regulatory action, informative digest and proposed regulation text for Section 749.13](#)
4. [Draft economic and fiscal impact statement \(STD 399\) and addendum](#)

Motion

Moved by _____ and seconded by _____, that the Commission adopts the staff recommendations for items 5 through 10 on the consent calendar.

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11. GENERAL PUBLIC COMMENT**Today's Item****Information** ☒**Action** ☐

Receive public comment regarding topics within FGC authority that are not included on the agenda.

Summary of Previous/Future Actions

- | | |
|--|--|
| <ul style="list-style-type: none"> • Today receive requests, petitions, and comments • Consider granting, denying, or referring | <p>Oct 12-13, 2022; Kings Beach</p> <p>Dec 14-15, 2022; San Diego</p> |
|--|--|

Background

This item is to provide the public an opportunity to address FGC on topics not on the agenda. Staff may include written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by the written comment deadline), or as supplemental comments at the meeting (if received by the supplemental comment deadline).

General public comments are categorized into two types: (1) requests for non-regulatory action and (2) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the non-regulatory requests received at today's meeting at the next regularly-scheduled FGC meeting, following staff evaluation (currently Dec 14-15, 2022).

Significant Public Comments

1. New, non-regulatory requests are summarized in Exhibit 1, and the original requests are provided as exhibits 2 through 4.
2. Informational comments are provided as exhibits 5 through 18.

Recommendation

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

Exhibits

1. [Summary of new non-regulatory requests received by Sep 29, 2022 at 5:00 p.m.](#)
2. [Email from Denise requesting that sea otters be reintroduced to Drake's Estero in Point Reyes, received Aug 14, 2022.](#)
3. [Email from Randal South transmitting a petition for regulation change, a portion of which is a non-regulatory request to replace the county-operated breaching practice at Lake Earl with a solar powered aqueduct, received Sep 16, 2022.](#)

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4. [Email from Karen Emanuel requesting that FGC make commitments to promote the vegan economy, received Sep 22, 2022.](#)
5. [Email from Kerry Kriger offering to take charge of stakeholder meetings regarding bullfrogs and non-native turtles, received Aug 17, 2022.](#)
6. [Email from Paul Weakland transmitting a link to an article in the Sacramento Bee about extensive fish deaths at a UC Davis research facility, received Aug 17, 2022.](#)
7. [Email from Walter Lamb responding to FGC discussion of a petition regarding Ballona Wetlands Ecological Reserve at FGC's Aug 17, 2022 meeting, and criticizing FGC for not moving forward with the request submitted by Ballona Land Trust regarding the ecological reserve, received Aug 18, 2022.](#)
8. [Email from Cameron Smith criticizing fish stock management at Lake Berryessa, received Aug 23, 2022.](#)
9. [Email from Randal South calling for an end to waterfowl hunting at the Lake Earl Wildlife Area, transmitting a link to a petition signed by thousands who support such a prohibition, and calling for wolves to be the primary method of elk population management rather than incentivized hunts, received Aug 26, 2022.](#)
10. [Email from Rosa Lopez, County of Imperial, transmitting a summary of hunting regulations in imperial county and corresponding map, received Aug 30, 2022.](#)
11. [Email from Steven Gjerstad, with supporting attachments, alleging several violations of the terms of a conservation easement for which DFW is the grantee, received Sep 1, 2022.](#)
12. [Email from Ace Carter stating that rotor blades on windmills are responsible for many bird deaths, and calling for the installation of devices to protect birds, received Sep 2, 2022.](#)
13. [Letter from a California deer hunter stating that digital-only publication of regulation booklets is impractical and calling for physical prints, received Sep 6, 2022.](#)
14. [Email from Cynthia Scott stating that beaver relocation around Highway 149 was an unsuccessful effort and suggesting future relocation efforts may be unsuccessful, received Sep 7, 2022.](#)
15. [Email from Dave Colker, Channel Islands Commercial Fishing Infrastructure Implementation Committee, introducing himself as chairman of his organization to email recipients and asking a variety of questions about Channel Islands Harbor, received Sep 9, 2022.](#)
16. [Email from Bill Karr alleging that antelope numbers in the state are dwindling due to insufficient predator management, received Sep 23, 2022.](#)
17. [Email from Linda Badham calling for protection of mountain lions, received Sep 23, 2022.](#)
18. [Email from Phoebe Lenhart calling for protection of mountain lions and suggesting further restrictions on rodenticides, received Sep 29, 2022.](#)

Motion (N/A)

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

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

Summary of Previous/Future Actions

- **Today's receipt of requests and comments** **Oct 12-13, 2022; Kings Beach**
- Consider granting, denying, or referring Dec 14-15, 2022; San Diego

Background

This item is to provide the public an opportunity to address FGC on topics not on the agenda. Staff may include written materials and comments received prior to the meeting as exhibits in the meeting binder (if received by the written comment deadline), or as supplemental comments at the meeting (if received by the supplemental comment deadline).

General public comments are categorized into two types: (1) requests for non-regulatory action and (2) informational-only comments. Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, non-regulatory requests generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the non-regulatory requests received at today's meeting at the next regularly-scheduled FGC meeting, following staff evaluation (currently Dec 14-15, 2022).

Significant Public Comments

All written comments are summarized and provided as exhibits under Agenda item 11.

Recommendation

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

Exhibits

See exhibits for Agenda Item 11.

Motion (N/A)

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13A. EXECUTIVE DIRECTOR'S REPORT**Today's Item**Information ☐Action ☒

Receive updates from the executive director on items of note since the previous FGC meeting.

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

FGC employs an executive director and other staff to assist in conducting FGC's operations and ensure that FGC's wide range of responsibilities and authorities are fulfilled daily. To ensure that its staff has the ability to maintain functionality in all its capacities, FGC has delegated various authorities to its executive director, who "...shall report to the Commission at each regular meeting on important delegated actions." Today's report includes updates on five topics:

- JEDI awareness
- Committee meetings
- Staff return to office
- Staffing and contracts
- California Environmental Quality Act

JEDI Awareness

As part of developing FGC's justice equity, diversity and inclusion (JEDI) plan, staff has been including JEDI activities in both staff and commission meetings, such as highlighting cultural heritage months as well as diversity and inclusion months, and during FGC meetings sharing videos highlighting various aspects of JEDI awareness. For this meeting, we are recognizing National Disability Employment Awareness Month and Native American Heritage Month. Staff will also share a video during today's meeting.

National Disability Employment Awareness Month (Oct)

This month is National Disability Employment Awareness Month (NDEAM). Held each Oct, NDEAM aims to educate about disability employment issues and celebrate the many and varied contributions of employees with disabilities. There are innumerable types of disabilities that can affect people and that come in many forms—mobility, vision, auditory, psychological and more—some of which are not always clearly visible.

The theme for NDEAM 2022, *Disability: Part of the Equity Equation*, reflects the importance of ensuring that people with disabilities are fully included during the national recovery from the COVID-19 pandemic. In support of this effort, staff offers a resolution for commission consideration (Exhibit 1) recognizing NDEAM and to raise awareness about disability employment issues, celebrate the many and varied contributions of people with disabilities, promote enjoyment of California's fish and wildlife resources by people with disabilities, and urge everyone to dedicate themselves to empowering and fully including individuals in all aspects of community life all year long.

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Native American Heritage Month (Nov)

Native Americans are the indigenous peoples of North America; the term encompasses hundreds of different tribes, each of which has its own unique culture and language. The quest for national recognition of Native Americans' contributions to the country began in the early twentieth century, with the state of New York becoming the first to establish an "American Indian Day" in 1916. Since that time more states established similar commemorative days, including California; in 1968 Governor Ronald Reagan signed a resolution designating the fourth Friday in September as American Indian Day. Over 50 years later, the California State Legislature would codify this day as an official judicial holiday to replace Columbus Day.

In Nov 2022, together with the over 150 tribes and tribal communities in the state, California will celebrate Native American Heritage Month and the immeasurable contributions that Native Americans have made to our state and nation. Governor Newsom noted that, "In a time when we are all turning to each other for hope, reassurance and resurgence, we need look no further than California tribal communities, who have persisted and thrived in the face of unimaginable challenges." As a state, we are seeking to change the paradigm for engaging with tribes, reckoning with our past, making space for healing, and promoting equity; to help advance the desired changes internally, FGC's tribal advisor and liaison will present staff with resources of interest for the month.

Committee Meetings

In 2014, FGC transitioned from meeting ten months out of the year with intermittent committee meetings to holding in-person business meetings every other month with alternating MRC and WRC meetings in between FGC meetings; at least two teleconference meetings are also held each year. In 2015, FGC added three TC meetings each year to be held immediately prior to three of the six business meetings. The transition to alternating FGC and committee meetings was intended to accomplish several goals, not the least of which is greater and more consistent stakeholder engagement in the work of FGC, including vetting and problem-solving on complex and sometimes thorny subjects.

FGC meetings have long been videotaped and audiotaped by a contractor for meeting minute production and then posted to that contractor's website. Committee meetings have been audiotaped by staff and those files provided to the public upon request through an external FTP site since we are unable to post the audio files to the FGC website; in addition, multiple staff would labor over developing a written summary — often 10-12 pages in length — for MRC and WRC meetings. With Zoom now having become a standard tool for committee meetings, combined with the introduction of an FGC YouTube channel, Zoom video recordings of committee meetings will now be readily available to the public approximately a week after each meeting. The previous MRC and WRC written meeting summaries will be condensed into a much simpler outcomes document for quick reference.

Staff Return to Office

Given the reduced COVID-19 rates and movement toward designating the "end" of the pandemic, the state of California workforce has been transitioning back to the office. Beginning the first week in October, FGC staff transitioned to hybrid work schedules with more time in the office. The office has resumed normal business hours (with some exceptions, such as FGC

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meeting days) and the majority of staff will be in the office on Tuesdays and Wednesdays to actively engage and strategize on complex issues, facilitate collaboration and team-building, hold one-on-one discussions, meet directly with stakeholders, and engage in cross-collaboration with colleagues from other agencies and organizations.

Staffing and Contracts

Recent recruitment efforts for the vacant seasonal clerk position were unsuccessful, with an unusually low number of applicants that may be reflective of the overall state of post-pandemic employee recruitment across many industries. Staff is revisiting recruitment efforts for this position and exploring a potential classification change to broaden the applicant pool.

In May, the solicitation for a contractor to assist in developing FGC's JEDI plan was distributed widely. Despite being viewed by over 100 potential contractors, no applications were submitted. A "request for information" was distributed in July to gather additional information about how to make the contract more appealing prior to releasing another solicitation; over a dozen responses were received that suggested there was no single, significant issue with the original solicitation, though there are some small modifications that could be helpful. Staff is amending the solicitation and will distribute it in early Nov 2022 with a slightly longer response time.

Currently staff have no lack of opportunity for remaining busy with important FGC work. See Exhibit 2 for more details about the various activities in which staff has been engaged the last two months to advance the work of FGC.

California Environmental Quality Act (CEQA)

FGC has delegated authority to its executive director to take all actions necessary to comply with the CEQA, guidelines generally implementing CEQA, and FGC's Certified Regulatory Program approved under CEQA, including conducting or causing to be conducted an initial study and deciding whether to prepare a draft environmental impact report or negative declaration.

Since the Aug 2022 FGC meeting, your executive director determined that a notice of exemption was appropriate for the re-adoption of the recreational groundfish rulemaking.

Significant Public Comments (N/A)

Recommendation (N/A)

Exhibits

1. [Proposed resolution](#)
2. [Staff Time Allocation and Activities, dated Oct 4, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the proposed resolution recognizing October 2022 as National Disability Employment Awareness Month.

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13B. DEPARTMENT DIRECTOR AND LAW ENFORCEMENT DIVISION REPORTS**Today's Item****Information** ☒**Action** ☐

DFW will highlight items of note since the last FGC meeting.

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

Verbal reports are expected for the Director's report and Law Enforcement Division reports. DFW news releases of interest are provided as exhibits 1 and 2.

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

1. [DFW news release: San Diego Area Wildlife Officer Is CDFW's 2021 Wildlife Officer of The Year, dated Aug 16, 2022](#)
2. [DFW news release: CDFW Director Statement on FERC Release of EIS On Klamath Dam Removal, dated Aug 26, 2022](#)

Motion (N/A)

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14. ELECTRONIC DISPLAY OF LICENSES VIA MOBILE APPLICATION**Today's Item**Information ☐Action ☒

Consider authorizing publication of notice of intent to amend regulations to implement Assembly Bill 817 (Chapter 607, Statutes of 2021) to enable DFW to accept electronic display of licenses on a DFW mobile application.

Summary of Previous/Future Actions

- | | |
|---------------------------------|-------------------------------------|
| • Today's notice hearing | Jun 12-13, 2022; Kings Beach |
| • Discussion hearing | Dec 14-15, 2022; San Diego |
| • Adoption hearing | Feb 8-9, 2023; Sacramento |

Background

Section 1050 of the California Fish and Game Code authorizes FGC to determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses. Section 1050.4 of the Fish and Game Code, created by AB 817 (Chapter 607, Statutes of 2021), authorizes DFW to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement electronically on a mobile device.

Existing Fish and Game Code (Section 1054.2) and regulation (Section 700) state that every person, while engaged in taking any fish, amphibian, reptile, bird, or mammal shall have on their person or immediate possession a valid sport fishing or hunting license. Currently, the DFW Automated Licenses Data System (ALDS) allows license items to be printed instantly using point-of-sale terminals at DFW license agents and DFW license sales offices. ALDS also allows applicants to apply for licensing via the Internet, print out a temporary license, and receive a permanent license via mail. The existing options will remain available if the proposed regulations are adopted.

The proposed regulations would amend Section 700.4 to include electronic display as a valid form of presenting a sport fishing license. Specifically, the proposed changes include: (1) adding language to allow DFW to accept electronic display of licenses on an official DFW application; and (2) non-substantive changes to language and punctuation (Exhibit 3).

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

FGC staff: Authorize publication of a notice of intent to amend regulations as recommended by DFW, to authorize electronic display of licenses via mobile application.

DFW: Authorize publication of a notice of intent to amend regulations as detailed in the draft ISOR.

Exhibits

1. [DFW memo, received Sep 9, 2022](#)
2. [Draft ISOR](#)

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3. [Proposed regulatory text](#)
4. [Draft economic and fiscal impact statement \(STD. 399\)](#)
5. [DFW presentation](#)

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend Section 700.4 related to display of licenses.

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15. EXPERIMENTAL FISHING PERMIT (EFP) APPLICATION**Today's Item****Information** ☐**Action** ☒

Receive, consider, and potentially act on an application submitted by Johnathan Hillstrand, DFW's recommendations, and comments received for an EFP to test the feasibility of capturing king crab and other deepwater crab species using crab pots (traps).

Summary of Previous/Future Actions

- DFW transmitted accepted EFP application to FGC Jul 11, 2022
- Published notice of receipt of EFP application Jul 15, 2022
- DFW transmitted recommendation for EFP application Aug 13, 2022
- Published notice of receipt of DFW recommendation Sep 6, 2022
- **Discuss and consider approving EFP application Oct 12-13, 2022; Kings Beach**

Background

The California Fisheries Innovation Act of 2018 (Chapter 477, Statutes of 2018, primarily codified in California Fish and Game Code Section 1022) gives FGC authority to approve EFPs for commercial or recreational marine fishing activities that would otherwise be prohibited, upon adopting regulations establishing an EFP program. Permits must be for one or more of the following purposes: research, education, limited testing, data collection, compensation fishing, conservation engineering, or exploratory fishing.

An EFP program consistent with the new law was established through regulations adopted by FGC (in Section 91) and which became effective on Apr 1, 2022. The regulations establish an expeditious process for considering and issuing EFPs, including direct application to DFW, public notice, DFW review and recommendation, and FGC receipt and potential approval of the EFP.

EFP Application Overview

On Jun 9, 2022, DFW received an EFP application (Application #2022-02) from Andrew Hillstrand (Entity Administrator) on behalf of Johnathan Hillstrand (Applicant). The Applicant seeks to explore the potential for developing a new commercial fishery for king crab and other deepwater crab species in California to provide new products and new market opportunities.

The Applicant requests the ability to commercially harvest king crab and other deepwater crab species. Sampling with traps measuring 84" x 84" x 32" in size, would occur off the coast of California from Eureka to Pigeon Point (south of San Francisco) in water depths from 600 to 1,800 feet (100 to 300 fathoms). No more than 40 traps would be deployed in the water at any given time. Each trap would be attached to one vertical $\frac{3}{4}$ " line with the top 198 feet (33 fathoms) consisting of a sinking line to prevent floating line at the surface. Traps would be set in a "prospective" string" (i.e., one trap per vertical line spaced approximately 1 mile apart) and soaked for 24 to 36 hours.

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After receiving the application and associated fee, DFW conducted a review within 30 days of receipt to determine whether to accept or reject the application, pursuant to subsection 91(d). On Jul 11, 2022, DFW transmitted the accepted EFP application to FGC via memo (exhibits 1 and 2). FGC provided notice of receipt to interested parties on Jul 15, 2022. DFW concluded its technical review of the application and transmitted its recommendation to FGC on Aug 13, 2022 (exhibits 3 and 4).

DFW recommends that FGC approve a Tier 3 EFP with the special conditions listed on form DFW 1103 (Exhibit 4). If approved, the standard terms and special conditions will ensure marine resources are protected, pursuant to California Fish and Game Code Section 1022, and will allow DFW to adequately enforce the EFP. DFW also recommends approving the permit fee reduction option due to DFW interest in evaluating efficacy and durability of marking buoy lines as a means of reducing entanglement risk in fixed gear fisheries. FGC provided notice of receipt of the DFW recommendation to interested parties on Sep 6, 2022.

At today's meeting, FGC is scheduled to publicly receive the EFP application, discuss the request and special conditions, and consider approving the application.

Significant Public Comments (N/A)

Recommendation

FGC staff: Approve the EFP application with special conditions and a permit fee reduction as recommended by DFW.

DFW: Approve the EFP application with special conditions, as specified on form DFW 1103; approve a permit fee reduction.

Exhibits

1. [DFW memo transmitting EFP application, received Jul 11, 2022](#)
2. [EFP Application #2022-02](#)
3. [DFW memo transmitting recommendation, standard terms, and proposed special conditions, received Aug 31, 2022](#)
4. [Form DFW 1103, including standard terms and proposed special conditions for the Hillstrand EFP](#)

Motion

Moved by _____ and seconded by _____ that the Commission **approves** EFP Application #2022-02 to test the commercial harvest of king crab and other deepwater crab species within California state waters, with a permit fee reduction and with special conditions as reflected in Exhibit 4 and recommended by staff.

OR

Moved by _____ and seconded by _____ that the Commission **does not approve** EFP Application #2022-02 to test the commercial harvest of king crab and other deepwater crab species within California state waters.

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16. RECREATIONAL HOOP NET REGULATIONS**Today's Item**Information ☐Action ☒

Discuss and consider adopting emergency regulations to amend and clarify hoop net regulations in order to minimize entanglement risk of federally-protected species and to expand the current identification requirement in effect south of Pt. Arguello, Santa Barbara County, to apply statewide.

Summary of Previous/Future Actions

- | | |
|---|--|
| • MRC discussed proposed California spiny lobster (lobster) regulation changes and recommendation | Jul 14, 2022; MRC, Santa Rosa |
| • DFW Marine Region update | Aug 17, 2022; Loleta |
| • Today's adoption of regulations through emergency rulemaking | Oct 12-13, 2022; Kings Beach |
| • Notice hearing for regular rulemaking | Dec 14-15, 2022; San Diego area |
| • Discussion hearing for regular rulemaking | Feb 8-9, 2023; Sacramento |
| • Adopt first emergency 90-day extension | Feb 8-9, 2023; Sacramento |
| • Adoption hearing for regular rulemaking | Apr 19-20, 2023; Fresno/Bakersfield area |
| • Adopt second emergency 90-day extension | Jun 14-15, 2023; Location TBD |
| • Regular rulemaking effective date | Sep 1, 2023 (estimated) |

Background

Current regulations specify that hoop nets may be used to take spiny lobster and all species of crab, define two authorized types of hoop nets, require regular servicing of hoop nets, and limit the number and require marking of hoop nets used south of Point Arguello, Santa Barbara County (subsection 29.80(c)).

At the Aug 17, 2022 FGC meeting, DFW notified FGC that it had identified a dramatic increase in hoop net fishing effort in the Dungeness crab (*Metacarcinus magister*) recreational fishery since the implementation of new crab trap regulations on Nov 1, 2021 (in Section 29.80). Specifically, the increase in hoop net effort occurred during times of elevated marine life entanglement risk following declaration by the DFW director that use of crab traps was prohibited pursuant to subsection 29.80(c).

Additionally, DFW has learned that gear manufacturers are developing new hoop net designs that function like traps, and yet meet the specifications in current regulations for hoop nets. Hoop nets constructed to function like traps may motivate users to increase the amount of time that a hoop net is kept in the water (soak periods) posing elevated entanglement risk. Based on these circumstances, urgent action is needed to safeguard federally protected species during periods of elevated entanglement risk.

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The proposed emergency rulemaking will amend and clarify hoop net regulations to minimize entanglement risk of federally protected humpback whales, blue whales, and Pacific leatherback sea turtles. Specifically, the proposed regulations will:

- Ensure that hoop nets are regularly serviced every two hours;
- modify design specifications to prevent the device from functioning as a crab trap that could incentivize longer soak periods;
- reduce the weight of the hoop net, thereby posing less harm to an entangled whale or sea turtle should that occur; and
- expand current gear marking requirements for hoop nets used south of Point Arguello, Santa Barbara County, to apply statewide, which will aid in identifying this gear type for enforcing these requirements and identify hoop nets involved in entanglements.

The “Commercial and Recreational Take of California Spiny Lobster and Recreational Hoop Net Requirements for Take of Crustaceans” rulemaking scheduled for a notice hearing in Dec 2022, is proposed to continue the emergency regulations through a regular, non-emergency rulemaking process. However, up to two 90-day extensions of the emergency regulations will be necessary to cover the time period until the non-emergency regulations go into effect, anticipated to be Sep 1, 2023.

Significant Public Comments (N/A)

Recommendation

FGC staff: Adopt the emergency regulations as recommended by DFW.

DFW: Adopt the emergency regulations as presented in the emergency statement in Exhibit 2.

Exhibits

1. [Memo received Sep 16, 2022](#)
2. [Draft emergency statement, received Sep 16, 2022](#)
3. [Draft economic and fiscal impact statement \(STD. 399\)](#)
4. [DFW presentation](#)

Motion

The Commission determines, pursuant to Section 399 of the California Fish and Game Code, that adopting these regulations is necessary for the immediate conservation, preservation, and protection of birds, mammals, fish, amphibians, or reptiles, including, but not limited to, their nests or eggs.

The Commission further determines, pursuant to Section 11346.1 of the California Government Code, that an emergency situation exists and finds the proposed regulations are necessary to address the emergency.

Moved by _____ and seconded by _____ that the Commission adopts the emergency regulations amending subsection (b) of Section 29.80, related to the use of hoop nets for the recreational take of lobster and crab.

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17. RECREATIONAL FISHING REGULATIONS FOR FEDERAL GROUND FISH AND ASSOCIATED SPECIES**Today's Item****Information** ☒**Action** ☐

Discuss proposed changes to (a) recreational regulations for federal groundfish for consistency with federal rules in 2023 and 2024, and (b) recreational seasons, and bag and depth limits for associated species.

Summary of Previous/Future Actions

- | | |
|--|---|
| • MRC vetting of CA sheephead recreational regulations | Mar 24, 2022; MRC, Webinar/Teleconference |
| • Pacific Fishery Management Council (PFMC) action | Jun 13, 2022 |
| • Notice hearing | Jun 15-16, 2022; Los Angeles/Trinidad |
| • Today's discussion hearing | Oct 12-13, 2022; Kings Beach |
| • Adoption hearing | Nov 1, 2022; Webinar/Teleconference |

Background

FGC biennially adopts recreational fishing regulations for federal groundfish as necessary for consistency with federal rules that go into effect Jan 1 of odd-numbered years. Since 2004, FGC has adopted recreational regulations for state-managed species associated with federal groundfish species in the same rulemaking.

At its Jun 2022 meeting, PFMC recommended recreational fishing regulations for federally-managed groundfish species for the 2023-2024 seasons, expected to go into effect Jan 1, 2023, that impose a significant reduction in fishing time in nearshore waters. At FGC's Jun 2022 meeting, DFW proposed regulatory changes for recreational regulations in state waters to maintain consistency with federal regulations. In addition, DFW proposed to de-couple the regulations for California sheephead and ocean whitefish from the regulations for federal groundfish.

Proposed Amendments

FGC received an overview of the proposed regulatory changes at its Jun 2022 meeting (Exhibit 1); the detailed proposed changes are summarized in Exhibit 2 and provided in the initial statement of reasons (Exhibit 3) transmitted by DFW for today's discussion. In general, the proposed changes include:

- Changes to seasons and depths: In 2022, rockfish, cabezon, greenling and lingcod fishing season lengths ranged from eight to ten months, but in 2023, they are expected to shrink substantially in most areas. In some times and areas, depth limits are proposed to prohibit fishing for groundfish in nearshore waters while authorizing fishing in deeper waters offshore, to reduce impacts on copper and quillback rockfish while allowing fishing opportunity on healthy offshore and deep-water groundfish stocks; this is the first time this strategy is proposed for the recreational sector.

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- In all management areas, other federal groundfish species, such as Pacific sanddab and other flatfish, are proposed to be open year-round at all depths.
- De-coupling regulations for state-managed species: Modification of recreational season dates, depth limits, and bag limits for California sheephead and ocean whitefish are proposed to sustainably manage these fisheries and angling opportunities independently from the regulations for federal groundfish.

This regular rulemaking will continue the emergency regulation change to reduce sub-bag limits for quillback rockfish (1 fish), copper rockfish (1 fish), and vermilion rockfish (4 fish) originally adopted by FGC in Dec 2021 and effective Jan 2022. FGC readopted the emergency action in Jun and Aug 2022; the emergency regulations will expire in early Jan 2023.

Potential adoption of the rulemaking is scheduled for the Nov 1, 2022 teleconference meeting to ensure regulations will be into effect on Jan 1, 2023.

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

1. [DFW presentation, dated Jun 2022](#)
2. [DFW memo, received Sep 9, 2022](#)
3. [Initial statement of reasons](#)
4. [Proposed regulatory language](#)
5. [Economic and fiscal impact statement \(STD. 399\)](#)
6. [DFW news release: *Big Changes to Sport Groundfish Regulations Coming In 2023*, dated Jul 28, 2022](#)

Motion (N/A)

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18. COMMERCIAL KELP AND OTHER AQUATIC PLANTS**Today's Item****Information** ☐**Action** ☒

Consider approving sufficiently-related changes to the regulations adopted by FGC on Feb 16, 2022 for commercial harvest of kelp and other aquatic plants.

Summary of Previous/Future Actions

- | | |
|-----------------------------------|---|
| • Notice hearing | Dec 15-16, 2021; Webinar/Teleconference |
| • Adoption hearing | Feb 16-17, 2022; Webinar/Teleconference |
| • Published first 15-day notice | Feb 22, 2022 |
| • Published second 15-day notice | Jul 15, 2022 |
| • Today's adoption hearing | Oct 12-13, 2022; Kings Beach |

Background

In Feb 2022, FGC adopted regulations regarding the commercial harvest of bull kelp and other aquatic plants following a multi-year process to develop management options for commercial harvest of bull kelp (*Nereocystis*). The changes were developed in response to dramatic declines in bull kelp in Mendocino and Sonoma counties and persisting ecosystem collapse resulting from oceanographic and ecological conditions; regulations establish a three-year period with commercial harvest closure in two counties, closure of three lease-only kelp beds, and an annual harvest quota for two counties combined, as well as enhanced reporting requirements (see exhibits 1 and 2 for details).

At the Feb 2022 adoption hearing, DFW provided updated data and noted minor edits and clarifying revisions to forms and regulatory text approved at the notice hearing. Following FGC adoption, on Feb 22, 2022, staff provided notice of a 15-day public comment period on these regulatory revisions and new data documents. Staff submitted the rulemaking to the Office of Administrative Law (OAL) on Apr 19, 2022 for review and approval.

During its review of the rulemaking, OAL provided feedback that the adopted regulatory text and two of the forms required additional changes to add clarity, consistency and specificity; to incorporate fishing block maps; and to correct typographical, spelling, grammar, punctuation and strikeout/underline formatting errors.

The most significant change to regulatory text requested by OAL concerns how DFW would determine individual allotted harvest if, following a temporary closure of bull kelp harvest to obtain a harvest tally, additional quota remains and the fishery is reopened [subsection 165(c)(9)(B)]. The new regulations in subsection 165(c)(9)(B) specify the mathematical formula to calculate the fishery allotments; specify which harvesters will be allotted amounts; specify that a harvester shall not be allotted an amount that would result in exceeding their annual license quota; and clarify DFW notification to harvesters affected by the allotment. The necessary changes required a second 15-day public comment period. Thus, on Jun 1, 2022, staff withdrew the rulemaking file from OAL and, after collaboration with OAL and DFW on

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revisions, provided notice on Jul 15, 2022 of a second 15-day public comment period on the additional revisions (Exhibit 3).

On Aug 4, 2022, FGC staff re-submitted the rulemaking file to OAL. OAL identified additional, strikeout/underline formatting errors, and edits for clarity and consistency (Exhibit 6); these additional edits are non-substantive and do not require additional public review.

Given the extent of the changes following FGC adoption and the lengthy process, staff withdrew the re-submitted rulemaking file from OAL on Sep 16, 2022 and requested that this item be added to the Oct FGC meeting agenda (this meeting) to approve the additional changes to the regulations in a public hearing.

Significant Public Comments

The majority of comments received during the second 15-day public comment period were outside the scope of the 15-day notice, but were similar to comments submitted during the original notice period. Significant comments expressed opinions that FGC did not comply with the Administrative Procedure Act, specifically regarding evaluation of economic impacts on businesses and consideration of alternatives that would be less burdensome to businesses, and expressed opposition to DFW seizing bull kelp taken in excess of the quota (Exhibit 4).

Recommendation

FGC staff: Approve the additional changes to the regulations.

Exhibits

1. [Background document: Staff summary from Dec 2021 notice hearing](#)
2. [Background document: Staff summary from Feb 2022 adoption hearing](#)
3. [Description of specific edits to regulatory text and forms, and revised proposed regulatory language](#)
4. [Public comment received during second 15-day public comment period](#)
5. [Summary and response to public comments](#)
6. [OAL list of additional non-substantive edits, Sep 16, 2022](#)
7. [STD 399 with revisions requested by the California Department of Finance](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the revisions to sections 165, 165.5 and 705.1, and forms DFW 658, DFW 113, DFW 113A and DFW 1108, as reflected in exhibits 3 and 6.

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19. REGULATION CHANGE PETITIONS**Today's Item****Information** ☐**Action** ☒

This is a standing agenda item for FGC to receive new regulation change petitions and act on regulation change petitions received from the public at previous meetings. For this meeting:

- (A) Receive new petitions for regulation change
- (B) Act on previously received petitions for regulation change

Summary of Previous/Future Actions**(A) *New Petitions for Regulation Change – Receipt***

- **Today receive new petitions** **Oct 12-13; Kings Beach**
- **Potentially act on new petitions** **Dec 14-15; San Diego**

(B) *Regulation Change Petitions – Scheduled for Action*

- **Received new petitions** **Aug 17, 2022; Loleta**
- **Today's potential action on petitions** **Oct 12-13; Kings Beach**

Background**(A) *Receipt of new petitions for regulation change***

Pursuant to Section 662, any person requesting that FGC adopt, amend, or repeal a regulation must complete and submit form FGC 1. Regulation change petition forms submitted by the public are received at this FGC meeting under (A) if they are delivered by the comment deadline (included in meeting materials) or by the supplemental comment deadline.

Under the Bagley-Keene Open Meeting Act, FGC cannot discuss or take action on any matter not included on the agenda, other than to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change generally follow a two-meeting cycle (receipt and direction); FGC will determine the outcome of the petitions for regulation change received at today's meeting at the next regularly scheduled FGC meeting (currently Dec 14-15, 2022) under (B), following staff evaluation, unless the petition is rejected under 10-day staff review as prescribed in subsection 662(b).

FGC received two new petitions by the comment deadline; the petitions are summarized in Exhibit A1, and the petitions are provided as exhibits A2-A3.

(B) *Action on previously-received petitions for regulation change*

Petitions received at the previous meeting are scheduled for FGC consideration at the next regularly scheduled business meeting under (B). A petition may be (1) denied, (2) granted, or (3) referred to a committee, staff, or DFW for further evaluation or information-gathering. Referred petitions are scheduled for action once the evaluation is completed and a recommendation made.

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For today, three marine petitions and three wildlife and inland fisheries petitions are scheduled for action:

- I. *Petition 2021-18*: Request to establish a DFW-implemented permit system to allow the take of barred owls for management purposes (Exhibit B2)
- II. *Petition 2022-06*: Request to rename the currently-designated Casino Point State Marine Conservation Area (SMCA) to the Dr. Bill Bushing SMCA at Casino Point (Exhibit B3)
- III. *Petition 2022-10*: Request to authorize air guns as a method of take for deer (Exhibit B4)
- IV. *Petition 2022-11*: Request to modify recreational Dungeness crab regulations related to fishery start times, crab trap stamps, and best practices for trap buoy rigging (Exhibit B5)
- V. *Petition 2022-12*: Request to establish a slot limit for recreational take of striped bass in marine waters (Exhibit B6)
- VI. *Petition 2022-13*: Request to modify methods of take and bag and possession limits for trout at Willow Creek, upstream from the confluence of West Fork of Carson River (Alpine Co.) (Exhibit B7)

Staff recommendations and rationales, developed with input from DFW staff, are provided in Exhibit B1. DFW's evaluation of Petition 2021-18, including its recommendation and rationale, is provided as Exhibit B8.

Additionally, today DFW will provide an update on its progress toward furnishing a recommendation on several referred petitions concerning the use of airguns for hunting in California as requested by FGC in Aug 2022.

Significant Public Comments

1. The petitioner for Petition 2022-16 submits a link for an online petition to stop waterfowl hunting at Lake Earl Wildlife Refuge (see Item 11, Exhibit 8 this meeting).
2. Three commenters oppose Petition 2022-06 and state that the SMCA should not be renamed for Dr. Bushing. An example is provided as Exhibit B9.
3. The petitioner for Petition 2022-007 requests that if airguns are authorized for use in hunting, any ammunition be permitted. Another commenter urges FGC to consider ethical standards for humane harvests when determining whether to allow the use of airguns to hunt larger animals (exhibits B10 and B11).

Recommendation

FGC staff: Deny petitions 2021-18 and 2022-06 based on the rationale provided in Exhibit B1. Refer petitions 2022-10, 2022-11, 2022-12, and 2022-13 to DFW for review and recommendations.

DFW: Deny Petition 2021-18 based on the rationale presented in Exhibit B8.

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Exhibits

- A1. [Summary of new petitions for regulatory change received through Sep 29, 2022](#)
- A2. [Petition 2022-14, received Aug 19, 2022](#)
- A3. [Petition 2022-16, received Sep 19, 2022](#)
- B1. [Summary of petitions for regulatory change scheduled for action, updated Oct 5, 2022](#)
- B2. [Petition 2021-018, received Sep 24, 2021](#)
- B3. [Petition 2022-06, received Mar 4, 2022](#)
- B4. [Petition 2022-10, received Jun 23, 2022](#)
- B5. [Petition 2022-11, received Jul 14, 2022](#)
- B6. [Petition 2022-12, received Aug 4, 2022](#)
- B7. [Petition 2022-13, received Aug 5, 2022](#)
- B8. [DFW memo regarding Petition 2021-018, received Sep 27, 2022](#)
- B9. [Email from Volker Hoehne, received Sep 21, 2022](#)
- B10. [Email from Phoebe Lenhart, received Sep 29, 2022](#)
- B11. [Email from Colin Gallagher, received Sep 27, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations to deny petitions 2021-18 and 2022-06 and refer petitions 2022-10 through 2022-13 to the Department for review and recommendations.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations as reflected in Exhibit B1, except _____.

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20. NON-REGULATORY REQUESTS FROM PREVIOUS MEETINGS**Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC to act on requests for non-regulatory action received from the public at previous meetings.

Summary of Previous/Future Actions

- FGC received requests Aug 17, 2022; Loleta
- **Today potentially act on requests Oct 12-13, 2022; Kings Beach**

Background

Requests for non-regulatory action are received from members of the public under general public comment. All non-regulatory requests follow a two-meeting cycle to ensure proper review and thorough consideration of each item. All requests received in writing or public testimony during general public comment at the previous FGC meeting are scheduled for consideration at the next meeting. Referred non-regulatory requests are scheduled for action once the evaluation is completed and a recommendation made.

There are three non-regulatory requests scheduled for action today (exhibits 2-4). Exhibit 1 provides staff recommendations and rationales, developed with input from DFW staff.

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

FGC staff: Adopt the staff recommendations for non-regulatory requests as reflected in Exhibit 1.

Exhibits

1. [Summary of non-regulatory requests and staff recommendations for requests scheduled for action, updated Sep 27, 2022](#)
2. [Email from Kerry Kriger, received Jun 10, 2022](#)
3. [Email from Hon. Gabrielle Crowe, received Jun 16, 2022](#)
4. [Email from Phoebe Lenhart, received Jun 27, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on non-regulatory requests reflected in Exhibit 1.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for actions on non-regulatory requests reflected in Exhibit 1, except for item(s) _____ for which the action is _____.

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21A. MARINE RESOURCES COMMITTEE (MRC)**Today's Item**Information ☐Action ☒

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting scheduled for Nov 17, 2022.

Summary of Previous/Future Actions

- | | |
|---|-------------------------------------|
| • Previous MRC meeting | Jul 14, 2022; MRC, Santa Rosa |
| • Today consider approving agenda topics | Oct 12-13, 2022; Kings Beach |
| • Next MRC meeting | Nov 17, 2022; MRC, San Diego area |

Background

MRC works under FGC direction to set and accomplish its work plan.

Committee Work Plan

Topics that have been referred by FGC to MRC are displayed in a work plan for scheduling and tracking. The updated MRC work plan is in Exhibit 1. No new topics are being proposed by DFW or FGC staff.

Next Committee Meeting

The next MRC meeting is scheduled for Nov 17, 2022 in the San Diego area, with a webinar/teleconference participation option. Staff has conferred with DFW regarding readiness of topics for discussion and potential recommendation or for a progress update only. Four discussion topics and two staff and other agency updates are proposed in addition to standing agenda items; the list of topics reflects the changes proposed in the work plan in Exhibit 1.

Discussion Topics

1. Red abalone fishery management plan development and potential recommendation
2. Evaluation of bycatch in California halibut fishery to support management review
3. Public interest determination criteria for new aquaculture lease applications
4. Coastal fishing communities policy development

Updates from Staff and Other Agencies (written format)

1. Aquaculture program planning (tate aquaculture action plan)
2. Marine protected area decadal management review

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

FGC staff: Approve the updated work plan and approve the proposed agenda topics for the Nov 2022 MRC meeting.

STAFF SUMMARY FOR OCTOBER 12-13, 2022

Exhibits

1. [MRC work plan, updated Sep 30, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the changes to the work plan and approves the agenda topics for the November 17, 2022 Marine Resources Committee meeting, as discussed today.

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21B. DEPARTMENT MARINE REGION**Today's Item****Information** ☒**Action** ☐

DFW will highlight items of note since the last FGC meeting.

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

DFW's Marine Region will provide a verbal update on items of interest since the last FGC meeting.

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

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21C. TRIBAL COMMITTEE (TC)**Today's Item**Information ☐Action ☒

Discuss referred topics and consider revisions to topics and timing. Consider approving draft agenda topics for the next committee meeting scheduled for Dec 13, 2022.

Summary of Previous/Future Actions

- | | |
|---|-------------------------------------|
| • Previous TC meeting | Aug 16, 2022; TC, Loleta |
| • Today consider approving agenda topics | Oct 12-13, 2022; Kings Beach |
| • Next TC meeting | Dec 13, 2022; TC, San Diego area |

Background

TC works under FGC direction to set and accomplish its work plan (Exhibit 1). Today, FGC will be asked to consider the agenda topics and any recommendations, as well as provide direction for any referred topics for the next TC meeting in Dec 2022.

Committee Work Plan

Topics that have been referred by FGC to TC are displayed in a work plan for scheduling and tracking. The updated TC work plan is in Exhibit 1. No new topics are being proposed by DFW or FGC staff.

Next Committee Meeting

The next TC meeting is scheduled for Dec 13, 2022 in the San Diego area, with a webinar/teleconference participation option. Staff has conferred with DFW regarding readiness of topics for discussion or progress updates. In addition to standing agenda items (annual tribal planning meeting, updates on species management plans, committee cross-pollination, staff and other agency updates, FGC rulemaking timetable, and future agenda topics), two additional agenda topics are proposed:

1. *Co-management roundtable discussion*: Discuss co-management with tribal representatives regarding their co-management interests and experiences; and,
2. *Tribal subsistence definition and related management mechanisms*: Receive a presentation and discuss outcomes from workgroup meetings.

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

FGC staff: Approve the updated work plan, and approve the proposed agenda topics for the Dec 2022 TC meeting.

Exhibits

1. [TC work plan, updated Sep 30, 2022](#)

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Motion

Moved by _____ and seconded by _____ that the Commission approves the changes to the work plan and approves the agenda topics for the December 13, 2022 Tribal Committee meeting, as discussed today.

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21D. WILDLIFE RESOURCES COMMITTEE (WRC)**Today's Item****Information** ☐**Action** ☒

Receive summary and consider approving recommendations from Sep 15, 2022 committee meeting. Discuss referred topics and consider revisions to topics and timing.

Summary of Previous/Future Actions

- | | |
|--|--------------------------------------|
| • Previous WRC meeting | Sep 15, 2022; WRC, Arcadia |
| • Today discuss topics and timing | Oct 12-13, 2022; King's Beach |
| • Next WRC meeting | Jan 12, 2023; WRC, Los Angeles area |

Background

WRC works under FGC direction to set and accomplish its work plan.

Previous Committee Meeting

WRC met on Sep 15 in Arcadia, with a webinar/teleconference option for participation, to discuss:

- Upcoming revisions to the bear management plan.
- Proposals for periodic rulemakings, including:
 - inland (resident) game bird hunting;
 - mammal hunting, including potential changes to regulations to curtail the ingress of chronic wasting disease and potential changes to certain elk hunts;
 - waterfowl hunting;
 - Central Valley and Klamath River Basin sport fishing; and
 - Inland sport fishing, including striped bass management.
- A potential future rulemaking for post-dam removal for the Klamath River above Iron Gate Dam.
- A potential future rulemaking to make improvements to the regulatory framework for authorizing wildlife rehabilitation.
- A potential future rulemaking to integrate bird and mammal special hunts into the DFW Automated License Data System.
- Staff recommendations for bullfrog and non-native turtles based on the stakeholder engagement process and other materials to date.

Due to lack of time, WRC did not discuss several topics that were on the agenda:

- Inland boat limits.
- DFW and FGC staff recommendations for hunting preference points and tag refunds.
- Review of referred Petition 2021-017 regarding various big game hunting proposals, in preparation for potential DFW recommendations at the Sep 2022 WRC meeting.

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WRC recommended the unheard items be added to the work plan for the Jan 12, 2023 WRC meeting. A video of the meeting will be posted to the FGC YouTube channel prior to the Oct 2022 meeting.

WRC Recommendations

WRC developed one recommendation for FGC consideration:

- Support the proposed regulation changes for mammal hunting (elk updates), waterfowl hunting, Central Valley sport fishing, and Klamath River Basin sport fishing.

Committee Work Plan

Topics that have been referred from FGC to WRC are displayed within a work plan for scheduling and tracking. An updated work plan, including moving items unheard during the Sep 2022 WRC meeting to the Jan 2023 meeting, is included as Exhibit 1.

No additional topics or modifications are proposed at this time.

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

FGC staff: Approve the Sep 15, 2022 recommendation and WRC work plan as proposed.

Exhibits

1. [WRC work plan, updated Oct 3, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the recommendation from the September 15, 2022 Wildlife Resources Committee meeting and updated work plan, as discussed today.

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21E. DEPARTMENT WILDLIFE AND FISHERIES DIVISION, AND DEPARTMENT ECOSYSTEM CONSERVATION DIVISION**Today's Item****Information** ☒**Action** ☐

DFW will highlight items of note since the last FGC meeting.

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

A verbal report is expected for DFW's Wildlife and Fisheries Division, and Ecosystem Conservation Division report. News releases of interest are provided as exhibits 1 through 4.

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

1. [DFW news release: Secure Food, Trash And Other Summer Attractants: Keep Tahoe Bears Wild!, dated Aug 16, 2022](#)
2. [DFW news release: Endangered Voles Begin To Repopulate In Inyo County, With Help From Scientists, Conservationists And Landowner, dated Sep 2, 2022](#)
3. [DFW news release: Drought Forces Closure Of Shasta Valley Wildlife Area To Waterfowl Hunting; Other Northeastern Waterfowl Properties Impacted By Water Shortages, Sep 16, 2022](#)
4. [DFW news release: Testing Underway For Pilot Project To Return Endangered Salmon To Their Historic Habitat, dated Sep 30, 2022](#)

Motion (N/A)

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22A. ADMINISTRATIVE ITEMS – LEGISLATION AND OTHER AGENCY REGULATIONS**Today's Item****Information** ☒**Action** ☐

Receive updates on legislative activity and letters of support, and regulatory actions under consideration by other agencies. Consider providing direction to staff on potential actions.

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

FGC staff has identified state legislation that may affect FGC's resources and workload, or may be of interest to commissioners. DFW has provided a report on active bills that DFW is tracking during the current legislative session, as of the morning of Oct 3, 2022 (Exhibit 1). At any meeting, FGC may direct staff to provide information to, or share concerns with, bill authors. Today, FGC may provide further direction to staff concerning legislation.

September 30 was the last day for the Governor to sign or veto bills passed by the Legislature before Sep 1 and in the Governor's possession on or after Sep 1. Other important dates include:

- Aug 31: Final recess began
- Nov 8: General Election
- Nov 30: Adjourn at midnight
- Dec 5: Convene the 2023-24 Regular Session, new legislators sworn in
- Dec 5: Special session on gas prices called by Governor Newsom
- Jan 23: Statutes take effect

Bills Introduced During the 2021-2022 Session

Of the bills of potential interest tracked by the Commission, three senate bills (SB) and three assembly bills (AB) were signed by the governor, one bill was vetoed by the governor, three bills died during session, and two bills were moved to the inactive file (see Exhibit 1 for DFW report with additional details about various bills):

Bills of Interest Signed by the Governor During the Session

- SB 856 (Chapter 469, Statutes of 2022) – Wild pigs: validations.
This bill revises and recasts the provisions applicable to wild pig by, among other things, specifying that wild pig is an "exotic game mammal," a term defined to include wild pigs, feral pigs, and wild boar. The bill expands the definition of "wild pig" to include any pig that has two or more specified phenotypical characteristics and that does not have a permanent mark or visible tag, as specified, and any free-roaming pig, feral pig, or European wild boar having no visible tags, markings, or characteristics indicating that the pig or boar is from a domestic herd. The bill replaces the wild pig tag requirement with a wild pig validation that would authorize the take of any number of wild pigs specified by FGC. The bill also prohibits the use of poison to take exotic game

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mammals, makes it illegal to intentionally release a pig into the wild, and makes conforming changes to reflect the creation of the separate category of exotic game mammal. Governor Newsom signed the bill the same day that DFW and FGC held an online forum on the issue of wild pig and possible solutions to mitigate the damage and danger they pose around the state (discussed in more detail under Agenda Item 23 for this meeting). Most provisions of the bill take effect July 1, 2024.

- SB 945 (Chapter 471, Statutes of 2022) – Falconry: American peregrine falcons.
Existing law designates the American peregrine falcon as a fully protected bird. This bill exempts the capture, possession, or training of an American peregrine falcon in the practice of falconry from the prohibitions in the fully protected bird statute.
- SB 1029 (Chapter 990, Statutes of 2022) – One Health Program: zoonotic diseases.
This bill requires the California Department of Public Health and the California Department of Food and Agriculture to jointly establish and administer a new program to develop a framework for interagency coordination in responding to zoonotic diseases.
- AB 30 (Chapter 939, Statutes of 2022) – Outdoor access to nature: environmental equity.
The Equitable Outdoor Access Act declares it is state policy, among other things, to ensure that all Californians have equitable opportunities to safe and affordable access to nature and access to the benefits of nature, and to prevent and minimize the intentional and unwarranted limitation of sustainable public access to public lands, where appropriate, including, but not limited to, local, regional, state, and federal parks, rivers, lakes, beaches, forests, mountain ranges, deserts, and other natural landscapes. The bill requires specified state agencies to consider and incorporate, as appropriate, the state policy when revising, adopting, or establishing policies, regulations, or grant criteria, or making expenditures, as specified. The bill requires all state agencies implementing the above-described state policy to do so in a manner consistent with the mission of their agency and that protects the health and safety of the public and conserves natural and cultural resources. The bill requires the state to encourage the types of access that promote, and are consistent with, specified conservation goals. The bill requires the California Natural Resources Agency to prepare and submit a report to the Legislature with information related to the implementation of these provisions on or before January 1, 2024.
- AB 2109 (Chapter 437, Statutes of 2022) – White sharks: prohibition on use of attractants.
This bill makes it unlawful, except as provided, to use any shark bait, shark lure, or shark chum, as defined, to attract any white shark; to place any shark bait, shark lure, or shark chum into the water within one nautical mile of any shoreline, pier, or jetty when a white shark is either visible or known to be present; or to place any shark bait, shark lure, or shark chum into the water for the purpose of viewing any shark when a white shark is visible or known to be present.

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- AB 2278 (Chapter 349, Statutes of 2022) – Natural resources: biodiversity and conservation report.

By Executive Order No. N-82-20, Governor Newsom directed the California Natural Resources Agency to combat the biodiversity and climate crises by, among other things, establishing the California Biodiversity Collaborative and conserving at least 30% of the state's lands and coastal waters by 2030. This bill requires the Natural Resources Agency, in implementing actions to achieve the goal to conserve at least 30% of the state's lands and coastal waters by 2030, to prioritize specified actions. This bill requires the Secretary for Resources to submit an annual report to the legislature on the progress made during the prior calendar year toward achieving the goal.

Bill of Interest Vetoed by the Governor During the Session

Vetoed by the governor, SB 1065 (California Abandoned and Derelict Commercial Vessel Program) would have created a new program to bring federal, state, and local agencies together to identify, prioritize, and fund the removal of abandoned and derelict commercial vessels and other debris from the waters of the state. In his veto message, Governor Newsom stated that he supports the effort to create a statewide approach to address abandoned and derelict commercial vessels, the program was not accounted for in the state's budget. Program implementation across the relevant agencies was expected to cost about \$25 million in year 1, with ongoing general fund impacts; with the state facing lower-than-expected revenues over the first few months of this fiscal year, the governor stated that it is important to remain disciplined on spending, particularly spending that is ongoing, and to prioritize existing obligations.

Bills of Interest that Died During the Session or Moved to Inactive File

There are six bills of interest in this category:

- SB 865 – Junior hunting licenses: age of eligibility.
- SB 17 – Office of Racial Equity.
- SB 42 – Department of Fish and Wildlife: Eden Landing Ecological Reserve.
- AB 2370 – Public records: state agency retention.
- AB 2893 – Administrative Procedure Act: standardized regulatory impact analysis: comments.

The most current versions of individual bills, their history, and their status, may be found at www.leginfo.legislature.ca.gov.

Letters of Support for Concepts in Legislation

FGC has authorized staff to work with the president to write letters identifying goals and concepts that FGC endorses, in support of specific bills intended to achieve those particular goals. While SB 1065 was vetoed for budgetary reasons, the California State Lands Commission is pursuing almost \$15 million in grant funding from the National Oceanic and Atmospheric Administration (NOAA) Marine Debris Program to bring together federal, state, and local agencies to prioritize and fund the removal of abandoned and derelict commercial

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vessels and other debris from the waters of the state. Proposed as the “Sonoma-Marin Marine Debris Removal Program,” covering about 30 miles of coastline and 25 square miles of state waters, including the ecologically, economically, and recreationally important Tomales and Bodega bays and a stretch of open coast from Dillon Beach to South Salmon Creek Beach. The proposed program would dispose of 14 abandoned or at-risk vessels, including the American Challenger, hundreds of waste tires in Tomales Bay, a dilapidated former commercial pier in Bodega Bay, and tons of aquaculture debris and remnant creosote-soaked pilings. The debris targets were all identified by members of the Tomales Bay, Bodega Bay, and Greater Farallones/Point Reyes communities.

FGC staff wrote a letter in support of the proposed program (Exhibit 2), just one of 35 letters of support from local, state, and federal agencies, elected representatives, and local stakeholders, including environmental groups and business interests.

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

1. [DFW legislative report, dated Oct 3, 2022](#)
2. [Letter to Nancy Wallace, Director, NOAA Marine Debris Program, dated Oct 5, 2022](#)

Motion (N/A)

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22B. RULEMAKING TIMETABLE UPDATES**Today's Item**Information ☐Action ☒

Review and potentially approve changes to the perpetual timetable for anticipated regulatory actions.

Summary of Previous/Future Actions

- FGC approved rulemaking timetable Aug 17, 2022; Loleta
- **Today consider approving changes to the rulemaking timetable** **Oct 12-13, 2022; Kings Beach**

Background

This is a standing agenda item for staff and DFW to request changes to the FGC rulemaking timetable, confirm changes made by FGC during this meeting, and highlight minor changes made by staff.

DFW requests one change to the rulemaking timetable (Exhibit 1):

1. Add an "Elk Hunting" rulemaking to amend sections 364 and 364.1 to increase tag limits, open two new hunting zones, and change existing hunt zone boundaries to help control an expanding elk population and improve public hunting opportunities. The amendments are also needed to help prevent Treponeme-associated hoof disease from spreading from introduced non-native species to wild populations. The proposed timeline for this rulemaking is notice in Dec 2022, discussion in Feb 2023, and adoption in Apr 2023.

FGC staff requests two changes to the rulemaking timetable:

1. Add a second 90-day extension to the "Southern California Steelhead 2084 Emergency" rulemaking for adoption at the Dec 2022 meeting. This re-adoption will allow the emergency provisions to continue for another 90 days after the first 90-day extension and, if adopted today, expires on approximately Feb 13, 2023.
2. Add two consecutive 90-day extensions for the "Recreational Hoop Net Regulations Emergency" rulemaking for adoption in Feb 2023 and Jun 2023. The two extensions are necessary to maintain emergency provisions while a regular rulemaking is pursued to make the regulations permanent. Regulations from the regular rulemaking, "Commercial and Recreational Take of Spiny Lobster; Recreational Hoop Net Requirements for Take of Crustaceans," are expected to be effective Sep 1, 2023.

For the "Game Fish Contests" rulemaking, staff added a disclaimer indicating the package's withdrawal from OAL and its pending resubmittal and pending effective date. For the "Pink Shrimp Fishery Management Plan Implementing Regulations" rulemaking, staff added a disclaimer indicating the package's withdrawal from OAL and pending revisions, though the effective date is still expected to be Nov 1, 2022. Additionally, for the "Harvesting of Kelp and Other Aquatic Plants, Commercial Marine Algae Management Policies" rulemaking, staff removed the disclaimer indicating withdrawal from OAL and re-submittal and replaced the

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disclaimer with an Oct 2022 adoption date and anticipated effective date based on potential FGC action today.

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

FGC staff: Adopt proposed changes to the timetable for anticipated regulatory actions and any rulemaking changes identified during this meeting.

Exhibits

1. [DFW memo, received Sep 16, 2022](#)
2. ["Perpetual Timetable for Anticipated Regulatory Action," dated Oct 5, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the proposed changes to the rulemaking timetable as discussed today.

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22C. ADMINISTRATIVE ITEMS – 2023 MEETING DATES AND LOCATIONS**Today's Item**Information ☐Action ☒

Discuss and consider adopting changes to 2023 meeting dates and locations.

Summary of Previous/Future Actions

- Received and discussed draft 2023 meeting dates and locations Jun 15-16, 2022; Los Angeles
- Adopted 2023 dates and locations with proposed amendments, and proposed new location for Jun 2023 Aug 17, 2022; Loleta
- Today, potentially adopt meeting location change for Jun 2023** **Oct 12-13, 2022; Kings Beach**

Background

At its Aug 2022 meeting, FGC reviewed and approved proposed meeting dates and locations for 2023, with several amendments:

- Move the Apr TC and FGC meetings to Apr 18-20.
- Move the May FGC teleconference and WRC meetings to May 17.
- Move the Aug TC and FGC meetings to Aug 21-23 (Monday through Wednesday), recognizing that staff will be required to travel on Sunday.
- Move the Sep WRC meeting to Sep 21.
- Hold the Jun meeting in a location more quickly accessible from San Diego (staff to return in Oct with a proposed location).

Table 1 incorporates FGC's amendments from the Aug meeting, with changes from the previous version of the table shown in bold.

Staff has researched alternate locations for the Jun 2023 FGC meeting and recommends Sacramento, also shown in bold in Table 1.

Table 1: Proposed 2023 FGC and Committee Meeting Dates and Locations

Dates	Meeting Type	Location
Jan 12	WRC	Los Angeles area
Feb 8-9	FGC	Sacramento
Mar 16	MRC	Monterey/Santa Cruz area
Apr 18	TC	Fresno or Bakersfield area

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Apr 19-20	FGC	Fresno or Bakersfield area
May 17	FGC	Teleconference
May 17	WRC	Monterey/Santa Cruz area
Jun 14-15	FGC	Sacramento
Jul 20	MRC	Sonoma/SF Bay area
Aug 21	TC	Smith River area/North Coast
Aug 22-23	FGC	Smith River area/North Coast
Sep 21	WRC	Chico area
Oct 11-12	FGC	San Jose area
Nov 16	MRC	San Diego area
Dec 12	TC	San Diego area
Dec 13-14	FGC	San Diego area

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

FGC staff: Approve the proposed location of Sacramento for the June 2023 FGC meeting.

Exhibits (N/A)**Motion**

Moved by _____ and seconded by _____ that the Commission approves Sacramento as the June 2023 meeting location.

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22D. ADMINISTRATIVE ITEMS – FUTURE MEETINGS (2022)**Today's Item**Information ☐Action ☒

This is a standing agenda item to review logistics and approve draft agenda items for future FGC meetings, consider any changes to approved meeting dates or locations, or introduce new business for a future meeting agenda.

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

The next FGC meetings are scheduled for Nov 1, 2022 via webinar/teleconference and Dec 14-15, 2022 in the San Diego area; all future in-person meetings are anticipated to include the option to participate via teleconference/webinar. Proposed agenda items for the two meetings are provided in Exhibit 1 for FGC consideration and potential approval.

As of this writing, staff is still in the process of securing a meeting location for the Dec 14-15 meeting, with many facilities not willing to take reservations for in-person meetings until recent months, and others not being willing to accept the state contract for meeting facilities. Plans are, of course, contingent upon state and local health guidance regarding in-person events as the meeting date approaches.

This agenda item is also an opportunity for commissioners to bring new items of business to FGC to consider for a future meeting agenda.

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

FGC staff: Approve agenda items for the Nov 1, 2022 and Dec 14-15, 2022 meetings as presented in Exhibit 1 and amended at this meeting. Identify any new business to be added to a future agenda.

Exhibits

1. [Potential agenda items for the Nov and Dec 2022 FGC meetings](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves the draft agenda items for the November 1, 2022 and December 14-15, 2022 Commission meetings, as amended during this meeting.

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23. ITEMS OF INTEREST FROM PREVIOUS MEETINGS**Today's Item****Information** ☒**Action** ☐

Receive an update on the *Wild Pig in California Forum*.

Summary of Previous/Future Actions

- | | |
|---|---|
| • FGC directed staff to hold a wild pig workshop | Feb 16-17, 2022; Webinar/Teleconference |
| • <i>Wild Pig in California Forum</i> | Sep 22, 2022; Webinar/Teleconference |
| • Today receive update on forum and next steps | Oct 12-13, 2022; King's Beach |

Background

Since the introduction of SB 856 (Chapter 469, Statutes of 2022) in the 2021-22 state legislative session, the issue of wild pig in California has once again come to the forefront for FGC. In response, FGC authorized staff to send a letter to the California State Legislature expressing concerns for wild pig impacts, generally supporting a wide range of pig management pathways, and suggesting more comprehensive management. At its Feb 2022 meeting, FGC directed staff to work with DFW to develop and hold a workshop exploring the many facets of wild pig management.

Held on Sep 22, 2022, the *Wild Pig in California Forum* was jointly hosted by FGC and DFW; Vice President Zavaleta and Commissioner Sklar attended and provided opening remarks and context. The three-hour, online forum included presentations on issues caused by wild pigs with respect to animal and wildlife health, ecosystem health, and economic impacts, as well as potential solutions. Two facilitators and ten expert panelists brought a range of management experience and knowledge to the presentations that elicited broad discussions.

Participation was high, with about 120 attendees, many of whom actively engaged in asking questions, providing commentary, and offering solutions to some of the identified issues. Several key themes were explored:

- California's wild pig problem is multifaceted and complex. Effectively addressing wild pig impacts demands bringing expanded resources to bear on a comprehensive solution.
- Wild pigs primarily frequent private lands over public areas, and effective solutions must address this disparity.
- Over the long term, non-lethal management techniques may be as important as lethal.
- Eradicating wild pigs from California is essentially infeasible, so a focus on abatement of adverse impacts may be a more productive avenue for management efforts.
- Human transportation of wild pigs likely presents a greater threat to pig distributions than natural migration. Solutions to wild pig issues are likely to produce various incentives or disincentives, which must be taken into account.

STAFF SUMMARY FOR OCTOBER 12-13, 2022

- Other states are developing innovative solutions and new techniques, from which California can learn a great deal.

FGC and DFW staff thank all moderators, panelists, and participants for sharing their perspectives, time, and expertise. The forum agenda is included as Exhibit 1 and a recording of the forum is posted on FGC's YouTube channel (Exhibit 2).

Next Steps

Now that SB 856 has been signed into law, FGC and DFW staff will undergo a period of internal analysis to assess the implications for our agencies, including potential regulatory changes, new authorities, and other necessary tasks to implement the bill. As part of this work, future discussions on the outlines of a more comprehensive program for wild pig control may occur in WRC and FGC.

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

1. [Agenda for Wild Pig in California Forum](#)
2. California Fish and Game Commission YouTube channel for committee meeting recordings and other events: <https://www.youtube.com/channel/UCTrLyrErKM3UNqI-3gBWLSq>

Motion (N/A)

STAFF SUMMARY FOR OCTOBER 12-13, 2022

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

Executive session will include four standing topics:

- (A) Pending litigation to which FGC is a party
- (B) Possible litigation involving FGC
- (C) Staffing
- (D) Deliberation and action on license and permit items– *none scheduled*

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

During the public portion of its meeting, FGC will call a recess and reconvene in a closed session pursuant to the authority of California Government Code subsections 11126 (a), (c)(3), and (e)(1). FGC will address the following items in closed session:

(A) Pending litigation to which FGC is a party

See agenda for a complete list of pending civil litigation to which FGC is a party, at the time the agenda was made public.

(B) Possible litigation involving FGC**(C) Staffing**

For details about staffing, see the executive director's report under Agenda Item 13(A) for today's meeting.

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

STAFF SUMMARY FOR JUNE 15-16, 2022

5. WESTERN JOSHUA TREE**Today's Item****Information** ☐**Action** ☒

Consider the petition, the DFW's status review report, and comments received to determine whether listing western Joshua tree (*Yucca brevifolia*) as threatened under the California Endangered Species Act (CESA) is warranted.

Summary of Previous/Future Actions

- | | |
|--|--|
| • Received petition | Mar 15, 2019 |
| • Transmitted petition to DFW | Mar 22, 2019 |
| • Published notice of receipt of petition | Apr 19, 2019 |
| • Received DFW's 90-day evaluation report | Apr 15-16, 2020; Teleconference |
| • FGC determined petitioned action may be warranted | Sep 22, 2020; Webinar/Teleconference |
| • Approved DFW's request for six-month extension | Jun 16-17, 2021; Webinar/Teleconference |
| • Public received DFW's one-year status review report | Apr 20-21, 2022; Monterey/Trinidad |
| • Today potentially determine if listing is warranted | Jun 15-16, 2022; Los Angeles/Trinidad |

Background

In Oct 2019, FGC received a petition from the Center for Biological Diversity to list western Joshua tree (WJT) as threatened under CESA. At its Sep 2022 meeting, FGC determined that the petition provides sufficient information to indicate that listing may be warranted, and FGC subsequently provided notice regarding WJT's protected, candidate species status. The notice prompted DFW's status review of the species, as required by California Fish and Game Code Section 2074.6. At its Jun 2021 meeting, FGC approved DFW's request for a six-month extension of time to complete the status review report.

At FGC's Apr 2022 meeting, FGC formally received DFW's completed status review report (exhibits 1 and 2, with appendices included as exhibits 3 and 4). The report represents DFW's final written review of the status of WJT and delineates each of the categories of information required for a petition, evaluates the sufficiency of the available scientific information for each of the required components, and incorporates additional relevant information that DFW possessed or received during its review. Based on the information provided, possessed, or received, DFW concluded that the petitioned action to list WTJ as threatened under CESA is not warranted at this time.

At today's meeting, FGC may consider the petition, DFW's written petition evaluation and species status review reports, written and oral comments received, and the remainder of the administrative record, to determine if listing is warranted. The administrative record for this decision contains an exceptionally large volume of information, and much more is likely to be

STAFF SUMMARY FOR JUNE 15-16, 2022

submitted at today's meeting. The administrative record contains substantial evidence that would tend to support listing, and substantial evidence that would tend to oppose listing. Reasonable minds may disagree on the appropriate interpretations of the information in the record and conclusions drawn therefrom.

Fish and Game Code Section 2075.5 allows FGC to (1) make a decision today on whether listing is warranted, (2) close the public hearing and continue the listing decision for the purpose of deliberation, or (3) continue the public hearing and deliberation on the listing decision to a subsequent date. Findings will be adopted at a meeting after the decision.

Significant Public Comments

Through the public comment deadline, FGC received over 1700 comments regarding the potential listing of WJT as a threatened species; most comments are in support of the petition, with just over 250 opposed. Approximately a dozen comment letters in opposition and a dozen in support are from associations or organizations representing many members.

Staff has reviewed the letters and provides a summary herein, with examples that are representative of the issues and concerns raised. While the large number of letters precludes including every comment in the meeting materials, all letters are available to commissioners for review.

1. State Senator Scott Wilk and Assembly Member Tom Lakey, representing areas of the state within the WJT range, oppose listing the tree, stating that DFW's status review report indicates that WJT is abundant and widespread, and that listing would jeopardize the state's ability to meet housing commitments. They also state that local governments have strict regulations in their planning codes that require direct preservation and relocation, along with stiff penalties for unpermitted removal and destruction of WJT, all designed to protect the tree (Exhibit 6).
2. The city of Hesperia, city of Victorville, town of Yucca Valley, Kern County, San Bernardino County, and the League of California Cities support DFW's findings and recommend against listing WJT. Yucca Valley notes that every residential lot in the town has multiple WJT of various ages; while it does not have a scientific census, it estimates there are hundreds of thousands of trees. San Bernardino states the county is a recognized leader in greenhouse gas emissions reduction, renewable energy and sustainable development, and is committed to comprehensive local protection of WJT. Hesperia notes it is actively working to protect the trees but, if WJT is listed, it would harm residents and employees in the Mojave Desert communities by limiting job opportunities and requiring residents to commute to more urban areas, exacerbating existing issues of traffic and pollution. (Exhibit 7)
3. Third-party analyses of the status review and petition were submitted by the County of San Bernardino and QuadState Local Governments Authority; 8Minute Solar Energy, Terra-Gen, EDF Renewables, and Longroad Energy; and the California Construction and Industrial Materials Association (CalCIMA), all opposed to listing (Exhibit 8).
4. A coalition of industry associations (including California Building Industry Association, California Farm Bureau, California Chamber of Commerce, and Rural County Representatives of California), CalCIMA, the California Council for Environmental and

STAFF SUMMARY FOR JUNE 15-16, 2022

Economic Balance (CCEEB), and Harrison Temblador Hungerford & Guernsey write in support of DFW's recommendation to not list WJT, stating that DFW used the best scientific information available and that WJT is not at risk of disappearing from a significant portion of its range. CalCIMA and CCEEB state they support broader nature-based solutions, such as the 30x30 conservation policy, and more comprehensive funding to support conservation and mitigate climate change, rather than listing under CESA. (Exhibit 9)

5. Hi-Desert Water District, Phelan Piñon Hills Community Services District, and Southern California Edison (SCE) support DFW's recommendation, stating that it is well-reasoned and that listing the tree would have severe impacts on already disadvantaged communities. SCE also states that critical electric utility work must occur in WJT habitat; to reduce wildfire risk and power shutoffs, SCE is occasionally required to make modifications to its more than 118,000 linear miles of existing electrical lines, and it states that listing WJT would significantly impact the work necessary to maintain the lines. (Exhibit 10)
6. Individual members of the public oppose the listing, citing similar concerns to those described in other opposition letters, and a lack of current imperilment; 246 form letters from realtors express the same (see Exhibit 11 for examples).
7. The petitioner, the Center for Biological Diversity (CBD), submits comments to highlight additional information that became available subsequent to submitting the petition and to address arguments made by various parties against protecting WJT, including those contained in DFW's status review. CBD states that FGC is required to construe CESA liberally to effectuate its purpose of protecting imperiled species and that DFW's status review ignores this directive and misinterprets the statutory definition of "threatened species." CBD also states that the status review ignores and misinterprets the requirement to use the "best available science" in such a way that it would all but preclude ever protecting any climate-threatened species or any currently widespread species no matter how great the threats. (Exhibit 12)
8. Dr. Jennifer Harrower of the University of California, Santa Cruz and Dr. Timothy Krantz of University of Redlands Center for Environmental Studies disagree with DFW's recommendation and the conclusion of the status review. Dr. Harrower offers insights from her research and states that the current data shows high tree mortality rates due to fire, invasive plants, and changes in soil are impacting the range of WJT. She also states that WJT would be the first species protected in California primarily due to climate change and it is important that California continues its legacy of climate leadership. Dr. Krantz provides comments and peer review of DFW's status review to evaluate the appropriateness of listing WJT as a threatened species. (Exhibit 13)
9. A coalition of conservation organizations (including Sierra Club California, Mojave Desert Land Trust, National Parks Conservation Association, et al.), the Antelope Valley Conservancy, Mohave Desert Land Trust, California Native Plant Society (CNPS), Advocates for Wildlife, and CactusToCloud Institute support listing WJT, citing different threats, including development, climate change, drought, wildfire, and non-native species; the tree's importance to the overall ecosystem; inadequate or unenforced current protections; and the tree's iconic beauty. Additionally, CNPS notes that four of the five peer reviews included in the DFW's status review report were

STAFF SUMMARY FOR JUNE 15-16, 2022

conducted by reviewers who have studied WJT, and all four disagreed with either DFW's recommendation or the rationale behind the recommendation (see Exhibit 14 for examples).

10. Multiple individuals share their concern that without CESA listing, large-scale destruction of the deserts and WJT will begin immediately and that local government protections are not enough to protect the trees and the habitat necessary for them to live. They also note that even with current protections, local governments are not providing adequate oversight or enforcement to protect the trees. One commenter provides pictures of WJT destruction. See Exhibit 15 for examples.
11. Numerous individuals support the petition and express concern that the tree is in danger due to climate change, construction, and fires. Many describe their personal experiences with the trees and the importance of WJT to the economy and environment. See Exhibit 16 for examples.
12. Over 1300 form letters were received in support of listing, for reasons previously stated. Additionally, the Center for Biological Diversity, Mohave Desert Land Trust, and Sierra Club submit letters signed by over 10,000 members of the public (collectively) in support of listing WJT as threatened (see Exhibit 17 for samples).

Recommendation

FGC staff: At the conclusion of today's public testimony, determine whether the hearing should be continued to obtain any additional analysis on the information in the administrative record and/or to continue deliberation. If the hearing is not continued, determine whether to list WJT as threatened under CESA.

DFW: Determine that listing WJT as threatened under CESA is not warranted.

Exhibits

1. DFW memo, received Apr 12, 2022
2. DFW status review report, dated Mar 2022
3. Appendix A, DFW status review report, public comment letters
4. Appendix B, DFW status review report, peer review
5. DFW presentation (to be provided separately)
6. Letters of opposition from elected officials
7. Letters from local and regional government agencies
8. Letters of opposition from organizations submitting third-party analyses of the status report and petition
9. Letters of opposition from industry associations and construction interests
10. Letters of opposition from utility organizations
11. Letters of opposition from the general public
12. Letter of support from Brendan Cummings, Center for Biological Diversity, received Jun 2, 2022
13. Letter of support from scientists
14. Letters of support from conservation organizations

STAFF SUMMARY FOR JUNE 15-16, 2022

15. Letters of support from those concerned with the adequacy of current protections
16. Letters of support from general public
17. Letters of support as form letters
18. Petitioner presentation (to be provided separately)

Motion

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2075.5 of the California Fish and Game Code, finds the information contained in the petition to list western Joshua tree (*Yucca brevifolia*), and the other information in the record before the Commission, **does warrant** listing western Joshua tree as threatened under the California Endangered Species Act. Findings will be adopted at a future meeting.

OR

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2075.5 of the California Fish and Game Code, finds the information contained in the petition to list western Joshua tree (*Yucca brevifolia*), and the other information in the record before the Commission, **does not warrant** listing western Joshua tree under the California Endangered Species Act, consistent with the Department recommendation. Findings will be adopted at a future meeting.

OR

Moved by _____ and seconded by _____ that the Commission, pursuant to Section 2075.5 of the California Fish and Game Code, closes the public hearing and administrative record for the Commission's decision and continues its deliberation and decision to a future meeting.



TWENTY-NINE PALMS BAND OF MISSION INDIANS

46-200 Harrison Place . Coachella, California 92236 . Ph. 760.863.2444 . Fax: 760.863.2449

2022 JUL 26 AM 8:27

July 15, 2022

Samantha Murray, President
California Fish and Game Commission
715 P Street, 16th Floor
Sacramento, CA 95814

RE: Listing of the Western Joshua Tree as a California Threatened Species

Dear President Murray and members of the Commission,

On behalf of the Twenty-Nine Palms Band of Mission Indians, I write to express our support for maintaining local control over non-reservation lands in San Bernardino County. The western Joshua tree is an iconic California native species and an important symbol of the Mojave Desert. We strongly believe that this unique species should be protected and preserved for generations to come. However, it is our belief that the protection and preservation is best achieved by thoughtful regulations and ordinances at the local level.

As decedents of the Chemehuevi people, we take pride in being stewards of the California desert. We sponsor and partner with entities that promote land conservation and protection of sacred lands to support descendants of the Chemehuevi, Desert Cahuilla, and Southern Paiute lineages. We have also established business enterprises that significantly drive local economies and provide employment to over 700 people. This enables us to support our communities through charitable contributions and infrastructure improvements.

Local governments in our region are valuable partners who work with us to balance conservation and economic development in the area. Through frequent partnership and collaboration with local government, we have seen the efficacy of local oversight in preserving our communities. We strongly support maintaining local control over non-reservation lands in San Bernardino County.

The protection and preservation of the western Joshua tree is an important issue to our region, and I appreciate your consideration of this critical issue. Should you have any additional questions, please contact Anthony Madrigal, Tribal Administrator at 760.625.7872 or by email at amadrigal@29palmsbominsn.gov.

Sincerely,

Darrell Mike, Tribal Chairman
Twenty-Nine Palms Band of Mission Indians



Cahuilla Band of Indians

52701 CA-Highway 371 Anza, California 92539

August 15, 2022

Melissa Miller-Henson, Executive Director
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 95814

RE: Support of Local Control of the Western Joshua Tree Listing Under CESA

Dear Executive Director Miller-Henson,

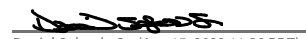
As the chairman of the Cahuilla Band of Indians, I write this letter to express our nation's support for maintaining local control, especially local tribal control, over non-reservation lands including the preservation of natural resources. In keeping with this value, we support the Twenty-Nine Palms Band of Mission Indians' position on local control regarding the consideration of listing the western Joshua Tree (*Yucca brevifolia*) under the California Endangered Species Act (CESA).

Since time immemorial, we have been caretakers of the natural resources in our Cahuilla homelands. Stemming from our Cahuilla creation story, we believe the wide variety of flora in our region are a direct gift from the creator that requires our protection. The Cahuilla Band of Indians takes this inherent responsibility seriously by supporting local control of natural resources beyond the confines of our reservation and county.

Drawing from our own experiences with local control of non-reservation lands we see the direct benefits of localized policies regarding natural resources that also emphasize tribal contributions to these management efforts. In line with the Twenty-Nine Palms Band of Mission Indians, we agree that the western Joshua Tree is a precious resource that deserves protection and preservation that maintains local control over non-reservation lands.

We appreciate the opportunity for our nation's input and look forward to ongoing consultation and communication regarding the listing of the western Joshua Tree. Please feel free to contact me via email at chairman@cahuilla.net, should you have any additional questions.

Sincerely,


Daniel Salgado Sr. (Aug 15, 2022 11:36 PDT)

Daniel Salgado Sr.
Tribal Chairman

San Manuel Band of Mission Indians

September 26, 2022

Samantha Murray, President
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

RE: Petition to list the western Joshua Tree as threatened or endangered under the California Endangered Species Act

Dear President Murray,

On behalf of the San Manuel Band of Mission Indians, a federally recognized tribe, I write to you regarding the potential listing of the western Joshua Tree under the California Endangered Species Act (CESA).

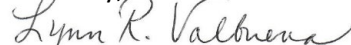
We appreciate that the Fish and Game Commission as well as the Department of Fish and Wildlife value the importance of communication, coordination, and meaningful consultation with tribal governments, and takes seriously its responsibility to ensure that tribal communities have an opportunity for meaningful input.

The western Joshua Tree habitat extends into Serrano ancestral territory, which includes portions of present-day Antelope Valley and the Mojave Desert. For tribal communities, conservation of the landscape and species it hosts, as well as the protection of tribal cultural resources, are vital to engaging in cultural practices and preserving traditions for future generations of Serrano Indians. The western Joshua Tree, along with other species, are woven into the history and culture of our communities.

If the western Joshua Tree is listed under CESA, we request that San Manuel Band of Mission Indians be included in the development of any conservation strategies or mitigation efforts to protect the species. We also request that the tribe be included in any regional conservation efforts that are done in coordination with the Fish and Game Commission or Department of Fish and Wildlife that occur within our ancestral lands, as we are deeply vested in the conservation, protection, and preservation of those areas.

Thank you for the opportunity to provide comments. We look forward to working with the Commission to strengthen and maintain effective government-to-government relationships with tribal governments and protecting areas that we are both committed to and care deeply for. Should you have any questions regarding the letter, please contact our Director of State Intergovernmental Affairs Juan Herrera at Juan.Herrera@sanmanuel-hsn.gov.

Sincerely,


Lynn R. Valbuena
Chairwoman

cc: Members, California Fish and Game Commission
Melissa Miller-Henson, Executive Director, California Fish and Game Commission
Charlton Bonham, Director California Department of Fish and Wildlife

26569 Community Center Drive • Highland, CA 92346
Office: (909) 864-8933 • FAX: (909) 864-3370



COLORADO RIVER INDIAN TRIBES

Colorado River Indian Reservation

26600 MOHAVE ROAD
PARKER, ARIZONA 85344
TELEPHONE (928) 669-9211
FAX (928) 669-1216

Via Email Only

September 29, 2022

Melissa Miller-Henson
Executive Director
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
Email: FGC@fgc.ca.gov

Charlton H. Bonham
Director
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
Email: director@wildlife.ca.gov

RE: **Comments of the Colorado River Indian Tribes re the California Fish and Game Commission's Decision Whether to List the Western Joshua Tree as Threatened Under the California Endangered Species Act (CESA)**

Dear Directors Miller-Henson and Bonham:

On behalf of the Colorado River Indian Tribes (CRIT or the Tribes), I write to express the Tribes' support for listing the western Joshua tree (*Yucca brevifolia*) as threatened under the California Endangered Species Act (CESA).

As a preliminary matter, the Colorado River Indian Tribes are a federally recognized Indian tribe comprised of over 4,440 members belonging to the Mohave, Chemehuevi, Hopi and Navajo Tribes. The almost 300,000-acre Colorado River Indian Reservation sits astride the Colorado River between Blythe, California and Parker, Arizona. The ancestral homelands of the Tribes' members, however, extend far beyond the Reservation boundaries. Significant portions of public and private lands in California, Arizona, and Nevada were occupied by the ancestors of the Tribes' Mohave and Chemehuevi members since time immemorial. These landscapes remain imbued with substantial cultural, spiritual, and religious significance for the Tribes' current members and future generations. For this reason, we have a strong interest in ensuring that potential cultural resource and other environmental resources associated with our ancestors are protected.

In particular, the Tribes are concerned with the cultural and ecological connectivity of the ancestral desert landscape. CRIT has long opposed the potential removal of cultural artifacts from this area and the corresponding destruction of the Tribes' footprint on this landscape. The Tribes also oppose the wholesale destruction of desert ecosystems through grading and removal of existing vegetation. Many of these plants have cultural significance to the Tribes, including the western Joshua tree. For more information regarding the western Joshua tree's significance to the Tribes, please contact Rena Van Fleet from the CRIT Tribal Historic Preservation Office at [REDACTED].

Too often, state and federal governments have approved development projects throughout the desert without enough thought for the cumulative effects of their decisions on sensitive desert flora and fauna. This failure to adequately consider the connectivity of these ecosystems has had devastating impacts on plants, animals, and tribal communities. Listing the western Joshua tree as a threatened species will force permitting agencies to be more cautious in granting approvals that perpetuate this type of widespread ecological destruction. This will further help tribal groups like CRIT to protect their ancestral lands and invaluable cultural resources.

Thank you for your consideration. To understand how these comments were taken into account in your decisionmaking, we ask for a written response prior to a final decision. Please copy the Tribes' Attorney General Rebecca A. Loudbear, at [REDACTED] and THPO Director Bryan Etsitty, at [REDACTED], on all correspondence to the Tribes.

Respectfully,

COLORADO RIVER INDIAN TRIBES

ACTING


Amelia Flores
Chairwoman

Cc: Tribal Council of the Colorado River Indian Tribes
Bryan Etsitty, THPO Director, Colorado River Indian Tribes
Rebecca A. Loudbear, Attorney General, Colorado River Indian Tribes



Clear Lake Hitch Conservation and Status

Presentation to the California Fish and Game Commission

October 12, 2022

Felipe La Luz

California Department of Fish and Wildlife



Presentation Overview

- Species Overview
- Life History
- Spawning Requirements
- Population Trends and Status
- Conservation Actions
- Summary



Map Data ©2022 Google



Species Overview

- Clear Lake Hitch (*Lavinia exilicauda chi*)
- CESA – Listed as threatened August 6, 2014
- Endemic to Clear Lake and its tributaries.
- Historically supported subsistence fishery
- Culturally important



Life History

- Potamodromous
- Can reach length of 35 cm (SL) and live 6+ years
- Females mature in 2nd or 3rd year, males mature in 1st year
- Larvae and juveniles remain near shore
- Adults occupying deeper water
- Feed on aquatic invertebrates during daylight hours



Spawning Requirements

- Migration occurs February through May or June
- Water temperature from 14° to 18°C
- Spawn over shallow, clean gravel primarily in tributaries
- In lake spawning observed (Kimsey 1960)
 - limited due to egg predation by Common Carp and Goldfish
 - Egg desiccation



Population Trends

- Historical accounts and oral histories describe large spawning runs that crowded the tributaries.
- “...common and the most abundant fish in Clear Lake during the late nineteenth and early twentieth centuries,” (CDFW 2014).
- Runs could consist of tens of thousands of Clear Lake Hitch and Clear Lake Splittail (Lindquist et al. 1943)



Population Trends Continued

- Opportunistic data sources
 - Commercial bycatch reports
 - Lake County Vector Control District beach seine
 - High variability suggests multiple years with poor recruitment
- Chi Council for Clear Lake Hitch spawning survey 2005 - 2019
 - Number of spawning tributaries decreases in dryer years



CDFW Visual Spawning Survey

- Started in 2014
 - 23 sites across seven streams
 - Nine visits March to May
- 2022 results
 - 306 individuals
 - Second lowest count after 2021 (120)
 - 59% of observations were reported dry streambed
- Adobe Creek 3/15/2022 pictured here

Photo By B. Ewing





Fish Rescues

- Adobe Creek
 - April 27, 28
 - May 4
- Fish relocated to Clear Lake



Photo By L. Santana



USGS Survey

- Gill net survey 2017 to 2019
- Targeted adults throughout Clear Lake
- 2015 cohort dominated catch suggesting poor recruitment or survival of other cohorts
- Low catch in 2019 could be result of low survival and senescence



Status

- Number of spawning tributaries has decreased due to lack of flow
- Recent consecutive dry years limit spawning potential
- Population index for 2020 and 2021 range from approximately 16,000 to 25,000 individuals.



Threats

- Spawning habitat loss
 - Fish passage barriers and streambed degradation
 - Reduced or lack of flow in tributaries
- Predation and competition with introduced species.
- Water Quality
 - HABs, hypoxia, contaminants



Conservation Actions

- Fish rescues
- Carp removal
- Population index
- Support for land acquisition and easements
- Tribal engagement
 - Task force
 - Government-to-Government Consultation
- Conservation Strategy



Photo By L. Santana



Presentation Summary

- Population has declined from historical levels
- Reduction in spawning habitat is exacerbated by drought and climate change
- Consecutive years in which tributaries are dry increases risk to the species
- Need better understanding of adult survival
- Increasing engagement to provide funding and support for conservations actions
- Building interagency relationships



Questions ♦ Thank You



Photo By B. Ewing

- Felipe La Luz
- Senior Environmental Scientist (Specialist)
- (916) 531-6502



Big Valley Band of Pomo Indians

9/23/22-For inclusion as documentation for the October 12/13, 2022 Fish and Game Commission Meeting

Honored Commissioners:

Thank you for the opportunity to comment on behalf of the Clear Lake hitch (*Lavinia exilicauda chi*), an endemic species on the brink of extinction in Clear Lake. California listed these species as threatened in 2014 and some efforts have been undertaken by California Department of Fish and Wildlife since then to protect their numbers, namely additional CEQA approvals, and concerted efforts to continue survey counts of the fish. However, climate change and other factors have continued to deplete their population, leading to the potential to lose the **Chi**, this cultural important species and subsistence food source for the Big Valley Band of Pomo Indians and other local Tribes. Federal and State biologists have stated that without additional strong measures, we could lose the **Chi** in less than 5 years.

As the Environmental Director for the Big Valley Band of Pomo Indians, I am assisting with the meetings of our Business Committee and other local Tribal councils and staff in the formation and actions of a Clear Lake Hitch Task Force. This Task Force has been developed with the approval of Director Bonham to identify a list of interagency actions that can be taken prior to the next spawning run (occurring in approximately February 2023). Embedded within the Task Force are a series of government to government consultations to address Tribal concerns that California agencies must do more to protect the Clear Lake hitch.

Big Valley Band of Pomo Indians has requested that CDFW use their emergency powers and funding to address these critical next steps, some of which need to be taken with the State Water Resources Control Board and California Department of Water Resources. Co management with the Tribes, identifying illegal and improper use of creek surface water resources, requiring additional releases of water from reservoirs during spawning runs, financial support of groundwater and surface water monitoring to identify additional problem areas, and support of additional restoration efforts are just some of the needed activities that Big Valley has requested in order to ensure that recruitment of the juvenile chi in the upcoming spawning run.

A presentation we recently gave at the National Tribal and Indigenous Climate Conference, "The Clear Lake Hitch ~ Chi Struggling for Survival in Lake County, California" can be found here: <https://view.genial.ly/6307ddebabb4f40018657832> and on our website at www.bvrancheria.com/epa This presentation discusses some of Big Valley's programs and monitoring efforts that are centered around Tribal co management and identifying the data needed to ensure the survival of the **Chi**.

We continue to support the efforts to be bold in protecting these fish that are the foods of the ancestors of the indigenous peoples of the Clear Lake region. The Chi are the salmon of the Pomo people, and with the loss of many of the endemic species of Clear Lake, protection of this culturally significant species must be a priority. Thank you for the recent meetings and discussions, and for continued efforts on behalf of all native species.

With the hope of the survival and thriving of the Clear Lake hitch,

Sarah Ryan
Environmental Director
Big Valley Band of Pomo Indians
sryan@big-valley.net/707-349-4040

EXECUTIVE ORDER N-82-20

WHEREAS the well-being of our communities and California's economic sustainability are interconnected with our natural and cultural resources; and

WHEREAS the State's long-term vitality is threatened by the loss of biodiversity - the variety and variability of plant and animal life in our State - and the impacts of climate change; and

WHEREAS California's natural and working lands – our forests, rangelands, farms, wetlands, coast, deserts, and urban greenspaces – sustain our economy, support our unique biodiversity, contribute to the global food supply, support outdoor heritage and provide clean water and air; and

WHEREAS since time immemorial, California Native Americans have stewarded, managed and lived interdependently with the lands that now make up the State of California; and

WHEREAS California is home to more species of plants and animals than any other state, and this biodiversity accounts for about one third of all species found in the nation; and

WHEREAS soils are home to more than a quarter of the world's biodiversity and California boasts more than 2,500 different soil types; and

WHEREAS California's rich biodiversity is increasingly threatened by loss of habitat, spread of invasive species, decreasing water supplies, and increasingly frequent and severe climate impacts; and

WHEREAS the climate change crisis is happening now, impacting California in unprecedented ways including intensifying wildfires, mud slides, floods and drought, sea level rise and extreme heat, that threaten our economy, communities, public safety, and cultural and natural resources; and

WHEREAS as we work to mitigate greenhouse gas emissions, we must also accelerate actions to enable the State to adapt and become more resilient to the impacts of climate change, including expanding nature-based solutions – the use of sustainable land management practices to tackle environmental, social and economic challenges; and

WHEREAS national, subnational and indigenous leaders across the globe are coming together to accelerate implementation of nature-based solutions to our climate and extinction crises, improve the way land is managed to absorb carbon pollution from the atmosphere, build resilience by protecting communities and natural places from climate-driven disasters, and restore healthy ecosystems; and

WHEREAS addressing the biodiversity crisis and accelerating nature-based solutions requires inclusive partnerships and collaboration among federal, state

and local governments, California Native American tribes, local communities, businesses, investors, labor, conservationists, outdoor enthusiasts, academia, land managers, and other stakeholders.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California do hereby issue the following Order to become effective immediately to combat the climate and biodiversity crises:

IT IS HEREBY ORDERED THAT:

1. To combat the biodiversity and climate crises, the California Natural Resources Agency, in consultation with the California Department of Food and Agriculture, the California Environmental Protection Agency and other state agencies, is directed to establish the California Biodiversity Collaborative (Collaborative) to bring together other governmental partners, California Native American tribes, experts, business and community leaders and other stakeholders from across California to protect and restore the State's biodiversity. State agencies will consult the Collaborative on efforts to:
 - a. Establish a baseline assessment of California's biodiversity that builds upon existing data and information, utilizes best available science and traditional ecological knowledge, and can be updated over time.
 - b. Analyze and project the impact of climate change and other stressors on California's biodiversity.
 - c. Inventory current biodiversity efforts across all sectors and land managers and highlight opportunities for additional action to preserve and enhance biodiversity.
 - d. Expand the communication and use of information, indicators and tools to monitor, track and protect California's biodiversity and natural resources.
 - e. Advance multi-benefit, voluntary and cooperative approaches that protect and restore biodiversity while stewarding natural and working lands, building climate resilience, and supporting economic sustainability.
 - f. Engage stakeholders across California's diverse communities, including academic and research institutions; local and federal governments; California Native American tribes; outdoor recreation and access groups; fishing and hunting organizations; farmers, ranchers and other private landowners and land managers; environmental advocates and investors; housing and land use developers; educators; philanthropy, and others.

2. To support the global effort to combat the biodiversity and climate crises, it is the goal of the State to conserve at least 30 percent of California's land and coastal waters by 2030. The California Natural Resources Agency and other relevant state agencies, in consultation with the Collaborative, are directed to develop and report strategies to the Governor no later than February 1, 2022 to achieve this goal in a manner that:
 - a. Safeguards our State's economic sustainability and food security.
 - b. Protects and restores biodiversity.
 - c. Enables enduring conservation measures on a broad range of landscapes, including natural areas and working lands, in partnership with land managers and natural resource user groups.
 - d. Builds climate resilience, reduces risk from extreme climate events and contributes to the State's effort to combat climate change.
 - e. Expands equitable outdoor access and recreation for all Californians.
3. To advance efforts to conserve biodiversity, the California Natural Resources Agency is directed to take the following actions within existing authority and resources:
 - a. Strategically prioritize investments in cooperative, high-priority actions that promote biodiversity protection, habitat restoration, wildfire-resilient, sustainably managed landscapes and other conservation outcomes.
 - b. Implement actions to increase the pace and scale of environmental restoration and land management efforts by streamlining the State's process to approve and facilitate these projects.
 - c. Collaborate with federal and state research institutions to utilize innovative scientific observation technology and with tribal partners to incorporate tribal expertise and traditional ecological knowledge to better understand our biodiversity and threats it faces.
 - d. Participate in regional, national and international efforts to advance biodiversity protection and help to stem extinctions across the planet.

4. To advance efforts to conserve biodiversity, the California Department of Food and Agriculture is directed to take the following actions with existing authority and resources:
 - a. Coordinate with other relevant state agencies and private partners to reinvigorate populations of pollinator insects across the State, which restore biodiversity and improve agricultural production.
 - b. Implement strategic efforts to protect California's native plants and animals from invasive species and pests that threaten biodiversity and economic activities.
 - c. Enhance soil health and biodiversity through the Healthy Soils Initiative.
5. The California Natural Resources Agency, the California Department of Food and Agriculture, the California Environmental Protection Agency, the Governor's Office of Planning and Research, and other state agencies, shall use existing authorities and resources to identify and implement near- and long-term actions to accelerate natural removal of carbon and build climate resilience in our forests, wetlands, urban greenspaces, agricultural soils, and land conservation activities in ways that serve all communities and in particular low-income, disadvantaged and vulnerable communities.
6. Within one year of this Order, the California Natural Resources Agency, in consultation with the California Environmental Protection Agency, the California Department of Food and Agriculture, the California Air Resources Board, Governor's Office of Planning and Research, the California Strategic Growth Council and other state agencies, shall develop a Natural and Working Lands Climate Smart Strategy that serves as a framework to advances the State's carbon neutrality goal and builds climate resilience.

In developing this Strategy, agencies shall be guided by the following principles:

- a. Promote healthy lands that provide multiple benefits including improved air quality, reliable water supply, thriving communities, and economic sustainability.
- b. Advance equity and opportunity for all regions of California.
- c. Support pathways for sectors such as agriculture and forestry to participate in the transition to a carbon neutrality economy.
- d. Inform policies through public feedback gathered through extensive outreach to and equitable engagement with stakeholders including, but not limited to, land managers, federal, tribal and local governments, communities, environmental justice leaders, businesses, investors, non-governmental organizations, scientists and universities.

- e. Align policies, programs, and funding mechanisms across state government, while identifying opportunities to catalyze and accelerate private investment and actions that contribute to the State's carbon neutrality goal.
7. As part of the next Scoping Plan process, the California Air Resources Board, in coordination with relevant state agencies, shall take into consideration the Natural and Working Lands Climate Smart Strategy and science-based data to update the target for the natural and working lands sector in achieving the State's carbon neutrality goal.
8. The California Department of Food and Agriculture shall work with agricultural stakeholders to identify farmer- and rancher-led solutions to inform the next Scoping Plan process.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable of law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be offered this 7th day of October 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

STAFF SUMMARY FOR APRIL 20-21, 2022*For background purposes only***7. PINK (OCEAN) SHRIMP FISHERY MANAGEMENT PLAN****Today's Item**Information ☐Action ☒

Discuss and potentially adopt *Pink (Ocean) Shrimp*, *Pandalus jordani*, *Fishery Management Plan* (FMP) and consider taking final action under the California Environmental Quality Act (CEQA).

Summary of Previous/Future Actions

- | | |
|---|---|
| • FGC approved MRC recommendation to develop rulemaking for pink shrimp trawl fishery regulations | Dec 6-7, 2017; San Diego |
| • FGC approved MRC recommendation to support developing a pink shrimp FMP | Dec 9-10, 2020; Webinar/Teleconference |
| • DFW update to MRC on FMP progress | Mar 16, 2021; MRC, Webinar/Teleconference |
| • DFW update and MRC recommendation to schedule FMP | Jul 21, 2021; MRC, Webinar/Teleconference |
| • FGC approved MRC recommendation | Aug 18, 2021; Webinar/Teleconference |
| • Received and discussed draft FMP | Dec 15-16, 2021; Webinar/Teleconference |
| • Today discuss and potentially adopt CEQA document and FMP | Apr 20-21, 2022; Monterey/Trinidad |

Background

The Marine Life Management Act (MLMA) requires that FMPs form the primary basis for managing California's marine fisheries and provides guidelines for fishery management review (Section 7072 et seq., California Fish and Game Code). Pursuant to the mandates of MLMA and guided by the 2018 MLMA master plan for fisheries, DFW has been reviewing management needs for the commercial trawl fishery for California pink (ocean) shrimp (*Pandalus jordani*, or pink shrimp) since 2017. DFW has been developing the pink shrimp FMP since 2020 to address identified pink shrimp management needs. Exhibit 1 provides additional background.

FGC received the draft pink shrimp FMP in Dec 2021, which commenced both a 45-day CEQA public comment period that ran through Feb 3, 2022 and an MLMA public comment period that is open through FMP adoption. For today's potential adoption, DFW has provided a final proposed pink shrimp FMP (exhibits 2 and 3) that includes a summary and response for all public comments received during the public review and comment period (see Appendix D). FGC staff has reviewed the comments and supports the responses.

In fulfillment of Fish and Game Code Section 7078(d), staff provided a copy of the proposed pink shrimp FMP to the California State Legislature for review by the Joint Committee on Fisheries and Aquaculture (Exhibit 5).

STAFF SUMMARY FOR APRIL 20-21, 2022*For background purposes only*

The pink shrimp FMP serves as the functional equivalent of an environmental impact report under CEQA, consistent with FGC's Certified Regulatory Program, thus allowing FGC to comply with CEQA when considering and adopting the FMP. If the FMP is adopted, FGC will need to adopt implementing regulations, which FGC received and authorized for notice in Feb 2022, and will consider adopting in Jun 2022.

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

FGC staff: Adopt the final proposed pink shrimp FMP as reflected in Exhibit 3 and certify it as the functional equivalent of an environmental impact report under CEQA, as recommended by DFW.

DFW: Adopt the final proposed pink shrimp FMP and certify it as the functional equivalent of an environmental impact report under CEQA, as reflected in Exhibit 3.

Exhibits

1. Background document: Staff summary from the Dec 2021 FGC meeting, item 24
2. DFW transmittal memo, received Apr 4, 2022
3. Final proposed *Pink (Ocean) Shrimp*, *Pandalus jordani*, *Fishery Management Plan*, dated Apr 2022
4. DFW presentation
5. Memo from FGC to Joint Committee on Fisheries and Aquaculture, dated Apr 6, 2022

Motion

Moved by _____ and seconded by _____ that the Commission finds that *Pink (Ocean)*, *Shrimp Pandalus jordani*, *Fishery Management Plan* as an environmental document reflects the independent judgment of the Commission; adopts the document for purposes of compliance with the California Environmental Quality Act; and adopts *Pink (Ocean) Shrimp*, *Pandalus jordani*, *Fishery Management Plan* as presented, consistent with the Marine Life Management Act.

OR

Moved by _____ and seconded by _____ that the Commission finds that *Pink (Ocean)*, *Shrimp Pandalus jordani*, *Fishery Management Plan* as an environmental document reflects the independent judgment of the Commission; adopts the document for purposes of compliance with the California Environmental Quality Act; and adopts *Pink (Ocean) Shrimp*, *Pandalus jordani*, *Fishery Management Plan* as presented, consistent with the Marine Life Management Act, except for the following modifications:

_____.

STAFF SUMMARY FOR JUNE 15-16, 2022*For background purposes only***9. PINK (OCEAN) SHRIMP FISHERY MANAGEMENT PLAN IMPLEMENTING REGULATIONS (CONSENT)****Today's Item****Information** ☐**Action** ☒

Consider adopting proposed additions and amendments to existing prawn or shrimp commercial trawling regulations that implement the *Pink (Ocean) Shrimp*, *Pandalus jordani*, *Fishery Management Plan (FMP)*.

Summary of Previous/Future Actions

- | | |
|---|--|
| • MRC vetting and recommendation to schedule pink shrimp FMP and rulemaking | Jul 21, 2021; MRC, Webinar/Teleconference |
| • Notice hearing | Feb 16-17, 2022; Webinar/Teleconference |
| • Discussion and adoption hearing for implementing regulations | Jun 15-16, 2022; Los Angeles/Trinidad |

Background

At its Dec 2021 meeting, FGC received a draft pink shrimp FMP prepared pursuant to the Marine Life Management Act (MLMA). At FGC's Feb 2022 meeting, DFW proposed regulations necessary to implement the proposed FMP, as described in an initial statement of reasons (ISOR; Exhibit 3); FGC authorized publication of notice of its intent to adopt the regulations (see Exhibit 1 for background). In Apr 2022, FGC adopted the pink shrimp FMP and certified it as the functional equivalent of an environmental impact report under the California Environmental Quality Act (see Exhibit 7 for background).

For today's discussion and adoption hearing, DFW does not recommend changes to the proposed regulations necessary to implement the FMP (Exhibit 8), which consist of: a harvest control rule, a footrope lighting device requirement, a new landings process requirement, clarification on prohibition against shrimp trawling within state water for the California commercial pink shrimp trawl fishery, and repeal of form FG1419 (Exhibit 4) to replace with form DFW 1419 (Exhibit 5).

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

FGC staff: Adopt the regulations as proposed in the ISOR (Exhibit 3).

DFW: Adopt the regulations as proposed in the ISOR.

Exhibits

1. Background document: Staff summary from Feb 16-17, 2022 FGC meeting, item 10
2. DFW memo transmitting ISOR, received Jan 26, 2022
3. ISOR and proposed regulatory text, dated Dec 23, 2021
4. Form to be repealed, FG1419 (Rev. 5/13)

STAFF SUMMARY FOR JUNE 15-16, 2022

For background purposes only

5. Proposed form, DFW 1419 (New 01/01/22)
6. Economic and fiscal impact statement, STD 399
7. Background document: Staff summary from Apr 20-21, 2022 FGC meeting, Item 7
8. DFW memo (in lieu of a pre-adoption statement of reasons), received Jun 2, 2022

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 8 through 16 on the consent calendar.

Commissioners
Samantha Murray, President
La Jolla
Erika Zavaleta, Vice President
Santa Cruz
Jacque Hostler-Carmesin, Member
McKinleyville
Eric Sklar, Member
Saint Helena
Vacant, Member

STATE OF CALIFORNIA
Gavin Newsom, Governor

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

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

September 22, 2022

TO ALL INTERESTED AND AFFECTED PARTIES:

NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

Pursuant to the requirements of Government Code Section 11346.8(c), and Section 44 of Title 1 of the California Code of Regulations, the California Fish and Game Commission (Commission) is providing you with a 15-day continuation notice concerning the proposed regulations for California Pink (Ocean) Shrimp, *Pandalus jordani*, Fishery Management Plan Implementing Regulations published in the California Notice Register on March 25, 2022 (Notice No Z2022-0315-16), and adopted by the Commission on June 15, 2022.

Proposed Changes

This 15-day notice identifies revisions to the proposed regulatory language and documents incorporated by reference. Regarding documents incorporated by reference, the "Northern Pink Shrimp Trawl Vessel Permit Transfer Application DFW 1419 (New 01/01/22)" is being repealed and replaced with a newer version: "Northern Pink Shrimp Trawl Vessel Permit Transfer Application DFW 1419 (New 09/01/22)." Additionally, the Pink (Ocean) Shrimp, *Pandalus jordani*, Fishery Management Plan adopted by the commission on April 20, 2022, is being incorporated by reference.

Because the revised regulations are different from, yet sufficiently related to, the originally proposed regulations, the Administrative Procedure Act requires that we make these changes available to you for a 15-day written comment period.

The proposed changes to the originally proposed regulations are clearly indicated in the attached modified regulatory text: new additions are shown in double underline and new deletions are shown in double strikeout.

Originally proposed Form DFW 1419 (New 01/01/22) is repealed and is shown with a double red X through the form. The newly proposed version of form DFW 1419 (New 09/01/22) is indicated with "PROPOSED" at the top of the form.

Availability of Documents

Documents relating to the proposed changes are available for inspection on the Commission's website at <https://fgc.ca.gov/Regulations/2021-New-and-Proposed> and at the California Fish and Game Commission office at 715 P Street, 16th floor, Sacramento, California, 95814,

Monday through Friday, except holidays, between the hours of 8:00 a.m. and 5:00 p.m. To help maintain the safety of Commission staff and the public during the Covid-19 pandemic, in-person access to the Commission office is limited. Any member of the public wishing to visit the Commission office is requested to send an email to fgc@fgc.ca.gov describing the reason for your visit and your desired date and time.

Comments on Proposed Changes

The Commission will accept written comments on the proposed regulatory language, including the documents incorporated by reference identified above, between September 23, 2022, and October 7, 2022. Comments must be emailed to fgc@fgc.ca.gov or mailed to Melissa Miller-Henson, Executive Director, California Fish and Game Commission, P.O. Box 944209, Sacramento, California, 94244-2090.

Sincerely,



Maureen Trotter
Associate Governmental Program Analyst

Attachments

**NORTHERN PINK SHRIMP TRAWL VESSEL PERMIT TRANSFER APPLICATION**

DFW 1419 (NEW 01/01/22) Page 1 of 3

DFW 1419 (NEW 01/01/2022) is proposed to be replaced with DFW 1419 (NEW 09/01/2022)

CHECK ONE: ☐ TRANSFER TO REPLACEMENT VESSEL (SAME OWNER) ☐ TEMPORARY TRANSFER
☐ TRANSFER TO NEW OWNER ☐ DEATH OF PERMIT HOLDER

SEE INSTRUCTIONS ON PAGE 2. TYPE OR PRINT CLEARLY.

CURRENT PERMIT HOLDER

COMMERCIAL FISHING ID#		PERMIT NUMBER		GO ID NUMBER	
FIRST NAME		M.I.	LAST NAME		
MAILING ADDRESS			CITY	STATE	ZIP CODE
PHYSICAL ADDRESS (DO NOT USE PO BOX)			CITY	STATE	ZIP CODE
DAY TELEPHONE		EMAIL ADDRESS			
PERMITTED VESSEL F&G BOAT #		PERMITTED VESSEL NAME		USCG OR DMV NUMBER	

REPLACEMENT VESSEL (SAME OWNER)

F&G BOAT #	VESSEL NAME	USCG OR DMV NUMBER
------------	-------------	--------------------

TEMPORARY TRANSFER VESSEL

F&G BOAT #	VESSEL NAME	USCG OR DMV NUMBER
------------	-------------	--------------------

NEW OWNER

FIRST NAME		M.I.	LAST NAME		GO ID NUMBER
MAILING ADDRESS					STATE ZIP CODE
PHYSICAL ADDRESS (DO NOT USE PO BOX)					STATE ZIP CODE
DAY TELEPHONE		EMAIL ADDRESS			

NEW OWNER REPLACEMENT VESSEL

F&G BOAT #	VESSEL NAME	USCG OR DMV NUMBER
------------	-------------	--------------------

If the transfer request takes place during the annual permit renewal period, I agree to renew the permit before the expiration date. I hereby agree to abide by all conditions of said permit and all laws and regulations of the Fish and Game Code (FGC) and Title 14 of the California Code of Regulations (CCR). I am eligible for the permit and the permit has not been revoked or suspended, nor is there a case pending that would restrict me from obtaining a permit. I hereby certify under the penalty of perjury that all information contained on this application and/or submitted to meet the requirements for issuance of the subject permit is correct and true. I understand that, in the event that this information is found to be untrue or incorrect, the permit issued will be invalid and must be surrendered to the Department of Fish and Wildlife. I understand this license or permit may be suspended or revoked by the Department of Fish and Wildlife if I am convicted of, or plead guilty or nolo contendere to, a Fish and Wildlife violation.

SIGNATURE OF CURRENT PERMIT HOLDER

DATE

X

SIGNATURE OF NEW OWNER

DATE

X**DEATH OF PERMIT HOLDER**

I hereby certify that I am the Executor/Authorized Representative of _____, deceased, who was the holder of a valid Northern Pink Shrimp Vessel Permit immediately preceding their death, and that the information provided by me in connection with this application is true and accurate to the best of my knowledge. I further understand that, in the event of making any statement as to any fact required as a prerequisite to the review and approval of this transfer application, the permit will be surrendered and I may be subject to prosecution pursuant to FGC Section 1054.

EXECUTOR/AUTHORIZED REPRESENTATIVE PRINTED NAME

EXECUTOR/AUTHORIZED REPRESENTATIVE SIGNATURE

DATE

X



NORTHERN PINK SHRIMP TRAWL PERMIT TRANSFER INSTRUCTIONS

TRANSFER TO A REPLACEMENT VESSEL OWNED BY THE SAME PERMITTEE

Submit the following:

1. Completed notarized Northern Pink Shrimp Trawl Vessel Permit Transfer Application.
2. Original current Northern Pink Shrimp Trawl Permit.
3. Copy of current Commercial Boat Registration for the replacement vessel.
4. Copy of current proof of vessel ownership for the permitted vessel and the replacement vessel.
5. Copy of United States Coast Guard Certificate of Documentation or survey conducted by licensed marine surveyor that shows the overall length of the replacement vessel.
6. Submit the Nonrefundable transfer fee of \$200.

TRANSFER TO A TEMPORARY VESSEL (VALID FOR UP TO ONE YEAR)

Submit the following:

1. Documentation listed under "Transfer to a Replacement Vessel Owned by the Same Permittee." (see above)
2. Report filed with the U.S. Coast Guard or other law enforcement agency investigating the loss or destruction of your permitted vessel, or proof that the permitted vessel has suffered a major mechanical breakdown or has been seriously damaged.
3. Submit the Nonrefundable transfer fee of \$100.

TRANSFER TO A NEW OWNER

Submit the following:

1. Completed notarized Northern Pink Shrimp Trawl Vessel Permit Transfer Application.
2. Original current Northern Pink Shrimp Trawl Permit.
3. Original current Commercial Boat Registration for the permitted vessel.
4. Copy of the new owner/proposed permit holder's valid photo identification.
5. Copy of proposed permit holder's current Commercial Fishing License.
6. Copy of proposed permit holder's proof of vessel ownership for the permitted vessel.
7. Copy of the Commercial Boat Registration for the replacement vessel. (If the new owner is transferring permit to a different vessel)
8. Submit the Nonrefundable transfer fee of \$1,000.

DEATH OF PERMITTEE

Submit the following:

1. Documentation listed under "Transfer to a New Owner." (see above)
2. Completed notarized Northern Pink Shrimp Trawl Vessel Permit Transfer Application submitted **within two years** of the permittee's death.
3. A copy of the permittee's death certificate.
4. Proof that the applicant is the executor/authorized representative of the deceased's estate.

IDENTIFICATION REQUIREMENTS

CCR, Title 14, Section 700.4(c) states any applicant applying for any license, tag, permit, reservation or other entitlement issued via the Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors identification number (GO ID) previously issued via ALDS.
- A valid driver's license or identification card issued to by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile.
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical religious personnel).
- Birth Certificate or passport issued from a US Territory.
- US Passport
- US Birth Certificate
- US Certificate or Report of Birth Abroad
- Certificate of Naturalization or Citizenship
- Tribal Identification Card, as defined by each sovereign tribal nation.
- A foreign government-issued photo identification



BUSINESS DOCUMENTATION

If the permitted vessel or the replacement vessel is owned by a business, you must provide documentation showing the business entity type. Acceptable forms of documentation include:

- Articles of Incorporation
- Articles of Organization
- Certificate of Limited Partnership
- Statement of Partnership Authority

PROOF OF VESSEL OWNERSHIP

Pursuant to FGC Section 7601, the following may be submitted as proof of vessel ownership:

- United States Coast Guard Certificate of Documentation; or
- California Department of Motor Vehicles Vessel Registration; or
- Out of state vessel registration

TRANSFER APPLICATION EVALUATION

After completion of the transfer request evaluation by the California Department of Fish and Wildlife's License and Revenue Branch, if approved, a letter authorizing the transfer and a new ALDS generated thermal license will be mailed to the permit holder.

PAYMENT AND SUBMISSION OF APPLICATION WITH DOCUMENTS

Payment can be made by check, money order or debit/credit card displaying a Visa or Mastercard logo. Make checks payable to the California Department of Fish and Wildlife. If you're paying by debit/credit card, fill out and sign the [Credit Card Payment Authorization \(Form DFW 1443b\)](#). Mail the Transfer Application, fee and supporting documentation to California Department of Fish and Wildlife, Attn: License and Revenue Branch, P.O. Box 944209, Sacramento, CA 95824-2090.

If you have any questions or need more information, contact (916) 924-3322 or LRBCOMM@wildlife.ca.gov.

**NORTHERN PINK SHRIMP TRAWL VESSEL PERMIT TRANSFER APPLICATION**

DFW 1419 (NEW 09/01/22) Page 1 of 3

PROPOSED FORM: not for official use

CHECK ONE: ☐ TRANSFER TO REPLACEMENT VESSEL (SAME OWNER) ☐ TEMPORARY TRANSFER
☐ TRANSFER TO NEW OWNER ☐ DEATH OF PERMIT HOLDER

SEE INSTRUCTIONS, TYPE OR PRINT CLEARLY.

CURRENT PERMIT HOLDER

COMMERCIAL FISHING ID#	PERMIT NUMBER	GO ID NUMBER
FIRST NAME	M.I.	LAST NAME
MAILING ADDRESS	CITY	STATE ZIP CODE
PHYSICAL ADDRESS (DO NOT USE PO BOX)	CITY	STATE ZIP CODE
DAY TELEPHONE	EMAIL ADDRESS	
PERMITTED VESSEL F&G VESSEL REGISTRATION#	PERMITTED VESSEL NAME	USCG OR DMV NUMBER

REPLACEMENT VESSEL (SAME OWNER)

F&G VESSEL REGISTRATION#	VESSEL NAME	USCG OR DMV NUMBER
--------------------------	-------------	--------------------

F&G VESSEL REGISTRATION#	VESSEL NAME	USCG OR DMV NUMBER
--------------------------	-------------	--------------------

Certification of the Current Owner: If the transfer request takes place during the annual permit renewal period, I agree to renew the permit before the expiration date. I hereby certify I am eligible for the permit and the permit has not been revoked or suspended, nor is there a case pending that would restrict me from obtaining a permit. I certify under the penalty of perjury that I have read, understand, and agree to abide by all conditions of the applicable provisions of the Fish and Game Code (FGC) and Title 14 of the California Code of Regulations (CCR), and that all information contained on this application and/or submitted to meet the requirements for issuance of the subject permit is complete, correct and true to the best of my information and belief. I agree that if I make any false statement as to any fact required as a prerequisite to the approval of this transfer application, the permit will be surrendered to the Department of Fish and Wildlife. I may be subject to prosecution pursuant to FGC Section 1054 and other sections of the California Code and CCR, and my commercial fishing license and/or Northern Pink Shrimp Vessel Permit may be suspended or revoked.

SIGNATURE OF CURRENT PERMIT HOLDER**X**

DATE

NEW OWNER

FIRST NAME	M.I.	LAST NAME	GO ID NUMBER
MAILING ADDRESS	CITY	STATE	ZIP CODE
PHYSICAL ADDRESS (DO NOT USE PO BOX)	CITY	STATE	ZIP CODE
DAY TELEPHONE	EMAIL ADDRESS		

NEW OWNER REPLACEMENT VESSEL

F&G VESSEL REGISTRATION#	VESSEL NAME	USCG OR DMV NUMBER
--------------------------	-------------	--------------------

Certification of the New Owner: I hereby certify that I am eligible for the permit and the permit has not been revoked or suspended, nor is there a case pending that would restrict me from obtaining a permit. I certify under the penalty of perjury that I have read, understand, and agree to abide by all conditions of the applicable provisions of the Fish and Game Code (FGC) and Title 14 of the California Code of Regulations (CCR), and that all information contained on this application and/or submitted to meet the requirements for issuance of the subject permit is complete, correct and true to the best of my information and belief. I agree that if I make any false statement as to any fact required as a prerequisite to the approval of this transfer application, the permit will be surrendered to the Department of Fish and Wildlife. I may be subject to prosecution pursuant to FGC Section 1054 and other sections of the California Code and CCR, and my commercial fishing license and/or Northern Pink Shrimp Vessel Permit may be suspended or revoked.

SIGNATURE OF NEW OWNER**X**

DATE

DEATH OF PERMIT HOLDER

I hereby certify that I am the Executor/Authorized Representative of _____, deceased, who was the holder of a valid Northern Pink Shrimp Vessel Permit immediately preceding their death, and that the information provided by me in connection with this application is true and accurate to the best of my knowledge. I further understand that, in the event of making any such false statement as to any fact required as a prerequisite to the review and approval of this transfer application, the permit will be surrendered and I may be subject to prosecution pursuant to FGC Section 1054.

EXECUTOR/AUTHORIZED REPRESENTATIVE PRINTED NAME	EXECUTOR/AUTHORIZED REPRESENTATIVE SIGNATURE	DATE
	X	



NORTHERN PINK SHRIMP TRAWL PERMIT TRANSFER INSTRUCTIONS

TRANSFER TO A REPLACEMENT VESSEL OWNED BY THE SAME PERMITTEE

Submit the following to the License and Revenue Branch:

1. Completed notarized Northern Pink Shrimp Trawl Vessel Permit Transfer Application.
2. Original current Northern Pink Shrimp Trawl Permit.
3. Copy of current Commercial Boat Registration for the replacement vessel.
4. Copy of current proof of vessel ownership for the permitted vessel and the replacement vessel.
5. Copy of United States Coast Guard Certificate of Documentation or survey conducted by licensed marine surveyor that shows the overall length of the replacement vessel.
6. Submit the Nonrefundable transfer fee of \$200.

TRANSFER TO A TEMPORARY VESSEL (VALID FOR UP TO ONE YEAR)

Submit the following to the License and Revenue Branch:

1. Documentation listed under “Transfer to a Replacement Vessel Owned by the Same Permittee.” (see above)
2. Report filed with the U.S. Coast Guard or other law enforcement agency investigating the loss or destruction of your permitted vessel, or proof that the permitted vessel has suffered a major mechanical breakdown or has been seriously damaged.
3. Submit the Nonrefundable transfer fee of \$100.

TRANSFER TO A NEW OWNER

Submit the following to the License and Revenue Branch:

1. Completed notarized Northern Pink Shrimp Trawl Vessel Permit Transfer Application.
2. Original current Northern Pink Shrimp Trawl Permit.
3. Original current Commercial Boat Registration for the permitted vessel.
4. Copy of the new owner/proposed permit holder's valid photo identification.
5. Copy of proposed permit holder's current Commercial Fishing License.
6. Copy of proposed permit holder's proof of vessel ownership for the permitted vessel.
7. Copy of the Commercial Boat Registration for the replacement vessel. (If the new owner is transferring permit to a different vessel)
8. Submit the Nonrefundable transfer fee of \$1,000.

DEATH OF PERMITTEE

Submit the following to the License and Revenue Branch:

1. Documentation listed under “Transfer to a New Owner.” (see above)
2. Completed notarized Northern Pink Shrimp Trawl Vessel Permit Transfer Application submitted within two years of the permittee's death.
3. A copy of the permittee's death certificate.
4. Proof that the applicant is the executor/authorized representative of the deceased's estate.

IDENTIFICATION REQUIREMENTS

CCR, Title 14, Section 700.4(c) states any applicant applying for any license, tag, permit, reservation or other entitlement issued via the Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors identification number (GO ID) previously issued via ALDS.
- A valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile.
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious personnel).
- Birth Certificate or passport issued from a US Territory.
- US Passport
- US Birth Certificate
- US Certificate or Report of Birth Abroad
- Certificate of Naturalization or Citizenship
- Tribal Identification Card, as defined by each sovereign tribal nation.
- A foreign government-issued photo identification



BUSINESS DOCUMENTATION

If the permitted vessel or the replacement vessel is owned by a business, you must provide documentation showing the business entity type. Acceptable forms of documentation include:

- Articles of Incorporation
- Certificate of Limited Partnership
- Articles of Organization
- Statement of Partnership Authority

PROOF OF VESSEL OWNERSHIP

Pursuant to FGC Section 7601, the following may be submitted as proof of vessel ownership:

- United States Coast Guard Certificate of Documentation; or
- California Department of Motor Vehicles Vessel Registration; or
- Out of state vessel registration

TRANSFER APPLICATION EVALUATION

After completion of the transfer request evaluation by the California Department of Fish and Wildlife's License and Revenue Branch, if approved, a letter authorizing the transfer and a new ALDS generated thermal license will be mailed to the permit holder.

NOTICE

Pursuant to FGC, Sections 8591 and CCR, Title 14, Sections 120, 120.1, and 120.2 CDFW is authorized to collect information from Northern Pink Shrimp Trawl Vessel Permit Transfer applicants to maintain a record of licensure. All information requested on the application is mandatory unless otherwise indicated. Failure to provide all of the requested information will result in a delay to processing your application. Pursuant to FGC, Section 391, CDFW may exchange or release to appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by CDFW. Questions, comments or complaints regarding this privacy policy or requests for personal information access, correction, or deletion should be sent to: privacy@wildlife.ca.gov. The CDFW Privacy Officer is responsible for the system of records and is located at 715 P Street Sacramento CA 95814 [no mail is accepted]; mail to: P.O. Box 944209, Sacramento, CA 94244-2090; the telephone number is (916) 445-0411. You may obtain a copy of your license records maintained by CDFW by contacting the custodian of records at the CDFW's License and Revenue Branch, PO Box 944209, Sacramento, CA 94244-2090, or email LRB@wildlife.ca.gov. All requests for copies of license records must be submitted in writing and include the requester's name, address, and telephone number.

PAYMENT AND SUBMISSION OF APPLICATION WITH DOCUMENTS

Payment can be made by check, money order or debit/credit card displaying a Visa or Mastercard logo. Make checks payable to the California Department of Fish and Wildlife. If you're paying by debit/credit card, fill out and sign the [Credit Card Payment Authorization Form \(DFW 1443b \(08/15\)\)](#). Mail the completed and signed form DFW 1419 Northern Pink Shrimp Trawl Vessel Permit Transfer Application, fee and supporting documentation to California Department of Fish and Wildlife, Attn: License and Revenue Branch, P.O. Box 944209, Sacramento, CA 94244-2090.

If you have any questions or need more information, contact (916) 928-5822 or LRBCOMM@wildlife.ca.gov.

Modified Regulatory Text

Title 14. Natural Resources

Division 1. Fish and Game Commission – Department of Fish and Game

Subdivision 1. Fish, Amphibians and Reptiles

Chapter 5.5. Fishery Management Plans

Article 7, Sections 56.00 and 56.01, title 14, CCR, are added to read:

Article 7. Pink (Ocean) Shrimp Fishery Management Plan

§ 56.00. Purpose and Scope

(a) This Article implements the Pink (Ocean) Shrimp, *Pandalus jordani*, Fishery Management Plan (Pink Shrimp FMP) as adopted and amended by the commission consistent with the goals, objectives, and procedures of the Marine Life Management Act of 1998 (commencing with Section 7050 of the Fish and Game Code). This Article, in combination with other applicable provisions of the Fish and Game Code and Title 14, CCR, govern the management of the pink shrimp resources.

(b) Regulations implementing the Pink Shrimp FMP are found in this Article. Regulations specific to the commercial take of pink shrimp are included in Chapter 6, beginning with Section 120 of these regulations.

(c) Pursuant to subdivision ~~7074~~(b) of Section 7071 of the Fish and Game Code, subdivision ~~8842~~(b) of Section 8842 of said Code is made inoperative as applied to the commercial pink shrimp trawl fishery.

Note: Authority cited: Sections 7071, 7075 and 7078, Fish and Game Code. Reference: Sections 7050, 7055, 7056, 7070, 7071, 7075 and 7078, Fish and Game Code.

§ 56.01. Management Strategy

(a) The Pink (Ocean) Shrimp, *Pandalus jordani*, Fishery Management Plan adopted by the commission on April 20, 2022, is hereby incorporated by reference, including the harvest control rule and other requirements as incorporated in

(b) The Pink Shrimp FMP, Sections 120 and 120.1 of these regulations, and other applicable state and federal laws and regulations shall form the basis for managing the commercial pink shrimp trawl fishery and is hereby incorporated by reference.

Note: Authority cited: Sections 7071, 7075 and 7078, Fish and Game Code. Reference: Sections 7050, 7055, 7056, 7070, 7071, 7075 and 7078, Fish and Game Code.

Modified Regulatory Text

Sections 120 and 120.1, title 14, CCR, are amended to read:

§ 120. Prawn or Shrimp Trawling—General Provisions.

Prawns and shrimp may only be taken by trawl nets for commercial purposes in ocean waters pursuant to Fish and Game Code statutes and under authority of fishery permits established in ~~Sections 120 through 120.3 of these regulations~~. Spot prawns may not be taken or possessed using trawl nets except as incidental to other trawl fishing activity as specified in subsection (e) below.

...[No changes to subsection (a)]

(b) Fishing Areas.

~~Trawling for shrimp or prawns shall be permitted only in those waters authorized by Section 8842 of the Fish and Game Code and not otherwise prohibited by other state or federal statutes or regulations. Pursuant to Subdivisions (b) and (d) of that Section, commencing January 1, 2008, trawling for shrimp or prawns is not authorized in waters lying between a line extending due west from False Cape and a line extending due west from Point Reyes, between two and three nautical miles from the nearest point of land on the mainland shore.~~

(1) Trawling for pink shrimp is prohibited in all ocean waters and tidelands of the state, except as permitted by the commission pursuant to subdivision (d) of Section 8842 of the Fish and Game Code and not otherwise prohibited by other state or federal statutes or regulations.

(2) Trawling for all other shrimp or prawns shall be permitted only in those waters authorized by Section 8842 of the Fish and Game Code and not otherwise prohibited by other state or federal statutes or regulations.

...[No changes to subsections (c) through (g)]

Note: Authority cited: Sections 7071, 7078, 8591, 8841 and 8842, Fish and Game Code.

Reference: Sections 1700, 7071, 7078, 8590, 8591, 8593, 8595, 8841 and 8842, Fish and Game Code.

§ 120.1. Pink Shrimp Trawling.

...[No changes to subsection (a)]

~~(b) Season. Pink shrimp may be taken April 1 through October 31.~~

(b) Season and Harvest Control Rule. Unless otherwise prescribed under this subsection, pink shrimp may be taken April 1 through October 31.

(1) Target reference point. The current fishing season shall close on October 15 and the next season shall be delayed until April 15 if the average landing of pink shrimp falls below 12,500 pounds during the month of June.

(2) Limit reference point. The current fishing season shall close 10 ~~calendar~~ days following public notice and the start of the next season shall be delayed until April 15 if:

(A) The mean sea level height exceeds 7.5 feet above the station datum as calculated using sea level height measurements from the National Oceanic and Atmospheric Administration tide gauge at Crescent City, California between April 1 of the previous year through January 31 of the current year; and

(B) the average landing of pink shrimp falls below 10,000 pounds during the month of June.

(3) In determining the average landing in June, the department shall:

(A) Use landings data collected in June pursuant to Section 197 ~~of these regulations.~~

(B) For vessels towing one trawl net, the landing shall be multiplied by a factor of 1.6.

(C) The average landing shall be the sum of all landings from vessels towing one net as modified by subsection (b)(3)(B) and all landings from vessels towing two trawl nets divided by the total number of landings.

(4) Public notice of early closure and season delay. By July 15 of each year, notifications of any early closure and subsequent season delay along with the accompanying landings and sea level height data shall be posted on the department website at <https://wildlife.ca.gov/Conservation/Marine/Invertebrates/Shrimp-Prawn>.

(c) Bycatch Reduction Device (BRD) and Footrope Lighting Device (FLD) Required. No shrimp trawl net may be possessed on board a vessel in the commercial pink shrimp fishery that does not include an approved ~~bycatch reduction device~~ BRD and FLDs.

...[No changes to subsection (c)(1)]

(2) FLD. All trawl nets used north of Point Conception, Santa Barbara County shall have functional lighting devices attached to the footrope as follows:

(A) Lighting devices shall be blue or green light-emitting diodes that are pressure-rated to a depth of at least 300 meters.

(B) Lighting devices must be securely attached within 6 inches of the forward leading edge of the bottom panel of trawl netting; and

(C) Each trawl net must have a minimum of 5 lighting devices, spaced at least 4 feet apart in the center of each net.

(d) Net Removal. No shrimp trawl nets shall be removed from the vessel participating in the pink shrimp trawl fishery prior to the offloading of pink shrimp.

(e) Maximum Count per Pound. No vessel ~~permitted in the pink shrimp trawl fishery~~ shall land or possess in any ocean waters and tidelands of the state a load of pink shrimp having an average count greater than 160 shrimp per pound.

(f) Pink Shrimp Landing Weight Estimation. When pink shrimp are landed mixed with ice, the net weight of pink shrimp landed shall be estimated as follows:

(1) Samples of the ice and pink shrimp mixture shall be taken throughout the landing process.

(A) At least one sample shall be taken from each receptacle weighed during the landing process. If a receptacle contains 800 pounds or more of ice and pink shrimp mixture, at least one sample shall be taken for every 400 pounds it contains.

(B) Each sample shall be at least three pounds.

(2) To estimate net weight of pink shrimp landed, the proportion of pink shrimp in the samples shall be accurately determined and applied to the total weight of ice and pink shrimp mixture landed.

(3) Reporting requirement:

(A) The estimated net weight of pink shrimp landed shall be recorded as the accurate species weight required by Section 197 ~~of these regulations~~.

(B) The total weight of ice and pink shrimp mixture landed shall be recorded in the note pad section of any dock ticket or electronic fish ticket.

Note: Authority cited: Sections 7078, 8591, 8841 and 8842, Fish and Game Code.

Reference: Sections 7078, 8591, 8841 and 8842, Fish and Game Code.

Modified Regulatory Text

Section 705, title 14, CCR, is amended to read:

§ 705. Commercial Fishing Applications, Permits, Tags and Fees.

...[No changes to subsection (a)]

<i>(b) Transfer, Upgrade, or Change of Ownership</i>	<i>Fees (US\$)</i>
--	--------------------

...[No changes to subsections (b)(1)-(b)(6)]

(7) Northern Pink Shrimp Trawl Vessel Permit Transfer Application ~~FG 1419 (Rev. 5/13)~~
DFW 1419 (New 04/9/01/22), incorporated by reference herein.

...[No changes to subsections (b)(7)(A)-(d)]

Note: Authority cited: Sections 713 and 1050, Fish and Game Code.

Reference: Sections 713 and 1050, Fish and Game Code.

Pink (Ocean) Shrimp, *Pandalus jordani*
Fishery Management Plan



Pink Shrimp, *Pandalus jordani*. Credit: R. Hilbpshman

California Department of Fish and Wildlife
Marine Region
April 2022



Executive summary

This fishery management plan (FMP) for pink shrimp (*Pandalus jordani*) establishes a harvest control rule (HCR) for the fishery, a requirement for the use of footrope lighting devices (FLDs) to aid in bycatch reduction, a procedure to standardized reporting of pink shrimp weight at the time of landing, and removes ambiguity about the legality of pink shrimp trawling in state waters. It is intended to meet the goals of a Basic FMP as described by the Marine Life Management Act (MLMA) Master Plan for Fisheries (CDFW 2018), providing a streamlined, cost-effective approach to implement FMPs for less-complex fisheries.

Pink shrimp support valuable commercial fisheries from California to Washington and range from southeast Alaska to Baja California but are most abundant from Point Arguello to British Columbia (Hannah and Jones 2007). It is thought that a single genetic stock exists throughout their entire range (OST 2014).

Pink shrimp are most abundant off the coast of Oregon where the largest proportion of the fishery occurs. Pink shrimp are targeted via benthic trawl gear during the day when they are concentrated near the sea floor. In 2001, the California fishery was divided into northern and southern regions. Each region requires its own separate permit. Participation in the northern fishery (California-Oregon border to Point Conception) is restricted and requires a limited entry permit; the southern fishery (Point Conception to the California-Mexico border) also requires a permit but is open access.

Pink shrimp vessels deliver their catch to shore side processors (NWFSC 2010), where shrimp are usually shelled, cooked and frozen prior to sale as salad shrimp or cocktail shrimp (CDFG 2008). Currently, most of the pink shrimp catch is exported to Europe. European markets place a high value on Marine Sustainability Council (MSC) certification, prompting the Oregon fleet to obtain MSC certification in 2007. In 2015, both the Washington and California pink shrimp fisheries applied for MSC certification (MRAG Americas 2015). While Washington was approved, California was not due in part to a lack of an FMP with clear target and limit reference points. The California fishery has subsequently initiated a new round of consultation for MSC certification in 2021. A gap analysis conducted by MRAG Americas, the same certification body that certified the Washington fishery in 2015, found this FMP sufficiently addresses the shortfalls that prevented certification of the fishery in 2015 (MRAG Americas 2021; Appendix B).

In 2015, California, Oregon, and Washington fishermen harvested a record 103 million lb valued at \$75.6 million. From 2016 through 2019, west coast landings

ranged from 33 million lb (\$17.2 million) to 52.9 million lb (\$36 million) while California landings ranged from 2.5 million lb (\$1.7 million) to 5.1 million lb (\$3.7 million). The majority of California landings occur in Crescent City (78%), followed by Eureka (16%) and Morro Bay (3%).

California's pink shrimp fishery is currently managed using a suite of static regulations to promote the sustainability of the target species. Although the fishery has regional permits and capacity goals, regulations are identical in both regions (14 California Code of Regulations (CCR) §120.1):

1. A seasonal closure from November 1 through March 31 to protect egg-bearing females.
2. A minimum trawl net mesh size of 1.38 in (36 mm) to allow for escapement of small 0- and 1-year old shrimp.
3. A prohibition on landing shrimp that exceed the maximum count-per-lb of 160. This is intended to limit the take of small 1-year old shrimp.
4. The required use of bycatch reduction devices (BRDs), including rigid grate excluders, soft panel excluders, and fisheye excluders to minimize the bycatch of finfish.

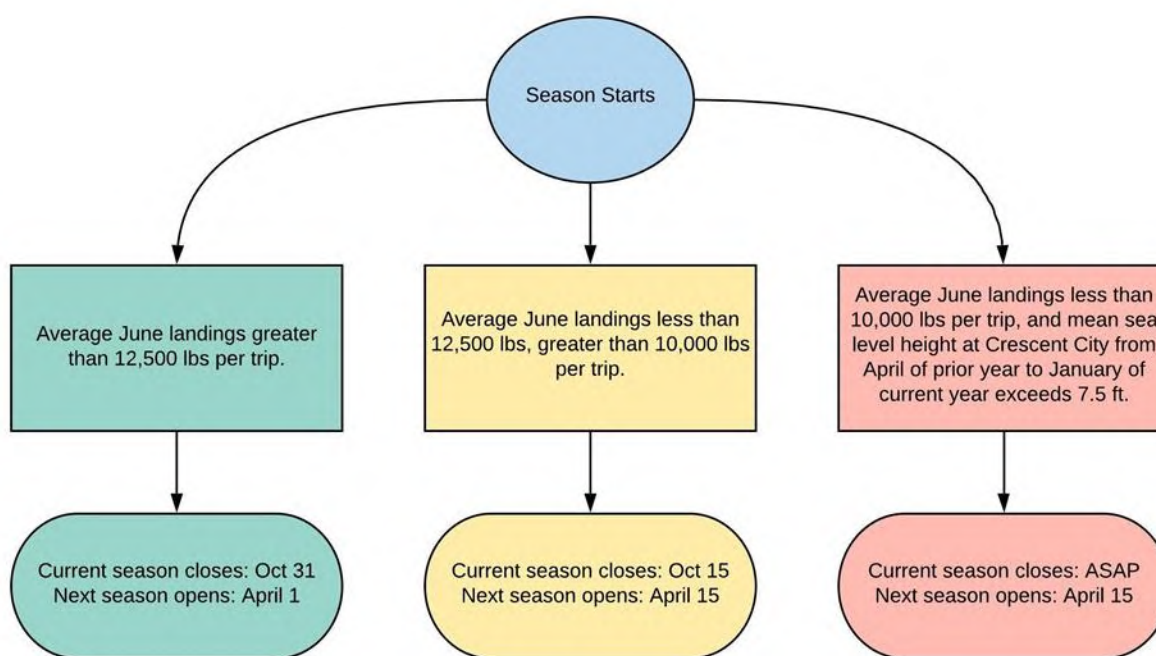
Management Strategy

This FMP implements an adaptive management framework for the commercial pink shrimp fishery utilizing catch reference points (June catch per trip) as a proxy for spawning stock biomass in a given year and an environmental indicator (sea level height) as a proxy for recruitment success (Figure E-1). The harvest control rule (HCR) is based on target and limit reference points developed by Oregon Department of Fish and Wildlife (ODFW) (MRAG Americas 2018; ODFW 2014c) and adopted by Washington Department of Fish and Wildlife (WDFW). Both states have incorporated these reference points into their pink shrimp FMPs (ODFW 2018b, WDFW 2017). Use of these reference points by California would ensure uniform coastwide management of this fishery.

The HCR establishes a 10,000 lb June catch per trip limit reference point to manage the fishery and a 12,500 lb target reference point to provide additional protection given the uncertain effects of climate change on the spawning dynamics of the stock (ODFW 2018b).

The HCR also incorporates sea level height (SLH) in Crescent City from April of the previous year to January of the current year in the limit reference point as a proxy for preseason stock status. A SLH of 7.5 ft or greater from April to June (when larvae are typically present in the environment) correlates with poor recruitment events. The limit reference point is triggered when this environmental

condition is met and the June catch per trip is below 10,000 lb. When this occurs the fishery is closed as soon as practical, and the opening of the next season is delayed until April 15. The target reference point is triggered when June catch per trip is below 12,500 lb regardless of environmental conditions and results in the season closing on October 15 and delays the start of the next season to April 15. Both measures are intended to provide added protection for egg bearing females and prevent the stock from falling below the lowest previously observed spawning stock biomass.



Note: The landings of single-rigged vessels are multiplied by 1.6 to compensate for the increased efficiency of double-rigged vessels.

Figure E-1. Flow chart of proposed harvest control rule for the California pink shrimp fishery.

The HCR relies on an accurate reporting of catch per trip, and so requires a consistent method of reporting landing weight. Pink shrimp are typically landed mixed with ice to prevent degradation of the catch. The implementing regulations of this FMP codify a procedure to estimate the net weight of shrimp landed. Oregon and Washington have established similar methods to compute net landing weights, and adoption of such a method in California would further standardize the management of the stock between the three states. This net weight is intended to satisfy the accurate weight requirements of Fish and Game Code (FGC) Section 8043 and California Code of Regulations (CCR) Title 14 Section (§)197.

Bycatch reduction

Recent research by ODFW and Pacific States Marine Fisheries Commission (PSMFC) indicates that attaching inexpensive green LED lights on nets reduced eulachon catch by 90.5% and juvenile rockfish catch by 78%, with negligible impacts on shrimp retention (Hannah et al. 2015). These footrope lighting devices (FLDs) are an effective, low-cost solution to address eulachon bycatch and are currently being used voluntarily in California. Regulations requiring FLD use will be proposed in connection with this FMP.

Implementing this FMP will require the California Fish and Game Commission (Commission) to adopt HCR, FLD, and landing weight regulations, and the Department to work with processors to implement weighing procedures. Ongoing outreach and education about the new requirements with the fleet will continue. Staff time will be needed to monitor landings each June and evaluate whether the fishery is meeting the reference points prescribed by the HCR, or if an in-season modification or closure is warranted. If implementation of the HCR leads to sustainable certification of the fishery by MSC, a portion of shrimp caught in California waters but currently landed in Oregon may be landed at California ports in the future.

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Acronyms

BRD	Bycatch Reduction Device
CCR	California Code of Regulations
CDFG	California Department of Fish and Game
CDFW/Department Commission	California Department of Fish and Wildlife California Fish and Game Commission
CPUE	Catch Per Unit Effort
EFH	Essential Fish Habitat
ESR	Enhanced Status Report
FGC	Fish and Game Code
FLD	Footrope Lighting Device
FMP	Fishery Management Plan
HCR	Harvest Control Rule
LED	Light Emitting Diode
MLDS	Marine Landings Data System
MLMA	Marine Life Management Act
MPA	Marine Protected Area
MSC	Marine Stewardship Council
NWFSC	Northwest Fisheries Science Center
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
ODFW	Oregon Department of Fish and Wildlife
PFMC	Pacific Fishery Management Council

PSMFC	Pacific States Marine Fisheries Commission
PSTG	Pink Shrimp Trawl Grounds
RCA	Rockfish Conservation Area
WDFW	Washington Department of Fish and Wildlife
WCGOP	West Coast Groundfish Observer Program

1. The Species

1.1 Natural history

1.1.1 Description

Pink shrimp (also known as ocean shrimp), *Pandalus jordani*, are crustaceans in the genus *Pandalus* and are closely related to the northern rough pink shrimp (*P. eous*). Pink shrimp have a hard outer shell and jointed legs and can grow up to 6 inches (in; 15 cm) in length. They are uniform pink in coloration, with no stripes or spots, though their dark viscera can be seen through their translucent bodies. Pink shrimp have large, bulbous eyes and breathe through gills. The rostrum (a horn-like projection between the eyes) is 1.5 to 2 times longer than the carapace (hard plate covering the head and thorax). Pink shrimp are almost identical in size and coloration to the northern rough pink shrimp but lack a spine on their curved abdominal segment.

1.1.2 Reproduction

Pink shrimp are a short-lived, fast-growing, highly fecund species. They are protandric hermaphrodites, meaning they usually develop first as males and then transition to females. The age at transition can vary in response to environmental or population cues. Mating takes place during September and October. Fecundity (the number of eggs females produce) varies between years and areas (Hannah et al. 2011). Small females in their second year have been found to produce as few as 900 eggs per year, while larger shrimp in their third or fourth year of life may bear up to 3,900 eggs. After fertilization by packets of sperm, the female carries the eggs attached to the posterior swimming appendages until the eggs hatch during late March and early April.

Pink shrimp usually reproduce first as males and shift to female at age 1.5, but it is possible to have age groups that are composed of both males and females (Butler 1964). In some cases, the sex of shrimp can depend on the age distribution of the population (Charnov et al. 1978). When population sizes are low because there are few age-one shrimp entering the population as males, some older shrimp remain male. Conversely, when year-class strength is high, as much as 60% of age-one shrimp can be female and never breed as males. Young-of-the-year shrimp (hatched in the spring of a given year) settle to the bottom by late summer or early fall and may become vulnerable to fishing gear at the end of the fishing season, prior to achieving sexual maturity.

1.1.3 Larval biology and dispersal

There is a two to three month pelagic larval phase. Juveniles occupy successively deeper depths as they grow, and recruit to the fishery in the late summer, at about 5 to 6 months of age (Hannah et al. 2011).

1.1.4 Growth

After the pelagic larval period, juveniles may appear in commercial catches by late summer. Shrimp grow in steps by molting or shedding their carapace. Growth rates vary according to region, sex, age, and year class (Dahlstrom 1973). Pink shrimp generally grow faster in northern California than in Oregon, and age-one shrimp in California are often large enough to meet the minimum shrimp per pound restriction. There is a clear pattern of seasonal growth, with very rapid growth during spring and summer and slower growth during the winter (Frimodig et al. 2009).

Age-one shrimp range from 0.5-0.7 in (13-17 mm) in mean carapace length, age-two shrimp range from 0.7-1.0 in (18-25 mm), and age-3 shrimp range from 1.0-1.1 in (25-29 mm; CDFG 2008; Figure 1-1). Years with very high abundances can cause competition among cohorts for scarce resources, resulting in reduced growth rates.



Figure 1-1. Three age classes of pink shrimp. Credit: Robert Hannah, ODFW.

1.1.5 Natural mortality

Determining the natural mortality of marine species is important for understanding the health and productivity of a population. Natural mortality includes all causes of death not attributable to fishing such as old age, disease, predation, or environmental stress. Natural mortality is generally expressed as a

rate that indicates the percentage of the population dying in a year. Species with high natural mortality rates must replace themselves more often and thus tend to be more productive. Natural mortality and fishing mortality are combined to estimate total mortality of a stock.

Pink shrimp can live up to 5 years, but catches are often dominated by the age-one year class in California. Few shrimp survive beyond age four (Dahlstrom 1973). Natural mortality is high with the over-winter (between fishing seasons) survival rates estimated to be between 43% and 76% for shrimp aged one to three. Natural mortality may increase after age three (Dahlstrom 1973). Natural mortality rates may also change in response to the abundance of predator stocks, such as Pacific hake.

1.1.6 Pathology

Relatively little information is available on pathology for pink shrimp. Four microsporidian species have been found to infect pink shrimp and parasitize the skeletal muscles giving the body a whitish, opaque appearance but the occurrence of these parasites was found to be low (Olson and Lannan 1984).

1.1.7 Movement

Pink shrimp may be subject to some level of north/south or onshore/offshore transport due to ocean currents (Gotshall 1972). However, there is no evidence that they exhibit large, coast-wide migratory behavior. Larval transport between beds may occur since young-of-the-year shrimp live in the plankton for up to eight months before settling to the bottom. Pearcy (1970) speculated that nocturnal vertical migrations for feeding might also function as a dispersal mechanism with lateral displacement by currents.

1.2 Population status and dynamics

At-sea surveys were conducted by the California Department of Fish and Wildlife (Department) between 1959 and 1969 to obtain abundance estimates and set regional quotas. These surveys were costly, so a mathematical population model was developed to estimate the population size from 1969 until 1975. Use of the model was discontinued because pink shrimp violate a number of assumptions due to variable recruitment, growth, and mortality.

In 1981, a comprehensive coast-wide stock assessment was conducted using a Schaeffer surplus production model with catch and effort data from 1959 to 1980 (PFMC 1981). However, this model was inappropriate for stocks where biomass changes are driven by environmental fluctuations rather than the effects of fishing (Geibel and Heimann 1976).

Pink shrimp abundance off California varies substantially from year to year, which is largely attributed to environmental factors causing natural fluctuations in recruitment. This is a source of major uncertainty and prevents reliable long-term forecasting. Equilibrium-based models such as catch-at-age and yield-per-recruit have also been unsuccessful at determining stock status and meaningful reference points for pink shrimp. Environmental models have been more successful at accounting for the variation observed in catch, but have found no significant effects of fishing on future stock size (a stock-recruitment relationship; Hannah 1993). The importance of environmental factors on pink shrimp recruitment and distribution suggests fishing pressure may have relatively less influence on stock status.

Catch has varied widely from year to year, and catch-per-unit-effort (CPUE) has been relatively high since 2010. From 2011 to 2013, landings on the west coast were high, but have declined since 2015. A reduction in catch occurred during the strong El Niño in 2016 but was not as dramatic as those associated with previous strong El Niño events.

1.2.1 Age structure of the population

The age structure of the portion of the stock in California waters has not been assessed recently; however, some insight into age structure might be found in Oregon data, as the states are believed to be fishing a common stock and a significant portion of the catch landed in Oregon is harvested from waters off the California coast (ODFW 2020). Oregon has an extensive monitoring program for the fishery and annually tracks the age composition of shrimp caught off Oregon (Figure 1-2). Because the pink shrimp stock crosses the California-Oregon border, and a sizeable portion of the catch landed in Oregon is caught off California, the age structure of Oregon catches is likely representative of stock conditions in California. The age structure of pink shrimp off Oregon was found to have been altered by intensive fishing since the 1970s (Hannah and Jones 1991). The proportion of first-time breeders (age-one individuals) had increased from ~30% to ~70% of the catch. This may have impacted the spawning potential of the stock but a shift to a younger population increases overall biomass productivity since growth is slower with an older population.

In the late 2000s and early 2010s, age-two shrimp dominated the catch, and as a result, the age-three component of the 2012 stock was the highest observed since 1978 (ODFW 2013). It is hypothesized that the high population levels allowed fishermen to avoid the smaller (and less valuable) age-one year class, delaying their capture by one year (ODFW 2014a). In 2016, catches were dominated by age-one shrimp from a large recruitment event the previous year.

In 2017, a more even age distribution was observed but was followed by another year dominated by age-one shrimp. This alternation between a year dominated by age-one shrimp followed by one with more even age distribution has been commonly seen in the past.

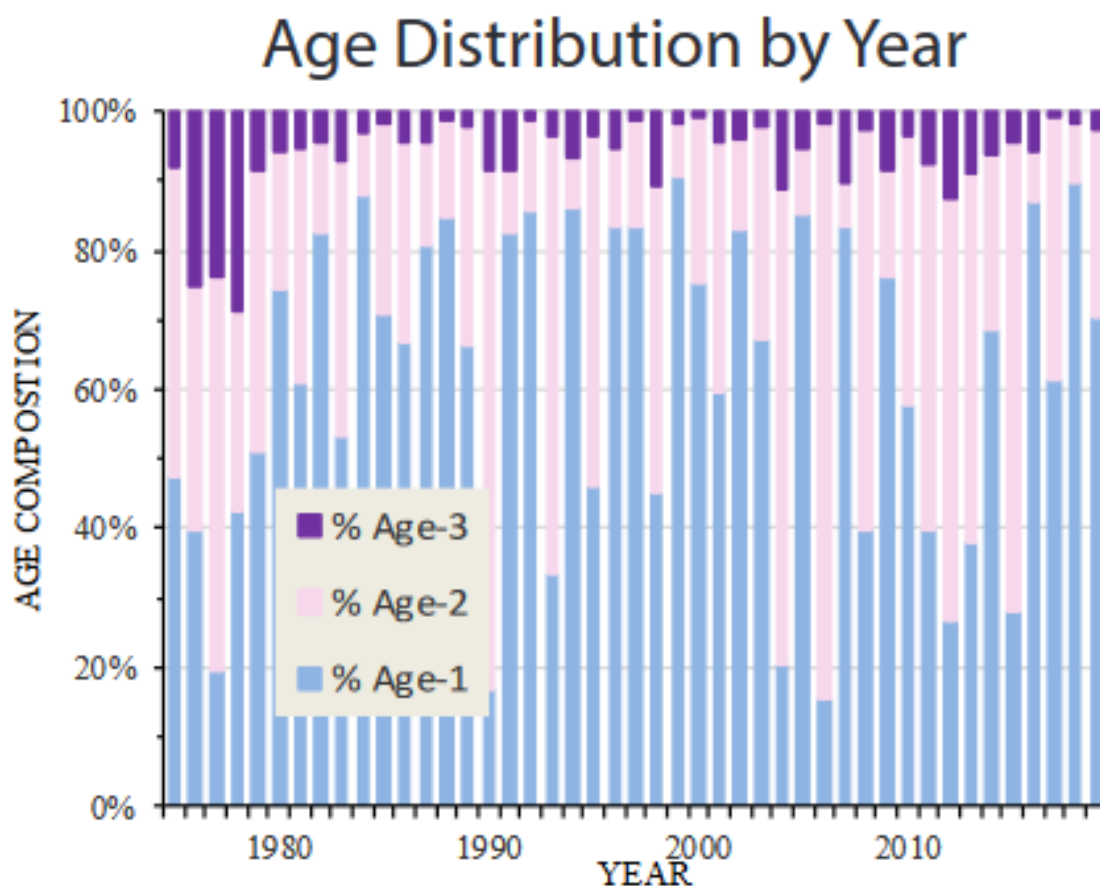


Figure 1-2. Annual percent (%) age composition of pink shrimp landed into Oregon, 1975-2019 (Reproduced from ODFW 2020).

1.3 Habitat

Pink shrimp range from southeast Alaska to Baja California but are only most abundant from Point Arguello to British Columbia (Hannah and Jones 2007; Figure 1-3). It is thought that a single genetic stock exists throughout their entire range (OST 2014).

Pink shrimp are found at depths between 150 to 1,200 ft (Dahlstrom 1973) but tend to be caught between 300 and 600 ft in California (average reported depth from logbooks is 444 ft). They generally inhabit deep waters, aggregating near the bottom during the day in well-defined areas of sandy mud or "green mud" and ascending into the water column at night to feed.



Figure 1-3. Range of pink shrimp.

1.4 Ecosystem role

Pink shrimp occupy a central position in the trophic structure of their ecosystem because they feed on zooplankton and are forage for a number of fish species. They are also highly responsive to changing environmental conditions. Due to this sensitivity and their short life span, species in the genus *Pandalus* have been shown to be early indicators of regime shifts, such as from predominantly cool, productive oceanic conditions to warmer, low productivity conditions (Anderson and Piatt 1999).

Pink shrimp have no known associated species. However, the closely related aesop shrimp (*P. montagui*) lives in association with the reef-building polychaete worm known as the Ross worm (*Sabellaria spinulosa*; Last et al. 2012).

Pink shrimp are important prey for several fish species, including those of commercial importance. These include Pacific hake, arrowtooth flounder, sablefish, petrale sole, spiny dogfish, and several species of rockfish and skates (CDFG 2008; NWFSC 2010). By ascending the water column and feeding primarily at night (Pearcy 1970; Gotshall 1972), pink shrimp may reduce their susceptibility to visual predators (Pearcy 1970). Schooling is another behavior which reduces predation rates for pink shrimp.

Pink shrimp ascend into the water column at night to feed on zooplankton, primarily krill (various euphausiid species) and copepods (Pearcy 1970). During the day, pink shrimp caught in bottom trawls were found feeding on benthic organisms (mollusks and polychaetes) and detritus (Pearcy 1970).

1.5 Effects of changing oceanic conditions

Pink shrimp have a high tolerance for a range of salinities, but a fairly narrow optimal temperature range between 8-11°C which could make them vulnerable to climate change. Fluctuations in temperature from year to year may impact the survival, metamorphosis, and growth of larvae (Rothlisberg 1979). In addition, bottom temperature may influence shrimp fecundity (Hannah 2011).

Recruitment of young-of-the-year shrimp has been negatively correlated with El Niño Southern Oscillation cycles. Coastal upwelling, which can vary from year to year, may influence the location of shrimp beds (Hannah 2011). The timing of spring transition, marked by increased offshore winds, increased upwelling, and decreased sea level height, has been linked to strong recruitment. The mechanism for this correlation may be related to cool, nutrient-rich waters promoting recruit survival. However, it is thought that very strong upwelling and associated very low sea levels transport larvae offshore, reducing recruitment (Hannah 2011).

There are indications that climate change could significantly alter recruitment patterns and distribution of pink shrimp over time (Hannah 2011). It is possible that warmer waters may drive pink shrimp populations further north and limit access to the resource in California. Pink shrimp recruitment success is environmentally driven and there is evidence that environmental variability has been increasing since 1980 (Shanks and Roegner 2007).

Pink shrimp off the coast of California have experienced greater interannual variability than stocks farther north over the last few decades (Hannah 2011) and this may increase in the future because of the effects of environmental variability on recruitment. This possibility underscores the need to maintain a consistent fishery monitoring and sampling program for the pink shrimp fishery going forward as well as the value of the potential new management approaches described below. Additional research is needed to better understand the effects of climate change on the pink shrimp stock.

2. The Fishery

2.1 Location of the fishery

Washington, Oregon, and California have active pink shrimp fisheries. Pink shrimp are most abundant off the coast of Oregon where the largest proportion of the fishery occurs. Smaller catches occur off California and Washington. Since 2007, the majority of California landings have been concentrated in the northernmost counties of Humboldt and Del Norte. Historically, most fishing occurred in federal waters. Trawling for shrimp in state waters has been prohibited since 2008. Because pink shrimp are near the sea floor during the day and ascend into the water column at night, they are targeted during the day, using benthic trawl gear that drags along the sediment. Beds with commercial densities have been mapped, and while the largest beds occur off the coast of Oregon, commercial beds can be found from southern California to British Columbia.

2.2 Fishing effort

2.2.1 Number of vessels and participants over time

The number of active vessels fluctuated during the 1970s and mid-1990s with a peak in 1994 followed by a nearly steady decline to an all-time low in 2006 (Figure 2-1). The decline was augmented in 2003 by a voluntary federal buyout instituted for groundfish trawl vessel permits which removed almost one-half the capacity of the west coast trawl fleet including many vessels which also had pink shrimp permits. Since 2006, the number of active vessels has increased steadily for more than 10 years.

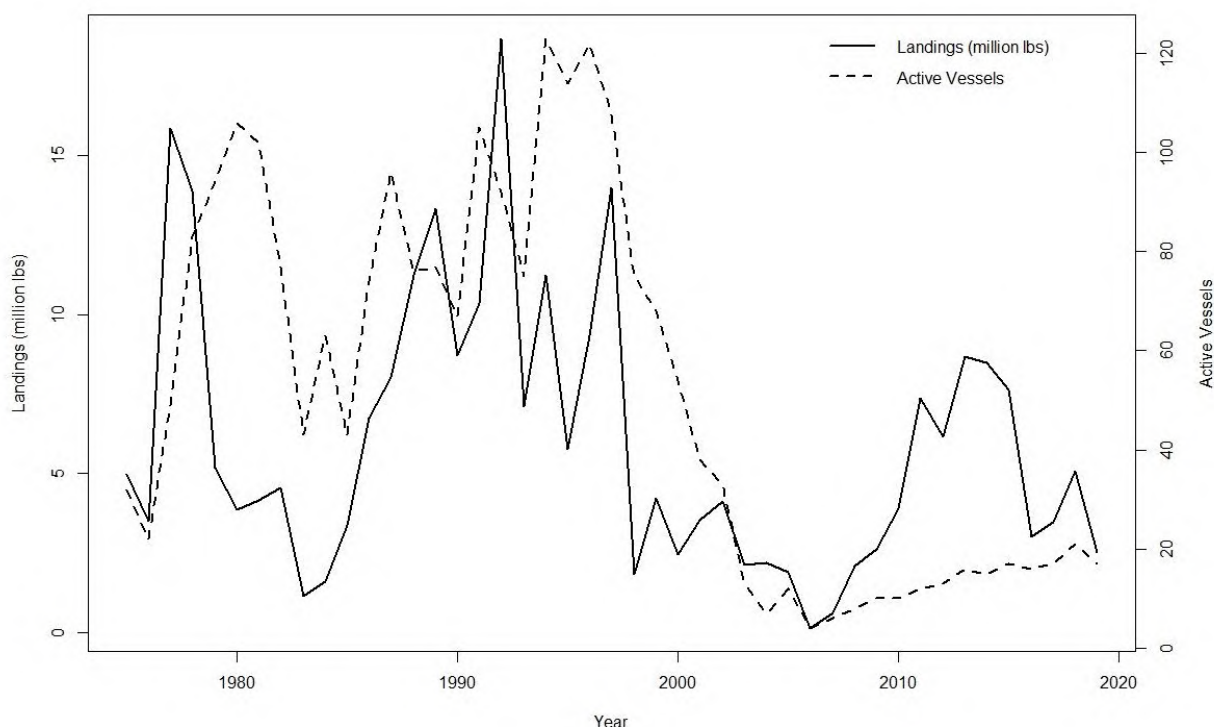


Figure 2-1. Number of active vessels and landings (million lb) in the California pink shrimp fishery, 1970-2019. Data: CDFW Marine Landings Data System (MLDS).

In 2001, the fishery was divided into northern and southern regions. Each region requires its own separate permit. Participation in the northern fishery (California-Oregon border to Point Conception) is restricted and requires a limited entry permit; the southern fishery (Point Conception to the California-Mexico border) also requires a permit but is open access. As of 2020, the northern fishery had 39 permits (35 transferable, 4 non-transferable) and the southern fishery had 15 permits. This information will be periodically updated in the Enhanced Status Report (ESR) for pink shrimp, available at <https://marinespecies.wildlife.ca.gov>.

Fishing effort can be measured in three different ways: 1) number of vessels fishing per season, 2) number of trips per season, and 3) fishing hours. The number of vessels fishing may vary from year to year in response to fluctuations in either shrimp abundance or price per pound. For this reason, number of trips or hours fished may be a more accurate and standardized way to measure fishing effort. In Oregon, number of fishing hours per season has shown more year to year variation than number of vessels or number of trips (ODFW 2020). Looking only at pink shrimp landings in California does not cover all the impacts to California pink shrimp populations since recently, vessels catching pink shrimp

off California land more shrimp in Oregon ports than in California ports (see section 2.3 Commercial Landings).

2.2.2 Type, amount, and selectivity of gear

Pink shrimp are targeted via benthic trawl gear during the day when they are concentrated near the sea floor. The average vessel in the pink shrimp fleet is 60 ft long (CDFW Automated License Data System 2019), a slight increase from the 59 ft average length noted between 2001 and 2006 (Frimodig et al. 2009).

Prior to 1974, only single-rigged vessels were used to target shrimp (Figure 2-2, left). From 1952 to 1963, pink shrimp fishermen were limited to the use of beam trawls with a minimum mesh size of 1.5 in (38 mm). After 1963, the use of otter trawls with the same size mesh was also permitted. In 1975, the mesh size was reduced to 1.38 in (36 mm) north of Pigeon Point (San Mateo County). After double-rigged vessels entered the fishery, they comprised approximately 25% of the California fleet in the late 1970s and increased to nearly 50% during the 1980s and 1990s. In the early 2000s, there was a great deal of latent capacity in the pink shrimp fishery. Less than 50% of permits were actively fished in the northern region, and less than 25% were fished in the southern region. Participants in the pink shrimp fishery are often also engaged in the groundfish and Dungeness crab fisheries. In 2003, NMFS implemented a federal groundfish fishing capacity reduction program, which resulted in the removal of 31 California permits.

Today, most vessels in the northern fleet are double-rigged and use an otter trawl on each side of the vessel (Figure 2-2, right). A majority of vessels in the southern fleet are single-rigged and use a single trawl.

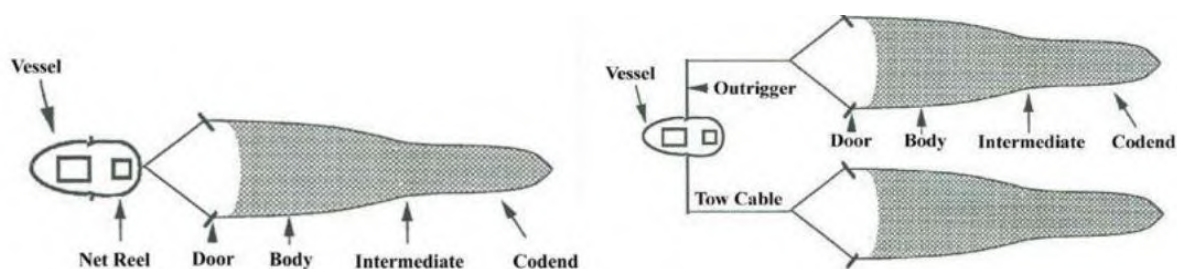


Figure 2-2. Diagram of a single-rigged (left) and double-rigged (right) shrimp vessel. Reproduced from Jones et al. 1996.

2.3 Landings in the recreational and commercial sectors

Pink shrimp are an exclusively commercial fishery. The typical location and depth of the species make it an unlikely target for a recreational fishery. Commercial landings peaked in the late 1980s and 1990s and decreased from a high of over 18 million lb in 1992 to a record low of 0.15 million lb in 2006 (Figure

2-3). Fluctuations in landings are primarily thought to reflect natural variability in the pink shrimp population size from year to year due to environmental conditions (Hannah 1993; Hannah 2010) but decreases in landings also can result from reduced fishing effort (Figure 2-). Annual landings were below average in both California and Oregon from 2000 to 2010. Landings increased from 2010 to 2015 but have declined and fluctuated at lower levels after 2015. Since 2001, 90% of the state's landings have occurred in northern California. Landings data will be periodically updated in the pink shrimp ESR.

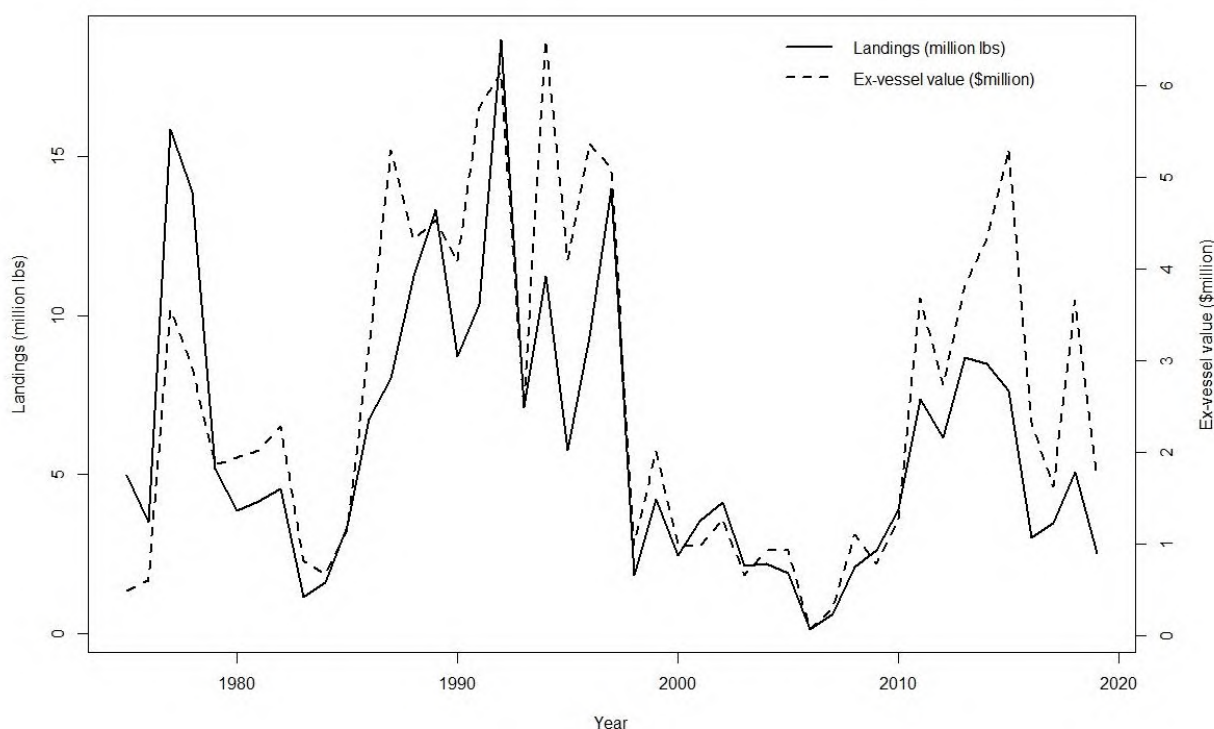


Figure 2-3. California pink shrimp landings (million lb) and value (million dollars), 1970-2019. Data: CDFW MLDS.

The distribution of the fishery has changed in recent years. From 1981 through 2006, 18% of the total west coast catch of pink shrimp was landed in California ports, 57% was landed in Oregon ports, and 25% was landed in Washington ports (Frimodig et al. 2009). From 2007 through 2018, landings in California declined to 9% while Oregon increased to 67%. Washington landings remained relatively unchanged at 24%. Much of this change is due to increases in the amount of pink shrimp caught off California but landed in Oregon (Figure 2-4).

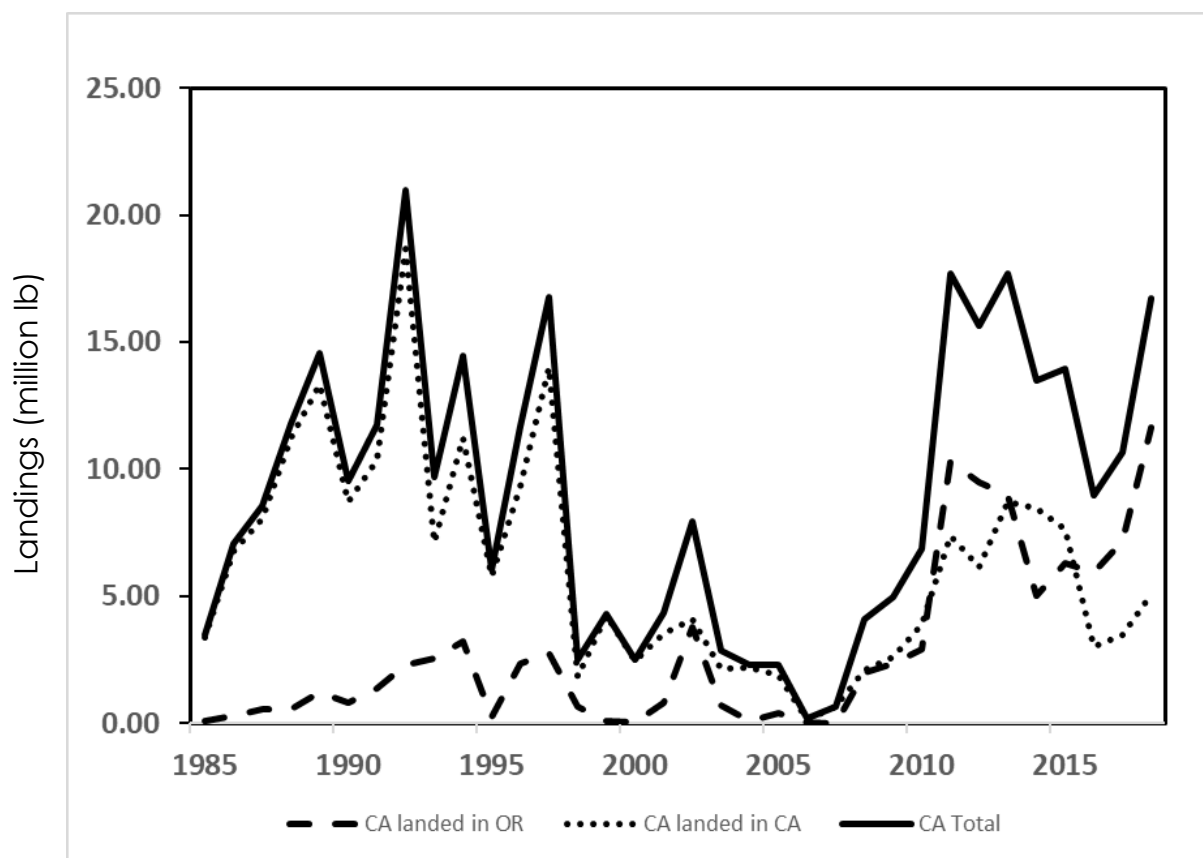


Figure 2-4. Landing state, and weight of landings (million lb) of pink shrimp harvested in California waters, 1985-2018. Data: CDFW MLDS.

There are a significant number of Oregon-permitted vessels that fish in federal waters off California but land in Oregon. Prior to 2008, the amount of pink shrimp caught off California and landed in Oregon was relatively small compared to the amount caught off and landed in California. From 2008 to 2015, the amount of California pink shrimp landed in California and Oregon was nearly equivalent (Figure 2-4). Marine Stewardship Council (MSC) certification for Oregon probably contributed to the increase in the amount of pink shrimp caught off California and landed in Oregon (See section 2.6 for California efforts to obtain MSC certification). Other factors contributing to the increase of California caught pink shrimp landed in Oregon are closure of the Pink Shrimp Trawl Grounds (PSTG) within California state waters in 2008 and reduced processing capacity in recent years. After 2015, significantly more California pink shrimp have been landed in Oregon than in California. In 2020, landings in California were very low due to the closure of the main processing plant in the state. California permitted vessels also fish in Oregon waters, but this represents a much smaller percentage of the total landings.

2.4 Social and economic factors related to the fishery

Pink shrimp vessels deliver their catch to shore side processors (NWFSC 2010), where shrimp are usually shelled, cooked and frozen prior to sale as salad shrimp or cocktail shrimp (CDFG 2008). Currently, most of the pink shrimp catch is exported to Europe. European markets place a high value on MSC certification, prompting the Oregon fleet to obtain MSC certification in 2007. In 2015, both the Washington and California pink shrimp fisheries applied for MSC certification (MRAG Americas 2015). While Washington was approved, California was not due in part to a lack of an FMP with clear target and limit reference points. The California fishery is expected to re-apply for MSC certification in 2022. An analysis conducted by MRAG Americas found this FMP sufficiently addresses the shortfalls that prevented certification of the fishery in 2015 (MRAG Americas 2021; Appendix B).

The ex-vessel value of the California pink shrimp fishery has ranged from \$0.1-7 million (Figure 2-) but the combined value for the U.S. West Coast fishery is much greater. In 2015, California, Oregon, and Washington fishermen harvested a record 103 million lb valued at \$75.6 million. From 2016 through 2019, west coast landings ranged from 52.9 million lb (\$36 million) to 33 million lb (\$17.2 million) while California landings ranged from 5.1 million lb (\$3.7 million) to 2.5 million lb (\$1.7 million). The majority of California landings occur in Crescent City (78%), followed by Eureka (16%) and Morro Bay (3%) (Figure 2-5).

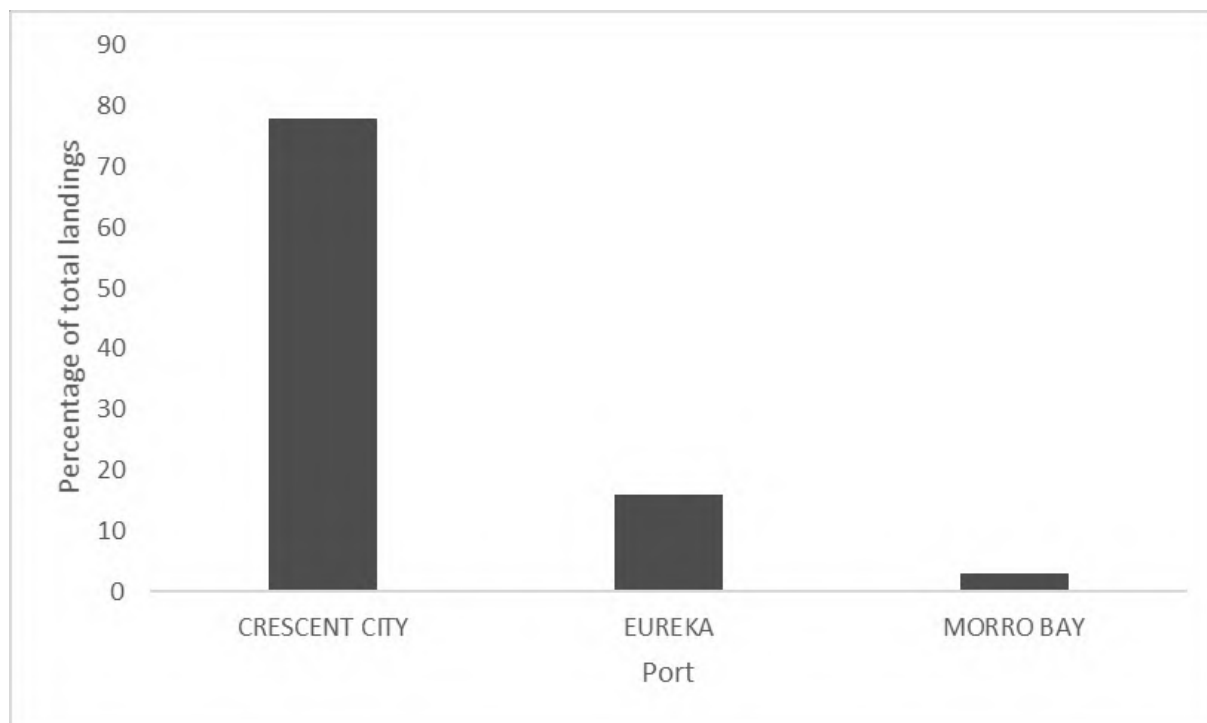


Figure 2-5. Percentage of California pink shrimp landings by port, 2019. (CDFW MLDS)

Shrimp price and abundance play important roles in determining fleet size in the pink shrimp fishery. The price per pound before 2000 peaked at \$0.87 in 1987, coinciding with a period of very high landings (CDFG 2008). The average ex-vessel price of shrimp has varied between \$0.30 and \$1.13 per lb since 2002 (Table 2-1). In recent years, price per pound has often been \$0.70 or higher.

Since 2007, most of the catch has been harvested off Eureka and landed primarily into the ports of Crescent City and Eureka. As of March 2020, there were no processing plants operating in California and all shrimp landings are trucked to Oregon for processing. Processors have indicated MSC certification of the California pink shrimp fishery may lead to the reopening of processing plants.

Table 2-1. Total California pink shrimp landings in pounds, ex-vessel value, and average ex-vessel price per pound (CDFW MLDS 2020).

Year	Pounds	Value	Price
2001	3,509,326	\$961,670	\$0.27
2002	4,116,213	\$1,275,015	\$0.31
2003	2,147,198	\$655,431	\$0.31
2004	2,187,520	\$925,062	\$0.42
2005	1,893,913	\$925,203	\$0.49
2006	139,901	\$66,296	\$0.47
2007	636,944	\$301,695	\$0.47
2008	2,084,404	\$1,094,707	\$0.53
2009	2,609,170	\$782,876	\$0.30
2010	3,904,052	\$1,274,496	\$0.33
2011	7,375,139	\$3,684,168	\$0.50
2012	6,152,197	\$2,740,417	\$0.45
2013	8,501,520	\$3,732,135	\$0.44
2014	8,476,677	\$4,334,173	\$0.51
2015	7,646,530	\$8,620,665	\$1.13
2016	3,021,074	\$2,330,321	\$0.77
2017	3,470,780	\$1,627,788	\$0.50
2018	5,086,164	\$3,659,889	\$0.75
2019	2,539,803	\$1,731,027	\$0.70

In addition to poor recruitment, a combination of economic factors including competition from other shrimp fisheries, increased aquaculture production worldwide, higher fuel prices, and limited processor availability may explain the reduction in landings during the mid-2000s, (CDFG 2008). Processors can impose trip limits on shrimp fishermen according to the plant's processing ability (Figure 2-6). Pink shrimp are subject to a landing fee of \$0.0047 per lb. All of these factors suggest that economics can be just as influential as abundance in dictating fishing behavior in this fishery. Information in this section will be periodically updated in the pink shrimp ESR.



Figure 2-6. Pink shrimp processing. Credit: CDFW.

3. Management

3.1 Past and current management measures

In 1952, the California pink shrimp trawl fishery was divided into three regulatory areas, and a quota was set for each area at 25% of estimated abundance from at-sea surveys (CDFG 2008). Later, a stock assessment model was used to set quotas due to the high cost of yearly surveys but was ultimately found to be inappropriate given pink shrimp population levels were influenced more by environmental variability than stock status. In addition to regional quotas, regulations also specified mesh sizes and types of allowable trawl gear. The quota system was in place until 1976, when current regulations were enacted.

In response to declining CPUE rates in the 1970s, the Pacific Fishery Management Council (PFMC) drafted a FMP for pink shrimp along the entire west coast. Since most shrimp fishing occurred in federal waters, a federal management plan would provide consistent regulation across the three states. However, the FMP was never adopted and the PFMC recommended a coordinated management system by the three states (Parsons et al. 2013). In 1981, pink shrimp regulations were adopted by the states to establish uniform coast-wide management. The resulting regulations, which are still in effect today, are summarized in section 3.1.1.

The PFMC retained authority over the California pink shrimp fishery until 2004, when management authority was transferred to the California Fish and Game

Commission (Commission; CDFG 2007). At this time, the California legislature also granted the Commission management authority over California's commercial bottom trawl fisheries (FGC §8841 and §8842). Since 2004, the California pink shrimp fishery has been principally state-managed, although some federal regulations still apply, such as daily and monthly trip limits for incidental catches of groundfish, use of a vessel monitoring system in federal waters, and area restrictions protecting groundfish Essential Fish Habitat (EFH).

There have been three major regulatory changes affecting the pink shrimp fishery since 1981. In 2001, the three regulatory areas in California were eliminated. The fishery was divided at Point Conception into northern and southern management regions, with separate permits issued for each region. Second, bycatch reduction devices (BRDs) were required statewide in 2002 (Frimodig et al. 2009). The configuration of these devices, and their effects on bycatch levels, is discussed in section 3.1.3.2.4. Finally, in 2008 the Commission closed the pink shrimp trawl grounds (PSTG), banning all pink shrimp fishing within state waters. Historically, approximately 10% of California pink shrimp were caught within state waters, with the remainder captured in federal waters (>3 miles offshore). The closure of the PSTG provides an added measure of protection against overfishing pink shrimp populations off California.

3.1.1 Overview and rationale for the current management framework

California's pink shrimp fishery is currently managed using a suite of static regulations to promote the sustainability of the target species. Although the fishery has regional permits and capacity goals, regulations are identical in both regions (14 California Code of Regulations (CCR) §120.1):

1. A seasonal closure from November 1 through March 31 to protect egg-bearing females.
2. A minimum mesh size of 1.38 in (36 mm) to allow for escapement of small 0- and 1-year old shrimp.
3. A prohibition on landing shrimp that exceed the maximum count-per-lb of 160. This is intended to limit the take of small 1-year old shrimp.
4. The required use of BRDs, including rigid grate excluders, soft panel excluders, and fisheye excluders to reduce finfish bycatch.

3.1.1.1 Criteria to identify when fisheries are overfished or subject to overfishing, and measures to rebuild

Prior to the development of the harvest control rule (HCR) described in section 5, there was no direct reference point available to specify the level of fishing that

constitutes “overfishing” or “overfished” status. However, regulation specifies a maximum count-per-lb (160 shrimp) to prevent catch of too many small (1-yr-old) shrimp. The rationale behind this regulation is that large catches of small shrimp could be an indicator of overfishing, and that larger shrimp have already been caught. Continuing to fish when too many age-one shrimp are in the catch may imperil the sustainability of the resource. The regulation prohibits fishermen from landing shrimp that would exceed the maximum count, but there is no link to a management decision.

There is also no direct reference point available to specify the size at which the pink shrimp population would be considered “overfished”.

There are currently no regulations or procedures in place to halt overfishing when it is found to be occurring, or to rebuild populations when they fall below biomass thresholds. There are no rebuilding targets (specified in either abundance or catch rates) for this fishery. The Marine Life Management Act (MLMA) specifies that the period for preventing, ending, or otherwise appropriately addressing and rebuilding the fishery shall be as short as possible, and shall not exceed ten years except in cases where the biology of the population of fish or other environmental conditions dictate otherwise (FGC §7086(c)(1)).

3.1.1.2 Past and current stakeholder involvement

Stakeholder involvement has primarily occurred during regulation changes affecting the pink shrimp fleet. Amendments to regulations pertaining to pink shrimp trawling (CCR Title 14 §120) were last made in 2008 when primarily organizational changes were made. In the early 2000s, statutory changes were made giving regulatory authority to the Commission and requiring BRDs. The restricted access program was developed in 2000 and applies to the northern pink shrimp only. During each of these changes, stakeholders were consulted and had an opportunity to comment through the Commission process.

The 2015 California pink shrimp fishery MSC application did not meet the standard for stakeholder communication. Since then, the Department has improved two-way communication with the fleet and processors. This has and will improve collaboration with the fleet on stock dynamics and management actions as well as increasing transparency in Department decision making. The Department hosted a fleet meeting in Eureka in March 2017 and participated in discussions on pink shrimp capacity at the November 2017 meeting of the Commission’s Marine Resource Committee. An online meeting was also conducted by the Department in October 2019 to discuss current developments within the fishery. The Department has also held informational webinars in May

2020 and 2021. The Department intends to hold annual meetings to keep the industry informed of changes and developments concerning the fishery. Information obtained at these meetings is considered by the Department and can lead to changes in management of the fishery. Industry desire to obtain MSC certification has driven the development of this FMP, and the changes described in section 5.9 "Establishing accurate weights" address concerns raised by the fleet at the May 2021 meeting. An early draft of this FMP was circulated to the fishery for input in July 2021 and received supportive comments. Any critical comments or requests for changes would have been considered and potentially addressed in the FMP.

3.1.2 Target species

3.1.2.1 Limitations on fishing for target species

3.1.2.1.1 Catch

There is no quota currently in place for pink shrimp, and no pre-determined procedure available for setting or changing a quota.

3.1.2.1.2 Gear

There is a minimum mesh size of 1.38 in (36 mm) to allow juveniles (young-of-the-year) to escape (CCR Title 14 §120). Oregon and Washington do not have mesh size regulations. The use of bycatch reduction devices is required, see discussion in section 3.1.3.2.4.

3.1.2.1.3 Season

The fishery is closed from November 1 through March 31 to protect egg-bearing females. There has been some discussion of expanding the seasonal closure to May 1 to increase protection of egg-bearing females since a small proportion of shrimp are egg-bearing at the beginning and end of the season, and many are below market size. For various reasons, especially price negotiation between the fleet and processors, the season in California rarely starts on time and historically little fishing has occurred in April, so extending the closed period is not likely to affect the fishery significantly. However, the states have not yet come to a consensus on this issue.

3.1.2.1.4 Sex

There are no restrictions on the sex of shrimp that can be retained but females tend to be larger and have higher value based on their larger size.

3.1.2.1.5 Size

A maximum count-per-lb (160 shrimp) effectively functions as a size limit and prevents excessive capture of juvenile shrimp. Price is based on size with larger shrimp being more valuable, providing incentive to target larger shrimp.

3.1.2.1.6 Area

Trawling for pink shrimp is currently only allowed in federal waters. State waters previously open to trawling (known as PSTG) were closed in 2008. The PSTG was defined as the area in state waters more than two nautical miles from the mainland shore between False Cape (Humboldt County) and Point Reyes (Marin County) (Frimodig et al. 2009). The PSTG encompasses an area of 307 square miles. However, only three beds, comprising 17% of the PSTG, have ever been fished. Two of the beds are located north of Fort Bragg and the third is adjacent to Bodega Harbor. In combination, these three beds span approximately 52 square miles of ocean bottom in state waters but most of the historical trawl locations were outside the PSTG (Frimodig et al. 2009). The Commission may reconsider the PSTG closure if it is deemed that trawl gear meets the following performance criteria (FGC §8842):

1. Minimizes bycatch.
2. Will not damage seafloor habitat.
3. Will not adversely affect ecosystem health.
4. Will not impede reasonable restoration of kelp, coral, or other biogenic habitats.

3.1.2.1.7 Effort-based harvest regulations

While biological regulations serve to lessen the impact of fishing on the stock, effort-based regulations protect the portion of the stock that is legally harvestable by controlling fishing effort. The northern and southern fisheries manage fishing effort differently. The fishery in the southern region is open access, with no cap on permit issuance (CDFG 2008). Effort in the northern fishery is managed by a restricted access approach described below.

3.1.2.2 Description of and rationale for any restricted access approach

The restricted access program was developed in 2000. Historical landings were a criterion for northern permit eligibility and transferability was given to those participants meeting minimum landing requirements in the first year of holding the permit. A capacity goal of 75 permits was established as it is near the midpoint of permits issued between the years of 1977 (53 permits) and in 1980 (104 permits). Regulations stipulate the Department shall evaluate the capacity

goal every three years and report to the Commission with a recommendation regarding issuance of new permits (CCR Title 14 §120.2(h)). The Department performed a capacity review in 2017 following a constituent's petition for creation of new permits. The Department concluded the current fleet size is sufficient to match historic high catch levels when combined with catch from vessels landing California shrimp in Oregon (Figure 2- and Figure 2-). Following Departmental review, the Commission decided that increasing capacity was not warranted at the time and that addressing management needs (i.e., LED lights to reduce eulachon bycatch) and implementing an HCR was a higher priority. Implementation of this FMP will address management needs and may lead to the fishery becoming MSC certified, which may alter participation and the fishery. Capacity will continue to be evaluated by the Department, and changes recommended to the Commission if they are needed.

3.1.3 Bycatch

The Fish and Game Code (FGC) §90.5 defines bycatch as “fish or other marine life that are taken in a fishery, but which are not the target of the fishery.” Bycatch includes “discards,” defined as “fish that are taken in a fishery but are not retained because they are of an undesirable species, size, sex, or quality, or because they are required by law not to be retained” (FGC §91). The term “bycatch” may include fish that, while not the target species, are desirable and retained as incidental catch.

Historically, trawling had high bycatch rates. In some parts of the world, shrimp trawl fisheries caught as much as 30 lb of bycatch for 1 lb of target species (Alverson et al. 1994). Improvements in gear have reduced bycatch significantly. Data collected by the West Coast Groundfish Observer Program (WCGOP) on an annual basis for coastwide pink shrimp fisheries shows a low discard rate between 2-5% of the total catch over the last decade from 2010-2019 (Somers et al. 2021).

3.1.3.1 Amount and type of bycatch (including discards)

The majority of bycatch in the pink shrimp fishery is composed of groundfish species. Since 2004, when the WCGOP began, an average of 14% of pink shrimp trips have been observed (Somers et al. 2016a). On those observed trips, pink shrimp trawlers in California caught 40 species of groundfish as bycatch. The ratio (by weight) of catch of non-shrimp species to pink shrimp has been less than 5% since 2007 (Somers et al. 2016b). Pacific hake comprised the largest amount of incidental catch (Table 3-1).

Table 3-1. Estimated catch (mt) of groundfish species and percent discarded in the California pink shrimp fishery, 2017. Species present in minor amounts (<0.10 mt) excluded. To estimate total catch of groundfish, catch of groundfish (discard ratio) from observed pink shrimp catch were applied to unobserved catch (Somers et al. 2019). Total pink shrimp landings in California in 2017 was 1,574 mt (CDFW MLDS).

Common name	Species	Total catch (metric ton)	Percent discarded
Pacific hake	<i>Merluccius productus</i>	79.97	100
Rex sole	<i>Errex zachirus</i>	4.84	100
Stripetail rockfish	<i>Sebastes saxicola</i>	4.36	100
Splitnose rockfish	<i>Sebastes diploproa</i>	2.88	100
Shortbelly rockfish	<i>Sebastes jordani</i>	2.23	100
Dover sole	<i>Microstomus pacificus</i>	1.70	100
Flatfish unid	<i>Pleuronectiformes</i>	1.54	100
Chilipepper rockfish	<i>Sebastes goodei</i>	1.07	100
Pacific sanddab	<i>Citharichthys sordidus</i>	1.01	100
Shelf rockfish unid	<i>Sebastes spp.</i>	0.58	100
Aurora rockfish	<i>Sebastes aurora</i>	0.38	100
Nearshore rockfish unid	<i>Sebastes spp.</i>	0.28	100
Arrowtooth flounder	<i>Atheresthes stomias</i>	0.13	100
Sablefish	<i>Anoplopoma fimbria</i>	0.12	100
Bocaccio	<i>Sebastes paucispinis</i>	0.12	100

The pink shrimp fishery also interacts with over 80 non-groundfish species, including both finfish and invertebrates. In 2017, slender sole and non-Humboldt squid were the most common non-groundfish bycatch species by weight (Table 3-2).

Table 3-2. Estimated catch (mt) of non-groundfish species and percent discarded in the California pink shrimp fishery, 2017. Species present in minor amounts (<0.02 mt) excluded. To estimate total catch of groundfish, catch of groundfish (discard ratio) from observed pink shrimp catch were applied to unobserved catch (Somers et al. 2019). Total pink shrimp landings in California in 2017 was 1,574 mt (CDFW MLDS).

Common name	Classification	Total catch (metric ton)	Percent discarded
Slender sole	<i>Lyopsetta exilis</i>	10.08	100
Non-Humboldt squid sp.	<i>Teuthida</i>	1.67	100
Non-Eulachon smelt sp.	<i>Osmeridae</i>	0.05	100
Sculpin unid	<i>Cottidae</i>	0.04	100

3.1.3.2 Assessment of sustainability and measures to reduce unacceptable levels of bycatch

3.1.3.2.1 Discard mortality

Due to the depth at which pink shrimp trawling occurs (300-800 ft), it is assumed that the mortality of captured finfish species with swim bladders is 100% due to barotrauma. Discard mortality of other species is unknown.

3.1.3.2.2 Impact on fisheries that target bycatch species

The most significant bycatch of a commercially important species is Pacific hake (Somers et al. 2019). Estimated incidental catch of Pacific hake by the California pink shrimp trawl fleet was less than 0.02% of the 2017 US Pacific Hake quota of 431,433 mt (Ryall and Lockhart 2017). As a result, it is unlikely that incidental catch of Pacific hake by the California pink shrimp fleet is detrimental to the stock or the Pacific hake fishery.

3.1.3.2.3 Bycatch of overfished, threatened, or endangered species

Pink shrimp beds overlap with the habitat of a number of sensitive species, including recently rebuilt rockfish species such as darkblotched rockfish (*Sebastes crameri*), Pacific ocean perch (*S. alutus*), widow rockfish (*S. entomelas*), canary rockfish (*S. pinniger*) and overfished species such as yelloweye rockfish (*S. ruberrimus*). The bycatch rates for all rebuilt and overfished

rockfish have been less than 0.01%. At this level, the pink shrimp fishery is not impacting these species (Somers et al. 2017).

While there have been no documented interactions of threatened or endangered marine birds or mammals, Oregon, Washington, and California pink shrimp fisheries do catch eulachon (Al-Humaidhi et al. 2012). These anadromous smelts inhabit the Pacific coasts of North America, and the Southern Distinct Population Segment of the species, which are caught in the pink shrimp fishery, were listed as threatened in 2010 (NMFS, 2010). The factors causing the declining eulachon abundance are not well understood, though climate change, predator-prey interactions, changes in the timing of peak river flows due to dams and water diversions, and mortality from the pink shrimp trawl fishery may play a role (Gustafson et al. 2012; NWFSC 2010).

Hannah et al. (2011) estimated the fishing mortality rate (F) imposed by the pink shrimp fishery on the eulachon population at well below the $F = 0.1$ rate recommended as sustainable by Schweigert et al. (2012) and far below the values determined by setting fishing mortality at the natural mortality rate, a commonly used rule of thumb for sustainability. The low fishing mortality rate estimates are in part due to the shrimp fishery occupying a smaller geographic footprint than the eulachon population and is unlikely to have as much influence on the eulachon population as variation in the ocean environment or the abundance and distribution of major predator populations like Pacific hake.

In 2018, both Oregon and Washington implemented regulations requiring the attachment of LED lights to the footropes of the trawl nets (collectively referred as footrope lighting device, or FLD). This method has shown to be highly effective at reducing eulachon bycatch (see following section) and was specifically identified by NMFS as a recovery action to be taken to eliminate or sufficiently reduce the severity of the threat posed by shrimp trawl fisheries (NMFS 2017). That same year, the Department collaborated with Oregon and Washington on a Section 6 Species Recovery Grant to purchase LED lights and distribute them to active fishermen in the fleet (grant # NA18NMF4720098). Through this grant FLDs and the information on their use were distributed to 15 California vessels prior to the start of the 2019 season.

Following the mandatory FLD use in Oregon and Washington, and voluntary use in California, eulachon bycatch decreased significantly. Bycatch estimates for Oregon and Washington dropped to 26.88 mt and 32.32 mt of eulachon, respectively, compared to the estimated 217.94 mt for Oregon and 360.13 mt for Washington in 2015. Bycatch in California reached an all-time estimated low of 0.02 mt in 2019, compared to an estimated 32.34 mt in 2015 (Gustafson et al.

2021a). Due to the effectiveness of FLDs and the existing requirements in Oregon and Washington, the use of FLDs will be required in the California fishery as part of this FMP's implementation (see section 5). It is important to note that this FMP is a state document produced under the authority of state law. The take of federal Endangered Species Act-regulated species, on the other hand, falls under federal jurisdiction. The federal government may implement additional management measures for the purpose of conserving eulachon populations in the future, but it will depend on the status of those populations as well as the state of the pink shrimp fishery.

3.1.3.2.4 Measures to reduce bycatch

Starting in 2002, the PFMC required the use of BRDs for all shrimp vessels to reduce finfish bycatch rates. Prior to the required use of BRDs, bycatch rates in Oregon were 32% to 61% of total catch by weight (Hannah and Jones 2007). A study conducted by the Oregon Department of Fish and Wildlife (ODFW) indicates that BRD use resulted in a 66% to 88% reduction in total fish bycatch (Hannah and Jones 2007). Additionally, mandatory use of BRDs has altered the species composition of bycatch from larger, commercially important species to smaller sized species with little to no commercial value, reducing the economic incentives for higher bycatch levels. While there are limited bycatch data from California prior to 2004 it is thought that, given the similarities between the fleets, the California fleet may have experienced reductions in bycatch similar to the Oregon fleet.

Several types of BRDs may be used in the California fishery, including the rigid-grate excluders, soft panel excluders, and fisheye excluders. However, rigid-grate BRDs are generally considered to be the most efficient in reducing fish bycatch with minimal pink shrimp loss (Figure 3-1). The majority of active vessel operators in both California and Oregon have been using this type of BRD since 2003.

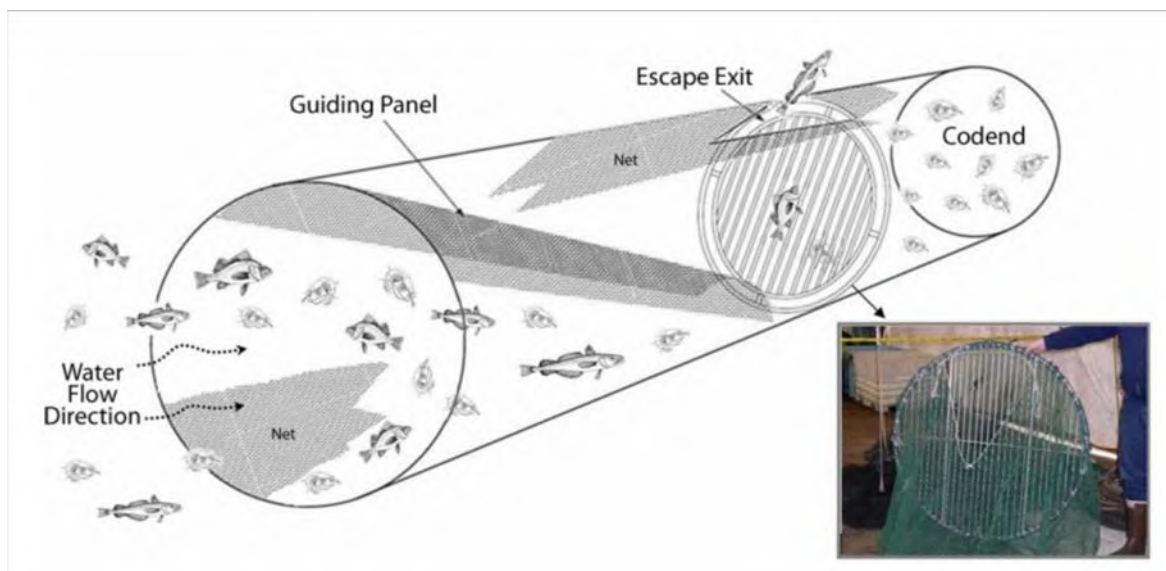


Figure 3-4. Diagram and photo of a rigid-grate bycatch reduction device (BRD) used in the pink shrimp fishery. Credit: Robert Hannah, ODFW.

A study evaluated whether modifications can be made to gear to further reduce bycatch of eulachon. An experimental footrope, modified by removing the central one-third of the trawl ground line, reduced eulachon bycatch by 33.9%. It also reduced bycatch of slender sole (*Lyopsetta exilis*), other small flatfishes, and juvenile darkblotched rockfish by 80% or more without significantly reducing the efficiency of the gear with respect to pink shrimp (Hannah et al. 2011).

Recent research by ODFW and Pacific States Marine Fisheries Commission (PSMFC) indicates that attaching inexpensive green LED lights on nets reduced eulachon catch by 90.5% and juvenile rockfish catch by 78%, with negligible impacts on shrimp retention (Figure 3-2; Hannah et al. 2015). This research suggests that bycatch of sensitive species might be avoided by easy and cost-effective gear modifications to include these footrope lighting devices (ODFW 2014d). Shrimpers in Oregon voluntarily embraced the use of FLDs lights in the second half of the 2014 season. With strong support from the industry, use of FLDs became mandatory for both Oregon and Washington vessels beginning in 2018. This effective, low-cost solution to address eulachon bycatch is currently being used voluntarily in California and regulations requiring FLD use will be proposed in connection with this FMP.



Figure 3-5. *Eulachon* bycatch in pink shrimp trawls a) not equipped with LED lights and b) equipped with LED Lights. Credit: NOAA 2014

A PSMFC and ODFW study sought to identify whether altering the level of illumination (through increasing the number of LED lights) along the footrope further reduced bycatch of eulachon in shrimp trawls (Lomeli et al. 2018). Increasing the amount of illumination (5, 10, or 20 LED lights) did not significantly affect the catch ratio of eulachon between the 3 illumination treatments. Similar to Hannah et al. (2015), Lomeli et al. (2018) concurred that illuminating a footrope with LED lights significantly reduced eulachon bycatch compared to an unilluminated footrope (81%, 60%, and 47% for 5, 10, and 20 LED lights configurations, respectively).

More recently, ODFW and PSMFC tested whether FLDs alone, without the use of a codend rigid-grate BRD, was sufficient to reduce bycatch of eulachon and other species (Lomeli et al. 2019). While FLDs alone were sufficient to reduce bycatch of eulachon and yellowtail rockfish without the use of the BRD, their results clearly demonstrated that rigid-grate BRDs are still necessary to exclude several other species of fish that are not affected by FLDs. The result of these studies suggest that the environmental impacts of shrimp trawling can be reduced, especially for eulachon bycatch.

Pink shrimp vessels are subject to restrictions for incidental catches of federally managed groundfish. Shrimp vessel operators are allowed to retain and sell commercially valuable species, assuming they possess the appropriate permits. However, to prevent excessive take of groundfish species, pink shrimp vessels are allowed to land up to 500 lb of groundfish per day for each day of the trip, provided that they do not land more than 1,500 lb per trip (NWFSC 2010).

Rockfish Conservation Areas (RCAs) are large depth-based area closures implemented in 2002 to protect rebuilding groundfish stocks. Pink shrimp trawling is permitted in the non-groundfish trawl RCA when a valid declaration report has been filed with the National Marine Fisheries Service (NMFS) Office of Law Enforcement. Groundfish caught with pink shrimp trawl gear may be retained and are subject to the limits outlined in regulations (<https://www.fisheries.noaa.gov/west-coast/sustainable-fisheries/west-coast-groundfish-closed-areas>).

3.1.3.2.5 Legality of bycatch and seabird and marine mammal gear interactions

There have been no significant interactions identified between the pink shrimp fishery and threatened or endangered birds or mammals (Roberts 2005; MSC 2007). The pink shrimp fishery is classified as Category III in the Marine Mammal Protection Act List of Fisheries (86 FR 3028) with no observed or documented take of marine mammals.

3.1.4 Habitat

3.1.4.1 Description of threats

Benthic trawling, in which fishing gear is dragged along the bottom of the ocean, can be detrimental to a variety of habitats. Relatively stable habitats, such as hard bottom and dense mud, experience the greatest changes and have the slowest recovery rates compared to less consolidated coarse sediments in areas of high natural disturbance (NRC 2002). Heavy trawling in mud habitats has been shown to decrease invertebrate density and diversity (Hannah et al. 2010). Soft bottom habitats are relatively resilient to trawl gear, but mud bottom habitats may have longer recovery times than soft bottom habitats with larger sediment (NRC 2002, Hannah et al. 2010). The estimated recovery time in the absence of continued trawling is estimated to be one year for shrimp habitat (NMFS 2005). A recent study comparing invertebrate densities in closed areas between 2007 and 2013, corresponding to the year following the closure of the fishery and five years of recovery, respectively, found that invertebrate recoveries varied by species and by site (ODFW 2014b). Sea whips, which were the dominant structure-forming macro-invertebrates in the areas surveyed, had increased markedly in density, though it was estimated that it would take another decade to achieve an unfished size structure (ODFW 2014b).

The PFMC and NMFS recently evaluated changes to EFH for the Pacific coast groundfish fishery (NMFS 2019). The environmental impact study indicated that habitat impacts by bottom trawl gear in areas where pink shrimp trawling occurs

is rated between 0.5 and 1, which is the lowest sensitivity classification for impacts to seafloor habitat by bottom trawl gears. Additionally, the semi-pelagic trawl gear used is likely to have less impact on bottom habitats than other trawl gear and is considered less damaging than gear used in other cold water shrimp fisheries (Roberts 2005).

In most cases, trawling can be extremely detrimental to sensitive species such as corals. Corals are known to occur in California waters, including within and adjacent to the area that formerly made up the PSTG. Six major taxa of coral or coral-like species documented within the PSTG include hydrocorals (order Stylasterina), black corals (order Antipatharia), stony corals (order Scleractinia), sea fans (order Gorgonacea), true soft corals (order Alcyonacea), and sea pens (order Pennatulacea; CDFG 2007). However, these species are primarily found on hard bottoms, which pink shrimp trawlers avoid. Since 2008, no trawling has been allowed in state waters.

3.1.4.2 Measures to minimize any adverse effects on habitat caused by fishing

The MLMA requires the minimization of adverse effects on habitat from fishing activities. The prohibition of pink shrimp trawling in state waters was enacted in part to remove the potential for adverse habitat impacts in nearshore shrimp beds.

3.2 Requirements for person or vessel permits and reasonable fees

The CCR describes the permits required to fish in California waters. Fees are current as of July 2021:

- **Commercial Fishing License**—All Pink Shrimp fishermen must have a commercial fishing license and a vessel permit. Commercial Fishing Licenses are \$153.73 for residents and \$453.50 for non-residents, and is required for any person 16 years of age or older who uses or operates or assists in using or operating any boat, aircraft, net, trap, line, or other appliance to take fish for commercial purposes, or who contributes materially to the activities on board a commercial fishing vessel.
- **Commercial Boat Registration**—The commercial boat registration fee is required for any resident owner or operator of any vessel operated in public waters in connection with fishing operations for profit in the state, and is \$398.75. Non-resident commercial boat registration is \$1,181.50.

- Pink Shrimp Permit—Fishermen need to have a permit specific to pink shrimp. There is only a single permit for the southern region, but there are a number of different types of permits for the northern region due to the limited access program (Table 3-3).

All fees include a nonrefundable 3% application fee.

Table 3-3. List of fees for pink shrimp trawl vessel permits as of July 2021.

Permit	Fee (US dollars)
Northern Pink Shrimp Trawl Vessel Transfer Fee (New Owner)	\$1,000.00
Northern Pink Shrimp Trawl Vessel Transfer Fee (Same Owner)	\$200.00
Northern Pink Shrimp Trawl Vessel Transfer Fee (Temporary)	\$100.00
Northern Pink Shrimp Trawl Vessel Permit Fee (Transferable)	\$1,573.00
Northern Pink Shrimp Trawl Vessel Permit Fee (Nontransferable)	\$791.00
Southern Pink Shrimp Trawl Permit Fee	\$48.41

4. Monitoring and essential fishery information

4.1 Description of Relevant Essential Fishery Information

For essential fishery information for pink shrimp, see Section 1.1, Natural history.

4.2 Past and ongoing monitoring of the fishery

4.2.1 Past monitoring

The fishery developed in the early 1950s after Department research cruises found pink shrimp beds that could support a commercial fishery. Historically, the Department conducted extensive research on the pink shrimp fishery, including development of population models and establishment of a dockside biological market sampling program. Data collected on research cruise surveys were used to estimate shrimp population sizes, mortality rates, and growth rates. Research cruises were conducted from 1959 to 1968, but were discontinued due to the cost (Gotshall, 1972; PFMC 1981). Population models were developed by Department statisticians to estimate recruitment, spawning stock abundance, and set catch quotas from 1969 to 1976. However, the models were subsequently discontinued because the exploitation rate for age-one shrimp, which typically constitute most of the spawning stock, was determined to be low and therefore able to be managed without a quota (Geibel and Heimann, 1976; PFMC 1981). In more recent years, the proportion of age-one shrimp can

be very high but high catch of age-one shrimp does not seem to have negative effects on the population.

Population models were also found to be unreliable due to variable recruitment, growth, and natural mortality rates associated with pink shrimp (Hannah 1999). The dockside biological market sampling program provided data on pink shrimp size, sex, age composition, and count-per-pound, but this program ceased in 1992 due to a lack of available staff and resources. Essential fishery information on California pink shrimp was consistently collected from the 1960's through the 1980's.

Reports on the trends and status of the California pink shrimp fishery were also published on nearly an annual basis by the Department from 1959 to 1992 and California Cooperative Oceanic Fisheries Investigations Reports from 1984 to 1992. The PSMFC published six brief summaries of the fishery (1992–95; 1999–2000). Other published documents include Collier and Hannah (2001) and Frimodig et al. (2009).

4.2.2 Ongoing monitoring

Monitoring information currently collected by the Department includes logbooks and landing receipts. Trawl logbooks are a mandated requirement for fishermen to record start and end haul locations, time, depth, and duration of trawl tows, total catch by species market category, gear used, and information about the vessel and crew. Trawl logs are submitted on paper and entered into an electronic database. The Department has assigned staff to ensure that the log database is up to date.

Fishery managers and enforcement officers used state-issued landing receipts, referred to as fish tickets, to monitor fishery landings. Fish ticket data was transferred to the Pacific Fisheries Information Network regional database system by state fishery agencies in Washington, Oregon, and California. Beginning in 2018, these data are entered directly by seafood buyers into "E-Tix", an electronic database maintained by the PSMFC and accessible by Department staff through MLDS. Data collected by fish tickets include:

- weight of the finfish or shellfish landed by market category (general groupings of fish that are not species-specific)
- price paid to the fisherman by market category
- date the fish was landed
- type of gear used to harvest the fish

- port of landing
- commercial fishing block where the fish were harvested

California's data collection protocol previously also included dockside market sampling for biological data and count-per-lb. However, the work was redirected in the early 1990s to other higher priority needs. In 2018, the Department enlisted help from processors to start a dockside market sampling program with the goal of incorporating data from pink shrimp caught and landed in California with Oregon and Washington pink shrimp sampling programs to create a coast-wide evaluation for the species and determine if there are any differences in the shrimp population along the coast.

Port sampling of landings provides an excellent opportunity to collect information on the count-per-lb, sex ratio, reproductive status, and size and age distribution of the catch. Department staff have renewed efforts to maintain a database of current logbook data and to input backlogged information.

Data on a number of environmental conditions are already tracked. These data will be used to perform a correlation analysis similar to that conducted by Hannah (2010) to determine if pink shrimp recruitment in northern California exhibits the same environmental relationships as the stock in Oregon. Until a sufficient time series of these data are available, Department staff will utilize catch per trip data on landing receipts to produce a CPUE in place of more detailed log data.

4.2.3 Fishery-independent data collection

At-sea surveys were conducted by the Department between 1959 and 1969 to obtain abundance estimates for the various commercial beds and set regional quotas. These surveys were discontinued due to costs (Hannah 1999) and it is unlikely similar surveys would be conducted in the future.

5. New conservation and management measures

The Department intends to manage the pink shrimp fishery utilizing an HCR based on target and limit reference points developed by ODFW (MRAG Americas 2018; ODFW 2014c) and adopted by the Washington Department of Fish and Wildlife (WDFW). Both states have incorporated these reference points into their pink shrimp FMPs (ODFW 2018b, WDFW 2017). Use of these reference points by California would ensure uniform coastwide management of this fishery. Uniform management is preferable because states only have jurisdiction over shrimp landed within that state and not the origin of catch by state for shrimp.

5.1 Limitations on fishing for target species

All previous limitations on fishing for the target species continue to apply (see Sections 3.1 and 3.2).

5.2 Overfishing criteria and measures

Developing overfishing criteria and measures for pink shrimp is difficult due to high interannual variability in biomass, lack of a known stock-recruit curve, and lack of a fishery-independent stock assessment. To develop a framework for precautionary management, ODFW developed a HCR and a set of target and limit reference points which were designed to strike a balance between economic opportunity and resource sustainability (ODFW 2014c).

Given the short life span of pink shrimp, ODFW determined that environmental variation and same year recruitment are important factors for determining spawning stock biomass. In particular, ODFW found that environmental effects on recruitment appear to have a greater influence than variation in spawning stock. ODFW's HCR was developed to reduce fishery impacts on egg-bearing females whenever there is evidence that spawning biomass is low.

The average pounds landed per trip during the month of June (June catch per trip) was found to serve as a reasonable proxy for spawning stock biomass in a given year. Age 1 shrimp enter the fishery in June and catch per trip serves as an indicator of year class strength. Using catch-at-age data to conduct a virtual population analysis, ODFW determined that during the periods of lowest observed spawning stock biomass in the strong El Nino years of 1983 and 1998, June catch per trip fell below 7,500 lb. Stocks at that level rebounded rapidly with the return of favorable environmental conditions. To account for increased efficiency of the fleet, and uncertainty in environmental and stock dynamics, ODFW adopted a 10,000 lb June catch per trip limit reference point to manage the fishery. Further, they adopted a 12,500 lb target reference point for to

provide additional protection for the stock given the uncertain effects of climate change on the spawning dynamics of the stock (ODFW 2018b).

ODFW also determined environmental conditions during the larval stage are a good predictor of stock status during the following season (Figure 5-6, ODFW 2014c). The sea level height (SLH) in Crescent City during April of the previous year to January of the current year, when larvae are typically present in the environment, is used as a proxy for preseason stock status. ODFW found that April-January SLH of 7.5 ft or greater correlated with poor recruitment events in 1983 and 1998. The limit reference point is triggered when this environmental condition is met and the June catch per trip is below 10,000 lb. In this case the fishery is closed as soon as practical, and the opening of the next season is delayed until April 15. The target reference point is triggered regardless of environmental conditions and results in the season closing on October 15 and delays the start of the next season to April 15. Both measures are intended to provide added protection for egg bearing females and prevent the stock from falling below the lowest previously observed spawning stock biomass.

When the adoption of Oregon's reference points was discussed at an industry-wide online meeting, members of the California pink shrimp fleet were concerned that a higher proportion of smaller sized and single-rigged vessels in California could cause unwarranted closures and seasonal adjustments. To address these concerns the Department examined historical landings and compared June catch per trip from 1975 - 2019 to examine impacts if the Oregon HCRs had been in effect (Appendix A – Pink Shrimp Harvest Control Rule Analysis). The analysis found that fishery trends for California were similar to those of Oregon and Washington and the HCRs would be suitable for California. The analysis concluded that the HCRs would not have produced any closures or adjustments after the early 2000s and a correction factor of 1.6 should be applied to June catch per trip landings for single-rigged vessels (Table 5-1; Figure 5-2; Appendix A). Applying the correction factor made single-rigged effort comparable to double-rigged effort and allowed for greater consistency in evaluating trends in the fishery, as ODFW developed the HCR based on the catch of a fleet largely composed of double-rigged vessels.

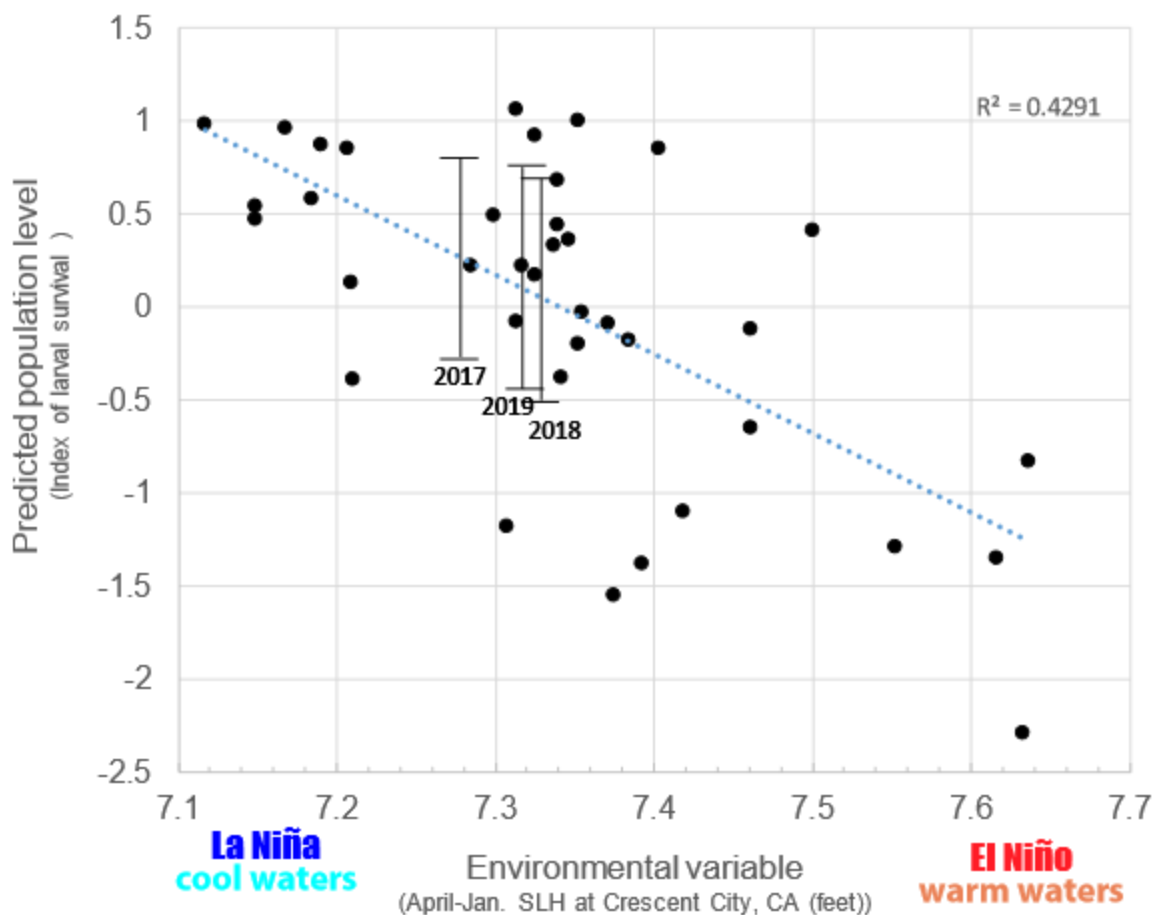


Figure 5-6. Predicted pink shrimp population level compared to average April-January sea level height at Crescent City, CA. Reproduced from ODFW 2020.

Table 5-1. Target and limit reference points for the California pink shrimp trawl fishery based on reference points developed for Oregon.

June Avg. shrimp catch/trip	Current season will close	Following season will open
> 12,500 lb/trip	October 31	April 1
< 12,500 lb/trip	October 15	April 15
<10,000 lb/trip + Apr-Jan SLH > 7.5 ft	As soon as possible	April 15

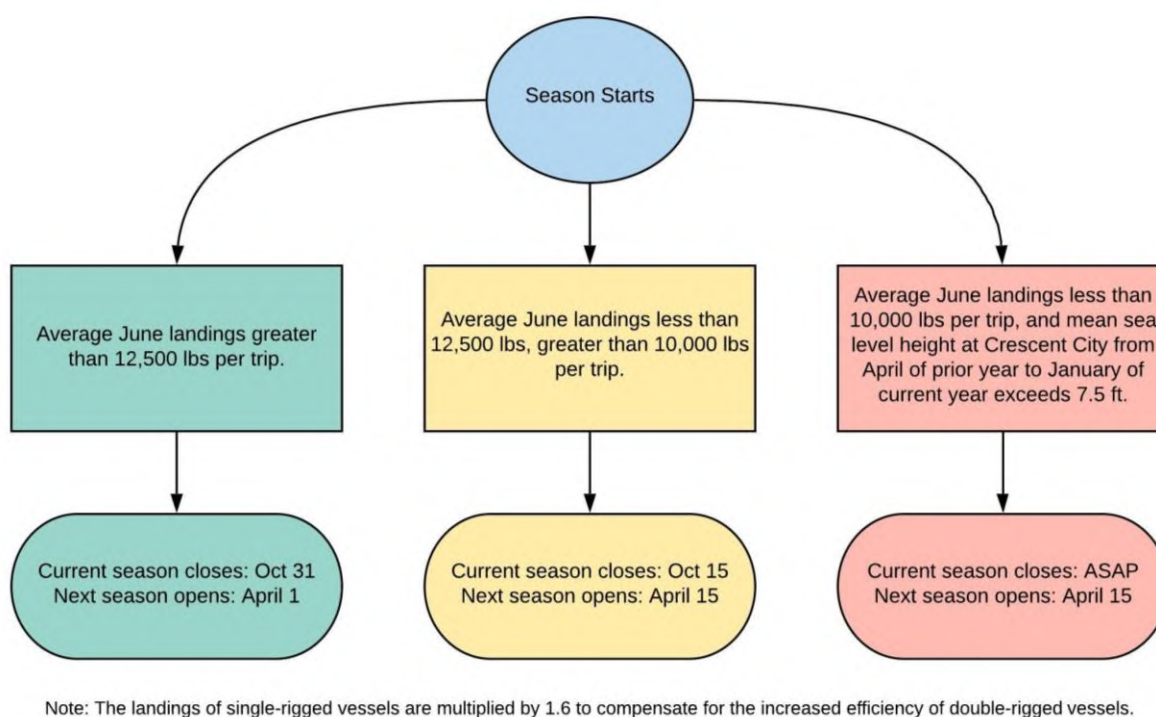


Figure 5-2. Flow chart of proposed harvest control rule for the California pink shrimp fishery.

5.3 Measures to reduce unacceptable levels of bycatch

California will continue to require the use of BRDs, and is moving to require FLDs to be attached to trawl nets. For more information about the use of FLDs in the pink shrimp fishery, see Section 3.1.3.2.4, Measures to reduce bycatch.

5.4 Measures to minimize any adverse effects on habitat caused by fishing

No additional measures have been taken to minimize adverse effects on habitat caused by the pink shrimp fishery. All state waters are closed to trawling and expanded federally designated EFH areas protect a substantial portion of the offshore environment. However, the effect of the pink shrimp fishery on habitat needs more study, especially if the opening of the state waters in the historical PSTG is to be considered in the future.

5.5 Creation or modification of a restricted access fishery

The northern pink shrimp restricted access fishery had a stated capacity goal of 75 transferable permits when it was created in 2001. The fishery currently has 39 permitted vessels (35 transferable, 4 non-transferable). Of these, 15 made

landings in California in 2019 and 5 in 2020 (MLDS 2020). Historical participation in the fishery was much higher, peaking at 315 permits statewide in 1994. Many of these vessels participated the groundfish fishery and left the fishery as revenue from groundfish dropped in the late 1990s into the early 2000's due to the overfished status of several key groundfish species around that time. The 2003 voluntary federal groundfish permit buyback removed about half of west coast trawl vessels, including 31 vessels holding Northern pink shrimp trawl permits. Though recent landings suggest the current capacity goals are too high, the implementation of this FMP may change the characteristics of the fishery. The fishery should be monitored, and changes in the capacity goals considered in the future if conditions warrant.

5.6 A procedure to establish and periodically review and revise a catch quota

The proposed management strategy does not include a catch quota. The new target and limit reference points based on average June catch per trip provide a more conservative management framework than the current strategy based only on maximum count per pound. These limits will be periodically reviewed and revised as necessary.

5.7 Requirements for person, gear, or vessel permit and reasonable fees

This FMP maintains all previous requirements for person, gear, or vessel permit and reasonable fees.

5.8 Developing consistency in management between states

The pink shrimp fishery is managed by states through the issuance of state-specific permits. Because the fishery primarily occurs in federal waters, these state permits act as a "landing" permit to allow only those permitted vessels to land in each state. Because a state is limited in its ability to restrict fishing activity in federal waters, it may be legal for a vessel to harvest pink shrimp in federal waters off the coast of a state where the pink shrimp season is closed and land the catch in a state where the fishery is open. This reduces the ability of the HCR to protect the stock when it is at low levels.

The independent steps states have taken towards a common management strategy, and a relatively homogenous stock from northern California to Washington reduce the likelihood of interstate conflict in the fishery. However, it is still possible that regional differences in stock dynamics could lead to single- or dual-state closures, and as ocean temperatures rise in the future, California pink shrimp populations could be more adversely affected making closures more likely than in Oregon and Washington. Consultation between states will be

required to develop a solution to further reduce the likelihood of interstate conflict and ensure the sustainable and equitable management of the stock.

5.9 Establishing accurate weights

California FGC § 8043 and CCR Title 14 §197 require fish businesses to record the accurate weight of catch received on a landing receipt. Pink shrimp is landed mixed with ice, and historic reported landings have been inconsistent, either reporting a combined weight of ice and shrimp, or a calculated net weight of shrimp based on ice weight estimated from sampling the catch at the time of landing.

The HCR relies on an accurate reporting of catch per trip, and so requires a consistent method of measuring and reporting catch. Fleet members and processors are concerned that deicing shrimp prior to weighing would cause product degradation, so the preferred pathway is to codify a method of estimating the net weight of shrimp landed. Oregon and Washington have established similar methods to compute net landing weights, and adoption of such a method in California would further standardize the management of the stock between the three states. This net weight is intended to satisfy the accurate weight requirements of FGC §8043 and CCR Title 14 §197.

Implementing regulations in CCR Title 14 will prescribe a procedure to estimate the percentage of ice in landings and report the net weight of shrimp landed.

5.10 Implementation

Implementing this FMP will require the Commission to adopt the FMP, and then regulations implementing the changes described in the FMP. Staff will be needed to work with processors to implement weighing procedures. Ongoing outreach and education about the new requirements with the fleet will continue. Staff time will be needed to monitor landings each June and evaluate whether the fishery is meeting the reference points prescribed by the HCR, or if an in-season modification or closure is warranted. If implementation of the HCR leads to sustainable certification of the fishery by MSC, a portion of shrimp caught in California waters but currently landed in Oregon may be landed at California ports in the future. The greater volume of shrimp may require increased staff time to conduct biological sampling and verify the count-per-pound limit is not being exceeded. Additionally, staff will periodically review the performance of the HCR and provide updates to the Commission.

5.11 List of inoperative statutes

This FMP will render the following section of the California FGC inoperative, as applied to only the pink shrimp fishery, once the implementing regulations are in place:

§8842 (b). Trawling for shrimps or prawns shall be authorized only in those waters of Districts 6, 7, 10, 17, 18, and 19 that lie not less than three nautical miles from the nearest point of land on the mainland shore, and all offshore islands and the boundary line of District 19A, except that in waters lying between a line extending due west from False Cape and a line extending due west from Point Reyes, trawling is allowed not less than two nautical miles from the nearest point of land on the mainland shore until January 1, 2008.

Rendering this statute inoperative and replace it with a clear prohibition in CCR Title 14 removes ambiguity about the legality of pink shrimp trawling in state waters, and clarifies that prior to the authorization of any pink shrimp trawling in state waters, the standards specified in 8842 (d) must be met.

6. Anticipated effects of additional management measures

6.1 On fish populations

The additional management measures are expected to result in a more precautionary management for the pink shrimp fishery by providing a mechanism to close the season early if target or limit reference points are met. The addition of FLDs to trawls is expected to decrease finfish bycatch, especially of eulachon.

6.2 On habitats

Further research is needed on the habitat impacts of pink shrimp trawling, particularly if re-opening the PSTG is to be considered. Methods for assessing habitat impacts could include cameras on trawl gear, remotely operated vehicle camera surveys, and grab samples across gradients of trawl effort. Partnerships among fishermen, the Department, academics and conservation organizations could produce a more efficient and effective research program.

6.3 On fishery participants

Fishery participants will benefit from consistency of regulations across Oregon, Washington, and California. Consistent regulations across the three states will be easier for participants to understand and will provide increased fairness and equity by aligning season open and close dates, as well as the biological reference points. Participants will also benefit from increased predictability of the fishery, allowing for more precise fiscal planning. The implementation of this

FMP will improve the chances for MSC Certification for the California pink shrimp fishery and an associated increased ex-vessel price, which has occurred in Oregon and Washington. Competitive prices for pink shrimp landed in California could, in addition to increasing gross ex-vessel revenue, decrease operating costs (shorter transit times and lower fuel/maintenance cost) and result in a greater net revenue for fishery participants.

6.4 On tribes and tribal communities, coastal communities, and businesses that rely on the fishery

Tribes and tribal communities, coastal communities, and businesses that rely on the fishery will benefit from greater consistency and predictability of the fishery. If the FMP results in MSC certification increased wholesale and ex-vessel price for pink shrimp could provide benefits to northern California coastal communities. In 2019, 7.3 million pounds of shrimp harvested off the coast of California, with an ex-vessel value of \$5.4 million, was landed in Oregon (ODFW 2020). Yet few shrimp were landed in California despite the proximity between fishing grounds and northern Californian ports. Competitive prices brought on by MSC certification could increase landings in California and help re-start processing in-state, which would directly benefit fishery reliant businesses and the economy of the coastal communities. A robust pink shrimp fishery in northern California would provide a reliable, consistent, and sustainable income source for these fishing communities that have lost revenue due to the decline and unpredictability in other fisheries, especially salmon and Dungeness crab. Diverse portfolios of sustainable fisheries may increase the resilience of these communities and their economies in the context of a changing climate.

7. Future management needs and directions

7.1 Identification of information gaps

The primary information gaps for the pink shrimp fishery are a lack of reference points that directly indicate overfishing or an overfished state instead of fishery-dependent proxies, and targets or timeframes for rebuilding should the fishery be deemed overfished. No stock assessment model or biomass-based reference points have been developed for the fishery due to the absence of an established stock-recruitment relationship. This has been addressed partially by the use of empirical metrics and an HCR but remains unresolved. The fleet's response to the implementation of measures described in this FMP is unknown, and the Department should monitor the fishery closely as it adapts to the new management regime and identify areas of interest for future research and monitoring.

The response of pink shrimp to climate change is unknown, and catch should be monitored, and appropriate changes to the fishery made, if current management measures are not sufficient in protecting the stock from decline.

7.2 Research and monitoring

Biological sampling of pink shrimp caught in California waters was initiated in 2018. Data on shrimp size, age, sex, and reproductive condition will be shared with Oregon and Washington biologists to assess stock-wide patterns. Collaborative monitoring can be used to improve forecasts of future catches, as well as potential changes in correlations between stock biology and environmental conditions that may occur with changing climate.

Pink shrimp trawl vessels can travel widely between fishing grounds and landing ports across states and many vessels are permitted to land in more than one state. In recent years, more pink shrimp harvested from federal waters off California are landed into Oregon ports than into California ports. Department and ODFW biologists currently share information from logbooks to track these cross-border landings. Improved data sharing on a more frequent basis could help both states to better understand interactions between effort, capacity, and stock dynamics.

7.3 Considerations related to future management changes

The Department will monitor the performance of the new management framework. Annual catch, participation, size, age, and sex information will be analyzed to evaluate the sensitivity of the HCR, and amendments to the HCR will be considered if it appears to be insufficient in protecting the stock, or if it is oversensitive and unduly reduces fishing opportunity.

The performance of the correction factor (1.6) for single-rigged vessels will also be evaluated. The correction factor should perform well if the corrected June catch-per-trip values for single-rigged vessels is similar to June catch-per-trip for double rigged vessels in the same landing port.

7.4 Climate readiness

California has historically relied on scientific studies conducted in Oregon and operated under the assumption that environmental conditions and stock health are similar in both states. The effects of climate change may alter the validity of that assumption, as the southern portion of the species range occurs off the California coast and therefore could be more likely to experience warm water conditions that negatively affect stock biomass. California may serve as an indicator and identify serious environmentally driven declines in the species before it affects the fisheries in Oregon and Washington.

8. Review and amendment procedures

8.1 Procedure for review and amendment of the plan

Review and amendment of the plan will be considered during the periodic updating of the pink shrimp ESR. Catch, catch per trip, and count per pound will be used to evaluate the health of the stock and performance of the management strategies described in this FMP. If the current management strategies are not sufficiently protecting the resource or excessively limiting fishing opportunity, strategies will be modified through a rulemaking, or an amendment of this FMP with associated implementing regulations.

8.2 Types of regulations that the Department may adopt without a plan amendment

An important component of this FMP is that it provides the ability to respond to changing conditions, both environment and market driven. The Department may implement regulations without an FMP amendment to address some of these changes, including regulations that: 1) manage fishery impacts to habitat, 2) manage bycatch in the fishery, 3) establish record keeping requirements, 4) provide for the orderly conduct of the fishery, and 5) facilitate market access. This specifically includes changes to the restricted access program, including modifying the capacity goals and permit cost. An FMP amendment would be required for changes to the HCR, as one of the objects of this FMP is to provide coastwide consistency in the pink shrimp fishery. Altering the HCR would substantially change how the fishery is prosecuted.

9. CEQA compliance and the anticipated effects of proposed project and alternatives

This document has been drafted to fulfill the Commission's obligation to comply with the California Environmental Quality Act (CEQA; Public Resources Code (PRC) §21000 et seq.) in considering and adopting an FMP. In general, public agencies in California must comply with CEQA whenever they propose to approve or carry out a discretionary project that may have a potentially significant adverse impact on the environment. Where approval of such a project may result in such an impact, CEQA generally requires the lead public agency to prepare an Environmental Impact Report (EIR). The document must identify all reasonably foreseeable, potentially significant, adverse environmental impacts that may result from approval of the proposed project, as well as potentially feasible mitigation measures and alternatives to reduce or avoid such impacts. The law also serves to protect the environment and to foster

informed public decision-making through public meeting and other transparency requirements.

Under CEQA, the Secretary of Resources is authorized to certify a state regulatory program as meeting certain environmental standards and providing a functionally equivalent environmental review to that required by CEQA (PRC §21080.5; see also 14 CCR §§15250- 15253). As noted by the California Supreme Court, “certain state agencies, operating under their own regulatory programs, generate a plan or other environmental review document that serves as the functional equivalent of an EIR. Because the plan or document is generally narrower in scope than an EIR, environmental review can be completed more expeditiously. To qualify, the agency’s regulatory program must be certified by the Secretary of the Resources Agency. An agency operating pursuant to a certified regulatory program must comply with all of CEQA’s other requirements” (*Mountain Lion Foundation v. Fish and Game Comm.* (1997) 16 Cal.4th 105, 113-114 (internal citations omitted)).

The Commission’s CEQA compliance with respect to the Pink Shrimp FMP is governed by a certified regulatory program (14 CCR §§15251(b)). The specific requirements of the program are set forth in CCR Title 14 in the section governing the Commission’s adoption of new or amended regulations, as recommended by the Department (CCR Title 14 §781.5). This FMP would function as an Environmental Document (ED), which contains and addresses the proposed Pink Shrimp FMP and reasonable alternatives to the proposed management framework, thus serving as the functional equivalent of an EIR under CEQA. As noted above, however, preparation of the ED is not a “blanket exemption” from all of CEQA’s requirements (*Environmental Protection Information Center v. Johnson* (1985) 170 Cal.App.3d 604, 616-618; see also *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190). Instead, the Commission must adhere to and comply with the requirements of its certified program, as well as “those provisions of CEQA from which it has not been specifically exempted by the Legislature” (*Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1228).

For purposes of CEQA and this ED, the proposed project consists of the adoption of the Pink Shrimp FMP and by extension the resulting management actions based on the FMP, as outlined in Chapter 5. The various alternatives will be described including the stated policies, goals, and objectives of FMPs under the MLMA. The Pink Shrimp FMP will continue to be managed through ongoing oversight and management of the fishery by the Commission.

9.1 Scoping and tribal consultation processes

As discussed above, the MLMA calls for meaningful constituent involvement in the development of each FMP. In addition, CEQA requires public consultation during lead agency review of all proposed projects subject to a certified regulatory program (PRC §21080.5 (d)(2); 14 CCR §781.5). The adoption of the Pink Shrimp FMP and its associated implementing regulations is such a project under CEQA. In addition to the requirements of the MLMA, CEQA requires public consultation on all environmental projects. The Department accomplishes this through a public comment period, scoping sessions within the communities involved, and at least two Commission meetings.

On October 4, 2021, the Commission, with support from the Department, prepared and filed a Notice of Preparation (NOP) and an Initial Study (IS) with the State Clearinghouse for distribution to appropriate responsible and trustee agencies for their input and comments. Further, the notice was provided to individuals and organizations that had expressed prior interest in regulatory actions regarding Pink Shrimp. On behalf of the Commission, the Department held a scoping meeting on October 21, 2021. Appendix C contains a copy of the notices and an IS draft updated with an addendum to reflect developments since the IS' original publication. No substantive comments were received during the scoping period.

Pursuant to the Department's Tribal Communication and Consultation Policy, the Department initially informed tribes that an FMP for Pink Shrimp was being developed in a letter dated July 15, 2021. The Department received a written request for additional information from the Rincon Band of Luiseño Indians on August 6, 2021, to learn more about the project. On August 31, 2021, Department staff met with tribal representatives to provide an overview of the FMP and rulemaking components, and to answer questions from the representatives about the proposed project.

Pursuant to CEQA §21080.3.1, the Department and Commission also provided a joint CEQA notification to tribes in California. The letters to the individual tribes were mailed on October 22, 2021.

9.2 Public review and certification of the environmental document

The Commission's certified regulatory program and CEQA requires that a draft ED be made available for public review and comment (CCR Title 14 §781.5(f); PRC §21091). Consistent with these requirements, and upon filing the draft Pink Shrimp FMP with the Commission and with the State Clearinghouse at the

governor's Office of Planning and Research, the ED will be made available for public review and comment for no less than 45 days. During this review period, the public is encouraged to provide written comments regarding the draft ED to the Commission at the following address:

California Fish and Game Commission
P.O. Box 944209
Sacramento, California 94244-2090

Additionally, oral testimony regarding the proposed Pink Shrimp FMP and the draft ED will also be accepted by the Commission at the public meetings announced. Public notice of the Commission meeting will be provided as required by the FGC.

The state is required by law to prepare written responses to all comments on the ED and proposed Pink Shrimp FMP received during the public review period that raise significant environmental issues (14 CCR §781.5(h); PRC §21092.5). In some instances, written responses to comments may require or take the form of revisions to the draft ED. Any such revisions, along with the Department's written responses to comments raising significant environmental issues shall constitute the final ED. The Commission will consider the final ED at a public hearing scheduled for April 20, 2022. Public notice of the Commission meeting will be provided as required by CEQA and the FGC. Notice of any final decision by the Commission regarding the ED will be provided to the extent required by law.

9.3 CEQA analysis of management action and alternatives

Per CEQA, an ED should consider reasonable alternatives that meet most or all of the project's objectives; substantially avoid or lessen the proposed project's potentially significant negative effects; be feasible to implement based on specific economic, social, legal and/or technical considerations; and foster informed decision making and public participation. Likewise, the regulations governing the Commission's certified regulatory program require that the Department's recommendations contain reasonable alternatives to the proposal (14 CCR §781.5(a)). This document will focus on three alternatives: no action, the proposed project, and Alternative A (Conservative HCR). The three alternatives selected for evaluation represent a reasonable range of alternatives that would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the potentially significant effects of the project. Pursuant to the IS developed during the scoping process for the proposed project, the only potentially significant environmental impact identified is to biological resources. Thus, this section provides a comparison of

the potential impacts to biological resources between the proposed project and each alternative.

9.3.1 Potential environmental impacts of the proposed project

Overall, the proposed project is not anticipated to have any significant impacts on the environment. Additionally, implementation of the proposed project is expected to benefit natural resources held in trust for the people of California when compared to existing conditions. More importantly, the proposed project is consistent with the MLMA and management measures currently in place in Oregon and Washington, which would ensure management uniformity along the West Coast.

9.3.1.1 Effects to pink shrimp population

This FMP is not anticipated to cause any significant impact to the health of the pink shrimp population. While the pink shrimp stock will continue to be subject to fishing pressure, there is no anticipated change to overall fishing effort. As shown in Figure 2-7, despite ongoing fishing pressure following significant decline in landings during the late 1990s, the stock managed to recover, and landings rebounded back to 15-20 million lb/year range by early 2010s. This reinforces the current understanding of the species' robust and highly stochastic population level as described in Chapter 1.

Furthermore, any impact the proposed project may incur on the population would benefit the resource. If the HCR is triggered, the season would be shortened to preserve the stock and render more protection to it than there otherwise would be under existing management measures. Ultimately, the target and limit reference points in the HCR are set at levels anticipated to ensure recovery of stock if needed, buffer against uncertainty in the future due to climate change scenarios and support higher performance in terms of long-term stock health.

9.3.1.2 Effects on habitats

As noted earlier in Chapter 3, pink shrimp trawl gear is one of the least environmentally impactful trawl gear types. Shrimp trawling also only takes place over soft-bottom habitats, where sensitive species such as hydrocorals do not exist. More crucially, part of the proposed project would clarify that shrimp trawling within state waters remains prohibited, which is expected to reduce the level of unintended disturbances to bottom habitats in that area. Any impact

the proposed project may have on bottom habitat compared to status quo would thus be positive.

9.3.1.3 Effects on sensitive species

As provided in Chapter 3, the current level of eulachon bycatch is not considered to be contributing significantly to eulachon mortality on the West Coast. Furthermore, the proposed project, which would require the addition of LED lights to the trawl's footrope, is expected to reduce eulachon bycatch, in addition to other groundfish species.

9.3.2 Potential environmental impacts of the no project alternative

The No Project Alternative is the existing regulations governing the pink shrimp fishery at the time of the development of this FMP. The fishery would continue to be subject to a seasonal closure from November 1 through March 31, a minimum trawl net mesh size of 1.38 inches, a maximum shrimp count per pound of 160 or less, and mandatory bycatch reduction device requirement.

The No Project Alternative would maintain a management framework that is not responsive towards stock fluctuations and adverse environmental conditions. It would also forego an opportunity to further reduce impacts on threatened eulachon. Furthermore, pink shrimp fishery management in California will remain disparate from the Oregon and Washington, which target the same stock. As such, the No Project Alternative would not serve the specific goals that this FMP is trying to accomplish, nor the larger goal of sustainable and responsible fishery management as prescribed under MLMA. The incongruent management of the pink shrimp stock between the states would continue to incentivize vessels to land their catch in Oregon ports, even when fishing occurs off the coast of California, thereby perpetuating what are likely inefficient operations.

The No Project Alternative is also less environmentally protective than the proposed project. It would not clarify the prohibition against shrimp trawling within state waters, which may increase the risk of nearshore habitat being impacted by mistake. This alternative would also not include the additional eulachon bycatch reduction measures.

9.3.3 Potential environmental impact of alternative a: Conservative HCR

Alternative A, which incorporates an environmentally more conservative HCR, was developed to explore the potential impact of a more restrictive framework. This alternative HCR would increase target and limit reference points by 2,500 lb,

to 15,000 lb/trip and 12,500 lb/trip, respectively. It also removes a correction factor that multiplies the June catch/trip of single-rigged trawl vessels by 1.6 to make catch comparable to double-rigged vessels. Alternative A is more precautionary because it adopts a more conservative set of reference points, which would result in more frequent early closures and opening delays.

Even though the HCR under this alternative operates under a more restrictive set of reference points, it is unlikely to confer more benefit to the pink shrimp stock because the fisheries (CA, OR, and WA) occur in federal waters and target a single stock. Additionally, it is expected to further exacerbate recent trends in out of state landings and result in negative economic impacts on local communities by forcing pink shrimp vessels to land in states with MSC-certified fisheries and higher ex-vessel prices. Adopting more restrictive rules in California would simply drive the vessels to land in other states without conferring any concrete benefit to the pink shrimp stock.

Alternative A would also not meet the objectives of producing a year-to-year stable fishery and could trigger unnecessary management activity that would either curtail or shut down the fishery without necessarily any concrete conservation benefit. The reference points in the proposed project include a 2,500 lb/trip buffer above the low historical values recorded during the strong El Nino events of 1983 and 1998 to account for improvements over time in fishing vessel efficiency and environmental uncertainty (ODFW 2014c). After these periods of low biomass and catch/trip, the stock rebounded quickly, and by 2011 catch had returned to levels comparable to previous highs. Under Alternative A, the target reference point could have been triggered in 2016 and the season curtailed had single-rigged vessels made a larger proportion of landings during June of that year, even with shrimp biomass at the same levels.

Alternative A would retain the clarification of prohibiting shrimp trawling in state waters as well as the mandatory eulachon bycatch reduction measure. As such its impact towards the habitat and sensitive species would be similar to the proposed project.

9.3.4 Environmentally Superior Alternative

CEQA requires a lead agency to identify an environmentally superior alternative to the proposed project. The environmentally superior alternative would be Alternative A due to the more conservative reference points. However, in practice, unless all three states adopt a more stringent standard in unison, such rules would simply drive vessels to land in other states with less stringent rules, without yielding any concrete benefits. Furthermore, historical fishing data do

not suggest that the more conservative set of reference points contemplated would be notably more effective at safeguarding the pink shrimp stock than the proposed HCR. Due to this, the proposed project is still the preferred project as it meets all the core program objectives while also not significantly effecting the environment.

9.4 Mitigation measures

Fishing activities will result in the continued removal of a portion of pink shrimp from the population. However, the adaptive HCR and other safeguards prescribed by the proposed FMP are designed to ensure that removal of pink shrimp will not exceed sustainable levels. Moving forward, should the sustainability of the HCR come into question, Department staff will work with ODFW and WDFW staff to improve the management framework. Furthermore, the proposed project was developed in consultation with industry, which should lead to greater compliance with regulations.

Since no significant negative effect of this proposed project is expected on the pink shrimp population, and no significant effects are expected on the environment overall, mitigation measures are not provided to avoid or reduce significant effects. Pursuant to CEQA, the paragraphs above, together with the previously circulated Initial Statement, documents the Department's analysis of the possible effects the Department examined in reaching this conclusion (CCR Title 14 §15252(a)(1)(B)). As it stands, the proposed project is the preferred alternative as it meets all the core program objectives while also not significantly effecting the environment or limiting fishing opportunities.

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Appendix A: Pink (Ocean) Shrimp, *Pandalus jordani*: Harvest Control Rule Analysis



Pink shrimp, *Pandalus jordani*. (Photo credit: Scott Groth, ODFW)

**California Department of Fish and Wildlife
Marine Region**

May 2020



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Introduction to the California pink shrimp fishery

Pink shrimp (*Pandalus jordani*), also called ocean shrimp, is a commercially important species in California. Pink shrimp range from southeast Alaska to Baja California, but are only abundant enough to support a commercial fishery from Point Arguello to British Columbia (Hannah and Jones 2007). It is thought that a single genetic stock exists throughout their entire range (OST 2014). Pink shrimp are found at depths between 150 to 1,200 feet ft, but tend to be caught between 300 and 600 ft in California. They generally inhabit deep waters, aggregating near the bottom during the day in well-defined areas of muddy habitat and ascending into the water column at night to feed. Historically, most fishing occurred in federal waters, and since 2008 trawling for shrimp in state waters has been prohibited. They are protandrous hermaphrodites and typically spawn in March or April, recruiting to the fishery at age 1 as males, and transition to female at age 2. Their maximum life span is about three to five years, though most captured in the fishery are age 1 and age 2 (CDFW 2018), and they have been observed to have a very high annual natural mortality rate of about 0.96 (Martell et al. 2000).

The pink shrimp fishery is currently split into a northern and southern region, with Point Conception as the dividing line. Within the northern region, the primary pink shrimp beds have historically been located between Eureka and the Oregon border, and north of Fort Bragg. Additionally, commercially harvestable densities of pink shrimp are sometimes present off Morro Bay. In the southern region, pink shrimp are sometimes harvested along the mainland in the Santa Barbara Channel (CDFG 2007).

Pink shrimp are targeted via benthic trawl gear during the day when they are concentrated near the sea floor. Prior to 1974, only single-rigged trawlers (using a single trawl net) were used. After double-rigged trawlers entered the fishery, they comprised approximately 25% of the California fleet in the late 1970s, and increased to nearly 50% of the fleet during the 1980s and 1990s (CDFW 2018). Today, the majority of the fleet is double-rigged. Double-rigged vessels capture about 1.6 times the catch of a single-rigged vessel fishing under the same conditions for the same amount of time (PFMC 1981).

All shrimp trawl vessels are required to use bycatch reduction devices (BRDs), and the type of BRD used is influenced by the configuration of the trawl gear (CDFG 2007). Since 2002, BRDs have been required on all nets used in the pink shrimp fishery to protect overfished groundfish species (14 CCR § 120.1). Several types of BRDs may be used in the California fishery, including rigid-grate excluders, soft-panel excluders, and fisheye excluders. However, rigid-grate BRDs are generally considered to be the most efficient in reducing fish bycatch with minimal pink shrimp loss. The majority of vessels in California and Oregon have been using this type of BRD since 2003.

California's pink shrimp fishery is currently managed using a suite of static regulations to promote the sustainability of the target species. Fishery participation is restricted in the north through a limited entry permit; participation in the south is unlimited and requires a southern permit. Regulations are identical in both regions and include:

- A seasonal closure from November 1 to March 31 to protect egg-bearing females.
- A minimum mesh size of 1.38 in (36 mm) to allow for escapement of small age 0 and age 1 shrimp.
- A prohibition on landing shrimp that exceed a maximum count-per-lb of 160. This is intended to prevent the excessive harvest of 1 yr old shrimp.

Additional protection for the species was provided in 2008 when pink shrimp trawl grounds in state waters were closed. Historically, these grounds accounted for about 10 percent of the total catch (CDFG 2007).

A joint application to the Marine Stewardship Council (MSC) for ocean pink shrimp fisheries in Washington and California was submitted in 2015 (MRAG Americas 2015). Washington was recommended for MSC certification, but California was not because it scored below 80 for Principle 3 (management system). The report identified weaknesses for Principle 3 which included 1) consultation processes are not well defined, and 2) management decision making is slow to respond to changing conditions. This new harvest control rule is being considered to address those deficiencies.

History of the Oregon pink shrimp fishery harvest control rule

The Oregon pink shrimp trawl fishery was the first shrimp fishery in the world to achieve certification by the MSC (Tavel Certification Inc. 2007). In order to maintain MSC certification a fishery must be periodically reviewed to determine if certification is still warranted. As part of the renewal process for the Oregon fishery in 2013, MSC requested additional information on stock status and current fishing effort to determine whether the fishery is being prosecuted at a sustainable level.

In response, ODFW developed a framework through which a precautionary management strategy could be evaluated for the pink shrimp trawl fishery. Included within this framework was a harvest control rule and a set of target and limit reference points which were designed to strike a balance between economic opportunity and resource sustainability (ODFW 2014).

Given the life history of pink shrimp, ODFW determined that environmental variation and same year recruitment are important in determining spawning

stock biomass. In particular, ODFW found that environmental effects on recruitment appear to have a greater influence than variation in spawning stock. ODFW's HCR was developed to reduce fishery impacts on egg-bearing females whenever there is evidence that spawning biomass is low.

The average of pounds landed per trip during the month of June (June catch per trip) was found to serve as a reasonable proxy for spawning stock biomass in a given year. Age 1 shrimp enter the fishery in June and catch per trip serves as an indicator of year class strength. Using catch-at-age data to conduct a virtual population analysis, ODFW determined that during the periods of lowest observed spawning stock biomass in the strong El Nino years of 1983 and 1998, June catch per trip fell below 7,500 lb. Stocks at that level rebounded rapidly with the return of favorable environmental conditions. To account for increased efficiency of the fleet, and uncertainty in environmental and stock dynamics, ODFW adopted a 10,000 lb June catch per trip limit reference point to manage the fishery. Further, they adopted a 12,500 lb target reference point for to provide additional protection for the stock given the uncertain effects of climate change on the spawning dynamics of the stock.

ODFW also determined environmental conditions during the larval stage are a good predictor of stock status during the following season. The sea level height (SLH) in Crescent City during April of the previous year to January of the current year, when larvae are typically present in the environment, is used as a proxy for the preseason stock status. ODFW found that April-January SLH of 7.5 ft or greater correlated with poor recruitment events in 1983 and 1998. The limit reference point is triggered when this environmental condition is met and the June catch per trip is below 10,000 lb while the target reference point is triggered regardless of environmental conditions.

If the target reference point is triggered, the current season is shortened and the following season is delayed. If the limit reference point is triggered, the fishery is closed as soon as possible, and the following season opens April 15 (Table 1). Both of these measures are done to provide added protection for egg bearing females and prevent the stock from falling below the lowest previously observed spawning stock biomass.

Table 1. Season closure and opening dates for the Oregon pink shrimp trawl fishery during a normal season, and when June catch per trip falls below the target and limit-based reference points.

June average catch/trip	Current season closes	Following season opens
> 12,500 lb/trip (normal season)	October 31	April 1
< 12,500 lb/trip (target)	October 15	April 15
<10,000 lb/trip + Apr-Jan SLH > 7.5 ft (limit)	As soon as possible	April 15

Consideration of ODFW HCR for use in California

Pink shrimp is a coastwide stock and the fishery predominantly takes place in federal waters. The ODFW HCR has already been adopted by the Washington Department of Fish and Wildlife (WDFW) and the Department has elected to evaluate the HCR for applicability to the California with the goal of providing consistent management strategies across the US portion of the stock.

To evaluate the ODFW HCR for use in Washington, WDFW staff compared landing trends between Washington and Oregon and found similar dynamics, inferring the fisheries were acting on a common stock and that the reference points specified in the HCR were appropriate for use in Washington (Wargo and Ayres 2017). This document presents a similar analysis, comparing trends in California to Oregon and Washington.

A key difference between the Oregon and California shrimp fleets is that the Oregon fleet is comprised nearly entirely of double-rigged vessels, while the California fleet has a mix of double- and single- rigged vessels. The ODFW developed the HCR based on the catch rates of double-rigged vessels, which are believed to be 1.6 times more efficient than single-rigged vessels (PFMC 1981). To determine if this holds true for the California pink shrimp fleet, a conversion factor of 1.6 was applied to the catch-per-trip of single-rigged vessels and compared to the catch of double-rigged vessels. The conversion factor would allow the Department to consider the landings of all vessel types when determining if the limit or target reference points have been triggered. This portion of the analysis was partially motivated by the concerns of the fleet that failing to correct for the landings of single-rigged vessels could trigger an unwarranted management action.

Results & discussion

Comparison of Historical Landings in California, Oregon, and Washington

To evaluate whether the fishery in California is acting on the same stock as the Oregon and Washington fisheries, we first compared total annual landings in the three states (Figure 1). Though the scale of the fisheries in each of the states is different, the dynamics in the landings in each state are consistent with what would be expected if a common stock exists across the three states. Most importantly, steep declines in catch were observed across the fisheries in strong El Niño years of 1983 and 1998, suggesting that stock biomass is regulated by the same environmental processes.

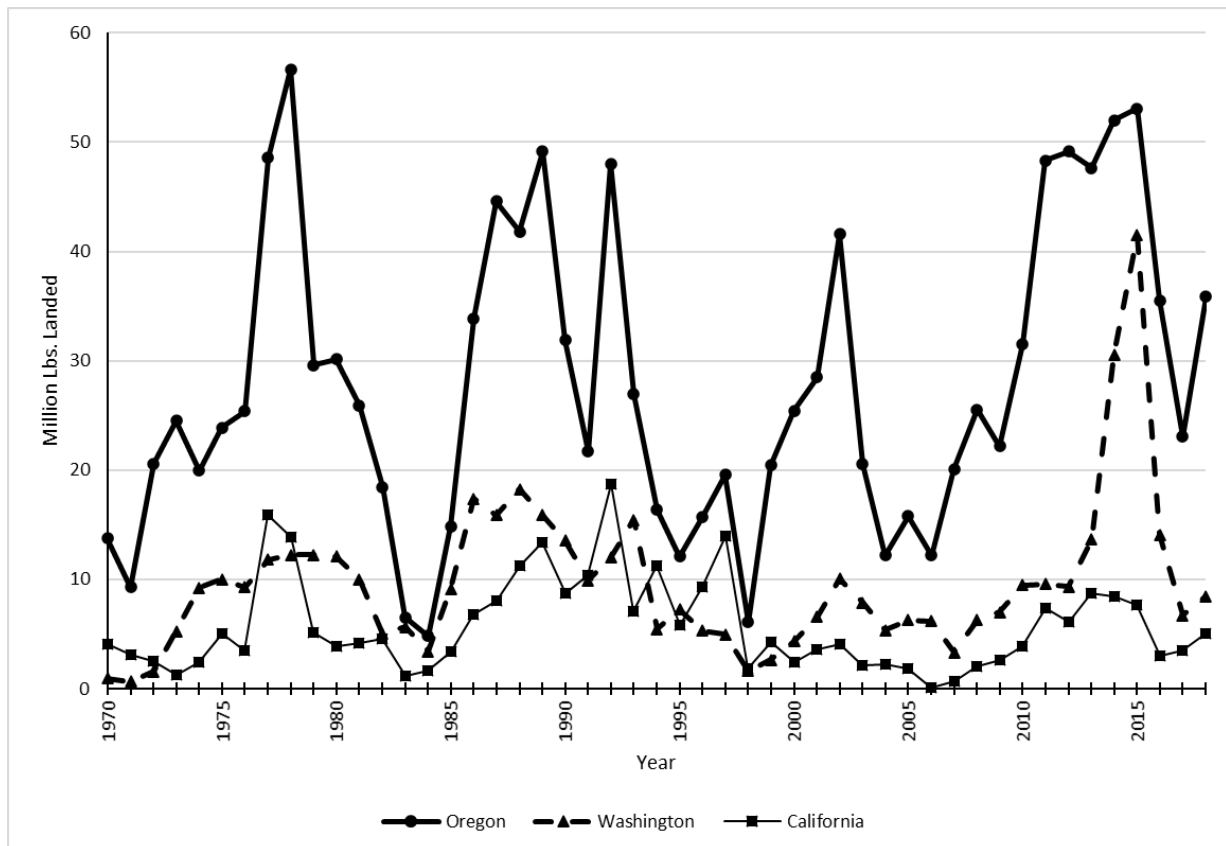


Figure 1. Pink shrimp landings in Washington, Oregon, and California from 1970-2018.

Having evidence that the pink shrimp population landed in California is contiguous with Oregon and Washington populations, but acknowledging overall landings are lower, we then wanted to confirm that the reference points used in Oregon and Washington are appropriate for the California fishery. To do this, we examined June catch per trip in the fishery from 1975 to 2019 (Figure 2). In the modern era of the fishery, where the fleet has decreased in numbers and transitioned primarily to double-rigged vessels (Table 2) outfitted with bycatch reduction devices (required since 2003), June catch per trip has consistently remained above levels which would trigger management action under the proposed HCR. This is consistent with the fishery in Oregon, where catch levels are above the reference points for the

same period. Critically, historical landings indicate the stock has been fished more intensively in the past and has been able to recover rapidly from periods of low biomass when favorable environmental conditions return. The implementation of this HCR would result in the fishery being managed more conservatively than in the past and would likely be sufficient to protect the stock in periods of poor environmental conditions while allowing for a robust fishery when the stock is healthy.

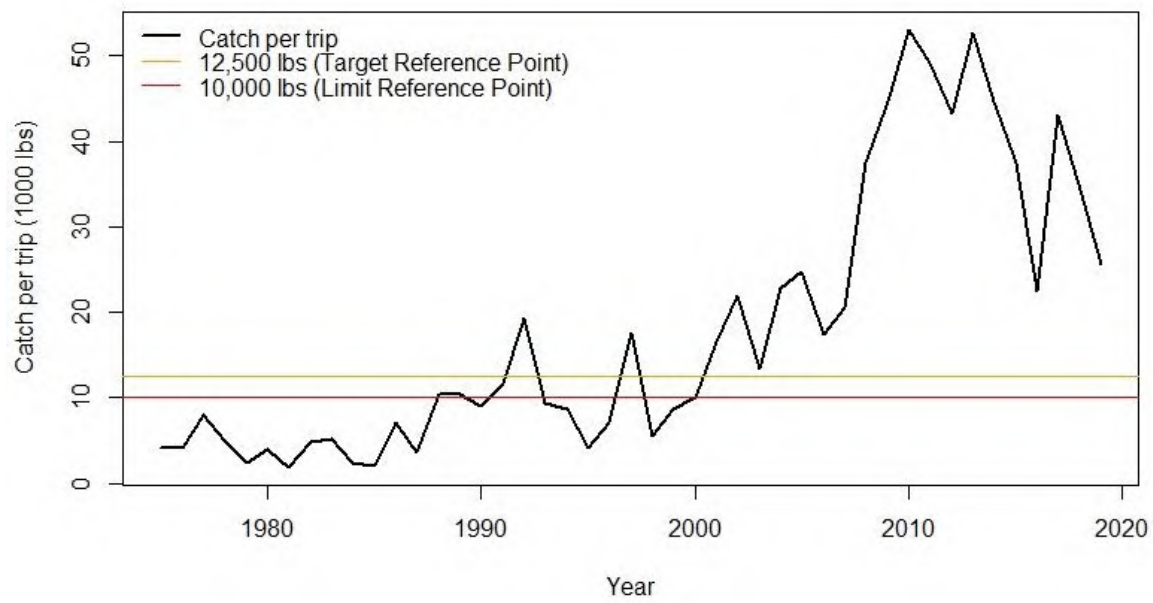


Figure 2. Average June catch per trip in the northern pink shrimp fishery from 1975-2019.

Table 2. Contributions of single-rigged (SR) and double-rigged (DR) trawl vessels in the northern California pink shrimp fishery in June. This table compares the number of vessels making landings (Avg N of Vessels), the percentage of the total number of landings made by each vessel type (% of Total N of June Landings) and the percentage of landings in pounds by each vessel type (% of Total lb of June Landings).

Years	Avg N of SR Vessels Making June Landings	Avg N of DR Vessels Making June Landings	% of Total N of June Landings by SR	% of Total N of June Landings by DR	% of Total lb of June Landings by SR	% of Total lb of June Landings by DR
1975-1979	19.6	7.8	74%	26%	35%	65%
1980-1989	19.5	13.2	63%	37%	32%	68%
1990-1999	31.5	18.5	61%	39%	35%	65%
2000-2009	2.5	6.1	27%	73%	25%	75%
2010-2019	3.8	6.6	31%	69%	38%	62%

Application of Correction Factor for Landings of Single-rigged Trawl Vessels

To consider whether applying a correction factor of 1.6 to the June catch per trip for single-rigged trawl vessels would allow their landings to be considered when determining if the fishery meets the criteria of the target or limit reference points, we compared the average June catch per trip of single- and double-rigged vessels (Figure 3). We repeated the comparison after applying the correction factor to single-rigged vessels (Figure 4). We found that applying the correction factor made single-rigged June catch per trip comparable to double-rigged and would allow for greater consistency in evaluating trends in the fishery.

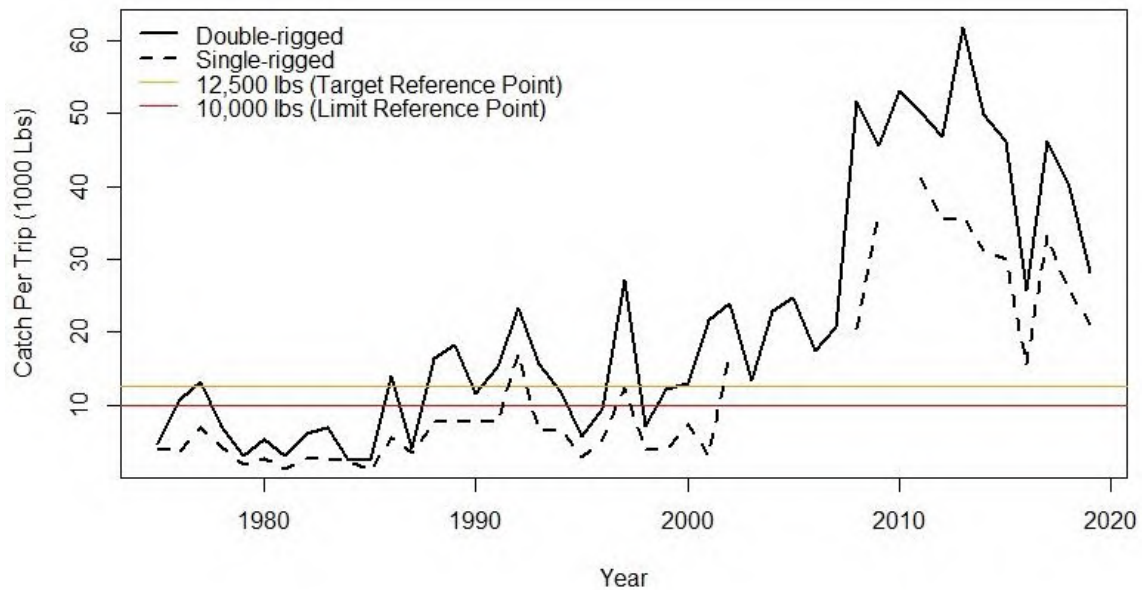


Figure 3. Average June catch/trip for single-rigged and double-rigged northern pink shrimp vessels.

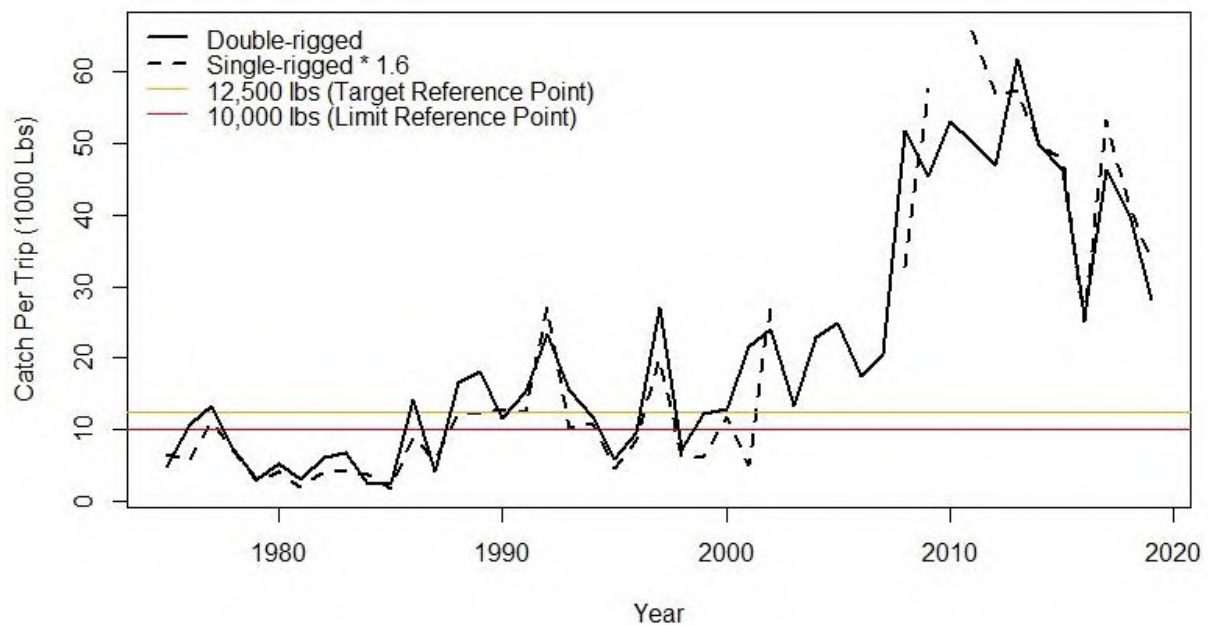


Figure 4. Average June catch/trip for adjusted single-rigged and double-rigged northern pink shrimp vessels. Single-rigged catch per trip was converted to double-rigged effort and then average June catch/trip values were compared with double-rigged vessels.

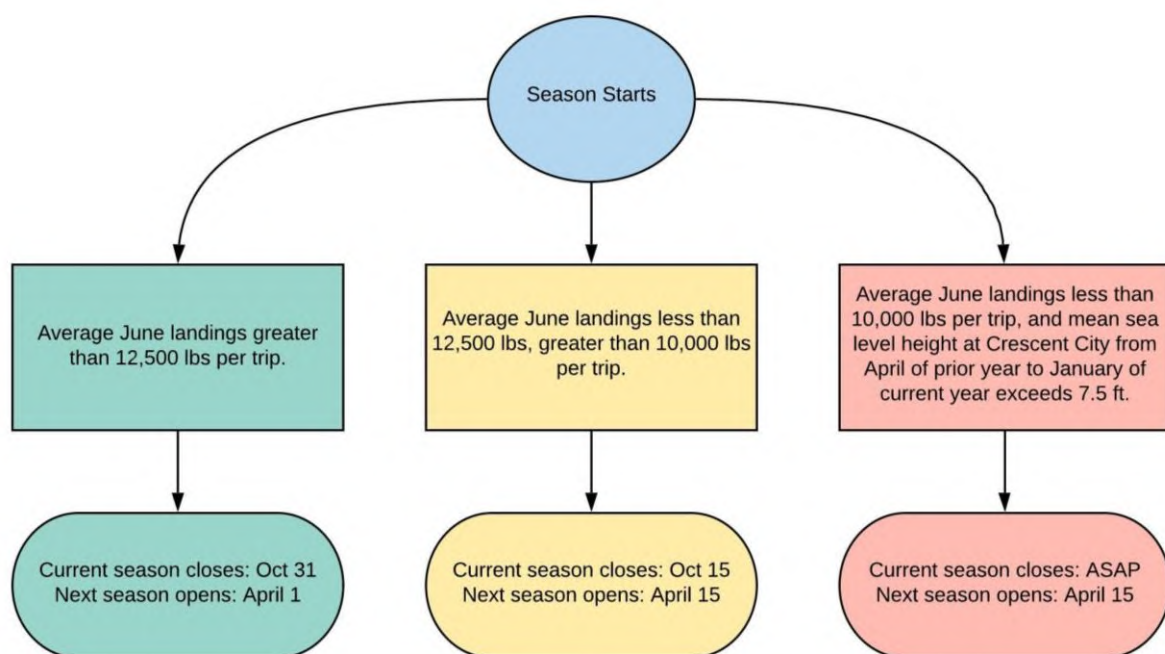
Recommendation

Based on the results of the analysis, the Department recommends adopting the ODFW HCR for use in California and applying a correction factor (1.6) to

June catch per trip landings for single-rigged vessels (Figure 5). This would provide the Department with an important adaptive management tool to ensure the sustainable harvest of the pink shrimp in California, where none has existed before. This rule sufficiently balances economic opportunity with resource protection.

An additional consideration is that California has historically relied on scientific studies conducted in Oregon, and operated under the assumption that environmental conditions, and stock health, are similar. The effects of climate change may alter the validity of that assumption, as the southern portion of the species range occurs off the California coast and therefore could be more likely to experience warm water conditions that negatively affect stock biomass. California may serve as an indicator and identify serious environmentally driven declines in the species before it is detected by the fisheries in Oregon and Washington.

Further, adoption of this rule increases the likelihood for MSC certification and may result in higher ex-vessel value and wholesale prices. This would provide additional income and stability for commercial fishers and processors on the northern California coast, where declines and volatility in crab, groundfish, and salmon fisheries have caused significant economic harm.



Note: The landings of single-rigged vessels are multiplied by 1.6 to compensate for the increased efficiency of double-rigged vessels.

Figure 5. Flow chart of proposed harvest control rule for the California pink shrimp fishery.

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Appendix B: 2021 California Pink Shrimp Principle 3 Gap Analysis

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California Pink Shrimp

Principle 3 Gap-Analysis

Conformity Assessment Body(CAB)	MRAG Americas, Inc.
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Assessment type	Principle 3 gap analysis
Date	

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1. Executive summary

In 2015 MRAG Americas undertook an assessment of the Washington and California pink shrimp (*Pandalus jordani*) trawl fisheries against the MSC Principles and Criteria for Sustainable Fishing. The evaluation was undertaken as a “scope extension” to the currently certified Oregon pink shrimp fishery, as described in MSC Fisheries Certification Requirements V2.0.

The result of that assessment was that the California fishery was not recommended for certification. Although no single indicators scored less than 60, the Principle 3 score was below 80 (77.1). The California management system was assessed to be strong on conservation and enforcement, but several weaknesses were also present. These weaknesses were identified as the lack of a fishery management plan (FMP) with explicit objectives, insufficient consultation processes, slow management decision-making, and the absence of regular external reviews (MRAG Americas, 2015).

Over the subsequent time period CDFW has taken action to address the identified deficiencies by strengthening stakeholder consultation processes and developing a draft pink shrimp FMP.

MRAG Americas was contracted in 2021 by Pacific Seafood Group to undertake this gap analysis to consider possible changes to scoring afforded by the development of a draft Fishery Management Plan

This P3 gap analysis gap analysis focuses on potential changes to P3 scores that would result from the existence of the shrimp FMP. It represents a reevaluation of the elements of P3 in light of the draft FMP. P3 is re-scored under the assumption that the draft FMP becomes adopted and implemented.

The analysis finds that the draft FMP contains new procedures and describes ongoing processes that will address many of the previously identified weaknesses in management objectives, decision and response flexibility and stakeholder consultation processes. The FMP does not describe the process or level of consultation used in its development, nor does it lay out a process for regular internal and external review.

Some of the scoring indicator rationale text uses information taken from the 2015 assessment. These sources of information would need to be updated if a full assessment is undertaken.

According to this analysis (with all the caveats listed above), with the new FMP implemented, the fishery would be well placed to pass an MSC assessment. A comparison of current score ranges with the scores from the previous scope extension assessment is given in the table below, noting the comparison is not identical because the MSC’s Principle 3 standard has changed slightly since 2015.

2015 Results

3.1.1	Legal & customary framework	95
3.1.2	Consultation, roles & responsibilities	70
3.1.3	Long term objectives	80
3.1.4	Incentives for sustainable fishing	80
3.2.1	Fishery specific objectives	60
3.2.2	Decision making processes	80
3.2.3	Compliance & enforcement	95
3.2.4	Research plan	60
3.2.5	Management performance evaluation	70

Current Results

3.1.1	Legal & customary framework	≥80
3.1.2	Consultation, roles & responsibilities	≥80
3.1.3	Long term objectives	≥80
N/A	N/A	N/A
3.2.1	Fishery specific objectives	≥80
3.2.2	Decision making processes	≥80
3.2.3	Compliance & enforcement	≥80
N/A	N/A	N/A
3.2.4	Management performance evaluation	≥80

There is one unit of certification for this fishery:

Species:	Pink (Ocean) Shrimp (<i>Pandalus jordani</i>)
Geographical Area:	West Coast USA, Oregon, Washington, California (WOC)
Method of Capture:	Otter Trawl, single and double-rigged.
Fleet:	California permitted vessels fishing in WOC and US Exclusive Economic Zone (EEZ) waters, landing in California ports
Stock:	The west coast ocean shrimp stock which extends from south east Alaska to California waters.
Management System:	California Department of Fish and Wildlife
Client Group:	Pacific Seafood Group

1.1 Principle 3

1.1.1 Principle 3 background

The Fishery

The pink shrimp trawl sector off the U.S. West Coast operates in marine waters off Washington, Oregon, and Northern California. Harvesters are allowed to fish anywhere within US federal waters beyond state limits but may land their catch only in the states for which they have landing permits (Wargo, 2014). Since 2005 most California catch has been harvested off Eureka and landed into Crescent City and Eureka. California plants stopped processing shrimp in March 2020 and all shrimp landings were trucked into Oregon for processing (CDFW, 2021).

The California shrimp fishery has been divided into northern and southern regions since 2001. Vessels use both single-rigged and double-rigged trawl gear; at present the majority of vessels in the northern fishery are double-rigged, whereas the majority in the southern fishery are single-rigged (CDFW, 2021). Participation in the northern fishery requires a limited entry permit. Participation in the southern fishery also requires a permit but is open access. In 2020 the northern fishery had 39 permits; the southern fishery had 15 permits. The number of vessels participating in the shrimp fishery is strongly influenced by abundance, price and processing availability (CDFW, 2021).

Fishery regulations include a number of input controls including mandatory commercial fishing vessel licenses, limited entry shrimp fishing permits, season limits, maximum count per pound, bycatch reduction devices and incidental catch limits. In addition, the fishery is subject to conservation area restrictions, landings fees, and on-board observer coverage (CDFW, 2015a).

An opportunistic system of monitoring, control and surveillance is in place, involving CDFWP, NMFS West Coast Groundfish Observer Program (WCGOP), and US Coast Guard. Harvest control rules (seasons, maximum counts per pound and bycatch reduction devices) are clear and enforceable. In 2018 CDFW reinitiated port sampling of catch to collect biological data (CDFW, 2021).

Logbooks are required of all vessels (CDFW 2015a; FGC 8841) and would provide data to support analysis of fishing location and effort, but until recently resource constraints have prevented the logbook database from being kept up to date (Kalvass 2015). According to the draft FMP, CDFW staff have renewed efforts to input backlogged logbook data and maintain a database of current data (CDFW, 2021).

The California Management System

Administrative Context

The California Fish and Game Commission (CFGF) consists of five members appointed by the Governor subject to confirmation by the California Senate). The CFGF formulates management policies and sets fishing seasons and other regulations. It comprises three committees: Marine Resources (MRC), Wildlife Resources (WRC), and Tribal. The CFGF operates under a tribal consultation policy intended to promote working effectively with tribes to sustainably manage natural resources of mutual interest (CFGF, 2015c). The CFGF holds twelve meetings a year located throughout the State to encourage public outreach and participation (CFGF, 2014).

The California Department of Fish and Wildlife (CDFW) is charged with carrying out the policies set by the CFGF and as required by statute. The CDFW director is appointed by the CFGF. The Marine Region, covering the ports or port areas of Eureka, Fort Bragg, Bodega Bay, San Francisco, Monterey, Morro Bay, Santa Barbara, Los Angeles, and San Diego, has field responsibility for coastal shellfish, including pink shrimp. Because shrimp is not managed by a federal fishery management plan the state's jurisdictional boundary is the entire Exclusive Economic Zone (out to 200 nautical miles) (CDFW, 2021).

The California Department of Fish and Wildlife Police (CDFWP) are general authority peace officers deployed to the CDFW regions throughout the state, including the Marine Region. Officers also hold federal U.S. Fish and Wildlife and National Marine Fisheries Service (NMFS) commissions, and have jurisdiction over federal violations. Officers work joint patrols and coordinate with these agencies and the U.S. Coast Guard (McVeigh, 2015).

The Pacific States Marine Fisheries Commission (PSMFC) is an interstate compact agency that has no regulatory or management authority but instead serves as a neutral convener for interstate and state-federal coordination and data management. The California pink shrimp fish ticket data is entered into the PSMFC "E-Tix" system and combined with data from Oregon and Washington. The data are used to produce reports of shrimp landings and value by state or coastwide (PSMFC, 2014).

Legislative Context

The CFGF's decision process is governed by the California Administrative Procedure Act (APA) which allows public participation in the adoption of State regulations in order to ensure that the regulations are clear, necessary, and legally valid (CFGF 2014).

The Bagley-Keene Open Meeting Act of 1967 mandates open meetings for California State agencies, boards, and commissions. The Act facilitates accountability and transparency of government activities and protects the rights of citizens to participate in State government deliberations (CCR 1120-11132, 2015).

Accordingly, the CFGF provides an opportunity for members of the public to directly address the CFGF on each agenda item before or during the CFGF's discussion or consideration of an item. This includes advance notice of meetings and their agendas and the provision of meeting materials used in discussions.

Fishery Management Plan

The California Marine Life Management Act (MLMA) defines a fishery management plan as a document that describes the nature and problems of a fishery along with regulatory recommendations to manage the fishery (CMLMA, 1998).

Fishery management plans will provide:

- Biological information about the marine resources under consideration
- Habitat needs and issues

- Through the MLMA, the Legislature delegates greater management authority to the Fish and Wildlife Commission and the California Department of Fish and Wildlife
- Harvesters and their habits
- Conservation and management measures already in place
- The ecological role of the resource
- The environmental effects that might have to be considered
- The most appropriate management tools

Under the MLMA, FMPs are to include at least the seven following elements:

- Description of the fishery
- Fishery science and essential fishery information
- Basic fishery conservation measures
- Habitat provisions
- Bycatch and discards
- Overfishing and rebuilding
- Procedure for review and amendment of an FMP (CMLMA, 1998)

Until the development of the draft pink shrimp FMP in 2021 no specific official written management objectives or management plan existed for the California pink shrimp trawl fishery.

Fishery regulations designed to achieve the management objectives include a number of input controls. These include mandatory commercial fishing vessel licenses, limited entry shrimp fishing permits, season limits, maximum count per pound, bycatch reduction devices and incidental catch limits. In addition, the fishery is subject to conservation area restrictions, landings fees, and on-board observer coverage (CDFW, 2015; CCR 120.2, 2015).

Consultation and Public Participation in Management

The 2015 assessment found that although the CDFW was involved in multiple state, federal and regional policy processes related to the shrimp fishery and operated under an executive order requiring effective consultation with tribal communities, overall consultation processes were not well-developed nor widely employed (MRAG Americas, 2015; CDFW, 2015c). Stakeholder involvement in fishery management occurred primarily during periods of regulatory change (CDFW, 2021).

Since 2015 the Department has improved its communication with the shrimp fleet and processors by holding fleet meetings (2017; 2019), participating in shrimp capacity discussions at a CFGC Marine Resource Committee meeting (2017), and holding informational webinars (2020; 2021). The draft FMP indicates the CDFW intention to hold annual meetings with industry to keep it informed of changes and developments affecting the fishery (CDFW, 2021).

1.1.1 Principle 3 Performance Indicator scores and rationales

The P3 performance indicators were rescored and rationales rewritten as if the draft FMP were finalized and adopted as written. Some areas missing from the FMP could not be scored, and are noted. The text of the rationales is updated according to information provided in the draft FMP; some text from the 2015 assessment report not affected by the content of the draft FMP is presented unchanged. The 2015 material, while not expected to be affected by the adoption of the FMP, would need to be updated during a full assessment.

PI 3.1.1 – Legal and/or customary framework

The management system exists within an appropriate legal and/or customary framework which ensures that it:

- Is capable of delivering sustainability in the UoA(s);
- Observes the legal rights created explicitly or established by custom of people dependent on fishing for food or livelihood; and
- Incorporates an appropriate dispute resolution framework

a. Compatibility of laws or standards with effective management

SG 60	SG 80	SG 100
There is an effective national legal system and a framework for cooperation with other parties, where necessary, to deliver management outcomes consistent with MSC Principles 1 and 2	There is an effective national legal system and organized and effective cooperation with other parties, where necessary, to deliver management outcomes consistent with MSC Principles 1 and 2.	There is an effective national legal system and binding procedures governing cooperation with other parties which delivers management outcomes consistent with MSC Principles 1 and 2.
Yes	Yes	Yes

Rationale:

At the state level, the management system operates within state laws and the California Code of Regulations (CCR). Fishery management decisions regarding pink shrimp are delegated by the California State Legislature to the Fish and Game Commission (CFGF) and implemented through the California Department of Fish and Wildlife (CDFW) (CFGF sect. 8841). The CFGF formulates fishery management policies and sets fishing seasons and other regulations to determine who may fish for pink shrimp, when they may fish and how they may fish. Regulations, such as the maximum count per pound, minimum mesh size and BRD specifications, are set in CCR. The CFGF and CDFW operate within a framework of state laws under Title 12 (Natural Resources) of the CCR. All California executive branch agencies are guided by the California Administrative Code (CAC) which codifies regulations and sets out general standards and procedures. The CACs pertaining to CDFW are contained in Title 14; rules and regulations pertaining specifically to commercial shrimp fishing are Pink shrimp permit holders are also subject to the provisions of CCR Title 14 §189 and FGC §8841.

In addition, all state entities adhere to the Bagley-Keene Open Public Meetings Act and the Public Records Act which require that all meetings of governing bodies and state agencies are open and accessible to the public, and that most public records be made available to members of the public (CCR 11020-11032; CCR 6250-6270).

The Administrative Procedure Act (2008) requires that agencies conduct a process that ensures public involvement opportunities and considers the economic impact of its rules. These cooperation procedures are binding.

Regulations are enforced by the CDFW Law Enforcement Division, which operates out of four districts. The Northern Coastal District oversees enforcement within the pink shrimp fishery (CDFW, 2015b; CDFW, 2015c; Farrell, 2015).

At the national level, management of state fisheries may take place within and may coordinate with a larger framework of federal laws, through the interface with the regional fishery management council system. Federal fishery management is carried out under the authority of the federal Magnuson-Stevens Fishery Conservation and Management Act (MSA), first passed in 1976 and most recently reauthorized in 2006 (MSA, 2007). The MSA is the principal law governing the harvest of fishery resources within the federal portion of the U.S. 200-mile zone. Under the MSA, the Pacific Fishery Management Council (PFMC) recommends management actions to the National Marine Fisheries Service (NMFS; also called NOAA Fisheries) for approval. Ultimate decision authority for fishery management lies with the Secretary of Commerce. In addition to the MSA, the PFMC adheres to a suite of “other applicable laws:” the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), the Migratory Bird Treaty Act (MBTA); the Administrative Procedure Act (APA), Paperwork Reduction Act (PRA); Regulatory Flexibility Act (RFA); Coastal Zone Management Act (CZMA); and other relevant U.S. laws, Executive Orders and regulations (MSA, 2007). This national legal system outlines procedures governing cooperation among entities authorized to implement these acts. The procedures are well described in consultation rules, and are binding.

The primary interaction of the California pink shrimp fishery with the federal management system is through finfish bycatch limits and the Groundfish Observer Program. In addition, California cooperates with the federal system and with the other states through provision of data through the Pacific States Marine Fisheries Commission PacFIN database, agreements on gear specifications, joint enforcement agreements, and ETP management.

If adopted the shrimp FMP would add overfishing determination supported by reference points, provisions for ending overfishing, and the specification of rebuilding targets and procedures for rebuilding the overfished population if it falls below a biomass threshold.

b. Resolution of disputes

SG 60	SG 80	SG 100
The management system incorporates or is subject by law to a mechanism for the resolution of legal disputes arising within the system.	The management system incorporates or is subject by law to a transparent mechanism for the resolution of legal disputes which is considered to be effective in dealing with most issues and that is appropriate to the context of the UoA.	The management system incorporates or is subject by law to a transparent mechanism for the resolution of legal disputes that is appropriate to the context of the fishery and has been tested and proven to be effective .
Yes	Yes	Yes

Rationale

As described above under 3.1.1. SG 60a, the fishery is managed primarily under state statutes and administrative codes, in a fashion that respects domestic law. Federal rules apply to federally managed species that interact with the California management system. For the pink shrimp fishery, these rules pertain primarily to bycatch of federally managed species or species protected under the ESA (ESA, 1973).

The Bagley-Keene Open Meeting Act (CCR 11120-11132) and Public Records Act (CCR 6250-6270) ensure transparency and public access.

State and federal agents monitor fisheries and enforce compliance with the laws and regulations related to pink shrimp, incidentally caught groundfish, eulachon or other protected species, (CDFW 2015b; 2015c). California enforcement is represented on the PFMC Enforcement Consultants committee, which includes representatives from state enforcement agencies in Washington, Oregon, and California, and the federal government (PFMC, 2012b). Coordination of state and federal laws is accomplished through this body.

At the state level, the management system uses the CDFW Law Enforcement Division to enforce laws and regulations (CDFW, 2015b; 2015c). Fish and Wildlife Officers (FWOs) are general authority peace officers with responsibilities that include fish protection and commercial fish and shellfish harvest. In addition to state laws, they enforce federal laws and Oregon state statutes through memoranda of agreement (Farrell, 2015).

Formal mechanisms for resolving disputes include:

- Petition processes of the CFGC that allow issues to be brought for Commission decision (CFGC, 2015a;2015b).
- The tri-state coordination process administered by the Pacific States Marine Fisheries Commission (PSMFC) can be activated as needed to resolve shrimp fishery management issues or disputes among Washington, Oregon and California (Abramson et al., 1981; Hannah, 2012).
- The coordination mechanism of the PFMC to resolve any disputes between state and federal fisheries (PFMC,2004; 2007).

At the time of the 2015 assessment the shrimp fishery has not been subjected to legal challenge (Kalvass, 2015). However, timely implementation by the CFGC to the MLPA provisions on closed fishing areas provides an example of how the formal mechanisms outlined above have been tested and proven to be effective (CDFW, 2013).

c. Respect for rights

SG 60	SG 80	SG 100
The management system has a mechanism to generally respect the legalrights created explicitly or established by custom of people dependent on fishing for food or livelihood in a manner consistent with the objectives of MSC Principles 1 and 2.	The management system has a mechanism to observe the legal rights created explicitly or established by custom of people dependent on fishing for food or livelihood in a manner consistent with the objectives of MSC Principles 1 and 2.	The management system has a mechanism to formally commit to the legal rights created explicitly or established bycustom of people dependent on fishing for food and livelihood in a manner consistent with theobjectives of MSC Principles 1 and 2.
Yes	Yes	Yes

Since 2011 all California state agencies have operated under Executive Order B-10-11, requiring effective communication and consultation with California Indian tribes, seeking their meaningful input into regulations, rules, policies and other matters affective tribal communities (CA Office of the Governor, 2011).

Negotiated processes between CDFW and California federally recognized tribes around placement of marine protected areas have established a process that could serve as a template for continued communication (cf. CDFW, 2012). In addition, California has close consultation with tribes on salmon, through the Klamath River Management Council.

At the federal level, NMFS and management through the PFMC are both bound by Federal Executive Order 13175 (2000), which requires meaningful consultation and collaboration with Indian tribal governments. The sovereign status and co-manager role of Indian tribes over shared federal and tribal fishery resources is recognized. At the regional level, this role is reflected in a designated tribal seat on the Pacific Fishery Management Council (PFMC, 2012a).

References

CFGC sect. 8841; CCR Title 14 §189; CCR 11020-11032; CCR 6250-6270; CA Administrative Procedure Act, 2008; CDFW, 2015b; CDFW, 2015c; CFGC, 2015c; Farrell, 2015; Abramson et al., 1981; E.O. 13175, 2000; ESA, 1973;

Hannah, 2012; MSA, 2007; NMFS, 1997, Woods, 2005, PFMC, 2004; 2007; 2012b; CFGC, 2015a; 2015b; Kalvass, 2015; CDFW, 2012; CDFW, 2021; E.O. 13175, 2000; CA Office of the Governor, 2011.

Draft scoring range	≥80
Information gap indicator	More information sought Relevant updates to California state laws, Code of Regulations, federal laws, data systems, interstate agreements and legal challenges (if any) would be needed as part of a full assessment.

Overall Performance Indicator scores added from Client and Peer Review Draft Report stage	
Overall Performance Indicator score	-
Condition number (if relevant)	-

PI 3.1.2 – Consultation, roles and responsibilities

The management system has effective consultation processes that are open to interested and affected parties

The roles and responsibilities of organisations and individuals who are involved in the management process are clear and understood by all relevant parties

a. Roles and responsibilities

SG 60	SG 80	SG 100
Organisations and individuals involved in the management process have been identified. Functions, roles and responsibilities are generally understood .	Organisations and individuals involved in the management process have been identified. Functions, roles and responsibilities are explicitly defined and well understood for key areas of responsibility and interaction.	Organisations and individuals involved in the management process have been identified. Functions, roles and responsibilities are explicitly defined and well understood for all areas of responsibility and interaction.
Yes	Yes	No

CFGF, CDFW, PFMC, and the state and federal enforcement entities of the CDFW Enforcement Division, US Coast Guard, and NMFS Enforcement are all explicitly identified, and roles defined, in statutes, administrative code, and operating procedures. Open lines of communication between agencies promote widespread understanding of the roles and responsibilities of respective entities. Lines of authority and responsibility among the state and federal entities are clear, as are procedures for coordination among them (Kalvass, 2015; Farrell, 2015).

The functions, roles and responsibilities are well defined for all areas of responsibility and action. An example of understanding of regulations on the part of the shrimp fishery is provided by good compliance rates of BRD adoption (Farrell, 2015).

In 2015 it was found that the low level of engagement between CDFW and the shrimp fishery created uncertainty as to whether all areas of responsibility and interaction are well understood. Stakeholder involvement primarily occurred during times of regulatory change, such as the requirement of bycatch reduction devices (BRDs) and the adoption of the restricted access program (CDFW, 2021).

Since that time CDFW has taken actions to improve communication with the shrimp fleet and processors in order to increase transparency about Department decision making and to enable collaboration with the fleet on stock dynamics and management actions. These actions include hosting a fleet meeting in 2017, participation in discussions about fleet capacity in 2017, hosting an online meeting in 2019 to discuss developments within the fishery, and holding informational webinars in 2020 and 2021. According to the draft FMP the intent is to hold annual informational meetings with stakeholders from here on out (CDFW, 2021).

Enhanced communication and provision of information will have increased understanding of areas of responsibility, improving the score for this SI. Discussions during a full assessment would be needed to determine the specific degree to which all areas of responsibility and interaction are well understood.

b. Consultation processes

SG 60	SG 80	SG 100
The management system includes consultation processes that obtain relevant information from the main affected parties, including local knowledge, to inform the management system.	The management system includes consultation processes that regularly seek and accept relevant information, including local knowledge. The management system demonstrates consideration of the information obtained.	The management system includes consultation processes that regularly seek and accept relevant information, including local knowledge. The management system demonstrates consideration of the information and explains how it is used or not used.
Yes	Yes	No

Rationale:

The enforcement component of the management system regularly seeks and accepts relevant information through active consultation with the fleet and enforcement entities in Oregon and Washington. Enforcement uses local knowledge by getting regular feedback from the industry regarding such issues as conditions on the fishing grounds and gear innovation experiments. Specifically, consultations include dockside interactions between CDFW police, fleet and plants (Farrell, 2015).

Whereas in 2015 consultation with the agency component of the management system was relatively weak, with no regular interaction between CDFW Invertebrate Program staff and industry (Kalvass, 2015), the level of consultation has since improved as described in SIa above. The conduct of five informational meetings and seminars since 2017 establishes a process of regular interaction between CDFW and industry stakeholders to provide, seek and accept relevant information.

The FMP does not provide information about how it plans to use information acquired during stakeholder consultations or to provide explanations as to how it is used or not used. In addition, the process or degree of stakeholder consultation in the development of the draft FMP is unclear. There is no mention of an intent to produce an annual newsletter to the industry or to establish an industry advisory committee for the pink shrimp fishery.

c. Participation

SG 60	SG 80	SG 100
-	The consultation process provides opportunity for all interested and affected parties to be involved.	The consultation process provides opportunity and encouragement for all interested and affected parties to be involved, and facilitates their effective engagement.
-	Yes	Yes

Rationale:

Opportunities for industry involvement are most frequent through interactions with CDFW law enforcement and testimony to the CFGC. The frequency of these interactions varies by the particular process. Enforcement dockside interactions occur once or twice weekly. The CFGC as a whole meets bi-monthly (Farrell, 2015; CFGC, 2015a).

The Bagley-Keene Open Meeting Act of California ensures the public right of access to any meetings of state bodies in addition to advance notice and minutes of these meetings. Some specific exceptions exist (Digital Media Law Project 2015; CCR 11120-11132.). It is designed to promote greater public participation in government. CDFW routinely posts notices of public meetings about upcoming regulations on their website and at port offices. Likewise, announcements of California Fish and Game Commission (CFGF) meetings are posted on the CDFW website well in advance, with full information about meeting agendas (CFGF, 2015a). The CFGF provides online access for the content and schedule of new and proposed rulemaking as well as information on processes for permanent and emergency rulemaking, with information on how stakeholders can be involved (CFGF, 2015b). The California Public Records Act (CCR 6250-6270) ensures transparency of agency information.

At the regional level, the PFMC process provides open and transparent distribution of information as well as opportunities for engagement of interested parties through committee membership and public testimony. ENGOs are routinely engaged in this process (PFMC, 2012c). However, this process is only indirectly related to the state-managed pink shrimp fishery.

Executive Order 13132 (1999) requires federal agencies to consider the implications of policies that may limit the scope of or pre-empt states' legal authority. Such actions require a consultation process with the states and may not create unfunded mandates for the states. Any final published rule must be accompanied by a "federalism summary impact statement" (NMFS, 1997; PFMC, 2011b).

The Council process involves different types of consultations with member states through state agencies, Council appointees, advisory committee membership, and meetings. The process of state participation in the formulation of federal management measures encourages complementary approaches between federal and state approaches (PFMC, 2004; 2007). Consultations among state agency staff, industry stakeholders and ENGOs occurs informally through regular stakeholder meetings, interactions at the Pacific Fishery Management Council settings, interactions with congressional staff, and various other fora.

Improved consultation processes as represented in the draft FMP and described in SIa above demonstrate that CDFW is providing an opportunity and encouragement for the involvement of all interested stakeholders and is facilitating effective engagement.

References

Kalvass, 2015; Farrell, 2015; CFGF, 2015a; Digital Media Law Project 2015; CCR 11120-11132; CFGF, 2015a; 2015b; CCR 6250-6270; PFMC, 2012c; E.O. 13132, 1999; NMFS, 1997; PFMC, 2011d; PFMC, 2004; 2007; CDFW, 2021.

Draft scoring range	≥80
Information gap indicator	More information sought As part of a full assessment more information would be sought on the scope of stakeholder involvement as well as Department plans for implementing further communication actions. More information would be needed on the process for and degree of consultation in the development of the draft FMP.

Overall Performance Indicator scores added from Client and Peer Review Draft Report stage

Overall Performance Indicator score	
Condition number (if relevant)	

PI 3.1.3 – Long term objectives

The management policy has clear long-term objectives to guide decision-making that are consistent with MSC Fisheries Standard, and incorporates the precautionary approach

a. Objectives

SG 60	SG 80	SG 100
Long-term objectives to guide decision-making, consistent with the MSC Fisheries Standard and the precautionary approach, are implicit within management policy.	Clear long-term objectives that guide decision-making, consistent with MSC Fisheries Standard and the precautionary approach are explicit within management policy.	Clear long-term objectives that guide decision-making, consistent with MSC Fisheries Standard and the precautionary approach, are explicit within and required by management policy.
Yes	Yes	Partial

Rationale:

Long-term objectives guiding all California fisheries are explicit within the Marine Life Management Act (MLMA) of 1998.

The MLMA contains goals and objectives the management of California fisheries. FMPs and regulations for all fisheries are expected to conform to the MLMA (MLMA, 1998).

The MLMA specifies seven goals, paraphrased as:

- Conserve entire ecosystems
- Recognize and protect non-consumptive values:
- Achieve sustainability
- Conserve and protect habitat
- Rebuild depressed fisheries
- Limit bycatch
- Minimize adverse impacts on fishing communities
-

To achieve these goals CDFW is required to prepare a master plan that lists fisheries by priority, according to the need of comprehensive management through FMPs. The purpose of FMPs is to base management decisions on clear objectives for and knowledge of a fishery (CDFW, 2001).

The MLMA, requires that FMPs include seven elements (CDFW, 2001):

- Description of the fishery
- Fishery science and essential fishery information
- Basic fishery conservation measures
- Habitat provisions
- Bycatch and discards
- Overfishing and rebuilding
- Procedure for review and amendment of an FMP

The Draft Shrimp FMP contains sections covering the seven elements required by the MLMA (CDFW, 2021). Clear long-term objectives to guide decision-making are explicitly provided, consistent with MSC Fisheries Standard and the precautionary approach. The extent to which these objectives will required in policy will depend on the adoption and implementation of the FMP and subsequent implementation guidelines.

References

MLMA, 1998; CDFW, 2001; Kalvass, 2015; CFGC, 2015b; CDFW, 2021.

Draft scoring range	≥80
Information gap indicator	More information sought A full assessment would examine the contents and implementation status of a shrimp FMP.

Overall Performance Indicator scores added from Client and Peer Review Draft Report stage

Overall Performance Indicator score	
Condition number (if relevant)	

PI 3.2.1 – Fishery-specific objectives

The fishery-specific management system has clear, specific objectives designed to achieve the outcomes expressed by MSC's Principles 1 and 2

a. Objectives

SG 60	SG 80	SG 100
Objectives , which are broadly consistent with achieving the outcomes expressed by MSC's Principles 1 and 2, are implicit within the fishery-specific management system.	Short and long-term objectives , which are consistent with achieving the outcomes expressed by MSC's Principles 1 and 2, are explicit within the fishery-specific management system.	Well defined and measurable short and long-term objectives , which are demonstrably consistent with achieving the outcomes expressed by MSC's Principles 1 and 2, are explicit within the fishery-specific management system.
Yes	Yes	Yes

Rationale:

As outlined in SIa above, the MLMA contains seven goals for fish and marine ecosystems (CDFW, 2001). These goals and objectives, intended for all California fisheries, apply explicitly to the shrimp fishery and have shaped the content of the draft shrimp FMP.

The early draft federal shrimp FMP (Abramson et al., 1981) also provided implicit management objectives to the California shrimp fishery, as do the National Standard Guidelines under which federal FMPs are structured (NMFS, 2005).

The draft FMP developed by CDFW comprises eight major sections: 1. The Species; 2. The Fishery; 3. Management; 4. Monitoring and essential fishery information; 5. New conservation and management measures; 6. Anticipated effects of additional management measures; 7. Future management needs and directions; 8. Review and amendment procedures. Appendix A contains an analysis of the Oregon Department of Fish and Wildlife's pink shrimp fishery harvest control rule and its potential application to the California shrimp fishery. The analysis concludes with a recommendation to adopt the ODFW HCR, corrected for gear type, in the California fishery (CDFW, 2021).

The draft FMP, in being consistent with the seven major elements of the MLMA, provides a set of long-term objectives for the fishery.

Both long-term and short-term fishery management objectives are provided through the FMP's adaptive management framework that promotes fishery sustainability, data quality enhancement and bycatch reduction. The framework meets these long-term objectives through requirements for a harvest control rule (HCR), standardized weighing of catch, and LED lights on nets.

The HCR is based on target and limit reference points (catch reference points as a proxy for spawning stock biomass and sea level height as a proxy for recruitment success). The HCR was developed by ODFW and has been adopted by both ODFW and WDFW, ensuring uniform coastwide management of the pink shrimp population if adopted by CDFW (Hannah and Jones, 2016; Wargo and Ayres, 2017). Standardized weighing of catch is achieved through a requirement to report landings weight net of ice using estimation methods consistent with Oregon and Washington. Reduction of bycatch is achieved through an existing requirement for BRDs and a new requirement for LED lights on nets (CDFW, 2021).

Should the FMP be adopted and implemented as written, it would meet the criterion of well-defined and

measurable short and long-term objectives for management.

References

CDFW, 2001; Kalvass, 2015; Abramson et al., 1981; NMFS, 2005; Hannah and Jones, 2016; Wargo and Ayres, 2017; CDFW, 2021.

Draft scoring range	≥80
Information gap indicator	More information sought In order to score the fishery management system at the SG80 or SG100 level the full assessment would need to review a finalized FMP. Also needed would be a description of the process for FMP adoption and implementation and the FMP’s status within it.

Overall Performance Indicator scores added from Client and Peer Review Draft Report stage

Overall Performance Indicator score	
Condition number (if relevant)	

PI 3.2.2 – Decision-making processes

The fishery-specific management system includes effective decision-making processes that result in measures and strategies to achieve the objectives, and has an appropriate approach to actual disputes in the fishery

a. Decision-making process

SG 60	SG 80	SG 100
There are <i>some</i> decision making processes in place that result in measures and strategies to achieve the fishery-specific objectives.	There are <i>established</i> decision-making processes that result in measures and strategies to achieve the fishery-specific objectives.	-
Yes	Yes	-

Rationale:

Established decision-making processes are followed by the CFGC which has been delegated management authority for pink shrimp by the California State Legislature. These processes are stable and result in regulations designed to meet the overarching goals specified in the MLMA (CFGC, 2015a; 2015b). Implementation of the draft FMP will require the adoption of new regulations for HCR, LED lights and landing weights. The CFGC has the authority to make these regulatory changes through its existing decision-making processes (CDFW, 2021).

b. Responsiveness of decision-making processes

SG 60	SG 80	SG 100
Decision-making processes respond to serious issues identified in relevant research, monitoring, evaluation and consultation, in a transparent, timely and adaptive manner and take some account of the wider implications of decisions.	Decision-making processes respond to serious and other important issues identified in relevant research, monitoring, evaluation and consultation, in a transparent, timely and adaptive manner and take account of the wider implications of decisions.	Decision-making processes respond to all issues identified in relevant research, monitoring, evaluation and consultation, in a transparent, timely and adaptive manner and take account of the wider implications of decisions.
Yes	Yes	Yes

Rationale:

Decision-making processes cover serious and important issues related to pink shrimp. A good example of decision response to all of these elements is the adoption of the finfish excluder grate to reduce rockfish bycatch and later, with smaller grate spacing, to protect ESA-listed eulachon. These successive BRD decisions were made in collaboration with industry members and enforcement in response to an identified need to reduce bycatch of finfish species, and in this way it was adaptive. The transparency, timeliness and adaptive manner of decision response is ensured by the Bagley-Keene Open Meeting Act (CCR 11120-11132) and Public Records Act (CCR 6250-6270).

California has had the least flexible rulemaking of the three west coast coastal states. Authority for pink shrimp management is held by the CFGC, which meets only every two months and typically has a full calendar, making rulemaking a slow process (Kalvass, 2015). Normal operations such as regular openings and closures are dealt with by CDFW, meeting basic timeliness requirements. The adoption of the management framework as presented in the FMP

would provide greater flexibility to adapt to changing conditions. The HCR contains actions conditional on stock status. Under the FMP the Department, in response to changing conditions, may implement a number of regulations without an FMP amendment, including the management of the limited access program, fishery impacts to habitat and bycatch (CDFW, 2021).

The flexibility accorded by the FMP would be in contrast to the legislative-commission decision making process that currently exists, which cannot readily respond to situations requiring immediate actions. The HCR, for example, would allow the closure of the fishery once specific conditions are met rather than wait for the statutory closure date. The timeliness of the decision-making process would be improved by the adoption of the framework process described in the draft FMP (CDFW, 2021).

Informal coordination of CDFW with ODFW and the availability of the Oregon Pink Shrimp Review, which in both its annual edition and a supplemental edition identified upcoming potential issues with eulachon in anticipation of its listing under ESA, helps identify need to take proactive action (cf. Hannah and Jones, 2014; 2015a).

Frequent communication and coordination between CDFW and ODFW enforcement establish enforcement priorities in anticipation of likely areas needing enforcement attention, and adapt to in-season enforcement issues as they emerge (Farrell, 2015).

Coordination and consultation between the state and federal processes, conducted through the PFMC process, promotes the consideration of the effects of pink shrimp fishery management decisions on other fisheries and ecosystem issues, for example the rebuilding of rockfish stocks and the protection of ESA listed species.

Decision-making processes outlined in the draft FMP will allow the timely response to all issues identified in relevant research, monitoring, evaluation and consultation, in a transparent, timely and adaptive manner and be able to take account of the wider implications of decisions.

c. Use of precautionary approach

SG 60	SG 80	SG 100
-	Decision-making processes use the precautionary approach and are based on best available information.	-
-	Yes	-

Rationale:

Decision processes employed by the California State Legislature (in establishing law and policy) and the CFGC (in implementing policy) exhibit a precautionary approach to pink shrimp management and a basis in best available scientific information. A precautionary approach based on ecosystem management is explicit in the MLMA (CDFW, 2001). The regulations establishing maximum count per pound and closed seasons were implemented to minimize effort on small shrimp and prevent fishing on spawning aggregations (CFGC 8841). Adoption of the BRD requirement was a precautionary approach to minimize bycatch of rebuilding groundfish stocks. Further strengthening of the BRD specifications was a proactive and precautionary approach to minimizing all bycatch, including eulachon, recently listed as threatened under the ESA (CDFW, 2015a; CFGC, 2015b; CDFW, 2001). The fleet's experimentation with LED lights on gear is part of the overall effort to minimize non-shrimp bycatch (Farrell, 2015).

The draft FMP addresses the precautionary approach directly in Section 6.1 by noting that the effect of the HRC, LED requirement and catch weighing requirements is expected to be a more precautionary approach to management (CDFW, 2021).

CDFW staff are in communication with ODFW staff and members of the Oregon fleet who are conducting research with respect to both the target species and P2 species and impacts. In this way the California pink shrimp fishery has access to the best available information, including new and emerging research results.

d. Accountability and transparency of management system and decision-making process

SG 60	SG 80	SG 100
Some information on the fishery's performance and management action is generally available on request to stakeholders.	Information on the fishery's performance and management action is available on request, and explanations are provided for any actions or lack of action associated with findings and relevant recommendations emerging from research, monitoring, evaluation and review activity.	Formal reporting to all interested stakeholders provides comprehensive information on the fishery's performance and management actions and describes how the management system responded to findings and relevant recommendations emerging from research, monitoring, evaluation and review activity.
Yes	Yes	No

Rationale:

CFGC meeting minutes and records of decisions are available online (CFGC, 2015a; 2015b).

CDFW enforcement officers fill out daily electronic reports of enforcement activities, although these reports cover all enforcement contacts and do not contain a separate code for pink shrimp (Farrell, 2015). Annual summary reports are generated from daily reports (CDFW, 2015b; 2015c).

With regard to finfish bycatch, observer coverage and ETP protections, the PFMC newsletters describe actions taken at Council meetings, committee openings and meeting schedules, and upcoming issues (PFMC, 2012d). The Federal Register provides notice of all proposed federal actions (cf. Federal Register, 2012; 2013)

Formal reporting to stakeholders is in the form of records of CFGC meetings and decisions, enforcement reports, and the series of information meetings and webinars described in 3.1.2b above. These are available online.

At present logbook data and overall fishery performance remain unanalyzed, so the standard of comprehensive information is not met. The draft FMP proposes processes to be used to evaluate the health of the stock and performance of management strategies on a periodic basis as part of the updating of the shrimp enhanced status report (ESR). The frequency of this updating is not yet specified.

e. Approach of dispute

SG 60	SG 80	SG 100
Although the management authority or fishery may be subject to continuing court challenges, it is not indicating a disrespect or defiance of the law by repeatedly violating the same law or regulation necessary for the sustainability for the fishery.	The management system or fishery is attempting to comply in a timely fashion with judicial decisions arising from any legal challenges.	The management system or fishery acts proactively to avoid legal disputes or rapidly implements judicial decisions arising from legal challenges.
Yes	Yes	Yes

Rationale:

At the time of the 2015 assessment the shrimp fishery had not been subjected to legal challenge (Kalvass, 2015). Implementation by the CFGC of the MLPA provisions on closed fishing areas provides an example of the timely response to the management system to judicial decisions (CDFW, 2012).

As another example, the process followed by the CDFW and CFGC for the controversial abalone recovery and management plan (ARMP) illustrates the ability of the management system to proactively avoid legal disputes. During the development of the ARMP, informal comments received through an advisory panel, workshops, letters, and the CDFW website were used to shape and revise the plan. A formal public review period included written and oral comments that were used to amend the plan prior to CFGC adoption. CDFW responded to all comments (Kalvass, 2015).

The active engagement of CDFW enforcement personnel with shrimp fishers and processors represents proactive action to anticipate and avoid legal disputes, particularly surrounding inter-state differences in gear regulations. Whereas previously CDFW management maintained a low level of engagement with the shrimp fishery, the series of meetings and webinars held since 2017 has increased the degree of consultation and communication (CDFW, 2021). If the FMP with its new requirements are adopted CDFW plans to conduct outreach and education with stakeholders.

References

CFGC, 2015a; 2015b; CCR 11120-11132; CCR 6250-6270; Hannah and Jones, 2014; Farrell, 2015; CDFW, 2001; CFGC 8841; CDFW, 2015a; 2015b; 2015c Farrell, 2015; Kalvass, 2015; PFMC, 2012d; Federal Register, 2012; 2013; CDFW, 2021.

Draft scoring range	≥80
Information gap indicator	More information sought As part of a full assessment more information would be sought on the degree of certainty of continuing annual stakeholder meetings as well as the frequency of evaluating management performance, stock status and impacts of regulations. More specifics will be sought on the nature and extent of the education and outreach programs about new requirements embedded in the FMP.

Overall Performance Indicator scores added from Client and Peer Review Draft Report stage

Overall Performance Indicator score	
Condition number (if relevant)	

PI 3.2.3 – Compliance and enforcement

Monitoring, control and surveillance mechanisms ensure the management measures in the fishery are enforced and complied with

a. MCS implementation

SG 60	SG 80	SG 100
Monitoring, control and surveillance mechanisms exist, and are implemented in the fishery and there is a reasonable expectation that they are effective.	A monitoring, control and surveillance system has been implemented in the fishery and has demonstrated an ability to enforce relevant management measures, strategies and/or rules.	A comprehensive monitoring, control and surveillance system has been implemented in the fishery and has demonstrated a consistent ability to enforce relevant management measures, strategies and/or rules.
Yes	Yes	Yes

Rationale:

The overall harvest strategy comprising seasons, maximum counts per pound, minimum mesh size and bycatch reduction devices is clear and enforceable. A comprehensive system of monitoring, control and surveillance for compliance and enforcement is in place, involving CDFW Enforcement, NMFS West Coast Groundfish Observer Program, and the US Coast Guard. The Groundfish Observer Program has a coverage target of approximately 15% of pink shrimp trips and monitors the biological parameters of the total catch (McVeigh, 2015).

CDFW enforcement officers conduct random dockside checks of compliance with regulations on count-per-pound and bycatch reduction device spacing (Farrell, 2015). Compliance with the count-per-pound regulation is reinforced by market preferences for larger shrimp. At-sea compliance with regulations (seasons, closed areas, licenses) is conducted by the US Coast Guard by vessel patrol. While fishing in the federal EEZ (3-200 miles offshore) vessels are also subject to federal rules and sanctions enforced by the US Coast Guard and the NMFS Office of Law Enforcement, such as the requirement (since 2008) that pink shrimp vessels be equipped with VMS (NMFS 2011a, 2011b, 2011c).

Fishery landings are monitored through state-issued fish tickets. Beginning in 2019 all landings data are entered directly by seafood buyers into an electronic database (E-Tix) managed by the Pacific States Marine Fisheries Commission (PSMFC) and accessible to CDFW staff (CDFW, 2021).

In 2018 CDFW, with the assistance of processors, reinitiated port sampling of shrimp. The goal is to incorporate sampling data with those of Oregon and Washington creating a coastwide data system. In addition, CDFW staff have renewed efforts to maintain a database of logbook data and to input backlogged data (CDFW, 2021).

CDFW enforcement does count-per-pound checks on a random basis. (Kalvass, 2015; Farrell, 2015). The system of enforcement monitoring and control has demonstrated a consistent ability to enforce management regulations (Farrell, 2015).

b. Sanctions

SG 60	SG 80	SG 100
Sanctions to deal with non-compliance exist and there is some evidence that they are applied.	Sanctions to deal with non-compliance exist, are consistently applied and thought to provide effective deterrence.	Sanctions to deal with non-compliance exist, are consistently applied and demonstrably provide effective deterrence.
Yes	Yes	Yes

Rationale:

Sanctions for non-compliance exist, defined in law and enforced through at-sea and dockside monitoring. CDFW enforcement officers issue tickets for non-compliance. Violations of commercial fishing regulations are penalized by fines or revocation of licenses (CDFW, 2015a; 2015e).

CDFW enforcement provides information on compliance and enforcement to the CDFW and CFGC through daily and annual reports. Effectiveness of sanctions is evidenced by the high rate of compliance. Good relationships with processors and the fleet have created a climate promoting informing enforcement of potential compliance issues. Season openings, BRD specifications, and count-per-pound are all fully enforceable regulations (Farrell, 2015).

c. Compliance

SG 60	SG 80	SG 100
Fishers are generally thought to comply with the management system for the fishery under assessment, including, when required, providing information of importance to the effective management of the fishery.	Some evidence exists to demonstrate fishers comply with the management system under assessment, including, when required, providing information of importance to the effective management of the fishery.	There is a high degree of confidence that fishers comply with the management system under assessment, including, providing information of importance to the effective management of the fishery.
Yes	Yes	No

Rationale:

As indicated in 3.2.3.b above, Season openings, BRD specifications, and count-per-pound are all fully enforceable regulations. State waters previously open to shrimp trawling were closed in 2008; shrimp trawling is now only allowed in federal waters (CDFW, 2021).

However, discussion with enforcement during the 2015 site review identified a source of complication for enforcement. California regulations regarding minimum mesh size and excluder grate spacing (2" in CA; ¾" in OR and WA) are slightly different from those in Oregon and Washington, requiring additional monitoring of California-licensed and Oregon-licensed vessels delivering into California ports. As a consequence of these differences in regulations, enforcement resources may not always be sufficient to catch violations. Reconciling the state differences in these regulations was identified as a regulatory change that would help enforcement make more effective use of limited resources (Farrell, 2015).

Otherwise, compliance is generally good, with good collaboration across enforcement agencies, control rules that are clear and enforceable and a coordinated monitoring and enforcement infrastructure. The issue of different state regulations does prevent the standard of a high degree of confidence in compliance in these areas from being met.

d. Systematic non-compliance

SG 60	SG 80	SG 100
-	There is no evidence of systematic non-compliance.	-
-	Yes	-

Rationale:

As described in 100b, there is no evidence of systematic non-compliance, however, different regulations affecting California and Oregon vessels pose monitoring complications for enforcement, as described in SG100c.

References

McVeigh, 2015; Farrell, 2015; NMFS 2011a, 2011b, 2011c; Kalvass, 2015; CDFW, 2015a; 2015e; CDFW, 2021.

Draft scoring range and information gap indicator added at Announcement Comment Draft Report stage

Draft scoring range	≥80
Information gap indicator	More information sought As part of a full assessment more specific information would be sought on the operation of the port sampling program and whether data are now regularly combined with those of OR and WA. More specific information on the status of logbook data entry and analysis would be sought. Updated information on enforcement resources, any efforts to standardize mesh size regulations across states and the degree of compliance would also be needed.

Overall Performance Indicator scores added from Client and Peer Review Draft Report stage	
Overall Performance Indicator score	
Condition number (if relevant)	

PI 3.2.4 – Monitoring and management performance evaluation

There is a system of monitoring and evaluating the performance of the fishery-specific management system against its objectives

There is effective and timely review of the fishery-specific management system

a. Evaluation coverage

SG 60	SG 80	SG 100
There are mechanisms in place to evaluate some parts of the fishery-specific management system.	There are mechanisms in place to evaluate key parts of the fishery-specific management system.	There are mechanisms in place to evaluate all parts of the fishery-specific management system.
Yes	Yes	No

Rationale

The monitoring and compliance components of management performance are evaluated annually by CDFW enforcement and reported in the annual newsletter (Farrell, 2015). The CFGC evaluates shrimp fishery management as issues arise (Kalvass, 2015).

The fishery has in place mechanisms to evaluate key aspects of the management system. Population indicators and bycatch are monitored through at-sea sampling through the WC GOP. Amount of landed catch is comprehensively monitored through dockside sampling and fish tickets. Performance of BRDs – in terms of effectiveness of bycatch reduction as well as impact on fishing operations – is monitored through onboard observer reports and stakeholder feedback.

The draft FMP proposes to include periodic review of the performance of the new target and limit reference points (CDFW, 2021). The FMP also proposes adopting methods similar to those used in OR and WA of accurately measuring the net weight of shrimp by accounting for ice weight.

The draft FMP states that CDFW will monitor the performance of the new management framework by analyzing catch, fleet participation, size, age and sex information. Data correction procedures will be evaluated.

Before 2018 regular dockside biological monitoring was not conducted by CDFW (Kalvass, 2015). In 2018 CDFW, with the assistance of processors, reinitiated port sampling of shrimp. The goal is to incorporate sampling data with those of Oregon and Washington creating a coastwide data system.

Basic economic performance of the fishery is annually evaluated in terms of ex-vessel price, landed quantities and value (cf. CDFW, 2015f).

Mandatory logbooks provide a database to support analysis of fishing location and effort, but resource constraints have prevented the logbook database from being kept up to date. By 2015, electronic files of logbook data were partially complete (Kalvass, 2015). CDFW staff have now renewed efforts to maintain a database of logbook data and to input backlogged data (CDFW, 2021).

However, a lack of information about the status of California data in the tri-state system and the timeframe for the full entry of logbook data means that there are not mechanisms in place to evaluate all parts of the fishery management system.

b. Internal and/or external review

SG 60	SG 80	SG 100
The fishery-specific management system is subject to occasional internal review.	The fishery-specific management system is subject to regular internal and occasional external review.	The fishery-specific management system is subject to regular internal and external review.
Yes	Yes	No

To the extent that the ODFW Annual Pink Shrimp Review identifies issues and performance indicators of relevance to the California shrimp fishery, it contains post-season summaries and is available online to CDFW and to the California shrimp fishery (cf. Hannah and Jones, 2014; 2015a). CDFW staff also discusses compliance and enforcement issues with CDFW enforcement (Farrell, 2015; Kalvass, 2015).

In addition, throughout the season CDFW enforcement and the WC GOP is involved in the continual monitoring of control rules, catch quantity, quality and size composition of catch, and bycatch.

In this manner the management system is subjected to regular internal review and limited external review. However, the review process and status of the draft FMP (internal CDFW review, public review and comment) is not indicated in the FMP document, nor is the procedure to be followed for FMP adoption and implementation.

The draft FMP contains plans for enhanced approaches for internal review, but does not specify their frequency. The FMP does not address the issue of external reviews.

References

Farrell, 2015; Kalvass, 2015; Hannah and Jones, 2014; 2015a; CDFW, 2015f; Frimodig et al., 2007; Frimodig, 2008; CDFW, 2021.

Draft scoring range and information gap indicator added at Announcement Comment Draft Report stage

Draft scoring range	≥80
Information gap indicator	<p>More information sought</p> <p>As part of a full assessment more specific information would be sought on the nature and frequency of evaluations of the new management framework and data correction procedures. Information would also be needed on the existence or plans for external reviews.</p> <p>More specific information on the status of logbook data entry and analysis would be sought. Information would be needed on the status of California biological sampling data within the tri-state system. Updated information on enforcement resources and the degree of compliance would also be needed.</p>

Overall Performance Indicator scores added from Client and Peer Review Draft Report stage	
Overall Performance Indicator score	-
Condition number (if relevant)	

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Wargo, LL and D. Ayres (2017). Washington Coastal Pink Shrimp Management Plan (Draft). Washington Department of Fish and Wildlife Fish Program, 48 Devonshire Road, Montesano, WA 98563. 41pp.

**Appendix C: Pink Shrimp Fishery Management Plan Initial Study with
Addendum.**



October 4, 2021

**NOTICE OF PREPARATION OF AN ENVIRONMENTAL DOCUMENT AND PUBLIC
SCOPING MEETING NOTICE FOR THE PINK SHRIMP FISHERY MANAGEMENT
PLAN PROJECT**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15050, the California Fish and Game Commission (Commission) is the Lead Agency responsible for the approval of a Fishery Management Plan (FMP) for the commercial pink shrimp (*Pandalus jordanii*) trawl fishery (proposed project). The California Department of Fish and Wildlife (Department) has prepared a draft FMP and is assisting in the preparation of an environmental document addressing the potential impacts associated with the proposed project that meet CEQA requirements (14 CCR §§ 750 *et seq.*). The purpose of this Notice of Preparation (NOP) is to provide an opportunity for the public, interested parties, and public agencies to comment on the scope and proposed content of the environmental document. A draft Initial Study (IS) has been prepared, which serves as a preliminary analysis of the project's potential impacts (see California Code of Regulations (CCR), Title. 14, § 781.5.), and is available at <https://wildlife.ca.gov/Notices> for public review and comment for a 30-day public review period from October 4, 2021 to November 3, 2021.

Pursuant to CEQA Guidelines Section 15082, responsible and trustee agencies and other interested parties, including members of the public, must submit any comments in response to this notice no later than 30 days after receipt of the notice. Written comments regarding the proposed scope of the environmental analysis can be sent to Anthony.Shiao@wildlife.ca.gov or by mail to the following address:

Attn: Anthony Shiao
California Department of Fish and Wildlife
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109

All comments must be received no later than November 3, 2021. Responsible agencies are requested to indicate their statutory responsibilities in connection with this project when responding.

Scoping Meeting:

The Department will hold a public scoping meeting on October 21, 2021, from 9:00 AM to 10:00 AM. This meeting will take place virtually. Please visit the Department's website at <https://wildlife.ca.gov/Notices> for additional information.

Project Location:

The project would establish a management framework for the California pink shrimp commercial trawl fishery through a fishery management plan (FMP). The range of this fishery is limited by a combination of biological and regulatory factors. Pink shrimp are found at depth shallower than 1,200 ft (~360 m) in sandy mud habitat (Dahlstrom 1973). Shrimp trawling is currently prohibited inside state waters (Fish and Game Code (FGC) §§ 8833, 8835, 8836, & 8842); it is also subject to exclusion from the federal Essential Fish Habitat Conservation Areas (EFHCA; 50 CFR §§ 660.11, 660.12, & 660.79). Figure 1 below represents the project area by incorporating the maximum depth where pink shrimps occur, the limit of the state jurisdiction, and existing EFHCAs.

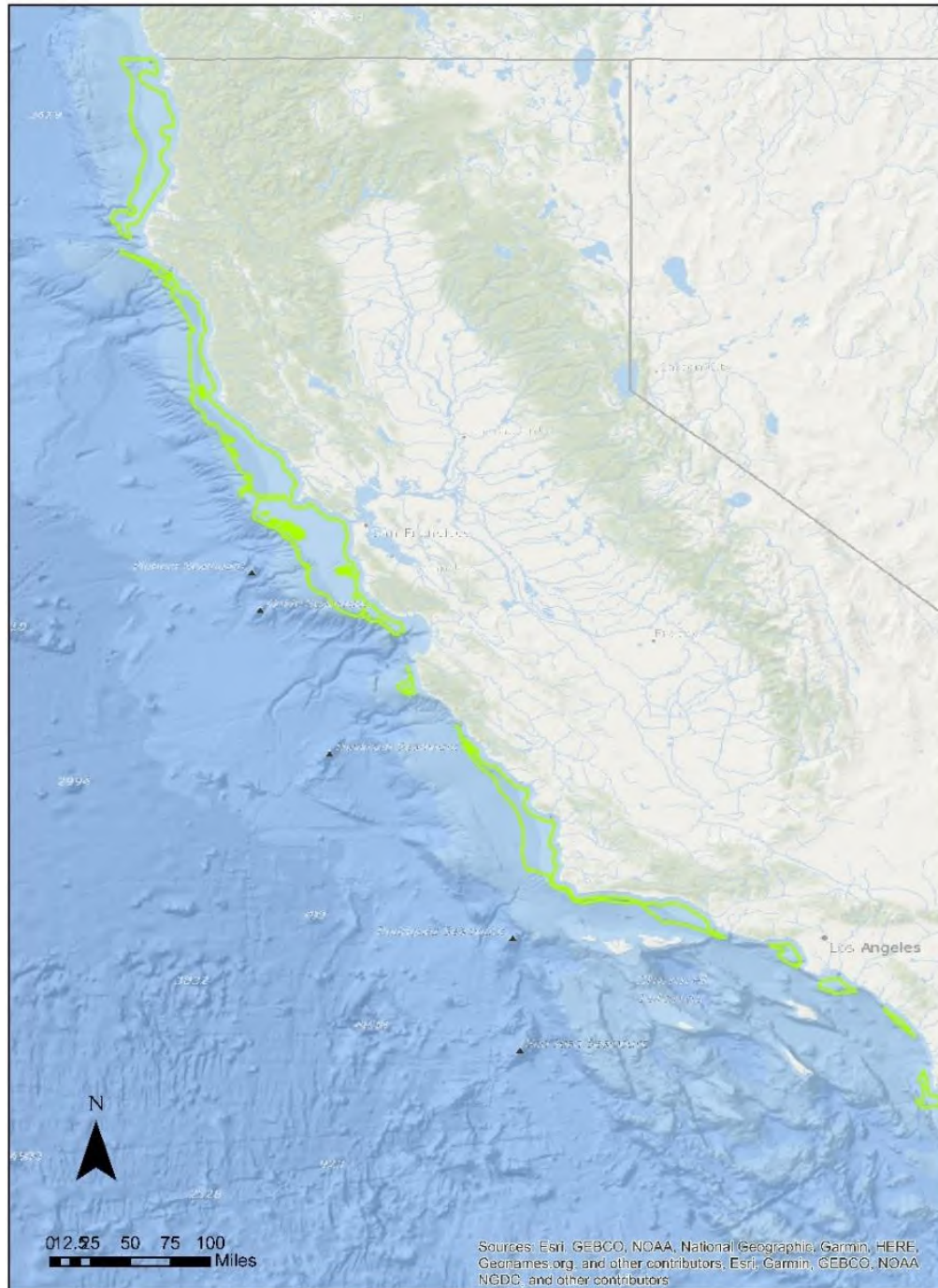


Figure 1. Project Area (Area outside of state jurisdiction and less than 360-meter depth off California Coast; bounded by green line with solid green areas denoting federal conservation areas where bottom trawling is prohibited.)

Description of project:

The proposed project is the pink shrimp FMP. The FMP will establish a comprehensive management framework for the commercial pink shrimp trawl fishery to be implemented through a concurrent rulemaking action. While pink shrimp trawling is prohibited in California state waters, it can still take place in federal waters. California state

government retains jurisdiction over the vessels that land pink shrimp in California ports. Oregon and Washington, which target the same pink shrimp stock, also exercise similar jurisdictions over landings occurring in their respective ports.

Pink shrimp (*Pandalus jordani*) is an oceanic shrimp species that range from southeast Alaska down through Baja California (Figure 2). However, they are only abundant enough to support a commercial fishery between British Columbia and Point Arguello, California during most years (Hannah and Jones 2007). As such most fishing activities in California have occurred north of Point Conception. Fishing south of Point Conception can be conducted under a general open access permit, as opposed to a limited-entry one (Title 14, California Code of Regulations (CCR), § 120.2).



Figure 2. Range of pink shrimp (*Pandalus jordani*).

The pink shrimp fishery runs from April 1 to October 31 of each year, though vessels may not start fishing until May based on a suite of market and environmental conditions. As mentioned above, California has prohibited shrimp trawling within state waters. However, fishing in federal waters off California is still allowed, and since 2016, the majority of shrimp caught off northern California waters were landed in Oregon as opposed to California (Figure 3).

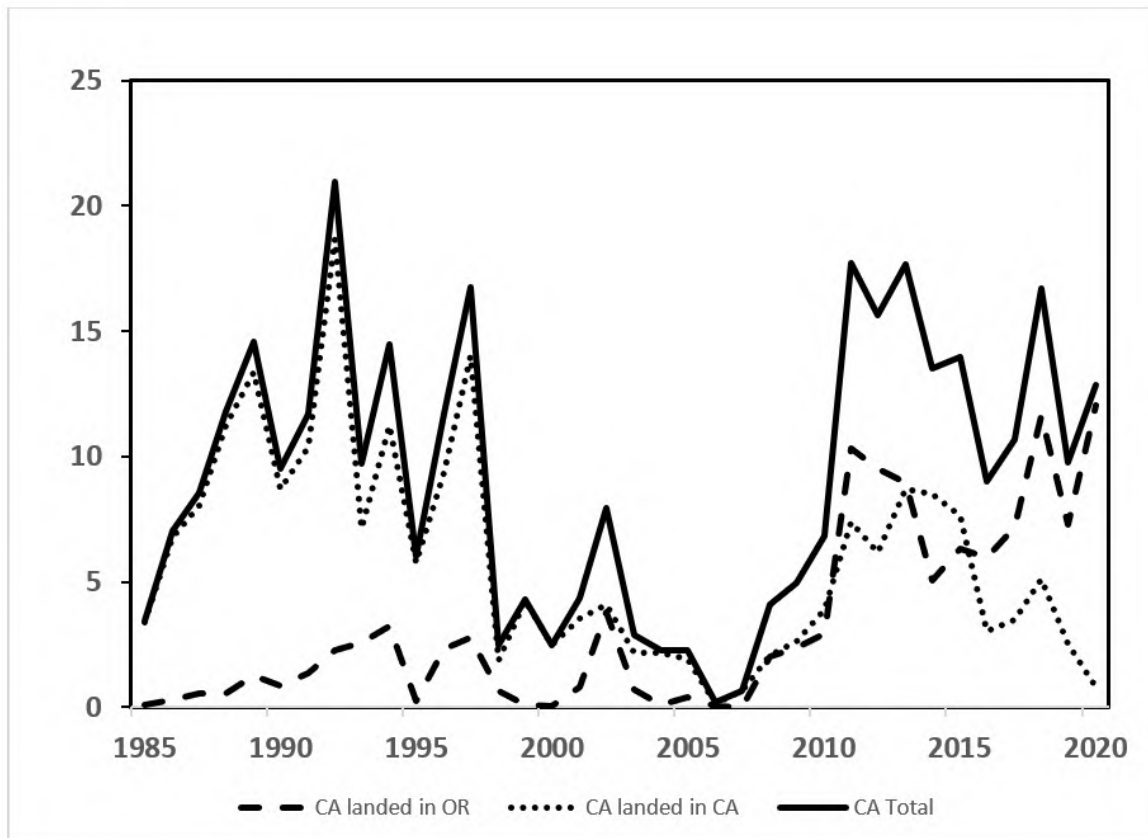


Figure 3. Landing state and weight of landings (million lb) of pink shrimp harvested in California waters, 1985-2020 (Source: CDFW MLDS).

The proposed FMP would establish a harvest control rule (HCR) for the commercial pink shrimp fishery utilizing catch reference points (June catch per trip) as a proxy for spawning stock biomass in a given year and an environmental indicator (sea level height) as a proxy for recruitment success. The reference points and the environmental indicators were developed by the Oregon Department of Fish and Wildlife (ODFW) and adopted by the Washington Department of Fish and Wildlife. Both states have incorporated these reference points into their pink shrimp FMPs. Use of these reference points by California would ensure uniform coastwide management of this fishery.

The FMP would also establish a requirement for all pink shrimp trawl vessels operating north of Point Conception to attach lights along the footrope of their trawl gear to reduce catch of non-target species. Research by ODFW and Pacific States Marine Fisheries Commission indicates that attaching LED lights on nets reduced eulachon bycatch by 90.5% and juvenile rockfish catch by 78%, with negligible impacts on shrimp retention (Hannah et al. 2015). Because of the threatened status of the southern distinct population segment of eulachon under the federal Endangered Species Act (75 FR 13012), the conservation of this fish species carries an utmost importance in the context of state and federal laws and policy. This effective, low-cost solution to address eulachon bycatch is currently being used voluntarily in California and regulations requiring LED use will be proposed in connection with this FMP. The adoption of this requirement will also bring California in line with the similar requirements in Oregon and

Washington. The requirement only applies to fishing activities north of Point Conception due to the rarity of both pink shrimp and eulachon further south.

The FMP would also prescribe a framework allowing fish businesses to estimate pink shrimp landings while the shrimps are mixed with ice. 14 CCR § 197 requires landing receipts to be recorded with the accurate weight of any fish landings, and Fish and Game Code § 8042 further requires seafood processors to pay landing fees by the number of pounds of fish delivered to them by fishermen. However, the fishery has been keeping its catch in ice until processing due to the speed at which the product degrades when out of ice. The new rule would allow the businesses to continue this practice but still maintain accountability under § 197.

Finally, the FMP will render Subsection 8842(b) of the California Fish and Game code inoperative, as applied to only the pink shrimp fishery once the implementing regulations are in place. This would remove ambiguity about the legality of pink shrimp trawling in state waters and clarify that prior to the authorization of any pink shrimp trawling in state waters the standards specified in 8842 (d) must be met.

Initial study addendum

Since the release of the Initial Study, which was circulated with the Notice of Preparation (NOP) of an environmental document that is to serve the functional equivalent of an Environmental Impact Report (EIR) pursuant to the Fish and Game Commission's Certified Regulatory Program (Cal. Code Regs., tit. 14, Section 781.5) on October 4, 2021, staff have identified the following minor clarifications and editorial changes to the description and analysis of the proposed project provided in the Initial Study. These updates do not result in a substantial change to the intent or content of the analysis or impact conclusions in the Initial Study. Shown in the Initial Study in **~~strikethrough~~** (for deleted text) and **underline** (for added text) format, these changes do not require re-circulation of the Initial Study.

- Information was added to the Initial Study section on Project Location that makes clear the areas affected by the proposed project are specific to coastal counties (i.e., Del Norte, Humboldt, and San Luis Obispo) where pink shrimp landings occur. While the geographic range of pink shrimp stretches along the Pacific coast of California, the pink shrimp fishery in California predominately occurs north of Point Conception with landings at ports within Del Norte, Humboldt, and San Luis Obispo Counties only. The analysis in the Initial Study evaluates both the affected counties as well as area of potential effect (i.e., geographic range which pink shrimp fishing may occur).
- Information was added to the Initial Study section on Surrounding Land Uses and Setting. The description in the text that refers to Figure 5 has been updated to clarify the specific counties where pink shrimp landing occurs by port.
- Information was added to the Initial Study section on Tribal Cultural Resources to reflect notification of the proposed project pursuant to the requirements of Assembly Bill (AB) 52.
- Other minor, non-substantive editorial changes were made to the Initial Study to improve clarity and consistency.

**CEQA appendix G:
Environmental checklist form**

1. **Project Title:** Pink (Ocean) Shrimp, *Pandalus Jordani*, Fishery Management Plan

2. **Lead Agency and Contact**

Melissa Miller-Henson, Executive Director
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

3. **Contact Person**

Anthony Shiao
California Department of Fish and Wildlife
1933 Cliff Drive, Suite 9
Santa Barbara, CA 93109

4. **Project Location**

The project would establish a management framework for the California pink shrimp commercial trawl fishery through a fishery management plan (FMP). The range of this fishery is limited by a combination of biological and regulatory factors.

Pink shrimp are found at depth shallower than 1,200 feet (~360 meters) in sandy mud habitat (Dahlstrom 1973). Shrimp trawling is currently prohibited inside state waters (Fish and Game Code (FGC) sections 8833, 8835, 8836, and 8842); it is also subject to exclusion from the federal essential fish habitat conservation areas (EFHCA; 50 Code of Federal Regulations, sections 660.11, 660.12, and 660.79). Figure 1 represents the project's area **of potential effects** by incorporating the maximum depth where pink shrimp occurs, the limit of the state jurisdiction, and existing EFHCAs. **While this area spans the coast of California (Figure 1), California's pink shrimp fishery predominately occurs north of Point Conception with landing occurring only at ports within Del Norte, Humboldt, and San Luis Obispo Counties (for additional information, see Surrounding Land Uses and Setting).**

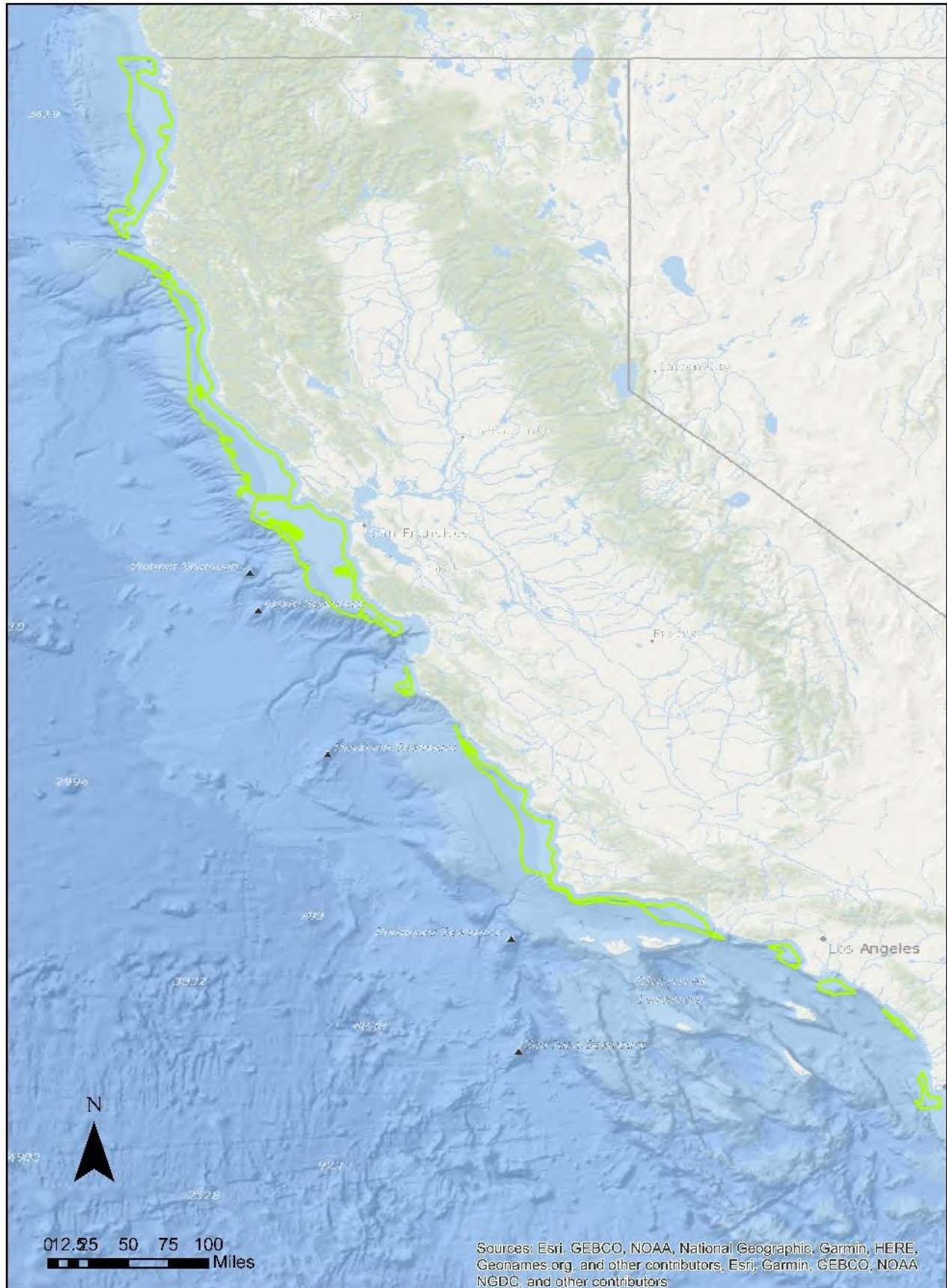


Figure 1. Project Area (Area outside of state jurisdiction and less than 360-meter depth off California Coast; bounded by green line with solid green areas denoting federal conservation areas where bottom trawling is prohibited.)

5. General Plan Designation: NA

6. Zoning: NA

7. Description of Project

The proposed project is the pink shrimp FMP. The FMP will establish a comprehensive management framework for the commercial pink shrimp trawl fishery to be implemented through a concurrent rulemaking action. While pink shrimp trawling is prohibited in California state waters, it can still take place in federal waters. California state government retains jurisdiction over the vessels that land pink shrimp in California ports. Oregon and Washington, which target the same pink shrimp stock, also exercise similar jurisdictions over landings occurring in their respective ports.

Pink shrimp (*Pandalus jordani*) is an oceanic shrimp species that range from southeast Alaska down through Baja California (Figure 2). However, it is only abundant enough to support a commercial fishery between British Columbia and Point Arguello, California during most years (Hannah and Jones 2007). As such, most fishing activities in California have occurred north of Point Conception. Fishing south of Point Conception can be conducted under a general open access permit, as opposed to a limited-entry permit (Title 14, California Code of Regulations (CCR), Section 120.2).



Figure 2. Range of pink shrimp (*Pandalus jordani*).

The pink shrimp fishery runs from April 1 to October 31 of each year, though vessels may not start fishing until May based on a suite of market and environmental conditions. As mentioned above, California has prohibited shrimp trawling within state waters. However, fishing in federal waters off California is still allowed, and since 2016, the majority of shrimp caught off northern California waters were landed in Oregon as opposed to California (Figure 3).

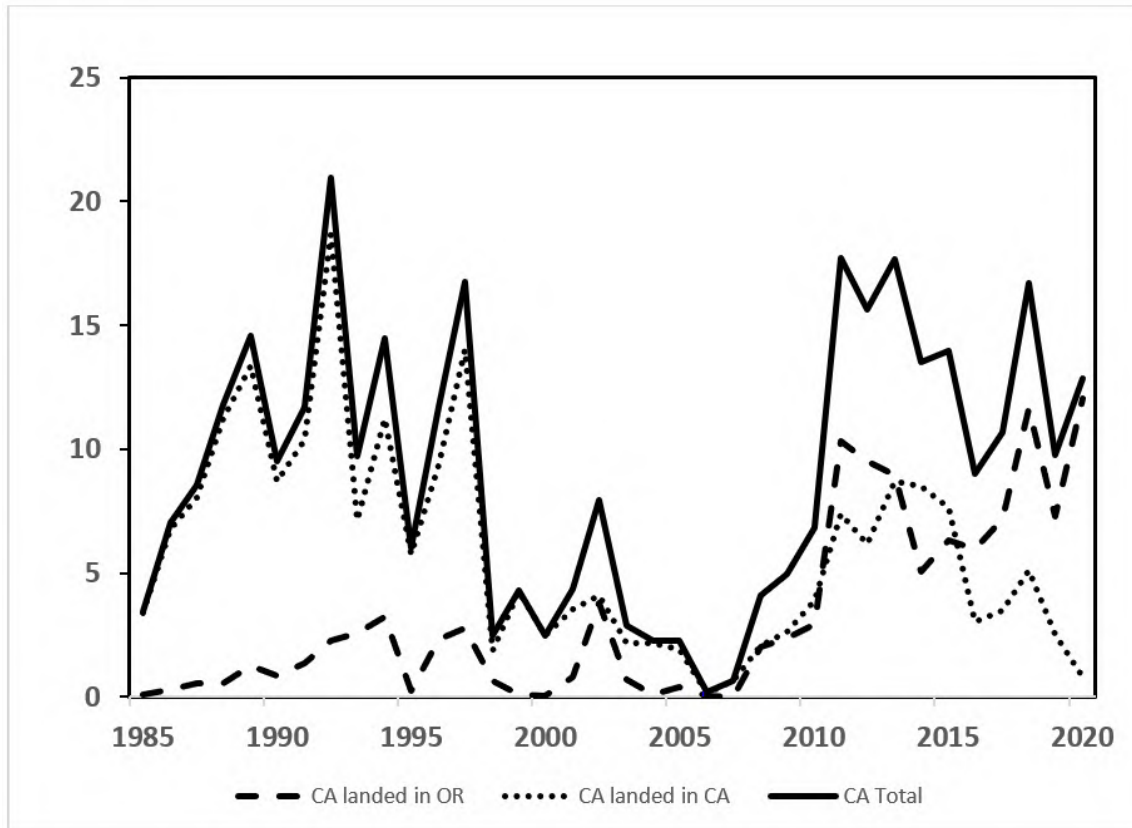


Figure 3. Landing state and weight of landings (million lb) of pink shrimp harvested in California waters, 1985-2020 (Source: CDFW MLDS).

The proposed FMP would establish a harvest control rule for the commercial pink shrimp fishery utilizing catch reference points (June catch per trip) as a proxy for spawning stock biomass in a given year and an environmental indicator (sea level height) as a proxy for recruitment success. The reference points and the environmental indicators were developed by the Oregon Department of Fish and Wildlife (ODFW) and adopted by the Washington Department of Fish and Wildlife. Both states have incorporated these reference points into their pink shrimp FMPs. Use of these reference points by California would ensure uniform coastwide management of this fishery.

The FMP would also establish a requirement for all pink shrimp trawl vessels operating north of Point Conception to attach lights along the footrope of their trawl gear to reduce catch of non-target species. Research by ODFW and Pacific States Marine Fisheries Commission indicates that attaching LED lights on nets reduced eulachon bycatch by 90.5% and juvenile rockfish catch by 78%, with negligible impacts on shrimp retention (Hannah et al. 2015). Because of the threatened status of the southern distinct population segment of eulachon under the federal Endangered Species Act (75 Federal Register 13012), the conservation of this fish species carries an utmost importance in the context of state and federal laws and policy. This effective, low-cost solution to address eulachon bycatch is currently being used voluntarily in California and regulations requiring LED use will be proposed in

connection with this FMP. The adoption of this requirement will also bring California in line with the similar requirements in Oregon and Washington. The requirement only applies to fishing activities north of Point Conception due to the rarity of both pink shrimp and eulachon further south.

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Finally, the FMP will render Subsection 8842(b) of the California Fish and Game code inoperative, as applied to only the pink shrimp fishery once the implementing regulations are in place. This would remove ambiguity about the legality of pink shrimp trawling in state waters and clarify that prior to the authorization of any pink shrimp trawling in state waters the standards specified in 8842 (d) must be met.

8. Surrounding Land Uses and Setting: Briefly Describe Project's Surroundings

There is no recreational fishery for pink shrimp (CDFW 2019). The commercial fishery for pink shrimp has been principally state-managed since 2004, although some federal regulations apply (CDFW 2019). Federal regulations include daily and monthly trip limits for incidental catches of groundfish species, use of a vessel monitoring system, onboard observer coverage, gear restrictions, and area restrictions protecting groundfish essential fish habitat (Code of Federal Regulations Title 50).

Trawling for pink shrimp is currently only allowed in federal waters. State waters were previously open to pink shrimp trawling in what was known as the Pink Shrimp Trawling Grounds (PSTG), which was a specifically defined area in state waters more than two nautical miles from the mainland shore between False Cape (Humboldt County) and Point Reyes (Marin County) (Frimodig et al. 2009). The closure of the PSTG by the **Fish and Game Commission** (Commission) in 2008 effectively banning all pink shrimp fishing within state waters (CDFW 2019).

The fishery is currently managed in California using a suite of established regulations (sections 120, 120.1 and 120.2, Title 14, CCR). No quota or catch limits currently exist for pink shrimp, but there is a seasonal closure from November 1 to April 14 to protect egg-bearing females. Additionally, trawl gear must contain a bycatch reduction device and have a minimum mesh size of 1.38 inches (36 millimeters) to allow for escapement of juvenile shrimp and a maximum count of 160 per pound effectively functions as a size limit.

The fishery is currently divided at Point Conception into northern and southern regions to manage fishing effort, with a separate permit required to fish in each

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region (14 CCR Section 120.2). The fishery in the northern region is limited entry. The fishery in the southern region is open access. However, regulations are the same for both regions.

Within the northern region, the primary pink shrimp beds have historically been located between Eureka and the Oregon border, in an area immediately north of Fort Bragg. Additionally, commercially harvestable densities of pink shrimp are sometimes present off Morro Bay. In the southern region, lower densities of pink shrimp are sometimes harvested along the mainland in the Santa Barbara Channel.

Historically, pink shrimp fishing activities have occurred off the coast of Del Norte, Humboldt, northern Mendocino, San Luis Obispo, and western Santa Barbara Counties (Figure 4). In more recent years, they have occurred almost exclusively off the coast of Del Norte-Humboldt Counties. For example, in 2019, the last year when there were significant pink shrimp landings in California, over 90% of pink shrimps landed in California were landed **at ports** in Crescent City and Eureka **which are located within Del Norte County and Humboldt County, respectively, and less than 3% of pink shrimps were landed in Morro Bay which is located in San Luis Obispo County** (Figure 5).

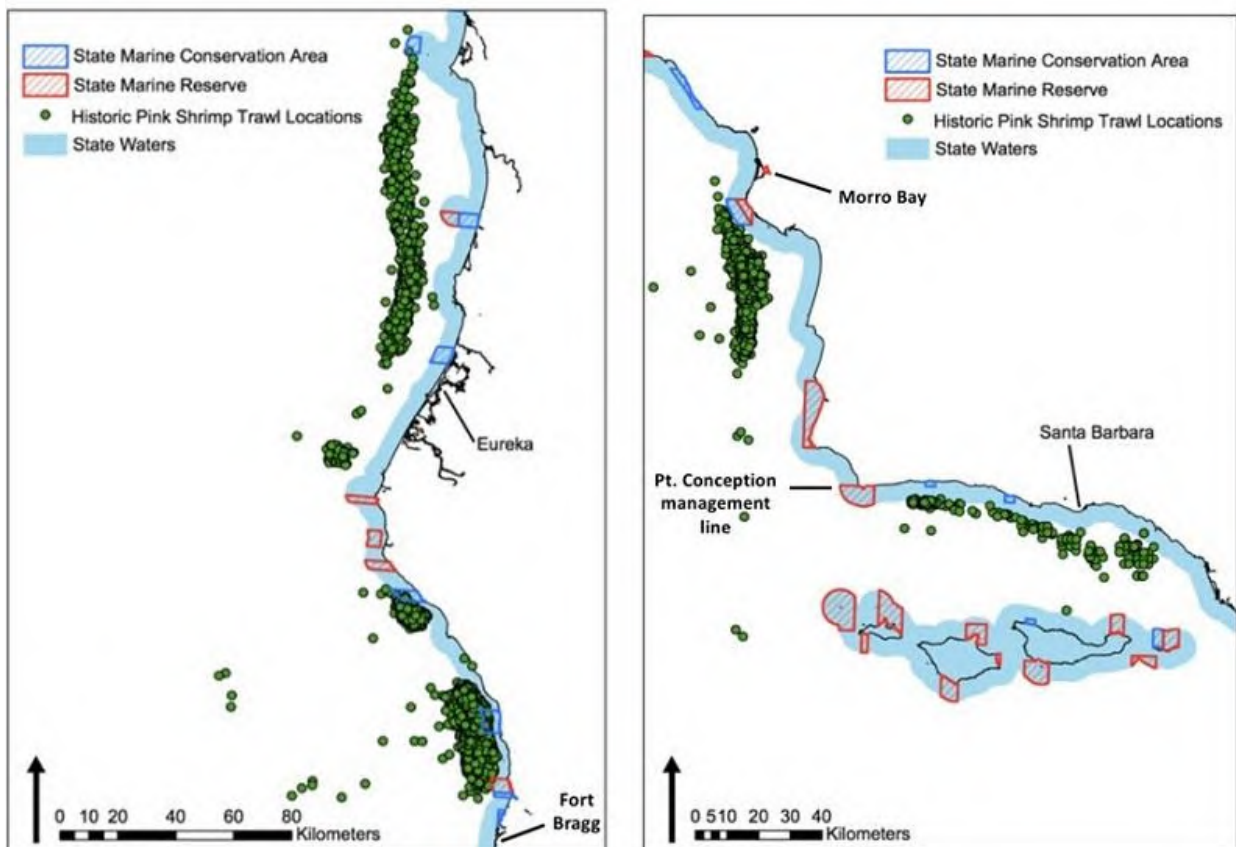


Figure 4. Historical Pink Shrimp trawl locations in (left) northern California and (right) southern California, 1999 to 2007 (CDFW Marine Log System (MLS); note that trawling is no longer allowed in state waters).

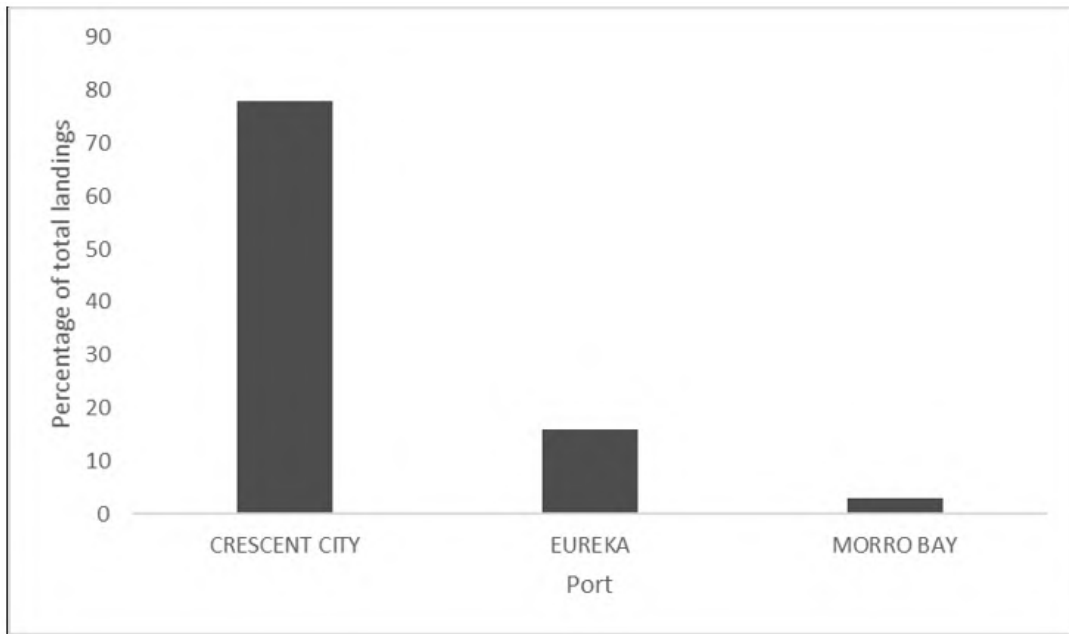


Figure 5. Percentage of California pink shrimp landings by port in 2019 (CDFW Marine Landings Data System).

9. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement):** NA
10. **Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code Section 21080.3.1? If so, has consultation begun?** See "Discussion of Checklist," section XVII.

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agriculture and Forestry Resources	<input type="checkbox"/>	Air Quality
<input checked="" type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology /Soils
<input type="checkbox"/>	Greenhouse Gas Emissions	<input type="checkbox"/>	Hazards & Hazardous Materials	<input type="checkbox"/>	Hydrology / Water Quality
<input type="checkbox"/>	Land Use / Planning	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Noise
<input type="checkbox"/>	Population / Housing	<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Transportation/Traffic	<input type="checkbox"/>	Tribal Cultural Resources	<input type="checkbox"/>	Utilities/Service Systems
<input type="checkbox"/>	Mandatory Findings of Significance				

DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☒ I find that the proposed project MAY have a significant effect or potentially significant effect on the environment, and a functional equivalent environmental analysis should be prepared under the Fish and Game Commission's certified regulatory program. (Cal. Code Regs., tit. 14, Section 781.5.)
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Melissa Miller-Henson, Executive Director
California Fish and Game Commission

Date

EVALUATION OF ENVIRONMENTAL IMPACTS

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used. Identify and state where they are available for review.
 - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
 - a. the significance criteria or threshold, if any, used to evaluate each question; and
 - b. the mitigation measure identified, if any, to reduce the impact to less than significance

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ISSUES	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<u>I. AESTHETICS.</u> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>II. AGRICULTURE AND FORESTRY RESOURCES.</u> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project ; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				

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a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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IV. BIOLOGICAL RESOURCES: Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game Wildlife (CDFW) or U.S. Fish and Wildlife Service ?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game CDFW or US Fish and Wildlife Service ?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan , Natural Community Conservation Plan , or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) Impact a native fish or wildlife species through authorized take in a commercial or recreational fishing or hunting program?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 ?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VI. Energy. Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VII. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42 .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil , as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>VIII. GREENHOUSE GAS EMISSIONS.</u> Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>IX. HAZARDS AND HAZARDOUS MATERIALS.</u> Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>X. HYDROLOGY AND WATER QUALITY.</u> Would the project:				
a) Violate any water quality standards or waste discharge requirements ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XI. LAND USE AND PLANNING.</u> Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XII. MINERAL RESOURCES.</u> Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XII. NOISE</u> -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XIV. POPULATION AND HOUSING.</u> Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XV. PUBLIC SERVICES.</u>				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<u>XVI. RECREATION.</u>				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>XVII. TRANSPORTATION/TRAFFIC.</u>				
Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<u>XVIII. TRIBAL CULTURAL RESOURCES</u>				
a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIX. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal , state , and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XXI. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note: Authority cited: Sections [21083](#) and [21083.05](#), [21083.09](#) Public Resources Code.

Reference: [Section 65088.4](#), Gov. Code; Sections [21073](#), [21074](#) [21080\(c\)](#), [21080.1](#), [21080.3](#), [21083](#), [21083.05](#), [21083.3](#), [21080.3.1](#), [21080.3.2](#), [21082.3](#), [21084.2](#), [21084.3](#), [21093](#), [21094](#), [21095](#), and [21151](#), Public Resources Code; *Sundstrom v. County of Mendocino*, (1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors*, (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

DISCUSSION OF CHECKLIST**I. Aesthetics.** Would the project:

- a) Have a substantial adverse effect on a scenic vista?

No Impact. A scenic vista is a view that possesses visual and aesthetic value from singular vantage points that offer unobstructed views of a viewshed, including underlying landform and overlaying landcover and areas designated as official scenic vistas along a roadway or trail. The project area is visible from every State Scenic Highway along the coast (Caltrans 2019). These routes are either official or eligible as California scenic highways and several scenic vistas along the coast. Commercial pink shrimp fishing activities are seasonal and do not leave behind permanent structures. During the open season for the commercial pink shrimp fishery, fishing activities may occur from 3-12 miles from shore. Trawl vessels may appear as elements in the visual setting.

The proposed project would not substantially change the level of fishing activity that currently occurs within the project area. The proposed project will help clarify that shrimp trawling cannot take place in any state waters. Therefore, the FMP would not have a substantial adverse effect on scenic vistas. Therefore, no impact to the visual composition of the existing scenic view would occur.

- b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a scenic highway?

No Impact. The project area is located exclusively within the marine environment. As such, there are no trees or historic buildings within a scenic highway located within the project area. The FMP and regulatory amendments would not substantially change the type or level of fishing activities such that would change the visual composition of an existing scenic resource within a scenic highway. Therefore, no impact would occur.

- c) Substantially degrade the existing visual character or quality of the site and its surroundings?

No Impact. The existing visual character and quality of the project area can be characterized as open ocean. The pink shrimp fishery is not currently known to substantially degrade the existing scenery of the coastline, and the FMP and regulatory amendments would not result in substantial changes in the type or level of fishing activities that would degrade the existing visual character or quality of the project site and its surroundings. Therefore, no impact would occur.

- d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

No Impact. The pink shrimp fishery must adhere to regulations set forth by the United States Coast Guard under Rule 26 (33 CFR Section 83.26), which stipulates how lights must be displayed by commercial fishing vessels operating or otherwise transiting at night. While the proposed project would require new footrope lighting devices on all shrimp trawl nets operated north of Point Conception, the lights would be submerged while in operation. More importantly, because pink shrimp are near the sea floor during the day and ascend into the water column at night, fishing vessels only target them using benthic trawl gear during the day when they are concentrated on the seafloor. Therefore, no impact would occur.

II. Agriculture. Would the project:

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- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program (FMMP) of the California Resources Agency, to non-agricultural use?
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No Impact. The project is within marine environments, it does not contain any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as mapped by the FMMP (CDC 2021). The pink shrimp fishery has no effect on terrestrial agriculture, and the project would not cause changes that would result in direct or indirect conversion of these types of farmland. In addition, there is no potential for conflict with zoning for agricultural use or a Williamson Act contract due to the project's location. Furthermore, pink shrimp fishing occurs in waters offshore of northern California, where conditions have not been and are very unlikely to be conducive towards aquaculture. Therefore, no impact would occur.

- c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code [PRC] section 12220(g)), timberland (as defined by PRC section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?
- d) Result in the loss of forest land or conversion of forest land to non-forest use?

No Impact. The project area is within marine environments and does not contain any forestland as defined by PRC, nor does it contain timberland, or zoned Timberland Production as defined by the Government Code. The pink shrimp fishery has no effect on forestland or other related resources, and the project would not cause changes that would result in direct or indirect conversion of or conflict with zoning related to forestland types of land uses. Therefore, there is no impact.

- e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

No Impact. The proposed project concerns management of a commercial marine fishery, and no change to land uses in the surrounding terrestrial areas is anticipated. Therefore, no impact would occur.

III. Air Quality. Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?

Less than Significant. The purpose of any air quality plan is to reduce criteria and toxic air pollutants in a particular region. These plans can be established by jurisdictional agencies such as air districts or through a general plan document. Typical air quality plans in given air districts address the feasibility and actions that air districts should take to meet or maintain state and federal clean air standards. Air quality plans within general plan documents are usually written as goals, actions, and policies that prohibit or limit land use development actions that would worsen air quality. Any project or plan that would result in short-term or long-term increases in air pollutants would be at risk of conflicting with or obstructing applicable air quality plans. Whether or not an actual conflict would occur depends on the specific limitations presented in the air quality plans and would vary by region.

The proposed project would affect pink shrimp trawling activities at docking locations and offshore along a stretch of coastline that includes the following counties (in order from north to south): Del Norte, Humboldt, Mendocino, Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange, and San

Diego. These counties are in the following air districts (in order from north to south): North Coast Unified Air Quality Management District (AQMD), Mendocino Air Quality Management District (AQMD), Northern Sonoma County Air Pollution Control District (APCD), Bay Area AQMD, Monterey Bay Air Resource District, San Luis Obispo APCD, Santa Barbara APCD, Ventura APCD, South Coast AQMD, and San Diego APCD. Tables 1 and 2 show the attainment status of each of the coastal counties for state and federal ozone and particulate matter standards (i.e., for particulate matter less than 2.5 microns in diameter (PM_{2.5}) and particulate matter less than 10 microns in diameter (PM₁₀)) pursuant to the terms of the California Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS).

Table 1. National Air Quality Attainment Statuses at Affected Counties

County	Ozone ^a	PM ₁₀	PM _{2.5} ^b
Del Norte	Unclassified/Attainment	Unclassified	Unclassified/Attainment
Humboldt	Unclassified/Attainment	Unclassified	Unclassified/Attainment
Mendocino	Unclassified/Attainment	Unclassified	Unclassified/Attainment
Sonoma	Nonattainment (Partial)	Unclassified	Unclassified/Attainment
Marin	Nonattainment	Unclassified	Unclassified/Attainment
San Francisco	Nonattainment	Unclassified	Unclassified/Attainment
San Mateo	Nonattainment	Unclassified	Unclassified/Attainment
Santa Cruz	Unclassified/Attainment	Unclassified	Unclassified/Attainment
Monterey	Unclassified/Attainment	Unclassified	Unclassified/Attainment
San Luis Obispo	Nonattainment (Partial)	Unclassified	Unclassified/Attainment
Santa Barbara	Unclassified/Attainment	Unclassified	Unclassified/Attainment
Ventura	Nonattainment	Unclassified	Unclassified/Attainment
Los Angeles	Nonattainment	Nonattainment (Partial)	Nonattainment (Partial)
Orange	Nonattainment	Nonattainment	Nonattainment
San Diego	Nonattainment (Partial)	Unclassified	Unclassified/Attainment

Table 2. State Air Quality Attainment Statuses at Affected Counties

County	Ozone ^a	PM ₁₀	PM _{2.5} ^b
Del Norte	Attainment	Attainment	Attainment
Humboldt	Attainment	Nonattainment	Attainment
Mendocino	Attainment	Nonattainment	Attainment
Sonoma	Attainment	Attainment	Attainment
Marin	Nonattainment	Nonattainment	Nonattainment
San Francisco	Nonattainment	Nonattainment	Nonattainment
San Mateo	Nonattainment	Nonattainment	Nonattainment

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County	Ozone^a	PM₁₀	PM_{2.5}^b
Santa Cruz	Nonattainment-Transitional	Nonattainment	Attainment
Monterey	Nonattainment-Transitional	Nonattainment	Attainment
San Luis Obispo	Nonattainment	Nonattainment	Attainment
Santa Barbara	Attainment	Nonattainment	Unclassified
Ventura	Nonattainment	Nonattainment	Attainment
Los Angeles	Nonattainment	Nonattainment	Nonattainment
Orange	Nonattainment	Nonattainment	Nonattainment
San Diego	Nonattainment	Nonattainment	Nonattainment

a. Reflects the national 2015 8-hour standard. The 1-hour standard was revoked on June 15, 2005.

b. Reflects the latest 2012 PM_{2.5} standard.

Source: CARB 2019; USEPA 2018

The proposed FMP would result in an updated management framework for the commercial pink shrimp fishery and would not directly conflict with or obstruct with the implementation of any applicable air quality plans or interfere with a vessel's ability to comply with the Commercial Harbor Craft Regulation (17 CCR Section 93118.5), which regulates the emissions from commercial harbor crafts such as pink shrimp trawl vessels. The project is not expected to change the number of vessels in the fishery. The number of commercial vessels that have landed pink shrimp in California has fluctuated substantially over the years based on a variety of factors. The number of active vessels fluctuated during the 1970s and mid-1990s with a peak in 1994 followed by a nearly steady decline to an all-time low in 2006 (Figure 6). The decline was driven at least in part by a voluntary federal buyout instituted for groundfish trawl vessel permits in 2003, which removed almost half of all trawl vessels on the west coast. Since 2006, the number of active vessels has increased steadily for more than 10 years, despite fluctuation in landings.

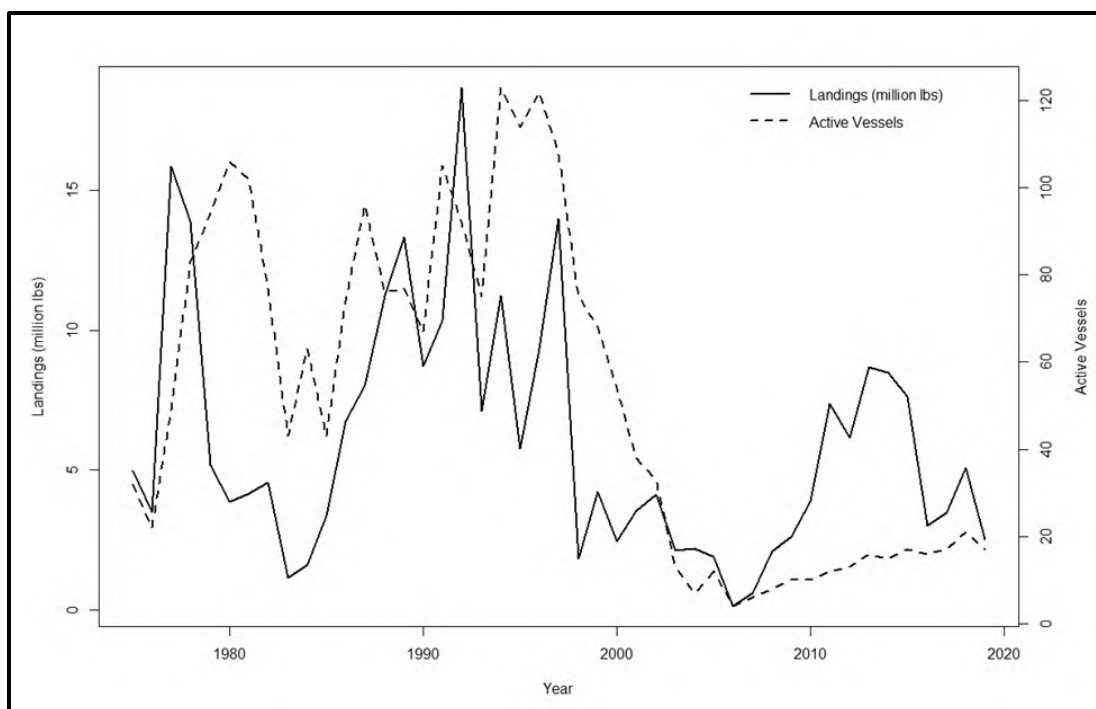


Figure 6. Number of active vessels and landings (million lb) in the California pink shrimp fishery from 1970-2019 (CDFW Marine Landings Data System 2020).

The proposal would implement a harvest control rule that is more restrictive than the current pink shrimp management framework, a footrope lighting device requirement that would marginally increase the cost of each trawl net, a clarification of existing rule, and streamlined weight estimation requirement. None of these changes can reasonably be expected to lead to increased number of participants in a fishery for which participation levels have always fluctuated substantially over time. Therefore, no significant impact is expected.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Less than Significant. The proposed project is the FMP for the commercial pink shrimp fishery. Movement, concentration, and location of fishing activities under the FMP would remain similar to baseline conditions; therefore, there will be limited emissions resulting from the proposed project. The operation of commercial pink shrimp vessels is not anticipated to exceed the significance thresholds for operational impacts (i.e., emission of nitrogen oxides (NO_x), reactive organic compounds (ROG), PM₁₀, and PM_{2.5}) in air districts adjacent to the project area (Table 3). In addition, the proposed project will not interfere with a vessel's ability to comply with the Commercial Harbor Craft Regulations. As explained above, the proposed project is not expected to cause the level of fishing activities to increase, and thus would not violate any air quality standard or contribute substantially to an existing or projected air quality violation. Therefore, the impact would be less than significant.

Table 3. Threshold of Significance for Each Affected Air District for Operational Impacts Only

Air District	NO _x	ROG	PM ₁₀	PM _{2.5}
North Coast Unified AQMD ^a	50 lb/day or 40 tons/year	50 lb/day or 40 tons/year	80 lb/day or 15 tons/year	50 lb/day or 10 tons/year

Air District	NO _x	ROG	PM ₁₀	PM _{2.5}
Mendocino County AQMD	42 lb/day	180 lb/day	82 lb/day	54 lb/day
San Luis Obispo County APCD	25 lb/day or 25 tons/year for ROG and NO _x combined	25 lb/day or 25 tons/year for ROG and NO _x combined	25 lb/day or 25 tons/year	1.25 lb/day (DPM ^b)
Santa Barbara County APCD	25 lb/day ROG and NO _x combined from motor vehicle trips only	25 lb/day ROG and NO _x combined from motor vehicle trips only	APCD New Source Review	APCD New Source Review
Northern Sonoma County APCD	40 tons/year	40 tons/year	15 tons/year	NA
Bay Area AQMD	54 lb/day or 10 tons/year	54 lb/day or 10 tons/year	80 lb/day or 15 tons/year	54 lb/day or 10 tons/year
Monterey Bay Air Resource District	137 lb/day	137 lb/day ^c	82 lb/day	55 lb/day
Ventura APCD	25 lb/day ^d	25 lb/day ^d	NA	NA
South Coast AQMD	55 lb/day	55 lb/day ^c	150 lb/day	55 lb/day
San Diego APCD ^e	250 lb/day or 40 tons/year	75 lbs/day or 13.7 tons/year	100 lb/day or 15 tons/yr	67 lb/day or 10 tons/yr

a. North Coast Unified AQMD has not adopted CEQA thresholds of significance. These thresholds reflect published screening level thresholds for air quality impact analyses for new sources.

b. Threshold for diesel particulate matter (DPM), which is a subset of PM_{2.5}.

c. Threshold for volatile organic compounds (VOC), a subset of ROG.

d. Applies to all areas outside of the Ojai Planning Area where the emission thresholds are 5 lb/day for ROG and 5 lb/day for NO_x.

e. San Diego APCD does not provide quantitative thresholds for determining the significance for mobile source-related impacts. However, San Diego APCD does specify Air Quality Impact Analysis trigger levels for new or modified stationary sources that may be used to evaluate emissions which could be discharged in the San Diego air basin from proposed land development projects (County of San Diego 2007).

NA = Not available

- c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

Less than Significant. Air quality is affected by emissions generated from the operation of gas and diesel engines in commercial fishing vessels. Pollutant emissions released when vessels are underway are influenced by a variety of factors including power source, engine size, fuel used, operating speed, and load. However, the proposed project is the pink shrimp FMP, which is not expected to increase the vessel capacity or change the long-term capacity limit of the fleet. No long-term adverse impacts to air quality are anticipated since no increased vessel

activity is expected as a result of adopting the proposed FMP or implementing regulations. As mentioned, the proposed project would not change any vessel's obligation to comply with the Commercial Harbor Craft Regulation. Thus, the project would not result in a cumulative net increase of any criteria pollutant for which the plan region is in non-attainment under an applicable federal or state ambient air quality standard.

d) Expose sensitive receptors to substantial pollutant concentrations?

No Impact. Sensitive receptors are typically defined as schools, hospitals, residential care facilities, daycare facilities, or other facilities that may house individuals with health conditions that would be adversely impacted by changes in air quality. The proposed project is the Pink Shrimp FMP and proposed regulatory amendments. The project does not propose uses or activities that would result in exposure of these identified sensitive receptors to significant pollutants. Therefore, no impact would occur.

e) Create objectionable odors affecting a substantial number of people?

No Impact. The proposed project involves the Pink Shrimp FMP and regulatory amendments to sustainably manage the pink shrimp resource and improve the long-term sustainability of the fishery in California. The project does not propose any construction or operational impacts that would significantly create objectionable odors affecting a substantial number. Therefore, no impact would occur.

IV. Biological Resources. Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (**CDFW**) or the U.S. Fish and Wildlife Service?

Less than Significant. There are a number of special status or otherwise protected species that are known to occur or may occur within the project area. The potential exists for any fish or invertebrate in the area of fishing to be taken. However, the only species that have been documented to have been taken in any notable amount is eulachon (Gustafson et al. 2021), which are not retained by the fishery. The species has comprised a small percentage of the total catch. In 2015, during which the largest number of eulachons were observed as bycatch in a given year, 32.34 mt of eulachon were estimated to have been caught in the fishery (Gustafson et al. 2021), which in turn landed over 3,400 mts of pink shrimp in California that year. To minimize the incidental catch of eulachon, the proposed pink shrimp FMP and its implementing regulation would prescribe the footrope lighting device that have shown to reduce eulachon bycatch by 90.5% (Hannah et al. 2015). As such any impact towards eulachon would be less than significant if not positive.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?

Less than Significant. Benthic trawling, in which fishing gear is dragged along the bottom of the ocean, can be detrimental to a variety of habitats. Relatively stable habitats, such as hard bottom and dense mud, experience the greatest changes and have the slowest recovery rates compared to less consolidated coarse sediments in areas of high natural disturbance (NRC 2002). Heavy trawling in mud habitats has been shown to decrease invertebrate density and diversity (Hannah et al. 2010). Bottom trawling is known to negatively impact biogenic (habitat-forming) species such as corals, sponges, and sea whips/pens, many of which are slow growing and may take decades to recover if broken or removed by a trawl. The proposed FMP was

developed pursuant to the mandates of MLMA, which requires the state to minimize adverse habitat effects to the extent practicable (FGC Section 7084). The proposed harvest control rule would restrict fishing season based on stock and environmental conditions. As such, the harvest control rule would serve to reduce the impact of trawling.

Furthermore, by clarifying that trawling is prohibited in state waters, the proposed project would help ensure that shrimp trawling does not occur in more stable nearshore habitats. Lastly, the Pacific Fishery Management Council has performed a comprehensive review of the effect of bottom trawling on various bottom habitats within the U.S. Exclusive Economic Zone along the west coast as part of its development of Amendment 28 of the Groundfish Fishery Management Plan (NOAA 2019). The proposed project would not change any fishing vessel's obligation to adhere to the bottom trawl gear prohibition that resulted from the effort, particularly the EFHCA (50 CFR sections 660.11, 660.12, and 660.79). As such any impact would be less than significant.

- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. The proposed project is the FMP for the commercial pink shrimp fishery. The project would not result in removal, fill, hydrologic interruption, or other activities that would result in a direct substantial adverse effect on federally protected wetlands. Therefore, no impact would occur.

- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Less than Significant Impact. The proposed project is the FMP for the commercial pink shrimp fishery. As discussed under questions IV (a-c), substantial impacts to habitats and substrates would not occur as a result of the FMP and the subsequent implementing regulations. Furthermore, there have been no documented interactions of threatened or endangered marine birds or mammals in this fishery. The 2019 Groundfish Endangered Species Workgroup Report compiled by the eponymous workgroup of the Pacific Fishery Management Council explored impacts from the groundfish fishery, which encompasses most of the trawling effort on the west coast, on various species listed under the federal ESA (PFMC 2019). During report compilation, the workgroup also received information on take of these species in other fisheries. The pink shrimp fishery was only mentioned as a source of mortality for eulachon and no other species. As such, no substantial interference with movement or effect to native wildlife nursery sites would occur. Therefore, no impact would occur.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. There are no Habitat Conservation Plans or Natural Community Conservation Plans within the project area. Jurisdiction of nearby local governments do not extend to the U.S. Exclusive Economic Zone outside of state boundary.

As for state jurisdiction, the Pink Shrimp FMP and proposed regulatory changes have been developed in conjunction with the goals of the MLMA and do not conflict with its provisions. Specifically, the MLMA calls for "conservation, sustainable use, and restoration of California's marine living resources." This includes the conservation of healthy and diverse marine

ecosystems and marine living resource,” including the development of FMPs. The FMP and regulatory amendments have been developed as a result of and in accordance with the MLMA policies; therefore, there would be no impact.

- (g) Impact a native fish or wildlife species through authorized take in a commercial or recreational fishing or hunting program?

Potentially Significant Impact. The Commission recognizes that any FMP, under appropriate circumstances, would allow for take of a fish species, such as pink shrimp. Any take through fishing effort increases mortality rates to the spawning stock beyond what would naturally occur in the absence of fishing. Out of an abundance of caution, the Commission plans to further evaluate whether the proposed FMP may have significant effects on the pink shrimp population. However, the goal of the FMP is to improve the long-term sustainability of the fishery in accordance with the MLMA by implementing a harvest control rule, and to help reduce bycatch of threatened eulachon through additional gear requirement. The Commission anticipates the potentially significant beneficial impacts to the pink shrimp and eulachon populations.

V. Cultural Resources. Would the project:

- a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?

No Impact. The proposed project would not directly or indirectly disturb any historical resources or alter activity around any known historical resources beyond baseline conditions. The pink shrimp fishery occurs offshore above soft bottom already subjected to high levels of natural disturbance due to tides and currents. Therefore, there would be no impact.

- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Less than Significant. California law (PRC sections 6313 & 6314) prohibits all unauthorized salvage and removal of artifacts from submerged archaeological sites in state waters, which are under the jurisdiction of State Lands Commission. The State Lands Commission has compiled a database of shipwrecks off the coast of California (CSLC 2021). The proposed project would not conflict with existing state law that protect these resources. Furthermore, the proposed project would not result in additional disturbance to the sea floor. As such it will not increase the risk of disturbance beyond the level that is already occurring. Therefore, any impact would be less than significant.

- c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

No Impact. The proposed project would not result in an increase in activities that would directly or indirectly destroy paleontological or geologic features. The proposed project would not result in additional disturbance to the sea floor. Therefore, no impact would occur.

- d) Disturb any human remains, including those interred outside of formal cemeteries?

Less Than Significant Impact. The proposed project would not result in excavation or other activities that have the potential to directly or indirectly lead to further disturbance to any known cemeteries or burial grounds beyond existing level of trawling activities. Therefore, any impact would be less than significant.

VI. Energy. Would the project:

- a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Less Than Significant Impact. The proposed project would not result in any construction that would require consumption of energy resources. As explained above, the proposed project is not expected to change level of participation and fishing effort in the fishery. The additional restrictions that would be implemented likewise are not expected to cause any effort from existing participants to increase. Therefore, any impact would be less than significant.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Less Than Significant Impact. Nothing in the proposed object would alter existing or future obligations of the pink shrimp fishery to comply with relevant laws and regulations, including those related to future plans for renewable energy or energy efficiency. Therefore, any impact would be less than significant.

VI. Geology and Soils. Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
- i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to California Geological Survey Special Publication 42.

No Impact. The project area is within a marine environment, and implementation of the FMP and regulatory amendments would not include construction of any structures that would directly expose people or structures to rupture of an earthquake fault. It is not anticipated that there would be a direct effect to fishermen regarding substantial adverse effects from rupture of a known earthquake fault from any changes to management of the fisheries from the project. Therefore, no impact would occur.

ii) Strong seismic ground shaking?

No Impact. The FMP pertains to the marine environment and would not directly expose or increase existing exposure of people or structures to seismic ground shaking that could occur on land. Therefore, no impact would occur.

iii) Seismic-related ground failure, including liquefaction?

No Impact. The FMP pertains to the marine environment and would not directly expose people or structures to seismic-related ground failure or liquefaction that could occur on land nor increase existing exposure. Therefore, no impact would occur.

iv) Landslides?

No Impact. The FMP pertains to the marine environment and would not directly expose people or structures to landslides that could occur on land or increase existing exposure. Therefore, no impact would occur.

b) Result in substantial soil erosion or the loss of topsoil?

No Impact. The project area is within a marine environment, and soil erosion and loss of topsoil are land-based occurrences. Therefore, the FMP would have no impact on soil erosion or loss of topsoil.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?

No Impact. The project area is within a marine environment, and unstable soils is a land-based occurrence. Therefore, the FMP would have no impact on unstable soils.

- d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

No Impact. The project does not involve the construction of buildings or structures that would create substantial risks to life or property. Therefore, the FMP would have no impact on expansive soils.

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?

No Impact. The project does not involve the construction of buildings or structures, nor propose the use of septic tanks as part of the FMP. Therefore, the FMP would have no impact on soils incapable of supporting septic tanks.

VII. Greenhouse Gas Emissions. Would the project:

- a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?

Less than Significant. The FMP would not result in an overall increase of fishing activities, and thus no increase of GHG emissions over existing conditions is expected. Trawling is also a seasonal activity, and thus have not and would not incur year-round GHG emissions. Commercial pink shrimp fishing is not expected to increase due to the adoption of this FMP and its implementing regulation. Thus, it would not substantially affect associated fuel combustion above existing conditions. Therefore, any impact would be less than significant.

- b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less than Significant. The proposed project is the FMP, which will be implemented in part through regulatory amendments to sustainably manage the pink shrimp resource and improve the long-term sustainability of the fishery. The FMP would not conflict with any adopted plans, policies, or regulations for the purpose of reducing GHG emissions. Therefore, any impact would be less than significant.

VIII. Hazards and Hazardous Materials. Would the project:

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less than Significant Impact. The proposed project is an FMP for the commercial pink shrimp fishery. Commercial fishing for pink shrimp does not generate any hazardous wastes that would create a significant hazard to the public or the environment. Because the level of fishing activities is not expected to change, the levels of waste transport, use, and disposal are not expected to change either. Therefore, any impact would be less than significant.

- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and/or accident conditions involving the release of hazardous materials into the environment?

Less than Significant Impact. The proposed project is an FMP for the commercial pink shrimp fishery. Commercial fishing for pink shrimp does not generate any hazardous wastes that would create a significant hazard to the public or the environment. Because the level of fishing

activities is not expected to change, the level of waste spillage due to accidents not expected to change either. Therefore, any impact would be less than significant.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No Impact. The proposed project is an FMP for the commercial pink shrimp fishery. The fishery does not take place within 3 miles from shore. Therefore, no impact would occur.

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No Impact. The pink shrimp fishery occurs offshore outside of state waters. None of the sites listed by California Department of Toxic Substances would be impacted by fishing activities from the pink shrimp fishery (CDTS 2021). The proposed project would not interfere with cleanup efforts, nor would it exacerbate hazardous conditions at the sites. Therefore, no impact would occur.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

No Impact. Commercial pink shrimp fishing occurs offshore and does not currently interfere with airport operations or air traffic that would result in the exposure of people to a safety hazard. Therefore, no impact would occur.

- f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

No Impact. The proposed project is an FMP for the commercial pink shrimp fishery. Commercial pink shrimp fishing occurs offshore and would not interfere with airport operations or result in any changes to the air traffic patterns that would expose people to a safety hazard. Therefore, no impact would occur.

- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No Impact. The proposed project is an FMP for the commercial pink shrimp FMP. The FMP would not substantially change the level of fishing effort that is currently occurring within the project area. As such, the proposed project would not modify or interfere with any existing emergency response plan or emergency evacuation plan. Therefore, there would be no impact.

- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No Impact. The project area is within the marine environment and is not subject to wildfires. Therefore, no impact would occur.

IX. Hydrology and Water Quality. Would the project:

- a) Violate any water quality standards or waste discharge requirements?

No Impact. The proposed project is an FMP for the commercial pink shrimp FMP. There is no known contribution to the degradation of water quality nor is there known discharge of pollutants to the environment associated with pink shrimp commercial fishing. Therefore, no impact would occur.

- b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?

No Impact. The proposed project is an FMP for the commercial pink shrimp FMP. The project occurs within the marine environment and would not affect groundwater supplies or recharge. Furthermore, no facilities constructed with impervious surfaces that could affect groundwater are proposed as part of this project. Therefore, no impact would occur.

- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial on- or offsite erosion or siltation?

No Impact. The proposed project is an FMP for the commercial pink shrimp FMP. The project occurs within the marine environment. No changes to land use are proposed as part of this project that would modify, either directly or indirectly, existing drainage patterns of any built structures, facilities, or hydrologic features that may exist in the project area in a manner which would result in substantial on- or offsite erosion or siltation. Therefore, no impact would occur.

- d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in on- or offsite flooding?

No Impact. As discussed under question IX (c), the project occurs within the marine environment and no changes to land use are proposed as part of this project that would affect structures, alter existing drainage patterns or other hydrologic features that could affect existing patterns of surface runoff or result in on- or off-site flooding from surface runoff. Therefore, no impact would occur.

- e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

No Impact. As discussed under questions IX (c) and (d), the project is within the marine environment and no land use changes are proposed; as such, there would be no contribution to runoff water that would exceed the capacity of existing or planned stormwater drainage systems. In addition, the project would not result in changes to facilities, impervious surfaces, or other structures or stormwater drainage systems such that runoff volumes, flows, or quality of polluted runoff into stormwater drainage systems would be affected. Therefore, no impact would occur.

- f) Otherwise substantially degrade water quality?

No Impact. As discussed under questions IX (a) and (c-d), the project does not propose any land use change nor would it create or contribute to discharge of pollutants into the environment that substantially degrade water quality. Therefore, no impact would occur.

- g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

No Impact. No housing is proposed as part of the project. Therefore, would be no impact to housing within a Flood Hazard Boundary or other flood hazard delineation map.

- h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?

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No Impact. No structures are proposed as part of the project. Therefore, there would be no impact to the 100-year flood hazard area or flood flows.

- i) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?

No Impact. The proposed project is located within the marine environment. There would be no effect related to or from flooding as a result of a levee or dam, as those types of events do not occur in the project area. Therefore, no impact would occur.

- j) Inundation by seiche, tsunami, or mudflow?

No Impact. Seiche and mudflow are hazards generated primarily in terrestrial environments that could affect structures and people on land nearby to inland bodies of water and other inland hydrologic features. However, the proposed project involves only commercial fishing activities, any operating fishing vessels in the offshore, open ocean environment would not increase the risk or vulnerability to hazards from inundation by seiche or mudflow. While tsunamis may travel over open ocean, they do not create impact on open ocean. Therefore, no impact would occur.

X. Land Use and Planning. Would the project:

- a) Physically divide an established community?

No Impact. The proposed project is an FMP for the commercial pink shrimp FMP. The fishery takes place at least 3 nautical miles away from shore. No communities would be divided, either directly or indirectly, from implementation of the FMP and regulatory amendments. Therefore, no impact would occur.

- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

No Impact. The FMP and regulatory amendments would not conflict with any existing land use plan, policy, or regulation because these regulatory changes are focused on management of the fishery which the ~~Department~~**Commission** has authority. None of the proposed changes would alter existing obligations that pink shrimp trawl vessels must meet regarding existing state or federal area restrictions. Therefore, no impact would occur.

- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

No Impact. The project area is not subject to a habitat conservation plan or natural community conservation plan. The proposed project involves the preparation of an FMP to sustainably manage the pink shrimp resource and improve the long-term sustainability of the fishery. As mentioned above, activities from the proposed project is not expected to overlap with any of the federal MPAs. Therefore, no impact would occur.

XI. Mineral Resources. Would the project:

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

No Impact. Several oil and gas leases are currently active in federal waters off southern California. The most recent sale occurred in 1984, and no new ones have been proposed (BOEM 2021d). The FMP pertains to the operating of fishing vessels and would not affect the production or extraction of any mineral resources. Fishing vessels would continue to abide by

existing rules concerning existing operations extracting mineral resources, as well as any future operations that may occur. Thus, there would be no loss of any known mineral resources, or preclusion of future access to any mineral resources. Therefore, no impact would occur.

- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

No Impact. Since no oil and gas extraction sites are located within the project area, the FMP and regulatory amendments would not affect the production or extraction of those resources. Thus, there would be no loss of or preclusion of future access to any mineral resources. Therefore, no impact would occur.

XII. Noise. Would the project:

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

No Impact. The proposed project is an FMP for the commercial pink shrimp fishery. The project would not result in any construction activity that would generate noise disturbance nor would it increase noise levels compared to baseline conditions. Therefore, no impact would occur.

- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

No Impact. As discussed in question XII (a), the project would not result in any construction or other activities that would generate groundborne vibration or groundborne noise levels. Therefore, no impact would occur.

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

No Impact. The proposed project is an FMP for the commercial pink shrimp fishery. The project would not result in any permanent, fixed noise sources nor would it result in a substantial increase in ambient noise levels in the project vicinity above baseline conditions. Therefore, no impact would occur.

- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

No Impact. The proposed project is an FMP for the commercial pink shrimp fishery. No construction is proposed a part of the project that would result in temporary or periodic noise disturbances. Therefore, no impact would occur.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. The proposed project involves the preparation of a Pink Shrimp FMP to sustainably manage the pink shrimp resource and improve the long-term sustainability of the fishery. There would be no substantial effect on the existing noise conditions from implementation of the proposed project. In addition, the project is offshore and not located near sensitive receptors. Therefore, no impact would occur.

- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. Similar to question XII (e), there would be no substantial effect on the existing noise conditions from implementation of the proposed project and no sensitive receptors would be located near the vicinity of a private airstrip. Therefore, no impact would occur.

XIII. Population and Housing. Would the project:

- a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

No Impact. The FMP would not include construction of new housing or commercial businesses. Therefore, no direct population growth would result from implementation of the FMP or regulatory amendments. In addition, the proposed changes would not require or indirectly cause any new construction or any infrastructure modification, and no additional temporary or permanent staff would be needed for operations and maintenance of the fishery. Therefore, no impact would occur.

- b) Displace substantial numbers of existing homes, necessitating the construction of replacement housing elsewhere?

No Impact. The FMP would not remove any homes or require construction of replacement housing. Therefore, no impact would occur.

- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

No Impact. The FMP would not displace any people or require construction of replacement housing. Therefore, no impact would occur.

XIV. Public Services. Would the project:

- a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?

No Impact. No construction of any new government facilities or the alteration of any existing government facilities that would increase the demand for fire protection services is proposed as part of the project. In addition, the project area is within the marine environment and the potential for fires would be limited to those on board of fishing vessels. The FMP and regulatory amendment would not substantially increase the amount of vessels in the project area or the demand for fire services. Therefore, no impact would occur.

Police protection?

No Impact. The FMP would not involve the construction of any new government facilities or the alteration of any existing government facilities that would increase the demand for police protection services. In addition, the FMP would not substantially increase the amount of vessels in the project area or the demand for police or other law enforcement services. Therefore, no impact would occur.

Schools?

No Impact. The FMP would not involve the construction or alternation facilities that would increase the demand for schools. Therefore, no impact would occur.

Parks?

No Impact. The FMP would not involve the construction or alteration of any facilities that would increase the demand for parks. Therefore, no impact would occur.

Other public facilities?

No Impact. The FMP would not involve the construction or alteration of any facilities that would increase the demand for other public facilities. Therefore, no impact would occur.

XV.Recreation. Would the project:

- a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No Impact. The proposed project would not result in increased use of recreational facilities in neighborhood or regional parks above existing conditions. Pink shrimps are not targeted recreationally, and as such no recreational facility is involved. As a result, no new construction or expansion would be required. Therefore, no impact would occur.

XVI. Transportation/Traffic. Would the project:

- a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

No impact. The proposed project would not conflict with any plans or policies related to circulation. The FMP and regulatory amendments would not conflict with the performance of existing circulation systems for traffic. Therefore, no impact would occur.

- b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

No Impact. The proposed project is located within the marine environment and is not subject to any congestion management program for roads or highways. Therefore, no impact would occur.

- c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

No Impact. The proposed project is within the marine environment and implementation of the project would not affect any air traffic patterns. Therefore, no impact would occur.

- d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No Impact. No new facilities would be constructed under the FMP, and implementation of these changes would not involve any design feature related to any transportation or traffic-related infrastructure. Therefore, no impact would occur.

- e) Result in inadequate emergency access?

No Impact. The proposed project would not change emergency access within the project area. Therefore, no impact would occur.

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- f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

No Impact. The proposed project is located within the marine environment. The FMP would not affect adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities. Therefore, no impact would occur.

XVII. Tribal Cultural Resources. Would the project:

- a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code (**PCR**) section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 - ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

No Impact. Tribal representatives are considered experts appropriate for providing substantial evidence regarding the locations, types, and significance of tribal cultural resources within their traditionally and cultural affiliated geographic area (PRC Section 21080.3.1(a)). In accordance with Assembly Bill (AB) 52, the Commission and CDFW jointly notified Native American tribes whose interests or cultural affiliations coincide with the project's area of potential effects, as identified by the Native American Heritage Commission (NAHC). The tribes were sent notification letters on October 22, 2021, informing them of the proposed project and asking them of any knowledge or information about tribal cultural resources they may have. To date (November 15, 2021), neither the Commission nor CDFW have received any responses to these notification letters. Moreover, a search of the Sacred Lands File (SLF) that would identify any tribal cultural resources or sacred lands in the project's area of potential effect was requested by the CDFW; however, NAHC indicated that a records search cannot be conducted as the project is located outside of the SLF search area (NAHC, personal communication, August 23, 2021).

Both the Commission and CDFW are committed to open communication with Tribes under their respective consultation policies (CDFW's Tribal Communication and Consultation Policy, which is available through the CDFW's Tribal Affairs webpage at <https://www.wildlife.ca.gov/General-Counsel/Tribal-Affairs>; Commission's Tribal Consultation Policy, which is available through the Commission's Policies webpage at <http://www.fgc.ca.gov/policy/p4misc.aspx#tribal>). **Prior to the October 22, 2021, notification letter,** CDFW has initiated communication with Tribes on issues concerning pink shrimp management on July 10, 2021. **Department CDFW** staff received a **response request for additional information** from **a representative of** the Rincon Band of Luiseño Indians (**Tribal Representative**) **requesting further discussion** on August 6, 2021. **Department CDFW** staff then held a discussion with **the Tribal Representative** **from the tribe** on August 31, 2021. During the discussion, staff explained to the **Tribal Representative** the fishery's background and the details of the proposed project. **While no tribal cultural resources issues were specifically identified,** **the Tribal Representative** raised some **general** concerns over the environmental impact of trawl fishing **generally, and, Department**

CDFW staff ~~reassured the Representative~~ **clarified** that **the project does not propose to open any new trawling grounds; therefore,** shrimp trawling will continue to be prohibited inside state waters.

XVIII. Utilities. Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

No Impact. The proposed project is an FMP for the commercial pink shrimp fishery. No land use changes or development are proposed as part of the project which would generate wastewater requiring treatment. Therefore, no impact would occur.

- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

No Impact. The FMP would not include any facilities that would require water and would not increase the demand for water. In addition, the proposed project would not result in impact related to construction of new or expanded wastewater treatment facilities. Therefore, no impact would occur.

- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

No Impact. The proposed project is an FMP for the commercial pink shrimp fishery. Implementation of the project would not result in land use change or development that would generate stormwater that would require the construction of new storm water drainage facilities or the expansion of existing facilities within the project area. Therefore, no impact would occur.

- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

No Impact. The FMP would not include any facilities that would require water and would not increase the demand for water. Therefore, no impact would occur.

- e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand, in addition to the provider's existing commitments?

No Impact. See discussion under XVIII (a). There would be no impact related to wastewater treatment capacity.

- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

No Impact. Although some solid waste is generated with fishing activities, implementation of the FMP and regulatory amendments would not result in an overall increase in solid waste generated by the fishery. Therefore, there would be no impact on landfill capacity.

- g) Comply with federal, state, and local statutes and regulations related to solid waste?

No Impact. The FMP would not result in a change in compliance with solid waste regulations. Therefore, no impact would occur.

- h) Interfere with utilities?

No Impact. Fishing activities are not known to interfere with underwater cable or other submerged utilities. Therefore, no impact would occur.

XIX. Mandatory Findings of Significance.

- a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory?

No Impact. As evaluated in this Initial Study, the proposed project would not substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare, or threatened species, or eliminate important examples of the major periods of California history or prehistory. The proposed FMP would benefit the Pink Shrimp fishery by adaptively managing it to ensure the long-term health of the resource. The proposed management changes, which include the implementation of harvest control rule, the footrope lighting device requirement, and the clarification of prohibiting bottom trawling within state waters all serve to protect the environment and conserve natural resources.

- b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)

Less Than Significant Impact. The potential for adverse cumulative effects were considered in the response to each question in sections I through XIX of this Initial Study. The Bureau of Ocean Energy Management is in the process of considering an offshore wind energy project off southern Humboldt County and Morro Bay (BOEM 2021a). In its 2021 SB 100 Joint Agency Report in March 2021 (CEC 2021), the state specifically noted fishing as a competing use for offshore wind energy development. However, the currently proposed area for the wind energy project is placed beyond the depth of pink shrimp habitat (BOEM 2021b; BOEM 2021c). Furthermore, nothing in the proposed project would change the fishery’s obligation that may arise from the approval of these projects.

On a separate note, one of the main impetuses for the development of the project is to help the pink shrimp fishery in California obtain the Marine Stewardship Council (MSC) certification. The certification of the fishery in Oregon but not California is the primary reason why fishing vessels that harvest shrimp off California often choose to make a longer trip into Oregon ports to land their catch (Figure 3). By adopting the FMP and incorporating the same harvest control rule that Oregon and Washington adopted, the Department is expecting to help its fishery obtain MSC certification.

It is important to note that the MSC certification is performed by a private third-party and is not guaranteed by the adoption of the FMP. Even if the certification effort is successful, the overall level of fishing activities is not expected to increase. As Figure 7 shows, while the number of vessels landing in California did rise following Oregon’s MSC certification in 2007, it did so very slowly and bore no relation to the amount of landings, not to mention that around that time, landings increased in both Oregon, where the fishery is MSC-certified, as well as California, where the fishery is not. More importantly, when Washington was certified in 2015, the slow increase in the number of vessels did not accelerate. This suggests that the number of vessels willing to participate in the fishery is likely determined by factors other than MSC certifications. California’s potential MSC certification is thus unlikely to affect the overall number of fishing vessels in the ocean.

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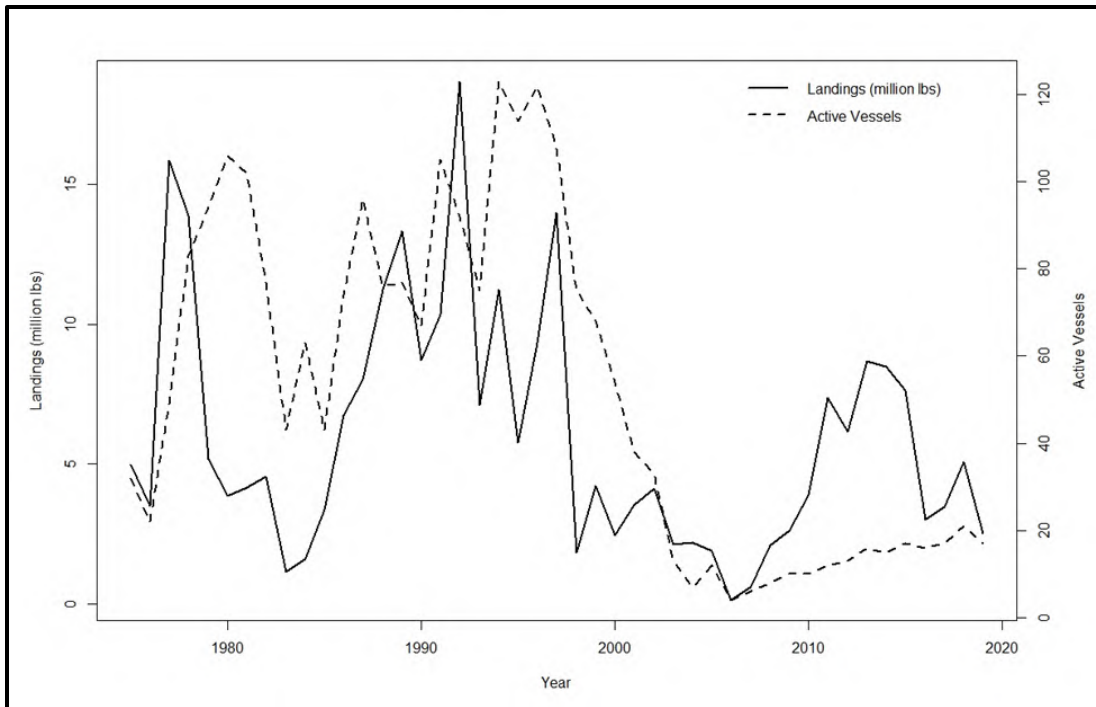


Figure 7. Number of active vessels and landings (million lb) in the California pink shrimp fishery from 1970-2019 (CDFW Marine Landings Data System 2020).

As a result of this evaluation, there is no substantial evidence that there are adverse cumulative effects associated with the proposed project that would have significant impacts or require mitigation. Pursuant to the MLMA, this project in combination with past, present, and probable future projects would contribute to the conservation of marine ecosystems and marine living resources. Therefore, the proposed project would not add considerably to any cumulative impacts in the region. Therefore, cumulative impacts would be less than significant.

c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?

No Impact. The potential for adverse direct or indirect impacts to human beings were considered in the evaluation of environmental impacts for certain questions in sections I, III, VI, VIII, IX, XII, XIII, and XVI of this Initial Study. As a result of this evaluation, the proposed project would not have environmental effects that would cause substantial adverse direct or indirect effects on human beings. Therefore, no impact would occur.

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Appendix D: Responses to comments on the draft fishery management plan/environmental document

All comments received during the public review and comment period are responded to in this document.

List of Commenters

Comment Letter	Comment Subject	Date of Letter	Commenter
A	Environmental Document	October 7, 2021	California Native American Heritage Commission (NAHC), Kathy Sanchez, Associate Environmental Planner
B	Environmental Document	October 27, 2021	Quechan Indian Tribe, H. Jill McCormick, Historic Preservation Officer
C	Environmental Document	October 29, 2021	Yocha Dehe Wintun Nation, Laverne Bill, Director of Cultural Resources
D	Environmental Document	November 9, 2021	San Manuel Band of Mission Indians, Alexandra McCleary, Tribal Archaeologist
E	Draft Fishery Management Plan	December 2, 2021	Oceana, Geoff Shester, California Campaign Director & Senior Scientist
F	Draft Fishery Management Plan	December 16, 2021	Ocean Conservancy, Greg Helms, Manager, Fish Conservation Program
G	Draft Fishery Management Plan	December 16, 2021	Oceana, Geoff Shester, California Campaign Director & Senior Scientist
H	Draft Fishery Management Plan	December 16, 2021	The Pew Charitable Trust, Gilly Lyons, Officer, Conserving Marine Life in the U.S., Pacific

#	Comment	Response
A-1.	NAHC has received the Notice of Preparation (NOP) sent on October 5.	Comment noted

#	Comment	Response
A-2.	According to the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) shall be prepared if there is substantial evidence that a project may have a significant effect on the environment.	Per the Initial Study prepared in conjunction with the NOP, the California Fish and Game Commission (Commission) determined that the project would require the preparation of a functional equivalent environmental analysis in compliance with CEQA and the Commission's Certified Regulatory Program (14 CCR § 781.5). The Pink (Ocean) Shrimp, <i>Pandalus Jordani</i> , Fishery Management Plan (FMP) serves as a functional equivalent of an EIR.
A-3.	A lead agency under CEQA need to determine whether there are historical resources within the area of a project.	<p>The California Department of Fish and Wildlife (Department) assisted the Commission, which is the lead agency under CEQA, in the preparation of the environmental document. The Initial Study prepared for the project did not find any potential significant effect on cultural or historical resources within the project area.</p> <p>Pursuant to the Department's Tribal Communication and Consultation Policy, prior to the preparation of the FMP, the Department informed Tribes on July 15, 2021 of the state's intent to develop a management plan for the pink shrimp fishery and requested information about any anticipated impacts on tribal interests or cultural resources. While a request for additional information on the project was received from a representative of the Rincon Band of Luiseño Indians, no specific impact to historical or tribal cultural resources were identified.</p>

#	Comment	Response
		<p>In addition, the Department submitted a request to NAHC on August 20, 2021 for a Sacred Land File Search and list of tribal contacts for Tribes that are traditionally and culturally affiliated with the geographic area of the project. NAHC informed the Department that the project area does not fall within the boundary of any Sacred Land File Search and a list of tribal contacts was provided on October 11 & 14, 2021. The environmental document has since been updated accordingly in the form of addendum to the initial study published in the November 12, 2021 draft of the FMP.</p> <p>Pursuant to CEQA tribal consultation requirements, the Commission and the Department provided a joint notice on October 22, 2021 to the tribal contacts identified by the NAHC to solicit input and comments on the project, including any cultural information on or near the project area. Several responses were received, (see below); however, no cultural or historical resources were identified within the project area.</p>
A-4.	Assembly Bill 52 (AB 52), which amended CEQA in 2014, provided that a project that may cause substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.	See response to Comment 3 concerning the outreach effort conducted by Commission and Department staff.
A-5.	Requirement of the National Historic Preservation Act of 1966 may also apply if the federal National Environmental Policy Act (NEPA) also applies.	The proposed project is conducted under the state's jurisdiction. As such NEPA does not apply.

#	Comment	Response
A-6.	Tribes that are traditionally and culturally affiliated with the geographic area of proposed project should be contacted.	See response to Comment 3.
A-7.	Lead agency must provide notice to all designated contacts or representatives of traditionally and culturally affiliated tribes that have requested notice within 14 days of determining that the agency is undertaking a project.	To date, none of the tribes contacted as part of outreach for the public (see response to Comment 3) has requested consultation with the Commission or the Department.
A-8.	Upon receiving a request for consultation from a Tribe, lead agency must begin consultation process with said tribe within 30 days.	See response to Comment 7.
A-9.	A consultation must include discussion on alternatives to the project, recommended mitigation measures, and significant effects if requested by the Tribe.	See response to Comment 7.
A-10.	A consultation may involve discussion on the type of environmental review necessary, significance of the tribal cultural resources, significance of the project's impacts on tribal cultural resources, and preservation or mitigation measures that the tribe may recommend.	See response to Comment 7.
A-11.	Information submitted by a Tribe during the environmental review process are generally confidential and must be published in a confidential appendix unless the Tribe provides consent in writing.	See response to Comments 3 and 7. Neither the Commission nor the Department has received any information from the Tribes contacted for the project.
A-12.	Environmental document must discuss whether project may significantly impact identified cultural resources and whether there is any	See response to Comments 3 and 7.

#	Comment	Response
	feasible alternatives or mitigation measures as agreed upon during a consultation.	
A-13.	A consultation is considered concluded when both parties agree on mitigation or avoidance measure towards any significant effect on tribal cultural resources, or that a party concludes that agreement cannot be reached.	See response to Comment 7.
A-14.	Mitigation measures agreed upon during consultation should be in the environmental document, and any effective mitigation monitoring and reporting program that is adopted would be enforceable.	See response to Comment 7.
A-15.	In the event that there is substantial evidence suggesting significant effect on tribal cultural resources, the lead agency shall consider feasible mitigation if mitigation measures recommended by staff are not included in the environmental document, if no agreement could be reached during consultation, or if consultation did not occur.	See response to Comments 4 and 7.
A-16.	Mitigation measures may include avoiding and preserving resources in place, treating the resource with dignity, permanent conservation easement, and protecting the resource. Conservation easement may be voluntarily conveyed to qualified Tribes. Furthermore, it is the state policy to repatriate tribal remains and associated artifacts.	See response to Comments 3 and 7.
A-17.	An environmental impact report may not be certified unless consultation process has	See response to Comments 3 and 7.

#	Comment	Response
	occurred, tribes requesting consultation did not provide comment or otherwise engage, or no tribe has chosen to engage in consultation process.	
A-18.	NAHC's presentation on tribal consultation under AB 52 may be found online.	Comment noted
A-19.	Senate Bill 18 (SB 18) requires local governments to engage with Tribes prior to the adoption or amendment of a general plan, a specific plan, or designation of open space.	Requirement not applicable. The project is the adoption of a Pink Shrimp FMP, and the Commission does not fall within the definition of "local governments" or "cities and counties" within the meaning of California Government Code §§ 65350 <i>et seq.</i>
A-20.	Engagement under SB 18 requires a local government to contact NAHC for a "Tribal Consultation List." A tribe then has, by default, 90 days to request consultation.	See response to Comments 3 and 19.
A-21.	There is no statutory time limit on SB 18 tribal consultation.	See response to Comment 19.
A-22.	A local government is required to protect information concerning tribal resources within its jurisdiction.	See response to Comments 11 and 19.
A-23.	Consultation under SB 18 would end when parties reach a mutual agreement or if one of the parties conclude that agreement cannot be reached.	See response to Comment 19.
A-24.	Neither AB 52 nor SB 18 precludes an agency from initial tribal consultation before the required timeframe. As such agencies are encouraged to request a Sacred Lands File search as soon as possible.	See response to Comment 3.

#	Comment	Response
A-25.	NAHC recommends that agency contact regional California Historical Research Information System Center for archaeological records search to determine the existence of cultural resources and the value of additional survey.	See response to Comment 3.
A-26.	If an archaeological inventory survey is required, the report detailing findings and recommendations should be included. The report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department, and all such information should be in a separate confidential addendum.	See response to Comment 3. No archaeological inventory survey is required for the proposed project.
A-27.	NAHC should be contacted for a Sacred Lands File search and tribal consultation list.	See response to Comment 3.
A-28.	Lead agencies should include mitigation and monitoring report program (MMRP) for inadvertently discovered archaeological resources. A culturally affiliated Native American with cultural resources knowledge should monitor all ground-disturbing activities in areas of identified archaeological sensitivity. Mitigation and monitoring program should contain provision for the disposition of recovered non-burial cultural items, as well as provision for the disposition of inadvertently discovered human remains.	Requirement not applicable; the purpose of an MMRP is to ensure the implementation of mitigation measures identified as part of the environmental review. Based on the findings of the Initial Study, there is no significant impact to archaeological or cultural resources, therefore no mitigation measures are required.
B-1	The Quechan Indian Tribe acknowledged receipt of the project notification letter dated October 22, 2021; the Tribe has no comments and defers to local tribes.	Comment noted.

#	Comment	Response
C-1	The Yocha Dehe Wintun Nation acknowledged receipt of the project notification letter dated October 22, 2021; and informed the Commission that the project is not within the aboriginal territories of the Tribe.	Comment noted.
D-1	The San Manuel Band of Mission Indians acknowledged receipt of the project notification letter dated October 22, 2021; and informed the Commission that the project is not within the aboriginal territories of the Tribe.	Comment noted.
E-1	The FMP will reduce eulachon bycatch, implement a conservative harvest control rule, provides consistency with management in Oregon and Washington, and ensure the long-term protection of the seafloor habitats.	Comment noted.
E-2	Commentor commends the Department for the stakeholder process, which can serve as a model for future streamlined FMP processes.	Comment noted.
E-3	Commentor expresses gratitude and believes that the FMP will benefit the marine ecosystem, the sustainability of the pink shrimp fishery, provides consistent management across state lines, and facilitate Marine Stewardship Council certification. Comment hopes that the FMP will be adopted in due course.	Comment noted.
F-1	Oral Comment received at December 16, 2021 California Fish and Game Commissions Meeting from Greg Helms, Ocean Conservancy: Support adoption of FMP. The streamlined FMP process is	Comment noted.

#	Comment	Response
	an important new tool for managing marine resources.	
G-1	Oral Comment received at December 16, 2021 California Fish and Game Commissions Meeting from Geoff Shester, Oceana: Support for Draft FMP and implementing regulations. Appreciate clarification that trawling is prohibited in State waters and California management will be consistent with Oregon and Washington with respect eulachon bycatch. Streamlined FMP will provide model for future implementation of the MLMA.	Comment noted.
H-1	Oral Comment received at December 16, 2021 California Fish and Game Commissions Meeting from Gillian Lyons, Pew Charitable Trust: Strongly supportive of adoption.	Comment noted.

Memorandum

Date: September 12, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda Item for the October 13, 2022 Fish and Game Commission Meeting:
Recommendations for Designation of new Wild Trout Waters for 2022**

Fish and Game Code, Section 7260(c), grants the Fish and Game Commission (Commission) the authority to designate Heritage Trout Waters which exemplify the uniqueness, beauty, and diversity of California's native trout and the aesthetic habitats in which they are found.

Designated Heritage Trout Waters support indigenous strains of trout within their historic drainages and provide anglers a unique opportunity to catch native trout in a manner that promotes conservation. Stocking of hatchery-origin trout is restricted within designated waters, and angling regulations are implemented that allow trout populations to sustain themselves through natural reproduction.

Fish and Game Code, Section 1727(b), requires the Department of Fish and Wildlife (Department) to annually prepare a list of no less than 25 miles of stream or stream segments and a least one lake deemed suitable for designation as Wild Trout Waters and to submit this list to the Commission. Recommended designations are presented to the Commission on the October Consent Calendar. The Department proposes the following waters for the 2022 Heritage and Wild Trout Program designations:

North Fork Mokelumne River.

North Fork Mokelumne River from Salt Springs Reservoir to the downstream-most lake of Highland Lakes, excluding tributaries (Alpine, Amador, and Calaveras counties).

The proposed Wild Trout Water designation incorporates approximately 30 miles of stream habitat that is supported by consistent cold-water flows and supports a complex food web that supports a robust, fast action, wild trout fishery comprised of Coastal Rainbow Trout, Brook Trout, and Brown Trout.

The North Fork Mokelumne River is a very popular fishery that is largely publicly accessible, and provides opportunities for roadside access, day hikes, and backpacking. This Project is not anticipated to impact natural resources.

Silver Lake

The proposed Silver Lake Wild and Heritage Trout designation incorporates approximately 5 acres of lake habitat within the Little Kern River Drainage. The Little Kern River Drainage was designated as a Heritage Trout Water in 2015 and includes 137 miles of stream habitat. In addition, Maggie Lake, which is also within the Little Kern River Drainage, was also designated as a Wild Trout Water in 2015. Expanding the designation to include Silver Lake would add another high-quality fishery supported by consistent cold-water and complex food web that supports a robust, genetically pure, population of Little Kern Golden Trout. Although challenging, Silver Lake is publicly accessible. This Project is not anticipated to impact natural resources.

The recommended streams and lakes meet existing criteria to satisfy the requirements for designation as Wild and/or Heritage Trout Waters and no changes in angling regulations are necessary at this time.

In addition to these designations, minor edits were made to the attached Designated Wild Trout Waters Policy (DWTWP), including: (1) the addition of Wolf Creek, which was added as a Heritage Trout Water in 2020, but at the time was not added to the DWTWP; (2) a correction to the spelling of #21 Lavezzola Creek (Sierra County); and (3) a correction to the location of #56 Hilton Lake.

If you have any questions or need additional information, please contact Farhat Bajjaliya, Senior Environmental Scientist Supervisor, Heritage and Wild Trout Program, Fisheries Branch, at (916) 215-5330 or [REDACTED]

Attachments

cc: Jay Rowan, Branch Chief
Fisheries Branch
Wildlife and Fisheries Division

Colin Purdy, Environmental Program Manager
North Central Region (Region 2)

Gerald Hatler, Environmental Program Manager
Central Region (Region 4)

COMMISSION-DESIGNATED WILD TROUT WATERS

It is the policy of the Fish and Game Commission to:

- I. Designate certain state waters to be managed exclusively for wild trout. Commission designated wild trout waters should provide a quality experience by providing the angler with an opportunity to fish in aesthetically pleasing and environmentally productive waters with trout populations whose numbers or sizes are largely unaffected by the angling process.

Waters designated by the Commission for wild trout management shall meet the following criteria:

- A. Angler Access:
 1. Open for public angling with unrestricted access when of sufficient dimensions to accommodate anglers without overcrowding.
 - or
 2. Open for public angling with controlled access under a plan approved by the Commission setting forth the number of anglers and the method of distribution.
- B. Able to support, with appropriate angling regulations, wild trout populations of sufficient magnitude to provide satisfactory trout catches in terms of number or size of fish.

II. Wild trout waters shall be managed in accordance with the following stipulations:

- A. Domestic strains of catchable-sized trout shall not be planted in designated wild trout waters.
- B. Hatchery-produced trout of suitable wild and semi-wild strains may be planted in designated waters, but only if necessary, to supplement natural trout reproduction.
- C. Habitat protection is of utmost importance for maintenance of wild trout populations. All necessary actions, consistent with State law, shall be taken to prevent adverse impact by land or water development projects affecting designated wild trout waters.

III. The Department shall prepare and periodically update a management plan for each water designated as a wild trout water.

IV. Certain designated wild trout waters may be further designated by the Commission as "Heritage Trout Waters", to recognize the beauty, diversity, historical significance, and special values of California's native trout. Heritage Trout Waters shall meet the following additional criteria:

- A. Only waters supporting populations that best exemplify indigenous strains of native trout within their historic drainages may qualify for designation.
- B. Heritage Trout Waters shall be able to provide anglers with the opportunity to catch native trout consistent with the conservation of the native trout present.

V. Recognizing the importance of native trout to California's natural heritage, the Department shall emphasize education and outreach efforts to inform the public

about our native trout, their habitats, and the activities for restoration of native trout when implementing the Heritage Trout Program.

- A. Implement a Heritage Trout Angler Recognition Certificate through which anglers will have the opportunity to have their catches of California native trout recognized by the Commission. The criteria for receiving the formal recognition shall be maintained by the Department's Heritage and Wild Trout Program. To receive a certificate of recognition, anglers shall submit an application with supporting materials to the Department for review.

The following waters are designated by the Commission as "wild trout waters":

1. American River, North Fork, from Palisade Creek downstream to Iowa Hill Bridge (Placer County).
2. Carson River, East Fork, upstream from confluence with Wolf Creek excluding tributaries (Alpine County).
3. Clavey River, upstream from confluence with Tuolumne River excluding tributaries (Tuolumne County).
4. Hat Creek, from Lake Britton upstream to Hat No. 2 powerhouse (Shasta County).
5. Hot Creek, from Hot Springs upstream to west property line of Hot Creek Ranch (Mono County).
6. Kings River, from Pine Flat Lake upstream to confluence with South and Middle forks excluding tributaries (Fresno County).
7. Kings River, South Fork, from confluence with Middle Fork upstream to western boundary of Kings Canyon National Park excluding tributaries (Fresno County).
8. Merced River, South Fork, from confluence with mainstem Merced River upstream to western boundary of Yosemite National Park excluding tributaries (Mariposa County).
9. Owens River, from Five Bridges crossing upstream to Pleasant Valley Dam excluding tributaries (Inyo County).
10. Rubicon River, from confluence with Middle Fork American River upstream to Hell Hole Dam excluding tributaries (Placer County).
11. Yellow Creek, from Big Springs downstream to confluence with the North Fork of the Feather River (Plumas County).
12. Cottonwood Creek, upstream from confluence with Little Cottonwood Creek, including tributaries (Inyo County).
13. Klamath River, from Copco Lake to the Oregon border (Siskiyou County).
14. McCloud River, from Lake McCloud Dam downstream to the southern boundary of Section 36, T38N, R3W, M.D.B. & M. (Shasta County).
15. Deep Creek, from confluence with Green Valley Creek downstream to confluence with Willow Creek (San Bernardino County).
16. Middle Fork Stanislaus River, from Beardsley Afterbay Dam to Sand Bar Diversion Dam (Tuolumne County).
17. Truckee River, from confluence with Trout Creek downstream to the Nevada State line (excluding the property owned by the San Francisco Fly Casters Club) (Nevada and Sierra counties).
18. Sespe Creek, a 25-mile section between the Lion Campground and the boundary of the U.S. Forest Service, Los Padres National Forest (Ventura County).

19. Bear Creek, Bear Valley Dam (impounding Big Bear Lake) downstream to the confluence with the Santa Ana River (San Bernardino County).
20. ~~Lavezella~~ Lavezzola Creek (Sierra County).
21. Laurel Lake #1 and Laurel Lake #2 (Mono County).
22. Middle Fork San Joaquin River - Northern boundary of the Devils Postpile National Monument downstream to the Lower Falls (3.6 miles); and footbridge just above the confluence with Shadow Creek downstream to the footbridge just above upper Soda Springs Campground (4 miles) (Madera County).
23. South Fork Kern River watershed from its headwaters downstream to the southern boundary of the South Sierra Wilderness (Tulare County).
24. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).
25. Eagle Lake, north of Susanville (Lassen County).
26. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).
27. Heenan Lake, near Markleeville and Monitor Pass (Alpine County).
28. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).
29. Sacramento River, including tributaries, from Box Canyon Dam downstream to Scarlett Way in Dunsmuir (Siskiyou County) and from the county bridge at Sweetbriar downstream to Lake Shasta (Shasta County).
30. Long Lake (Plumas County).
31. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).
32. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).
33. Lower Honeymoon Lake (Fresno County).
34. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).
35. Royce Lake # 2 (Fresno County).
36. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).
37. Parker Lake (Mono County).
38. South Fork San Joaquin River and all tributaries from Florence Lake upstream to the boundary of Kings Canyon National Park including the Piute Creek drainage (Fresno County).
39. Sallie Keyes Lakes (Fresno County).
40. Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (Shasta and Tehama counties).
41. Pauley Creek from the confluence with the Downie River upstream to the headwaters (Sierra County).
42. Caples Creek from the confluence with the Silver Fork American River upstream to Caples Lake Dam (El Dorado and Alpine counties).
43. Putah Creek from Lake Solano upstream to Monticello Dam on Lake Berryessa (Solano and Yolo counties).
44. Lake Solano (Solano and Yolo counties).
45. Milton Reservoir (Nevada and Sierra counties).
46. Gerle Creek Divide Reservoir (El Dorado County).
47. Manzanita Lake (Shasta County).
48. Maggie Lake (Tulare County).

49. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County).
50. Hilton Lake #1 (Davis Lake) (Mono County).
51. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).
52. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).
53. Hilton Lake # 2 (Mono County).
54. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).
55. Hilton Lake # 4 (Mono County).
56. Hilton Lake # 5 (Mono County). Hilton Lake #5 is located at the latitude/longitude of 37°28'37.99"N, ~~118°45'39.39"W~~ 118°45'39.39"W and elevation of 10,700 feet, in the Hilton Creek drainage, near Tom's Place.
57. Tuolumne River, from Wards Ferry Bridge upstream to the boundary of Yosemite National Park, excluding tributaries (Tuolumne County).
58. Butte Lake (Lassen County).
59. Wolf Creek, from Forest Service Road 062 crossing to Wolf Creek Lake (Mono County).
- ~~59.~~ 60. Middle Fork Feather River, from the confluence of Frey Creek upstream to Poplar Valley Road bridge, including: main stem Middle Fork Feather River, Bear Creek, Fall River, Little North Fork of Middle Fork Feather River, Long Valley Creek, Nelson Creek, Onion Valley Creek, Poplar Creek, South Branch Middle Fork Feather River, and Willow Creek (Butte and Plumas counties).
- ~~60.~~ 61. Fall River Complex, which consists of Ahjumawi Lava Springs, Bear Creek (downstream of Pondosa Way bridge), Big Lake, Eastman Lake, Fall River (from confluence with Pit River upstream to origin at Thousand Springs), Fall River Pond, Fall River Lake, Horr Pond, Ja She Creek, Lava Creek, Spring Creek, Little Tule River, and Tule River (Shasta and Siskiyou counties).
62. North Fork Mokelumne River from Salt Springs Reservoir to the downstream-most lake of Highland Lakes, excluding tributaries (Alpine, Amador, and Calaveras counties).
63. Silver Lake at the headwaters of Shotgun Creek (Tulare County).

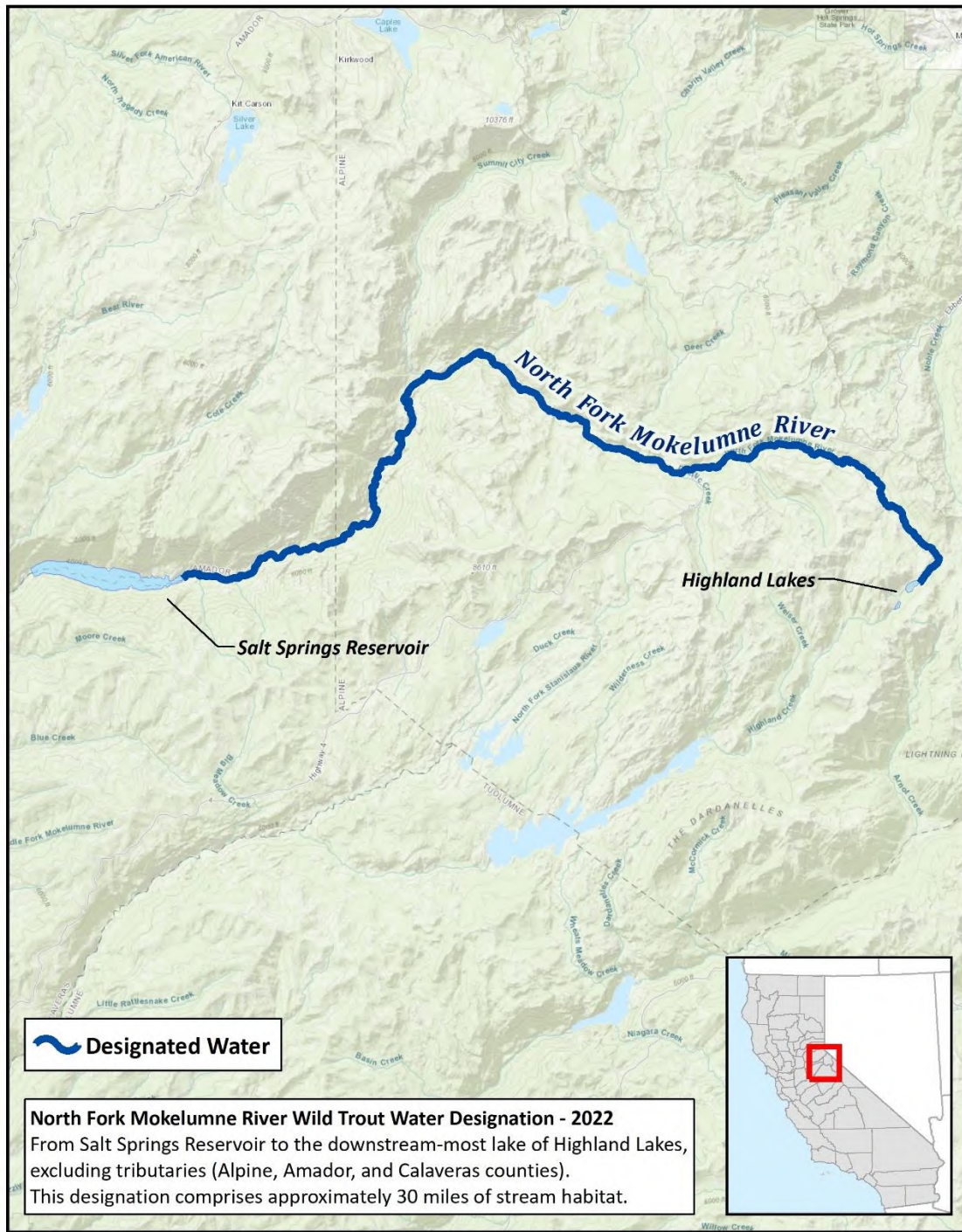
The following "wild trout waters" are further designated by the Commission as "heritage trout waters".

1. Clavey River, upstream from confluence with Tuolumne River, excluding tributaries (Tuolumne County).
2. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).
3. Eagle Lake, north of Susanville, (Lassen County).
4. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).

5. Heenan Lake, near Markleeville and Monitor Pass (Alpine County).
6. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).
7. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).
8. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).
9. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).
10. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).
11. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County).
12. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).
13. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).
14. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).
15. Wolf Creek, from Forest Service Road 062 crossing to Wolf Creek Lake (Mono County)
16. Silver Lake at the headwaters of Shotgun Creek (Tulare County).

(Amended: 01/04/94; 06/22/95; 03/06/97; 11/06/98; 04/02/99; 12/08/00; 04/03/03; 12/12/08; 11/04/09; 10/21/10; 11/17/11; 11/07/12; 11/06/13; 12/03/14; 12/10/15; 10/20/16; 12/06/17; 12/13/18; 02/21/20, 10/14/20, 04/21/22, 10/13/22)

North Fork Mokelumne River Designated Wild Trout Water - 2022

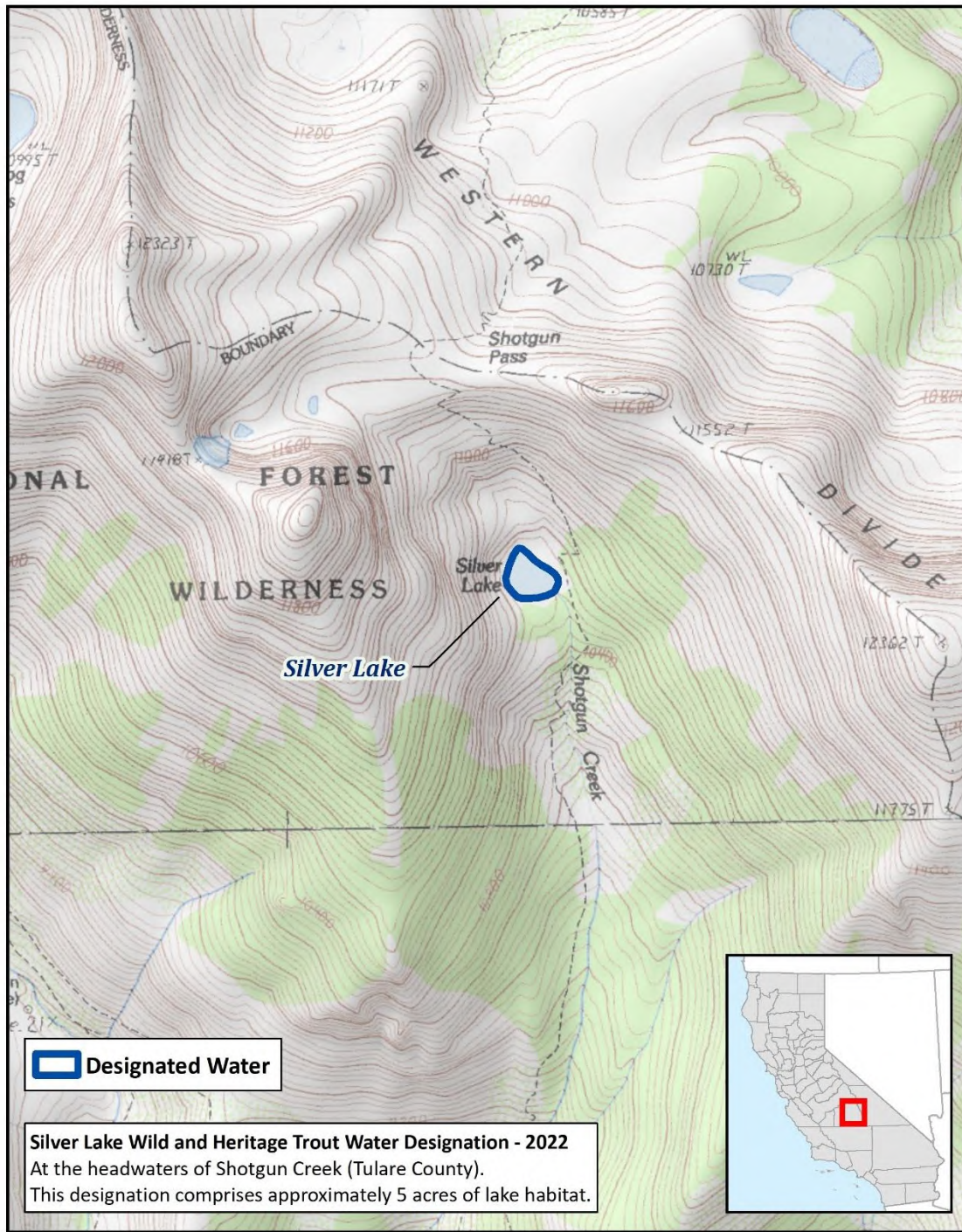


0 1 2 4 Miles

California Department of Fish and Wildlife
 Fisheries Branch GIS, September 2022
 Basemap source: Esri



Silver Lake Designated Wild and Heritage Trout Water - 2022



0 0.1 0.2 0.4 Miles

California Department of Fish and Wildlife
Fisheries Branch GIS, August 2022
Basemap source: USGS



Memorandum

Date: May 27, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Request for 6-Month Extension, Southern California Steelhead (*Oncorhynchus mykiss*) Status Review**

The Department of Fish and Wildlife (Department) requests a 6-month extension of time pursuant to Fish and Game Code section 2074.6 to produce and make publicly available the final peer reviewed Southern California steelhead (*Oncorhynchus mykiss*) status review report. The Department anticipates receiving substantial comments and/or scientific information from tribes, stakeholders, and other interested parties regarding the California Trout petition to list Southern California steelhead as endangered under the California Endangered Species Act (CESA). The Department has determined that an extension is necessary to complete independent peer review of the report and to provide a minimum of 30 days for public review of the peer reviewed report prior to the public hearing specified in Fish and Game Code section 2075. The requested extension would change the due date of the Department's status review report to November 13, 2023, which is 18 months from the date the Fish and Game Commission published the Notice of Findings that, in part, provided notice that Southern California steelhead is a candidate species under CESA (May 13, 2022).

If you have any questions or need additional information, please contact Mr. Jay Rowan, Fisheries Branch Chief at [REDACTED] or at (916) 212-3164.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Wendy Bogdan, General Counsel
Office of the General Counsel

Ed Pert, Regional Manager
Region 5

Melissa Miller-Henson, Executive Director
Fish and Game Commission
May 27, 2022
Page 2

Jay Rowan, Chief
Fisheries Branch

Jonathan Nelson, Environmental Program Manager
Fisheries Branch

Richard Burg, Environmental Program Manager
Region 5

Michael Yaun, Attorney
Fish and Game Commission

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Charlton Bonham, Director
California Department of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814
Director@wildlife.ca.gov

September 22, 2022

Melissa Miller-Henson
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
fgc@fgc.ca.gov

Dear Director Bonham and Executive Director Miller-Henson:

We are writing to provide input with respect to the Department of Fish and Wildlife's invitation for data or comments on the petitioned action (Petition to list the Southern California Steelhead under the California Endangered Species Act (CESA) dated June 7, 2021) as the Department conducts a status review for Southern California steelhead (*Oncorhynchus mykiss*). The City of San Buenaventura (City) remains committed to working with agency partners to improve our understanding of the status, trend, and needs of Southern California steelhead and to contributing to the long-term conservation of the species. We appreciate the opportunity to provide input into the process of evaluating the status of the species. To ensure the Commission is able to make a well-informed decision on the status of the species, we encourage the Department to conduct a thorough review of the species' status, including more in-depth analysis of each of the components required in the 90-Day Review evaluation report under CESA Title 14, Section 670.1(d)(1), Sufficient Scientific Information.

We appreciate the Department's invitation for data or comments on Southern California steelhead, including specifically on, "ecology, genetics, life history, distribution, abundance, habitat, the degree and immediacy of threats to its reproduction or survival, the adequacy of existing management, or recommendations for management of the species."

The City previously submitted comments on the Petition and 90-day Evaluation to the Commission and the Department on December 2, 2021, February 3, 2022, and April 15, 2022. In our December 2021 letter, we provided additional information to inform evaluation of the petition (included in the letter's Appendix A), and we urged, "the Department and Commission to give careful consideration to the status of the species, threats to its persistence in Southern California, recent genetic research, and conservation efforts as you evaluate whether listing of the DPS may be warranted."

The information previously provided is also relevant to the Department's review of the status of the species and is re-submitted with this letter to the Department as attachments to this letter and summarized below.

List of Attachments:

1. City of Ventura letter to the Commission and the Department, dated December 2, 2021
2. City of Ventura letter to the Commission and the Department, dated February 3, 2022
3. City of Ventura letter to the Commission and the Department, dated April 15, 2022

Summary of Information to Support The Department's Status Review for Southern California Steelhead**Distribution**

We encourage the Department to ensure creation of a detailed distribution map of currently occupied habitat, which is required under CESA but was missing from the Petition and the Department's 90-day Evaluation report. The Petition provided a map of watersheds historically occupied by steelhead, portions of watersheds currently anthropogenically blocked, and federally recognized critical habitat; it did not provide spatial information on where extant populations occur, such as occupied watersheds or specific streams known to have *O. mykiss* populations. The Department's 90-Day Evaluation concluded that the Petition provided sufficient scientific information though CESA requires a "detailed distribution map" that was not in the document.

We encourage the Department to review the publicly available distribution information available, at a minimum, and provide information from CDFW's geospatial layers available in the Biogeographic Information and Observation System (BIOS) (CDFW 2022):

- Winter Steelhead Distribution – Internal Ed [ds334]
- Winter Steelhead Distribution [ds340]
- Winter Steelhead Observations – Internal Ed [ds335]
- Southern California Steelhead Range [ds1290]
- Winter Steelhead Range [ds699]
- California Natural Diversity Database (CNDDB) Commercial [ds85]
- CNDDB Government [ds45]
- Animal Data from CNDDB Online Field Survey Form [ds1354]
- Unprocessed Data from CNDDB Online Field Survey Form [ds1002]

Most of these data are publicly available (and some are only available to CDFW staff), but none of the occurrence data appear to have been used to map extant Southern California steelhead populations or current stream occupancy in the Petition nor in the 90-Day Evaluation report. Historically occupied streams of Southern California are reviewed in Titus (2010) and in the Technical Review Team's recovery planning population characterization report (Boughton et al. 2006).

The City encourages the Department to review and use these publicly- and CDFW-available data in its status review when considering distribution of extant populations of *O. mykiss* in Southern California.

Please also see the comments below under "Genetics" regarding the definition of the species following the federal listing (separating the Southern California Coast Steelhead and South-Central California Coast Steelhead DPSs).

Life history

As mentioned in our December 2021 comment letter, from a biological standpoint, the bifurcation of *O. mykiss* into freshwater resident rainbow trout and anadromous steelhead is anachronistic. Recent research demonstrates that the species exhibits dozens of life history strategies (see Figure 2-1 in National Marine Fisheries Service (NMFS) 2012; Hodge et al. 2016). Resident and anadromous *O. mykiss* can and do occur in sympatry, they also can and do interbreed, and they can produce progeny that exhibit resident and anadromous life histories (Kendall et al. 2015; Courter et al. 2013; Hayes et al. 2012; Hodge et al. 2016). NMFS stated in its most recent 2016 status review of the Southern California Coast Steelhead DPS that “the resident and anadromous forms are tightly integrated at the population level” and suggested that the viability criterion for 100 percent anadromous fraction in core populations, that came from the NMFS viability analysis (Boughton et al. 2007), should be revised (NMFS 2016: 10-11).

The evolutionary strategy of a fish species maintaining both anadromous and resident life histories is to guard against catastrophic conditions in stream and marine environments. Should poor ocean conditions or blockage of passage into streams occur for repetitive years, resident *O. mykiss* can maintain a stream’s population and send out smolts to maintain anadromy despite generations without returning adults. Vice versa, should a stream’s population be extirpated occur due to a catastrophic event (e.g., wildfire, debris flow, multi-year drought, etc.), anadromous fish may return or stray to repopulate a stream when freshwater conditions have improved.

The City encourages the Department to consider viability and extinction risk of the species based on abundance and distribution of both anadromous and resident *O. mykiss* throughout Southern California (not just anadromous returns), and their interconnectedness in maintaining anadromous lineages during times of drought or poor ocean conditions.

Abundance

As described in the City’s December 2021 comment letter, historical estimates of abundance in the Petition and elsewhere could well be confounded by the influence of stocked and rescued/transplanted *O. mykiss* during the same time periods. Historical estimates of run sizes in Southern California were, at best, based on individual people’s visual comparisons to runs in Northern California streams, often only in one year of observation, and were never quantitatively evaluated; in some cases run size estimates were only based on habitat observed (refer to the comment letter for examples).

The methods used provide grounds for questioning historical abundance estimates. Steelhead populations are known to fluctuate annually, particularly strongly in the flashy systems of Southern California; estimates of historical annual run sizes based on single observation points and without quantitative assessments may be unsuitable for use in management decisions. The City and many others acknowledge populations of *O. mykiss* are likely greatly reduced compared to historical levels, but requests that CDFW develops more scientifically supported *O. mykiss* historical population estimates, that include resident and anadromous population components, for comparison with extant population abundances in the status review.

We also encourage the Department to include information in the status review from various organizations who conduct resident and anadromous steelhead population monitoring in Southern California (e.g., Cachuma Operation and Maintenance Board, Santa Monica Mountains Resource Conservation District, United Water, Casitas Municipal Water District), particularly as it relates to abundance and trends of extant anadromous and resident *O. mykiss* populations.

Habitat and Ecology

The City notes there is a vast selection of literature to review for Southern California steelhead. We suggest the Department refer to the following studies for recent, relevant habitat and ecology information for the Southern and South-Central California Coast Steelhead DPSs, including water quality suitability:

- State of Salmonids: Status of California's Emblematic Fishes, 2017 (Moyle et al. 2017)
- Thermal Potential for Steelhead Life History Expression in a Southern California Alluvial River (Boughton et al. 2015)
- Spatial Structure of Water Quality Impacts and Foraging Opportunities for steelhead in the Russian River Estuary: an Energetics Perspective (Boughton et al. 2017)¹.
- Do wild *O. mykiss* near their southern range limit exhibit population differences in thermal tolerance? (Dressler 2021)
- Pacific Salmon & Steelhead 2015-2020: Bibliography (Riley et al. 2020)

Genetics

As described in our December 2021 comment letter, research indicates that there is no evidence that Southern California steelhead are genetically distinct from *O. mykiss* in the South-Central California Coast DPS to the north (Clemento et al. 2009; Garza et al., 2014), and NOAA's Southwest Fisheries Science Center is investigating the validity of the Southern California Steelhead Coast DPS (NMFS 2016). The Petition referred to outdated studies (e.g., Nielsen 1994, Busby et al. 1996) that were referenced in the federal listing documents but that occurred prior to the much more powerful genetic analyses done since the late 2000s. The Petition cherry picked information on southern range extension from Abadía-Cardoso et al. (2015, 2016) without mentioning any information from the author's introduction of the 2016 paper which discusses the potentially outdated division between these two DPSs:

"In recent years, a finer resolution view of O. mykiss population genetic structure in California has been developed through extensive analysis of both microsatellite and single nucleotide polymorphism (SNP) data (Abadía-Cardoso 2014; Aguilar and Garza 2006; Clemento et al. 2009; Garza et al. 2014; Pearse et al. 2007; Pearse and Garza 2015). Notably, in the Southern California and South Central California Coast steelhead DPSs, populations of O. mykiss have been found to have greater genetic similarity within a watershed than between proximate watersheds, even when separated by physical barriers (Clemento et al. 2009)."

(Abadía-Cardoso et al. 2016)

¹ The Boughton et al. (2017) study is for a more northern population but provides a recent review of literature on water quality conditions, particularly water temperature and dissolved oxygen concentration, that may be suitable for juveniles and provides updated levels of suitability.

In the 90-Day Evaluation, the Department noted, “that although the South-Central California Coast steelhead DPS and the Southern California steelhead DPS do not have distinct lineages (Clemento et al. 2008), they are separated based on biogeography (Busby et al. 1996).” The Busby et al. (1996) citation is the NMFS *Status Review of West Coast Steelhead from Washington, Idaho, Oregon and California*.

In the 1996 Status Review, NMFS discussed a biogeographic break between the north coastal ecoregion and south coastal region, broken by Piedras Blancas near the southern end of the Big Sur Coast (at page 12), not at the Santa Maria River watershed where the current DPS division line is set. The 1996 Status Review also discussed ichthyogeographic regions for west coast steelhead (Chehalis, Columbia, Klamath, Sacramento-San Joaquin, and South Coastal Drainages) which do not separate southern and south-central California coasts. In the 1996 Status Review’s discussion of the South-Central California Coast Steelhead DPS and the Southern California Coast DPS (at pages 65-66), the DPS delineation was summarized as based on steelhead mitochondrial and allozyme genetic evidence, because the South-Central California Coast DPS is the southern limit of the distribution of coho salmon (*O. kisutch*), and because southern populations were thought to be more dependent on rainfall and streamflow than northern populations (and able to withstand higher temperatures).

As discussed above, the genetic data described in Busby et al. (1996) are now outdated. The use of the distribution of coho to define a steelhead DPS range mentioned in Busby (1996) is not appropriate. Southern California Steelhead DPS populations are still thought to be able to withstand higher water temperatures than northern counterparts (Dressler 2021), though a north-south spatial boundary or gradient has not been fully investigated, and difference only in temperature tolerance should not necessarily be the basis for separate management. If citing Busby et al. (1996) for biogeography in support of DPS divisions, the division suggested between southern steelhead and a more northern population would either be at the Sacramento-San Joaquin watershed or near Piedras Blancas, not at the Santa Maria River.

The management of steelhead in southern and central California should be based on best available science but the species as defined in the Petition (and based on the 1996 Status Review) is not supported by recent genetic information. The City encourages CDFW to base their evaluation on the best available science, including assessment of the species as its genetics deem appropriate (even if that means combining populations across federally-defined DPSs), to ensure accurate evaluation of the status of species’ abundance, distribution, and trends.

The degree and immediacy of threats to its reproduction or survival

To adequately evaluate the degree and immediacy of threats to the reproduction or survival of Southern California steelhead, additional threats should be considered beyond those listed in the Petition. The petitioners identify destruction, modification, and fragmentation of native habitat as threats to the Southern California steelhead (California Trout 2021: 11). They go on to explain that the factors contributing to adverse changes to habitat are development of water infrastructure, agriculture, urbanization, and climate change induced events including catastrophic wildland fire and drought.

In addition to these factors, in its most recent status review, NMFS has identified poor oceanic conditions as an important stressor on the species (NMFS 2016). In its Recovery Plan, NMFS identified non-native species as an important stressor on the species (NMFS 2012). Historical stocking of Central Valley *O. mykiss* has resulted in the prevalence of fish of non-native ancestry and the near extirpation of native lineages in a number of water courses or watersheds within the area demarcated by the DPS, particularly in the more southern watersheds (NMFS 2016). This can be perceived as either a threat to the native lineages (for example, NMFS 2012: 4-6, NMFS 2016: 54) or a potentially important contributor to some populations in the DPS (Abadia-Cardoso et al. 2016).

While stochastic and cataclysmic events such as fire, debris flow, and drought may cause local extirpations, data suggest these are temporary and affected areas are repopulated when conditions improve. Both straying of anadromous *O. mykiss* and the existence of resident *O. mykiss*, discussed above, mitigate the effects of such stochastic events on populations (NMFS 2016; Dagit et al. 2020).

The immediacy of the risk to the persistence of the DPS posed by these threats is debatable. The Southern California steelhead has persisted at relatively stable levels since prior to the federal listing of the DPS. As Petitioners point out, in 1996, CDFW (then CDFG) predicted the impending extinction of the Southern California steelhead within 25 years (California Trout 2021: 14). Twenty-five years later, populations of the DPS have continued to persist. Small numbers of anadromous returns and consistent resident populations that produce smolts occur across the DPS, though population monitoring is not comprehensive and provides an incomplete assessment of returning adults run sizes, smolt outmigration counts, and resident fish numbers (NMFS 2016; Dagit et al. 2020).

There have been numerous barrier removals and habitat restoration projects completed throughout the DPS by local governments, special districts, and NGOs, including in a number of core watersheds (NMFS 2016, see Section 2.4.1 Recovery Progress). There are multiple large-scale habitat restoration and recovery actions at various phases of planning and implementation, including some the City described in its previous comment letters and others described by water agencies operating in other watersheds within the range of the DPS. As these actions progress through planning and implementation, they can be expected to contribute to the recovery of *O. mykiss* throughout Southern California, though the expectation for recovery timeline must be kept in check, as discussed below.

The adequacy of existing management, or recommendations for management of the species

Existing efforts to conserve the species should be taken into account when considering the adequacy of existing management. Upcoming recovery efforts described in comment letters to the Commission, the federal recovery plan (NMFS 2012), and the most recent status review (NMFS 2016) will take years to permit and implement. Therefore, suggestion that efforts resulting from listing the Southern California Coast Steelhead DPS under the federal Endangered Species Act (ESA) and developing a recovery plan are inadequate is premature.

The time horizon to assess the efficacy of the federal listing and recovery efforts is likely multiple decades considering the combination of the time required to plan and implement recovery projects and then realize their benefits for the species, and accounting for the fact that precipitation patterns, ocean conditions, and other factors beyond human control can be expected to cause perturbations in

populations even while experiencing a positive growth rate over time (NMFS 2012). As directly stated in the federal Recovery Plan (NMFS 2012, at pg. 5-1):

“The West Coast’s salmon and steelhead populations have always been sensitive to the variability of the northeast Pacific climate-ocean system . . . So steelhead recovery as a form of human stewardship has to be judged over a broader timeline, with multi-year setbacks in population size considered to be a normal and expected event, and progress judged at the scale of multiple decades and even multiple human generations.”

*Dr. David A. Boughton, Chair, NOAA Fisheries South-Central/
Southern California Steelhead Technical Recovery Team, 2010*

Listing can complicate recovery efforts, for example, by imposing additional regulatory hurdles on efforts to monitor the species or undertake habitat enhancement or restoration efforts. This potential downside of listing is particularly apparent with respect to the Southern California steelhead considering the extensive monitoring, fish passage, and habitat improvement projects at various stages of planning and implementation, including the City projects we have mentioned (Foster Park Fish Passage Improvement Projects, VenturaWaterPure program/Santa Clara River Estuary monitoring).

Considering the long response time that may be needed after recovery actions are undertaken and before population recovery is observable, regulatory agencies should work with recovery partners to fast-track as many recovery actions as possible for the benefit of the species. During the candidacy period and should the species be listed under CESA, the City suggests the Commission direct Department staff to work with parties in need of Southern California steelhead take authorization on the most efficient permitting pathways available to the Department, especially for restoration projects and/or species and habitat management efforts, as well as for projects requesting incidental take that include beneficial actions or species/habitat monitoring components.

**The City’s Experience with Attaining Southern California Steelhead Take Authorization
During the Candidacy Period**

Content in the City’s February 3 and April 15 comment letters may also be of interest to the Commission regarding permitting pathways for steelhead take coverage and the City’s experience with both success and challenges of attaining needed take authorization for restoration projects.

Since submitting those letters, the Foster Park Fish Passage Restoration Project (Phase 1) received take authorization from CDFW through a Fish and Game Code Section 2081(a) authorization (a Research Management Permit). We thank the Department for working with us on this solution to cut the green tape and facilitate timely permitting, to not hold up this project, which is planned for construction starting in September 2022.

The City has also been working with Department staff on take authorization pathways for our Santa Clara River Estuary monitoring activities (e.g., deep water seining fish population monitoring) which are to occur for 3 years of baseline data collection ahead of the VenturaWaterPure program’s discharge reductions to restore and improve habitat quality in the estuary for several listed species, including the steelhead. During Commission meetings on the petition to list Southern California steelhead under CESA, Department staff communicated that there are multiple permitting pathways for take authorization, including Fish and Game Code Section 2084 Regulation, Section 2080.1

consistency determination, Section 2081(a) Restoration and Management Permit, and Section 2081(b) Incidental Take Permit. Since the candidacy period has opened, the City has not found these authorization options to be available for its Santa Clara River Estuary restoration and recycled water project.

Department staff have determined that a Section 2080.1 consistency determination is not possible due to differences between the species definitions in the State candidate species and Federal endangered species listings (i.e., due to the inclusion of resident fish in the State listing and their exclusion in the Federal listing (NMFS 2006)). This was a surprise to the City because at the Commission hearings on candidacy, staff advised that despite the fact that the Federal listing rule addresses only anadromous fish, whereas the proposed state listing rule would address anadromous and resident fish, there would be no issues for consistency determinations because federal policy dictates that both life histories, when co-occurring in anadromous waters, shall be managed for conservation purposes.

Department staff further have determined that, because, in the Department's view, the dual-benefit restoration and water supply project would not be considered immediately necessary to avoid serious harm to the public peace, health, or safety, the Department's position is that the 2084 regulation cannot provide take coverage for its estuary monitoring program, notwithstanding the ongoing need for additional robust and current fish monitoring data. Department staff have taken the position that 2081(a) authorization is also not a viable pathway to secure take authorization for the proposed monitoring program, which is the only source of anticipated take. Thus, though we discussed with the Department that there were multiple lawful pathways to secure take authorization on an expedited basis for the planned monitoring program to support the proposed estuary restoration and water reuse project while the candidacy hearings were progressing, the Department has now determined that the City's only option is a 2081(b) individual take permit, which requires full mitigation for the effects of take and is, at least based on historical examples, time-consuming to secure.

The VenturaWaterPure program's phased diversions of tertiary treated wastewater away from the estuary are a scientifically supported solution to improve aquatic habitat conditions for native aquatic species, including Southern California steelhead², and the City is required to implement the phased diversions pursuant to its Ventura Wastewater Reclamation Facility's National Pollutant Discharge Elimination System (NPDES) permit. The only anticipated take of the species is associated with the VenturaWaterPure program's estuary monitoring program that will be used to establish baseline conditions to guide adaptive management of future discharge reductions, as required by the NPDES Permit in response to recommendations of the scientific studies, as well as comments provided by NMFS, the U.S. Fish and Wildlife Service (USFWS), and the Department. Take is only anticipated to occur in connection with implementation of fish population surveys (specifically deep-water seining activities) during the baseline and adaptive management data collection periods. Such scientific data collection to support responsible and adaptively-managed estuary restoration activities should not require mitigation. Both USFWS and NMFS have issued Biological Opinions permitting such take without requiring mitigation or making additional conservation recommendations. Thus, the City feels use of a 2081(a) Research and Management Permit and/or a 2080.1 consistency determination is the appropriate pathway for permitting take of Southern California steelhead needed for the estuary monitoring activities of the VenturaWaterPure program.

² Hammersmark (2018), Revell et al. (2018), Hammersmark (2017), Stillwater Sciences (2018)



The City was very pleased with the Department's assistance in providing an expedited pathway for permitting the Foster Park Fish Passage Improvement Project (Phase 1) via a Habitat Restoration and Enhancement Act approval, and subsequent Section 2081(a) Restoration Management Permit to add coverage for steelhead during the candidacy period. This was a great example of cutting the green tape to ensure projects to benefit steelhead proceed as quickly as possible. The City will continue to work the Department to try to expeditiously implement all of the monitoring activities, including fish population seining, which would best support the VenturaWaterPure program's Santa Clara River Estuary restoration activities.

Thank you for giving due consideration to the information provided by the City and to our requests and suggestions.

Respectfully,

A handwritten signature in blue ink, reading "Gina Dorrington".

Gina Dorrington
General Manager, Ventura Water
City of San Buenaventura (City of Ventura)

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Dear Director Bonham and Executive Director Miller-Henson:

We are writing to provide input with respect to the Petition to list the Southern California Steelhead under the California Endangered Species Act (CESA) dated June 7, 2021, and received by the Fish and Game Commission on July 2, 2021. As you know, the City of San Buenaventura (City) is committed to working with agency partners to improve our understanding of the status, trend, and needs of Southern California steelhead (*Oncorhynchus Mykiss*) and to contributing to the long-term conservation of the species. We appreciate the opportunity to provide input into the process of evaluating the Petition. We encourage the Department of Fish and Wildlife and the Commission to conduct a probing review of each of the Petition components in order to make a well-informed decision.

The City appreciates that, at this stage, the Department's charge is to prepare a written evaluation of the petition to the Commission consistent with Fish and Game Code section 2073.5(a). We understand that the written evaluation must be accompanied by a recommendation that the petition either should be rejected or accepted and considered, and that the recommendation is intended to inform the Commission's determination whether listing "may be warranted." Fish & Game Code §§ 2073.5(a); 2074.2. While the threshold for the Commission to make a "may be warranted" finding is less burdensome than the ultimate determination regarding listing following a 12-month status review, the Department and Commission should ensure the basis for recommending and making any "may be warranted" finding is information that is accurate and credible. This is the case, among other reasons, because a "may be warranted" finding triggers the same regulatory requirements for candidate species – including the prohibition on "take" – as a final listing determination. In the event that the Department recommends – and the Commission moves ahead with – a "may be warranted" finding, the City would like to collaborate with the Department and Commission to develop a 2084 regulation to provide "take" coverage for the City's planned steelhead habitat restoration projects described in detail below. The take associated with these projects, which are being planned and implemented to benefit steelhead and other native wildlife, is due to scientific monitoring (i.e., fish population sampling) and rescue/relocation during dewatering for fish passage project construction.

Existing efforts to conserve the species should be taken into account

Numerous efforts are underway to benefit Southern California steelhead, and a number of these are described in the 2012 recovery plan and 2016 status review both prepared by the National Marine Fisheries Service (NMFS). These efforts will take years to permit and implement. As a consequence, any suggestion that efforts resulting from listing the distinct population segment (DPS) under the federal Endangered Species Act (ESA) and developing a recovery plan are inadequate is premature. The time horizon to assess the efficacy of the federal listing and recovery effort is likely decades in light of the combination of the time required to plan and implement recovery projects and then realize their benefits for the species, and taking into consideration the fact that precipitation patterns, ocean conditions, and other factors beyond human control can be expected to cause perturbations in the population even as in the event it experiences a positive growth rate over time (NMFS 2012).

The Ventura River and Santa Clara River populations are identified by NMFS as core 1 populations, that is, populations with the highest priority for recovery actions. The City is taking a proactive role in contributing to the conservation of *O. mykiss* in these rivers.

On the Ventura River, the City is in the process of permitting the first phase of Foster Park fish passage improvement projects. This project includes physical fish passage improvements to the Foster Park subterranean diversion structure, which is a fish passage impediment (partial barrier at low flows) to upstream migration, and specifically will consist of notching of the structure. A second phase of the project will address a 36-inch concrete-capped water pipeline located a few hundred feet downstream, which has become exposed in the riverbed and is also a fish passage impediment. Fish passage analysis and engineering design currently are underway. By removing barriers to migration, the projects will provide for improved connectivity between upstream spawning areas and downstream reaches, increasing the availability of habitat accessible to migrating *O. mykiss*. Take of the species that could occur during these projects is entirely associated with fish rescue and relocation, if *O. mykiss* are present during dewatering ahead of construction.

On the Santa Clara River, the City is undertaking the VenturaWaterPure program. The program is intended to protect the ecology of the Santa Clara River Estuary, develop additional water supply sources to meet water demands for planned future growth, and enhance supply reliability even in drought years. The program will achieve the goals of protecting the ecology of the Estuary while augmenting local potable water supplies. In compliance with State Water Board guidance, VenturaWaterPure will divert tertiary-treated water, which currently flows into the Estuary, to an advanced water purification facility for additional treatment and reuse. A pre-diversion and post-diversion estuary monitoring program will monitor extensive physical and biological parameters to ensure the diversion does not negatively affect special-status species and designated critical habitat, including for steelhead. The project will enhance estuary habitat quality for rearing juvenile/migrating adult *O. mykiss* by improving water quality conditions, reducing the risk of illegal unseasonal breaching, and creating more natural hydrology. Take of

the species that could occur during this project is entirely associated with the estuary monitoring program, if *O. mykiss* are captured and released during fish sampling events.

Additional Information to Inform Evaluation of the Petition

For consideration in the evaluation of the Petition, the City provides input on additional topics, discussed further in Appendix A below:

- Recent research demonstrates an exceptional capacity for adaptation and informs our assessment of viability in both the species as a whole and distinct population segments
- Data on abundance and trend have substantial limitations that inhibit our ability to draw strong inference
- There are a number of threats to Southern California steelhead and the immediacy of extinction risk is unknown
- The Commission should give due consideration to both the pros and cons of listing the Southern California steelhead as it proceeds

Conclusion

O. mykiss is a highly adaptable species with apparently stable populations in varied environmental conditions across a range that encompasses much of its historic range in addition to dozens of states and countries where it is a non-native species. While southern California is more challenging to the species compared to points northward both because of climatic conditions and human development, it nonetheless persists, in part due to the interconnectedness of resident and anadromous life history forms of the species. We urge the Department and Commission to give careful consideration to the status of the species, threats to its persistence in southern California, recent genetic research, and conservation efforts as you evaluate whether listing of the DPS may be warranted.

In the event the Department recommends – and the Commission moves ahead with – a “may be warranted” finding, the City respectfully requests the opportunity to collaborate with the Department and Commission to develop a 2084 regulation to provide “take” coverage for the City’s planned steelhead habitat restoration projects in the near-term (for fish sampling in the Santa Clara River Estuary monitoring program and fish rescue/relocation in the Foster Park fish passage improvement projects). And, in such event, mindful of the potential that the species could be listed under CESA, the City respectfully requests that the Department commit to work in good faith with the City and other regulatory agencies to develop a strategy to ensure that such listing will not create impediments to or delay the restoration efforts described above – the Foster Park fish passage improvement projects and the VenturaWaterPure Program. Among the tools available to the Department to do so, in light of the existing federal listing of the DPS, is the consistency determination process authorized by Fish and Game Code 2080.1.

Through close collaboration and using all the tools in the regulatory toolbox, the Commission and Department together with the City can, we believe, cut the green tape even while processing the petition consistent with the Resource Agency’s initiative to advance restoration projects “quickly, simply, and cost effectively.” A commitment to do so would be a win for the City, the



Commission, the Department, and the steelhead, irrespective of whether the species is ultimately listed under CESA.

We thank the Department and Commission for considering our input and look forward to continuing to engage with you in the coming months.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Rungren", written in a cursive style.

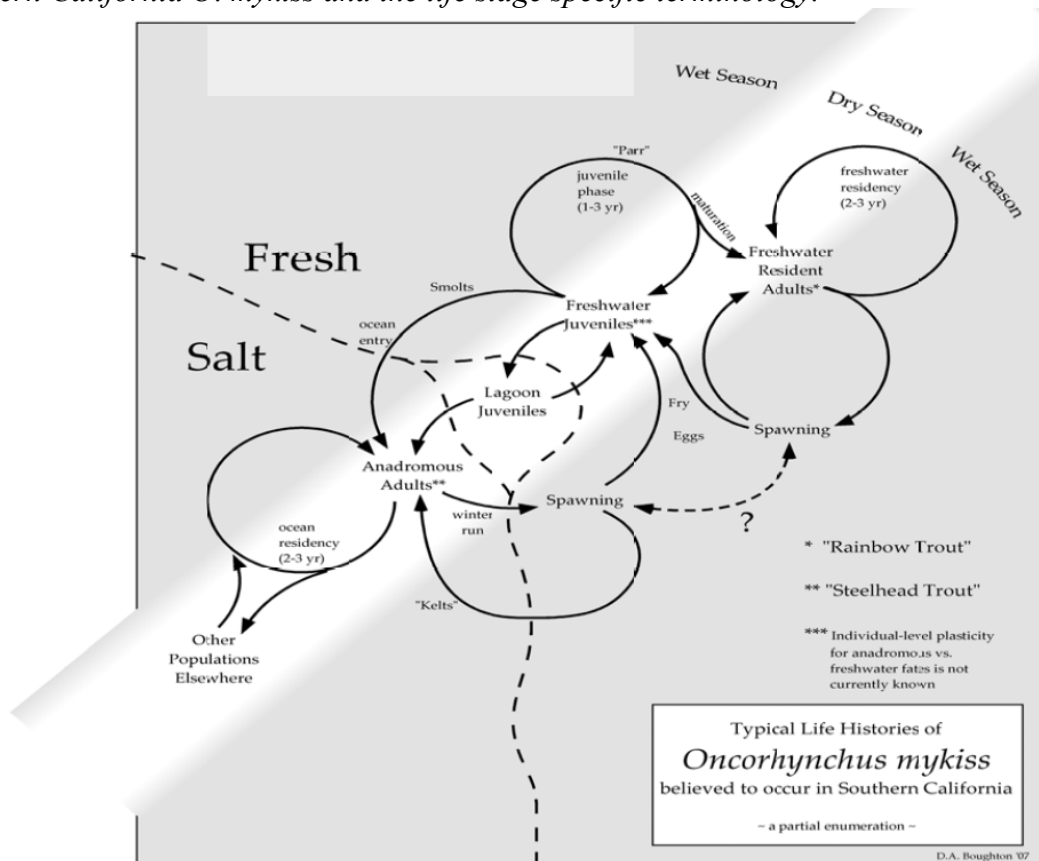
Susan Rungren
General Manager, Ventura Water
City of San Buenaventura

APPENDIX A – Additional Information to Inform Evaluation of the Petition:

Recent research demonstrates an exceptional capacity for adaptation and informs our assessment of viability in both the species as a whole and distinct population segments

From a biological standpoint, the bifurcation of *O. mykiss* into freshwater resident rainbow trout and anadromous steelhead is, at this point in time, anachronistic. Recent research demonstrates that the species exhibits dozens of life history strategies (see Figure 2-1 in NMFS 2012; Hodge et al. 2016). Resident and anadromous *O. mykiss* can and do occur in sympatry. They also can and do interbreed, and both rainbow trout and steelhead can produce progeny that exhibit resident and anadromous life histories (Kendall et al. 2015; Courter et al. 2013; Hayes et al. 2012; Hodge et al. 2016). The body of research that led to these findings has important implications when considering the conservation status of a population of the species, such as the population that petitioners propose to treat as distinct and list under CESA.

Figure 2-1 From NMFS 2012. Summary of the various life history strategies exhibited by Southern California *O. mykiss* and the life stage specific terminology.



Petitioners propose listing of *O. mykiss* that occurs in coastal watersheds from the Santa Maria River to the U.S. border with Mexico (California Trout 2021: 3, 5, 15). They further limit the petition to *O. mykiss* downstream of total manmade or natural barriers in anadromous waters

(California Trout 2021: 15). Research indicates that there is no evidence that southern California steelhead are genetically distinct from *O. mykiss* in the South-Central California Coast DPS to the north (Clemento et al. 2009; Garza et al., 2014). In light of this research, NOAA's Southwest Fisheries Science Center is investigating the validity of the southern California steelhead DPS (NMFS 2016). Additionally, NMFS opined in its most recent status review that "the resident and anadromous forms are tightly integrated at the population level" and suggested that the viability criterion for 100 percent anadromous fraction in core populations should be revised (NMFS 2016: 10-11).

Straying of individual anadromous adults between basins occurs and may be high in some years (Clemento et al. 2009). For example, 6 of 16 (38%) returning adults captured in the Santa Ynez River in 2008 were determined by genetic analysis to be from other basins (Tim Robinson, Cachuma Operations and Maintenance Board, personal communication 2010, as cited in NMFS 2016). Some genetic detection of out of basin steelhead was also observed in 2019, suggesting gene flow from straying fish (COMB 2021). Such straying has been considered "frequent" enough in a genetic sense to result in family structure dominating genetic distinctions among basins (NMFS 2016). Straying allows the species to repopulate areas subject to localized extirpations due to stochastic events, contributing to the species' persistence and facilitating range expansion even where retraction has occurred. Straying also enhances genetic exchange both within the DPS and between the DPS and populations to the north. For these reasons, straying is a valuable trait that reduces the risk of extinction of the DPS.

While there is no species distinction between *O. mykiss* in Southern California and their northern counterparts, they seem to have adapted to their immediate environmental conditions. As a consequence, Southern California steelhead tolerate higher water temperatures than those in Central and Northern California (Dressler 2021; Boughton et al. 2015; Dagit et al. 2017). Similarly, *O. mykiss* in Central and Northern California tolerate higher water temperatures than those in the Pacific Northwest. Petitioners acknowledge this increased temperature tolerance in Southern California steelhead (California Trout 2021: 2). Dressler (2021) noted in a recent presentation of results a physiological study that some southern *O. mykiss* populations could persist at higher thermal limits than they currently experience.

If resident and anadromous *O. mykiss* downstream of impassible barriers are included in the CESA listing, both life history forms should be included in evaluations of population viability, not just anadromous returns as is currently required in the federal viability criteria (NMFS 2007; NMFS 2012). Additionally, the distinction or lack thereof between the Southern California DPS and South-Central California Coast DPS should be resolved before accurate DPS-level viability and extinction risk evaluations can be completed.

Data on abundance and trend have substantial limitations that inhibit our ability to draw strong inference

Abundance and trend are expressly identified as obligatory information to be included in a Petition. The relative value of this information depends upon whether it is reliable and can be placed into context. For Southern California steelhead, difficulties arise because the scale at

which estimates were generated (there have been no surveys conducted across the range covered by the Petition and inconsistent surveys over time in terms of the watersheds, streams, and reaches covered) and the methods used (including survey types and the spatial and temporal intensity) have all differed over time.

One manifestation of this is variable and disjunct estimation methods leading to the development of the widely used historical runs size estimates in the Santa Ynez, Ventura, and Santa Clara rivers within the DPS. The Santa Ynez River estimate of a historical annual run size of 20,000 anadromous adults is from a California Department of Fish and Game employee estimating a *single year's* run (1944, a very wet year) based on visual comparison to steelhead runs he previously observed on the Eel River, though the years he observed on the Eel River had run sizes of only approximately 13,000 and 14,500 fish (ENTRIX, Inc. 1994). Similarly, for the Ventura River, anadromous returns were historically estimated at a minimum of 4,000 to 5,000 fish based on a 1946 estimate by CDFG employees without a quantitative assessment (Moore 1980). The historical estimate of average annual anadromous adult returns in the Santa Clara River also lacked quantitative assessment; it was based on comparison of local knowledge of habitat conditions to the 1946 estimate of historical run size on the Ventura River (Moore 1980a, as cited in Stoeker and Kelley 2005).

These methods, alone, provide grounds for questioning historical abundance estimates. Steelhead populations are known to fluctuate annually, particularly strongly in the flashy systems of Southern California; estimates of historical annual run sizes based on single observation points and without quantitative assessments may be unsuitable for use in management decisions. In addition, there is strong evidence that some amount of stocking of waters in the range of the Southern California steelhead occurred during the time of the population estimates (Titus et al. 2010). Extensive rescue and relocation of hundreds of thousands of juvenile fish during drying and drought conditions also occurred during this period, particularly in the Santa Ynez River with transplanting to perennial sections and to neighboring watersheds, including the Ventura and Santa Clara (ENTRIX, Inc. 1994; Bowers 2008; Stoeker and Kelley 2005). Historical estimates of abundance in the Petition and elsewhere could well be confounded by the influence of stocked and rescued/transplanted *O. mykiss*.

The uncertainty regarding abundance and trend has implications for conservation and recovery planning efforts, in addition to species status assessment. These include implications with respect to the appropriateness of the Southern California steelhead viability criteria which are incorporated into recovery planning and delisting thresholds. Both when engaged in conservation and recovery planning and when assessing the status of a subpopulation established for regulatory purposes (as opposed to based on biological criteria), it is also important to take into account the inter-relationship of that subpopulation and other *O. mykiss*. This includes those populations in watersheds to the north (in the current South-Central California Coast Steelhead DPS). While NMFS developed recovery numbers requiring a 100 percent anadromous fraction of mean annual population runs sizes established by the agency (Boughton et al. 2007; NMFS 2012), the resident *O. mykiss* in each watershed outnumber anadromous *O. mykiss* greatly and contribute to both viability and long-term persistence of the DPS.

There are a number of threats to Southern California steelhead and the immediacy of extinction risk is unknown

Petitioners identify destruction, modification, and fragmentation of native habitat as threats to the Southern California steelhead (California Trout 2021: 11). They go on to explain that the factors contributing to adverse changes to habitat are development of water infrastructure, agriculture, urbanization, and climate change induced events including catastrophic wildland fire and drought. In addition to these factors, in its most recent status review, NMFS has identified poor oceanic conditions as an important stressor on the species (NMFS 2016). In its Recovery Plan, NMFS identified non-native species as an important stressor on the species (NMFS 2012).

Historical stocking of Central Valley *O. mykiss* has resulted in the prevalence of fish of non-native ancestry and the near extirpation of native lineages in a number of water courses or watersheds within the area demarcated by the DPS, particularly in the more southern watersheds (NMFS 2016). This can be perceived as either a threat to the native lineages (for example, NMFS 2012: 4-6, NMFS 2016: 54) or a potentially important contributor to some populations in the DPS (Abadia-Cardoso et al. 2016).

The immediacy of the risk to the persistence of the DPS posed by these threats is debatable. The Southern California steelhead has persisted at relatively stable levels since prior to the federal listing of the DPS. As Petitioners point out, in 1996, CDFW (then CDFG) predicted the impending extinction of the Southern California steelhead within 25 years (California Trout 2021: 14). Twenty-five years later the population of the DPS have persisted. In fact, there are a number of large scale habitat restoration and recovery actions at various phases of planning and implementation, including some the City describes below and others described by water agencies operating in other watersheds within the range of the DPS. As these actions progress through planning and implementation, they can be expected to contribute to the recovery of *O. mykiss* within the range of the DPS.

While stochastic events such as fire, debris flow, and drought may cause local extirpations, data suggest these are temporary and affected areas are repopulated when conditions improve. Both straying of anadromous *O. mykiss* and the existence of resident *O. mykiss*, discussed above, mitigate the effects of such stochastic events on the DPS.

The Commission should give due consideration to both the pros and cons of listing the Southern California steelhead as it proceeds

While listing a species and imposing a broad take prohibition is a powerful regulatory tool and can be important to conservation efforts in some circumstances, it is not well-suited to benefit species across the range of circumstances in which this Commission may determine that action is warranted. For example, listing may not be an effective tool where climate change or habitat conversion is the principal limiting factor on a species. This is the case because listing is accompanied by a prohibition on activities that result in direct take of a protected species absent authorization but it does not prohibit habitat degradation or destruction. Listing can also complicate efforts to benefit a species, for example, by imposing additional regulatory hurdles on

efforts to monitor the species or undertake habitat enhancement or restoration efforts. This potential downside of listing is particularly apparent with respect to the Southern California steelhead considering the extensive monitoring, fish passage, and habitat improvement projects at various stages of planning and implementation, including those City projects we have described above. Further, a decision to make the species a candidate for listing could interfere with such projects in light of the potential that they will have incidental impacts on individual *O. mykiss* and the CESA permitting process can be time and resource intensive.

Petitioners suggest that listing the species as endangered is necessary “at the state level to augment the protection provided by the federal listing” (California Trout 2021: 15). They argue this is the case because “NMFS is, in most cases, the only government agency with direct oversight over the condition of the species and its required habitat,” and “[t]his has resulted in protracted legal battles and little option for enforcement” (California Trout 2021: 13). In fact, the federal definition of “take” under the ESA is broader than the state definition of “take” under CESA. As a result, the extent of protection afforded by the federal take prohibition is greater than that afforded by CESA. And NMFS has much more substantial enforcement resources than CDFW. Furthermore, because consultation under section 7 of the ESA is triggered by any action that “may affect” steelhead/designated critical habitat and in circumstances where there is a federal nexus (such as a requirement to obtain a permit from the Army Corps of Engineers under section 404 of the Clean Water Act), NMFS is routinely involved in, and exercises regulatory review over, projects affecting the rivers and streams that are habitat for the DPS.

In addition, the Petitioners’ argument is factually incorrect given the oversight over condition of the species and its habitat exercised by the numerous federal and state regulatory agencies including the Army Corps of Engineers and Environmental Protection Agency under the Clean Water Act, the State Water Resources Control Board and Regional Boards under the Porter-Cologne Water Quality Control Act and other provisions of the California Water Code, the California Coastal Commission under the Coastal Act, and CDFW under the Lake and Streambed Alteration Program. In sum, the federal and state regulatory agencies already have numerous tools in their regulatory toolboxes to address societal activities that have deleterious effects on steelhead and their habitat.

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Charlton Bonham, Director
California Department of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814
[REDACTED]

February 3, 2022

Melissa Miller-Henson
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
fgc@fgc.ca.gov

Dear Director Bonham and Executive Director Miller-Henson:

We are writing with respect to item number 20 on the Commission's February 16-17, 2022 meeting agenda, regarding the Petition to list the Southern California Steelhead under the California Endangered Species Act (CESA). As you know, in the event the Commission determines the petitioned action may be warranted, the population will become a candidate for listing and will be afforded the same protections extended to listed species. We have approached Department and Commission staff to discuss the potential for the Department – in coordination with Commission staff and the City of San Buenaventura (City) – to develop a proposed 2084 regulation for the Commission's consideration simultaneous with its consideration of the Petition to list.

A 2084 regulation is critically important to the City's efforts to implement restoration projects that will improve habitat conditions for steelhead: the Foster Park fish passage improvement projects on the Ventura River and the VenturaWaterPure Program's Pre-Construction Assessment Program and Monitoring, Assessment, and Adaptive Management Plan in the Santa Clara River Estuary. The Ventura River and Santa Clara River steelhead populations are identified by the National Marine Fisheries Service as core 1 populations in its Recovery Plan for the species, that is, populations with the highest priority for recovery actions. Furthermore, these two restoration efforts are specifically designed to contribute to the conservation of the steelhead and are described in some detail in our prior letter to the Commission, which is attached for your convenience.

Recently, we were informed by Department staff that the Department will look to the Commission for direction whether to work with affected parties such as the City to develop proposed 2084 regulations. Therefore, we ask that you direct the Department to work with Commission staff and the City to develop a proposed 2084 regulation for consideration at its April 2022 meeting. We also ask that you defer a decision on the Petition to list until that same



meeting. This will provide the Department, Commission staff, and the City the time and direction needed to work together to develop a proposed 2084 regulation for the Commission's consideration.

Thank you for giving due consideration to these requests.

Sincerely,

A handwritten signature in blue ink, appearing to read "Susan Rungren", written in a cursive style.

Susan Rungren
General Manager, Ventura Water
City of San Buenaventura

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April 15, 2022

Charlton Bonham, Director
California Department of Fish and Wildlife
1416 9th Street, 12th Floor
Sacramento, CA 95814

Melissa Miller-Henson
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
fgc@fgc.ca.gov

Dear Director Bonham and Executive Director Miller-Henson:

We are writing with respect to item numbers 23 and 24 on the Commission's April 20-21, 2022 meeting agenda, regarding the Petition to list the Southern California Steelhead under the California Endangered Species Act (CESA) and conditional take of steelhead. For the past five months, the City of San Buenaventura (City) has actively engaged with Department and Commission staff in anticipation of the potential that this body could advance the steelhead to candidacy status. We did so in order to advocate for a path to securing incidental take authorization needed to proceed with two restoration projects that will improve habitat conditions for steelhead:

- the Foster Park fish passage improvement projects on the Ventura River, and
- the VenturaWaterPure Program, including its Pre-Construction Assessment Program and Monitoring, Assessment, and Adaptive Management Plan in the Santa Clara River Estuary.

The City planned the Foster Park fish passage project in coordination with the Department over the course of the past two years, received authorization under the Habitat Restoration and Enhancement Act (HREA) on March 4, 2022, and the work is anticipated to take place between September 15 and November 1, 2022. In order to proceed on schedule, if steelhead is advanced to candidacy status, it will be necessary to secure take authorization in advance of project implementation.

Beginning in 2008 (and even before), the City began intensive work in coordination with the Department, the Los Angeles Regional Water Quality Control Board (RWQCB), the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service studies to collect monitoring data and prepare multiple studies of the Santa Clara River Estuary to



assess the effects of discharges of tertiary treated flow from the Ventura Water Reclamation Facility (VWRF) to the Estuary. The studies were initiated pursuant to RWQCB requirements in the City's 2008 VWRF NPDES Permit, and pursuant to a federal court consent decree between the City and two environmental groups, Wishtoyo Foundation's Ventura Coastkeeper and Heal The Bay. The purpose of these studies was to determine how to restore a more natural hydrological regime within the Estuary, as well as to improve water quality, salinity, and habitat conditions within the Estuary for to benefit native sensitive species, including steelhead, tidewater goby, western snowy plover and California least tern.

In June 2018, based on its review and analysis of more than 10 years of estuary data and studies, an independent Scientific Review Panel (SRP) recommended reducing discharges of tertiary treated flow to the Estuary to an average annual flow of 0 to 0.5 mgd. Prior to renewing the City's NPDES permit, the RWQCB then sought input from the Department and other wildlife agencies on the SRP's recommendations, and incorporated requirements into the City's 2020 NPDES permit requiring the City to develop a project, known as VenturaWaterPure, to attain discharge reductions in phases and pursuant to an adaptive management framework. The RWQCB incorporated conditions requiring phased discharge reductions and use of an adaptive management framework specifically to address Department comments. The adaptive management framework includes pre-action monitoring, including seining of the Estuary that could result in capture and release of steelhead, to further establish baseline conditions before implementation of first phase discharge reductions. For the City to satisfy the implementation timelines required by the NPDES permit and the data needs articulated by the Department, the Pre-Construction Assessment Plan (PCAP) baseline monitoring must begin this Fall 2022. After three years of baseline monitoring, the first phase of VenturaWaterPure discharge reductions would begin in 2025 as required by the NPDES permit, and as recommended by the SRP and Department.

While we initially believed in December 2021 that a 2084 regulation represented the best path to secure timely incidental take authorization in order to proceed with these two projects on schedule, in response to discussions with Department staff, we shifted to pursue incidental take authorization under other provisions of the Fish and Game Code. Based on our most recent discussion with Department staff yesterday, we now understand that the best path to obtaining take coverage for the Foster Park projects is attainment of an additional Departmental approval under the HREA. With respect to attainment of take authorization for the VenturaWaterPure program, we will now pursue a consistency determination following issuance this summer of a biological opinion by the National Marine Fisheries Service (NMFS) under the federal Endangered Species Act. Based on our ongoing discussions with the Department, and because the 2084 regulation as proposed does not provide the ability to attain take authorization pursuant to its terms for restoration projects, at this time we are committed to the HREA and Fish & Game Code 2080.1 paths for authorization of our restoration projects.



That said, we submit that – in contemplating adoption of a 2084 regulation – the Commission should authorize incidental take associated with steelhead habitat restoration projects in addition to the other categories of projects outlined in the Department’s proposed regulatory text. A number of habitat restoration projects identified by NMFS in its Recovery Plan for the species currently are in the planning and implementation pipeline. These projects have the potential to contribute to the conservation of the species. We should all be able to agree that advancement of the steelhead to candidacy status should **not** create barriers to efforts to conserve the species. Further, section 399 of the Fish and Game Code gives the Commission broad authority to enact emergency regulations to “conserve, preserve, or protect” steelhead and a range of other species of wildlife. Combined with section 2084, section 399 provides this Commission with a sound basis to enact a 2084 regulation that allows restoration projects to proceed without incurring delays and related increases in cost. Given that the Commission is poised to determine that listing steelhead “may be warranted” in part because restoration projects have not been implemented quickly or robustly enough in response to the federal listing alone, approving a 2084 regulation that allows coverage for restoration projects pursuant to sections 2084 and 399 would be fully consistent with any Commission actions to protect the species.

We appreciate the time Department and Commission staff have committed to working with potentially regulated entities including the City to explore the various paths available to secure incidental take authorization. We feel that this work is critical to establishing that implementation of CESA is compatible with other societal priorities such as the provision of adequate, affordable, and safe drinking water supplies to all Californians. We are hopeful that the ongoing efforts of City and Department staff will reinforce for all affected parties that it is possible to secure timely incidental take authorization for projects that will benefit society and California’s native wildlife alike.

Thank you for giving due consideration to our views.

Sincerely,

A handwritten signature in blue ink, appearing to read "Susan Rungren", written in a cursive style.

Susan Rungren
General Manager, Ventura Water
City of San Buenaventura

September 29, 2022

CDFW Fisheries Branch
Attn: Southern California Steelhead
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Submitted electronically to SCSH@wildlife.ca.gov

Re: California Department of Fish and Wildlife 12-Month Status Review of California Steelhead (*Oncorhynchus mykiss*)

Dear Fisheries Branch Staff,

The Association of California Water Agencies (ACWA) appreciates the opportunity to provide public comments to the California Department of Fish and Wildlife (Department) related to the 12-month status review of Southern California Steelhead, *Oncorhynchus mykiss* (O. mykiss). ACWA represents more than 460 public water agencies that collectively deliver approximately 90 percent of the water in California for domestic, agricultural, and industrial uses. ACWA and its members are invested in healthy watersheds and habitats that support robust populations of native fish and wildlife. However, ACWA has significant concerns regarding the potential impacts on public water agencies and their ability to reliably provide water that could result if Southern California steelhead are listed as a protected species under CESA.

1. Background

On June 14, 2021, California Trout (CalTrout) submitted a petition to the California Fish and Game Commission (Commission) to list Southern California steelhead as an endangered species under CESA. On April 21, 2022, the Commission accepted the petition for consideration. On May 13, 2022, the Commission provided public notice that Southern California steelhead is now a candidate species under CESA. On July 15, 2022, the Department noticed that it had initiated a status review of Southern California steelhead and invited the public to submit comments, including data and other scientific information related to the species. In its status review, the Department is required to evaluate the breadth of available scientific literature and develop a summary of the status of Southern California steelhead. The Department is also required to seek independent peer review of its draft status report.

2. ACWA Comments

ACWA appreciates the mission of the Department, which is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend. Public water agencies are intimately involved in the management of watersheds and wildlife habitats. ACWA member agencies have become increasingly involved in the proactive resolution of fishery and other aquatic species resource management issues. ACWA has the following significant concerns regarding the petition to list Southern California steelhead pursuant to CESA.

a. Minimize Impacts on Water Management

Designation of the specified population segment as an endangered species could have significant impacts on water management operations in the region that are critical to public health and safety. Long-term water resilience and the successful implementation of CESA requires that regulatory agencies collaborate with stakeholders to develop an approach that accounts for the various and unique needs of the region and balances water supply reliability and ecosystem enhancement.

Steelhead proceedings under the Federal Endangered Species Act, which already provides protection to the species as a matter of federal law, have resulted in substantial curtailments of water diversions and extractions in Southern California coastal streams, thereby exacerbating existing shortages of supply from the San Joaquin/Sacramento Delta and the Colorado River. The Commission and the Department should consider the existing regional water shortages that could be exacerbated should Southern California steelhead be listed as an endangered species under CESA.

The Commission's candidacy determination not only initiated a comprehensive status review, but also triggered a take prohibition while the Department conducts its review and until the Commission makes a final listing decision. These prohibitions are already having an effect on needed construction, operations, and maintenance of water supply infrastructure necessary for public health and safety. In addition, a listing could result in unviable avoidance and minimization measures for water management and water facility operation activities occurring in streams populated, or potentially suitable for future population by Southern California steelhead. Further, instream flow mandates have the potential to prohibit all or most diversions and extractions from Southern California streams and interconnected alluvial basins. These regulatory effects would also impact ongoing or planned projects intended to protect Southern California steelhead, such as fish passage projects, multi-benefit water supply projects intended to meet the state's resiliency and sustainability goals, and habitat restoration efforts.

Water agencies in the impacted central and southern coastal watersheds are working diligently to effectively manage limited water supplies and continue efforts to conserve the species. The current drought emergency and long-term climate change impacts requires close collaboration between local and state agencies if a potential Southern California steelhead listing impacts water supply in order to continue to provide safe, affordable and reliable water to Southern Californians.

b. Incorporate Data Submitted by Water Agencies

Consistent with the Department's July 15, 2022 solicitation, various water agencies have shared information contributing to the Department's status review of resident and anadromous *O. mykiss*. The information submitted contributes to the best available science, and highlights the basis for ACWA's concerns with the potential listing of resident and anadromous *O. mykiss*. These concerns are based on extensive research conducted by ACWA member agencies, including United Water Conservation District (United), Casitas Municipal Water District (Casitas), and the City of Ventura, who have conducted *O. mykiss* surveys and monitoring and are currently engaged in significant ongoing water resource management operations, restoration, as well as project planning and implementation with the protection of fish and their habitats as a key component under the existing regulatory mechanisms including the Federal Endangered Species Act and Fish and Game Code.

United, Ventura, and Casitas summarized many scientific and technical findings and identified concerns regarding the petition in letters provided to the Department as part of the Department's 12-month status review. The information shared by water agencies demonstrates the need for close examination of all relevant scientific information of the proposed listing unit. Given this, the status review is an opportunity to evaluate all factors related to the status of the overall species, leading to biologically sound and appropriate conclusions. The issues raised by water agencies regarding the scope of the listing, the definition of Southern California steelhead, and the data on anadromous versus resident *O. mykiss* should be seriously considered by Department staff and the Commission as part of both this review and the Commission's ultimate listing determination.

c. Conduct a Robust Peer Review

Section 2074.5 of the Fish and Game Code directs the Department to seek independent peer review of its draft status report. ACWA encourages the Department to pursue a robust peer review process that includes multiple reviewers that have a demonstrated (through authored publications, academic instruction, and/ or field application) expertise in aquatic and fish ecology. Further, ACWA recommends that the Department select peer reviewers that hold a PhD in fish biology or related field and extensive experience with *O. mykiss* populations, including but not limited to population dynamics, demographics, life history variation, and genetics. To that end, ACWA has attached a list of peer reviewers that are qualified to conduct a review of the Department's draft status review. Please note that this list is not intended to be comprehensive and ACWA may submit additional peer reviewers to Department staff in the future.

ACWA appreciates the responsibility currently before the Department and the Commission in evaluating this petition. There are many factors that will help determine the current status of the Southern California steelhead. A thorough review of all available science is needed. ACWA's members along California's South Coast are closely following this status review as the Commission's ultimate decision, particularly in the midst of a historic drought, could have significant impacts on water management operations throughout the region.

ACWA appreciates the opportunity to comment and the collaboration of Department and Commission staff. If you have any questions regarding this issue, please contact me at sorenn@acwa.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Soren Nelson". The signature is fluid and cursive, with the first name "Soren" and last name "Nelson" clearly distinguishable.

Soren Nelson
Regulatory Advocate
Association of California Water Agencies

CC: The Honorable Samantha Murray, President, California Fish and Game Commission
The Honorable Erika Zavaleta, Vice President, California Fish and Game Commission

The Honorable Jacque Hostler-Carmesin, Member, California Fish and Game Commission

The Honorable Eric Sklar, Member, California Fish and Game Commission

Ms. Melissa Miller-Henson, Executive Director, California Fish and Game Commission

Mr. Scott Gardner, Wildlife Branch Chief, California Department of Fish and Wildlife

Dave Eggerton, Executive Director, Association of California Water Agencies

Cindy Tuck, Deputy Executive Director, Association of California Water Agencies

Association of California Water Agencies
Recommended Peer Reviewers for CDFW Status Review of *O. Mykiss*

- **Chuck Hanson**
 - Member of the USFWS Native Delta Fish Recovery Team,
 - Member of the NMFS Central Valley Salmonid Technical Recovery Team,
 - Member of numerous technical advisory committees (e.g., San Joaquin River Restoration TAC, Santa Ynez River TAC, Kings River TSC, Mokelumne River TAC, etc.),
 - Science advisor to settlement negotiations and State and Federal litigation regarding fishery issues.
 - Participated in the development of adaptive management programs including real-time monitoring, management of power plant cooling water and other diversion operations, and the San Joaquin River Vernalis Adaptive Management Plan (VAMP).
 - Participated in preparation of the Bay Delta Habitat Conservation Plan (BDCP)
 - Served as an expert witness for the Department of Water Resources (DWR) in the California WaterFix hearings before the State Water Resources Control Board (SWRCB)
 - Designated as a scientific expert in Federal District Court on salmon and steelhead as well as Delta smelt
 - Designated as a scientific expert in California Superior Court on salmon and steelhead
 - Participated as an independent scientific reviewer in the USFWS comprehensive status review of two listed fish in the Upper Klamath Basin, the Lost River sucker and the shortnose sucker.
 - Prepared CESA Incidental Take Applications and ITP compliance monitoring

- **Camm Swift**
 - Expert on Southern California native fishes
 - [Resume](#)
 - A member of the South-Central/Southern California Steelhead Technical Recovery Team (TRT) that culminated in the publishing of the Recovery Plans for the two DPSs

STAFF SUMMARY FOR APRIL 20-21, 2022
(FOR BACKGROUND PURPOSES ONLY)

24. CONDITIONAL TAKE OF SOUTHERN CALIFORNIA STEELHEAD

Today's Item

Information ☐

Action ☒

If the Commission determines that listing may be warranted, consider regulatory action to allow take of southern California steelhead (*Oncorhynchus mykiss*) under certain circumstances by either authorizing a notice of intent to adopt a regulation at a future meeting or adopting an emergency regulation at this meeting, and consider taking final action under the California Environmental Quality Act.

Summary of Previous/Future Actions (for full summary, see Agenda Item 23)

- **Today discuss and consider authorizing conditional take of southern California steelhead** **Apr 20-21, 2022; Monterey/Trinidad**

Background

At its Feb 16-17, 2022 meeting, FGC held a public hearing regarding the petition to list southern California steelhead (SCS) as an endangered species under the California Endangered Species Act (CESA). After oral testimony concluded, FGC discussed the item, closed the public hearing and administrative record pursuant to California Fish and Game Code Section 2074.2, and continued deliberation on the question of whether listing SCS as endangered may be warranted to today's meeting (Agenda Item 23). FGC also asked staff to work with DFW, the petitioner, tribes, and other interested parties to develop a draft regulation, consistent with the purposes of CESA, that would permit the take of SCS and allow critical infrastructure and other essential projects to continue operations.

If FGC determines that listing may be warranted, SCS will become a candidate species and DFW will undertake a one-year status review before FGC makes a final decision on listing. Candidate species are protected from unauthorized take during the remainder of the listing process pursuant to Fish and Game Code Section 2085. Fish and Game Code Section 2084 permits FGC to authorize the take of any candidate species, subject to terms and conditions it prescribes and based on the best available scientific information, consistent with CESA.

DFW proposes a draft regulation (Exhibit 2) that, if adopted by FGC, would authorize take of SCS during the candidacy period. The take authorization would apply to certain projects or activities that relate to flood control, highways and the diversion, impoundment, or discharge of water that provide certain benefits to public peace, health, safety or general welfare, and that meet other specific conditions described in the proposed addition of Section 749.13. The take authorization would be contingent on a current, valid federal instrument that authorizes take under the federal Endangered Species Act – a biological opinion or an incidental take permit issued by the National Marine Fisheries Service. The project proponent must demonstrate they have complied with Fish and Game Code Section 1602 by (1) submitting a final lake and streambed alteration agreement (LSAA), (2) indicating they have initiated the process of obtaining an LSAA by paying the applicable fees, or (3) affirming that an LSAA is not required for the project. As proposed, DFW would examine all submitted materials and make a written determination as to whether all requirements have been met.

STAFF SUMMARY FOR APRIL 20-21, 2022
(FOR BACKGROUND PURPOSES ONLY)

An emergency exists because of the immediate, serious harm to the public health, safety, or general welfare that would be caused by work delays or stoppages for projects or activities that relate to: (1) flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; (2) projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or (3) projects or activities that relate to the diversion, impoundment or discharge of water and that provide water supply or water treatment for essential domestic, agricultural, industrial or other commercial uses. Under the regulation, DFW may only authorize take for projects that meet the California Administrative Procedure Act definition of an emergency, namely, those for which not issuing take authorization would cause “serious harm to the public peace, health, safety, or general welfare.”

Regarding projects or activities that provide water supply, on March 28, 2022 Governor Newsom ordered through Executive Order N-7-22 that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect. The critical need for water delivery under these serious drought conditions reinforces the emergency nature of the regulation.

Today, FGC will discuss and consider the potential regulation to authorize conditional take of SCS during the candidacy period. By adopting this regulation, FGC would authorize the incidental take of SCS during the candidacy period that may result from activities previously mentioned.

If FGC adopts an emergency regulation at this meeting, staff would submit the regulation to the Office of Administrative Law for filing. If FGC authorizes a notice of proposed rulemaking (i.e., regular rulemaking in lieu of an emergency regulation) at this meeting, the regulation would be considered at a future meeting. A regulation adopted pursuant to FGC’s authority under Section 2084 would only authorize take during the time that SCS is a candidate species under CESA.

Significant Public Comments

1. Casitas Municipal Water District requests that, if FGC finds listing SCS under CESA may be warranted, FGC authorize interim incidental take in accordance with Fish and Game Code Section 2084 for operations, maintenance and repair of existing water system facilities (Exhibit 4).
2. United Water Conservation District provides information on its operations and two of its water projects, and supports Section 2084 language attributed to the Association of California Water Agencies, which is similar to the language proposed by DFW. In the absence of such a regulation, it urges FGC to include United’s facilities in any Section 2084 regulation that allows for take of SCS during its candidacy period (Exhibit 5).
3. Orange County Water District states that it would be beneficial for DFW and FGC staff to clarify in the Section 2084 regulation that stocked fish are not “native” SCS as it would avoid needless confusion and improper allegations in the future should stocked fish be found dead as part of normal operations of the water agencies (Exhibit 6).

STAFF SUMMARY FOR APRIL 20-21, 2022
(FOR BACKGROUND PURPOSES ONLY)

Recommendation

FGC staff: Adopt the proposed emergency regulation authorizing conditional take of southern California steelhead as proposed in exhibits 1 and 2 and discussed today.

Exhibits

1. DFW memo for proposed Section 749.13, received Apr 6, 2022
2. Draft statement of proposed emergency regulatory action and proposed regulation text, received Apr 6, 2022
3. Draft economic and fiscal impact statement (STD 399) and addendum, received Apr 6, 2022
4. Letter from Michael L. Flood, General Manager, Casitas Municipal Water District, received Apr 6, 2022
5. Letter from Anthony Emmert, Assistant General Manager, United Water Conservation District, received Apr 7, 2022
6. Letter from Michael R. Markus, General Manager, Orange County Water District, received Apr 7, 2022

Motion

Moved by _____ and seconded by _____ that the Commission finds, pursuant to Section 399 of the Fish and Game Code, that adopting the proposed emergency regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare.

The Commission further determines, pursuant to Section 11346.1 of the Government Code, that an emergency situation exists and finds the proposed regulation is necessary to address the emergency.

Therefore, the Commission adopts the emergency regulation to add Section 749.13 to Title 14, California Code of Regulations, as discussed today.

Memorandum

Date: September 8, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submittal of Emergency Statement for Re-adopt of Addition of Section 749.13 to Title 14, California Code of Regulations: Incidental Take of Southern California Steelhead**

Please find attached the Finding of Emergency and Statement of Proposed Emergency Regulatory Action to Re-adopt the Addition of Section 794.13 to Title 14, California Code of Regulations (Emergency Statement), STD399 Economic and Fiscal Impact Statement, and STD399 Addendum. At the February 17, 2022, Fish and Game Commission (Commission) meeting, the Commission asked the Department of Fish and Wildlife (Department) to work with stakeholders to develop a potential Fish and Game Code (FGC) Section 2084 regulation that would allow take of Southern California steelhead under certain conditions. At its April 20-21, 2022, meeting, the Commission determined that listing Southern California steelhead (*Oncorhynchus mykiss*) as endangered under the California Endangered Species Act (CESA) may be warranted pursuant to FGC Section 2074.2.

Candidate species are protected from take under CESA pursuant to FGC Sections 2080 and 2085 during the CESA status review period. Under FGC Section 2084, CESA provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise consistent with CESA. As with all regulations, the Commission may adopt a regulation under FGC Section 2084 on an emergency basis when it determines that a situation exists which threatens public health and safety or general welfare.

The Department worked with stakeholders to develop regulations, under FGC Section 2084, which the Commission adopted through an emergency rulemaking action at the Commission's April 20-21, 2022, meeting. The Commission may consider re-adoption of this regulation described in the attached Emergency Statement through an emergency rulemaking action at the Commission's October 12-13, 2022, meeting. If adopted by the Commission and approved by the Office of Administrative Law (OAL), this potential emergency regulation would be effective upon filing by the OAL and the regulation would continue for a period of 90 days. If the Commission adopts this regulation, the Commission would, subject to specific terms and conditions, continue to authorize the incidental take of Southern California steelhead during the CESA

Melissa Miller-Henson, Executive Director
Fish and Game Commission
September 8, 2022
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candidacy period that may result from projects or activities related to flood control; highways; and the diversion, impoundment, or discharge of water that provide certain public benefits.

If you have any questions or need additional information, please contact Ed Pert, Regional Manager, South Coast Region, via email at SCSH@Wildlife.ca.gov.

Attachments: Emergency Statement
STD399 Economic and Fiscal Impact Statement
STD399 Addendum

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Jay Rowan, Branch Chief
Fisheries Branch

Ed Pert, Regional Manager
South Coast Region

Richard Burg, Program Manager
South Coast Region

Erinn Wilson-Olgin, Program Manager
South Coast Region

Chris Stoots, Assistant Chief
Law Enforcement Division

Brian Hennes, Attorney
Office of the General Counsel

Brian Owens, Acting Program Manager
Regulations Unit

Jenn Bacon, Analyst
Fish and Game Commission

David Thesell, Program Manager
Fish and Game Commission

CALIFORNIA FISH AND GAME COMMISSION
FINDING OF EMERGENCY AND
STATEMENT OF PROPOSED EMERGENCY REGULATORY ACTION

Emergency Action to
Re-adopt Section 749.13
Title 14, California Code of Regulations
Re: Incidental Take of Southern California Steelhead

Date of Statement: September 14, 2022

Unless otherwise specified, all section references in this document are to Title 14, California Code of Regulations.

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

Background

On June 14, 2021, the California Fish and Game Commission (Commission) received a petition (the Petition) from California Trout to list Southern California steelhead (*Oncorhynchus mykiss*, herein referred to as “SCS”), as endangered under the California Endangered Species Act (CESA). SCS is defined in the petition as all *O. mykiss*, including anadromous and resident life histories, below manmade and natural complete barriers to anadromy from the Santa Maria River, San Luis Obispo County (inclusive) to the U.S. Mexico border. The anadromous and resident life history forms of the species *O. mykiss* commonly referred to as “steelhead” and “rainbow trout,” respectively, overlap in distribution and interbreed throughout much of their range.

A Southern California steelhead Distinct Population Segment (Southern California steelhead DPS) is currently listed under the federal Endangered Species Act (50 C.F.R. § 224.101). That federal listing has the same geographic scope as the SCS CESA listing proposed by California Trout in its petition; however, the federal listing only includes the anadromous life history of *O. mykiss* and does not include *O. mykiss* with resident life histories. It is important to note that it is difficult if not impossible to visually distinguish between the two life histories in freshwater, especially during early life stages. Even genetic analysis may not reveal which life history an individual *O. mykiss* has or will express. Accordingly, for management purposes the National Marine Fisheries Service generally considers any *O. mykiss* within the rivers included in the geographic scope of the Southern California steelhead DPS listing to be a part of that listing unit.

On December 15, 2021, the Commission received the California Department of Fish and Wildlife’s (Department) 90-day evaluation report on the Petition. In that evaluation report the Department determined that there is sufficient scientific information in the petition to indicate that the petitioned action may be warranted.

On February 17, 2022, the Commission closed the public hearing and administrative record and continued the deliberation and decision on whether listing SCS as endangered under CESA may be warranted to a future Commission meeting to be held no later than May 18, 2022. Continuing the deliberation and decision allowed the Commission to consider a potential 2084 regulation in the same Commission meeting in which the Commission might make a may-be-warranted finding that would make SCS a candidate species under CESA.

On April 21, 2022, the Commission found that listing SCS under CESA may be warranted pursuant to FGC Section 2074.2, and SCS will become a CESA candidate species upon the Commission's publication of a notice of finding that the Commission has accepted the California Trout Petition for consideration and designated SCS as a candidate species under CESA. In the same meeting, the Commission adopted the Fish and Game Code Section 2084 regulation through emergency authority. On October 13, 2022, the Commission re-adopted the same Fish and Game Code Section 2084 regulation.

Statutory Authority

Candidate-species are protected from take under CESA pursuant to Fish and Game Code (FGC) sections 2080 and 2085. FGC Section 86 states that “[t]ake means hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill.” Under FGC Section 2084, CESA provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise consistent with CESA. As with all regulations, the Commission may adopt a regulation under Section 2084 on an emergency basis when it determines that a situation exists that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

Consistency Determinations (CD) pursuant to FGC Section 2080.1 or Incidental Take Permits (ITP) pursuant to FGC Section 2081, subdivision (b), may also authorize the take of CESA candidate species. CESA take may only be authorized through a CD after the Department has determined that a project's federal take authorization under the federal Endangered Species Act meets certain CESA criteria; some federal take authorizations will likely not entirely meet those criteria. The Department may authorize CESA take through an ITP on a project-specific basis, which would be a substantially more lengthy and costly process for getting CESA take authorization than through this proposed emergency regulation.

Finding of Emergency

The Commission considered the following factors in determining whether an emergency exists: public health, safety, and general welfare, as well as the magnitude of potential harm; the immediacy of the need; and whether the anticipation of harm has a basis firmer than simple speculation and has determined that an emergency regulation authorized under FGC Section 2084 is needed. In this case, an emergency exists because of the immediate, serious harm to the public health, safety, or general welfare that would be caused by work delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or projects or activities that relate to the diversion, impoundment, or discharge of water and provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses. Regarding projects or activities that provide water supply, on March 28, 2022, in Executive Order N-7-22, Governor Newsom ordered that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect. The proposed addition of Section 749.13 creates a special order allowing incidental take of SCS during CESA candidacy for certain activities subject to specific terms and conditions described below.

II. Proposed Emergency Regulations

Under this emergency regulation the Commission will continue to authorize the incidental take of SCS during the candidacy period that may occur during the implementation of certain projects or activities that relate to flood control; highways; and the diversion, impoundment, or discharge of water; that provide certain benefits to public peace, health, safety, or general welfare; and that meet other specific conditions described in the proposed addition of Section 749.13. The following paragraphs justify each subsection as follows:

749.13(a): This subsection is necessary to inform how the proponent of a project or activity seeking take authorization shall submit to the Department written documentation via email or physical mail to demonstrate that the project or activity satisfies the criteria in subsections (a)(1) through(4).

(a)(1): This subsection lists the types of projects or activities that would satisfy this first of four criteria in subsections (a)(1) through (4). Flood control, and the diversion, impoundment, or discharge of water are mentioned to define to project proponents of the scope of in-stream activities and applicability of this regulation. The definition of “highway” in subsection (a)(1) is the same as in Section 360 of the California Vehicular Code: “‘Highway’ is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.” Referencing this code is necessary to ensure clarity to project proponents of the scope of transportation nexus and applicability of this regulation.

(a)(2): This subsection describes the public benefits that the types of projects or activities listed in subsection (a)(1) must provide to satisfy this second of four criteria in subsections (a)(1) through (4).

Projects or activities that provide flood protection necessary to prevent flood damage to communities or infrastructure may take SCS through work in wetted streams. Without CESA take authorization through this emergency regulation for the take of SCS during candidacy, the risk of unlawful take of a CESA candidate species may cause these flood-protection projects or activities to not be undertaken or significantly delayed if they must instead seek CESA take authorization from the Department through other non-emergency CESA take authorization pathways.

Projects or activities that provide public-safety benefits through highway maintenance or improvements may take SCS through work in wetted streams. Take of SCS may occur during the construction of highway projects when water diversions, which dewater streams and rivers that may be occupied by SCS, are necessary to install bridges or culverts. Without CESA authorization through this emergency regulation for the take of SCS during candidacy, the risk of unlawful take of a CESA candidate species may cause these highway maintenance or improvement projects or activities to not be undertaken or significantly delayed if they must instead seek CESA take authorization from the Department through other non-emergency CESA take authorization pathways. Highway maintenance or improvement projects provide public-safety benefits by their nature. Approval of such projects will rely on the project meeting the criteria that it is necessary to avoid serious harm to the public peace, health, or safety to ensure that not only is the project an emergency but also that it provides the public benefit. Only those projects where the stoppage or delay would cause harm would be approved.

Ongoing water diversions that provide drinking water or supply water for agriculture, local industries, or other commercial uses are necessary to ensure public health, safety, and general welfare. Projects or activities that provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses may take SCS through work in wetted streams. Take of SCS may occur through dewatering of streams and rivers or entrainment or injury at a point of diversion. Without CESA authorization for the take of a CESA candidate species through this emergency regulation, the risk of unlawful take of a CESA candidate species may cause these water-supply or water-treatment projects or activities to not be undertaken or significantly delayed if they must instead seek CESA take authorization from the Department through other non-emergency CESA-take-authorization pathways.

(a)(3): This subsection describes the federal take authorization and associated documents that are required to satisfy this third of four criteria in subsections (a)(1) through (4). This required federal take authorization is specifically cross-referenced in subsections 749.13(c) and (d).

(a)(4): This subsection describes the requirement related to notification pursuant to FGC Section 1602 that is necessary to satisfy this fourth of four criteria in subsections (a)(1) through (4). Under FGC 1602, when an entity is required to notify the Department and the Department determines the activity may substantially adversely affect an existing fish and wildlife resource, the Department may issue a final agreement to that entity that includes reasonable measures necessary to protect the resource, which may include SCS.

(b): This subsection creates a 30-day timeline, which is necessary to give the Department sufficient time to review the written documentation that the proponent of a project or activity has submitted and make a determination on whether the project or activity satisfies the criteria in subsections (a)(1) through (4) while also ensuring that the Department will promptly make such determinations.

(b)(1) and (b)(2): The requirements in these subsections that the Department make its determinations in writing are intended to ensure transparency and clarity in the Department's determinations.

(c): This subsection describes how any CESA take authorization conferred by this emergency regulation shall have the same operational requirements and be for the same type and amount of take as the federal take authorization for the project or activity that satisfied subsection (a)(3). This subsection is intended to limit the scope of the CESA take authorization (operational requirements and type and amount of take) to the scope of the federal take authorization that CESA take authorization is based on. Further, this subsection is intended to provide a mechanism for the Department to revoke the CESA take authorization if the project or activity is not complying with the terms of its federal take authorization.

(d): This subsection is intended to ensure that only projects that continue to have valid federal take authorization will continue to have CESA take authorization.

(e): This subsection describing responsibility of project proponent to ensure consistency with all applicable laws is necessary to clarify the limitations of the intended effect of this emergency regulation.

III. Identification of Reports or Documents Supporting Regulation Change

A summary of general scientific information on the life history of Southern California steelhead is presented in the National Marine Fisheries Service's Southern California Steelhead Recovery Plan published in January 2012 available online at:

<https://www.fisheries.noaa.gov/resource/document/southern-california-steelhead-recovery-plan>.

IV. 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 determinations relative to the required statutory categories have been made:

(a) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The Commission anticipates that there will be costs to the State, specifically the (Department). Estimated program costs of \$17,596 over the extended emergency regulation period of 90 days will be absorbed within existing budgets.

Table 1. Estimated Department Implementation Costs for Making Determinations as Required Under this Special Order Relating to Take of Southern California Steelhead

DFW Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
Senior Environmental Scientist (Region)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist (Fisheries Branch)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$76.35	6	\$458.10
Senior Environmental Scientist, Supervisor	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$101.80	6	\$610.80
Environmental Program Manager	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$123.92	6	\$743.52
Regional Manager	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$123.02	2	\$246.04
Attorney IV	Consultation with Region	\$110.72	4	\$466.92

DFW Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
	Subtotal per project			\$2,830.78
	Overhead ²	24.32%		\$688.45
	Total per project cost			\$3,519.23
	Grand Total for five (5) Projects			\$17,596.15

¹ Hourly Rate includes mean wages per CalHR payscale 2022 and Department benefit rates.

² Non-Federal Project Overhead rate for FY 2022 is 24.32% per Department Budget Branch.

Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

Other State agencies, such as California Department of Transportation (Caltrans) may also be affected if they pursue a take allowance through the Department. An estimate of Caltrans potential per project costs is detailed in Table 2.

Table 2. Estimated Caltrans Implementation Costs for Take of Southern California Steelhead

Caltrans Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
Senior Planner	Draft correspondence	\$67.84	1.00	\$67.84
Attorney IV	Review correspondence	\$116.73	0.33	\$38.52
Deputy Director	Approve filing	\$129.88	0.25	\$32.47
	Subtotal per project		1.58	\$138.83
	Overhead²	24.32%		\$33.76
	Total per project costs			\$172.59

¹ Hourly Rate includes mean wages per CalHR payscale 2022 and estimated benefit rates.

² Non-Federal Project Overhead rate for FY 2022 is estimated to be 24.32% estimate

Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

(b) Nondiscretionary Costs/Savings to Local Agencies:

This emergency regulation will not introduce nondiscretionary costs or savings to local agencies. Should an agency choose to consider the review and issuance of a permit, the process would likely entail the review of project plans, census information, and relocation plans.

(c) Programs Mandated on Local Agencies or School Districts:

None.

(d) 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.

V. Authority and Reference

The Commission adopts this emergency action pursuant to the authority vested by Sections 399 and 2084 of the Fish and Game Code to implement, interpret, or make specific Sections 399 and 2084 of the Fish and Game Code.

VI. Section 399 Finding

Delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure that would likely occur without this emergency regulation because of SCS CESA protections would jeopardize that flood protection.

Delays or stoppages for projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements that would likely occur without this emergency regulation because of SCS CESA protections would jeopardize those public safety benefits.

Delays or stoppages for projects or activities related to the diversion, impoundment, or discharge of water that provide water supply or water treatment for essential domestic, agricultural, industrial, or commercial uses that would likely occur without this emergency regulation because of SCS CESA protections would jeopardize those water supply or water treatment public benefits. Regarding projects or activities that provide water supply, on March 28, 2022, in Executive Order N-7-22, Governor Newsom ordered that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect.

Pursuant to Section 399, subdivision (b), of the Fish and Game Code, the Commission finds, based on the information above, that adopting this regulation is necessary for the immediate preservation of the public peace, health and safety, and general welfare.

Informative Digest

On June 14, 2021, the California Fish and Game Commission (Commission) received a petition (the Petition) from California Trout to list Southern California steelhead (*Oncorhynchus mykiss*, hereinafter “SCS”), as endangered under the California Endangered Species Act (CESA). SCS is defined in the petition as all *O. mykiss*, including anadromous and resident life histories, below manmade and natural complete barriers to anadromy from the Santa Maria River, San Luis Obispo County (inclusive) to the U.S. Mexico border. The anadromous and resident life history forms of the species *O. mykiss* commonly referred to as “steelhead” and “rainbow trout,” respectively, overlap in distribution and interbreed throughout much of their range. It is difficult if not impossible to visually distinguish between the two life histories in freshwater, especially during early life stages.

A Southern California steelhead Distinct Population Segment (Southern California steelhead DPS) is currently listed under the federal Endangered Species Act. That federal-listing has the same geographic scope as the SCS CESA listing proposed by California Trout in its petition; however, the federal listing only includes the anadromous life history of *O. mykiss*. It is important to note that it is difficult if not impossible to visually distinguish between the two life histories in freshwater, especially during early life stages. Even genetic analysis may not reveal which life history an individual *O. mykiss* has or will express. Accordingly, for management purposes the National Marine Fisheries Service generally considers any *O. mykiss* within the rivers included in the geographic scope of the Southern California steelhead DPS listing to be a part of that listing unit.

On December 15, 2021, the Commission received the California Department of Fish and Wildlife’s (Department) 90-day evaluation report on the Petition. In that evaluation report the Department determined that there is sufficient scientific information in the petition to indicate that the petitioned action may be warranted.

On February 17, 2022, the Commission closed the public hearing and administrative record and continued the deliberation and decision on whether listing SCS as endangered under CESA may be warranted to a future Commission meeting to be held no later than May 18, 2022. Continuing the deliberation and decision allowed the Commission to consider a potential 2084 regulation in the same Commission meeting in which the Commission might make a may-be-warranted finding that would make SCS a candidate species under CESA.

On April 21, 2022, the Commission found that listing SCS under CESA may be warranted pursuant to FGC Section 2074.2, and SCS will become a CESA candidate species upon the Commission’s publication of a notice of finding that the Commission has accepted the California Trout Petition for consideration and designated SCS as a candidate species under CESA. In the same meeting, the Commission adopted a Fish and Game Code Section 2084 regulation through emergency authority. On October 13, 2022, the Commission re-adopted the same Fish and Game Code Section 2084 regulation.

Candidate-species are protected from take under CESA pursuant to Fish and Game Code (FGC) sections 2080 and 2085. FGC Section 86 states that “[t]ake means hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill.” Under FGC Section 2084, CESA provides that the Commission may adopt regulations to authorize take of candidate species, based on the best available scientific information, when the take is otherwise consistent with CESA. As with all regulations, the Commission may adopt a regulation under

Section 2084 on an emergency basis when it determines that a situation exists that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

Consistency Determinations (CD) pursuant to FGC Section 2080.1 or Incidental Take Permits (ITP) pursuant to FGC Section 2081, subdivision (b), may also authorize the take of CESA candidate species. CESA take may only be authorized through a CD after the Department has determined that a project's federal take authorization under the federal Endangered Species Act meets certain CESA criteria; some federal take authorizations will likely not entirely meet those criteria. The Department may authorize CESA take through an ITP on a project-specific basis, which would be a substantially more lengthy and costly process for getting CESA take authorization than through this proposed emergency regulation.

The Commission considered the following factors in determining whether an emergency exists: public health, safety, and general welfare, as well as the magnitude of potential harm; the immediacy of the need; and whether the anticipation of harm has a basis firmer than simple speculation and has determined that an emergency regulation authorized under FGC Section 2084 is needed. In this case, an emergency exists because of the immediate, serious harm to the public health, safety, or general welfare that would be caused by work delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure; projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements; or projects or activities that relate to the diversion, impoundment, or discharge of water and provide water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses. Regarding projects or activities that provide water supply, on March 28, 2022, in Executive Order N-7-22, Governor Newsom ordered that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect. The proposed addition of Section 749.13 creates a special order allowing incidental take of SCS during CESA candidacy for certain activities subject to specific terms and conditions described below.

Commission staff have searched the California Code of Regulations and have found no other state regulation relating to the Commission's ability to allow for incidental take of a candidate species under CESA, and therefore concludes that the proposed regulation is neither inconsistent nor incompatible with existing state regulation.

REGULATORY TEXT

Section 749.13, Title 14, California Code of Regulations, is re-adopted to read:

§ 749.13. Special Order Relating to Take of Southern California Steelhead (*Oncorhynchus mykiss*) During Candidacy Period.

The commission authorizes the take of Southern California steelhead during the candidacy period for each of the projects or activities described in this section, subject to the following terms and conditions:

(a) The proponent of a project or activity seeking take authorization pursuant to this section shall submit to the department by emailing to SCSH@wildlife.ca.gov or mailing to California Department of Fish and Wildlife, Fisheries Branch, Attention: Southern California Steelhead Take Authorization, P.O. Box 944209, Sacramento, CA 94244-2090 written documentation to demonstrate that the project or activity:

(1) Relates to flood control; a “highway” as defined in Section 360 of the Vehicle Code; or the diversion, impoundment, or discharge of water;

(2) Provides flood protection necessary to prevent flood damage to communities or infrastructure and is therefore immediately necessary to avoid serious harm to the public peace, health, or safety; public-safety benefits through highway maintenance or improvements and is therefore immediately necessary to avoid serious harm to the public peace, health, or safety; or water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses and is therefore immediately necessary to avoid serious harm to the public peace, health, or safety;

(3) Has valid take authorization from the National Marine Fisheries Service through a federal incidental take statement or incidental take permit under the federal Endangered Species Act for the Southern California steelhead Distinct Population Segment. The written documentation required by this subsection (a)(3) shall include a copy of the incidental take statement or incidental take permit through which the project or activity has valid take authorization from the National Marine Fisheries Service and shall also include any associated biological assessment, biological opinion, or habitat conservation plan; and

(4) Does not require the proponent of the project or activity to submit a written notification pursuant to Fish and Game Code Section 1602 or the proponent of the project or activity has submitted a notification pursuant to Section 1602 and has either received a final agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code or paid the applicable fees pursuant to Section 1609.

(b) Within thirty calendar days of receipt of the written documentation required by subsection (a), the department shall determine in writing whether the project or activity satisfies the criteria in subsections (a)(1) through (4).

(1) If the department determines the project or activity does not satisfy the criteria in subsections (a)(1) through (4), the department shall provide a written explanation detailing the reasons for its determination.

(2) If the department determines the project or activity does satisfy the criteria in subsections (a)(1) through (4), the department shall provide the proponent of the project or activity written confirmation of take authorization pursuant to this section.

(c) The proponent of a project or activity receiving take authorization pursuant to subsection (b)(2) shall undertake the project or activity as described in the federal incidental take statement or incidental take permit for the project or activity. The state take authorization conferred by this section shall be for the same type and amount of take as the federal take authorization required by subsection (a)(3). If the department determines the proponent of a project or activity receiving take authorization pursuant to subsection (b)(2) has not undertaken the project or activity as described in the federal take authorization required by subsection (a)(3) or has exceeded the type or amount of take authorized by the federal take authorization required by subsection (a)(3), the department shall revoke the state take authorization conferred by this section for the duration of the Southern California steelhead candidacy period.

(d) If the federal take authorization that satisfied subsection (a)(3) for a project or activity is amended, is replaced, expires, or is revoked, the Department shall revoke the state take authorization conferred by this section. If the proponent of the project or activity receives new federal take authorization, it may reapply for state take authorization using the process set forth in subsection (a).

(e) Nothing in this section is intended to be or shall be construed to be a general project or activity approval. It shall be the responsibility of the proponent of each project or activity receiving take authorization pursuant to this section to obtain all necessary permits and approvals and to comply with all applicable federal, state, and local laws.

NOTE: Authority cited: Sections 399 and 2084, Fish and Game Code.

Reference: Sections 399 and 2084, Fish and Game Code.

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Extend Emergency to Add Section 749.13 ,Title 14, CCR, Re: Incidental Take of Southern California Steelhead			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

**Emergency action does not require economic assessment;
only fiscal impact assessment is required.**

***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____
_____The incentive for innovation in products, materials or processes: _____
_____The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☐ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☒ 6. Other. Explain No nondiscretionary costs to local govts. are imposed. There is no fee for local agencies should they choose to apply for an incidental take permit.

The permit process would be discretionary and would only entail time spent reviewing project plans, census information, and relocation plans.

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)\$ 16,462*It is anticipated that State agencies will:*☒ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain Other State agencies, such as California Department of Transportation (Caltrans) may also be affected if they choose to pursue a take allowance through the Department (See Addendum).**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

 DocuSigned by:
Dan Reagan
6558B761E2D347D

DATE

10/4/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

 DocuSigned by:
Melissa A. Miller-Hansen
74DED80ABE5A488

DATE

10/4/2022

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD399 CALCULATIONS WORKSHEET ADDENDUM

Extension of Emergency Action to Add Section 749.13,
Title 14, California Code of Regulations
Re: Incidental Take of Southern California Steelhead

Economic Impact Statement

Emergency regulations do not require an economic impact statement; only fiscal impacts must be evaluated (California Government Code Section 11346.1).

Fiscal Impact Statement

A. Fiscal Effect on Local Government

The proposed addition of Section 749.13 to Title 14, California Code of Regulations (CCR) creates a special order allowing incidental take of Southern California steelhead (*Oncorhynchus mykiss*), during the California Endangered Species Act (CESA) candidacy period for certain water diversion and supply activities. The proposed addition of Section 749.13 does have the potential to have a fiscal impact on local government, that would not be eligible for state reimbursement (pursuit to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

B. Fiscal Effect on State Government

The Commission anticipates that there will be a fiscal effect on the State, specifically the California Department of Fish and Wildlife (Department) for program startup and implementation as shown in Table 1. The implementation costs per project are estimated to be \$3,292.48. The Department anticipates approximately five (5) remaining projects, resulting in total program costs of \$16,462.40 over the 90 days of the extension of the emergency action. The identified program costs are within existing budgets.

Table 1. Estimated Department Implementation Costs for Making Determinations as Required Under this Special Order Relating to Take of Southern California Steelhead

DFW Classification	Activity/Task	Hourly Rate¹	Hours per Task	Projected Cost
Senior Environmental Scientist (Region)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist (Fisheries Branch)	Review whether project or activity satisfies specified criteria	\$76.35	2	\$152.70
Senior Environmental Scientist	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$76.35	6	\$458.10
Senior Environmental Scientist, Supervisor	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$101.80	6	\$610.80
Environmental Program Manager	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$123.92	6	\$743.52
Regional Manager	Meet with proponent to discuss whether project or activity satisfies specified criteria and write explanation of Department's determination on whether it does or does not	\$123.02	2	\$246.04
Attorney IV	Consultation with Region	\$110.72	4	\$466.92
	Subtotal per project			\$2,830.78
	Overhead ²	16.31%		\$461.70
	Total per project cost			\$3,292.48
	Grand Total for five (5) Projects			\$16,462.40

¹ Hourly Rate includes mean wages per CalHR payscale 2022 and Department benefit rates.

² Non-Federal Project Overhead rate for FY 2022/23 is 16.31% per Department Budget Branch.
Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

Other State agencies, such as California Department of Transportation (Caltrans) may also be effected if they pursue a take allowance through the Department. An estimate of Caltrans potential per project costs is detailed in Table 2.

Table 2. Estimated Caltrans Implementation Costs for Take of Southern California Steelhead

Caltrans Classification	Activity/Task	Hourly Rate ¹	Hours per Task	Projected Cost
Senior Planner	Draft correspondence	\$67.84	1.00	\$67.84
Attorney IV	Review correspondence	\$116.73	0.33	\$38.52
Deputy Director	Approve filing	\$129.88	0.25	\$32.47
	Subtotal		1.58	\$138.83
	Overhead ²	16.31%		\$22.64
	Total per project costs			\$161.47

¹ Hourly Rate includes mean wages per CalHR payscale 2022 and estimated benefit rates.

² Non-Federal Project Overhead rate for FY 2022/23 is estimated to be 16.31%.

Note: Minor discrepancies (less than \$1.00) may be apparent in total costs due to rounding error.

C. Fiscal Effect on Federal Funding of State Programs

The proposed action will not have a fiscal effect on federal funding of state programs.

CALIFORNIA FISH AND GAME COMMISSION
RECEIPT LIST FOR NON-REGULATORY REQUESTS RECEIVED BY 5:00 PM ON
SEPTEMBER 29, 2022 PUBLIC COMMENT DEADLINE FOR THIS MEETING

Date Received	Name/Organization of Requestor	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
8/14/2022	Denise	Sea Otters	Requests that sea otters be reintroduced to Drake's Estero in Point Reyes.	10/12-13/22	12/14-15/22
9/16/2022	Randal South	Lake Earl	Requests that the county-operated breaching practice at Lake Earl be replaced with a solar powered aqueduct.	10/12-13/22	12/14-15/22
9/22/2022	Karen Emanuel	Veganism	Requests that FGC make commitments to promoting the vegan economy.	10/12-13/22	12/14-15/22

Sea Otter

GMail Account [REDACTED]

Sun 08/14/2022 02:04 PM

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

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Please bring the sea otter to Drakes Estero in Pt Reyes
thank you
Denise



Tracking Number: (2022-16)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person:

Address:

Telephone number:

Email address:

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

1) Fish & Game Code (FGC), Chapter 2, Section 203

2) Fish & Game Code (FGC), Chapter 2, Section 219

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

1) Ban bird hunting at the Lake Earl Wildlife area.

2) Replace county operated Lake Earl breaching practice with a solar powered aqueduct.

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

Too close to human habitation, and consistent violation of the rule that requires hunters not to discharge their firearms within 150 yards of human habitation (FGC, Article 1, Section 3004).

(see attached brief supplement)

SECTION II: Optional Information

5. Date of Petition: 09-17-22

6. Category of Proposed Change

☐ Sport Fishing

☐ Commercial Fishing

☒ Hunting

☒ Other, please specify: Habitat Maintenance



7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
- ☒ Amend Title 14 Section(s): Chapter 10, Section 625
- ☐ Add New Title 14 Section(s): [Click here to enter text.](#)
- ☐ Repeal Title 14 Section(s): [Click here to enter text.](#)
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)
- Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: 11-01-22, but no later than 11-01-23 if FGC and CDFW are unable to complete proposed amendments in the 2022 calendar year.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Statement from petitioner, and following url -- <https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/>
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Ban on bird hunting will likely have a positive impact in terms of public revenue generated by Del Norte county (continued on attached)
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
- [Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.](#)

FGC staff action:

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

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

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

Petition to The California Fish & Game Commission
(*Supplement* to FGC 1, Dated 09-16-22 [Revolving 06/19])

4. Rational (*continued*):

TO CLOSE TO HUMAN HABITATION

The petitioner supervises a youth hostel that shares a border with the Lake Earl Wildlife area, and guests commonly complain about the sound of gun shots during the hunting season. The petitioner's property is less than 200 feet from Lake Earl during the summer time, and part of the petitioner's property is submerged by Lake Earl during the flood season. Guests can not walk to the end of our property without concern about getting shot by duck hunters. As a result, it potentially jeopardizes revenue that Del Norte County receives from the operation since the hostel pays 10% transient occupancy tax on a quarterly basis to Del Norte County.

Similarly the home across the street from the Petitioner's property is occupied by a family that purchased the property from the Lamoore estate, and some of the Lamoore's have previously signed petitions objecting to hunting on CDFW property because it was too close to their property.

HUNTERS DO NOT TAKE HOME WHAT THEY KILL

The graphic images presented in the following URL demonstrate hunters don't take home their birds <https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/> These images were taken by the petitioner who started a petition on petitionsite.org after the local newspaper (Triplicate) refused to publish the story and images, but instead of leaving the dead birds for the local animal population to consume, CDFW and the county came by to pick them up quickly so that no one would know about it after receiving a complaint.

Other reasons justifying the end of bird hunting include poaching, hunter misconduct, and all of the reasons mentioned in the onsite petition that has as of today has more than 246,047 signatures -- 92,804 of those signatures are in California. The petition on the petitionsite.org provides an authoritative, and historical perspective that suggest that the construction of the road to the mouth of Lake Earl in 1971 changed the character of hunting, and the type of people that hunt in this area.

A detailed analysis of the problem as well as other problems from current bird hunting practices are described in detail on petitionsite.org

10. Supporting Documentation:

The issue of damage from breaching, and lack of breaching of the sand bar has been thoroughly aired as evidenced by the multitude of the following news articles on the matter, and the lawsuit filed against CDFW by property owners in the Ocean Shores area, etc :

<https://www.sfgate.com/bayarea/article/Beach-breach-battle-3052593.php>
<https://derrickjensen.org/culture-of-make-believe/lake-earl/>
<https://www.casemine.com/judgement/us/5914b319add7b0493476413f>
<https://ceqanet.opr.ca.gov/1989013110/8>

https://www.academia.edu/64658644/Barrier_Beach_Breaching_from_the_Lagoon_Side_With_Reference_to_Northern_California

The issue before FGC is not whether or not the water level should be breached during flood season, but best practices on how to do it. Historically the Army Core of Engineers “has not” reviewed aqueduct technology in this area. **As a result, aqueduct technology should be incorporated into the Master Plan so as to minimize ecologic damage, damage to the water table, and enhance the usability of the lagoon by fish and birds.**

11. Economic & Fiscal Impact:

Del Norte County’s Revenue will likely be enhanced by the ban on duck hunting since guests at the hostel pay a 10% transient occupancy tax to Del Norte County. The loss of revenue to the state from duck hunting license is not germane to the equation because CDFW has consistently refused to engage in discussions about other streams of revenue to them besides the meager amount of money they collect from duck hunting licenses at Lake Earl.

During previous discussions with CDFW, it was proposed that they consider offering organized bird tours for a fee which are already conducted on an informal basis by Ornithologist in the area. Additionally CDFW failed to rebuild their 100 year old farm house they purchased at the intersection of Lake Earl Drive, and Lakeview Drive after it burned down from a fire even though this was an insurable risk. The loss of this building reduced housing stocks in the area since it was capable of housing at least 12 people. Those 12 people inevitably would have provided a consistent source of revenue to CDFW. As a result, the issue of a loss of revenue from hunting licenses is not really germane since CDFW has chosen not to accept funding from other revenue streams.

Del Norte County’s economic impact from aqueduct construction is negligible. The county will save money on the cost of a bulldozer opening up the sand bar, save money on the cost of permits with various regulators, but will incur annual, or biannual costs in cleaning filters on the intake of the aqueduct which are needed in order to insure the aqueduct doesn’t suck up animal life when it dumps water into the ocean.

HABITAT PRESERVATION

CDFW should replace the process of breaching Lake Earl with a solar powered, pump driven, electric aqueduct, or similar apparatus as reviewed by the Army Core of Engineers.

The current breaching process of Lake Earl has significantly increased the salt level which is evident by the dying plant life that surrounds the lake including the death of large coniferous trees on its perimeter. Other concerns are potential contamination to the underground aquifer which many residents are dependent on since most of the county is on well water.

The result of piping the water over the sand bar is that the lake will desalinate over time as water is pumped from the lake without opening up the sand bar.

Hot Enough for You? The Planet is Heating Up...

Karen Emanuel [REDACTED]

Thu 09/22/2022 02:47 PM

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

Hi! Would you make some commitments about promoting the vegan economy??

The planet is burning away....

Thank You

Karen Emanuel

Re: Bullfrog Stakeholder Group

Kerry Kriger [REDACTED]

Wed 08/17/2022 11:08 AM

To: Bonham, Chuck [REDACTED] Cornman, Ar [REDACTED]
[REDACTED] FGC <FGC@fgc.ca.gov>; Madeline Bernstein [REDACTED] Miller-Henson, Melissa [REDACTED]

Dear DFW and FGC,

If these stakeholder meetings cannot be properly organized or conducted by those getting paid to manage them (which appears to be the case), I hereby offer my services to take charge of them so they actually accomplish their original goal and get completed in a timely manner.

Kerry

On Thu, Aug 11, 2022 at 2:24 PM Kerry Kriger [REDACTED] wrote:

Hi,

Has the stakeholder group come to a complete stand still or is that just my imagination? We are nearly five years in and little has happened this year.

Kerry

Dr. Kerry Kriger

SAVE THE FROGS!

Founder, Executive Director & Ecologist

www.savethefrogs.com/kerry-kriger

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SAVE THE FROGS! protects amphibian populations and empowers ordinary citizens to make extraordinary contributions to the betterment of the planet. We work in California, across the USA and around the world to create a better planet for humans and wildlife.

On Fri, Jun 10, 2022 at 7:36 PM Kerry Kriger [REDACTED] wrote:

Hi,

Please see the attached document from 2017 and note that the stakeholder process is more than five years in. Please expedite the process.

Thank you, Kerry

Dr. Kerry Kriger

SAVE THE FROGS!

Founder, Executive Director & Ecologist

www.savethefrogs.com/kerry-kriger



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Dr. Kerry Kriger

SAVE THE FROGS!

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www.savethefrogs.com/kerry-kriger

THE SACRAMENTO BEE: 21,000 fish died in catastrophic UC Davis lab mishap. Some were endangered species

paul weakland [REDACTED]

Wed 08/17/2022 07:13 PM

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

21,000 fish died in catastrophic UC Davis lab mishap. Some were endangered species

UC Davis' Center For Aquatic Biology and Aquaculture lab where the fish died allowed researchers to study California fish species and try to stop extinctions.

Read in The Sacramento Bee: <https://apple.news/AjH2xfVIZR4SiQ3WyLgme4A>

Shared from [Apple News](#)

Sent from my iPad

Land Use Regulations and Compatibility [Ex Parte]

Walter Lamb [REDACTED]

Thu 08/18/2022 05:20 PM

To: Bonham, Chuck [REDACTED] Miller-Henson, Melissa [REDACTED]

[REDACTED] zavaleta [REDACTED]

smurray [REDACTED]

[REDACTED] Yaun, Michael [REDACTED]

Cc: FGC <FGC@fgc.ca.gov>

Dear Director Bonham, Executive Director Miller-Henson, President Murray, Vice President Zavaleta and Commissioner Sklar,

At yesterday's Fish and Game Commission meeting, Director Bonham and others disingenuously expressed confusion as to whether our petition sought a compatibility determination for certain land uses or a change to the regulation that allows those uses. It should not need explaining that the former was our central rationale for the latter. They go hand in hand. In correctly noting that the Land Trust "seems to see some connection" between a request for regulatory change and the rationale for that request, your legal counsel's clear implication was that the Commission doesn't see any connection, which is quite remarkable. The idea that we should have asked the Commission to eliminate regulatory language regarding existing land uses in the reserve without also addressing the compatibility of those land uses is just patently absurd, and is frankly just the result of two agencies grasping for any justification to avoid a politically uncomfortable decision. An agency that was sincerely confused about the language of a formal petition and that was committed to public process and good public policy would have sought clarity at some point during the two months between our submission of the petition and yesterday's hearing. Instead, Director Bonham waited until I had no opportunity to reply to make this new argument for the first time, and actually went so far as to imply that my request for a compatibility determination (which you are required to make pursuant to regulation), was intended to somehow trick the Commissioners. The compatibility vs regulation change argument was clearly intended to fill the hole created when your staff abandoned the false 2020 argument that the Commission had made a compatibility determination in 2005 when it adopted the regulations. Ironically, that central argument in 2020 relied on making an implicit connection between the 2005 regulations and the compatibility of the land uses they allowed, the same connection you are now rejecting. Further, the actual regulation itself acknowledges the relevance of compatibility, allowing the Director to replace the parking lots and ballfields with other uses deemed to be more "appropriate". Like you, the Director has thwarted the intent of that language by simply avoiding any consideration of other land uses.

With regard to the circular argument that the Commission's hands were tied by existing litigation, the Commission actually had the opportunity to end the litigation simply by making a compatibility determination, based on reasonable evidence, either favorably or negatively to our petition. Instead, not a single Commissioner was willing to express an opinion one way or the other. This is because there is no reasonable evidence to support a determination that these land uses are compatible, and a determination of incompatibility would be politically uncomfortable. That is why you are trying to either punt the ball back in time to 2005, or to some undefined point in the future.

Commissioner Sklar actually expressed doubt as to whether the Commission was even empowered to make a determination, even though Commission staff acknowledged in 2020 that the Commission is in fact required by regulation to make such a determination. So land within an ecological reserve that could immediately be used, or at least shared, for ecological stewardship and education, will continue to be off-limits for those purposes. You heard comments from a representative of the Little League that focused exclusively on her own son, but there are also tens of thousands of young students in urban Los Angeles who would benefit from more exposure to nature. We know because we've been providing field trips in Area since those gates were finally unlocked. Every single acre of land at Ballona is needed for the ecological purposes for which it was required, i.e. habitat and compatible access.



Vice President Zavaleta, whose work I deeply respect, suggested that there is a lot "up in the air right now with the disposition of Ballona", with multiple paths forward. To be clear, the Final Environmental Impact Report for the Ballona Wetlands Restoration Project was certified by the Department on December 30, 2020. I would very much appreciate further explanation as to what information Commissioner Zavaleta believes is forthcoming at this point that could lead her to believe that baseball fields and parking for non-reserve purposes are compatible with the purpose of the ecological reserve. From 2005 to 2022, the public has been told that a compatibility determination is premature, and every single current Commissioner has now made that argument at one point or another. What needs to happen before the Commission will believe the time has come for a decision?

Finally, I would encourage you to watch the video of the discussion between the Commissioners, the Director, and Commission staff on this issue [the relevant portion of which begins at 3:51:23 [here](#)] and consider whether your demeanor was reflective of an organization that respects public process and takes its responsibilities seriously. The contempt for discussion of Ballona is not even disguised, yet public participation at your meetings has been effective in removing two different special interest construction projects from the Department's plans for Ballona. I am proud to serve as an unpaid, full-time volunteer for this issue, and I'm also proud of our organization's commitment to fact-based discussion about how best to maximize the ecological potential of land that was acquired by the public for \$140 million in 2003. We brought this issue before you again when we reviewed President Murray's 2020 comments to the effect that she considered a decision to be premature at that time because the EIR was not yet available (it in fact was available but not yet certified). So any

exacerbation or amusement on your part was really not called for. The time and financial commitment of advocating for Ballona takes a considerable toll on me and other stakeholders. I had hoped that yesterday's hearing would end, rather than extend, time-consuming and expensive litigation. The sighs, smirks and eye rolls just added insult to a disheartening day.

Thank you for your consideration of these comments.

Walter

Walter Lamb
Ballona Wetlands Land Trust



[Facebook](#)

LAKE BERRYESSA KOKANEE, KING SALMON & TROUT DERBY A BUST.

Capt. Cameron Smith (Capt Cam) [REDACTED]

Tue 08/23/2022 09:04 AM

To: repmike.thompson [REDACTED] timothy.grayson [REDACTED]
[REDACTED] bill.dodd [REDACTED] bil [REDACTED]
[REDACTED] cecilia.aguiar-curry [REDACTED]
[REDACTED] mel.orpilla [REDACTED] tracy.krumpen [REDACTED]
[REDACTED] celina.berenguer [REDACTED] Murphy,
Kyle [REDACTED] FGC <FGC@fgc.ca.gov>

LAKE BERRYESSA KOKANEE, KING SALMON & TROUT DERBY A BUST.

THE NEEDS OF THE MANY (10 million) BAY AREA CHILDREN and RETIRED SENIORS OUTWEIGH THE NEEDS OF THE FEW KP MEMBERS!

Capt [Cameron Smith](#)

The Kokanee, King Salmon & Trout Derby held at Lake Berryessa on Saturday was a bust with only a few fish caught by the 100+ rods fishing for both Kokanee Salmon and Trout. 75% got skunked and the other 25% only caught 1-to 3 fish most only with 1.
BY FAR THE MOST UNSUCCESSFUL DERBY EVER HELD HERE!

A number of Guides on the KFBK Bob Simms show have been hyping these dead collapsed fisheries for a month now with bogus info about the limits of big trophy-size fish. Nothing but lies and hype to try and get people to sign up for the derby.

This Gross Mismanagement of Lake Berryessa by CDFW and KP has NOT had a successful Kokanee Salmon, King Salmon, or Trout fishery for more than 10 years now due to the having 90% of the Lake Berryessa stocking plants used at other lakes elsewhere not in the Bay Area as Lake Berryessa is our only Salmon and Trout deep cold water fishery.

Lake Berryessa for 40 years from 1960 to 2000 had the most successful best in state Kokanee Salmon, King Salmon & Trout fisheries. That was available to the general public and all.

Now, these fisheries are only available to only a small few KP members due to the very low almost nonexistent numbers of the plants that make it to catchable size in 3 years.

I have been reporting these collapsed dead fisheries to CDFW for more than 10 years now. But they still manage this lake as a Kokanee Trophy lake which is just a lie to misappropriate 90% of our Lake Berryessa stocking plants to and for Kokanee Power a private interest group in Sac. Causing harm and damage to all of the Bay Area children and retired seniors.

This gross mismanagement needs to cease and desist immediately. With all the stocking plants returned to this fishery as it had been for 40+ years being available to the general public of the Bay

Area and all as once again best in the state.

Capt Cameron (Capt Cam) Smith.

Capt. Cameron R. Smith

Capt. Cam's Catch FG-04667

Email: [REDACTED]

Tel: [REDACTED]

Website: <https://captcamscatch.shutterfly.com/#>

FaceBook: <https://www.facebook.com/camsmith112>

<https://www.facebook.com/Capt.CamsCatch/>

<https://www.facebook.com/lakeberryessafisheriesadvocate>

Lake Berryessa Kokanee, King Salmon and Trout Fishing a Facebook group

<https://www.facebook.com/groups/211901729188967>

Over **10 Million Followers** of my FaceBook Fishing and Hunting pages and groups.

CAPT. CAM'S CATCH. WE GO CATCHIN'.

CAPT. CAM~~~ <*)((((((((<><

California Department of Fish and Wildlife
 Bay Delta Region
 CEDAR ROUGHS WA, PUTAH CREEK WA
 LAKE BERRYESSA WA, RECTOR RESERVOIR WA
 Napa, Solano Counties



TO FUTURE GENERATIONS.



Request to Ban Bird Hunting at the Lake Earl Wildlife area

Trusty1 [REDACTED]

Fri 08/26/2022 11:32 AM

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

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Good Morning Melissa:

I request you enter into the Master Plan to ban bird hunting at the Lake Earl wildlife area. As you can see from the images in the following URL, hunters are leaving most of the birds they shoot along the road way. Realistically the county should leave the dead birds where they are since other wild animals quickly consume them, but after the complaint went to the Triplicate, the Triplicate tried to cover up the story, wouldn't publish it, and merely called the county to remove the piles of dead birds. I find this irresponsible, but the petition on the internet has exposed all, and as you can see, we have more than 243,000 people who wanfgc@fgc.ca.gov t bird hunting at Lake Earl, and more than 100,000 of those are in California

https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.thepetitionsite.com%2F613%2F953%2F649%2Fstop-bird-hunting-on-the-lake-earl-wildlife-refuge%2F%3Ffbclid%3DIwAR1LnMpUIBtINyirc2-F3jc44gLep4sy50t3sk8J8b_Xa8cmYli1a6lDVpE&data=05%7C01%7Cfgc%40fgc.ca.gov%7C76748753c4ac4add3c9408da87915429%7C4b633c25efbf40069f1507442ba7aa0b%7C0%7C0%7C637971355491668599%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IkhWwiLCJXVCi6Mn0%3D%7C3000%7C%7C&sdata=uhDN01PrHQzjReYkQ%2FMWY1OI7%2BmeC431DWjHCIRtwQ%3D&reserved=0

However, there is a case to be made to do something about the Elk, and CDFW's proposition to pay private property owners for Elk Hunting hasn't worked, and is dangerous in our case since it is too close to human habitat. Once again, the best solution is a couple of wolves, and they are easy to catch and relocate if they become too much of a nuisance. Different from Mountain Lions, they will stick around if they know they are not threatened by humans in the area, and would appreciate you turning the two loose next to the front door.

Randal South
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

IMPERIAL COUNTY 2022 - 2023 HUNTING REGULATIONS / MAP

Rosa Lopez [REDACTED]

Tue 08/30/2022 11:06 AM

To: Rosa Lopez [REDACTED]

Good morning.

The California Department of Fish and Wildlife and the Imperial County Fish and Game Commission are pleased to release the annual *Imperial County 2022-2023 Hunting Regulations and Map*.

Happy and Safe Hunting,

Rosa



Administrative Analyst III

County of Imperial
County Executive Office

[REDACTED]

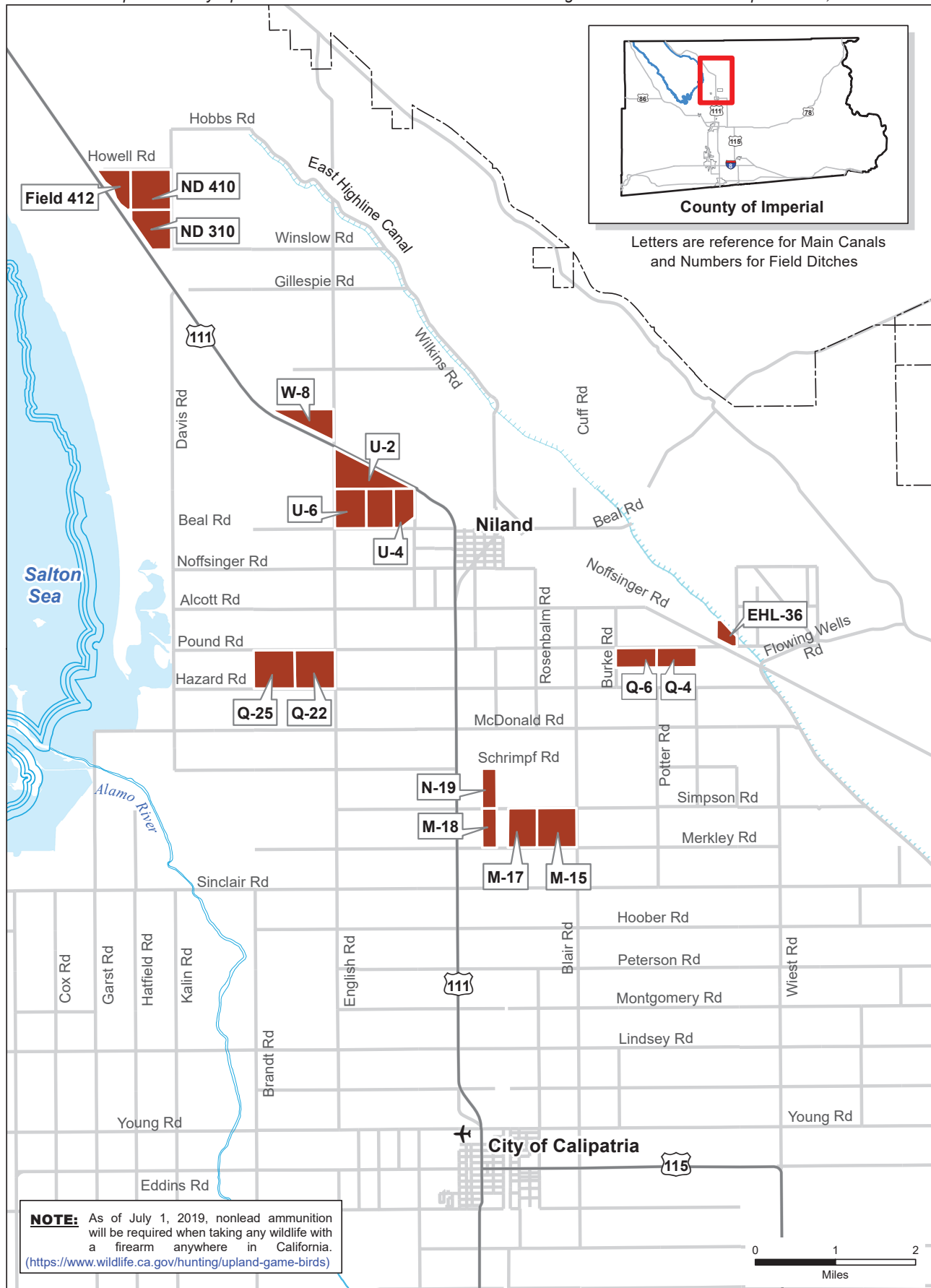
[REDACTED]

[REDACTED]

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Upland Game Fields in Imperial County

"Imperial Valley Special Hunt Dove Fields are Closed to Hunting Until Shoot Time on September 1, 2022"



Upland Game Fields in Imperial County 2022

Source: ICGIS Basemap - California Department of Fish and Wildlife | Updated by: J. Serrano



THIS IS NOT AN OFFICIAL MAP. THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. INFORMATION ON THIS MAP CAN AND WILL CHANGE WITHOUT NOTICE. THE COUNTY OF IMPERIAL DOES NOT GUARANTEE THE ACCURACY OF DATA IN THIS MAP. ANY ERRORS OR OMISSIONS ARE NOT THE RESPONSIBILITY OF THE COUNTY OF IMPERIAL OR THE ASSESSOR. NO LIABILITY IS ASSURED FOR THE ACCURACY OF THE DATA SHOWN. USERS OF OUR MAPS AND OTHER ANALYSIS PRODUCTS HOLD THE COUNTY OF IMPERIAL HARMLESS FROM AND AGAINST, AND ASSUME ALL RISK AND RESPONSIBILITY FOR ANY AND ALL DAMAGES, LOSS OR LIABILITY ARISING FROM THE USE OF THESE PRODUCTS.

IMPERIAL COUNTY 2022 - 2023 HUNTING REGULATIONS SUMMARY

For complete hunting regulations see:

<https://wildlife.ca.gov/Regulations> or fgc.ca.gov/regulations/current

DOVES: **Mourning and white-winged doves:** Sept. 1-Sept. 15 and Nov. 12- Dec. 26, 2022.
Bag Limit: Mourning and white-winged dove, 15 per day in aggregate, of which no more than 10 may be white-winged dove. **NONLEAD AMMO REQUIRED**
Possession Limit: Mourning dove and white-winged dove triple the daily bag limit,
Eurasian collared dove: year-round with no bag or possession limit.
Shoot Time: one half hour before sunrise to sunset.

ROCK PIGEONS: Year-round with no bag or possession limit. **NONLEAD AMMO REQUIRED**

QUAIL: October 15, 2022 - January 29, 2023. **NONLEAD AMMO REQUIRED**
Bag Limit: 10 quail in any combination of species per day.
Possession Limit: triple the daily bag limit.

PHEASANT: Nov 12 - Dec 25, 2022 **NONLEAD AMMO REQUIRED**
Bag limit: 2 males per day for first two days of season; 3 males per day after the first two days of season. Possession: Triple the daily bag
Shoot Time: 8:00am - sunset

RABBITS AND VARYING HARE:
July 1, 2022 -Jan. 29, 2023. **NONLEAD AMMO REQUIRED**
Bag and Possession Limit: 5 per day, 10 in possession in aggregate of all species. Time: one half hour before sunrise to one half hour after sunset.

JACKRABBIT: ALL YEAR, **NONLEAD AMMO REQUIRED**
Bag and Possession Limit: no bag or possession limits.
Time: one half hour before sunrise to one half hour after sunset.

DEER (D12): October 1st through October 23rd, 2022 (**archery**)
November 5th through November 27, 2022 (**general season**) **NONLEAD AMMO REQUIRED**
Bag and Possession Limit: one buck, forked horn or better, per tag.
Time: one half hour before sunrise to one half hour after sunset.

- *Doves must have a fully feather wing attached. All game birds must have a fully feathered wing or head attached while in possession & while transporting.*
- *Bag Limit applies to individual hunter.*
- *A valid California hunting license is required to take all waterfowl, upland game, fur bearers, and mammals.*
- *A valid Upland Game Bird Stamp (validation) is required to hunt any upland game birds (except Junior License Holders).*
- *Shotguns must be plugged to hold no more than three shells in the magazine and chamber combined.*
- *There is no open hunting season for common ground-dove, ruddy ground-dove or Inca dove.*

SAFETY: It is always unlawful to: Hunt while intoxicated (FGC 3001); Shoot at any game from a powerboat, sailboat, motor vehicle, or aircraft while under power or still moving from use of sail or motor (CCR T14-251); Shoot any firearm from or across a public road (PC 374(c)).

It is unlawful for any person to hunt on private property without having the express written permission of the owner to do so.

It is unlawful to hunt or discharge a firearm within 150 yards of a dwelling without the person in control of the properties permission. (FGC 3004)

CalTIP

PROTECT OUR WILDLIFE TURN IN POACHERS & POLLUTERS 1(888)334-CALTIP 1(888)334-2258
<https://wildlife.ca.gov/Enforcement/CalTIP>

CalTIP (Californians Turn In Poachers and Polluters) is a confidential secret witness program that encourages the public to provide The Department of Fish and Wildlife with factual information leading to the arrest of poachers and polluters.

IMPERIAL COUNTY SHERIFF'S OFFICE
1-800-452-2051

**NONLEAD AMMUNITION
REQUIRED STATEWIDE WHEN
TAKING ANY WILDLIFE IN CA.**

NOTE: THE ABOVE REMINDERS ARE NOT A COPY OF THE LAWS; REFER TO THE CALIFORNIA FISH AND GAME CODE, CALIFORNIA PENAL CODE AND THE IMPERIAL COUNTY ORDINANCES FOR FURTHER INFORMATION. ALSO THE CALIFORNIA FISH AND WILDLIFE WEB SITE FOR HUNTING REGULATIONS AT www.fgc.ca.gov.

Conservation Easement 2012-0159893

Gjerstad, Steven [REDACTED]

Thu 09/01/2022 03:52 PM

To: Wildlife DIRECTOR <DIRECTOR@wildlife.ca.gov>

Cc: Mills, Colin [REDACTED] smurray [REDACTED] Shimazu,
Stephanie [REDACTED] Melissa [REDACTED]
[REDACTED] zavaleta [REDACTED] FGC <FGC@fgc.ca.gov>

Dear Director Bonham,

I am writing to you regarding violations of the terms of conservation easements for which the California Department of Fish and Wildlife is the grantee. This letter lays out the damage done to private properties in the area, which I am sure will not surprise you, your staff, or the members of the Fish & Game Commission. But I think that this letter does more than reiterate well-known problems. My hope is that it lays out a strategy for beginning to address the problems, off of the budget of the DFW or the Transition Habitat Conservancy, placing financial responsibility squarely on the parties that have damaged and continue to damage private property.

The conservation easement that I write to you about covers 52 parcels comprising 1518.68 acres in the Fremont-Kramer Desert Wildlife Management Area and in the Superior-Cronese DWMA. The specific easement deed to which I refer is San Bernardino County document number 2012-0159893. I will refer to this document throughout this email as "the Conservation Easement." The violations that I will describe result principally from designation of off-road vehicle routes on private property by the Bureau of Land Management (BLM) and the Off-Highway Motor Vehicle Recreation (OHMVR) division of the California State Parks. Many of their routes pass directly through parcels covered in the Conservation Easement. A significant portion of off-road recreation in the area takes place off of the designated routes so the property damage that occurs is not limited to designated routes. Many of the parcels covered by the Conservation Easement are crossed hundreds of times each year by off-road vehicles, with considerable adverse effects on soils, plants, and native species, included endangered species on the properties.

Private lands and lands covered by the Conservation Easement are similarly affected

When the BLM and OHMVR designate routes in the Western Mojave (WEMO) Route Network Project area, they make no distinction between BLM owned lands, private property, and property on which the DFW holds a conservation easement. Damage done to private property and to the properties covered by the Conservation Easement derive from the same source: designation of private property as essential elements of the WEMO Route Network by the BLM and the OHMVR. The actions of the OHMVR division violate Article I, Section 19 of the California Constitution because the OHMVR claims a right to designate private property for the public purpose off-road vehicle recreation without any legal interest in the property. The primary remedy for an unconstitutional taking of private property by a state agency is inverse condemnation. My understanding is that remedies available individual property owners whose land has been taken and damaged through designation as an off-road vehicle recreation area are also available to the Grantor and the Grantee

of the Conservation Easement. For that reason, in this letter I describe off-road vehicle route designation on private property by the BLM and the OHMVR whether the property is owned by an individual or the Grantor of the Conservation Easement. I also describe the damage to private properties, the constitutional and statutory violations, and the legal remedies available for both types of private property owners, and for the Grantee (DFW) under Section 6.4 of the Conservation Easement.

The BLM & OHMVR designate routes on private property; BLM denies responsibility

Brian Croft, Acting Field Manager of the Barstow BLM Field Office wrote to me that the BLM has no authority to prohibit off-road vehicle recreation on private property in the WEMO. His letter to me is attached as BAFO_Response.pdf. The highlights in his letter to me are mine. The sentence highlighted in blue states that “BLM designated open routes in the limited use area are signed to communicate the allowable motorized vehicle access routes.” In the vicinity of my property, which is Section 25 of Township 31S, Range 42E, Mt Diablo P.M., I have located some of these BLM/OHMVR designated routes. All of the property in that section is private, including 65 acres that I own and 160 acres covered by the Conservation Easement. Within that section I have located 32 BLM/OHMVR signs that authorize off-road vehicles, including four signs on three routes through parcels covered in the Conservation Easement. In order to demonstrate that the problem is not unique to Section 25, I have also located 40 BLM/OHMVR off-road route signs on private property in Section 19, which includes 182.35 acres of property covered by conservation easements. The locations of these 72 BLM/OHMVR signs on private property that authorize off-road vehicle recreation on routes in these two sections are listed in the attached text file BLM_signs_Sec19andSec25.txt. Seven of these 72 signs on private property are on parcels covered in the Conservation Easement. Those 7 locations are indicated in the text file with two asterisks to the right of the latitude and longitude. While these 7 signs on BLM/OHMVR designated routes through parcels covered by the Conservation Easement may not seem like a serious problem, in a later section of this letter I explain that the designated routes are only the starting point for OHV trespass and property damage.

The sentence highlighted in yellow in the letter from Mr. Croft states that: “The BLM is not authorized to designate the area around your private property as closed to off-highway vehicles as most of the surrounding land is not managed by the BLM.” This is curious, because the BLM and OHMVR have designated at least 5 routes that extend approximately 3.2 miles through Section 25, yet Mr. Croft admits that they have no right to do so. He immediately follows his admission that their signs designate BLM/OHMVR routes with a denial that they have done so: “The land use designations for the surrounding private properties are designated by San Bernardino County.” The signs clearly indicate otherwise.

In summary, Mr. Croft asserts that the BLM does not have a right to establish routes on private property, yet I have located 72 signs on 1200 acres that do what they admit they have no right to do. He also asserts that the BLM does not have the authority to close routes that the BLM has established on private property, because the BLM does not control private property. The two highlighted sentences in Mr. Croft’s letter combined with the existence of 72 BLM/OHMVR signs on private property constitute the most convoluted, tortured, and illogical set of statements and facts that I have seen in my 63 years.

BLM and OHMVR signs authorize off-road vehicles on private property

A typical sign designating private property for off-road vehicle recreation has several elements. At the top it has an insignia from the U.S. Department of the Interior, Bureau of Land Management. At the bottom it has an insignia from the California State Parks and the statement “OHV FUNDS AT WORK”. So it is unambiguous that the BLM and OHMVR share responsibility for the WEMO Route Network Project on private land, including approximately 4000 acres covered by easement deeds held by the DFW.



Between those are icons that indicate the type of authorized uses, which include dirt bikes and 4-wheel off-road vehicles. Finally, the route number designation is shown.



Scope of the problems with OHV trespass

As I explain in what follows in this letter, the OHMVR violates several California statutes when it designates private property for off-road vehicle recreation. Off-road routes are only starting points for the off-road vehicle trespass, property damage, and degradation of the environment in this area. Sections 19 and 25 in Township 31S, Range 42E, Mt Diablo P.M. are only two of about 150 sections of private property in the area that are crossed back and forth by off-road routes. The three parcels covered by the Conservation Easement in Section 25 and the parcel in Section 19 are a small fraction of the properties covered by the Conservation Easement.

On March 14, 2022 I sent letters by certified mail to BLM State Director Karen Mouritsen and OHMVR Division Chief Callan McLaughlin that, among other things, includes 31 photographs of dirt bike riders and 4-wheel UTV riders trespassing off of the numbered roadways on parcel 0504-231-52-0000 which is property covered by the Conservation Easement, and I also sent 6 photos to them showing the impact of illegal cross-country travel on the same parcel. (This property appears in the Conservation Easement as parcel 0504-231-14-0000, which was its APN before consolidation.) Two of those photos are attached. The fence shown in those photos is mine. In addition to the damage done to parcel 0504-231-52-0000 by trespassing off-road riders, the property is used regularly by off-road riders who break into my property, trespass on it, and steal personal property from me.

The BLM and OHMVR have not responded to my complaints with action to reduce trespass

California statutes on Recreational Trails (PRC 5070 – 5077.8) and Off-highway Motor Vehicle Recreation (PRC 5090.01 – 5090.65) state explicitly and repeatedly that the State Parks and the OHMVR division should use only its own property or property over which holds a lesser property interest (e.g., an easement) for the establishment of off-road vehicle routes. Nevertheless, the OHMVR has – jointly with the BLM – established over thirteen hundred miles of off-road vehicle routes on private property (2019 FSEIS, p. 4-115) including routes through thousands of acres of property covered by the Conservation Easement. Brian Croft, OHMVR Division Chief Callan McLaughlin, and Deputy Director Sarah Miggins are aware of the extent the trespass on two parcels covered by the Conservation Easement. The photographs that I sent to them on March 14, 2022 include some that show trespass and deliberate property damage as far as 2000’ from the nearest numbered roadway, and those photos are of parcel 0504-231-26-0000, which is covered in the Conservation Easement.

These trespasses violate the *Purposes* (Sec. 1) and *Grantee’s Rights* (Sec. 2) of the Conservation Easement

The trespass and property damage that occurs as a result of the off-road route designations in this area are inconsistent with the *Purposes* and the *Grantee’s Rights* in the Conservation Easement, as the following selection from p. 2 of the Conservation Easement states.

1. **Purposes.** The purposes of this Conservation Easement are to preserve the high-quality habitat for desert tortoise and Mohave ground squirrel currently existing on the Property and to prevent any use of the Property that will impair or interfere with the Conservation Values of the Property in perpetuity. Grantor intends that this Conservation Easement will confine the use of the Property to such activities that are consistent with those purposes, including, without limitation, those involving the preservation, restoration and enhancement of the native species referred to in this Section 1 and their habitats.
2. **Grantee’s Rights.** To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee:
 - (a) To preserve and protect the Conservation Values of the Property;
 -
 -
 - (d) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the purposes of this Conservation Easement;

Off-road vehicle trespass is also figures prominently among the *Prohibited Uses* listed on p. 3 of the Conservation Easement.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited unless allowed pursuant to the management plan approved pursuant to Section 7 below. Without limiting the generality of the foregoing, the following uses and activities by Grantor, Grantor’s agents, and third parties are expressly prohibited:
 -
 -
 - (b) Use of vehicles, motorized or non-motorized, except on existing roadways;
 -
 -
 - (d) Recreational activities including, but not limited to, horseback riding, biking, hunting or fishing, except for hiking and other passive recreational uses as may be permitted pursuant to a management plan approved pursuant to the procedures specified under this Conservation Easement;

Off-Highway motor vehicle routes on private property violate the California Constitution

Designated off-road motor vehicle routes on private property violate Article I, Section 19 of the California Constitution. Grounds exist for an inverse condemnation lawsuit for taking and damage to private property. But setting that issue aside, the widespread use of off-road motor vehicles on parcels covered by the Conservation Easement are clear violations of its terms, especially 3(b) and 3(d).

I own 40 acres that lie between two parcels covered by the Conservation Easement. The two parcels in the Conservation Easement are 0504-231-52-0000 and 0504-231-26-0000. (Parcel 0504-231-52-0000 was created when parcels 0504-231-14-0000, 0504-231-39-0000, and 0504-231-40-0000 were combined after the Conservation Easement was recorded. The older Assessor's Map is shown on p. 103 of the Conservation Easement; the newer Assessor's Map is attached.) My property is frequently accessed by trespassers through both parcels but most frequently through the eastern portion of 0504-231-52-0000. The Transition Habitat Conservancy is responsible under Section 4 of the Conservation Easement to prevent trespass that damages the conservation value of the property.

4 Grantor's Duties. Grantor shall undertake all commercially reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the Conservation Values of the Property.

Nevertheless, the problem of property damage, trespass, and the resulting harm to soil, plants, and species can be addressed without expense to the property owner or the DFW.

The OHMVR has statutory duties to protect private property from off-road vehicle damage

The OHMVR has positive duties to protect property owners from damage and trespass. These duties are found in the California Public Resources Code, Section 5075.3. PRC 5075.3(c) states that "trails should be located and managed so as to restrict trail users to established routes and to aid in effective law enforcement." PRC 5075.3(d) states that:

(d) Trails should be located so as to avoid severance of private property and to minimize impact on adjacent landowners and operations. The location of any trail authorized by this article shall, if the property owner so requests, be placed as nearly as physically practicable to the boundary lines of the property traversed by the trail, as such boundary lines existed as of January 1, 1975.

PRC 5075.3(i) states that

(i) The department shall erect fences along any trail when requested to do so by the owner of adjacent land, or with the consent of the owner of such land when the department determines it will be in the best interests of the users of the trail and adjoining property owners, and shall place gates in such fences when necessary to afford proper access and at each point of intersection with existing roads, trails, or at used points of access to or across such trail. The department shall maintain such fences and gates in good condition.

The problems in the vicinity of APN 0504-231-52-0000 are severe and the problems could lead to a class action lawsuit by property owners against the OHMVR division. Steps taken by the DFW pursuant to its rights under the Conservation Easement could mitigate the abuse by off-road riders and lessen the need for litigation. I write to you as representatives of the Department of Fish and Wildlife and the Fish & Game Commission to request that you assert your rights as Grantee under the Conservation Deed to demand that the OHMVR fulfill its statutory duties to protect landowners from trespass and damage by off-road riders in the vicinity of parcels in Section 25, Township 31S, Range 42E, Mt. Diablo P.M. that are covered under the Conservation Easement.

I will be happy to discuss any aspect of this letter and this issue with you, your staff, or members of the Fish & Game Commission. I have dozens of photos of property damage with maps and coordinates that show photo locations that I will send through the postal service because the image sizes are too large to include. The information included in this email is representative but not exhaustive of the documented problems with trespass and damage to private property in this area.

Thank you,

Steven Gjerstad

[REDACTED]

[REDACTED]

[REDACTED]



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Barstow Field Office

2601 Barstow Road

Barstow, CA 92311

www.blm.gov/office/barstow-field-office

June 27, 2022

In Reply Refer To:

L12200000.0000

LLCAD08000

[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr. Gjerstad,

On October 7th, 2021, and March 17, 2022, the Bureau of Land Management (BLM) California State Director received your letters regarding off-highway vehicle (OHV) use on private lands and we are responding on her behalf. Thank you for your letters and for expressing your concerns about OHV use in the Fremont Peak area of the Western Mojave Route Network.

The BLM is not authorized to designate the area around your private property as closed to off-highway vehicles as most of the surrounding land is not managed by the BLM. The land use designations for the surrounding private properties are designated by San Bernardino County.

The public lands in this area have been designated as "Limited Use" for OHV and Transportation Management per *Title 43, Code of Federal Regulations, Part 8340 Off-Road Vehicles* (43 CFR § 8340) for the management of OHVs on public lands. The BLM utilizes 43 CFR § 8340 to designate public lands as open, limited or closed to the use of OHVs and for establishing controls governing the use and operation of OHVs in such areas. OHV Limited Use Areas are designated through a process utilizing designation or minimization criteria established in 43 CFR § 8342.1 (a), (b), (c), and (d). The BLM applied the minimization criteria for all OHV Limited Use Areas in the West Mojave Route Network Project (WEMO), Final Environmental Impact Statement (FEIS) (pg. 2.19-20). The WMRNP, FEIS Record of Decision, was signed on October 3rd, 2019. All BLM designated open routes in the limited use area are signed to communicate the allowable motorized vehicle access routes.

Your proposed signage cites several state and local ordinances the BLM does not enforce. The BLM has signage that meets similar objectives, and we will work to install signage as soon as possible. Thank you for bringing this issue to our attention and we hope the information provided addresses your concerns. Please contact Jeffery K. Childers, BLM Barstow Associate Field Manager at (760) 252-6020, via email [REDACTED] and/or in writing at 2601 Barstow Rd. Barstow, California, 92311, if you need any additional information.

Sincerely,

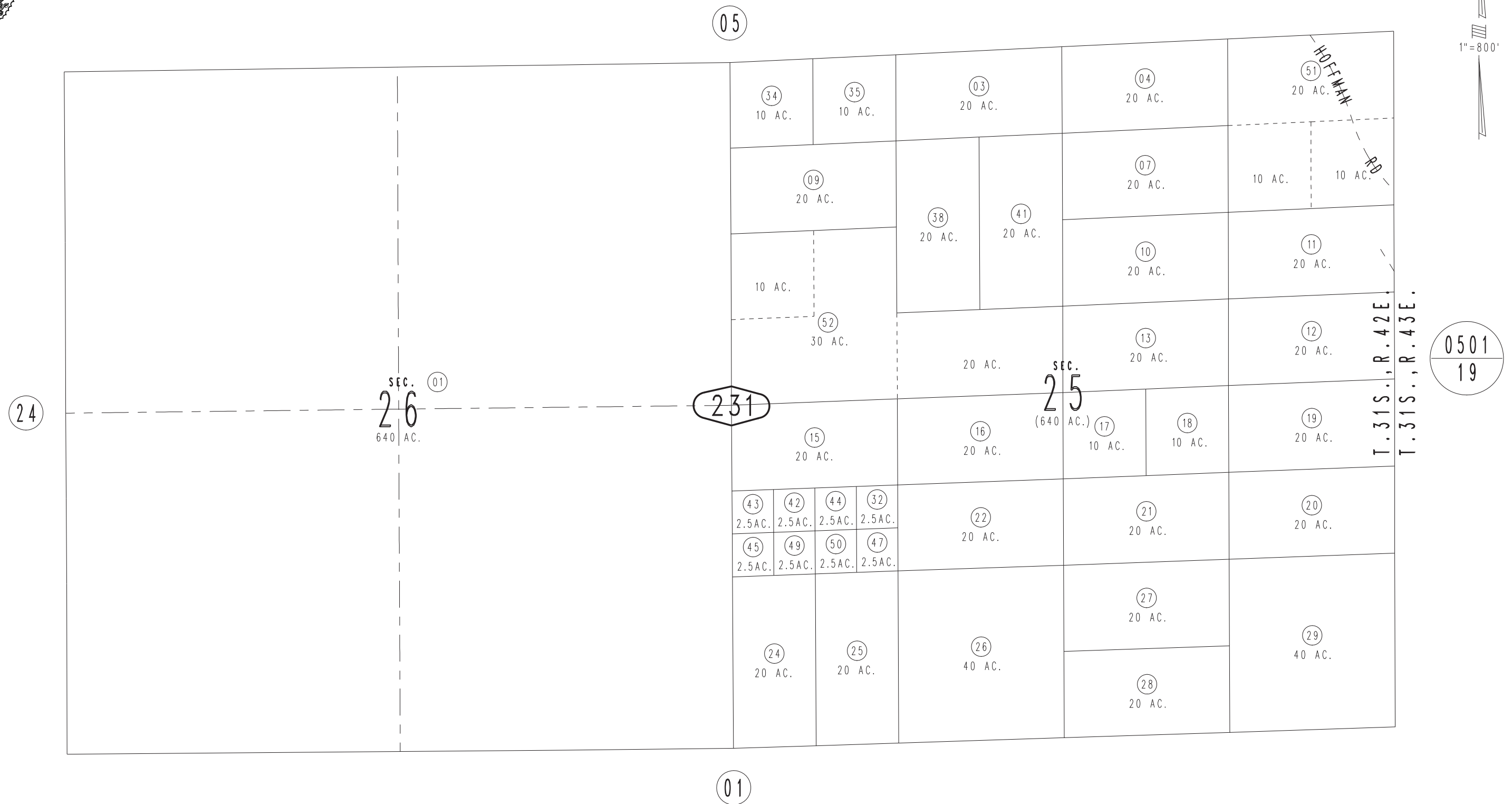
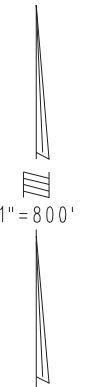
Brian Croft
Acting Field Manager

INTERIOR REGIONS 8 & 10 • LOWER COLORADO BASIN & CALIFORNIA-GREAT BASIN

ARIZONA, CALIFORNIA, NEVADA, OREGON*

* PARTIAL

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



Section 19 (40 BLM/OHMRV signs located)

Approximate boundaries of Section 19:

North: 35.22956 N
West: 117.52456 W East: 117.50671 W
South: 35.21487 N

State of California property included in this section
Approximate section boundaries

North: 35.22589 N
West: 117.51550 W East: 117.50671 W
South: 35.22221 N

DFW Conservation Easement Property: 0504-032-14-0000
Approximate section boundaries

North: 35.22959 N
West: 117.51552 W East: 117.50674 W
South: 35.22589 N
North: 35.22589 N
West: 117.51992 W East: 117.51551 W
South: 35.22038 N
North: 35.22221 N
West: 117.52223 W East: 117.51992 W
South: 35.21465 N

ROUTE	PHOTO FILE NAME	LATITUDE	LONGITUDE
RM29	Sec19_RM0029_a1	35.21588 N,	117.52401 W
RM29	Sec19_RM0029_a2	35.21885 N,	117.52399 W
RM29	Sec19_RM0029_a3	35.22198 N,	117.52401 W
RM29	Sec19_RM0029_a4	35.22495 N,	117.52406 W
RM29	Sec19_RM0029_a5	35.22572 N,	117.52398 W
RM48	Sec19_RM0048_b1	35.22848 N,	117.51277 W **
RM48	Sec19_RM0048_b2	35.22635 N,	117.50989 W **
RM428	Sec19_RM0428_c1	35.22731 N,	117.51913 W **
RM428	Sec19_RM0428_c2	35.22411 N,	117.51814 W **
RM428	Sec19_RM0428_c3	35.22023 N,	117.51815 W
RM428	Sec19_RM0428_c4	35.21705 N,	117.51656 W
RM428	Sec19_RM0428_c5	35.21621 N,	117.51524 W
RM451	Sec19_RM0451_d1	35.21791 N,	117.51279 W

RM451	Sec19_RM0451_d2	35.21845 N, 117.51317 W	
RM451	Sec19_RM0451_d3	35.21985 N, 117.51373 W	
RM451	Sec19_RM0451_d4	35.22142 N, 117.51394 W	
RM451	Sec19_RM0451_d5	35.22803 N, 117.51288 W	**
RM451	Sec19_RM0451_d6	35.22852 N, 117.51280 W	**
RM451	Sec19_RM0451_d7	35.22902 N, 117.51260 W	**
RM453	Sec19_RM0453_e1	35.21964 N, 117.50772 W	
RM453	Sec19_RM0453_e2	35.22012 N, 117.50737 W	
FP3263	Sec19_RM3263_f1	35.21891 N, 117.50977 W	
FP3263	Sec19_RM3263_f2	35.21953 N, 117.50980 W	
FP3263	Sec19_RM3263_f3	35.22005 N, 117.50949 W	
FP3263	Sec19_RM3263_f4	35.22061 N, 117.50897 W	
FP3263	Sec19_RM3263_f5	35.22094 N, 117.50749 W	
FP5337	Sec19_FP5337_g1	35.21511 N, 117.51197 W	
FP5337	Sec19_FP5337_g2	35.21498 N, 117.51148 W	
FP5337	Sec19_FP5337_g3	35.21471 N, 117.51109 W	
FP5338	Sec19_FP5338_h1	35.21904 N, 117.50813 W	
FP5338	Sec19_FP5338_h2	35.21621 N, 117.50941 W	
FP5338	Sec19_FP5338_h3	35.21593 N, 117.50943 W	
FP5338	Sec19_FP5338_h4	35.21581 N, 117.50946 W	
FP5338	Sec19_FP5338_h5	35.21561 N, 117.50951 W	
FP5339	Sec19_FP5339_i1	35.21775 N, 117.51219 W	
FP5339	Sec19_FP5339_i2	35.21586 N, 117.50935 W	
FP5339	Sec19_FP5339_i3	35.21567 N, 117.50909 W	
FP5430	Sec19_FP5430_j1	35.21751 N, 117.51262 W	
FP5430	Sec19_FP5430_j2	35.21518 N, 117.51196 W	
FP5430	Sec19_FP5430_j3	35.21511 N, 117.51197 W	

Section 25 (32 BLM/OHMRV signs located)

Approximate boundaries of Section 25:

North: 35.21520 N	
West: 117.43675 W	East: 117.41920 W
South: 35.20055 N	

ROUTE	PHOTO FILE NAME	LATITUDE	LONGITUDE
BM6317	Sec25_FP6317_a1	35.21500 N, 117.43247 W	
BM6317	Sec25_FP6317_a2	35.21498 N, 117.43203 W	
BM6317	Sec25_FP6317_a3	35.21385 N, 117.42645 W	
BM6317	Sec25_FP6317_a4	35.21343 N, 117.42373 W	
BM6317	Sec25_FP6317_a5	35.21290 N, 117.42127 W	**

BM6319	Sec25_FP6319_b1	35.21470 N, 117.43306 W	
BM6319	Sec25_FP6319_b2	35.21486 N, 117.43285 W	
BM6319	Sec25_FP6319_b3	35.21507 N, 117.43256 W	
FP6231	Sec25_FP6231_d01	35.21509 N, 117.43409 W	
FP6231	Sec25_FP6231_d02	35.21492 N, 117.43369 W	
FP6231	Sec25_FP6231_d03	35.21477 N, 117.43347 W	
FP6231	Sec25_FP6231_d04	35.21449 N, 117.43304 W	
FP6231	Sec25_FP6231_d05	35.21415 N, 117.43262 W	
FP6231	Sec25_FP6231_d06	35.21351 N, 117.43186 W	
FP6231	Sec25_FP6231_d07	35.20993 N, 117.42679 W	
FP6231	Sec25_FP6231_d08	35.20916 N, 117.42404 W	
FP6231	Sec25_FP6231_d09	35.20912 N, 117.42681 W	
FP6231	Sec25_FP6231_d10	35.20708 N, 117.41965 W	
FP6231	Sec25_FP6231_d11	35.20717 N, 117.41988 W	
FP6231	Sec25_FP6231_d12	35.20663 N, 117.41906 W	
FP6303	Sec25_FP6303_b1	35.21229 N, 117.43430 W	
FP6303	Sec25_FP6303_b2	35.21188 N, 117.43428 W	
FP6303	Sec25_FP6303_b3	35.21043 N, 117.43481 W	**
FP6303	Sec25_FP6303_b4	35.20838 N, 117.43586 W	**
FP6383A	Sec25_FP6383A_a1	35.21285 N, 117.43497 W	
FP6383A	Sec25_FP6383A_a2	35.21268 N, 117.43462 W	
FP6383A	Sec25_FP6383A_a3	35.21249 N, 117.43424 W	
FP6383A	Sec25_FP6383A_a4	35.21231 N, 117.43391 W	
FP6383A	Sec25_FP6383A_a5	35.20951 N, 117.42895 W	**
FP6383A	Sec25_FP6383A_a6	35.20822 N, 117.42622 W	
FP6383A	Sec25_FP6383A_a7	35.20741 N, 117.42329 W	
FP6383A	Sec25_FP6383A_a8	35.20641 N, 117.42120 W	



Exhibit 2.c



Exhibit 2.f

WHAT IS KILLING AND MAIMING THE MOST SEABIRDS..?

acesbaitandtackle [REDACTED]

on behalf of

Ace Carter - Super Angler [REDACTED]

Fri 09/02/2022 08:13 AM

To: Angling International Magazine [REDACTED]

Cc: Fishing Tackle Retailer - Ken Cook - Letters To The Editor [REDACTED]

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----- Forwarded message -----

From: Ace Carter - The Ace Carter Detective Agency

Date: Sun, 21 Aug 2022 04:39:52 -0700

Subject: WHAT IS KILLING AND MAIMING THE MOST SEABIRDS..?

To: Debbie McGuire - Executive Director - Wetlands and Wildlife Care Center [REDACTED]

Cc: DUG [REDACTED] Kern County Board Of Supervisor - Zack Scrivner [REDACTED] KFI 640-AM In Los Angeles -

PUBLIC COMMENT - Email Hot Line [REDACTED] LENO'S GARAGE [REDACTED] MIKE STEVENS - Senior Fishing Editor - Western Outdoor News - THE WEST'S ONLY OUTDOOR NEWSPAPER

[REDACTED] "NEWSMAX.COM" [REDACTED] OUR Assemblyman Tom Lackey [REDACTED] OUR CONGRESSMAN - JET FIGHTER PILOT - MIKE GARCIA

[REDACTED] "OUR L. A. County Supervisor - Kathryn Barger" [REDACTED] PUBLIC COMMENT - Email Hot Line - THE ANSWER - 870-AM - Los Angeles [REDACTED] "ROBIN BERTILUCCI - CHRIS LITTLE - AMAZING STAVE GREGORY AT KFI NEWS TALK RADIO IN LA..." [REDACTED] ROD PYLE- HEARD ON THE TECH GUY SHOW WITH LEO LAPORTE ON KFI

[REDACTED] "Talkers.com" [REDACTED] Blake Warren - Managing Editor - WESTERN OUTDOOR NEWS [REDACTED] Brian Golden - STAFF WRITER - The AV Press - FORMER AV TALK SHOW RADIO HOST [REDACTED] "Doug Kern, Gaviota Coast Conservancy" [REDACTED] Friends of Rollo

[REDACTED] "Jackie Owens - Field Representative - Our U.S. Congressman Mike Garcia" [REDACTED] Jerry Estin [REDACTED] Jim Paulk [REDACTED] "L.A. County Supervisor - Janice Hahn" [REDACTED] LA WATER KEEPER [REDACTED] Lynn Valbuena [REDACTED] Mayor Cameron Smyth - Mayor - The City Of

Santa Clarita [REDACTED] MyNewsLA
[REDACTED] "Office of U.S. Senator Marsha Blackburn"
[REDACTED] PETA [REDACTED] PUBLIC
COMMENTS - PROGRAMMING - AM 770 KTTH [REDACTED]
Rebecca Light [REDACTED] US Coastguard
[REDACTED] "USDA Forest Service National Headquarters
Forest Health Protection Website. ... Rick Cooksey, FHP Director"
[REDACTED]

WHAT IS KILLING AND MAIMING THE MOST SEABIRDS..?

CUTTING OFF WILD DUCK'S BILLS..?

BREAKING PELICAN'S WINGS..?

KILLING SO MANY SONG BIRDS..?

KILLING CONDORS, EAGLES, HAWKS WHOLESALE..?

THE ANSWER...

THOSE 'GREEN..' ELECTRICITY GENERATING - INVISIBLE TO FLYING BIRDS -
HIGH IN THE AIR - ON TOWERS - FAST SPINNING HUGE ROTOR BLADES...

ALL SUCH BIRD KILLING DEVICES SHOULD ALSO BE EQUIPPED WITH DEVICES TO
PROTECT BIRDS...

ACE

--

- ACE CARTER DETECTIVE AGENCY -

- PROBLEMS SOLVED - QUESTIONS ANSWERED -

- LICENSED LEGAL INVESTIGATIONS SINCE 1975 -

California State Private Investigator License No. [REDACTED]



- Let's Make California Great Again -


--

- THE WORLD FAMOUS ACE'S BAIT & TACKLE

- Lots Of Free Fishing Advise -

- NO EXTRAVAGANCE IS TOO GREAT FOR FISHING -

- PEARBLOSSOM FISHING CLUB -



- Let's Make California Great Again -

- FIRE ALL THE LAZY BUMS AND LOAFERS IN CALIFORNIA GOVERNMENT -

California Deer Hunter.

Regarding regulation print out.

Dear Department of fish and wildlife
I am a California Deer hunter, it's seems like
each year you DFW try to not to print out
regulation book, but why?

Don't just tell people use computer ok.
When you in the mountain how you gonna
get computer to work.

In the past many times fishing and wildlife
police try to give hunter many times
ticket so hunter have to show them what
is open, so don't just want money from
hunter but being lazy ass ok you people
need to print out every regulation every
year, computer don't work every where.
Don't want to print out regulation don't
sell licenses and tags to hunter, so don't
be lazy ass just want money only.

Sincerely
California Deer Hunter

American Beaver relocation project

Maeve [REDACTED]

Wed 09/07/2022 02:14 PM

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

Hi. Cynthia Scott here, lifelong California resident and tax payer.

I read of your plan for American Beavers, & have concerns over it's viability. Finished in 2006 (or so), was a better connecting road from Hwy 70 to Hwy 99, in Oroville, CA. , now called Hwy. 149. Part of the problem that was addressed, was the Golden Beaver pond on the south side of the proposed connector, as it was in the way. It was decided that a new pond would be constructed on the north-side of Hwy 149. Approximately, \$2.5 millions were spent creating a habitat that was perfect. I'm sure everyone patted themselves on their back after the move was completed. However, the beavers decided the neighborhood was sketchy, loud & whatever else Golden Beaves find objectionable, & moved back to the south-side , now destroyed, & rebuilt their homes.

I'm sure your plan has taken the beaver's success at relocation as a point to consider.

This is just a true history of humans trying to control the environment . As far as I know, it's Beavers: 1, meddling humans: 0

Thanks for reading. This isn't sent as a joke. Just as a concerned citizen and wildlife supporter.

Cynthia Scott
Ukiah, CA.
[REDACTED]

Commercial Fishermen Infrastructure at Channel Islands Harbor Ventura County CA

Dave Colker [REDACTED]

Fri 09/09/2022 09:50 AM

To: Matt.LaVere [REDACTED] Linda.Parks [REDACTED]
[REDACTED] kelly.long [REDACTED] supervisor.huber [REDACTED]
[REDACTED] Ramirez, Carmen
[REDACTED] assemblymember.bennett [REDACTED]
[REDACTED] Tripp, Michael
[REDACTED] chairperso [REDACTED] Rene Aiu
[REDACTED] friendsofchannelislandsharbor [REDACTED]
[REDACTED] David Goldenberg [REDACTED] Nathan Rosser
[REDACTED] FGC <FGC@fgc.ca.gov> [REDACTED]
[REDACTED] effie.turnbull-sanders [REDACTED]
[REDACTED] mike.wilson [REDACTED]
[REDACTED] meagan.harmon [REDACTED]
[REDACTED] riberto.urango [REDACTED]
[REDACTED] Jenniches, Sam [REDACTED]
[REDACTED] john.zaragoza [REDACTED]
[REDACTED] bryan.macdonald [REDACTED]
[REDACTED] bert.perel [REDACTED]
[REDACTED] gabe.teran [REDACTED] oscar.madriga [REDACTED]
[REDACTED] gabriela.basua [REDACTED]
[REDACTED] vianey.lopez [REDACTED] rrollins [REDACTED]
[REDACTED] VENTURAFRESHFISH [REDACTED]
[REDACTED] >;FISHMARKET [REDACTED]
[REDACTED] Jonathan Gonzalez [REDACTED] Dania Williams
[REDACTED] Darrell Keller <[REDACTED]>

Hello,

This is Dave Colker, Chairman of the Channel Islands Commercial Fishing Infrastructure Implementation Committee (CICFIIC) via the Ventura County Commercial Fishermen's Association (VCCFA).

This message is to serve two purposes. The first being an introduction to the Ventura County Board of Supervisors of this Committee and its intentions, and Second to ask some questions that can bring clarity to my constituents, as to the progress of the development of our harbor.

I, Dave Colker am a sitting board member on the Ventura County Commercial Fishermen's Association. My position is the Channel Islands Harbor Representative. We are in the midst of revamping this Non Profit Organization. It is my intention to engage with Supervisors and Harbor Administration in an attempt to convey the local Commercial Fishermen's Interests in continuing to provide and to bolster access to the public of a fresh, organic, sustainable food (fish) product and embrace the cultural

attraction of having an active fishing fleet., (Sea Urchin, Lobster, Sea Bass, Halibut, Sea Cucumber, various Crabs, Shrimp, Spot Prawns, Sablefish, varieties of shellfish, etc.)

In line with this vision is the creation of a committee devoted to updating the Commercial fishing infrastructure at Channel Islands Harbor. This Committee was created in our last board meeting (VCCFA, July 15, 2022) I am, now speaking on behalf of this Committee and will report to the VCCFA board. Our next board meeting is set for mid-October and I would like to come to that meeting with answers to questions and an action plan to achieve the goal of updating the infrastructure.

I have a meeting with Michael Tripp (CI Harbor Director) set up for September 14th of which I will be detailing a plan to achieve grant funding for the proposed Infrastructure Updates, in accordance with the Channel Islands Harbor Public Works Plan. I am inviting Sam Jenniches, a Project Manager from The California Coastal Conservancy to this meeting. Regardless if he can physically make it or not, I will be reporting back to him on the status of support from Harbor Administration of said improvements. There is a chance he will be attending the meeting due to he is in town that day, but occupied with another project. My objective of that meeting will be to get a commitment of support for updating the Commercial fishing infrastructure at Channel Islands Harbor.

If you are interested in knowing more, I would like to have a response to this email and I will include you in the conversation thread of the progress. Please reply or reach out to me at 8056632152.

The second reason for this email is to ask some questions.

I had an open dialogue with former supervisor Carmen Ramirez, where I had made her aware of the Commercial Fishermen's Interest in keeping our current location of fisherman's wharf protected. That is, to not lose real estate already set with precedence of the active offloading hoist at the corner of Channel Islands Boulevard and Victoria Avenue. We would also like to explore the idea of utilizing this area for the soon to be proposed infrastructure updates, (Commercial grade salt water ice machine, storage, office space, conference meeting areas, aerated and water pumped fish receiving/holding tanks, an outdoor weekly fisherman's market, and other fish related support infrastructure) The goal is to KEEP the FISHERMEN at FISHERMAN'S WHARF. I have followed the progress of the RFPs for this area and have attempted to make contact through the harbor administration to the proposed developers, in a meeting I had with Michael Tripp (July 7th, 2022) requesting the county put me (VCCFA) in contact with the developers so we can work together to keep the Fisherman at Fisherman's wharf. I have yet to receive any information or access to these developers, but do plan on attending the September 19th Workshop to make sure they know we are interested in keeping ourselves at this location. The community could benefit from having access to fresh local organic sustainable fish and low income families and other diverse groups can benefit from a cultural perspective as well.

I have 3 main questions.

1. Who, (specific names, not generalized titles) make up the the Harbor Advisory Committee (per the RFP guidelines for selection), and do they have vested interests in who gets to be selected, for consideration of the Board of Supervisors?
2. Do you, as a Supervisor, or Administrative position support the updating of the Commercial Fishing Infrastructure at Channel Islands Harbor?

3. Is there an 8th revision of the C I Public Works Plan being drafted? If so, does it still include the protection if the Commercial fishing fleet? What changes are being proposed? If there is an 8th revision set in motion will it have an impact on the Commercial fishing or any fishing and sport/recreational boating activities in this harbor? If there is indeed an 8th revision being drafted can we, the VCCFA have access to chime in and continue our presence in this document?

Thank you for your time in reading this message. I am available for comments or questions at any time via email or contacting me directly at [REDACTED]

I am including all Ventura County Board Of Supervisor Members, Assemblyman Steve Bennett, Harbor Director Michael Tripp, and a few local interested organizations with community support, such as The Channel Islands Neighborhood Council, The Harbor and Beach Alliance, Friends of Channel Islands Harbor, The California Sea Urchin Commission, The California Fish and Game Commission, The California Coastal Commission, Sam Jenniches project manager California Coastal Conservancy, The City of Oxnard Mayor's Office, City of Oxnard City Council Members, The City of Port Hueneme Mayor's Office, and all of the board members of the Ventura County Commercial Fishermen's Association.

Please reply accordingly with any answers you may have or any support for these efforts.

With all due respect,
Dave Colker
Chairperson CICFIIC
[REDACTED]

Predator management in California

Bill Karr

Fri 09/23/2022 12:49 PM

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

I would appreciate this being passed to each of the members of the Cal. Fish and Game Commission:

For those who might not know me, I am 76 years old and have been an Outdoor Writer for many decades throughout the west, and published internationally on hunting and fishing issues. I was the Editor of Western Outdoor News here in California for 36 years, and I live and breath hunting, fishing and the outdoors.

I drew a buck antelope tag for Likely Tables this year, second time after applying every year for 40 or 50 years. Thought I would give you a report of what I saw.

First, I used to live at Flaming Gorge on the Utah/Wyoming border and literally LIVED with antelope for almost a decade, and have shot dozens of them. On the antelope season opener for Likely Tables last month I set up camp in Alturas, and hunted well before daylight to dark for 3 days. Honestly, I did NOT hunt the Likely Tables themselves much, last time I found too much pressure, so I hunted the tables and reservoirs to the west of Likely, where I scored last time.

During the entire three days, I covered hundreds of miles of excellent antelope country, but did not see over 100 antelope, and that INCLUDES private, non-hunted irrigated pastures in the valley!!! Astounding from what I saw a few decades ago....there are NO ANTELOPE LEFT. I found far more coyote, wolf and cat tracks than antelope. I did find a lone pair of antelope fawns, all by themselves, along one huge reservoir with no other antelope within miles that I could tell. I was NEVER offered a shot at a mature buck antelope in three days!!!!

This is just one scary example of the future of California wildlife with the protection and non-control of predators (wolves and lions), totally skewing the balance of nature towards predators and away from other species. The vast majority of those within the Cal. Dept. of Fish and Wildlife, at least those biologists who are in the know, would support the concept of "balance" in numbers of predators to game species. Currently, the state has ignored those biologists and ignored the science in favor of animal-rights activists and their screaming and yelling.

I would hope that you might benefit from my first hand observations and knowledge. I am not advocating the closure of antelope seasons or fewer tags, I am advocating for more predator control.

If management of California wildlife is, indeed, a priority for the DFW and the Fish and Game Commission then far more attention needs to be paid to the scientists and biologists, and far less to those in the public who have no knowledge or training in wildlife management.

Thanks very much for listening,

Bill Karr

Do the right thing !

Linda Badham

Fri 09/23/2022 01:57 PM

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

Please protect the mountain lions.

FGC @ cougars poisoned, 9-29-22. October 12-13, 2022 meeting (Public comment)

Phoebe Lenhart [REDACTED]

Thu 09/29/2022 12:59 PM

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

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Sent from my iPad

[REDACTED]
[REDACTED]
Sept. 29, 2022

Attn: FGC, Meeting October 12-13, 2022, Public Comment
Regarding: Rodent Poisonings of Mountain Lions (in CA) Documented Since
2014

Dear FGC,

This letter is sent to your attention due to the tragic news of a pregnant mountain lion (2 male and 2 female cubs in utero) found (killed by a car) with 5 chemicals used for rat poison.

According to the National Park Service (NPS), they have studied ether poisoning of mountain lions for 20 years. May I comment, that this is not "rocket science". The poisoning of mountain lions is well documented. What is grossly missing is any address to protecting the mountain lions from rat poisoning. It appears that the NPS had not proposed any solution to resolving the deadly exposure that mountain lions have to rat poisonings.

Thus, I am contacting the FGC at this meeting requesting that the FGC (as well as the Department of Fish and Wildlife-DFW) promptly intercede on behalf of the mountain lions (who are facing extinction). I would like to suggest that the use of rodent poisons be prohibited within a 25 mile radius of areas such as the Santa Monica mountains, Simlar Hills, Griffith Park, and Santa Susana.

I look forward to hearing from the FGC and the DFW regarding protections for the mountain lions in CA.

Sincerely,

Phoebe Lenhart
[REDACTED]

CALIFORNIA FISH AND GAME COMMISSION
RESOLUTION RECOGNIZING

**OCTOBER 2022 AS NATIONAL DISABILITY
EMPLOYMENT AWARENESS MONTH**

WHEREAS, October 2022 marks the 77th anniversary of National Disability Employment Awareness Month; and

WHEREAS, the purpose of National Disability Employment Awareness Month is to educate about disability employment issues and celebrate the many and varied contributions of our country's workers with disabilities; and

WHEREAS, workplaces welcoming of the talents of all people, including people with disabilities, are a critical part of our efforts to build an inclusive community and strong economy; and

WHEREAS, the most effective methods for improving the lives of people with disabilities are public awareness, understanding, and inclusion in the community and workplace; and

WHEREAS, the State of California is celebrated for its vast array of outdoor recreational activities and diverse wildlife; and

WHEREAS, the Commission is proud to support access to fishing, hunting, and other outdoor recreational opportunities for people of all abilities and encourages every person with a disability to experience recreation in California's wild places;

NOW, THEREFORE, **BE IT RESOLVED**, that the California Fish and Game Commission, recognizes October 2022 as the 77th anniversary of NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH to raise awareness about disability employment issues, celebrate the many and varied contributions of people with disabilities, promote enjoyment of California's fish and wildlife resources by people with disabilities, and urges everyone to advance the important message that people with disabilities add value and talent to our workplaces and communities.

Dated: October 14, 2022

Samantha Murray, President

Erika Zavaleta, Vice President

Jacqueline Hostler-Carmesin, Member

Eric Sklar, Member

Anthony Williams, Member

Melissa Miller-Henson, Executive Director

California Fish and Game Commission
Staff Time Allocation and Activities
October 4, 2022

This report identifies, for the months of August and September 2022, where California Fish and Game Commission staff time was allocated in general activity categories, trends in staff time allocation, and examples of specific activities in which staff engaged.

General Time Allocation

Task Category	August Staff Time	September Staff Time
Regulatory Program	14%	15%
Non-Regulatory Programs	4%	4%
Commission/Committee Meetings	30%	20%
Legal Matters	4%	3%
External Affairs	8%	12%
Special Projects	7%	11%
Administration	24%	20%
Leave Time	7%	13%
Unfilled Positions	5%	5%
Total Staff Time ¹	103%	103%

¹ Total staff time is greater than 100% due to overtime

Trends

Time allocations were generally within expected ranges for the two-month period with the exceptions of the regulatory program, external affairs and special projects.

Commission staff is experiencing increases in time spent in its regulatory program. Several recently submitted rulemakings (pink shrimp, game fish contests, commercial kelp) required additional staff time to address issues identified by the Office of Administrative Law during the approval process. Additionally, preparations have begun for noticing several rulemakings for the December meeting. Staff expects a higher volume of rulemakings to be introduced in 2023.

September saw an increase in external affairs and special projects as a result of increased time to advance the coastal fishing community policy, prepare for an aquaculture public interest criteria workshop, prepare for and hold a wild pig forum, and make field visits related to DFW efforts to monitor red abalone, urchins and kelp forests.

Sample Activities for August 2022

- Prepared for and jointly hosted with the California Department of Fish and Wildlife (Department) a statewide tribal listening session for western Joshua tree

- Prepared for and convened second meeting of Commission Tribal Subsistence Harvest Definition Workgroup
- Participated in interagency planning meetings for California Native American Day 2022
- Participated in a quarterly coordinating meeting with California Ocean Protection Council staff to help advance ocean and coastal priorities
- Participated in field work related to Department efforts to monitor red abalone, urchins, and kelp forests
- Participated in field work for monitoring salmon and its habitat as part of a California Sea Grant Extension project
- Convened and hosted internal workgroup to advance a coastal fishing communities policy
- Participated in a *ridealong* conducted by Department law enforcement officers near Catalina Island to learn about enforcement issues in marine protected areas
- Toured Tomales Bay with Greater Farallones National Marine Sanctuary, Department, and National Park Service staff to view a proposed aquaculture lease area
- Advanced recruitment to refill seasonal clerk position
- Participated in California Natural Resources Agency agency-wide leaders meeting and Department joint leadership team meeting
- Prepared for and conducted two publicly noticed meetings (Tribal Committee and Commission)
- Prepared for two publicly noticed meetings (Wildlife Resources Committee and Wild Pig Forum)
- Staff rotates each month to prepare for and lead “Taking a Moment to Pause” discussions as part of internal education on JEDI issues, with this month’s discussion focused on negative messaging as a result of microaggression

Sample Activities for September 2022

- Participated in and co-hosted with the Department and the Wildlife Conservation Board a table at California Native American Day 2022 on the grounds of the State Capitol Building
- Coordinated and implemented with the Department a large-scale tribal outreach effort for western Joshua tree
- Participated in California Truth and Healing Council meeting
- Participated in planning meetings for 2023 Tribal Water Summit
- Participated in California Natural Resources Agency 30x30 Partnership Kickoff
- Held internal workgroup meetings to advance a coastal fishing community policy
- Prepared for aquaculture public interest criteria workshop
- Prepared for and gave California State Sea Grant host presentation to 30 potential fellows and prepared for interviews
- This month’s “Taking a Moment to Pause” discussion focused on historic legacies and systems of exclusion

- Prepared a draft of equity action plan as requested by California Natural Resources Agency
- Prepared for and conducted three publicly noticed meetings (Wildlife Resources Committee, Wild Pig Forum, and Aquaculture Lease Public Interest Criteria Workshop)
- Prepared for two publicly noticed meeting (Commission and Commission teleconference)

Sample Tasks for the General Allocation Categories

Regulatory Program

- Coordination meetings with DFW to develop timetables and notices
- Prepare and file notices, re-notices, and initial/final statements of reasons
- Prepare administrative records
- Track and respond to public comments
- Consult, research, and respond to inquiries from the Office of Administrative Law
- Facilitate CEQA document review, certification of findings, and filing with state clearinghouse

Non-Regulatory Program

- DFW partnership, including jointly developing management plans and concepts
- Process and analyze non-regulatory requests
- Develop, review, and amend Commission policies
- Research and review adaptive management practices
- Review and process CESA petitions

Commission/Committee Meetings and Support

- Research and compile subject-specific information
- Develop and distribute meeting agendas and materials
- Agenda and debrief meetings
- Prepare meeting summaries, audio files, and voting records
- Develop and distribute after-meeting memos/letters
- Conduct onsite meeting management
- Process submitted meeting materials
- Provide commissioner support
- Process and analyze regulation change petitions

Legal Matters

- Public Records Act requests
- California Law Review Commission
- Process appeals and accusations
- Respond to litigation
- Process kelp and state water bottom leases
- Prepare administrative records

External Affairs

- Engage and educate legislators, monitor legislation
- Maintain state, federal, and tribal government relations
- Correspondence
- Respond to public inquiries
- Website maintenance
- Coyote workshops
- Wild pig forum

Special Projects

- Coastal Fishing Communities
- Paper to digital conversion
- Bullfrogs and non-native turtles stakeholder engagement
- Streamline routine regulatory actions
- Aquaculture best management practices
- California Law Revision Commission recommendation for new Fish and Wildlife Code

Administration

- Staff training and development
- Purchases and payments
- Contract management
- Personnel management
- Budget development and tracking
- Health and safety oversight
- Internal processes and procedures
- Document archival

Leave Time

- Holidays
- Sick
- Vacation or annual leave
- Jury duty
- Bereavement

San Diego Area Wildlife Officer Is CDFW's 2021 Wildlife Officer Of The Year

August 16, 2022



Warden Austin Smith has been named 2021 Wildlife Officer of the Year, the California Department of Fish and Wildlife (CDFW) announced.

Warden Smith started his wildlife officer career in 2016 and has been an exceptional investigator, dedicated officer and a true asset to CDFW. Smith's investigations have involved many deer, wild turkey and illegal firearms violations. He also took the initiative to learn various aspects of unlawful commercial fishing, becoming highly proficient at Commercial Passenger Fishing Vessel investigations. In Smith's first six years with CDFW, he issued a total of 1,345 citations.

In addition to Warden Smith's crime-solving skills, he has also dedicated himself to supporting public safety. In late 2019, Smith participated in a multi-agency Search and Rescue mission at the CDFW-managed Hollenbeck Canyon Wildlife Area in rural San Diego County. A woman who was hiking the area had been reported missing by her husband. Smith used traditional tracking skills by following her footsteps away from her parked vehicle. Tracking is a skill lost to most of society and mastered by even fewer. Smith followed the

tracks for several miles into the wildlife area and located the injured, dehydrated and disoriented woman. Smith transported the woman back to the parking lot where she was met and treated by paramedics.

And despite his short tenure in the Law Enforcement Division, Warden Smith makes it a priority to mentor probationary wildlife officers as a POST-certified Field Training Officer. He is also a designated arrest and control instructor, TASER instructor and evidence custodian.

“Warden Smith is very deserving of this award for his contributions to protecting our precious resources and keeping the citizens of California safe,” said David Bess, CDFW Deputy Director and Chief of the Law Enforcement Division.

CDFW is thankful to Warden Smith as his singularly distinctive accomplishments reflect great credit upon himself, CDFW and the State of California. But the best “thank you” Warden Smith could ever receive was back in 2021 in the parking lot of the Hollenbeck Canyon Wildlife Area. A man approached him in the lot and not immediately recognizing him, described to Smith how he loved wildlife officers. The man said he was extremely grateful to them as one had saved his lost wife’s life at the same wildlife area a few years earlier. That officer was indeed Warden Austin Smith.

CDFW Director Statement On FERC Release Of EIS On Klamath Dam Removal

August 26, 2022

California Department of Fish and Wildlife Director Charlton H. Bonham issued the following statement on the release today by the Federal Energy Regulatory Commission([opens in new tab](#)) (FERC) of the final Environmental Impact Statement (EIS) on the proposed decommissioning of four dams on the Klamath River:

“We applaud the Federal Energy Regulatory Commission staff for issuing the final EIS ahead of schedule and for validating license surrender and dam removal as the right thing to do. While we continue to review the document, we welcome this critical milestone and look forward to advancing what will be the largest dam removal project in U.S. history and restoration of 400 miles of the Klamath River for the benefit of salmon, Tribes and communities in the basin. The final EIS along with the Department of the Interior’s recent funding for the Klamath River Basin under the Bipartisan Infrastructure Law and leadership from Oregon and California all point toward now being the time to solve many of the basin’s long-running restoration and water challenges.”

Memorandum

Date: September 8, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Submission of Initial Statement of Reasons to Amend Title 14, California Code of Regulations (CCR), Section 700.4, Automated License Data System**

The Department of Fish and Wildlife (Department) requests that the Fish and Game Commission (Commission) authorize publishing notice of its intent to amend Section 700.4, Title 14, CCR. Based on the regulatory directive of Assembly Bill 817, the Department is proposing to amend Section 700.4 to include electronic display as part of the Automated License Data System (ALDS).

If you have any questions regarding these items, please contact Jay Rowan, Fisheries Branch Chief, at (916) 212-3164. The public notices for these rulemakings should identify Senior Environmental Scientist, Karen Mitchell, as the Department's point of contact. She can be reached at (916) 205-0520.

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Jay Rowan, Branch Chief
Fisheries Branch
Wildlife and Fisheries Division

Craig Shuman, Regional Manager
Marine Region (Region 7)

Chris Stoots, Assistant Chief
Law Enforcement Division

Brian Owens, Acting Manager
Regulations Unit
Wildlife and Fisheries Division

Chelle Temple-King, Senior Regulatory Analyst
Regulations Unit
Wildlife and Fisheries Division
Tony Straw, Info Tech Sup II OOC

Melissa Miller-Henson, Executive Director
Fish and Game Commission
September 8, 2022
Page 2

License and Revenue Branch

Damian Sivak, ALDS Systems Specialist
License and Revenue Branch

Ari Cornman, Wildlife Advisor
Fish and Game Commission

David Haug, Analyst
Fish and Game Commission

David Thesell, Manager
FGC Regulations Unit

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

Amend Section 700.4
Title 14, California Code of Regulations
Re: Electronic License Display

I. Date of Initial Statement of Reasons: October 12-13, 2022

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: October 12-13, 2022 Location: Kings Beach

(b) Discussion Hearing

Date: December 14-15, 2022 Location: San Diego

(c) Adoption Hearing

Date: February 2023 Location: Sacramento

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

BACKGROUND

Section 1050 of the Fish and Game Code authorizes the California Fish and Game Commission (Commission) to determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses. The regulations are in sections 700 and 700.4.

Section 1050.4 of the Fish and Game Code authorizes the Department of Fish and Wildlife (Department) to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement electronically on a mobile device.

Based on Section 1050 of the Fish and Game Code and the regulatory directive of AB 817, which creates Section 1050.4 of the Fish and Game Code, the Commission is proposing to amend Section 700.4 to include electronic display as part of the Automated License Data System (ALDS).

CURRENT REGULATIONS

The current regulations (existing Section 700) state every person, while engaged in taking any fish, amphibian, reptile, bird, or mammal shall have on their person or immediate possession a valid sport fishing or hunting license. ALDS allows license items to be printed instantly using

point of sale terminals at Department license agents and Department license sales offices (existing Section 700.4). ALDS also allows applicants to apply for licensing via the Internet, print out a temporary license, and receive a permanent license via mail. These options will remain available.

The proposed changes to Section 700.4 include the following: 1) adding language to allow the Department to accept electronic display of licenses on an official Department application; and 2) non-substantive changes to language and punctuation.

PROPOSED REGULATIONS

The regulatory changes the Commission is proposing are described below by subsection.

Subsection (f) Electronic License Display. Adds subsection (f) to allow the Department to accept electronic display of licenses on an official Department application.

Several non-substantive changes are proposed to provide consistency among Title 14 sections.

(b) Goals and Benefits of the Regulation

These regulations will allow the Department to accept proof of valid licenses using a mobile application as an alternative to carrying a paper license.

Technology has changed significantly and there has been an increased demand for electronic license display. Licensees may forget a paper copy of a license but are likely to have a mobile device. The regulatory action proposed herein will provide flexibility in the method licensees may use to verify license validity.

(c) Authority and Reference Sections from Fish and Game Code for Regulation

Authority: Section(s) 1050, 1050.4, Fish and Game Code

Reference: Section(s) 713, 1050, 1050.4, Fish and Game Code

(d) Specific Technology or Equipment Required by Regulatory Change

None.

(e) Identification of Reports or Documents Supporting Regulation Change

None.

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

Wildlife Resources Committee: May 19, 2022

Marine Resources Committee: July 14, 2022

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

If the proposed amendments are not adopted, the Department will continue to allow only paper copies for proof of valid licenses. This may result in licensees without proof of a valid license in their possession, as well as frustration that the Department has not modernized its practices.

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

None identified.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no significant adverse effect on the environment, and therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

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

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

The proposed regulation will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This regulatory action will not impose cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulation.

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

The Commission does not anticipate impacts on the creation or elimination of jobs within the state, the creation of new business, the elimination of existing businesses, or the expansion of businesses in California because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing. The Commission does not anticipate direct benefits to the general health and welfare of California residents, the environment, or to worker safety.

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

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

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

The Department ALDS estimates a one-time implementation cost of \$448,975 to contract with Aspira for the development of the electronic license display application that is fundamental to

the proposed regulation. These costs are within existing budgets and resources.

No impact to federal funding to the state should occur. No nondiscretionary costs, or savings are anticipated for State agencies other than the Department due to this regulation change.

(e) Nondiscretionary Costs/Savings to Local Agencies

None.

(f) Programs Mandated on Local Agencies or School Districts

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None.

(h) Effect on Housing Costs

None.

VII. Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The Commission does not anticipate impacts on the creation or elimination of jobs within the state because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The Commission does not anticipate impacts on the creation of new business, the elimination of existing businesses within the state because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The Commission does not anticipate impacts on the expansion of businesses currently doing business within the state because the proposed regulations are unlikely to change the demand for goods or services related to sport fishing.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

The Commission does not anticipate impacts on the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety

The Commission does not anticipate impacts on to worker safety.

(f) Benefits of the Regulation to the State's Environment

The Commission does not anticipate impacts to the state's environment.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14 of the California Code of Regulations.

Section 1050 of the Fish and Game Code authorizes the California Fish and Game Commission (Commission) to determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses. The regulations are in Section 700 and 700.4.

Section 1050.4 of the Fish and Game Code authorizes the Department of Fish and Wildlife (Department) to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement electronically on a mobile device.

Based on the regulatory directive of AB 817, which creates Section 1050.4 of the Fish and Game Code, the Commission is proposing to amend Section 700.4 to include electronic license display as part of the Automated License Data System (ALDS).

The proposed changes to Section 700.4 include the following:

Adds a new subsection to allow the Department to accept electronic display of licenses on an official Department application.

Makes non-substantive changes to language and punctuation.

BENEFIT OF THE REGULATIONS

These regulations will allow the Department to accept proof of valid licenses using a mobile application as an alternative to carrying a paper license.

Technology has changed significantly and there has been an increased demand for electronic license display. Licensees may forget a paper copy of a license but are likely to have a mobile device. The regulatory action proposed herein will provide flexibility in the method licensees may use to verify license validity.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The Commission has reviewed its own regulations and finds that the proposed regulatory action is 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 acceptable physical presentations of sport fishing and hunting licenses.

Proposed Regulatory Language

Section 700.4, Title 14 CCR, is amended to read:

§700.4. Automated Licenses Data System

...[No changes to subsections (a) through (e)]

(a) Defined: For the purposes of this Division the “Automated License Data System” or “ALDS” is an automated system that replaced the Department’s paper license inventory system. ALDS allows license items to be printed instantly using point of sale terminals and is available at Department license agents and Department license sales offices located throughout the state. ALDS also allows applicants to apply for licensing via the Internet.

(b) Get Outdoors Identification ~~Number~~ Number. The first time any applicant applies for any license, tag, permit, reservation or other entitlement via ALDS, the applicant shall receive a unique Get Outdoors Identification number (GO ID), ~~or “GO ID.”~~ The GO ID shall not be transferable to any other person.

(c) Identification Required; ~~Acceptable forms of~~. Any applicant applying for any license, tag, permit, reservation or other entitlement issued via ALDS shall provide valid identification. Acceptable forms of identification include:

- (1) Any license document or GO ID number previously issued via ~~ALDS~~ ALDS;
- (2) A valid driver’s license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver’s licenses from the licensee’s state of ~~domicile~~ domicile;
- (3) US Birth ~~Certificate~~ Certificate;
- (4) US Certificate or Report of Birth ~~Abroad~~ Abroad;
- (5) Tribal Identification Card, as defined by each sovereign tribal ~~nation~~ nation;
- (6) Birth Certificate or passport issued from a US ~~Territory~~ Territory;
- (7) US ~~Passport~~ Passport;
- (8) US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious ~~personnel~~) personnel;
- (9) Certificate of Naturalization or ~~Citizenship~~ Citizenship;
- (10) A foreign ~~government-issued~~ government-issued photo ~~identification~~ identification;

(d) Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include:

- (1) Any form of identification described ~~above~~ above;
- (2) A parent or legal guardian’s identification as described ~~above~~ above;
- (e) Nonrefundable Application Fee

All licenses, tags, permits, reservations or other entitlements purchased via ALDS shall be subject to a three percent nonrefundable application fee, not to exceed seven dollars and fifty cents (\$7.50) per item, to pay the Department's costs for issuing ~~that~~ the license, tag, permit, reservation or other entitlement.

(f) Electronic License Display.

For any type of license, permit, reservation, registration, or other entitlement issued by the department where the license must be in the customer's immediate possession while engaging in the licensed activity, the department may accept licenses, permits, reservations, registrations, or other entitlements displayed through the official California Department of Fish and Wildlife mobile license application, if mobile display is available for the license type through the mobile license application.

NOTE: Authority cited: Sections 713, 1050 and 1054, Fish and Game Code. Reference: Sections 713, 1050 and 1054, Fish and Game Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Section 700.4, Title 14, CCR, Re: Sport Fish Licenses (Electronic Display)			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|--|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below):
No new private sector costs. See Addendum. |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☒ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
- a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
- d. Describe other economic costs that may occur: _____
2. If multiple industries are impacted, enter the share of total costs for each industry: _____
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
- If YES, enter the annual dollar cost per housing unit: \$ _____
- Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
- Explain the need for State regulation given the existence or absence of Federal regulations: _____
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
- Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____
_____The incentive for innovation in products, materials or processes: _____
_____The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)\$ \$449,000*It is anticipated that State agencies will:*☒ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☒ 4. Other. Explain Department of Fish and Wildlife ALDS contracts to develop electronic license functionality, including a mobile application.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE


DocuSigned by:
Dan Reagan
6558B761E2D3476

DATE

9/29/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE



Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STD 399 Addendum
Amend Section 700.4
Title 14, California Code of Regulations
Re: Sport Fish Licenses (Electronic Display)

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

Answer: h. None of the above. (Explain below):

The commission is not aware of any cost impacts that a representative individual or business would incur in reasonable compliance with the proposed regulation.

More information on the fiscal impact is provided below.

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact. This regulation does not affect any local entity or program. No nondiscretionary costs, or savings are anticipated for local governmental agencies as a result of this regulation change.

B. FISCAL EFFECT ON STATE GOVERNMENT

Answer 1. Additional expenditures in current State Fiscal Year = \$449,000 in estimated implementation costs for electronic license display application development.

- a. Department was appropriated funding in Fiscal Year 2022-23 for this implementation.

4. Other. Explain:

Department First year Implementation

Department implementation will involve changes to the Automated Licensing Data System (ALDS) including mobile application development. Under the current vendor contract with Aspira, the costs associated with electronic license display functionality including the development of a mobile application, are estimated to be \$449,000 in the first fiscal year. The estimated implementation costs were appropriated in the Fiscal Year 2022-23 Budget Act for this specific effort. The total implementation cost is estimated to be \$810,000 over the next two fiscal years.

Other Implementation Costs Considerations

No nondiscretionary costs, or savings are anticipated for State agencies other than the Department as a result of this regulation change.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact.



Electronic License Display

October 12, 2022

Presented to:

California Fish and Game Commission
Electronic License Display

Presented by:

Chelle Temple-King
Senior Regulatory Analyst
(Senior Environmental Specialist)



Electronic License Display Outline

- Assembly Bill (AB) 817 Background
- AB 817 Implementation
- 700.4 Electronic License Display
 - Rulemaking Authority



AB 817

- Added Section 1050.4 to the Fish and Game Code
 - Permission for the Department to offer electronic display of sport fishing licenses, validations, report cards, and other fishing entitlements
- Amended Sections 7149.05 and 7150 of the Fish and Game Code
 - Permission for the Department to offer 365-day sport fishing licenses



AB 817 Implementation

1. 365-Day Sport Fishing Licenses
 - No regulation change required
 - Target date of June 2023

2. Electronic License Display
 - Regulation change (700.4) required
 - Enables electronic display of ALDS licenses
 - Sport fishing base licenses and validations will be enabled first
 - Target date of June 2024

3. Electronic Report Card Display
 - Currently scoping
 - Target date of June 2025



700.4 Electronic License Display

- Rulemaking Authority
 - Section 1050 of the Fish and Game Code
 - Authorizes the Commission to determine the form of all licenses, permits, tags, reservations, and other entitlements
 - Section 1050.4 of the Fish and Game Code
 - Authorizes the Department to provide an option to display a sport fishing license electronically on a mobile device



Summary

- Regulation change will allow electronic display of licenses, entitlements, and validations
- Department will roll out electronic display beginning with sport fishing licenses in June 2024
 - Other types of licenses will follow
- Report cards are in the scoping phase and will require a future regulation change

Thank You



Chelle Temple-King
Senior Regulatory Analyst
Senior Environmental Scientist



Memorandum

Date: July 11, 2022

To: Melissa Miller-Henson
Executive Director
California Fish and Game Commission

From: Craig Shuman, D. Env.
Marine Regional Manager

Subject: **Transmittal of an Experimental Fishing Permit Application for Exploratory Fishing for King and Other Deepwater Crabs in California (Johnathan Hillstrand)**

The California Department of Fish and Wildlife (Department) has determined that the attached Experimental Fishing Permit (EFP) application from Johnathan Hillstrand to explore the potential of developing a new commercial fishery for king and other deepwater crab species in California is complete, and accepts the application for technical review.

A draft Notice of Receipt of Application is also attached, which includes a summary of the proposed project and a list of requested exemptions from the provisions of Fish and Game Code and Title 14 of the California Code of Regulations (CCR). The Fish and Game Commission (Commission), at its discretion, may finalize this document for use to comply with the public notice requirement prescribed in subsection 91(e)(1), Title 14, CCR.

Written comments submitted to the Department within the technical review period will be considered in the development of a recommendation to the Commission, including any proposed permit special conditions. Pursuant to subsection 91(d)(2), Title 14, CCR, the Department will transmit its recommendation to the Commission no later than 60 days from the date of this memo. If additional time is required for technical review, the Department will notify both the Commission and the applicant in writing of the reason for the time extension, pursuant to subsection 91(d)(3), Title 14, CCR.

If you have any questions or need additional information, please contact the EFP Coordinator at EFP@wildlife.ca.gov.

Attachments

ec: California Department of Fish and Wildlife

Eric Kord, Assistant Chief, Law Enforcement Division
Jason Kraus, Lieutenant (Specialist), Law Enforcement Division
Brent Chase, Lieutenant, Law Enforcement Division
Sonke Mastrup, Environmental Program Manager, Marine Region
Joanna Grebel, Senior Environmental Scientist Supervisor, Marine Region

Melissa Miller-Henson, Executive Director
Fish and Game Commission
July 11, 2022
Page 2

Tom Mason, Senior Environmental Scientist Supervisor, Marine Region
Christy Juhasz, Environmental Scientist, Marine Region
Steve Rienecke, Environmental Scientist, Marine Region
Marina Som, Environmental Scientist, Marine Region

Experimental Permit Fishing Application for Exploratory Fishing for King Crab and other Deepwater Crab in California (Updated: 8/12/2022)

A. CONTACT INFORMATION

Provide contact information for key participants, including the applicant and, if applicable, the entity administrator and any authorized agent(s). If any key participant does not have a Get Outdoors ID (GO ID) or commercial fishing license (CFL) number, they must provide information for CDFW to create a new customer profile pursuant to subsection 91(c)(2)(A)(1), Title 14, CCR.

1. Applicant

Name	Johnathan Hillstrand
Title and Affiliation	Captain/Owner
Mailing Address	[Mailing address omitted]
Email Address	[Email address omitted]
Telephone Number	[Telephone number omitted]
GOID or CFL Number	[GOID/CFL number omitted]
If no GOID or CFL number:	Please provide the following information.
Residence Address (if different from mailing)	[Residence address omitted]
Date of Birth	[Date of birth omitted]
Height	[Height omitted]
Eye Color	[Eye color omitted]
Hair Color	[Hair color omitted]
Weight	[Weight omitted]
Gender	[Gender omitted]
Personal Identification	A copy of DMV ID, passport, military ID, or other acceptable form of identification as listed in <u>subsection 700.4(c), Title 14, CCR</u> .

2. Entity Administrator

Name	Andrew Hillstrand
Title and Affiliation	Owner/Manager
Mailing Address	[Mailing address omitted]
Email Address	[Email address omitted]
Telephone Number	[Telephone number omitted]
GOID or CFL Number	[GOID/CFL number omitted]
If no GOID or CFL number:	Please provide the following information.
Residence Address (if different from mailing)	[Residence address omitted]
Date of Birth	[Date of birth omitted]
Height	[Height omitted]
Eye Color	[Eye color omitted]
Hair Color	[Hair color omitted]
Weight	[Weight omitted]
Gender	[Gender omitted]
Personal Identification	A copy of DMV ID, passport, military ID, or other acceptable form of identification as listed in <u>subsection 700.4(c), Title 14, CCR</u> .

3. Authorized Agent(s) – NA

B. STATEMENT OF PURPOSE

1. Describe the purpose and goals of the proposed project, including how the project meets or is consistent with the policies of Fish and Game Code (FGC) Section 7050.

The purpose of this project is to explore the potential of a new commercial fishery for king and other deepwater crab species in California. The project would test and evaluate the feasibility and sustainability of exploratory fishing activities to inform future development of a commercial king crab fishery, and is consistent with the following goals of Section 7050 of the FGC:

- Allow and encourage activities and uses of marine living resources that are sustainable.
- Recognize the importance of sustainable commercial fishing to the economy and the culture of California.
- Support and promote scientific research on marine ecosystems to better inform management decisions.

2. Provide a list of proposed project activities that are prohibited under current state fishing laws or regulations (cite the specific section number(s), if known), and the reasons to justify authorization (exemption) of those activities under the EFP.

We propose to apply for an EFP to conduct exploratory fishing activities that are currently prohibited under FGC Section 9011 (proposed fishing gear does not meet the design specifications described in FGC subdivision 9011(a)(2)) or FGC subdivision 9011(b)(2)) and Section 126, Title 14, CCR (proposed take exceeds the 25-lb possession and landing limit for species in the family Lithodidae).

C. STATEMENT OF QUALIFICATIONS

Respond to each of the following statements by providing relevant qualifications to demonstrate the ability of the applicant and, if applicable, other key participants to perform the necessary duties and responsibilities to carry out the proposed project. PLEASE NOTE: If any scientific or technical assistance is requested of CDFW, pre-application consultation is required.

1. Lead and provide supervisory oversight for all activities of the permit under the authorizations, standard terms, and special conditions.

Captain Johnathan Hillstrand will conduct the main fishery operations and oversee all paperwork requirements to satisfy the EFP permit requirements. Andrew Hillstrand will also assist in all paperwork and coordinating with CDFW to provide all paperwork necessary to CDFW and all other State and Federal entities.

2. Experience in identification, methods, and protocols specific to the requested species listed under [Section E.2.](#) of this document.

We have over 40 years of fishing experience identifying crab species and fishing crab as well as other species in the State of Alaska. Areas we have fished range from the Aleutian Islands, Bering Sea, Gulf of Alaska, Bristol Bay, Cook Inlet. Over that time, we have worked

with all enforcement agencies such as the US Coast Guard, NMFS, Alaska State Troopers, Alaska Department of Fish and Game. We have years of experience working with federal Logbooks and relevant observer programs to collect data for the fisheries we participate in.

This experience has also made us very sufficient in identifying species of crab.

We will also have an Observer on the vessel or a CDFW representative if they so choose to identify the targeted species as well as document any other species, if so required.

3. Obtain all appropriate authorizations and oversee quality control measures to assure conformance to the specified standards or requirements (e.g., take appropriate measures to ensure, promote, and facilitate compliance).

If approved for the EFP, we will work with CDFW to make sure all the appropriate licenses, permits, and authorization are obtained, including:

- Commercial fishing license
- General trap permit

4. Train all persons operating under the permit.

Current Crew has numerous years working on our vessel with all duties of measuring sorting and bringing in the legal crab required. We will consult with CDFW before EFP starts to go over all requirements to help crew work in an efficient manner to document crab and all other species.

5. Coordinate field activities and communicate field findings with CDFW Marine Region.

Captain (or Entity Administrator) will use Sat Phone, Cell phone and email communications with CDFW's Marine Region and Law Enforcement Division to coordinate field activities and report field findings as required by CDFW.

6. Collect, analyze, and transmit data gathered under the EFP to CDFW Marine Region.

We have over 40 years of fishing experience fishing crab and other species in the state of Alaska. Areas we have fished range from the Aleutian Islands, Bering Sea, Gulf of Alaska, Bristol Bay, Cook Inlet. Over that time, we have worked with all enforcement agencies such as the US Coast Guard, NMFS, Alaska State Troopers, Alaska Department of Fish and Game. We have years of experience working with federal Logbooks and relevant observer programs to collect data for the fisheries we participate in.

We will use Sat Phone, Cell phone and email communications with CDFW's Marine Region and Law Enforcement Division to fulfill all EFP requirements, including transmittal of fishing and landing data and reports.

D. PERMIT APPLICATION TYPE

1. Select desired permit tier.

- ☐ Tier 1 (For purposes other than exploratory fishing)
- ☐ Tier 2 (For purposes other than exploratory fishing with assistance from CDFW)
- ☒ Tier 3 (For the purpose of exploratory fishing)
- ☐ Tier 4 (For the purpose of exploratory fishing with assistance from CDFW)

2. Request [permit fee reduction option](#) consideration.

- ☒ Yes ☐ No

Buoy line marking research. If approved, this option would support testing buoy line marking by gathering information on efficacy and durability of marking lines for fixed gear fisheries. Line marking is a tool that can aid in identifying entanglements to state and fishery origin and may be used to exclude or eliminate fisheries from confirmed entanglements. Requirements for buoy line marking to be determined and specified by CDFW.

3. Has pre-application consultation with CDFW taken place with respect to this proposal? (Required for a Tier 2 EFP, Tier 4 EFP, or permit fee reduction option)

- ☒ Yes ☐ No

If yes, attach a copy of the pre-application consultation summary letter or provide the name and contact information of CDFW staff with whom the applicant consulted:

A pre-application consultation meeting occurred on April 25, 2022, with CDFW Marine Region's Marine Invertebrate Management Project staff members, including Tom Mason, Christy Juhasz, Marina Som, Ryan Bartling, Steve Reinecke, Joanna Grebel, Sonke Mastrup [staff contact information omitted].

E. PROJECT DESCRIPTION

Describe the proposal and any other relevant details, including:

1. A description of the experimental design and research plan, including specific procedures for data collection, storage, processing, and analysis; and a timeline for implementing the project, including, if applicable, when compensation fishing is expected to occur.

We are proposing fishing in Northern California from Eureka down to San Francisco to avoid whales and sea turtles. We are willing to work with CDFW's Whale Safe Fisheries Project to reduce the risk of interaction of fishing gear with Whales, Leatherback Sea Turtles or any other species that could be entangled by the proposed fishing gear. We are not opposed to supplement requirements by CDFW to make this EFP possible.

We propose using 40- 7'x7'x32" single pots with ¾ inch line attached to buoys that go to the Ocean floor to explore depths from 100 to 300 fathoms for possible species of King Crab off the California coast.

Pots would be set approximately 1 mile apart in a prospect string and soaked for 24 to 36 hours. Next the pots would be pulled and any species that are discovered will be measured on a large aluminum sorting table. If they are the specified crab the EFP has been granted for and they are the agreed upon size the CDFW has authorized, they will be placed in 1 of 3 large tanks on the vessel with the same temperature water as where they were pulled off the bottom from to minimize dead loss.

We would fish for approximately 1 month total with 3 to 4 trips over a period of 5 days and travel 1 day or the distance needed to reach the processor that will cook and freeze the crab in an industry standard required for resale.

Specific procedures for data collection are described below in Section E.4.

The proposed project would start in January 2023 or Fall (October or November) 2023, depending on the timing of the EFP approval and if all proper permits can be obtained with the State of California.

2. A list of target species expected to be harvested as samples or for compensation under the EFP, including anticipated amounts (weight or number) and proposed use (e.g., bait, sell, personal use, or other (e.g., research or tag and release)). [Add rows to the table below as needed.](#)

Species Name	Weight or Number	Proposed Use
Spiny King Crab	2,500 animals (up to 1,500 lbs)	sell

California King Crab	2,500 animals (up to 3,500 lbs)	sell
Spiky King Crab	2,500 animals (up to 1,500 lbs)	sell
Hair Crab	2,500 animals (up to 1,500 lbs)	sell
Deep Sea Spider	2,500 animals (up to 1,500 lbs)	sell
Flat Legged Spider Crab	2,500 animals (up to 1,500 lbs)	sell

3. A list of species expected to be taken incidental to fishing conducted under the EFP, including anticipated amounts (weight or number), proposed use (e.g., bait, sell, personal use, discard, or other (e.g., research or tag and release)), and a description of any measures that will be used to reduce incidental catch mortality.

Non-target species (finfish or invert) will not be retained (i.e., released at sea).

Measure to reduce incidental catch: As described in Section E.6, each pot would have an escapement webbed-panel that lets out 4-inch or smaller crab and other non-target species so as to not retain them in the first place.

4. A description of the mechanisms that will be utilized to ensure that any proposed harvest limit for target and incidentally caught species are not exceeded and are accurately tracked or monitored (e.g., at sea fisheries observers, electronic monitoring, or other reporting method); and, if applicable, a description of the vessel's capacity to accommodate an onboard observer.

Every pot that is pulled is counted and running totals are kept of targeted species and discards can also be counted and documented on every pot. The pot will then be stacked on deck of vessel and moved to a new location for further research. Catch data will be recorded in a manner and format specified by CDFW.

CDFW can require an observer on board the vessel at all times if they choose, or part of the time. 1 observer or CDFW representative will have a bunk and survival suit as well as be fed until we disembark from the program.

5. A description of any potential impacts on existing fisheries, habitats, or possible incidental interactions with threatened, endangered, or protected species (e.g., sea turtles, marine mammals, and birds) that could occur as a result of the project.

No impacts to birds are anticipated.

In speaking with CDFW, Humpback whales and blue whales are a concern as they transit the proposed project area. We would keep the amount of line at a bare minimum to sit on the bottom and not have excessive amounts to tangle whales. Any impact to habitat would be minimal as we are only using 40 pots and they sit on the bottom and only make a disturbance when they land and are pulled.

CDFW will identify appropriate areas and times to fish to minimize the risk of entanglement with the proposed fishing gear and to avoid crab molting periods.

6. The type and amount of gear to be used, including gear specifications and design, and, if applicable, a description of any measures and/or devices that will be used to reduce bycatch. If the project involves gear modifications or other gear innovations, the description must include the means by which CDFW staff can locate, retrieve, and inspect the proposed gear.

As described in Section E.1, we propose using 40- 7'x7'x 32" single pots with $\frac{3}{4}$ " line with up to 10- 33 fathom shots to fish out to 300 fathoms of depth (as many as are required to reach the depth we are trying to achieve). The top shot of line is a sinking line attached to buoys that go from the surface to the pot on the bottom. The sinking shot is designed to stop floating line at surface to prevent entanglement with marine animals.

The main diver buoy that attaches to the sinking line is a green round buoy (Model A3, 17-inch diameter) and an orange bullet-shaped buoy (Model LD2, 11.5-inch diameter, 24-inch length) is the trailer buoy.

Pots have an 18-inch opening for escapement (opens at least 11" wide) when biodegradable twine (Size No. 30) disintegrates after 30 days in the water, in case pot is lost (destruct device). Each pot has a web escapement panel that is 32" tall and 40" wide in a diamond configuration where each edge of the diamond measures 7" and each diamond measures 9" stretched diagonal length to allow fish and smaller crab to climb or swim out. We would try and avoid any areas where heavy whale activity is happening to lessen the chance of entanglements. When gear is retrieved, it will be stacked on the deck of vessel and set out in a new area to cover new grounds. We will follow any CDFW requirements to achieve best results they are looking for.

7. The location and timing of the project. The description must include trip specifications, such as fishing depth, anticipated number of trips, expected trip duration, and estimated number of hauls and average soak time (for fixed gear) or estimated number of tows/sets to be made per day, and estimated duration and speed per tow (for mobile gear). For project vessels listed in [Section E](#). of this document, the description must also identify any fishing activity that is expected to occur on the same trip as the project for purposes other than those provided by the EFP (e.g., fishing before and/or after the EFP activities).

For the first part of test fishing, the project location would encompass an area from Eureka to San Francisco (charts of the proposed areas are attached). Based on project findings, the proposed exploratory fishing activities may expand into areas farther south of San Francisco. Any proposed expansion of the fishing area or increase in fishing effort and amount of take will require additional review by CDFW and approval by the California Fish and Game Commission.

We will share info with CDFW of the areas along the coast that would allow us to explore but still be able to unload any targeted crab we caught at a processor. Right now, the processor we are looking to use is Southern Cal Seafood in Royal Oaks, California as one possibility.

Trip specifications, such as fishing depth, anticipated number of trips, expected trip duration, and soak time are described in Section E.1.

F. PROJECT VESSELS (IF APPLICABLE)

Provide vessel information. Using the table below, complete a separate entry for each project vessel to be authorized by the EFP. For any vessel that will be used in commercial fishing activity related to the permit, the commercial boat registration number issued pursuant to [FGC Section 7881](#) is required. For any vessel that will not be used in commercial fishing activity related to the permit, the commercial boat registration number issued pursuant to [FGC Section 7881](#) or a copy of the United States Coast Guard (USCG) Certificate of Documentation is required. If there is no Certificate of Documentation for the vessel, a copy of the vessel’s state registration is required.

Vessel Name	F/V Time Bandit
Boat Registration Number or Documentation	[Boat registration number or documentation omitted]
Owner Name	Time Bandit LLC
Owner Address	[Owner address omitted]

Owner Telephone Number	[Owner telephone number omitted]
Operator Name	Johnathan Hillstrand
Operator Address	[Operator address omitted]
Operator Telephone Number	[Operator telephone number omitted]

G. SIGNATURE

X DocuSigned by:

57808A2BF74E41D...

Signature of Applicant 8/13/2022
Date

H. APPLICATION FEE PAYMENT

Please see [CDFW's EFP Program page](#) for further information.

Memorandum

Date: August 22, 2022

To: Melissa Miller-Henson
Executive Director
California Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Transmittal of California Department of Fish and Wildlife Recommendation on Experimental Fishing Permit Application for Exploratory Fishing for King Crab and other Deepwater Crab in California

Background

On July 11, 2022, the California Department of Fish and Wildlife (Department) accepted an experimental fishing permit (EFP) application from Andy Hillstrand (Entity Administrator) on behalf of Johnathan Hillstrand (Applicant), F/V Time Bandit, for technical review, pursuant to subsection 91(d)(1)(B), Title 14, California Code of Regulations (CCR). An updated version of the application (signed on August 13, 2022) is attached for public review and comment. Regulations pursuant to subsection 91(d)(2), Title 14, CCR requires the Department to develop and transmit a recommendation to the California Fish and Game Commission (Commission), including any permit special conditions within 60 days from the date of application acceptance unless a time extension is needed pursuant subsection 91(d)(3), Title 14, CCR. The Commission may consider approval of an EFP and set permit special conditions as necessary for research purposes or the conservation and management of marine resources and the environment in accordance with subsections 91(f) and 91(i), Title 14, CCR, respectively.

The Applicant requests an EFP to explore the potential of developing a new commercial fishery for king and other deep-water crab species in California to provide new products and new market opportunities (proposed project). The Applicant requests the ability to commercially harvest King and other deep-water crab species. Sampling with traps measuring 84" x 84" x 32" in size, would occur in water depths from 600 – to 1,800 feet (100 to 300 fathoms) off the coast of California between Eureka to Pigeon Point (south of San Francisco). No more than 40 traps would be deployed in the water at any given time. Each trap will be attached to one vertical $\frac{3}{4}$ " line comprised line with the top 198 feet (33 fathoms) consisting of sinking line to prevent floating line at the surface. Traps would be set in a "prospect string" (i.e., one trap per vertical line spaced approximately 1 mile apart) and soaked for 24 to 36 hours.

Each trap would have a web escapement panel that is 32" tall and 40" wide in a diamond configuration where each edge of the diamond measures 7" and each diamond measures 9" stretched diagonal length to allow fish and smaller crab to climb

or swim out and an 18-inch opening for escapement (opens at least 11" wide) when biodegradable twine (Size No. 30) disintegrates after 30 days in the water, in case pot is lost (destruct device).

For the initial testing, a maximum of four fishing trips is expected within a 1-month period. Any proposed expansion of the fishing area or increase in fishing effort and amount of take will require additional review by Department and approval by the Commission.

Department Recommendation

The Department has reviewed the above referenced application and recommends approving a Tier 3 (exploratory fishing) EFP with special conditions. The Department determines that the following exemptions to the provisions in Fish and Game Code (FGC) and Title 14, CCR, apply:

- FGC Section 9011 (crab traps must meet the design specification for either Dungeness crab described in FGC subdivision 9011(a)(2)) or rock crab described in FGC subdivision 9011(b)(2))
- Section 126, Title 14, CCR, (species in the family Lithodidae (box and king crabs) are subject to a 25-lb possession and landing limit for trap gear) apply to the proposed project

Department staff confirmed that the proposed destruct device complies with the specifications described in Section 180.2, Title 14, CCR; therefore, an exemption to this section is not required.

The Department is concerned with potential impacts to sensitive marine habitat and risk of entanglement with marine mammals. Therefore, the Department recommends the special conditions specified on form DFW 1103, which is attached for the Commission's consideration. The proposed special conditions include: (Specific changes to the proposed project are marked with an asterisk and are in ***bold italics***)

- take allowances and landing requirements;
- gear allowances, specifications, and marking requirements;
- restrictions on fishing depth (****fishing is only permitted seaward of 125 fathoms***);
- restrictions on fishing areas (****fishing may only occur between the California/Oregon border located at 42° North latitude and Pigeon Point at 37° 11' North latitude***);
- restrictions on time of year (****fishing may only occur between December 1 and March 31***);
- ****delays or area closures subject to marine life entanglement risk pursuant to Section 132.8, Title 14, CCR, or public health concerns pursuant to FGC Section 5523***; and

- other requirements necessary for research purposes and the protection and conservation of marine resources and the environment, pursuant to Fish and Game Code Section 1022.

If approved, the proposed special conditions together with the standard terms will ensure and allow the Department to adequately enforce the EFP in accordance with Section 91, Title 14, CCR.

In addition, the Department recommends approval of permit fee reduction option. The Department has interest in buoy line marking research. If approved, this option would support testing buoy line marking by gathering information on efficacy and durability of marking lines for fixed gear fisheries. Line marking is a tool that can aid in identifying entanglements to state and fishery origin and may be used to exclude or eliminate fisheries from confirmed entanglements.

If you have any questions on this item, please contact Dr. Craig Shuman, Marine Regional Manager, at (916) 215-9694 or by email at R7RegionalMgr@wildlife.ca.gov.

Attachments

- Updated EFP Application (confidential information omitted)
- Standard terms and proposed special conditions (DFW 1103)
- Public notice of Department recommendation
- CEQA Overview Memo and Draft Notice of Exemption

ec: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Craig Shuman, D. Env., Regional Manager
Marine Region

Eric Kord, Assistant Chief
Law Enforcement Division

Garrett Wheeler, Attorney
Office of General Counsel

Tom Mason, Acting Env. Program Manager
Marine Region

Joanna Grebel, Senior Environmental Scientist (Supervisor)
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Christy Juhasz, Environmental Scientist
Marine Region

Marina Som, Acting EFP Coordinator
Marine Region
EFP@wildlife.ca.gov



MARINE FISHERIES: EXPERIMENTAL FISHING PERMIT TERMS AND CONDITIONS

DFW 1103 (NEW 04/06/21) Page 1 of 6

Experimental Fishing Permit No.

Revision Date:

MARINE FISHERIES: EXPERIMENTAL FISHING PERMIT TERMS AND CONDITIONS

Pursuant to California Fish and Game Code (FGC) Section 1022 and Section 91, Title 14, California Code of Regulations (CCR), the Experimental Fishing Permit (EFP) holder is authorized to conduct experimental fishing activities according to the requirements of the EFP approved by the Fish and Game Commission (Commission) and issued by the California Department of Fish and Wildlife (Department).

EFP Holder/Entity Administrator Name: **Johnathan Hillstrand (EFP Holder)**

Andrew Hillstrand (Entity Administrator)

EFP Holder/Entity Administrator Address: **[address omitted]**

Authorized Agent Name: **NA**

Authorized Agent Address: **NA**

Vessel Name and ID #: **F/V Time Bandit [vessel ID # omitted]**

Description of authorized activity: Exploratory fishing for king and other deepwater crab species using trap gear for commercial purposes. The exploratory fishing activities may only be conducted under the following conditions:

STANDARD TERMS

These standard terms shall apply to all persons or vessels conducting activities under the EFP.

1. The permit shall be operated only on the vessels named on this form, if applicable. Either the EFP holder or the authorized agent must be aboard the vessel when activities are being conducted under this permit, and both are responsible and accountable for meeting the requirements and limits of this permit.
2. Pursuant to FGC Section 7857(d), the EFP holder or authorized agent shall have a valid copy of the Department issued EFP attached to a signed copy of this form in possession when activities are being conducted under this permit.
3. All persons conducting activities under an EFP must comply with all appropriate state and federal fishing laws and regulations, including but not limited to those relating to protected species, minimum size limits, and seasons or areas closed to fishing that are not otherwise exempted by the permit (see special conditions).
4. The EFP holder and authorized agent shall cooperate with the Department by allowing personnel designated by the Department to board the fishing vessel on any fishing trip (if applicable) or enter a place of business operated by the EFP holder or authorized agent under this permit, to retrieve, observe, or inspect any logbook, records, data, equipment, procedures, or catch throughout the duration of the permit.



5. The EFP holder or authorized agent shall provide Department staff with a 24-hour notice prior to every fishing trip. The contact information for Department staff will be provided for this purpose at the time of permit issuance.

SPECIAL CONDITIONS

As set forth in subsection 91(i), Title 14, CCR, special conditions may be placed on this permit for research purposes and the conservation and management of marine resources and the environment (see following page).

As set forth in subsection 91(k), Title 14, CCR, special conditions may be amended or repealed as necessary for research purposes and the conservation and management of marine resources and the environment.

RECEIPT AND ACKNOWLEDGEMENT

The permit is not valid until the EFP holder has certified by their signature below that they have: 1) read and understand the standard terms and special conditions of the permit; 2) unless otherwise specified in special conditions, paid the appropriate fees specified in Section 704, Title 14, CCR; and 3) returned a signed copy of this form to the Department.

I have read, understand and agree to abide by all standard terms and special conditions of this permit.

EFP Holder Signature

Date

Received by License and Revenue Branch (LRB)

Fee \$ _____

Experimental Fishing Permit No. _____

Revision Date _____

By: LRB

Date



MARINE FISHERIES: EXPERIMENTAL FISHING PERMIT TERMS AND CONDITIONS

DFW 1103 (NEW 04/06/21) Page 3 of 6

Experimental Fishing Permit No.

Revision Date:

Authorization and Special Conditions

List of approved special conditions, names and addresses of any additional authorized agents, and/or names and identification number of any additional authorized vessels.

General

1. The permittee and any person who assists the permittee shall possess a valid commercial fishing license issued pursuant to FGC Section 7850, prior to engaging in any commercial fishing operations authorized by this permit.
2. The permittee and any person who assists the permittee shall possess a valid general trap permit issued pursuant to FGC Section 9001, prior to engaging in any fishing operations authorized by this permit.
3. The permittee shall possess a valid commercial boat registration issued pursuant to FGC Section 7881, for the vessel named above and display the Department Boat Registration numbers in plain sight on each side of the vessel.

Authorized Species, Take Allowances, and Landing Requirements

4. This permit authorizes take of the following species:
 - a. California King Crab (*Paralithodes californienis*): up to 3,500 lbs
 - b. Spiny King Crab (*Paralithodes rathbuni*): up to 1,500 lbs
 - c. Spiky King Crab (*Neolithodes diomedae*): up to 1,500 lbs
 - d. Deep Sea Spider Crab (*Paralomis manningi*): up to 1,500 lbs
 - e. Flat-Legged Spider Crab (*Paralomis verrillii*): up to 1,500 lbs
 - f. Hair Crab (*Paralomis multispina*): up to 1,500 lbs
5. No other species may be retained except as otherwise specified in 4, above. All other species caught in crab traps shall be returned to the water immediately and not used as bait.
6. Landings shall be recorded on an electronic fish ticket (e-Tix) as follows:
 - a. King Crab (*Paralithodes* spp.): species code 804
 - b. Other crab (*Neolithodes diomedae* and *Paralomis* spp.): species code 699
7. All landing receipts must have the state EFP number recorded in the “State Permit #” field, the number of individual crabs recorded under the “# of Fish” field, and species of crab specified in the “Notes”.
8. If any take limits (specified in 4, above) are attained, all fishing activities shall cease.
9. No processing or packaging may take place until crab is weighed, recorded on a landing receipt, and a landing receipt is provided to the permittee by the receiver.



MARINE FISHERIES: EXPERIMENTAL FISHING PERMIT TERMS AND CONDITIONS

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10. The permittee shall document all fishing activities using a logbook provided by the Department. Any additional information requested by the Department shall be provided by the permittee. Failure to keep or submit required records of fishing activity may result in revocation or suspension (including non-renewal) of the license or permit for the taking of all fish or the particular species for which the records are required.

Allowable Fishing Area and Time of Year

11. Fishing activities shall only occur between December 1 and March 31 to reduce marine life entanglement risk. A maximum number of four fishing trips is allowed. Additional fishing trips may be authorized by the Department for research purposes.
12. Fishing activities shall only occur between the California/Oregon border located at 42° North latitude and Pigeon Point at 37° 11' North latitude.
13. Fishing activities shall only take place seaward of the 125-fathom depth contour along the mainland coast and offshore seamounts. This depth contour is defined by connecting the appropriate set of waypoints adopted in Federal regulations and published in Title 50, Code of Federal Regulations Part 660, sections 660.71 through 660.73.
14. Fishing activities shall not occur in any state Marine Protected Areas pursuant to Section 632, Title 14, CCR.
15. Fishing operations shall abide by all applicable Essential Fish Habitat closures for bottom contact gear as described in Federal Regulations (Title 50, Part 660, Subpart F).
16. Fishing shall be subject to delays or area closures due to marine life entanglement risk pursuant to Section 132.8, Title 14, CCR, or public health concerns pursuant to Fish and Game Code Section 5523.

Gear Allowances, Specifications and Marking Requirements

17. A maximum of 40 traps total may be used in the water or possessed on a vessel at any time. Upon review and determination by the Commission's Marine Resources Committee, the Department may authorize additional traps for research purposes.
18. Traps shall meet the following design specifications:
 - a. Traps shall not be more than 7 feet long and not more than 7 feet wide and not more than 32 inches high, as measured by the greatest distance in each dimension.
 - b. One sidewall of the trap shall have an escapement panel that is 32 inches tall and 40 inches wide in a diamond configuration where each diamond measures at least 7 inches straight across the diagonal.
 - c. Traps shall include at least one destruct device pursuant to Section 180.2, Title 14, CCR, that creates an unobstructed escape opening that is at least 11 inches or greater in the upper half of the trap on any sidewall or on the top of the trap when the device corrodes or fails. This opening shall not be on the floor of the trap. This escape opening shall be closed with a single strand of untreated cotton twine size No. 120 or less.
19. Buoy markings shall comply with requirements specified in Section 180.5, Title 14, CCR. Every buoy shall be marked exclusively with the Identification Letter "K" with at least one buoy



MARINE FISHERIES: EXPERIMENTAL FISHING PERMIT TERMS AND CONDITIONS

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marked with the operator's commercial fishing license identification number followed by the Identification Letter "K".

- a. Buoys that are 4 inches in diameter or greater shall have Identification Letters marked on four opposing sides; and
- b. Buoys that are smaller than 4 inches in diameter shall have Identification Letters marked on two opposing sides.
- c. The commercial fishing license identification number shall be at least 1.5 inches in height and drawn with a line no less than 0.25 inch thick.
- d. The Identification Letters "K" shall be at least 3 inches in height and drawn with a line no less than 0.25 inch thick.
- e. All Identification Numbers and Identification Letters on a buoy shall be clearly and distinctly marked, and in a color that contrasts with the buoy; the numbers and letters shall be applied and maintained so that they are visible and legible.

20. Buoy Line Marking Requirements. The permittee will test and report on the efficacy and durability of marking lines to the Department. Unless otherwise specified by the Department, buoy lines shall be marked as follow.

- a. Surface Lines: The buoy lines at the surface shall be marked using two solid marks that are each at least 24 inches (61.0 cm) in length and no more than 6 inches (15.2 cm) away from the other mark. One mark shall be black and the other mark shall be white and applied with either dye, paint, electrical tape, duct tape, the use of heat-shrink tubing, or insertion of a colored rope or braided sleeve. Additional methods to mark the line may be authorized by the Department. The buoy line shall be marked in this way in two locations:
 - i. Along the primary trailer line between the main buoy and the trailer buoy; and
 - ii. Top of the main line within the first 2 fathoms (3.7 m) of line extending down the water column from the main buoy.
- b. Body of Main Buoy Line: Additionally, the main line that extends down through the water column shall also be marked with two solid marks that are each at least 12 inches (30.5 cm) in length and no more than 6 inches (15.2 cm) away from the other mark. One mark shall be black and the other mark shall be white and applied with either dye, paint, electrical tape, duct tape, the use of heat-shrink tubing, or insertion of a colored rope or braided sleeve. Additional methods to mark the line may be authorized by the Department. The main line shall be marked in this way in two locations:
 - i. Anywhere between 10 fathoms (18.3 m) and 20 fathoms (36.6 m) from the main buoy; and
 - ii. Anywhere between 20 fathoms (36.6 m) and 30 fathoms (54.9 m) from the main buoy.

21. Pursuant to FGC Section 9004, permittees shall service their traps at intervals no more than 96 hours unless otherwise authorized in writing by the Department. Exceptions may be made for weather or other safety concerns.

22. Ropeless gear shall not be used unless authorized by the Department.



MARINE FISHERIES: EXPERIMENTAL FISHING PERMIT TERMS AND CONDITIONS

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23. Permittee shall move fishing gear if requested by the Department.

Other Requirements

24. No fishing for crabs may take place unless a functioning electronic monitoring system is installed and used as specified by the Department. A solar logger capable of recording vessel location at a frequency of at least once per minute with an active subscription service is required when the vessel is engaged in fishing operations covered under this EFP that includes transiting to and from fishing areas. The permittee shall grant Department access to all data.
25. 24 hours prior to commencing a fishing trip during which EFP activity is expected to be conducted, notice of vessel name, anticipated fishing dates, port of departure, and expected landing port shall be made via email to the Department's Law Enforcement Division (LEDMarineNotifications@wildlife.ca.gov) and Marine Region (WhaleSafeFisheries@wildlife.ca.gov).
26. The permittee shall follow the best practices for avoiding whale entanglement described in the attached guide. This includes fishing gear and incident reporting requirements.
27. The vessel shall be capable of safely carrying an observer when requested by the Department and provide that observer with accommodations equivalent to those provided to the captain and crew for both single and multi-day trips if multi-day trips are conducted.
28. Unless otherwise specified by the Department, the permittee shall submit reports pursuant to subsection 91(l), Title 14, CCR to the EFP Coordinator (EFP@wildlife.ca.gov) no later than 60 days after the permit expiration date.

Memorandum

Date: September 9, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Agenda item for October 2022 Fish and Game Commission meeting. Emergency Regulatory Action to Amend Subsection 29.80(b), Title 14, California Code of Regulations; Re: Hoop Nets**

The California Department of Fish and Wildlife (Department) recommends that the Commission amend subsection 29.80(b), Title 14, California Code of Regulations, to remove ambiguity concerning the use and construction of hoop nets used in recreational invertebrate fisheries. Urgent action is needed to safeguard federally protected species during periods of elevated entanglement risk.

The Department requests the regulations become effective upon filing, prior to the November 5 opening of the Dungeness crab season.

If you have any questions on this item, please contact Dr. Craig Shuman, Marine Region Manager, at (916) 217-2370 or by email at R7RegionalMgr@wildlife.ca.gov.

Attachment: Finding of Emergency and Statement of Proposed Emergency Regulatory Action

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Craig Shuman, D. Env., Regional Manager
Marine Region

Eric Kord, Assistant Chief
Law Enforcement Division

Brent Chase, Captain
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Joanna Grebel, Senior Environmental Scientist
Marine Region

Tom Mason, Senior Environmental Scientist
Marine Region

Melissa Miller-Henson, Executive Director
Fish and Game Commission
September 9, 2022
Page 2

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State of California
Fish and Game Commission
Finding of Emergency and Statement of Proposed Emergency Regulatory Action

Emergency Regulatory Action to Amend Subsection 29.80(b)
Title 14, California Code of Regulations
Re: Hoop Nets

Date of Statement: September 14, 2022

I. Statement of Facts Constituting the Need for Emergency Regulatory Action

Background

Current regulations in subsection 29.80(b), Title 14, California Code of Regulations (CCR), specify that hoop nets may be used to take spiny lobster and all species of crab, define two authorized types of hoop nets, require regular servicing of hoop nets, and limit the number and require marking of hoop nets used south of Point Arguello, Santa Barbara County. Current regulations in subsection 29.80(c), Title 14, CCR, specify regulations for the use of crab traps, including provisions that became effective November 1, 2021 which allow the Director of the California Department of Fish and Wildlife (Department) to prohibit the deployment and use of crab traps to protect humpback whales, blue whales and/or Pacific leatherback sea turtles when concentrations of these species meet specified numerical triggers.

A dramatic increase in hoop net fishing effort in the Dungeness crab (*Metacarcinus magister*) recreational fishery during times of elevated marine life entanglement risk has created the need to apply for an emergency rulemaking to amend current hoop net regulations before the start of the next Dungeness crab season. This increase in hoop net fishing effort was a result of crab trap prohibitions declared pursuant to subsection 29.80(c), Title 14, CCR. The emergency rulemaking will amend and clarify hoop net regulations to minimize entanglement risk of the federally protected species: humpback whales, blue whales, and Pacific leatherback sea turtles.

Dungeness crab supports a popular recreational fishery that primarily occurs between San Luis Obispo and Del Norte counties. Dungeness crab are primarily fished using crab traps on private and commercial passenger fishing vessels. However, at the start of the 2021-2022 Dungeness crab recreational fishing season (the first Saturday of November), a dramatic increase in hoop net use from operators on both types of these vessels occurred between Monterey and Sonoma counties due to the prohibition on use of crab traps. The crab trap prohibition was declared by the Department Director in response to increased marine life entanglement risk at the time and lasted for 5-6 weeks. Another crab trap prohibition was declared for the Dungeness crab season in April north of Point Arguello, Santa Barbara County, to the California-Oregon border and lasted 10 and 14 weeks in the central and northern regions of the fishery, respectively. Given the potential for a dramatic increase in hoop net gear being used in the north during periods of elevated marine life entanglement risk, a standard rulemaking by the California Fish and Game Commission (Commission) would not work to address this entanglement risk since it would not be implemented until the season ended in July 2023. Therefore, the soonest Commission meeting a rulemaking could be approved and in place before the start of the 2022-2023 recreational Dungeness crab

fishing season will be at the Commission's October meeting, which is a key driver for this emergency regulation.

Traps and hoop nets both use vertical lines which pose a risk of entanglement; but the entanglement risk from hoop nets is inherently lower than traps due to their frequent service interval requirement of no more than two hours. However, the current regulatory language describing the service interval lacks clarity and has caused confusion about whether it pertains to the area north of Point Arguello, Santa Barbara County. Clarifying that the service interval is applicable statewide will make it easier to both enforce and ensure this gear type will not be left out longer, especially during times of elevated entanglement risk. Increased hoop net use along with longer service intervals could result in increased entanglements with federally protected species in addition to increased amounts of lost or abandoned gear.

The Department has been made aware that gear manufacturers are developing new hoop net designs that follow current hoop net Type B regulations but function like traps. Hoop nets constructed to function like traps may incentivize longer soak periods posing elevated entanglement risk. The Department is recommending to further specify current hoop net requirements to prevent widespread development of these new designs on the mass market and address elevated entanglement risk these new designs pose. These hoop nets will become harder to restrict once there has been public investment.

Lastly, gear marking requirements for hoop nets need to be consistent statewide as part of a broader effort to mark gear for all fixed gear fisheries to reduce entanglements from unknown gear. This will help identify operators of hoop nets for law enforcement purposes of active and lost or abandoned gear. Gear marking will also aid in the identification of hoop nets that could be involved in marine life entanglements. Identifying fisheries in the event of an entanglement helps the Department identify entanglement risk in the fishery and develop mitigation measures to reduce the risk. In addition, it reduces the number of unknown entanglements, which negatively impacts the commercial Dungeness crab fishery under the regulation for the Risk Assessment Mitigation Program (Section 132.8, Title 14, CCR).

II. Proposed Emergency Regulations

The proposed rule would amend subsection 29.80(b), Title 14, CCR, to create new subsections (1) through (6) that would organize hoop net requirements by the distinct topics that specify the use and design of this gear type for facilitating compliance and enforcement of these regulations to minimize entanglement risk.

The original regulatory text under subsection (b) will be divided into separate subsections (1), (2) and (5) and is otherwise unchanged. Placing these statements in separate subsections will remove the reference to the geographic area where hoop net limits occur to no longer precede the service interval requirement, thereby specifying the service interval of two hours is applicable to hoop nets used statewide.

The original text in subsection (2) will be renumbered as subsection (3) and amended to state that it is unlawful to abandon or leave out any hoop net beyond the service interval period and that these hoop nets can be seized by law enforcement.

Current subsection (1) will be renumbered as subsection (4) and contain the topic of "Hoop Net Defined". For both hoop net types, regulatory language will be amended to require "non-metallic"

soft mesh. Type A hoop nets are intended to be collapsible, and a metallic mesh structure could impede this design. In addition, regulatory text regarding type B hoop nets will be amended to restrict designs from “two to three rigid rings” to allow “only two rigid rings” reflecting that there is a bottom ring and a top ring. Other amendments to this subsection reflect the new two-ring design. Metallic mesh and allowing the type B design to have three rings makes both hoop net types heavier, posing a greater risk of severe injuries from entanglement due to the additional weight of the hoop net. Entanglements can affect the animal's ability to swim, forage for food, reproduce and can even lead to loss of fins or flukes in severe cases. Type B hoop nets will also require that they be constructed using rigid “straight” support arms and to prohibit any additional “entrances below the top ring” since the intent of the device is that crabs may only enter and exit from this opening of the net. These hoop net design changes will prevent a hoop net from functioning like a trap, which is contrary to the intent of the crab trap prohibition (subsection 29.80 (c)), during periods of elevated entanglement risk.

Subsection (5) will be organized under the new topic title of “Limits” and the original regulatory text from the second sentence of subsection (b) will be moved here unaltered. An additional statement will be added to clarify that hoop net limits do not apply north of Point Arguello, Santa Barbara County, to the California-Oregon border.

Current subsection (3) will be renumbered as subsection (6) and will be organized under the new topic title of “Gear Identification Requirements”. The current requirement for hoop nets used south of Point Arguello to be marked with a surface buoy, except those deployed by persons on shore or manmade structures connected to shore, will be expanded to apply statewide. The second sentence of current subsection (3) regarding surface buoy marking requirements will be moved to new subsection (6)(C) and amended to reflect its new location. This subsection will follow the buoy marking requirements for commercial passenger fishing vessels under subsection (6)(A) and licensed guides under subsection (6)(B). A statement will be added to allow only one operator's GO ID be used to mark the buoy to simplify identification of hoop net gear for the needs of enforcement and in the event of entanglements.

III. Findings for the Existence of an Emergency

The Commission considered the following factors in determining that an emergency does exist at this time.

The magnitude of potential harm:

Increased hoop net effort could result in elevated marine life entanglement risk of the federally protected species: humpback whales, blue whales, and Pacific leatherback sea turtles, after the start of the Dungeness crab season on November 5, 2022. The coastal waters of Monterey Bay, Santa Cruz, San Mateo, Marin and Sonoma Counties are of particular concern because of the large numbers of humpback whales that forage in those areas.

The existence of a crisis situation:

The state has a zero entanglement mortality goal and has made it a priority to reduce and/or eliminate marine life entanglements caused by all fishing gear types. In addition, entanglements from California fishing gear have involved federally listed species that are protected by the Endangered Species Act and the Marine Mammal Protection Act.

The immediacy of the need:

High marine life concentrations at the start of the Dungeness crab season on November 5, 2022 could result in a crab trap prohibition, which would result in increased use of hoop nets in offshore waters. Hoop net fishing effort then may overlap with foraging whales and sea turtles because some whales and sea turtles may be present within the fishing grounds well into December. Emergency regulations will maintain the low entanglement risk of this device by ensuring that hoop nets will be regularly serviced every two hours and that design modifications will prevent the device from functioning as a crab trap that would otherwise incentivize longer soak periods. In the rare instance there is an entanglement, the proposed design specifications of both hoop net types will retain the reduced weight of this gear type, thereby posing less harm to an entangled whale or sea turtle. In addition, gear marking of hoop nets used north of Point Arguello, Santa Barbara County will aid in the identification of this gear type to enforce these requirements and identify hoop nets involved in entanglements.

Whether the anticipation of harm has a basis firmer than simple speculation:

NOAA maintains an entanglement record, detailing fishery interactions with protected mammals and sea turtles dating back to the early 1980s. Based on the best available science, entanglement risk increases with the co-occurrence of protected species and vertical lines. The emergency rulemaking will amend hoop net regulations to minimize entanglement risk of federally protected humpback whales, blue whales, and Pacific leatherback sea turtles, as a result of the recently implemented crab trap prohibition during the recreational Dungeness crab season.

IV. 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) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

None

(b) Nondiscretionary Costs/Savings to Local Agencies

None

(c) Programs Mandated on Local Agencies or School Districts

None

(d) 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

(e) Effect on Housing Costs

None

V. Technical, Theoretical, and/or Empirical Studies, Reports, or Documents Relied Upon:

[California Department of Fish and Wildlife \(Department\) Declaration of Fishing Season Delay for the Commercial Dungeness Crab Fishery and Temporary Crab Trap Prohibition for the Recreational Crab Fishery Due to Risk of Marine Life Entanglement \(November 1, 2021\)](#)

[California Department of Fish and Wildlife Final Assessment of Marine Life Entanglement Risk and Management Action Recommendation \(October 29, 2021\)](#)

[2021-22 Risk Assessment: Available Data, California Department of Fish and Wildlife \(October 29, 2021\)](#)

[Strategic Plan to Protect California's Coast and Ocean 2020-2025 \(February 26, 2020\)](#)

VI. Authority and Reference

Authority cited: Sections 200, 205, 265, 275, 399, 7075 and 7078 Fish and Game Code.

Reference: Sections 200, 205, 265, 270, 275, 7050, 7055 and 7056, Fish and Game Code.

VII. Fish and Game Code Section 399 Finding

Delay in the amendments to hoop net devices could result in increased entanglement risk at the start of the Dungeness crab season on November 5, 2022. Emergency action is necessary now to safeguard federally protected species and minimize risk as much as feasible.

Pursuant to Section 399 of the Fish and Game Code, the Commission finds that adopting this regulation is necessary for the immediate conservation, preservation, or protection of birds, mammals, fish, amphibians, or reptiles, including but not limited to their nests or eggs.

Informative Digest/Policy Statement Overview

Current regulations in subsection 29.80(b), Title 14, California Code of Regulations (CCR), specify that hoop nets may be used to take spiny lobster and all species of crab, define two authorized types of hoop nets, require regular servicing of hoop nets, and limit the number and require marking of hoop nets used south of Point Arguello, Santa Barbara County. Current regulations in subsection 29.80(c), Title 14, CCR, specify regulations for the use of crab traps, including provisions that became effective November 1, 2021 which allow the Director of the California Department of Fish and Wildlife (Department) to prohibit the deployment and use of crab traps to protect humpback whales, blue whales and/or Pacific leatherback sea turtles when concentrations of these species meet specified numerical triggers.

The Department recommends that the California Fish and Game Commission (Commission) amend the hoop net regulations. The proposal would amend subsection 29.80(b), Title 14, CCR, through emergency action. The proposal is necessary to safeguard federally protected species from marine life entanglement risk.

The concerns addressed by this emergency action are:

- Clarify hoop net service interval requirement of 2 hours is statewide
- Add that “non-metallic” soft mesh be used in hoop net types A and B
- Amend requirements of type B hoop nets by restricting the number of rings from three to two, adding that the rigid support arms be “straight” and prohibiting the use of any additional openings
- Add that the use of a surface buoy and necessary gear marking requirements apply statewide to include hoop nets used north of Point Arguello and that only one operator’s GO ID is necessary

A dramatic increase in hoop net fishing effort in the Dungeness crab (*Metacarcinus magister*) recreational fishery during times of elevated marine life entanglement risk has created the need to apply for an emergency rulemaking to amend current hoop net regulations before the start of the next Dungeness crab season. This increase in hoop net fishing effort was a result of crab trap prohibitions declared pursuant to subsection 29.80(c), Title 14, CCR. The emergency rulemaking will amend and clarify hoop net regulations to minimize entanglement risk of the federally protected species: humpback whales, blue whales, and Pacific leatherback sea turtles.

Dungeness crab supports a popular recreational fishery that primarily occurs between San Luis Obispo and Del Norte counties. Dungeness crab are primarily fished using crab traps on private and commercial passenger fishing vessels. However, at the start of the 2021-2022 Dungeness crab recreational fishing season (the first Saturday of November), a dramatic increase in hoop net use from operators on both types of these vessels occurred between Monterey and Sonoma counties due to the prohibition on use of crab traps. The crab trap prohibition was declared by the Department Director in response to increased marine life entanglement risk at the time and lasted for 5-6 weeks. Another crab trap prohibition was declared for the Dungeness crab season in April north of Point Arguello, Santa Barbara County, to the California-Oregon border and lasted 10 and 14 weeks in the central and northern regions of the fishery, respectively.

Traps and hoop nets both use vertical lines which pose a risk of entanglement; but the entanglement risk from hoop nets is inherently lower than traps due to their frequent service interval requirement of no more than two hours. However, the current regulatory language describing the service interval lacks clarity and has caused confusion about whether it pertains to the area north of Point Arguello, Santa Barbara County. Clarifying that the service interval is applicable statewide will make it easier to both enforce and ensure this gear type will not be left out longer, especially during times of elevated entanglement risk. Increased hoop net use along with longer service intervals could result in increased entanglements with federally protected species in addition to increased amounts of lost or abandoned gear.

The Department has been made aware that gear manufacturers are developing new hoop net designs that follow current hoop net Type B regulations but resemble traps. Hoop nets constructed to behave like traps may incentivize longer soak periods posing elevated entanglement risk. The Department is recommending to further specify current hoop net requirements to prevent widespread development of these new designs on the mass market and address elevated entanglement risk these new designs pose. These hoop nets will become harder to restrict once there has been public investment.

Lastly, gear marking requirements for hoop nets need to be consistent statewide as part of a broader effort to mark gear for all fixed gear fisheries to reduce entanglements from unknown gear. This will help identify operators of hoop nets for law enforcement purposes of active and lost or abandoned gear. Gear marking will also aid in the identification of hoop nets that could be involved in marine life entanglements. Identifying fisheries in the event of an entanglement helps the Department identify entanglement risk in the fishery and develop mitigation measures to reduce the risk. In addition, it reduces the number of unknown entanglements, which negatively impacts the commercial Dungeness crab fishery under the regulation for the Risk Assessment Mitigation Program.

Benefits of the Regulation:

The Commission anticipates benefits to the State's environment by sustainably managing California's ocean resources and reducing bycatch. The environmental risks arising from the proposed rule are not regarded as significant, as the rule manages the resource more conservatively than existing regulation.

Consistency and Compatibility with Existing Regulations

Article IV, Section 20 of the State Constitution specifies that the Legislature may delegate to Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated authority to the Commission to promulgate sport fishing regulations (Fish and Game Code sections 200, 205, 315, and 316.5). Commission staff has searched the California Code of Regulations and has found no other state regulations that address the recreational take of crabs using hoop net gear. The Commission has reviewed its own regulations and finds that the proposed regulations are consistent with other recreational fishing regulations and marine protected area regulations in Title 14, CCR, and therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Section 29.80, Title 14 CCR, is amended to read:

§29.80. Gear Restrictions for Recreational Take of Saltwater Crustaceans

(a) General Provisions.

(1) Saltwater crustaceans may be taken by hand.

(2) Nets, traps or other appliances may not be used except as provided in this Section.

(3) It is unlawful to disturb, move, or damage any trap; or remove any saltwater crustacean from a trap, that belongs to another person without written permission including permission transmitted electronically, in possession from the operator of the trap. Any person with written permission from the operator of a crab trap will be in compliance with subsection (c)(3)(A)1. if the written permission contains the operator's GO ID number that matches the GO ID number on the buoy of the crab trap being fished.

~~(b) Hoop nets may be used to take spiny lobsters and all species of crabs. Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or crab per vessel. The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.~~

(b) Hoop Nets

(1) Hoop nets may be used to take spiny lobsters and all species of crabs.

(2) The owner of the hoop net or person who placed the hoop net into the water shall raise the hoop net to the surface and inspect the contents of the hoop net at intervals not to exceed 2 hours.

(3) It is unlawful to abandon or leave unchecked a hoop net for more than 2 hours. Any hoop net abandoned or left unchecked for more than 2 hours may be seized by any person authorized to enforce these regulations.

~~(4)~~ (4) Hoop Net Defined: There are two types of hoop nets allowed for use:

(A) Type A: Fishing gear that is comprised of one to three rigid ring(s), with each ring measuring no greater than 36 inches in inside diameter nor less than 10 inches in inside diameter, which is/are connected to non-metallic soft mesh thereby forming a circular-shaped net with an enclosed bottom. Lift lines shall be attached only to the top ring. A second and third rigid ring(s) may be connected by non-metallic soft mesh to the top ring; however, each ring must be equal in size to or smaller than the ring above it. When the net is being raised the top ring shall be above and parallel to all other rings, with the enclosed bottom portion of the non-metallic soft mesh even with or hanging below all other rings. All parts of the hoop net shall collapse and lie flat when resting on the ocean floor in such a manner that the gear does not entrap or restrict the free movement of crustaceans until lifted. When suspended from lift lines, the entire hoop net shall measure no taller than 36 inches. The ring material shall not be thicker than one inch in any dimension.

(B) Type B: Fishing gear that is comprised of only two to three rigid rings (not including the bait ring), with ~~each~~the bottom ring measuring no greater than 36 inches in inside diameter and the top ring measuring no less than 15 inches in inside diameter. The ~~upper~~top ring ~~or rings~~ shall be connected to the bottom ring and supported by no more than six rigid straight support arms, and the assembled frame shall measure no more than 10 inches tall. The rings and support material shall not be thicker than one inch in any dimension. All rings shall be connected by non-metallic soft mesh, thereby forming a net with an enclosed bottom, and lift lines shall be attached only to the top ring. It is unlawful to have any entrances below the top ring. When suspended from lift lines the enclosed bottom portion of the net shall be even with or hanging below all other rings, and the entire net shall measure no taller than 30 inches. A bait ring may be attached to the net as long as the ring is not part of the rigid frame.

~~(2) Any hoop net abandoned or left unchecked for more than 2 hours shall be considered abandoned and seized by any person authorized to enforce these regulations.~~

(5) Limits: Between Point Arguello, Santa Barbara County, and the United States-Mexico border, not more than five hoop nets shall be possessed by a person when taking spiny lobster or crab, not to exceed a total of 10 hoop nets possessed when taking spiny lobster or crab per vessel. Hoop net limits do not apply north of Point Arguello to the California-Oregon border.

~~(36) Gear Identification Requirements: Hoop nets used south of Point Arguello, Santa Barbara County, shall be marked with a surface buoy, except for those hoop nets deployed by persons on shore or manmade structures connected to the shore. Except as provided below, the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card. This section does not apply to hoop nets deployed by persons on shore or manmade structures connected to the shore.~~

(A) The surface buoy of hoop nets deployed from commercial passenger fishing vessels shall be legibly marked to identify the commercial boat registration number of the vessel.

(B) The surface buoy of hoop nets provided by a licensed guide to clients for use on guided trips shall be legibly marked to identify the guide license number of the accompanying guide.

(C) In all other cases, the surface buoy shall be legibly marked to identify the operator's GO ID number as stated on the operator's sport fishing license or lobster report card, or the GO ID number of one operator if there are multiple operators.

... [No changes to subsections (c) through (j)]

NOTE: Authority cited: Sections 200, 205, 265, 275, 399, 7075 and 7078, Fish and Game Code. Reference: Sections 200, 205, 265, 270, 275, 7050, 7055 and 7056, Fish and Game Code.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Emergency Action to Amend Subsection 29.80 (b), Title 14, CCR, Re: Hoop Nets			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

Emergency action does not require economic assessment -
only fiscal impact assessment is required.

If any box in Items 1 a through g is checked, complete this Economic Impact Statement.

If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☐ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total
businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide
☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with
other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**ECONOMIC IMPACT STATEMENT (CONTINUED)****B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
 - a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

DRAFT DOCUMENT**FISCAL IMPACT STATEMENT****A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____
_____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

DocuSigned by:
 Dan Reagan

9/21/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE



Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



STD399 ADDENDUM
Emergency Action to Amend Subsection 29.80(b)
Title 14, California Code of Regulations
Re: Hoop Nets

Economic Impact Statement

A. ESTIMATED PRIVATE SECTOR COST IMPACTS

1. Answer: h. None of the above. (Explain below):

Emergency regulations do not require an economic impact statement; only fiscal impacts must be evaluated (California Government Code Section 11346.1).

Fiscal Impact Statement details are provided below.

Fiscal Impact Statement

The proposed emergency action to amend subsection 29.80(b) which would re-define approved hoop net construction, expand the area where hoop nets must be marked with a buoy and re-organize hoop net requirements by specific topic for clarity is not anticipated to have fiscal impacts on local or state governments, nor will there be effects to federal funding of state programs.

A. Fiscal Effect on Local Government

Answer: 5. No fiscal impact.

The Commission anticipates that the proposed emergency action will have no fiscal effect on local government.

B. Fiscal Effect on State Government

Answer: 3. No fiscal impact.

The Commission anticipates that the proposed emergency action will have no fiscal effect on state government. The California Department of Fish and Wildlife has determined that the proposed change to hoop net requirements will not affect the already existing level of monitoring and enforcement activities.

Additionally, no other state agencies would be affected by this regulatory action.

C. Fiscal Effect on Federal Funding of State Programs

Answer: 3. No fiscal impact.

The proposed emergency action will not have a fiscal effect on federal funding of state programs.



Emergency Hoop Net Regulation Changes

13 October 2022

Presented to:

California Fish and Game Commission

Presented by:

Christy Juhasz

Senior Environmental Specialist

Marine Region



Outline

- Findings for the Emergency
- Proposed Regulation Changes
- Timeline
- CDFW Outreach



Background

- Increase in offshore hoop nets due to crab trap restrictions when entanglement risk is elevated for whales and sea turtles
- Modifications to hoop net designs that function like a trap, thereby increasing entanglement risk



Findings for the Existence of an Emergency

- Hoop nets likely to overlap with high concentrations of foraging whales and sea turtles
- Minimize risk of marine life entanglements with protected species



Emergency Hoop Net Proposed Regulations

- Clarify statewide 2-hour service interval
- Update hoop net definition
- Extend surface buoy marker requirement statewide

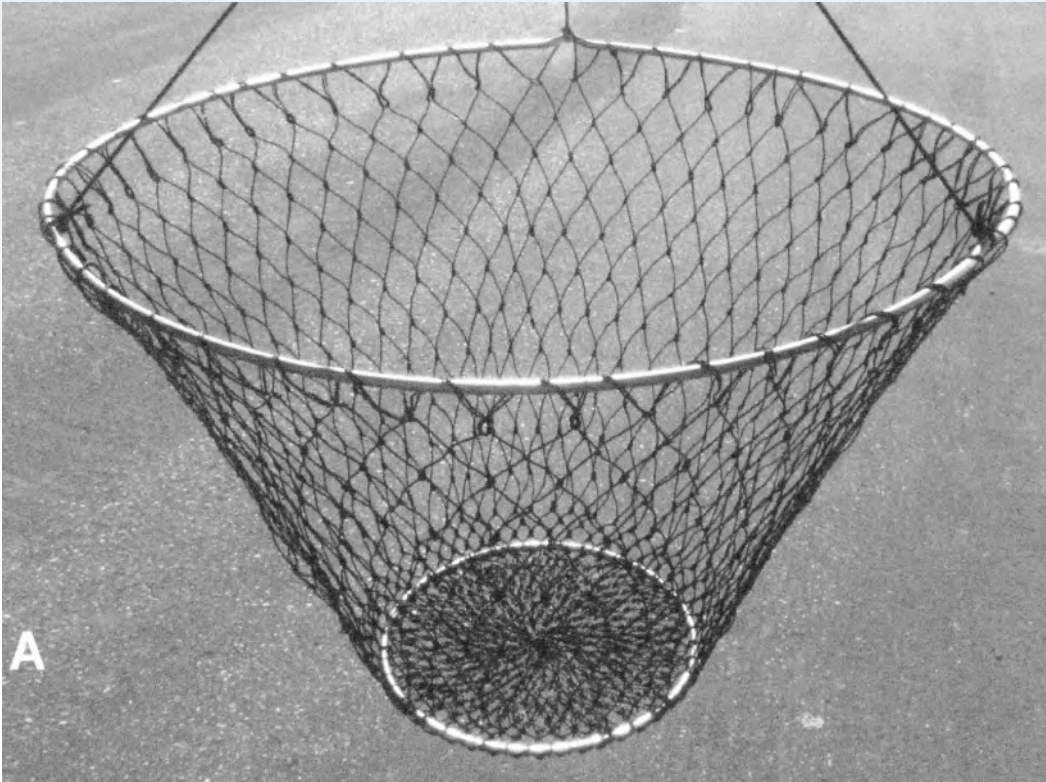


Statewide 2-Hour Service Interval

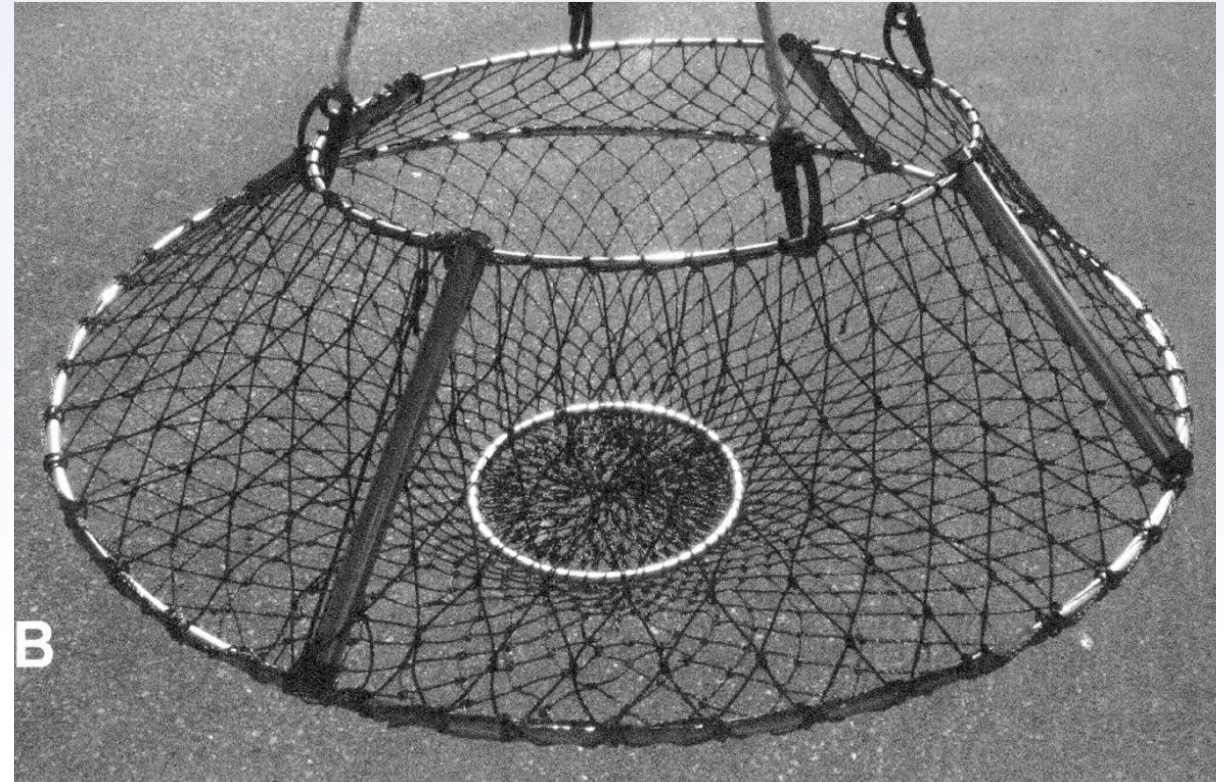
- Standalone subsection for the hoop net service interval of two hours
- Aids compliance and enforcement
- Reduce loss and abandonment of gear

Hoop Net Definition

Type A



Type B



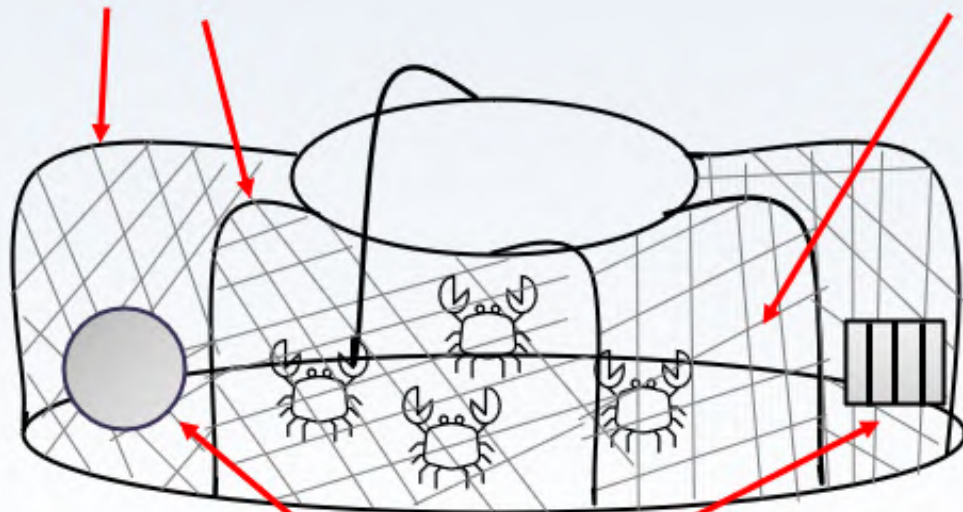
Source: Neilson et al., 2008, California Fish and Game Journal.

Modified Hoop Net Designs

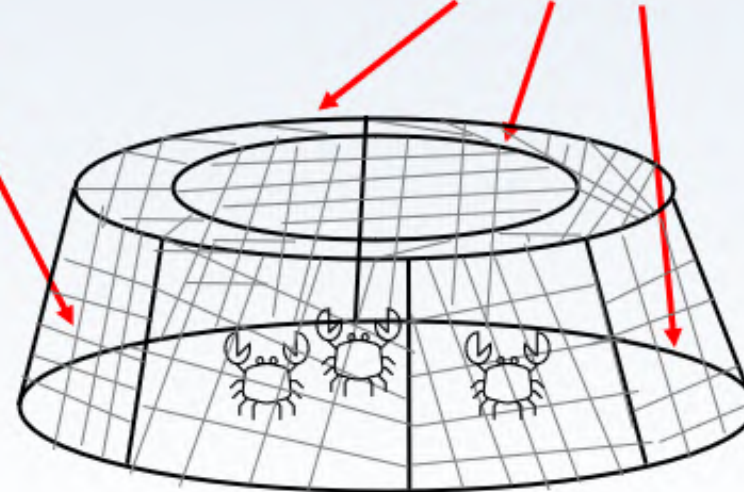
Curved rigid arms

Metallic mesh

Three-ring design



Additional
openings





Hoop Net Definition (cont.)

- Changes to both Types A and B
 - Soft mesh must be non-metallic material
- Update to Type B hoop nets
 - Limit number of rings to two; not including bait ring
 - Rigid support arms must be straight
 - Prohibit openings below top ring



Surface Buoy Marker Requirements

- Extend surface buoy marking requirement to apply statewide
- Helps identify hoop nets involved in entanglements to reduce unknown gear types



Surface Buoy Marker Requirements (cont.)

- Only applies to hoop nets used offshore
- Surface buoy is required to be marked as follows:
 - CPFVs - vessel registration
 - Licensed Guide – ID number
 - For all other cases, GO ID (simplify with one GO ID for multiple operators)



Timeline of Emergency Rulemaking

- Oct 13, 2022 Commission meeting: Finding of Emergency
- Nov 1, 2022: Effective date of emergency rulemaking
- Dec 14-15, 2022 Commission Meeting: Notice of lobster rulemaking, will include hoop net emergency changes
- 2023 emergency rulemaking extensions: 90-day (x2)
- Sept 2023: Anticipated effective date of the lobster/hoop net rulemaking



CDFW Public Outreach

Completed (Aug – Oct 2022)	Planned (Oct - Nov 2022)
Update at August 2022 FGC meeting	Post updates to Whale Safe Fisheries and Crab webpages
Tribal notification to Federal recognized tribes	Update Dungeness Crab Task Force
CDFW/NMSF Gear Workshop	Social media updates
Whale Working Group Update	Email notification to fishery participants and interested parties
CDFW Virtual Webinar	Produce and distribute outreach materials

Thank You

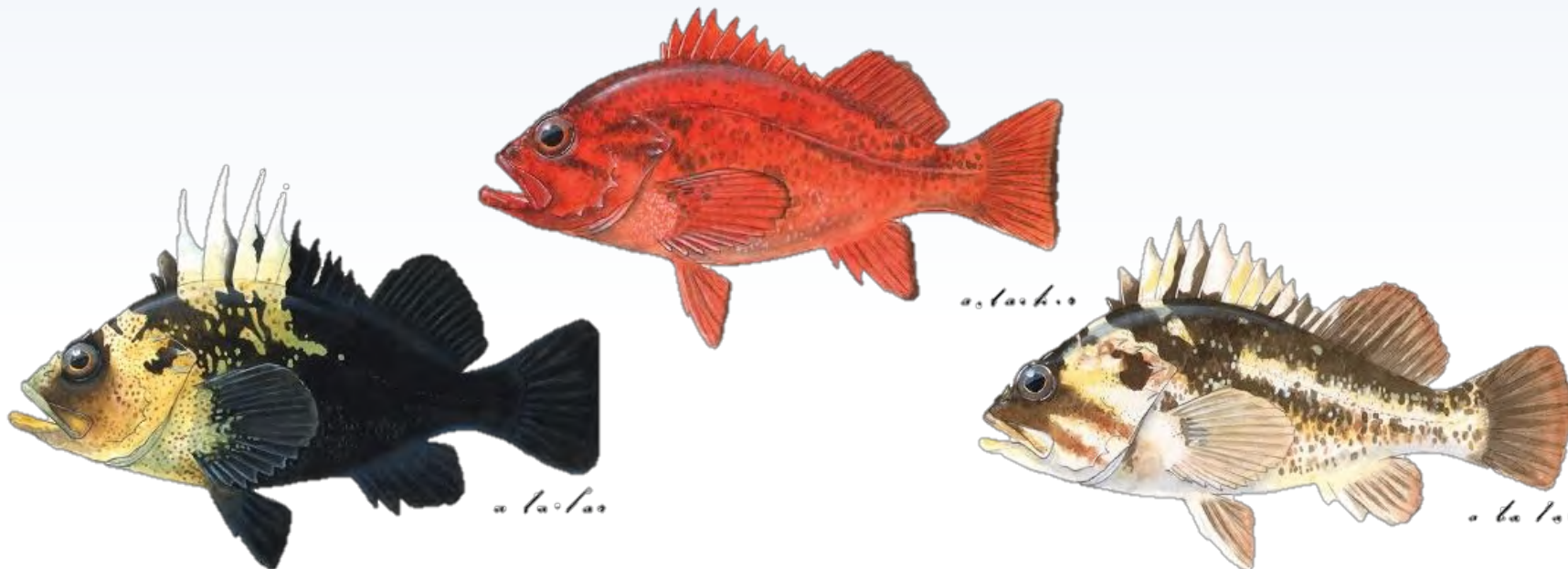
Christy Juhasz, Senior Environmental Specialist
Invertebrate Management Program

Email: WhaleSafeFisheries@wildlife.ca.gov





Agenda Item 21: Recreational Fishing Regulations for Federal Groundfish and Associated Species for 2023 and 2024



16 June 2022

Presented to:

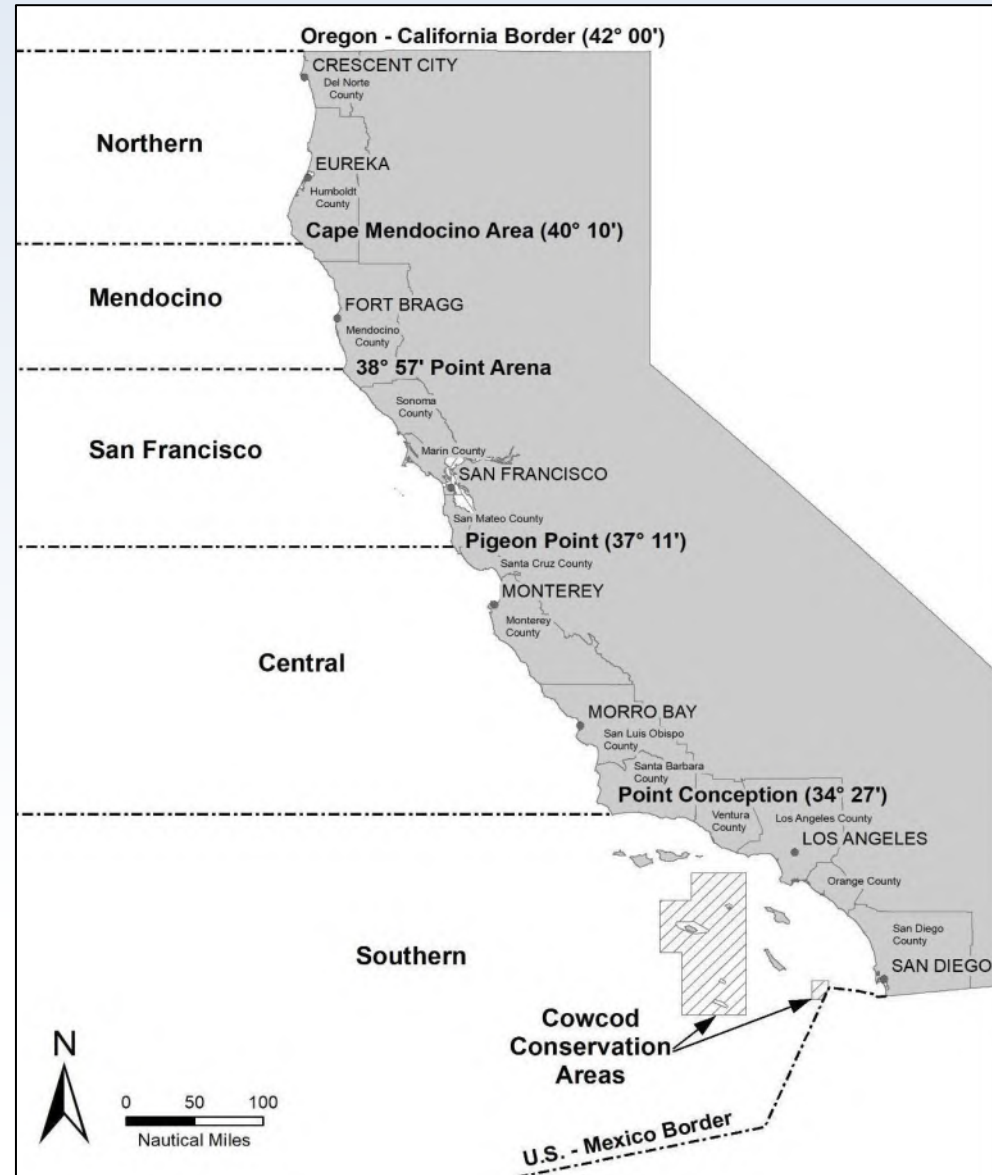
Fish and Game Commission

Presented by:

Melanie Parker
Environmental Scientist
Marine Region



Groundfish Management Areas





Recreational Season Structure

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern	Closed				May 15-Oct 15 All Depths						Closed	
Mendocino	Closed				>50 fm		July 16-Dec 31 All Depths					
San Francisco	Closed				>50 fm		July 16-Dec 31 All Depths					
Central	Closed				May 1-Sep 30 All Depths					>50 fm		
Southern	Closed			Apr 1-Sep 15 All Depths					>50 fm			



Rockfish Bag Limits

- Maintains the changes made to bag limits through emergency action last December
- Within the 10-fish daily bag and possession limit for Rockfish, Cabezon and Greenling
 - A sub-bag limit of 1-fish for quillback rockfish
 - A sub-bag limit of 1-fish for copper rockfish
 - A sub-bag limit of 4-fish for vermilion rockfish



Associated Species

- Decouple regulations for California sheephead and ocean whitefish from those for federal groundfish
- California sheephead season would be open March 1 – December 31
 - Bag limit would be reduced from 5-fish to 2-fish
- Ocean whitefish would be open year-round

Thank You

Any Questions?

AskMarine@wildlife.ca.gov

Groundfish@wildlife.ca.gov

Memorandum

Date: September 6, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Initial Statement of Reasons for Regulatory Action, Re: Recreational Fishing Regulations for Federal Groundfish and Associated Species for 2023 and 2024**

The Pacific Fishery Management Council (PFMC) recommended recreational fishing regulations for federally managed groundfish species for the 2023-2024 management cycle at its June 9-14, 2022, meeting. Based on these recommendations, federal groundfish fishery regulations for 2023-2024 are expected to publish by January 1, 2023, requiring amendment of several state regulations to maintain consistency with the new federal regulations in state waters. To ensure consistent state regulations are in place before fishing begins in 2023, at the June 15-16, 2022 Fish and Game Commission (Commission) meeting, at the request of the Department of Fish and Wildlife (Department), the Commission authorized its staff to publish notice of Commission intent to amend recreational fishing regulations for federally managed groundfish and the associated species group, all greenlings of the genus *Hexagrammus*, as well as recreational fishing regulations for California sheephead and ocean whitefish.

Attached please find the Initial Statement of Reasons and proposed regulatory text for submission to the Office of Administrative Law to begin the public comment period.

The changes needed to state recreational fishing regulations include changes to seasons, depth limits, and bag limits, as well as minor regulatory clean-ups for many federal groundfish species. Substantial reductions to mortality of quillback and copper rockfishes are needed after the results of the 2021 stock assessments for these species off California indicated severe population declines. Additionally, the stock assessment for vermilion rockfish indicated recent catch of this species has been too high, prompting the need for a reduction to the sub-bag limit.

Quillback and copper rockfish are included as part of the 'nearshore rockfish' complex as defined in subsection 1.91(a)(1), Title 14, California Code of Regulations. They frequent water depths less than 50 fathoms and are taken recreationally by anglers and divers as part of the rockfish, cabezon, and greenling (RCG) aggregate bag limit. PFMC recommended significant reductions to recreational rockfish season lengths in order to reduce fishery mortality on these two species. Changes to depth limits are also proposed, and in some times and areas, fishing for groundfish is proposed to be prohibited in nearshore waters to reduce impacts on copper and quillback rockfish.

while authorized in deeper waters offshore, allowing fishing opportunity on healthy offshore and deep-water groundfish stocks.

Changes to bag limits for quillback rockfish, copper rockfish, and vermilion rockfish are also proposed, and this rulemaking would act as the certificate of compliance for the emergency regulation change to reduce limits for these species adopted by the Commission in December 2021. The emergency action established a 1-fish sub-bag limit each for quillback and copper rockfish, and a 4-fish vermilion sub-bag limit, first effective in January 2022. The Commission re-adopted the emergency action in June 2022 and again in August 2022. The emergency regulations will expire in early January 2023.

In addition, the Department is recommending modification of recreational season dates, depth limits, and bag limits for California sheephead and ocean whitefish. Since 2004, these species have been managed in accordance with federal groundfish regulations to reduce fishery impacts to overfished and rebuilding shelf rockfish species. As of 2022, all shelf rockfish stocks except for yelloweye rockfish have rebuilt, and there is no longer a need to couple California sheephead and ocean whitefish with federal regulations. Therefore, to increase angling opportunities and sustainably manage these fisheries independently, the Department is recommending to de-couple these species and establish separate regulations. California sheephead is managed with an annual Total Allowable Catch (TAC), which due to a recent increase in recreational landings has been exceeded the past two years. To prevent the TAC from continuing to be exceeded, the Department is recommending a reduction in the current California sheephead bag limit from 5 fish to 2 fish. Furthermore, the Department is recommending the current January-February boat-based seasonal closure stay in effect for California sheephead but not for ocean whitefish, and all other depth and area restrictions that currently apply to these species to protect shelf rockfishes be removed.

If you have any questions or need additional information, please contact Dr. Craig Shuman, Marine Regional Manager at R7RegionalMgr@wildlife.ca.gov. The Department point of contact for this rulemaking is Environmental Scientist, Melanie Parker, who can be contacted via email at Groundfish@wildlife.ca.gov.

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Fish and Game Commission
Initial Statement of Reasons for Regulatory Action

Amend Sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28,
28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65 and 28.90

Title 14, California Code of Regulations

Re: Recreational Fishing Regulations for Federal Groundfish and Associated Species
for 2023 and 2024

I. Date of Initial Statement of Reasons: September 6, 2022

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: June 15, 2022

Location: Los Angeles

(b) Discussion Hearing

Date: October 12, 2022

Location: Kings Beach

(c) Adoption Hearing

Date: November 1, 2022

Location: Teleconference

III. Description of Regulatory Action

(a) Statement of Specific Purpose of Regulatory Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary

Unless otherwise specified, all section references in this document are to Title 14, California Code of Regulations (CCR).

Biennially, the Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations. As part of that process, it recommends groundfish fisheries harvest limits and regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 miles offshore) off Washington, Oregon, and California. These recommendations are subsequently reviewed for implementation as federal fishing regulations by the National Oceanic and Atmospheric Administration (NOAA) Fisheries.

Under California law (California Fish and Game Code sections 200, 205, 7071 and 8587.1), the California Fish and Game Commission (Commission) adopts regulations in Title 14, CCR, for the recreational and nearshore commercial groundfish fisheries in state waters zero to three miles from shore. Management authority for most nearshore stocks is shared jointly between state and federal governments in conjunction with the PCGFMP and the Nearshore Fishery Management Plan (NFMP).

It is important to have consistent state and federal regulations establishing harvest limits, season dates, depth constraints and other management measures, and to have state and federal regulations be effective concurrently. Consistency of rules in adjacent waters allows for uniformity of enforcement, minimizes confusion which promotes compliance, and allows for a comprehensive approach to resource management. Consistency with federal regulations is also necessary to maintain state authority over its recreational groundfish fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (MSA) [United States Code (USC), Title 16, subsection 1856 (b)(1)].

Although not federally designated as groundfish, ocean whitefish and California sheephead are species which closely associate with groundfish species that have been subject to restrictive management measures since 2004. Particularly in recreational fisheries, where hook-and-line gear is predominantly used, it has been difficult to target these two species and not also catch certain federally-managed groundfish. For this reason, these species have been managed in accordance with federal seasons and depth constraints established for groundfish to reduce fishery impacts to overfished and rebuilding shelf rockfish species. As of 2022, all shelf rockfish stocks except for yelloweye rockfish have rebuilt, and there is no longer a need to couple ocean whitefish and California sheephead season structure to that of the Rockfish, Cabezon, and Greenling (RCG) complex.

The California Department of Fish and Wildlife (Department) actively manages California sheephead, cabezon and greenlings to stay within the Total Allowable Catch (TAC) and recreational and commercial allocations. Recent attainment of commercial allocations for cabezon and greenling have been low, although attainment of the California sheephead recreational allocation and TAC has been exceeded. The recreational California sheephead season structure has been the same as that for the RCG complex since 2004, which was intended to reduce fishing mortality on the overfished shelf rockfish stocks. The bag limit for California sheephead has remained the same since 2021, and the proposed reduction to this limit will result in decreases to mortality that will keep attainment within the TAC and the recreational allocation.

Present Regulations

Existing law authorizes the recreational take of groundfish subject to regulations set forth by federal and state authorities. Current regulations establish season lengths, depth constraints, methods of take, as well as size, bag, and possession limits within the five groundfish management areas for all federal groundfish and associated species [sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65 and 28.90].

Present recreational regulations allow anglers to take and possess federally-managed groundfish species as defined in Section 1.91, when the fishing season is open. Regulations also establish that California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*, which are state-managed species known to associate with federal groundfish, can be taken and possessed only when the season is open to recreational groundfish fishing.

Current regulations specify seasons and depth constraints for the five groundfish management areas in ocean waters off California (Figure 1). These regulations serve as management tools

that are adjusted biennially and in season through PFMC action to ensure that mortality of both overfished¹ and non-overfished stocks remain within allowable limits. The current seasons and depth constraints were designed to maximize harvest of healthy stocks while staying within allowable limits for overfished species.

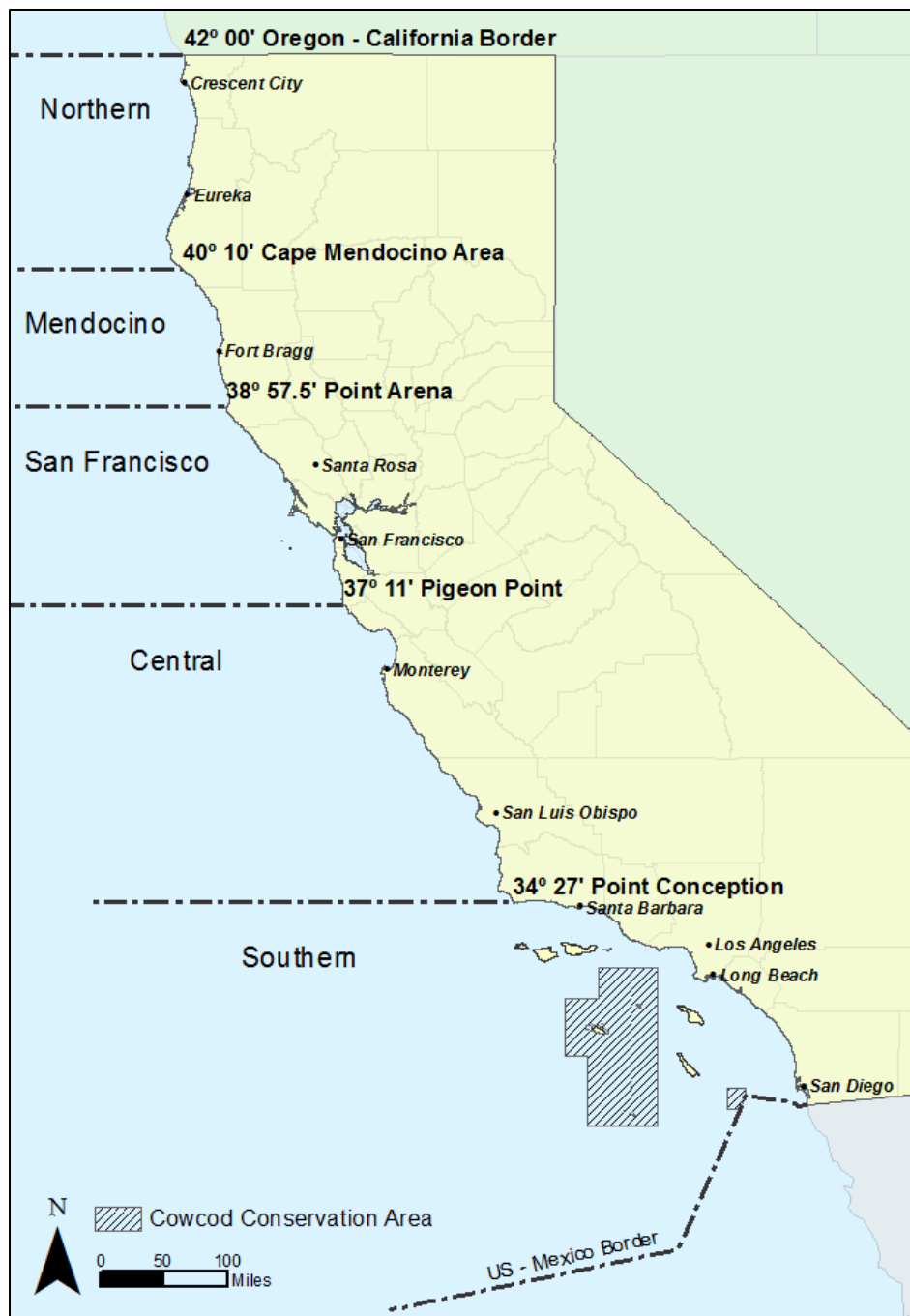


Figure 1. Map of five California recreational groundfish management areas.

¹ "Overfished" describes any stock or stock complex whose size is sufficiently diminished that a change in management practices is required to achieve an appropriate level and rate of rebuilding. The term generally describes any stock or stock complex determined to be below its overfished/rebuilding threshold. The default proxy is generally 25 percent of its estimated unfished biomass; however, other scientifically valid values are also authorized

The Northern and Mendocino groundfish management areas have an eight-month season with a depth constraint of 30 fathoms from May to October, and no depth constraint during November and December (Figure 2). The San Francisco and Central groundfish management areas have a nine-month season, with a depth constraint of 50 fathoms. The Southern Groundfish Management Area has the least restrictive regulations, with a 10-month season and a depth constraint of 100 fathoms. The Cowcod Conservation Areas (CCA) are within the Southern Groundfish Management Area but have a discrete depth constraint of 40 fathoms.

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern	Closed				May 1 - Oct 31 <30fm						All Depth	
Mendocino	Closed				May 1 - Oct 31 <30fm						All Depth	
San Francisco	Closed			Apr 1 - Dec 31 <50fm								
Central	Closed			Apr 1 - Dec 31 <50fm								
Southern	Closed		Mar 1 - Dec 31 <100fm									

Figure 2. Current recreational groundfish season structures and depths by management area and month.

Present regulations also establish recreational bag limits which vary by species or species groups and are designed to keep harvest within allowable limits. The RCG complex has a 10 fish bag aggregate limit (Section 28.55) meaning that each angler's catch can be composed of any combination of rockfish, cabezon, or greenling, as long as total catch remains at or below 10 fish. Sub-bag limits are implemented when harvest guidelines can't accommodate the 10 fish bag limit being composed of a single species. Present regulations include sub-bag limits for vermilion rockfish (four fish), quillback rockfish (one fish), and copper rockfish (one fish). These sub-bag limits were enacted through an emergency rulemaking, effective January 6, 2022, in response to new stock status information in 2021 for quillback and copper rockfishes indicating significant population declines, and unsustainably high catches of vermilion rockfish each year since 2015. Bronzespotted rockfish, cowcod, and yelloweye rockfish have bag limits of zero fish. California sheephead has a five-fish bag limit and ocean whitefish has a 10-fish bag limit.

Current regulations specify special gear restrictions for lingcod, California scorpionfish, and groundfish species in the RCG complex (i.e., when angling, gear is restricted to not more than two hooks and one line). California sheephead are also managed under an annual TAC limit of 205,500 pounds which is divided into two allocations: 130,300 pounds (63 percent) for the recreational fishery and 75,200 pounds (37 percent) for the commercial fishery.

Proposed Regulations

The Department is recommending the recreational regulatory changes for federal groundfish be consistent with PFMC recommendations in 2023 and 2024. Other changes are proposed to decouple the recreational regulations for California sheephead and ocean whitefish from those for federal groundfish.

This approach will allow the Commission to adopt state groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2023.

Federal Groundfish

The PFMC approved season structures for 2023 and 2024 are a substantial departure from the status quo, in that each management area will incur a significant reduction in fishing time in nearshore waters. The severe reductions are necessary to incorporate the best scientific information available from the 2021 stock assessments for quillback and copper rockfishes off California and the rebuilding analysis for quillback rockfish off California. The Department worked with stakeholders to examine possible alternatives to mitigate for losses in nearshore fishery opportunities that are necessary to reduce catch and bycatch of these two nearshore rockfish species, such as an offshore fishery [a fishery that operates only seaward of a specified Rockfish Conservation Area (RCA) boundary line].

The proposed changes to seasons and depths (sections 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50 and 27.51) will impact each management area, revise the definition of depth constraints, and result in different closed and open periods.

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern	Closed				May 15-Oct 15 All Depths					Closed		
Mendocino	Closed				>50 fm		July 16-Dec 31 All Depths					
San Francisco	Closed				>50 fm		July 16-Dec 31 All Depths					
Central	Closed				May 1-Sep 30 All Depths					>50 fm		
Southern	Closed			Apr 1-Sep 15 All Depths					>50 fm			

Figure 3. Proposed recreational RCG complex and lingcod season structures for 2023 and 2024 by management area and month.

The CCA will be closed January 1 through March 31 in all depths, open April 1 through September 15 in waters shoreward of the 40-fathom depth contour, and closed September 16 through December 31 in all depths.

In any management area during the time the fishery is open only seaward of the 50 fathom RCA boundary line, as defined by connecting the series of waypoints, fishing for, take and possession of lingcod and shelf and slope rockfish (as defined in Section 1.91, except bronzespotted rockfish, cowcod, and yelloweye rockfish) are authorized only in waters seaward of the specified RCA boundary line. Vessels may transit through waters shoreward of the RCA line with no fishing gear in the water with the aforementioned species aboard. A nearshore rockfish (as defined in subsection 1.91(a)(1)), cabezon, and greenling closure is in effect during an offshore fishery for all boat-based anglers during the time that an offshore fishery occurs.

The seasons for California scorpionfish (Section 28.54); “other flatfish” as defined in Section 28.48; petrale sole and starry flounder (Section 28.47); leopard shark (Section 28.56); and the species listed in Section 28.49 (soupin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, skates, ratfish, grenadiers, finescale codling, Pacific cod, Pacific whiting, sablefish and thornyheads) will be open year-round in all depths in all management areas.

Restrictions on methods of take are also added to Section 28.49 to provide for consistency with the method of take for rockfish, California scorpionfish, lingcod, cabezon and kelp and rock greenlings. When angling for these species, gear is restricted to not more than two hooks

and one line. This gear type is intended to minimize interaction with species of concern. The species listed in 28.49 are deep dwelling and with the new access to deeper waters granted to anglers by the opening of waters deeper than 40 fathoms, anglers will likely encounter these species more.

The sub-bag limits provided in Section 28.55 for quillback rockfish (1-fish), copper rockfish (1-fish), and vermilion rockfish (4-fish) that were implemented through emergency action effective January 6, 2022, will be maintained, and this rulemaking will serve as the certificate of compliance.

In subsection 27.20(a), “A depth constraint means that during the open season, the aforementioned species [federally-managed groundfish species, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*] may not be taken or possessed in water depths deeper than the specified depth.” is replaced with “In a GMA [groundfish management area] the take, retention and/or possession of certain federal groundfish and all greenlings of the genus *Hexagrammos* may be authorized or prohibited in waters shallower than, or deeper than, the identified depth constraint depending on the defined areas and seasons specified in sections 27.25 through 27.50.” This language change permits the flexibility to open deeper waters and close shallow waters to recreational fishing for federal groundfish at the stated restriction, rather than unilaterally closing deeper waters. This allows deep waters to be open during some parts of the season and allows shallow waters to be closed, creating new recreational fishing opportunity in deep areas where stocks have largely rebuilt to supplement loss of opportunity due to shallow water closures as nearshore stocks are evaluated.

In subsection 27.20(b)(1), “Take and Possession: During any open season in any Groundfish Management Area, in waters deeper than where fishing is authorized or within special closure areas established within a Groundfish Management Area, it is unlawful to take or possess the aforementioned species [federally-managed groundfish species, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*] except as provided in subsections (b)(1)(A) through (b)(1)(D) below and sections 27.25 through 27.50 of these regulations.” is replaced with “Take and/or possession of federal groundfish species or species groups and all greenlings of the genus *Hexagrammos* is authorized or prohibited as provided in subsections (b)(1)(A) through (b)(1)(D) below and sections 27.25 through 27.50 of these regulations.” This change is necessary for consistency with the new depth constraint definition, the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish and the allowance of take year-round at all depths of some federal groundfish species.

In subsection 27.20(b)(1)(A), “Transit: The aforementioned species [federally-managed groundfish species, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*] may be possessed aboard a vessel in transit through the closed area with no fishing gear deployed in the water.” is replaced with “Transit: The or species groups that are closed to take and/or possession in part of a GMA may be possessed aboard a vessel in transit through the closed area with no fishing gear deployed in the water.” This change is necessary for consistency with the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish and the allowance of take year-round at all depths of some federal groundfish species.

A subsection heading is added to subsection 27.20(b)(1)(B) for consistency with other subsections in subsection 27.20(b)(1). In addition, California scorpionfish, leopard shark and the species listed in Section 28.49 are added to the list of species exempt from depth constraints for consistency with the season changes described above.

In subsections 27.20(b)(1)(C) and 27.50(c)(1), “No vessel or watercraft (motorized or non-motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.” is replaced with “No vessel or watercraft (motorized or non-motorized) may be used to assist in the take, transport and/or possession of these species under this provision.” This amendment is necessary to provide clarity in the regulatory language for an activity that is currently unlawful.

California Sheephead and Ocean Whitefish

The Department is recommending that the Commission decouple regulations for California sheephead and ocean whitefish from federal groundfish regulations as most of the shelf rockfish stocks have been rebuilt. Decoupling these two state-managed species will enable sustainable management of their fisheries while increasing angling opportunities and decreasing pressure on other nearshore stocks. Additionally, as the recreational fishery has exceeded the recreational allocation for California sheephead, resulting in exceeding the TAC in the past two years, the Department is recommending a reduction in the current recreational bag limit from 5 fish to 2 fish. Furthermore, the Department is recommending the current January-February boat-based seasonal closure stay in effect for California sheephead but not for ocean whitefish, while all other depth constraints and area restrictions that currently apply to these species to protect shelf rockfishes be removed.

New subsections are added to Section 28.26 for shore based angling and diving/spearfishing exceptions for California sheephead. These amendments are necessary due to the decoupling California sheephead regulations from those for federal groundfish currently specified in Section 27.20.

Non-substantive Changes

Several non-substantive changes are proposed to correct errors or outdated terminology, provide consistency, and reduce redundancy between Title 14 sections, and increase the clarity of the regulations.

- In all sections included in this rulemaking “take and possession” is updated to read “take and/or possession” for enhanced clarity and enforceability; the term “federally-managed groundfish” is changed to “federal groundfish”; and “possession limit” is changed to “bag and possession limit” for consistency.
- The scientific names of fish are updated to current accepted nomenclature and to correct spelling errors in Section 1.91.
- In Section 27.20, an abbreviation for groundfish management area is introduced.
- Subsection 27.20(b)(1)(C) is amended for regulatory clean-up and will provide consistency with language in Section 632, Marine Protected Areas.
- The web address provided in subsection 27.20(f) is updated as the current address is no longer functional.
- The groundfish call hotline is removed from subsection 27.20(f) because the public did

not use the hotline, and the Department webpage provides more timely and comprehensive updated regulatory information.

- A minor error in subsection 27.30(a) that was introduced through a copy and paste error several years ago is corrected.
- Clarifying language regarding the CCAs is added to Section 27.45.
- The formatting of a coordinate listed in subsection 27.50(a) is corrected to remove an unnecessary space and correct the direction of the seconds symbol.
- The organization of Section 27.50, and text is amended to enhance the clarity of the current regulations; no changes are proposed regarding to which species may or may not be retained within the CCAs.
- Section 27.51 is amended to reduce redundancy with subsection 27.20(d).
- Currently established fillet size limits and other fillet regulations (as established in Section 27.65) are added to relevant species-specific sections beginning with Section 28.26 for increased transparency and clarity of the regulations.

(b) Goals and Benefits of the Regulation

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to promote the development of local and distant water fisheries based in California. The objectives of this policy include, but are not limited to, the maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based groundfish seasons, depth constraints, size limits, and bag and possession limits provides for the maintenance of sufficient populations of groundfish species to ensure their continued existence.

The goals and benefits of the proposed regulations include consistency with federal law, sustainable management of groundfish and associated species resources, and promotion of businesses that rely on recreational groundfish fishing.

(c) Authority and Reference Sections for Regulation

Authority: Sections 200, 205, 265, 270, 275, 702, 7071, 7710 and 8587.1, Fish and Game Code

Reference: Sections 200, 205, 265, 270, 275, 1802, 7071, 7710 and 8585.5, Fish and Game Code; Title 50, Code of Federal Regulations, Part 660, Subpart G; and Section 27.20, Title 14, CCR.

(d) Specific Technology or Equipment Required by Regulatory Change

None.

(e) Identification of Reports or Documents Supporting Regulation Change

June 2022 Decision Summary Document

[June 2022 Decision Summary Document - Pacific Fishery Management Council \(pcouncil.org\)](https://www.pcouncil.org/documents/2022/06/june-2022-decision-summary-document.pdf)

Pacific Coast Groundfish Fishery 2023-2024 Harvest Specifications and Management Measures. September 2022. Pacific Fishery Management Council.

<https://www.pcouncil.org/documents/2022/08/draft-management-measure-analytical-document-the-preferred-alternative-september-2022.pdf/>

California Department of Fish and Wildlife Report on Final Preferred Management Alternatives for 2023-2024. Supplemental Revised CDFW Report 1. June 2022. Pacific Fishery Management Council.

<https://www.pcouncil.org/documents/2022/06/f-6-a-supplemental-cdfw-report-1.pdf/>

Pacific Coast Groundfish Fishery Management Plan for the California, Oregon, and Washington Groundfish Fishery. August 2022. Pacific Fishery Management Council.

<https://www.pcouncil.org/documents/2016/08/pacific-coast-groundfish-fishery-management-plan.pdf/>

Fisheries Economics of the United States, 2019. U.S. Dept. of Commerce, NOAA March 2022

<https://www.fisheries.noaa.gov/resource/document/fisheries-economics-united-states-report-2019>

Preliminary Socioeconomic Analyses for the 2023-2024 Harvest Specifications and Management Measures. April 2022. Pacific Fishery Management Council.

<https://www.pcouncil.org/documents/2022/03/f-4-supplemental-attachment-3-preliminary-socioeconomic-analyses-for-the-2023-2024-harvest-specifications-and-management-measures.pdf/>

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

Pacific Fishery Management Council meetings where the proposed regulations for the 2023-2024 groundfish and associated species were discussed:

- September 9-11 and 13-15, 2021, webinar only due to COVID-19
- November 15-22, 2021, webinar only due to COVID-19
- March 8-14, 2022, San Jose, CA, and public webinar due to COVID-19
- April 8-13, 2022, Seattle, WA and public webinar due to COVID-19
- June 9-14, 2022, Vancouver, WA and public webinar due to COVID-19

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

Under the No Change Alternative, state law would be inconsistent with federal law. Inconsistency in regulations will create confusion among the public and may result in laws that are difficult to enforce. Additionally, state regulations cannot be less restrictive than federal regulations, and the federal regulation changes effective in January 2023 are more restrictive than current regulations.

It is critical to have consistent state and federal regulations establishing harvest limits, season dates, depth constraints and other management measures, and it's critical that the state and federal regulations be effective concurrently. Consistency with federal regulations is also necessary to maintain state authority over its recreational and nearshore commercial groundfish fishery and avoid federal preemption under the MSA.

Furthermore, under the no change alternative, California sheephead and ocean whitefish will remain coupled to federal groundfish. This would prevent additional recreational opportunities intended to supplement the loss of opportunity in federal groundfish.

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

Throughout the development of the proposed regulations in coordination with Federal agencies, consideration was given to limit the potential for adverse impacts on small businesses that could otherwise occur as a result of the need to reduce mortality for quillback and copper rockfishes and stay within harvest guidelines for yelloweye rockfish and cowcod. Short-term and long-term impacts are expected to occur as the sportfish-related sectors adjust to new regulations and fishery operations. Reductions in groundfish angler days can translate to income and job losses for commercial passenger fishing vessels (CPFV) operators and crew as well as other sportfishing and travel-related businesses. At the same time, shifts in angler preferences for other target species could provide growth in opportunities for anglers and businesses throughout port localities and the state.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department anticipates decreased opportunities for the recreational and commercial groundfish fishery in 2023-2024 compared to 2022. However, the impact on the

entirety of marine sportfishing activity is not expected to be sufficient to significantly impact sportfishing expenditures to businesses within the state.

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

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of businesses in California. However, some short-term job losses may occur as sportfish-related businesses adjust to changes in the composition of recreational fishing opportunities.

The Commission anticipates benefits to the health and welfare of California residents. Participation in sport fisheries opportunities fosters conservation through education and appreciation of California's wildlife.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's sport fishing resources.

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

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

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies

None.

- (f) Programs Mandated on Local Agencies or School Districts

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code

None.

- (h) Effect on Housing Costs

None.

VII. Economic Impact Assessment

Recreational groundfish fishery activities are comprised of individual fisher trips and CPFVs providing boat trips to groups of anglers. Both modes of fishing involve travel expenditures and other associated expenditures on good and services. The economic impact of regulatory changes

on recreational fisheries are estimated by tracking the resulting changes in expenditures corresponding with changes in fishing effort, fisher trips and length of stay in the fishery areas. Distance traveled affects gas and other travel expenditures. Daytrips and overnight trips involve different levels of spending for gas, food, and accommodations at area businesses as well as different levels of sales tax impacts. Direct expenditures ripple through the economy, as receiving businesses buy intermediate goods from suppliers that then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses. Recreational fisheries spending thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

The adoption of scientifically-based regulations provides for the maintenance of sufficient populations of groundfish to ensure their continued existence and future groundfish sport fishing opportunities that in turn support the fishery economy. In a 2022 Fisheries Economics Report² by NOAA Fisheries that reports 2019 data, all marine recreational anglers' trip-related and equipment expenditures sum to approximately \$1.0 billion in California. The total realized economic benefit to California is estimated at \$2.0 billion in total economic output annually resulting from the indirect and induced effects of this \$1.0 billion direct revenue contribution.

The proposed regulations will modify state recreational groundfish regulations to conform to federal rules that are expected to be in effect for 2023 and 2024. Currently, state regulations for groundfish provide for: season lengths, depth constraints, size limits, and bag and possession limits. In adopting these conforming regulations, the state relies on information provided in PFMC documents which includes socioeconomic analyses of impacts to California. PFMC researchers have conducted an extensive socioeconomic impact assessment to inform regulatory options in refining recommendations to the states³.

Additionally, fisheries management and socioeconomic considerations have prompted the recommendation to decouple regulations for two state-managed species (California sheephead and ocean whitefish) from federal groundfish regulations as most of the shelf rockfish stocks have been rebuilt, allowing for sustainable harvest, and increasing angling opportunities that may mitigate potential short-term adverse economic impacts.

The groundfish recreational fishery comprises a large share of all marine recreational fishing in the State of California. The potential for up to a 30 percent reduction in opportunity for a popular marine fishery could result in reduced sportfish expenditures in some sectors. But due to the likelihood of mode shifts and shifts to other available species, the proposed amendments are not anticipated to constitute a significant adverse economic impact to the state. A reduction in "opportunity" refers to the reduction in open days and may not translate directly to a corresponding reduction in fishing trips. Trips vary by mode: private boat, chartered boat or CPFV, shore-based, or artificial structures (such as piers). Fishing trips may shift to alternate modes to reach the deeper waters, with limits on nearshore fishing. Additionally, if fishing trips are shifted from months proposed to close to the remaining open months and/or the shifted toward other available species,

² National Marine Fisheries Service. 2022. Fisheries Economics of the United States, 2019. U.S. Dept. of Commerce, <https://www.fisheries.noaa.gov/resource/document/fisheries-economics-united-states-report-2019>

³ Preliminary Socioeconomic Analyses for the 2023-2024 Harvest Specifications and Management Measures, April 2022. <https://www.pcouncil.org/documents/2022/03/f-4-supplemental-attachment-3-preliminary-socioeconomic-analyses-for-the-2023-2024-harvest-specifications-and-management-measures.pdf/>

then in the total recreational fisher days and associated expenditures could be partially offset. Substitution toward other modes, the remaining open days, and/or the pursuit of other species is difficult to estimate due to data insufficiencies, but these responses could partially mitigate the impact of lost opportunity as a result of the proposed conformance with federal groundfish recommendations.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State

The cumulative effects of the changes statewide are estimated to be neutral to job creation or elimination within the state. No significant changes in total fishing effort and fishing expenditures to businesses are expected as a direct result of the proposed regulation changes. However, some short-term job losses may occur as sportfish-related businesses adjust to changes in the composition of recreational fishing opportunities.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State

The cumulative effects of the changes statewide are expected to be neutral to the creation or elimination of businesses in California. No significant changes in total fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State

The cumulative effects of the changes statewide are expected to be neutral to expansion of businesses currently doing business within the state. No significant changes in total fishing effort and recreational fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

(d) Benefits of the Regulation to the Health and Welfare of California Residents

Providing sustainable fishing opportunities for groundfish encourages recreation, which can have a positive impact on the health and welfare of California residents. Groundfish taken in the sport and later consumed may have positive human health benefits due to their concentration of omega III fatty acids.

(e) Benefits of the Regulation to Worker Safety

The proposed regulations are not anticipated to impact worker safety conditions.

(f) Benefits of the Regulation to the State's Environment

It is the policy of this state to encourage the conservation, sustainable use, and where feasible, restoration of California's marine living resources for the benefit of all citizens of the state (Section 7050, Fish and Game Code). Benefits of the proposed management actions include preserving fishing opportunity, along with the continuation of the reasonable and sustainable management of groundfish resources and the protection of listed and special status species. Adoption of scientifically-based seasons, depth constraints, and recreational bag limits

provides for the maintenance of sufficient populations of groundfish to ensure their continued existence.

(g) Other Benefits of the Regulation

This regulation would result in consistency with federal law. The PFMC reviews the status of groundfish regulations biennially. As part of that process, it recommends regulations aimed at meeting biological and fishery allocation goals specified in law or established in the PCGFMP. These recommendations coordinate management of recreational and commercial groundfish in the EEZ (three to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are reviewed by NOAA Fisheries for legal sufficiency and compliance with the standards of MSA, and the National Environmental Policy Act (NEPA), and if approved they are subsequently implemented as ocean fishing regulations by NOAA Fisheries.

California's recreational fishing regulations for federal groundfish species need to conform to, or be more restrictive than, federal regulations to ensure that biological and fishery allocation goals are not exceeded and to avoid federal preemption under the MSA.

Informative Digest/Policy Statement Overview

Unless otherwise specified, all section references in this document are to Title 14, California Code of Regulations (CCR).

The Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations biennially. As part of that process, it recommends groundfish harvest limits and regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (three to 200 miles offshore) off Washington, Oregon, and California. These recommendations are subsequently reviewed for implementation as federal fishing regulations by National Oceanic and Atmospheric Administration Fisheries.

Under California law (California Fish and Game Code sections 200, 205, 7071, and 8587.1), the California Fish and Game Commission (Commission) adopts regulations in Title 14, CCR, for the recreational and nearshore commercial groundfish fisheries in state waters zero to three miles from shore. Management authority for most nearshore stocks is shared jointly between state and federal governments in conjunction with the PCGFMP and the Nearshore Fishery Management Plan.

Existing law authorizes the recreational take of groundfish subject to regulations set forth by federal and state authorities. Current regulations establish season lengths, depth constraints, methods of take, as well as size, bag, and possession limits within the five groundfish management areas for all federal groundfish and associated species.

The California Department of Fish and Wildlife is recommending the recreational regulatory changes for federal groundfish be consistent with PFMC recommendations in 2023 and 2024. Other changes are proposed to decouple the recreational regulations for California sheephead and ocean whitefish from those for federal groundfish. This approach will allow the Commission to adopt state groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2023.

The PFMC approved season structures for 2023 and 2024 (Figure 1) are a substantial departure from the status quo, in that each management area will incur a significant reduction in fishing time in nearshore waters. The severe reductions are necessary to incorporate the best scientific information available from the 2021 stock assessments for quillback and copper rockfishes off California and the rebuilding analysis for quillback rockfish off California. A new offshore-only fishery for shelf and slope rockfish and lingcod will be available in some areas of the state during certain months.

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern	Closed				May 15-Oct 15 All Depths				Closed			
Mendocino	Closed				>50 fm		July 16-Dec 31 All Depths					
San Francisco	Closed				>50 fm		July 16-Dec 31 All Depths					
Central	Closed				May 1-Sep 30 All Depths				>50 fm			
Southern	Closed			Apr 1-Sep 15 All Depths					>50 fm			

Figure 1. Proposed recreational seasons and depths for all species of rockfish, lingcod, cabezon, all greenlings of the genus *Hexagrammos* in 2023 and 2024 by management area.

The Cowcod Conservation Areas, which are within the Southern Groundfish Management Area but with a discrete depth limit of 40 fathoms, will be closed January 1 through March 31 in all depths, open April 1 through September 15 in waters shoreward of the 40-fathom depth contour, and closed September 16 through December 31 in all depths.

In all management areas, California scorpionfish, “other flatfish” as defined in Section 28.48, petrale sole, starry flounder, leopard shark, and the federal groundfish listed in Section 28.49 (soupin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, skates, rattfish, grenadiers, finescale codling, Pacific cod, Pacific whiting, sablefish and thornyheads) are proposed to be open year-round at all depths.

Restrictions on methods of take are added to Section 28.49 to provide for consistency with the method of take for rockfish, California scorpionfish, lingcod, cabezon and kelp and rock greenlings.

The sub-bag limits for quillback rockfish (1-fish), copper rockfish (1-fish), and vermilion rockfish (4-fish) that were implemented through emergency action effective January 6, 2022, will be maintained.

Additionally, there is a proposal to decouple California sheephead and ocean whitefish regulations from those for federal groundfish. The Department is recommending a reduction in the current recreational bag limit for California sheephead from 5 fish to 2 fish. Furthermore, the Department is recommending the current January-February boat-based seasonal closure stay in effect for California sheephead but not for ocean whitefish, while all other depth constraints and area restrictions that currently apply to these species to protect shelf rockfishes be removed. The current shore based angling and diving/spearfishing exceptions for California sheephead currently specified in Section 27.20 will be added to Section 28.26.

The definition of depth constraint is revised in subsection 27.20(a).

Subsection 27.20(b)(1) is revised to reflect the new definition of depth constraint, the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish, and the allowance of take year-round at all depths of some federal groundfish species.

Subsection 27.20(b)(1)(A) is revised to reflect the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish and the allowance of take year-round at all depths of some federal groundfish species.

In subsection 27.20(b)(1)(B), California scorpionfish, leopard shark and the species listed in Section 28.49 are added to the list of species exempt from depth constraints for consistency with the season changes described above.

Subsections 27.20(b)(1)(C) and 27.50(c)(1) are revised to provide clarity that transportation by vessel of species taken under the shore based fishing exemption is unlawful.

Several non-substantive changes are proposed to correct errors or outdated terminology, provide consistency, and reduce redundancy between Title 14 sections, and increase the clarity of the regulations.

- In all sections included in this rulemaking “take and possession” is updated to read “take and/or possession”; the term “federally-managed groundfish” is changed to “federal groundfish”; and “possession limit” is changed to “bag and possession limit”.

- The scientific names of fish are updated to current accepted nomenclature and to correct spelling errors in Section 1.91.
- In Section 27.20, an abbreviation for groundfish management area is introduced.
- Subsection 27.20(b)(1)(C) is amended for regulatory clean-up and will provide consistency with language in Section 632, Marine Protected Areas.
- The web address provided in subsection 27.20(f) is updated.
- The groundfish call hotline is removed from subsection 27.20(f)
- A copy and paste error is corrected in subsection 27.30(a)
- Clarifying language regarding the CCAs is added to Section 27.45.
- The formatting of a coordinate listed in subsection 27.50(a) is corrected.
- The organization of Section 27.50, and text is amended to enhance the clarity of the current regulations; no changes to the species that can or cannot be retained within the CCAs are proposed.
- Section 27.51 is amended to reduce redundancy with subsection 27.20(d).
- Currently established fillet size limits and other fillet regulations (as established in Section 27.65) are added to relevant species-specific sections beginning with Section 28.26.

Benefits of the Proposed Regulations

Benefits of the proposed management actions include preserving fishing opportunity, along with the continuation of the reasonable and sustainable management of groundfish resources and the protection of listed and special status species.

This regulation would result in consistency with federal law. California's recreational fishing regulations for federal groundfish species need to conform to, or be more restrictive than, federal regulations to ensure that biological and fishery allocation goals are not exceeded and to avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [United States Code, Title 16, subsection 1856 (b)(1)].

Consistency and Compatibility with Existing Regulations

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Legislature has delegated authority to the Commission to adopt recreational fishing regulations (Fish and Game Code, sections 200 and 205). The proposed regulations are consistent with the Commission's regulations in Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other state regulations related to the recreational take of groundfish.

Proposed Regulatory Language

Section 1.91, Title 14, CCR, is amended to read:

§ 1.91. Federal Groundfish and Rockfish, Cabezon and Greenling (RCG) Complex.

(a) The species or species groups listed in subsections 1.91(a)(1) through 1.91(a)(12) constitute “federal groundfish” and are managed under the Federal Pacific Coast Groundfish Fishery Management Plan:

(1) “Nearshore Rockfish,” which means the following species of rockfish: black rockfish (*Sebastes melanops*), black and yellow rockfish (*S. chrysomelas*), blue rockfish (*S. mystinus*), brown rockfish (*S. auriculatus*), calico rockfish (*S. ~~dallii~~dallii*), China rockfish (*S. nebulosus*), copper rockfish (*S. caurinus*), gopher rockfish (*S. carnatus*), grass rockfish (*S. rastrelliger*), kelp rockfish (*S. atrovirens*), olive rockfish (*S. serranoides*), quillback rockfish (*S. maliger*), treefish (*S. serriceps*)

(2) “California Scorpionfish” (*Scorpaena guttata*)

(3) “Shelf Rockfish” which means the following species of rockfish: bocaccio (*Sebastes paucispinis*), bronzespotted rockfish (*S. gilli*), canary rockfish (*S. pinniger*), chilipepper (*S. goodei*), cowcod (*S. levis*), dusky rockfish (*S. ciliatus*), flag rockfish (*S. rubrivinctus*), greenblotched rockfish (*S. rosenblatti*), greenspotted rockfish (*S. chlorostictus*), greenstriped rockfish (*S. elongatus*), harlequin rockfish (*S. variegatus*), honeycomb rockfish (*S. umbrosus*), Mexican rockfish (*S. macdonaldi*), pink rockfish (*S. eos*), redstripe rockfish (*S. proriger*), rosethorn rockfish (*S. helvomaculatus*), rosy rockfish (*S. rosaceus*), shortbelly rockfish (*S. jordani*), silvergray rockfish (*S. brevispinis*), speckled rockfish (*S. ovalis*), squarespot rockfish (*S. hopkinsi*), starry rockfish (*S. constellatus*), stripetail rockfish (*S. saxicola*), tiger rockfish (*S. nigrocinctus*), vermilion rockfish (*S. miniatus*), widow rockfish (*S. entomelas*), yelloweye rockfish (*S. ruberrimus*), yellowtail rockfish (*S. flavidus*)

(4) “Slope Rockfish” which means the following species of rockfish: aurora rockfish (*Sebastes aurora*), bank rockfish (*S. rufus*), blackgill rockfish (*S. melanostomus*), darkblotched rockfish (*S. crameri*), Pacific ocean perch (*S. alutus*), redbanded rockfish (*S. babcocki*), roughey rockfish (*S. aleutianus*), sharpchin rockfish (*S. zacentrus*), shortraker rockfish (*S. borealis*), splitnose rockfish (*S. diploproa*), yellowmouth rockfish (*S. reedi*)

(5) “Sharks”, including only leopard shark (*Triakis semifasciata*), soupfin shark (*Galeorhinus galeus*), and spiny dogfish (*Squalus ~~acanthias~~suckleyi*)

(6) “Skates”, which means big skate (*Raja binoculata*), California skate (*R. inornata*), longnose skate (*R. rhina*), Roughtail/black skate (*Bathyraja trachura*), Aleutian skate (*B. aleutica*), Bering/sandpaper skate (*R. interrupta*) and all other genera and species of skates in the families Arhynchobatidae and Rajidae that occur off California.

(7) “Roundfish”, including only cabezon (*Scorpaenichthys marmoratus*), kelp greenling (*Hexagrammos decagrammus*), lingcod (*Ophiodon elongatus*), Pacific cod (*Gadus macrocephalus*), Pacific whiting (*Merluccius productus*), and sablefish (*Anoplopoma fimbria*)

(8) “Thornyheads”, which means longspine thornyhead (*Sebastolobus altivelis*), and shortspine thornyhead (*Sebastolobus alascanus*)

(9) “Federally Managed Flatfish”, including only arrowtooth flounder (arrowtooth turbot) (*Atheresthes stomias*), Dover sole (*Microstomus pacificus*), English sole (*Parophrys vetulus*), petrale sole (*Eopsetta jordanii*), and starry flounder (*Platichthys stellatus*).

(10) “Other Flatfish”, including only butter sole (*Isopsetta isolepis*), curlfin sole (*Pleuronichthys decurrens*), flathead sole (*Hippoglossoides elassodon*), Pacific sanddab (*Citharichthys sordidus*), rex sole (*Glyptocephalus zachirus*), rock sole (*Lepidopsetta bilineata*), and sand sole (*Psettichthys melanostictus*).

(11) “Other fish”, including only ratfish (*Hydrolagus colliei*), finescale codling (*Antimora microlepis*), Pacific grenadier (rattail) (*Coryphaenoides acrolepis*) and all other genera and species of grenadiers in the family Macrouridae that occur off California

(12) All genera and species of the family Scorpaenidae that occur off California and not specifically listed in (a)(1) through (a)(4) or (a)(8) above.

(b) “RCG Complex” means all species of rockfish (*Sebastes*), cabezon (*Scorpaenichthys marmoratus*), and kelp and rock greenlings (*genus Hexagrammos*).

NOTE: Authority cited: Sections 200, 265 and 8587.1, Fish and Game Code.

Reference: Sections 205 and 7071, Fish and Game Code.

Section 27.20, Title 14 CCR, is amended to read:

§27.20. Groundfish Management Areas, Seasons, Depths, Exceptions, and Fishery Closure/Rule Change Process Described.

Regulations that follow in sections 27.25 through 27.50 define fishing seasons and depth constraints that are effective within each Groundfish Management Area (GMA). These sections apply to take and possession of ~~federally-managed~~federal groundfish species as defined in Section 1.91 and California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*, ~~which are state-managed species known to associate with federal groundfish.~~

(a) Depth Constraints: In a GMA the take, retention and/or possession of certain federal groundfish and all greenlings of the genus *Hexagrammos* may be authorized or prohibited in waters shallower than, or deeper than, the identified depth constraint depending on the defined areas and seasons specified in sections 27.25 through 27.50. ~~A depth constraint means that during the open season, the aforementioned species may not be taken or possessed in water depths deeper than the specified depth.~~ Two specific definitions of “depth” apply off California. In waters shallower than 30 fathoms, “depth” is defined by general depth contour lines. In waters equal to or deeper than 30 fathoms, “depth” is defined by approximating a particular depth contour by connecting the appropriate set of waypoints adopted in Federal regulations (50 CFR Part 660, Subpart C).

(b) General Provisions.

(1) ~~Take and/or Possession:~~ ~~During any open season in any Groundfish Management Area, in waters deeper than where fishing is authorized or within special closure areas established within a Groundfish Management Area, it is unlawful to take or possess the aforementioned species except~~ of federal groundfish species or species groups and all greenlings of the genus *Hexagrammos* is authorized or prohibited as provided in subsections (b)(1)(A) through (b)(1)(D) below and sections 27.25 through 27.50 of these regulations.

(A) Transit: ~~The aforementioned species or species groups that are closed to take and/or possession in part of a GMA~~ may be possessed aboard a vessel in transit through the closed area with no fishing gear deployed in the water.

(B) Federal groundfish exempt from seasons and depth constraints: "Other Flatfish" as defined in subsection 1.91(a)(10), petrale sole, and starry flounder, California scorpionfish, leopard shark, and the federal groundfish species listed in Section 28.49 may be taken and/or possessed in all GMAs and depths year-round except as described in subsections 28.49(a) and 28.56(a).

(C) Shore Based Angling: When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore), all species may be taken and/or possessed year-round (See subsection 27.50(b)(1) for exceptions in the Cowcod Conservation Areas). No vessel or watercraft (motorized or non-motorized) may be used to assist in ~~taking the take, transport and/or possessing possession of~~ these species ~~while angling from shore~~ under this provision.

(D) Diving or Spearfishing: When diving or spearfishing, as authorized in Section 28.90, all species may be taken and/or possessed year-round (See subsection 27.50(b)(2) for exceptions in the Cowcod Conservation Areas). When boat-based groundfish fishing is closed, all types of fishing gear, except spearfishing gear, are prohibited to be aboard the vessel or watercraft (motorized or non-motorized) ~~while spearfishing for the purpose of~~ when taking and/or possessing these species under this provision.

(c) Closed Season: During any closed season in any ~~Groundfish Management Area~~ GMA, it is unlawful to take and/or possess ~~the aforementioned species~~ all species of rockfish, lingcod, cabezon, and greenlings of the genus *Hexagrammos* regardless of depth except as provided in subsections (b)(1)(A) through (b)(1)(D) above and sections 27.25 through 27.50 of these regulations.

(d) California Rockfish Conservation Area: Within any ~~Groundfish Management Area~~ GMA, waters that are closed for ~~these certain~~ species or species groups during specified times and/or closed in specified depths shall be known as the California Rockfish Conservation Area. See Section 27.51.

(e) Fishery closure and/or rule change: When the department determines, based on the best available scientific information, that an annual harvest limit [optimum yield (OY), annual catch limit (ACL), annual catch target (ACT), recreational harvest guideline, or recreational harvest target] established in regulation by the NOAA Fisheries (National Marine Fisheries Service) for any species of ~~federally-managed~~ federal groundfish or aggregate group of federal groundfish species has been exceeded or is projected to be exceeded prior to the end of the year or that catches are less than predicted, the following rule changes may occur:

(1) The department may modify the seasons and/or depth constraints for any species of ~~federally-managed~~ federal groundfish or aggregate group of federal groundfish species, ~~California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*~~. Season and/or depth modifications may differ by ~~Groundfish Management Area~~ area, time of year, mode of fishing, or gear utilized.

(2) The department may adjust existing bag or sub-bag limits or establish additional bag or sub-bag limits as needed for any species of ~~federally-managed~~ federal groundfish or aggregate

group of federal groundfish species, ~~California sheephead, ocean whitefish,~~ and all greenlings of the genus *Hexagrammos*. Bag limits may differ by ~~Groundfish Management Area~~area, time of year, mode of fishing, or gear utilized.

(3) The department may adjust existing size limits or establish additional size limits as needed for any species of ~~federally-managed~~ federal groundfish or aggregate group of federal groundfish species, ~~California sheephead, ocean whitefish,~~ and all greenlings of the genus *Hexagrammos*. Size limits may differ by ~~Groundfish Management Area~~area, time of year, mode of fishing, or gear utilized.

(f) Notice of closure and/or rule change: The department shall give the public and the NOAA Fisheries no less than 10 calendar days' notice of any fishery closure or rule change implemented pursuant to this Section via a department news release. Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: ~~www.dfg.ca.gov/marine/wildlife.ca.gov/Fishing/Ocean,~~ or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 205, 265, 702, 7071 and 8587.1, Fish and Game Code.
Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 27.25, Title 14 CCR, is amended to read:

§ 27.25. Northern Groundfish Management Area.

This Section applies to take and/or possession of ~~federally-managed~~ federal groundfish species as defined in Section 1.91, ~~California sheephead, ocean whitefish,~~ and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, bag and possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Northern Groundfish Management Area means ocean waters between 42° 00' N. lat. (the Oregon/California border) and 40° 10' N. lat. (near Cape Mendocino, Humboldt County).

(b) Seasons and depth constraints ~~(except as provided in subsection (c) below)~~ effective for all species of rockfish, lingcod, cabezon, and all greenlings of the genus *Hexagrammos*:

(1) January 1 through ~~April 30~~ May 14: Closed.

(2) May ~~1~~ 15 through October ~~31~~ 15: ~~Take of all species is prohibited seaward of a line approximating the 30-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 30-fathom depth contour is defined by straight lines connecting the set of 30-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).~~ Open for all species with no depth constraints.

(3) ~~November 1~~ October 16 through December 31: ~~Open for all species with no depth restrictions.~~ Closed.

~~(c) Leopard shark may be taken or possessed in Humboldt Bay year-round.~~

NOTE: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 27.30, Title 14 CCR, is amended to read:

§ 27.30. Mendocino Groundfish Management Area.

This Section applies to take and/or possession of ~~federally-managed~~federal groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, bag and possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Mendocino Groundfish Management Area means ocean waters between 40° 00'10" N. lat. (near Cape Mendocino, Humboldt County) and 38° 57.50' N. lat. (at Point Arena, Mendocino County).

(b) Seasons and depth constraints effective for all species of rockfish, lingcod, cabezon, and all greenlings of the genus *Hexagrammos*:

(1) January 1 through ~~April 30~~May 14: Closed.

(2) May 115 through ~~October 31~~July 15:

(A) Take and/or possession of all species and species groups listed in subsections 1. through 3. is prohibited is authorized seaward of a line approximating the ~~3050~~3050-fathom depth contour along the mainland coast and along islands and offshore seamounts. Take and/or possession of these species is prohibited shoreward of this line, except as provided in subsection 27.20(b). The ~~3050~~3050-fathom depth contour is defined by straight lines connecting the set of ~~3050~~3050-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).

1. Shelf rockfish, as defined in subsection 1.91(a)(3), except bronzespotted rockfish, cowcod, and yelloweye rockfish which may not be taken or possessed

2. Slope rockfish, as defined in subsection 1.91(a)(4)

3. Lingcod

(B) Nearshore species closure: Take and/or possession of nearshore rockfish as defined in subsection 1.91(a)(1), cabezon, and all greenlings of the genus *Hexagrammos* is prohibited in all waters of the Mendocino Groundfish Management Area.

(3) ~~November 1~~July 16 through December 31: Open for all species with no depth restrictionsconstraints.

NOTE: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 27.35, Title 14 CCR, is amended to read:

§ 27.35. San Francisco Groundfish Management Area.

This Section applies to take and/or possession of ~~federally-managed~~federal groundfish species ~~as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*.~~ For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, bag and possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The San Francisco Groundfish Management Area means ocean waters between 38° 57.50' N. lat. (at Point Arena, Mendocino County) and 37° 11' N. lat. (at Pigeon Point, San Mateo County).

(b) Seasons and depth constraints ~~(except as provided in subsection (c) below)~~effective for all species of rockfish, lingcod, cabezon and all greenlings of the genus *Hexagrammos*:

(1) January 1 through ~~March 31~~May 14: Closed.

(2) ~~April 1~~May 15 through ~~December 31~~July 15: Take of all species is prohibited seaward of a line approximating the 50-fathom depth contour along the mainland coast and along islands and offshore seamounts. ~~The 50-fathom depth contour is defined by straight lines connecting the set of 50-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).~~

(A) Take and/or possession of species and species groups listed in subsections 1. through 3. is authorized seaward of a line approximating the 50-fathom depth contour along the mainland coast and along islands and offshore seamounts. Take and/or possession of these species is prohibited shoreward of this line, except as provided in subsection 27.20(b). The 50-fathom depth contour is defined by straight lines connecting the set of 50-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).

1. Shelf rockfish, as defined in subsection 1.91(a)(3), except bronzespotted rockfish, cowcod, and yelloweye rockfish which may not be taken or possessed

2. Slope rockfish, as defined in subsection 1.91(a)(4)

3. Lingcod

(B) Nearshore species closure: Take and/or possession of nearshore rockfish as defined in subsection 1.91(a)(1), cabezon, and greenlings of the genus *Hexagrammos* is prohibited in all waters of the San Francisco Groundfish Management Area.

(3) July 16 through December 31: Open for all species with no depth constraints.

~~(c) Leopard shark may be taken or possessed in Drake's Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay year-round.~~

NOTE: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 27.40, Title 14 CCR, is amended to read:

§ 27.40. Central Groundfish Management Area.

This Section applies to take and/or possession of ~~federally-managed~~federal groundfish species ~~as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*.~~ For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, bag and possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Central Groundfish Management Area means ocean waters between 37° 11' N. lat. (at Pigeon Point, San Mateo County) and 34° 27' N. lat. (at Point Conception, Santa Barbara County).

(b) Seasons and depth constraints ~~(except as provided in subsection (c) below)~~effective for all species of rockfish, lingcod, cabezon, and all greenlings of the genus *Hexagrammos*:

(1) January 1 through ~~March 31~~April 30: Closed.

(2) ~~April~~May 1 through ~~December 31~~September 30: ~~Take of all species is prohibited seaward of a line approximating the 50-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 50-fathom depth contour is defined by straight lines connecting the set of 50-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).~~Open for all species with no depth constraints.

(3) October 1 through December 31:

(A) Take and/or possession of species and species groups listed in subsections 1. through 3. is authorized seaward of a line approximating the 50-fathom depth contour along the mainland coast and along islands and offshore seamounts. Take and/or possession of these species is prohibited shoreward of this line, except as provided in subsection 27.20(b). The 50-fathom depth contour is defined by straight lines connecting the set of 50-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).

1. Shelf rockfish, as defined in subsection 1.91(a)(3), except bronzespotted rockfish, cowcod, and yelloweye rockfish which may not be taken or possessed

2. Slope rockfish, as defined in subsection 1.91(a)(4)

3. Lingcod

(B) Nearshore species closure: Take and/or possession of nearshore rockfish as defined in subsection 1.91(a)(1), cabezon, and greenlings of the genus *Hexagrammos* is prohibited in all waters of the Central Groundfish Management Area.

~~(c) Leopard shark may be taken or possessed in Elkhorn Slough year-round.~~

NOTE: Authority cited: Sections 200, 205 and 265, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 27.45, Title 14 CCR, is amended to read:

§ 27.45. Southern Groundfish Management Area.

This Section applies to take and/or possession of ~~federally-managed~~federal groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, bag and possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Southern Groundfish Management Area means ocean waters between 34°27' N. lat. (at Point Conception, Santa Barbara County) and the U.S./Mexico border. The Cowcod Conservation Areas are special closure areas within the Southern Groundfish Management Area, where species authorizations, prohibitions, depth constraints and seasons differ from those of the Southern Groundfish Management Area. See Section 27.50.

(b) Seasons and depth constraints ~~(except as provided in subsection (c) below)~~effective for all species of rockfish, lingcod, cabezon and all greenlings of the genus *Hexagrammos*:

(1) January 1 through ~~the last day in February~~March 31: Closed, ~~except take of California scorpionfish is prohibited seaward of a line approximating the 100-fathom depth contour, defined by connecting the appropriate waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).~~

(2) ~~March~~April 1 through ~~December 31~~September 15: ~~Take of all species is prohibited seaward of a line approximating the 100-fathom depth contour along the mainland coast and along islands and offshore seamounts. The 100-fathom depth contour is defined by straight lines connecting the set of 100-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).~~Open for all species with no depth constraints.

(3) September 16 through December 31:

(A) Take and/or possession of species and species groups listed in 1. through 3. is authorized seaward of a line approximating the 50-fathom depth contour along the mainland coast and along islands and offshore seamounts. Take and/or possession of these species is prohibited shoreward of this line, except as provided in subsection 27.20(b). The 50-fathom depth contour is defined by straight lines connecting the set of 50-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).

1. Shelf rockfish, as defined in section 1.91(a)(3), except bronzespotted rockfish, cowcod, and yelloweye rockfish which may not be taken or possessed

2. Slope rockfish, as defined in section 1.91(a)(4)

3. Lingcod

(B) Nearshore species closure: Take and/or possession of nearshore rockfish as defined in subsection 1.91(a)(1), cabezon, and greenlings of the genus *Hexagrammos* is prohibited in all waters of the Southern Groundfish Management Area.

~~(c) Special exceptions to subsection (b) above:~~

~~(1) Regulations that apply to the Cowcod Conservation Areas are specified in Section 27.50.~~

~~(2) Leopard shark may be taken or possessed in Newport Bay, Alamitos Bay, Mission Bay, and San Diego Bay year-round.~~

NOTE: Authority cited: Sections 200, 205 and 265, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 27.50, Title 14 CCR, is amended to read:

§ 27.50. Cowcod Conservation Areas.

This Section applies to take and/or possession of ~~federally-managed~~federal groundfish species ~~as defined in Section 1.91, California sheephead, ocean whitefish,~~ and all greenlings of the genus *Hexagrammos*. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, bag and possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Cowcod Conservation Areas are defined as ocean waters off southern California within each of the following two areas:

Area 1 is an area south of Point Conception that is bound by straight lines connecting the following points in the order listed:

33° 50' N. lat., 119° 30' W. long.;

33° 50' N. lat., 118° 50' W. long.;

32° 20' N. lat., 118° 50' W. long.;

32° 20' N. lat., 119° 37' W. long.;

33° 00' N. lat., 119° 37' W. long.;

33° 00' N. lat., 119° 53' W. long.;

33° 33' N. lat., 119° 53' W. long.;

33° 33' N. lat., 119° 30' W. long.; and

33° 50' N. lat., 119° 30' W. long.

Area 2 is a smaller area west of San Diego that is bound by straight lines connecting the following points in the order listed:

32° 42' N. lat., 118° 02' W. long.;

32° 42' N. lat., 117° 50' W. long.;

32° 36' 42" N. lat., 117° 50' W. long.;

~~32° 30' N. lat., 117° 53' 3" W. long.;~~

32° 30' N. lat., 117° 53' 3" W. long.;

32° 30' N. lat., 118° 02' W. long.; and

32° 42' N. lat., 118° 02' W. long.

(b) Seasons and depth constraints (except as provided in subsection (c) below):

~~(1) January 1 through the last day in February: Closed, except take of California scorpionfish is prohibited seaward of a line approximating the 40-fathom depth contour along islands and offshore seamounts, defined by connecting the appropriate waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G). Take and/or possession of the following federal groundfish species is authorized year-round in all depths:~~

(A) California scorpionfish

(B) "Other flatfish" as defined in subsection 1.91(a)(10)

(C) Petrale sole

(D) Starry flounder.

~~(2) March 1 through December 31: Take of species or species groups listed in (A) through (G) below is prohibited seaward of a line approximating the 40-fathom depth contour along islands and offshore seamounts. The 40-fathom depth contour is defined by straight lines connecting the set of 40-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G). For nearshore rockfish, as defined in subsection 1.91(a)(1), cabezon, all greenlings of the genus *Hexagrammos*, lingcod, and shelf rockfish, as defined in subsection 1.91(a)(3):~~

~~(A) Nearshore rockfish, as defined in subsection 1.91(a)(1) From January 1 through March 31, take and/or possession is prohibited in all waters of the Cowcod Conservation Areas, except as provided in subsection 27.50(c).~~

~~(B) Cabezon From April 1 through September 15, take and/or possession is authorized in the Cowcod Conservation Areas shoreward of a line approximating the 40-fathom depth contour. The 40-fathom depth contour is defined by straight lines connecting the set of 40-fathom waypoints as adopted in Federal regulations (50 CFR Part 660, Subpart G).~~

~~(C) Greenlings of the genus *Hexagrammos* From September 16 through December 31, take and/or possession is prohibited in all waters of the Cowcod Conservation Areas.~~

~~(D) California sheephead~~

~~(E) Ocean whitefish~~

~~(F) Lingcod~~

~~(G) Shelf rockfish, as defined in subsection 1.91(a)(3), except bronzespotted rockfish, cowcod, and yelloweye rockfish which may not be taken or possessed within the Cowcod Conservation Areas.~~

(3) Take and/or possession of the following species or species groups is prohibited year-round in all depths of the Cowcod Conservation Areas:

(A) Slope rockfish, as defined in subsection 1.91(a)(4)

(B) Leopard shark

(C) All federal groundfish species listed in Section 28.49

(D) Bronzespotted rockfish, cowcod, and yelloweye rockfish.

(c) Special exceptions to subsection (b) above:

(1) Notwithstanding subsection 27.20(b)(1)(C), when angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore), only the species identified in (b)(1) and (b)(2) above ~~and California scorpionfish~~ may be taken and/or possessed year-round. No vessel or watercraft (motorized or non-motorized) may be used to assist in the taking, take, transport and/or possessing possession of these species ~~while angling from shore~~ under this provision.

(2) Notwithstanding subsection 27.20(b)(1)(D), when diving or spearfishing, as authorized in Section 28.90, only the species identified in (b)(1) and (b)(2) above ~~and California scorpionfish~~ may be taken and/or possessed year-round. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non-motorized) ~~while spearfishing for the purpose of~~ when taking and/or possessing these species under this provision.

NOTE: Authority cited: Sections 200, 205 and 265, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 27.51, Title 14 CCR, is amended to read:

§27.51. California Rockfish Conservation Area.

California Rockfish Conservation Area ~~Areas~~ (CRCA) means the ocean waters that are closed to recreational groundfish fishing at specified times, or closed in specified depths or areas. CRCA's serve to minimize interaction with particular species of overfished groundfish that cannot be selectively avoided and thus must be protected from overharvest by closing times, depths, or areas to recreational fishing for federal groundfish ~~and associated species~~ and all greenlings of the genus *Hexagrammos* managed by California. See Section 27.20 through Section 27.50.

~~(a) In the CRCA, take and possession is prohibited for federally-managed groundfish species as defined in Section 1.91, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*.~~

~~(b) This regulation does not apply in cases where these species are possessed aboard a vessel in transit with no fishing gear deployed in the water.~~

Note: Authority: Section 205, Fish and Game Code.

Reference: Sections 200, 265 and 270, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.26, Title 14 CCR, is amended to read:

§ 28.26. California Sheephead.

~~(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows: Closed season: January 1 through the last day in February with the following exceptions:~~

~~(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25. Shore Based Angling: When angling from shore (including beaches, banks,~~

piers, jetties, breakwaters, docks, and other artificial structures connected to the shore), California Sheephead may be taken and/or possessed year-round. No vessel or watercraft (motorized or non-motorized) may be used to assist in the take, transport and/or possession California Sheephead while angling from shore under this provision.

~~(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30. Diving or Spearfishing: When diving or spearfishing, California Sheephead may be taken and/or possessed year-round. During the closed season, January 1 through the last day in February, all types of fishing gear, except spearfishing gear, are prohibited to be aboard the vessel or watercraft (motorized or non-motorized) when taking and/or possessing California sheephead under this provision.~~

~~(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.~~

~~(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.~~

~~(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.~~

~~(6) Cowcod Conservation Areas: Open and closed dates and depth constraints as defined by Section 27.50.~~

(b) Limit: ~~Five~~ Two.

(c) Minimum size: 12 inches total length. See subsection 27.65(b) for fillet size limit.

(d) Fishing rules for California sheephead may be changed during the year or in-season by the department under the authority of ~~subsection 27.20(e) or~~ Section 52.10. ~~See subsection 27.20(f) for additional information.~~

NOTE: Authority cited: Sections 200, 205, 265, 702, 7071 and 8587.1, Fish and Game Code.
Reference: Sections 200, 205, 265, 1802 and 7071, ~~Fish and Game Code; and 14 CCR 27.20.~~

Section 28.27, Title 14, CCR, is amended to read:

§ 28.27. Lingcod.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and/or possession is authorized as follows:

(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.

(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.

(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.

(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.

(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.

(6) Cowcod Conservation Areas: Open and closed dates and depth constraints as defined by Section 27.50.

(b) Limit: Two.

(c) Minimum size: 22 inches total length. See subsection 27.65(b) for fillet size limit.

(d) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for lingcod may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265, 275, 702 and 8587.1, Fish and Game Code.

Reference: Sections 200, 205, 265 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.28, Title 14 CCR, is amended to read:

§ 28.28. Cabezon.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and/or possession is authorized as follows:

(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.

(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.

(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.

(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.

(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.

(6) Cowcod Conservation Areas: Open and closed dates and depth constraints as defined by Section 27.50.

(b) Limit: 10 fish, within a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish.

(c) Minimum size: 15 inches total length. See subsection 27.65(c) for fillet regulations.

(d) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for cabezon may be changed during the year or in-season by the department under the authority of subsection 27.20(e) or Section 52.10. See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265, 702 and 8587.1, Fish and Game Code.

Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.29, Title 14 CCR, is amended to read:

§ 28.29. Kelp Greenling. Rock Greenling. (Genus *Hexagrammos*).

(a) Open areas, seasons, and depth constraints for greenlings of the genus *Hexagrammos* (including kelp and rock greenlings): See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and/or possession is authorized as follows:

(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.

(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.

(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.

(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.

(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.

(6) Cowcod Conservation Areas: Open and closed dates and depth constraints as defined by Section 27.50.

(b) Limit: For greenlings of the genus *Hexagrammos*, ten fish within a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish.

(c) Minimum size: 12 inches total length. See subsection 27.65(b) for fillet regulations.

(d) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for greenlings of the genus ~~*Hexagrammos*~~ *Hexagrammos* may be changed during the year or in-season by the department under the authority of subsection 27.20(e) or Section 52.10. See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265, 702, 7071 and 8587.1, Fish and Game Code.
Reference: Sections 200, 205, 265, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.47, Title 14, CCR, is amended to read:

§ 28.47. Petrale Sole and Starry Flounder.

Petrable sole and starry flounder are federal groundfish, as defined in subsection 1.91(a), and are subject to special regulations as follows. Regulations of this Section do not apply to other species of flounders or sole.

(a) Open year-round in all depths.

(b) Limit: There is no limit on petrale sole or starry flounder.

~~(c) Petrale sole and starry flounder may be taken in all depths.~~

~~(d)~~ Fishing rules for petrale sole and starry flounder may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.
Reference: Sections 200, 205, 265 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.48, Title 14 CCR, is amended to read:

§ 28.48. Pacific Sanddab, Rock Sole, Sand Sole, Butter Sole, Curlfin Sole, Rex Sole, and Flathead Sole.

Pacific sanddab, rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole are federal groundfish, also known in the aggregate as “other flatfish” pursuant to subsection 1.91(a)(10) and are subject to special regulations as follows. Regulations of this Section do not apply to other species of sanddabs, flounders, or sole.

(a) Open year-round in all depths.

(b) Limit: There is no limit on Pacific sanddab. The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole.

(c) Fishing rules for Pacific sanddab, rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.
Reference: Sections 200, 205, 265 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.49, Title 14 CCR, is amended to read:

§ 28.49. Soupfin Shark, Dover Sole, English Sole, Arrowtooth Flounder, Spiny Dogfish, Skates, Ratfish, Grenadiers, Finescale Codling, Pacific Cod, Pacific Whiting, Sablefish and Thornyheads.

Soupfin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, all skates, ratfish, all grenadiers, finescale codling, Pacific cod, Pacific whiting, sablefish, longspine thornyhead, and shortspine thornyhead are federal groundfish, as defined in subsection 1.91(a), and are subject to special regulations as follows. Regulations of this Section do not apply to other species of flounders, sole, sharks, or codlings unless otherwise specified.

~~(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:~~

~~(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.~~

~~(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.~~

~~(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.~~

~~(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.~~

~~(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.~~

~~(6) Cowcod Conservation Areas: Closed. year-round in all depths, except in the Cowcod Conservation Areas where these species may not be taken or possessed at any time or depth, except for transit as provided in subsection 27.20(b)(1)(A). See section 27.50.~~

(b) Limit:

(1) The limit on soupfin shark is one fish.

(2) The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to Dover sole, English sole, arrowtooth flounder, spiny dogfish, all skates, ratfish, all grenadiers, finescale codling, Pacific cod, Pacific whiting, sablefish, longspine thornyhead and shortspine thornyhead.

(c) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or a double or treble hook with multiple points connected to a common shank.

(ed) Fishing rules for soupfin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, all skates, ratfish, all grenadiers, finescale codling, Pacific cod, Pacific whiting, sablefish, longspine thornyhead and shortspine thornyhead may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.54, Title 14 CCR, is amended to read:

§ 28.54. California Scorpionfish (Sculpin).

~~(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:~~

~~(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.~~

~~(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.~~

~~(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.~~

~~(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.~~

~~(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.~~

~~(6) Cowcod Conservation Areas: Open and closed dates and depth constraints as defined by Section 27.50. year-round in all depths.~~

(b) Limit: Five.

(c) Minimum size: 10 inches total length. See subsection 27.65(b) for fillet size limit.

(d) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for California scorpionfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265, 702, 7071 and 8587.1, Fish and Game Code.

Reference: Sections 200, 205, 265, 275, 1802 and 7071, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.55, Title 14 CCR, is amended to read:

§ 28.55. Rockfish (*Sebastes*).

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.

(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.

(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.

(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.

(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.

(6) Cowcod Conservation Areas: Open and closed dates and depths constraints as defined by Section 27.50. Only Nearshore Rockfish, and Shelf Rockfish, as defined in subsections 1.91(a)(1) and 1.91(a)(3), may be taken and possessed, except as provided below in subsection (b)(1).

(b) Limit: Ten, within the Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) limit of 10 fish, in any combination of species, except as provided below.

(1) The limit on bronzespotted rockfish, cowcod, and yelloweye rockfish is zero. These species shall not be taken or possessed as part of the RCG limit.

(2) The limit on vermilion rockfish is ~~five~~four fish, within the RCG bag limit.

(3) The limit on quillback rockfish is one fish, within the RCG bag limit.

(4) The limit on copper rockfish is one fish, within the RCG bag limit.

~~(35)~~ In the Cowcod Conservation Areas (see Section 27.50), the limit on slope rockfish, as defined in subsection 1.91(a)(4), is zero. These species shall not be taken or possessed as part of the RCG limit in the Cowcod Conservation Areas.

(c) Size limit: None. See subsection 27.65(b) for fillet regulations.

(d) Method of take: When angling, gear is restricted to not more than two hooks and one line. For purposes of this section, a hook is a single hook, or a double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for rockfish may be changed during the year or in- season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265, ~~399~~, 702, 7071 and 8587.1, Fish and Game Code.
Reference: Sections 200, 205, 265, ~~399~~, 1802, 7071 and 8585.5, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.56, Title 14 CCR, is amended to read:

§ 28.56. Leopard Shark.

~~(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:~~

~~(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25, except that take and possession is authorized year-round in Humboldt Bay.~~

~~(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.~~

~~(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35, except that take and possession is authorized year-round in Drake's Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay.~~

~~(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40, except that take and possession is authorized year-round in Elkhorn Slough.~~

~~(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45, except that take and possession is authorized year-round in Newport Bay, Alamitos Bay, Mission Bay, and San Diego Bay.~~

~~(6) Cowcod Conservation Areas: Closed. year-round in all depths, except in the Cowcod Conservation Areas where leopard shark may not be taken or possessed at any time or depth except for transit as provided in subsection 27.20(b)(1)(A). See Section 27.50.~~

(b) Limit: Three.

(c) Minimum size: 36 inches total length. See subsection 27.65(b) for fillet regulations.

(d) Fishing rules for leopard shark may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.

NOTE: Authority cited: Sections 200, 205, 265 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; and 14 CCR 27.20.

Section 28.58, Title 14 CCR, is amended to read:

§ 28.58. Ocean Whitefish.

~~(a) Open year-round in all depths. areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:~~

~~(1) Northern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.25.~~

~~(2) Mendocino Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.30.~~

~~(3) San Francisco Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.35.~~

~~(4) Central Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.40.~~

~~(5) Southern Groundfish Management Area: Open and closed dates and depth constraints as defined by Section 27.45.~~

~~(6) Cowcod Conservation Areas: Open and closed dates and depth constraints as defined by Section 27.50.~~

(b) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to ocean whitefish. See subsection 27.65(b) for fillet size limit.

~~(c) Fishing rules for ocean whitefish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). See subsection 27.20(f) for additional information.~~

NOTE: Authority cited: Sections 200, 205, 265, 270, 275 and 702, Fish and Game Code.

Reference: Sections 200, 205, 265, 270, 275 and 1802, Fish and Game Code; and 14 CCR 27.20.

Section 28.65, Title 14, CCR, is amended to read:

§ 28.65. General.

Except as provided in this article, fin fish may be taken only on hook and line or by hand. Any number of hooks and lines may be used in all ocean waters and bays except:

(a) San Francisco Bay, as described in Section 27.00, where only one line with not more than three hooks may be used.

(b) On public piers, no person shall use more than two rods and lines, two hand lines, or two nets, traps or other appliances used to take crabs.

(c) When rockfish (genus *Sebastes*), California scorpionfish (*Scorpaena guttata*), lingcod (*Ophiodon elongatus*), cabezon (*Scorpaenichthys marmoratus*), or kelp or rock greenlings (*Hexagrammos decagrammus* and *Hexagrammos lagocephalus*), or species listed in Section 28.49 are aboard or in possession, ~~where~~ only one line with not more than two hooks may be used pursuant to sections 28.55, 28.54, 28.27, 28.28 ~~or~~ 28.29, or 28.49, respectively.

(d) No gaff hook shall be used to take or assist in landing any fin fish shorter than the minimum size limit. For the purpose of this section a gaff hook is any hook with or without a handle used to assist in landing fish or to take fish in such a manner that the fish does not take the hook voluntarily in its mouth. No person shall take fin fish from any boat or other floating device in ocean waters without having a landing net in possession or available for immediate use to assist in landing undersize fish of species having minimum size limits; the opening of any such landing net shall be not less than eighteen inches in diameter.

(e) North of Point Conception (34°27'00" N. lat.), where only one rod and line may be used by each angler fishing for salmon, or fishing from any boat or floating device with salmon on board.

(f) Mousetrap gear prohibited: It is unlawful to use, assist in using, or to possess aboard any vessel, hook-and-line gear commonly termed "mouse traps" constructed of a hook(s) or lure(s), attached to one end of a line that is attached to a float, or floats at the other end, and that when fished, is not attached directly to a person or vessel. Possession of such gear aboard a vessel shall be prima facie evidence that the gear is being used in violation of this regulation.

(g) North of Point Conception to 40°10'00" N. lat. (near Cape Mendocino), Section 27.80(a)(3) applies to each angler fishing for salmon or fishing from any boat or floating device with salmon on board.

NOTE: Authority cited: Sections 200, 205, 265, 270, 275, 7071 and 7110, Fish and Game Code.

Reference: Sections 200, 205, 265, 270, 275, 7110 and 8585.5, Fish and Game Code.

Section 28.90, Title 14, CCR, is amended to read:

§ 28.90. Diving, Spearfishing.

Persons who are floating or swimming in the water may use spearfishing gear and skin or SCUBA diving equipment to take fin fish other than giant (black) sea bass, garibaldi, gulf grouper, broomtail grouper, trout, salmon, or broadbill, except that:

(a) No person may possess or use a spear within 100 yards of the mouth of any stream in any ocean waters north of Ventura County.

(b) When spearfishing for or in possession of federal groundfish species or ~~associated species~~ all greenlings of the genus *Hexagrammos* as authorized pursuant to subsection 27.20(b)(1)(D), in an area or during a season closed to the take of these species, no fishing gear except spearfishing gear may be aboard the vessel or watercraft.

NOTE: Authority cited: Sections 200, 265 and 8587.1, Fish and Game Code.

Reference: Sections 205 and 7071, Fish and Game Code; and 50 CFR Part 660, Subpart G.

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sects. 27.20 et al., T. 14, CCR, Re: Rec. Fishing Regs. for Federal Groundfish & Assoc. Species 2023-24			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

<input type="checkbox"/> a. Impacts business and/or employees	<input type="checkbox"/> e. Imposes reporting requirements
<input type="checkbox"/> b. Impacts small businesses	<input type="checkbox"/> f. Imposes prescriptive instead of performance
<input type="checkbox"/> c. Impacts jobs or occupations	<input type="checkbox"/> g. Impacts individuals
<input type="checkbox"/> d. Impacts California competitiveness	<input checked="" type="checkbox"/> h. None of the above (Explain below):

Conformance to Federal Rules (with no additional discretionary State restrictions) (50 CFR Part 660) See Addendum.

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:

(Agency/Department)

<input type="checkbox"/> Below \$10 million
<input type="checkbox"/> Between \$10 and \$25 million
<input type="checkbox"/> Between \$25 and \$50 million
<input type="checkbox"/> Over \$50 million <i>[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]</i>

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide

☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____4. Will this regulation directly impact housing costs? ☐ YES ☐ NO

If YES, enter the annual dollar cost per housing unit: \$ _____

Number of units: _____

5. Are there comparable Federal regulations? ☐ YES ☐ NO

Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NOExplain: _____
_____**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____
_____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DocuSigned by:
 Dan Reagan

DATE

9/9/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DocuSigned by:
 Melissa A. Miller-Hanson 9/16/2022

DATE

9/16/2022

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

STD 399 Addendum

Amend Sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65 and 28.90

Title 14, California Code of Regulations

Re: Recreational Fishing Regulations for Federal Groundfish and Associated Species
for 2023 and 2024

ECONOMIC IMPACT STATEMENT

The proposed regulations will modify state recreational groundfish season lengths, depth restrictions, size limits, and bag and possession limit regulations to conform to federal rules that are expected to be in effect for 2023 and 2024. Consistency of rules in adjacent waters allows for uniformity of enforcement, minimizes confusion which promotes compliance, and allows for a comprehensive approach to resource management. Consistency with federal regulations is also necessary to maintain state authority over its recreational groundfish fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act (MSA) [United States Code (USC), Title 16, subsection 1856 (b)(1)].

Additionally, the proposed regulations will decouple regulations for two state-managed species (California sheephead and ocean whitefish) from federal groundfish regulations as stock assessments support increases in harvest.

In adopting these regulations, the state relies on information provided in Pacific Fishery Management Council (PFMC) documents which includes socioeconomic analyses of impacts to California. PFMC researchers have conducted an extensive socioeconomic impact assessment to inform regulatory options in refining recommendations to the states¹. A brief overview of the main factors and dynamics affecting anticipated socioeconomic outcomes is described below.

Overview

Recreational groundfish fishery activities are comprised of individual angler trips and commercial passenger fishing vessels (CPFV) providing boat trips to groups of anglers. Both modes for fishing involve travel expenditures and other associated expenditures on goods and services. The economic impact of regulatory changes on recreational fisheries are estimated by tracking the resulting changes in expenditures corresponding with changes in fishing effort, angler trips and length of stay in the fishery areas. Distance traveled affects gas and other travel expenditures. Daytrips and overnight trips involve different levels of spending for gas, food, and accommodations at area businesses as well as different levels of sales tax impacts. Direct expenditures ripple

¹ Preliminary Socioeconomic Analyses for the 2023-2024 Harvest Specifications and Management Measures, April 2022. (<https://www.pcouncil.org/documents/2022/03/f-4-supplemental-attachment-3-preliminary-socioeconomic-analyses-for-the-2023-2024-harvest-specifications-and-management-measures.pdf/>)

through the economy, as receiving businesses buy intermediate goods from suppliers that then spend that revenue again. Business spending on wages is received by workers who then spend that income, some of which goes to local businesses. Recreational fisheries spending thus multiplies throughout the economy with the indirect and induced effects of the initial direct expenditure.

The adoption of scientifically-based regulations provides for the maintenance of sufficient populations of groundfish to ensure their continued existence and future groundfish sport fishing opportunities that in turn support the fishery economy. In a 2022 Fisheries Economics Report² by the National Oceanic and Atmospheric Administration (NOAA) Fisheries that reports 2019 data, all marine recreational anglers' trip-related and equipment expenditures sum to approximately \$1.0 billion in California. The total realized economic benefit to California is estimated to be \$2.0 billion in total economic output annually resulting from the indirect and induced effects of this \$1.0 billion direct revenue contribution.

The recreational groundfish fishery comprises a large share of all marine recreational fishing in the state. The potential for up to a 30 percent reduction in opportunity for a popular marine fishery could result in reduced sportfish expenditures in some sectors. But due to the likelihood of mode shifts and shifts to other available species, the proposed amendments are not anticipated to constitute a significant adverse economic impact to the state. A reduction in "opportunity" refers to the reduction in open days and may not translate directly to a corresponding reduction in fishing trips. Trips vary by mode: private boat, chartered boat or CPFV, shore-based, or man-made structures (such as piers). Fishing trips are anticipated to shift from private boats to chartered boats or other alternate modes to reach the deeper waters, due to limits on nearshore fishing. Additionally, if fishing trips shift from months proposed to close to the remaining open months and/or shift toward other available species, then the total recreational angler days and associated expenditures could be partially offset. Substitution toward other modes, the remaining open days, and/or the pursuit of other species is difficult to estimate due to model limitations, but these responses could partially mitigate the impact of lost opportunity as a result of the proposed conformance with federal groundfish recommendations³.

Effort Projections

Estimated angler effort is generated by the California Department of Fish and Wildlife's (CDFW or Department) California Recreational Fishery Survey (CRFS) program. Using

² National Marine Fisheries Service. 2022. Fisheries Economics of the United States, 2019. U.S. Dept. of Commerce, <https://www.fisheries.noaa.gov/resource/document/fisheries-economics-united-states-report-2019>.

³ Pacific Coast Groundfish Fishery 2023-2024 Harvest Specifications and Management Measures, April 2022, (see pp. 7-3 to 7-5), <https://www.pcouncil.org/documents/2022/03/f-4-attachment-2-2023-2024-management-measure-analytical-document-electronic-only.pdf/>.

the average estimated angler trips from 2017-2019, and 2021 for the “bottomfish” trip type (which includes federal groundfish, Pacific halibut, and some state-managed species), a baseline of fishing effort in estimated angler trips by mode and Management Area was generated (Table 1). Based on the proposed reductions in fishing season length (open fishing days) for the boat-based groundfish fishery for 2023 and 2024, estimated effort in angler trips is also expected to decrease but may be partially offset by the decoupling of state-managed species (Table 2).

Table 1. Fishing Trips by Mode and Port Area: Baseline

Management Area	PC	PR	MM	All Modes Total
Northern	3,632	21,340	9,712	34,684
Mendocino	9,351	9,232	1,159	19,741
San Francisco	41,886	32,314	11,167	85,367
Central	47,388	47,259	9,797	104,444
Channel	69,987	17,050	4,172	91,208
South	316,121	63,766	35,005	414,891
Totals	488,364	190,960	71,012	750,336

Source: CDFW Marine Logs System

PC = Private Charter, PR = Private Boat, MM = Man-Made

Beach/Bank fishing is not included as a trip type as data cannot differentiate between bottomfish trips or other targeted species trips.

Table 2. Fishing Trips by Mode and Port Area: Proposed 2023-24 Season Structures

Management Area	PC	PR	MM*	All Modes Total	% Loss by Port**
Northern	3,347	17,871	9,712	30,930	-11%
Mendocino	8,901	8,668	1,159	18,727	-5%
San Francisco	38,898	29,314	11,167	79,380	-7%
Central	42,303	42,527	9,797	94,627	-9%
Channel	64,395	15,842	4,172	84,409	-7%
South	291,214	56,729	35,005	382,947	-8%
Totals	449,057	170,951	71,012	691,019	-8%

Source: CDFW Marine Logs System

PC = Private Charter, PR = Private Boat, MM = Man-Made

Beach/Bank fishing is not included as a trip type as data cannot differentiate between bottomfish trips or other targeted species trips.

*MM remain the same across alternatives since the season is open year-round for shore and man-made modes. Changes in values for PR and PC reflect the changes in season length across alternatives.

**Percent estimated loss for all modes combined by port area.

While it is expected that decreases in groundfish fishing effort will occur in all management areas during an offshore-only fishery (waters seaward of the 50 fm depth contour) compared to the baseline, the extent of decrease cannot be quantified as the model cannot parse estimates of angler trips into depth bins. Additionally, any changes to angler effort in response to the proposed new all-depth fishery opportunities cannot be parsed into depth bins, nor can opportunities for other species be parsed out from the bottomfish trip type. Shifts between fishing modes may moderate impacts of changes in depth restrictions, but bottomfish trips are still estimated to be reduced substantially.

Commercial Passenger Fishing Vessels (CPFV)

The Department has data on CPFVs that provide chartered trips that target rockfish or lingcod. A stable majority of over 60 percent of CPFVs reported trips that target rockfish or lingcod over recent years. CPFVs may experience an increase in demand for trips as fishery participants shift from private boats to CPFVs to reach further offshore areas more easily. However, any increase in CPFV effort is unlikely to compensate for the loss of private boat modes, especially in the more northern parts of the state where CPFVs are generally smaller vessels than in Southern California. Even though an increase in CPFV effort may occur in some areas of the state, it is unclear how changes such as longer run times to fishing grounds, changes in the species compositions of bags and the additional effort to reel in fish from deeper depths will have on the fishery. Higher fuel costs and other drawbacks associated with accessing offshore fishing grounds may also result in unknown shifts in effort to other fisheries such as Pacific halibut, salmon, scorpionfish, highly migratory species, coastal pelagic species, California sheephead, California halibut, striped bass, kelp bass and others as anglers search for other available fishing targets. In the short-term, shorter seasons and the various drawbacks associated with fishing in deeper waters may result in significant decreases in private boat and CPFV effort as a whole.

Table 3. CPFVs that Reported Targeting Rockfish or Lingcod by Port: 2011- 2020

Port	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Crescent City	2	2	1	3	5	4	4	4	3	4
Eureka	9	9	11	17	13	12	13	14	16	15
Shelter Cove	2	2	3	3	3	3	2	3	2	1
Fort Bragg	6	6	6	8	10	9	9	10	9	7
Bodega	8	9	10	16	16	10	13	14	10	18
San Francisco	27	36	42	61	53	48	42	43	36	50
Half Moon Bay	11	11	11	12	12	13	11	10	7	8
Santa Cruz	6	7	9	8	8	5	7	6	7	6
Monterey	9	8	9	10	7	9	10	7	6	6
Morro Bay	14	11	10	14	15	17	10	11	10	10
Santa Barbara	27	26	30	33	31	30	33	28	31	23
Los Angeles	60	59	63	76	78	73	73	74	68	77
San Diego	47	55	55	75	76	74	62	76	82	84
Total	228	241	260	336	327	307	289	300	287	309

Source: CDFW Marine Logs System. Registered CPFVs that submitted logs. Port area often encompasses more than one individual port.

Throughout the development of the proposed regulations in coordination with federal agencies, consideration was given to limit the potential for negative economic impacts

that could otherwise occur as a result of the need to reduce mortality for quillback and copper rockfishes and stay within harvest guidelines for yelloweye rockfish and cowcod. Short-term and long-term impacts are expected to occur as the sportfish-related sectors adjust to new regulations and fishery operations. Reductions in groundfish angler days can translate to income and job losses for CPFV operators and crew as well as other sportfishing and travel-related businesses. At the same time, shifts in angler preferences for other target species could provide growth in opportunities for anglers and sportfishing-related businesses throughout port localities and the state.

A. ESTIMATED PRIVATE SECTOR COSTS IMPACTS

1. h. None of the above (explain below) *If box 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

The proposed regulations conform state regulations for federal groundfish species to the recently issued federal regulations establishing harvest limits, season dates, depth constraints and other management measures for federal groundfish. The proposed regulations also decouple regulations for state-managed groundfish species (California sheephead and ocean whitefish) from those for federal groundfish. Federal regulatory bodies have performed the socioeconomic impact assessment to inform and refine recommendations to the states. (<https://www.pcouncil.org/documents/2022/03/f-4-supplemental-attachment-3-preliminary-socioeconomic-analyses-for-the-2023-2024-harvest-specifications-and-management-measures.pdf/>)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact. No nondiscretionary costs, or savings are anticipated for local agencies as a result of this regulation change.

B. FISCAL EFFECT ON STATE GOVERNMENT

Answer: 3. No fiscal impact.

No additional nondiscretionary costs, or savings are anticipated for State agencies as a result of this regulation change. The Department law enforcement costs are not anticipated to change from the existing level of monitoring and enforcement in the affected areas in the current fiscal year or in the next two fiscal years.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact.

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Melissa Miller-Henson

Melissa.Miller-Henson@fgc.ca.gov

Executive Director

California Department of Fish and Wildlife

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Payment Events**Status****Timestamps**

Big Changes To Sport Groundfish Regulations Coming In 2023

July 28, 2022



Significant changes to California's groundfish sport fishing regulations are expected starting next year, in response to recent scientific information suggesting some nearshore groundfish species are in decline. To reduce pressure on these stocks, fishing seasons will be shorter in nearshore waters, but new opportunities in deeper water are anticipated.

The upcoming changes were developed by the Pacific Fishery Management Council (PFMC) over the past year and reflect outcomes of a public decision-making process where the California Department of Fish and Wildlife (CDFW) worked with fishing industry representatives, non-governmental organizations, and state, federal and tribal governments to balance the need for fishing season closures in nearshore waters with the needs of these communities and industries. The PFMC approved the recommendations for 2023 and 2024 at its June meeting.

Based on these recommendations, the National Marine Fisheries Service has begun the process of amending federal regulations, which are expected to take effect in January 2023. The California Fish and Game Commission is considering the same changes to ocean sport fishing regulations for state waters.

California's sport groundfish regulations divide the state into five "Groundfish Management Areas" – in which the fishing seasons, Rockfish Conservation Areas or depth constraints, and bag limits may differ. In 2022, nearshore groundfish fishing season lengths ranged from eight to 10 months, but in 2023, they are expected to shrink to not more than five and a half months in all areas.

Within the 10-fish daily combined rockfish, cabezon and greenling bag limit, the sub-bag limits of one fish each for quillback and copper rockfish, and four fish for vermilion rockfish will continue in 2023. These sub-bag limits have been in effect since January 2022 and were necessary because new information in 2021 indicated severe declines in the populations of quillback and copper rockfish off California, and recreational vermilion rockfish catch continued to be greater than sustainable harvest limits.

Both the sub-bag limits and shortened fishing seasons are expected to achieve necessary reductions in copper, vermilion and quillback rockfish catch.

While groundfish fishing seasons will be shorter for nearshore waters and some bag limits are reduced, new opportunities to fish in deeper water beginning in 2023 will allow anglers to target healthy populations of shelf and slope rockfish in deeper waters, like schooling mid-water widow and yellowtail rockfish, or bottom-dwelling blackgill rockfish. Additionally, the sport fishing seasons for some other federally managed groundfish species like sablefish (sometimes called "black cod" or "butterfish") will be open year-round without depth constraints. Access to these previously closed depths means new experiences for anglers as they explore new habitats, new fishing locations, new target species, and new gear configurations to assemble and deploy.

"Next year is expected to bring a momentous shift in the sport groundfish fishery as all but one of the overfished shelf species that drove management decisions for the better part of the past two decades are now healthy," said CDFW Environmental Program Manager Marci Yaremko. "While concerns for quillback and copper rockfish will impact the nearshore fishery in the coming years, there are also a number of new opportunities for anglers, and CDFW looks forward to supporting their development."

To stay informed of in-season regulatory changes, please call the Recreational Groundfish Hotline at (831) 649-2801 or visit CDFW's [summary of recreational groundfish fishing regulations](#).

STAFF SUMMARY FOR DECEMBER 15-16, 2021*For background purposes only***21. COMMERCIAL KELP AND OTHER AQUATIC PLANTS****Today's Item**Information ☐Action ☒

Consider authorizing publication of notice of intent to amend regulations for commercial harvest of kelp and other aquatic plants.

Summary of Previous/Future Actions

- | | |
|--|--|
| • MRC received updates on commercial kelp and algae harvest management review | 2015-2019; MRC, various |
| • TC discussed recommendations, updates, and tribal interests for kelp and algae harvest regulations | 2019-2021; TC, various |
| • MRC received DFW presentation of draft regulations; MRC recommended additional outreach | Mar 17, 2020; MRC, Santa Rosa and Webinar/Teleconference |
| • DFW proposed forming stakeholder working groups, starting with bull kelp | Nov 10, 2020; MRC, Webinar/Teleconference |
| • MRC received DFW updates on bull kelp working group meetings | Mar 16, 2021; MRC, Webinar/Teleconference |
| • MRC received and discussed updates, and developed recommendation | Jul 21, 2021; MRC, Webinar/Teleconference |
| • FGC received and approved MRC recommendation, with an additional option | Aug 18, 2021; Webinar/Teleconference |
| • TC received DFW update on proposed regulations | Dec 14, 2021; TC, Webinar/Teleconference |
| • Today's notice hearing | Dec 15-16, 2021; Webinar/Teleconference |
| • Discussion and adoption hearing | Feb 16-17, 2022; Sacramento |

Background

Beginning in 2014, changing oceanographic and ecological conditions caused bull kelp (*Nereocystis*) in Mendocino and Sonoma counties to decline dramatically outside of the range of normal variability. From 2014 through the fourth quarter of 2020, the maximum annual bull kelp canopy area has remained below the 1984-2013 historical average. Data from 2014 through the fourth quarter of 2020 reflects a 92% decline in area compared to the mean annual canopy maximum for 1984 to 2013. While the potential impacts of commercial harvest on bull kelp reproductive potential are unknown, especially at the small scale at which harvest occurs in California, a precautionary approach to management of the resource is warranted to protect the remaining bull kelp populations during recovery. Such precaution is consistent with the regulatory actions taken by FGC in response to other dramatic species declines and the statewide collaborative efforts underway to support restoration and recovery.

STAFF SUMMARY FOR DECEMBER 15-16, 2021*For background purposes only*

In Aug 2021, FGC approved an MRC recommendation to support a rulemaking to constrain commercial harvest of bull kelp in Sonoma, Mendocino, Humboldt and Del Norte counties on a limited-term basis (three to five years) as recommended by DFW (see Exhibit 1 for background), with one addition: While MRC recommended a harvest closure in Sonoma and Mendocino counties, FGC requested that DFW incorporate an option for a small harvest allowance in a range of 1-2,000 pounds for both counties combined. FGC added the harvest option in response to public testimony reporting observed bull kelp recovery in early 2021 and requesting additional discussions regarding level of harvest once data were available and analyzed.

The proposed regulations include:

- an option for FGC to select an annual limit (1-2,000 pounds) or a closure of commercial bull kelp harvest in Mendocino and Sonoma counties;
- an annual limit (8,000 pounds) of commercial bull kelp harvest in Del Norte and Humboldt counties;
- an option for FGC to consider a temporary closure of the three lease-only administrative kelp beds in Mendocino, Humboldt, and Del Norte counties, either by designating the beds as closed in regulation or by imposing a non-regulatory hiatus on new lease applications;
- more detailed bull kelp harvest tracking and improved harvest reporting tools; and
- a sunset date for the limits, closure, and reporting requirements, with an option for FGC to select between three to five years.

In addition, the proposal includes four administrative or non-substantive types of changes:

- update and amend the harvest application form and the commercial kelp harvester's monthly report form;
- add a new edible seaweed/agarweed aquatic plant harvester's monthly report form and a release of property form;
- add new Section 705.1 to house forms related to commercial kelp harvesting; and
- clarifications to regulatory language and correction of typographical errors.

The proposed sunset date of three to five years for the commercial bull kelp harvest restrictions proposed for Del Norte, Humboldt, Mendocino, and Sonoma counties would allow time for DFW, tribes, industry, and interested stakeholders to collaboratively develop, and FGC to potentially adopt, a kelp restoration and management plan which would include a comprehensive management framework for bull kelp and giant kelp (*Macrocystis*). A future rulemaking would be required to implement the plan.

At the Feb 2022 adoption hearing, after it has received additional data and public testimony, FGC is expected to select among options for: (1) Sonoma and Mendocino counties (closure or 1-2,000 pound quota), (2) regulatory or administrative closure of the three lease-only kelp beds, and (3) a sunset date of three to five years.

STAFF SUMMARY FOR DECEMBER 15-16, 2021*For background purposes only***Significant Public Comments**

An enthnocologist provided photo documentation of observed bull kelp resurgence along the Mendocino and northern Sonoma county coastlines (Exhibit 6).

Recommendation

FGC staff: Authorize publication of a notice of intent to adopt regulations described in the initial statement of reasons (ISOR), consistent with DFW's recommendation.

Committee: Support proposed regulatory measures for commercial bull kelp harvest as recommended by DFW, including a closure sunset date of between three and five years.

DFW: Authorize publication of a notice of intent to adopt regulations described in the ISOR (Exhibit 3).

Exhibits

1. Staff summary from Jul 17, 2021 MRC meeting, Agenda Item 5 (for background purposes only)
2. DFW memo transmitting ISOR, received Dec 7, 2021
3. Draft ISOR and proposed regulatory language, received Dec 7, 2021
4. Draft economic and fiscal impact statement (STD. 399)
5. DFW presentation
6. Email from Jeanine Pfeiffer, received Sep 29, 2021

Motion

Moved by _____ and seconded by _____ that the Commission authorizes publication of a notice of its intent to amend sections 165 and 165.5 and Appendix A, and add Section 705.1, related to the commercial harvest of kelp and other aquatic plants.

STAFF SUMMARY FOR FEBRUARY 16-17, 2022*For background purposes only***8. COMMERCIAL KELP AND OTHER AQUATIC PLANTS****Today's Item**Information ☐Action ☒

Discuss and consider adopting regulations for commercial harvest of kelp and other aquatic plants.

Summary of Previous/Future Actions

- | | |
|--|--|
| • MRC received updates on commercial kelp and algae harvest management review | 2015-2019; MRC, various |
| • TC discussed recommendations, updates, and tribal interests for kelp and algae harvest regulations | 2019-2021; TC, various |
| • MRC received DFW updates on bull kelp, stakeholder working group meetings, and recommendation | 2020-2021; MRC, various |
| • FGC approved MRC recommendation with an additional option | Aug 18, 2021; Webinar/Teleconference |
| • Notice hearing | Dec 15-16, 2021; Webinar/Teleconference |
| • Today's discussion and adoption hearing | Feb 16-17, 2022; Webinar/Teleconference |

Background

Beginning in 2014, changing oceanographic and ecological conditions caused bull kelp (*Nereocystis*) in Mendocino and Sonoma counties to decline dramatically outside of the range of normal variability, leading to persisting ecosystem collapse. From 2014 through 2020, the maximum annual bull kelp canopy area across northern California was documented at below the 1984-2013 historical average. Management options for commercial harvest of bull kelp were developed by DFW through a multi-year process with input from MRC, TC, a DFW bull kelp working group, and through government-to-government tribal consultation between DFW and InterTribal Sinkyone Wilderness Council (Sinkyone) member tribes. In Aug 2021, FGC approved an MRC recommendation to schedule a rulemaking and included options for limited harvest or closure in Mendocino and Sonoma counties, pending availability of 2021 bull kelp canopy data. See exhibits 1 and 2 for additional background information.

The proposed regulations include:

- an option for FGC to select a closure or an annual limit (1-2,000 pounds) of commercial bull kelp harvest in Mendocino and Sonoma counties combined;
- an annual limit (8,000 pounds) of commercial bull kelp harvest in Del Norte and Humboldt counties combined;
- an option for FGC to consider a temporary closure of the three, lease-only, administrative kelp beds in Mendocino, Humboldt, and Del Norte counties by imposing a

STAFF SUMMARY FOR FEBRUARY 16-17, 2022*For background purposes only*

non-regulatory hiatus on new lease applications or by designating the beds as closed in regulation;

- a requirement for weekly bull kelp harvest reporting via email to DFW in counties with an annual limit;
- revised, repealed, or new forms to support more detailed bull kelp harvest tracking and improved harvest reporting tools;
- a sunset date for the limits, closures, and weekly reporting requirements, with an option for FGC to select between three to five years; and
- other administrative and non-substantive changes.

See exhibits 3 and 4 for additional information about the proposed regulations.

Tribal Input

Since 2018, FGC staff participated as observers during multiple government-to-government consultation sessions between DFW and Sinkyone member tribes. Sinkyone member tribes submitted and publicly posted a tribal proposal (dated Jul 14, 2021) to DFW, and formal comments to MRC (dated Aug 18, 2021), describing their concerns over commercial harvest in their ancestral waters, and expressing their collective preference for a precautionary 10-year closure to allow for ecosystem recovery. The tribes cite their respective traditional ecological knowledges, understanding and practice, and advise utilization of the precautionary principle here in the context of climate and biodiversity crises.

Updates since the Notice Hearing (exhibits 5-6)

In its pre-adoption statement of reasons (PSOR, Exhibit 6), DFW provides the updated satellite imagery data through the third quarter of 2021, as presented at the Dec 2021 notice hearing. Fourth quarter data was not available at the time of PSOR preparation. The updated 2021 data for Mendocino and Sonoma counties indicates a small increase in kelp canopy; however, there is still a 90% or more reduction in kelp canopy compared to the mean annual canopy maximum for 1984 – 2013. The updated 2021 kelp canopy data for Del Norte and Humboldt counties show a 5% decline and 20% increase in kelp canopy, respectively, compared to the mean annual maximum canopy area for 1984 – 2013. In the PSOR, DFW noted edits to three of the four forms included in the ISOR (113, 113A and 658) to correct typographical and spelling errors and make other minor changes. Copies of original, proposed revised, and proposed new forms are provided in Exhibit 7.

Today's Action

At today's adoption hearing, FGC will consider and is expected to select among options for: (1) Sonoma and Mendocino counties (closure or quota between 1-2,000 pounds combined); (2) administrative or regulatory closure of the three lease-only kelp beds; and (3) a sunset date of three to five years. FGC and DFW staff have heard perspectives from commercial harvesters, tribes, academic experts, advocacy groups, and other stakeholders in preparing recommendations for this resource, and FGC should be aware that a consensus approach could not be identified to the satisfaction of all sides in the matter, either in interpretation of available scientific information or appropriate management response.

STAFF SUMMARY FOR FEBRUARY 16-17, 2022*For background purposes only**FGC Staff Analysis*

FGC staff recognizes that, while bull kelp recovery has been observed in some areas of the north coast in 2021, the levels still fall far below the historic average; therefore, the observations do not provide sufficient information to indicate or predict that a recovery is underway. The precautionary approach built into the proposed regulations is reflective of the sustained depleted conditions.

Staff concurs with DFW's assessment that limited-term closure of harvest in Sonoma and Mendocino counties represents the most precautionary approach, amid unprecedented ecosystem conditions and uncertainty; this approach is consistent with other measures taken by the state related to bull kelp loss and would align with recommendations of Sinkyone member tribes. However, objective scientific research has yet to evaluate whether commercial harvest of bull kelp, at the levels and via the methods employed in northern California, is likely to have an impact on the current bull kelp biomass or its ability to reproduce and recover. The recommended limited-term closure should not be interpreted to implicate the current, limited, hand-harvest of kelp relative to the extent of the recent decline of the bull kelp ecosystem.

Enacting a limited closure (e.g., revisit after three years) would also accommodate the development of a kelp recovery and management plan (KRMP), which may provide more detailed consideration of potential impacts by commercial kelp harvest and development of more refined harvest and management tools than are currently available. Many potential management tools have been suggested by members of the bull kelp working group, and other kelp harvesters and organizations; these suggestions warrant consideration and would be better explored within the KRMP process.

Significant Public Comments

Five kelp harvesters commented individually, 17 kelp harvesters commented jointly, and one University of California lecturer commented individually. Major themes recurring throughout the comments include:

- DFW did not accurately assess the adverse economic impacts of the proposed regulations and did not consult with harvesters on those impacts which include near- and long-term economic burden on small businesses, and consumer shift to kelp products harvested in other countries;
- DFW did not consider or include harvester input in key documents;
- kelp is already experiencing recovery;
- the manner and amount of take in question is unlikely to have any impact on kelp recovery; there is no evidence of its impact;
- the potential closure, harvest limits, and sunset dates are arbitrary and not based on the best available science; any closure should have clear benchmarks for re-opening.

A table summarizing comments by letter is provided in Exhibit 10; copies of individual comments are provided in Exhibit 11.

STAFF SUMMARY FOR FEBRUARY 16-17, 2022*For background purposes only***Recommendation**

FGC staff: Adopt the proposed regulations as described in the ISOR (Exhibit 4) and revised in the PSOR (Exhibit 6) after selecting options considering the body of scientific, tribal, industry, and stakeholder input, policy considerations and goals, and DFW recommendations. Establish a sunset date of three years (Option 3), a timeframe anticipated to encompass DFW development of a KRMP. Request that DFW provide updates to MRC and TC on progress in developing a KRMP in collaboration with agencies, academics, industry, non-governmental organizations, other stakeholders, and tribes.

DFW: Adopt the proposed regulations as described in the ISOR (Exhibit 4) and revised in the PSOR (Exhibit 6), selecting a closure of commercial bull kelp harvest in Mendocino and Sonoma counties (Option 1A); closure of the three lease-only administrative kelp beds in Mendocino, Humboldt, and Del Norte counties via regulatory action (Option 2B); and the FGC preferred sunset date (Option 3).

Exhibits

1. Background document: Staff summary from Jul 17, 2021 MRC meeting, Item 5
2. Background document: Staff summary from Dec 15-16, 2021 FGC meeting, Item 21
3. DFW memo transmitting ISOR, received Dec 7, 2021
4. ISOR and proposed regulatory language, received Dec 7, 2021
5. DFW memo transmitting PSOR, received Jan 26, 2022
6. PSOR and revised proposed regulatory language, received Jan 26, 2022
7. Forms: Current forms proposed to revise or repeal, proposed revised forms, and proposed new harvesting and release of property forms
8. Economic and fiscal impact statement (STD. 399)
9. DFW presentation
10. Table summarizing public comments
11. Individual comments from kelp harvesters and UC lecturer, received Jan 31-Feb 3, 2022

Motion

Moved by _____ and seconded by _____ that the Commission adopts the amendments to sections 165 and 165.5, addition of Section 705.1, repeal of forms FG 113 and 114 from Appendix A, and incorporation by reference of revised forms DFW 658, DFW 113 and new forms DFW 113A and 1108 as described in the initial statement of reasons and revised in the pre-adoption statement of reasons, selecting the three following options:

Option 1. For Mendocino and Sonoma counties:

A. A closure of commercial bull kelp harvest in Mendocino and Sonoma counties.

OR

B. An annual limit in the amount of _____ [select an amount within the range of 1-2,000] pounds commercial bull kelp harvest in Mendocino and Sonoma counties

STAFF SUMMARY FOR FEBRUARY 16-17, 2022

For background purposes only

Option 2. A temporary closure of the three lease-only administrative kelp beds in Mendocino, Humboldt, and Del Norte counties via

A. Imposing a non-regulatory hiatus on new lease applications.

OR

B. Designating the beds as closed in regulation.

Option 3. A sunset date for the bull kelp limits and/or closure, and reporting requirements of _____ [select a time period within the range of 3-5 years].

Commissioners
Samantha Murray, President
La Jolla
Erika Zavaleta, Vice President
Santa Cruz
Jacque Hostler-Carmesin, Member
McKinleyville
Eric Sklar, Member
Saint Helena
Vacant, Member

STATE OF CALIFORNIA
Gavin Newsom, Governor

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

Melissa Miller-Henson
Executive Director
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fgc@fgc.ca.gov
www.fgc.ca.gov

July 14, 2022

TO ALL INTERESTED AND AFFECTED PARTIES:

This is to provide you with a 15-day continuation notice concerning the proposed regulations for the commercial harvest of kelp and other aquatic plants, published in the California Regulatory Notice Register on December 31, 2021, Notice No. Z2021-1221-07, and adopted by the California Fish and Game Commission (Commission) on February 16, 2022.

This 15-day notice provides notice of revisions to the proposed regulatory language in sections 165, 165.5, and 705.1, and forms DFW 658 and DFW 1108, Title 14, California Code of Regulations (CCR). No revisions are being made to forms DFW 113 and DFW 113A, Title 14, CCR.

Because these regulations are different from, yet sufficiently related to, the originally proposed regulations, the Administrative Procedure Act requires that we make these changes available to you for a 15-day written comment period.

The proposed changes to the regulations are clearly indicated on the attached revised proposed regulatory text, and forms DFW 658 and DFW 1108 as follows: additions of newly proposed text are shown in double underline; originally proposed text that is now proposed for deletion is shown in ~~single underline double strikeout~~; originally proposed text not affected by the changes described in this 15-day notice is indicated in single underline.

This 15-day notice also provides notice of the incorporation by reference of maps of fishing blocks, also known as department origin blocks.

Please refer to the attached description of the specific edits to the regulatory text and forms.

Availability of Documents:

Documents relating to the proposed changes are available for inspection on the Commission's website at <https://fgc.ca.gov/Regulations/2021-New-and-Proposed> and at the Commission's office at 715 P Street, 16th floor, Sacramento, California, 95814, Monday through Friday, except holidays between the hours of 8:00 a.m. and 5:00 p.m. To help maintain the safety of Commission staff and the public during the Covid-19 pandemic, in-person access to the Commission office is limited. Any member of the public wishing to visit the Commission office

Letter to Interested and Affected Parties

July 14, 2022

Page 2 of 2

is requested to send an email to fgc@fgc.ca.gov describing the reason for your visit and your desired date and time.

Comments on the revisions to the proposed regulatory language, proposed forms, and documents incorporated by reference must be emailed to fgc@fgc.ca.gov or mailed to Melissa Miller-Henson, Executive Director, California Fish and Game Commission, P.O. Box 944209, Sacramento, California, 94244-2090, from July 14 to 30, 2022.

Sincerely,



Sherrie Fonbuena
Associate Governmental Program Analyst

Attachments

Description of Specific Edits to the Regulatory Text and Forms

Subsection 165(a)(1)(B): “incorporated by reference in Section 705.1” is added. This amendment informs the public where to find the Kelp Harvesting License and Drying Application (DFW 658).

Subsection 165(a)(1)(C): Text is added that states administrative kelp beds are defined in Section 165.5 and fishing block maps are incorporated by reference in 705.1. This amendment informs the public where to find the legal description of administrative kelp beds and maps of fishing blocks.

Subsection 165(b)(1): “the” is added and a comma is added. These amendments are made to correct grammar and punctuation.

Subsection 165(b)(3)(B): “; see Section 705.1.” is replaced with “incorporated by reference in Section 705.1.” This amendment informs the public where to find the Commercial Kelp Harvester’s Monthly Report form DFW 113.

Subsection 165(b)(3)(C): “; see Section 705.1.” is replaced with “incorporated by reference in Section 705.1.” This amendment informs the public where to find the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester’s Monthly Report form DFW 113A.

Subsection 165(b)(8): “of these regulations” is deleted. This amendment deletes unnecessary regulatory language.

Subsection 165(c)(6): “; see subsection (b)(2) and Section 705.1.” is replaced with “incorporated by reference in Section 705.1.” This amendment informs the public where to find the Commercial Kelp Harvester’s Monthly Report form DFW 113.

Subsection 165(c)(9): The Commission adopted a three-year sunset date so “[date will be three to five years from the effective date of this regulation amendment]” is replaced with “[OAL will insert date three years after effective date of these regulations]”. This amendment is necessary to inform the public of the option adopted by the Commission and directs the Office of Administrative Law to insert the exact date into the regulatory text before filing the regulations with the Secretary of State. “, unless a later enacted amendment deletes or extends that date” is removed. This amendment deletes unnecessary informational language. This language is unnecessary as the Fish and Game Commission may consider regulation amendments at any time through the regulatory process.

Subsection 165(c)(9)(A): Informational text that describes Option 1 and Option 2 is deleted. This text was informational only and is not a part of the regulatory language. The Commission adopted Option 1; therefore, regulatory text for originally proposed Option 2 is deleted. These amendments are necessary to inform the public of the option adopted by the Commission.

Subsection 165(c)(9)(B)1.: “If the fishery is reopened permittees may be limited to equally allotted amounts to preclude exceeding the quota, as may be announced.” is replaced with “If the annual overall fishery quota has not been met, the fishery will reopen and commercial kelp harvester license holders shall be limited to allotted harvest amounts to preclude exceeding the annual overall fishery quota and the annual license quota specified in subsection 165(e)(2)(A).” These changes are necessary to define when the fishery will reopen or not reopen and to clarify that neither the annual overall fishery quota nor the annual license quota may be exceeded. Changing “permittees” to “commercial kelp harvester license holders” is necessary for consistency with other subsections in Section 165. “as may be announced” is replaced with revised text added in new subsection 165(c)(9)(B)1.b.

Subsection 165(c)(9)(B)1.a. is added to describe the mathematical formula to calculate the fishery allotments if the fishery is temporarily closed and reopened: ‘Allotted harvest amounts will be calculated as the difference between the annual overall fishery quota and bull kelp harvest from Humboldt and Del Norte counties reported in the monthly harvest reports required pursuant to subsection 165(b)(3) and the weekly harvest reports required pursuant to subsection 165(c)(9)(C), divided by the number of licensed harvesters who indicated “Bull Kelp (Human Consumption)” on their Kelp Harvesting License and Drying Application (DFW 658) and those who have not indicated “Bull Kelp (Human Consumption)” on their Kelp Harvesting License and Drying Application (DFW 658) but have reported take of bull kelp in Del Norte and/or Humboldt counties on their Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester’s Monthly Reports (DFW113A) in one or more months during the current annual fishery quota period.’

Subsection 165(c)(9)(B)1.b. is added to clarify which harvesters will be allotted amounts; to specify that a harvester shall not be allotted an amount that would result in exceeding their annual license quota specified in subsection 165(e)(2)(A); and to clarify Department notification to harvesters affected by the allotment: ‘Licensed harvesters who indicated “Bull Kelp (Human Consumption)” on their Kelp Harvesting License and Drying Application (DFW 658) and licensed harvesters who did not indicate “Bull Kelp (Human Consumption)” on their Kelp Harvesting License and Drying Application (DFW 658) but have reported take of bull kelp in Del Norte and/or Humboldt counties on their Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester’s Monthly Reports (DFW 113A) in one or more months during the current annual fishery quota period shall be allotted the amount calculated in subsection 165(c)(9)(B)1.a. If the allotment exceeds the amount remaining in a licensed harvester’s annual license quota specified in subsection 165(e)(2)(A), the licensed harvester’s allotment shall be decreased to the amount remaining in the licensed harvester’s annual license quota and the amount of the allotment in excess of the licensed harvester’s annual license quota shall be divided equally between the remaining licensed harvester(s) who have not exceeded their annual license quota specified in subsection 165(e)(2)(A). Prior to reopening the fishery, the department shall notify licensed harvesters via email of their allotted amount.’

Subsection 165(c)(9)(B)2.: “Kelp Harvester License” is replaced with “kelp harvester license” to correct a capitalization error. “restrictions triggered by the quota” is replaced with “a temporary closure pursuant to subsection 165(c)(9)(B)1., allotments pursuant to subsections 165(c)(9)(B)1. through 165(c)(9)(B)1.b., or an annual closure triggered by the annual overall fishery quota”. This amendment is necessary to define the restrictions that will be announced prior to implementation. In addition, in the parenthetical note at the end of the subsection, “progress toward the quota” is replaced with “progress toward the annual overall fishery quota”. This amendment is necessary to clarify the quota to which the Department status report pertains.

Subsection 165(c)(9)(B)3.: “departments” is replaced with “department’s”. This amendment is necessary to correct a spelling error. In addition, “as official notice” is changed to “official notice” to remove an extra word.

Subsection 165(c)(9)(B)4.: “any established quota” is replaced with “the annual overall fishery quota or allotments”. This change is necessary to clarify that all excess take must be forfeited. “incorporated by reference in 705.1” is added. This amendment informs the public where to find the Release of Property form DFW 1108. “The excess harvest shall be disposed of or used in a manner determined by the department.” is replaced with “The excess harvest shall be used, sold, disposed of, or donated to a non-profit institution. If sold, the proceeds of all such sales shall be paid into the Fish and Game Preservation Fund.” This amendment is necessary to clarify “manner determined by the department” and for consistency with form DFW 1108.

Subsection 165(c)(9)(C): Informational text that describes Option 1 and Option 2 is deleted. This text was informational only and is not a part of the regulatory language. Option 1 was selected; therefore, regulatory text for originally proposed Option 2 is deleted. These amendments are necessary to inform the public of the option adopted by the Commission.

Subsection 165(c)(9)(C)2.: “required” is added; “harvest” is deleted. These amendments are necessary to clarify the regulations.

Subsection 165(c)(9)(C)3.: “Harvest Reporting” is changed to “Harvest reporting” to correct a capitalization error. “to include” is replaced with “which includes” to clarify the regulations.

Subsection 165(d)(1)(E): “of these regulations” is deleted. This amendment deletes unnecessary regulatory language.

Former subsection 165(d)(2)(F): the subsection numbers “2” and “3” are deleted. These amendments are necessary to remove numbers that were not deleted previously with other regulatory text.

Former subsection 165(d)(2)(H): The period at the end of the sentence is deleted. This amendment is necessary to remove a period that was not deleted previously with other regulatory text.

Subsection 165(d)(2): “, see subsection (b)(3) and Section 705.1.” is replaced with “incorporated by reference in Section 705.1.” This amendment informs the public where to find the Commercial Kelp Harvester's Monthly Report form DFW 113A.

Subsection 165(e)(3): “of these regulations” is deleted. This amendment deletes unnecessary regulatory language.

Former subsection 165(e)(4): The period at the end of the sentence is deleted. This amendment is necessary to remove an extra period that was not deleted previously with other regulatory text.

Subsection 165(e)(4): “, see subsection (b)(3) and Section 705.1.” is replaced with “incorporated by reference in Section 705.1.” This amendment informs the public where to find the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report form DFW 113A.

Subsection 165.5(b)(1): “designated bed” is changed to “designated kelp bed”. This amendment is necessary to clarify the regulatory language.

Subsection 165.5(c): Informational text describing the option is deleted. This language was informational only and is not a part of the regulatory language. In the first sentence, “[date will be three to five years from the effective date of this subsection]” is replaced with “[OAL will insert date three years after the effective date of these regulations]”. In the second sentence “[date will be the day after the date in the first sentence of this subsection]” is replaced with “[OAL will insert date one day after three years from effective date of these regulations]”. These amendments are necessary to inform the public of the option adopted by the Commission and direct the Office of Administrative Law to insert the exact dates into the regulatory text before filing the regulations with the Secretary of State. In both the first and second sentences, “unless a later enacted amendment deletes or extends that date” is deleted. This amendment deletes unnecessary informational language. This language is unnecessary as the Fish and Game Commission may consider regulation amendments at any time through the regulatory process.

Subsection 705.1(a): The format of the regulatory text is revised from a table format to paragraph format. This amendment is necessary for compliance with accessibility laws including California Government Code Sections 7405 and 11135, and the Web Content Accessibility Guidelines.

Subsection 705.1(c): the date of the Release of Property form is changed from “11/01/21” to “07/01/22” to accurately reflect the most recent version of the form.

Subsection 705.1(d) is added, incorporating by reference fishing block maps. While fishing blocks, also known as “department origin blocks”, have been in use by the Department and commercial fishers for nearly 90 years, they have not previously been codified in statute or regulation. This amendment will codify the fishing blocks by incorporating fishing block maps by reference in Section 705.1

Section 705.1 authority and reference citations: 713 is removed from the list of authority citations. This is a non-substantive change. In addition, extra commas are removed in the lists of authority and reference citations for consistency with the Commission's standard rules of punctuation.

Form DFW 658: On the first page, a space is added between "OF" and "AQUATIC" in "CHECK THE BOX FOR EACH TYPE OF AQUATIC PLANT TO BE HARVESTED" to correct a typographical error. In the header on page 2, "1 of 2" is changed to "2 of 2". This change is necessary to correct a typographical error.

Form DFW 1108 – The date on the form is changed from "11/01/21" to "07/01/22" to accurately reflect the most recent version of the form. "authorize the Department to donate subject property to a non-profit institution, or if applicable, the proceeds from the sale of property to the Fish and Game Preservation Fund." is changed to "authorize the Department to use, sell, dispose of, or donate subject property to a non-profit institution. If sold, the proceeds of all such sales shall be paid into the Fish and Game Preservation Fund." This amendment is necessary for consistency with subsection 165(c)(9)(B)4. Capitalization errors are corrected.

Revised Proposed Regulatory Language

KEY

Language originally proposed to be deleted is shown in ~~strikeout~~.

Language originally proposed to be added is shown in underline.

Language originally proposed to be added but now proposed to be removed is shown in ~~underline/double-strikeout~~.

Language newly proposed to be added is shown in double-underline.

Section 165, Title 14, CCR, is amended to read:

§165. Commercial Harvesting of Kelp and Other Aquatic Plants.

- (a) General License Provisions. Pursuant to the provisions of Section 6651 of the Fish and Game Code, no kelp or other aquatic plants may be harvested for commercial purposes except under a revocable license issued by the ~~department.~~ department pursuant to this section or a marine aquaria collector's permit issued pursuant to Section 8597 of the Fish and Game Code.
- (1) ~~Who Shall be Licensed. Each person harvesting kelp and other aquatic plants for profit shall apply each year for a license on 2015 Kelp Harvesting License Application (DFW 658 Rev. 08/14) which is incorporated by reference herein. License applications and a list of laws and regulations governing the harvest of kelp and other aquatic plants (including maps depicting administrative kelp beds) are available on request from the department's Los Alamitos office at 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720. Any person harvesting kelp or other aquatic plants for commercial purposes shall first obtain a valid license for that purpose and shall have that license on their person or in their immediate possession when engaged in carrying out any activity authorized by the license.~~
- (A) Kelp harvesting licenses are valid from January 1 to December 31, inclusive, or if issued after the beginning of that term, for the remainder thereof.
- (B) Drying Permits for agar-bearing marine plants. Pursuant to Section 6653.5 of the Fish and Game Code, no person shall reduce the moisture content or otherwise dry agar-bearing marine plants harvested from waters of the state except under the authority of a Drying Permit issued by the department. To obtain a Drying Permit, the applicant must choose the Drying Permit option on the Kelp Harvesting License and Drying Application (DFW 658) incorporated by reference in Section 705.1.
- (C) License applications, informational maps depicting administrative kelp beds (defined in Section 165.5) and maps of fishing blocks (incorporated by reference in Section 705.1) for edible seaweed and agar-bearing marine algae, and Monthly Harvest Reports are available on request by contacting the department's Los Alamitos office by phone at (562) 342-7100.
- (2) Cost of License. See ~~section~~Section 6651 of the Fish and Game Code.
- (3) Where to Submit Applications. ~~Application forms~~The applicant for a Kelp Harvesting and Drying Permit shall submit the completed application, as specified in Section 705.1, together with the fee authorized by Section 6651 of the Fish and Game Code, to the address listed on the application.~~shall be submitted to the department's Los Alamitos office, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720. Pursuant to Section 700.5, license applications and authorized fees may also be submitted electronically upon the department's establishment of an online submission system.~~

- (4) License Limitation. All provisions of sections 6650-6680 of the Fish and Game Code, and sections 165 and 165.5 of the commission regulations these regulations shall become a condition of all licenses issued under this section to be fully performed by the holders thereof, their agents, servants, employees or those acting under their direction or control.
- (b) General Harvesting Provisions.
- ~~(1) Weighing of Kelp. A kelp harvester shall determine the weight of harvested kelp or other aquatic plants upon landing or delivery to the harvester's place of business. The harvester may determine the weight of harvested kelp or other aquatic plants by either direct weighing with a state certified scale or a volume conversion that has been approved by the department. If the weight is determined by a certified or licensed weighmaster, the harvester shall obtain a receipt and maintain the receipt in the landing record required under subsection (b)(3) below.~~
- ~~(2) Harvesting Records.~~
- ~~(A) Every person harvesting kelp and other aquatic plants and licensed pursuant to Section 6650 of the Fish and Game Code shall keep a record of the following:~~
- ~~1. Category of plants harvested as defined in subsections 165(c), (d) and (e).~~
 - ~~2. The wet weight of harvested kelp or other aquatic plants recorded in pounds or tons (1 ton = 2000 lb).~~
 - ~~3. Name and address of the person or firm to whom the plants are sold, unless utilized by the harvester.~~
- ~~(B) The record shall be open at all times for inspection by the department.~~
- ~~(3) Landing Records. Records of landing shall be prepared by all harvesters licensed pursuant to Section 6650 of the Fish and Game Code. Records of landing shall be made in triplicate using Kelp Harvester's Monthly Report forms FG 113 (Rev. 1/97, see Appendix A) and FG 114 (Rev. 1/07, see Appendix A).~~
- ~~(A) The landing records shall show:~~
- ~~1. The wet weight of all aquatic plants harvested in units as defined in subsection (b)(2)(A)2. above.~~
 - ~~2. Name and address of harvester.~~
 - ~~3. Department of Fish and Wildlife kelp harvester number.~~
 - ~~4. Report period, royalty rate, balance of advance deposit (applicable to leased beds), royalty rate amount due and dates of landing.~~
 - ~~5. Administrative kelp bed number and, if applicable, marine protected area where plants were harvested.~~
- ~~(B) A duplicate copy of the landing record shall be retained by a kelp harvester for a period of one year and shall be available for inspection at any time within that period by the department. A kelp harvester who harvests kelp from a marine protected area established under subsection 632(b) shall maintain a copy of the landing record on board the harvest vessel for all harvesting conducted during that harvest control period. The original and one copy of the landing record shall be submitted to the department's Accounting Services Branch at 1416 Ninth Street, Room 1215, Sacramento, CA 95814 (or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090) on or before the 10th day of each month following the month to which the landing records pertain with the specified royalty required for all kelp and other aquatic plants harvested. Landing records that are mailed shall be postmarked on or before the 10th day of each month following the month to which the landing records pertain. The landing record shall be submitted whether or not harvest occurred.~~

- ~~(C) Failure to submit the required landing records of harvest activity and royalty fees within the prescribed time limit and/or failure to retain the required landing records for the prescribed time period(s) may result in revocation or suspension (including non-renewal) of the harvester's license for a period not to exceed one year. Any revocation, suspension, or nonrenewal may be appealed to the commission.~~
- (1) Pursuant to Section 51 of the Fish and Game Code, kelp is defined as kelp or other marine aquatic plants and the seeds thereof. For the purposes of these regulations, marine aquatic plants include marine algae.
- (2) Harvesting Records. Every person harvesting kelp, other aquatic plants, and marine algae and licensed pursuant to Section 6650 of the Fish and Game Code shall keep a record of the following:
- (A) Category of harvest as defined in subsections (c), (d), and (e).
 - (B) The wet weight of harvest recorded in pounds or tons (1 ton = 2,000 lbs) wet weight.
 - (C) Month, day, and year of harvest.
 - (D) Name and address of the person or firm to whom the harvest is sold, unless utilized by the harvester.
 - (E) The record shall be available for inspection by the department.
- (3) Monthly Harvest Reports. Monthly harvest reports refer to both forms DFW 113 and DFW 113A unless otherwise described.
- (A) Monthly Harvest Reports shall be prepared by all harvesters licensed pursuant to Section 6650 of the Fish and Game Code and the harvester shall keep a record of the following:
 - 1. the harvest specified by scientific or common name, and
 - 2. the harvest's wet weight in pounds or tons (1 ton = 2,000 lbs).
 - (B) For harvest of giant (*Macrocystis*) and bull (*Nereocystis*) kelp not for human consumption, the report shall be made using the Commercial Kelp Harvester's Monthly Report form DFW 113; see incorporated by reference in Section 705.1.
 - (C) For harvest of agar-bearing marine plants and edible seaweed, including giant and bull kelp, for human consumption, the report shall be made using the Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report form DFW 113A; see incorporated by reference in Section 705.1.
 - (D) Weighing of Kelp, Other Marine Aquatic Plants, Marine Algae, Agar-bearing Plants, and Edible Seaweed. The harvester shall determine and record the weight of harvest upon landing or delivery to the harvester's place of business. The harvester may determine the wet weight of harvest by either direct weighing with a state certified scale or a volume conversion that has been approved by the department. If the weight is determined by a certified or licensed weighmaster, the harvester shall obtain a receipt and maintain the receipt with the Monthly Harvest Report.
 - (E) The Monthly Harvest Report shall be available for inspection by the department for a period of one year.
 - (F) A duplicate paper copy of the Monthly Harvest Report shall be retained by a kelp harvester for a period of one year.
 - (G) A kelp harvester who harvests kelp from a marine protected area established under subsection 632(b) shall maintain a copy of the Monthly Harvest Report on board the harvest vessel for all harvesting conducted during that harvest control period.
 - (H) Monthly Harvest Reports and royalty fees shall be submitted via paper copies or, pursuant to Section 700.5, may be submitted electronically upon the department's establishment of an online submission system. If submitting via paper copies, the original Monthly Harvest Report shall be submitted to the department's Accounting Services

Branch/Cash Receipts 715 P Street, 16th Floor, Sacramento, CA 95814 (or mailed to P.O. Box 944209, Sacramento, CA 94244-2090) on or before the 10th day of each month following the month to which the Monthly Harvest Reports pertain with the specified royalty required for all kelp and other aquatic plants harvested. Monthly Harvest Reports that are mailed shall be postmarked on or before the 10th day of each month following the month to which the Monthly Harvest Reports pertain. The Monthly Harvest Report shall be submitted whether or not harvest occurred.

- (l) Failure to submit the required Monthly Harvest Reports of harvest activity and royalty fees within the prescribed time limit and/or failure to retain the required Monthly Harvest Reports for the prescribed time period(s) may result in revocation or suspension (including non-renewal) of the harvester's license for a period not to exceed one year. Any revocation, suspension, or nonrenewal may be appealed to the commission.
- (4) No eel grass (*Zostera*) or surf grass (*Phyllospadix*) may be ~~cut or~~ cut, disturbed, or possessed.
- (5) No ~~kelp or other~~ marine aquatic plant, or marine algae may be harvested in a state marine reserve or state marine park as per subsection 632(a). Commercial harvest of ~~kelp or other kelp, marine aquatic plants, or marine algae~~ may be limited in state marine conservation areas as per subsection 632(b).
- (6) It is unlawful to cause or permit waste of any ~~kelp or other~~ kelp, marine aquatic plants, or marine algae taken in the waters of this state or to take, receive or agree to receive more ~~kelp or other kelp, marine aquatic plants, or marine algae~~ than can be used without waste or spoilage.
- (7) No person shall harvest kelp, marine aquatic plants, or edible seaweed from Tomales Bay and San Francisco Bay.
- (8) Bull kelp may not be harvested in closed or lease only administrative kelp beds as described in subsection 165.5(k) ~~of these regulations~~ unless harvest is for human consumption as specified pursuant to subsection (e)(2) of this section. Bull kelp may be harvested for other uses by the lease holder in lease only beds if a lease is granted by the commission.
- (9) Only lease holders may harvest giant and bull kelp from their leased administrative kelp bed(s) per stipulations of their lease agreement and Section 165.5.
- (c) ~~Harvesting of *Macrocystis* and *Nereocystis* (giant and bull kelp)-giant and bull kelp.~~ In this subsection, kelp means both giant and bull kelp.
- (1) A kelp harvester may harvest kelp by cutting and removing portions of attached kelp or by collecting unattached kelp.
- (2) A kelp harvester shall not cut attached kelp at a depth greater than four feet below the surface of the water at the time of cutting.
- (3) No kelp received aboard a harvesting vessel shall be allowed to escape from the vessel or be deposited into the waters of this state.
- (4) In beds north of Point Montara, San Mateo County, *Nereocystis* (bull kelp)-bull kelp may only be taken by hand harvesting. Hand harvesting includes using manually operated hand-held tools. No mechanical harvesters of any kind shall be allowed.
- (5) Between April 1 and July 31, a kelp harvester may not harvest bull kelp from a nonleased kelp bed that lies partially or totally within the boundary of the Monterey Bay National Marine Sanctuary extending from Santa Rosa Creek, San Luis Obispo County, northward to Rocky Point, Marin County. This subsection does not preclude the removal of bull kelp from beaches within the Monterey Bay National Marine Sanctuary during the seasonal closure.
- ~~(6) Prior commission approval of a kelp harvest plan is necessary before a kelp harvester may use a mechanical harvester to harvest giant kelp.~~

- (A) ~~A kelp harvest plan must identify how a mechanical harvester will be used while avoiding:~~
- ~~1. repetitive harvest from individual giant kelp plants;~~
 - ~~2. harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and~~
 - ~~3. harvest of giant kelp near sea otter rafting sites used by female sea otters with dependent pups.~~
- (B) ~~All kelp harvest plans shall also include the following:~~
- ~~1. the number of the designated bed or beds as shown in subsection 165.5(j), a description of the kelp bed or portion of the kelp bed requested and the designated number of square miles in each bed or portion thereof;~~
 - ~~2. intended use of kelp;~~
 - ~~3. amount of kelp proposed to harvest on a monthly and annual basis during the next five years;~~
 - ~~4. estimated frequency of harvesting activities for each kelp bed;~~
 - ~~5. number of harvest boats, maximum kelp holding capacity in wet tons for each boat, including the operating vessel gross tonnage and fuel tank capacity;~~
 - ~~6. harvesting methodology (harvest operation description);~~
 - ~~7. all locations (addresses) where kelp landing and weighing will take place;~~
 - ~~8. specific details of wet kelp weighing equipment and methods to be used at the landing sites for accurate reporting; and~~
 - ~~9. name, address, phone number, and license number of kelp processor and method of transporting the kelp to the processing location.~~
- (C) ~~Kelp harvest plans must be updated and submitted to the commission for approval every five years.~~
- (7) ~~In addition to the license fee, a kelp harvester shall pay a royalty of \$1.71 for each ton (2,000 lb) of wet kelp harvested from a non-leased bed.~~
- (6) Monthly Harvest Reports for uses other than human food. Monthly Harvest Reports shall be made in duplicate using Commercial Kelp Harvester's Monthly Report form DFW 113, ~~see subsection (b)(2) and incorporated by reference in~~ Section 705.1.
- (A) In addition to the license fee, a kelp harvester shall pay a royalty fee of \$1.71 for each ton (2,000 lbs) of wet kelp harvested from a non-leased administrative kelp bed.
- (B) Maintenance and submission requirements for Commercial Kelp Harvester's Monthly Harvest Reports and submission requirements for royalty fees are specified in subsection (b)(3).
- (7) Mechanical Harvest of Kelp. Prior commission approval of a kelp harvest plan is necessary before a kelp harvester may use a mechanical harvester to harvest giant kelp.
- (8) Kelp Harvest Plans. All kelp harvest plans shall include the following:
- (A) The number of the designated bed or beds as shown in subsection 165.5(k), a description of the kelp bed or portion of the kelp bed requested, and the designated number of square miles in each bed or portion thereof;
- (B) The intended use of kelp;
- (C) If a mechanical harvester will be used, the kelp harvest plan must identify how the mechanical harvester will be used while avoiding:
1. repetitive harvest of individual giant kelp plants;
 2. harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and

3. harvest of giant kelp near sea otter rafting sites used by female sea otters with dependent pups.

(D) The amount of kelp proposed to harvest on a monthly and annual basis during the next five years.

(E) The estimated frequency of harvesting activities for each kelp bed.

(F) The number of harvest boats, maximum kelp holding capacity in wet tons for each boat, including the operating vessel gross tonnage and fuel tank capacity.

(G) Harvesting methodology (harvest operation description).

(H) All locations (addresses) where kelp landing and weighing will take place.

(I) The specific details of wet kelp weighing equipment and methods to be used at the landing sites for accurate reporting.

(J) The name, address, phone number, and license number of kelp processor and method of transporting the kelp to the processing location.

(K) Kelp harvest plans must be updated and submitted to the commission for approval every five years.

(9) Temporary harvest restrictions and weekly reporting for bull kelp. Subsections (c)(9) through (c)(9)(C)3. shall remain in effect only until ~~date will be three to five years from the effective date of this regulation amendment~~ [OAL will insert date three years after effective date of these regulations], and as of that date are repealed, unless a later enacted amendment deletes or extends that date.

~~[Subsection (c)(9)(A) Option 1 adds subsection (c)(9)(A): Sonoma and Mendocino counties harvest closure]~~

(A) Notwithstanding subsection (b)(8), bull kelp may not be taken for any purpose in Sonoma and Mendocino counties.

~~[Subsection (c)(9)(A) Option 2 adds subsections (c)(9)(A) through (c)(9)(A)4.: Sonoma and Mendocino counties annual harvest quota. The Commission will select a quota within the range provided.]~~

~~(A) Bull kelp may be harvested in Sonoma and Mendocino counties for human consumption only, not to exceed an annual overall fishery quota of [1 lb to 2,000 lbs (1 ton)] wet weight for the combined counties between January 1 and December 31.~~

~~1. The department may announce a temporary commercial bull kelp harvest closure in order to obtain an accurate tally of harvest. If the fishery is reopened permittees may be limited to equally allotted amounts to preclude exceeding the quota, as may be announced.~~

~~2. The department shall inform the public by posting a notice on its webpage https://wildlife.ca.gov/Conservation/Marine/Kelp/Commercial_Harvest and shall notify commercial Kelp Harvester License holders by email prior to any implementation of restrictions triggered by the quota. (Note: A department status report on progress toward the quota is updated weekly and available at https://wildlife.ca.gov/Conservation/Marine/Kelp/Commercial_Harvest.)~~

~~3. It is the responsibility of the harvester to keep themselves informed of the remaining quota by monitoring the reported harvest on the department's webpage: https://wildlife.ca.gov/Conservation/Marine/Kelp/Commercial_Harvest. Any announcement issued shall constitute as official notice.~~

~~4. All harvest in excess of any established quota shall be forfeited to the department by signing a Release of Property form DFW 1108. The excess harvest shall be disposed of or used in a manner determined by the department.~~

(B) Bull kelp may be harvested in Humboldt and Del Norte counties for human consumption only, not to exceed an annual overall fishery quota of 4 tons (8,000 lbs) wet weight for the combined counties between January 1 and December 31.

1. The department may announce a temporary commercial bull kelp harvest closure in order to obtain an accurate tally of harvest. If the annual overall fishery quota has not been met, the fishery will reopen ~~fishery is reopened permittees may and~~ commercial kelp harvester license holders shall be limited to ~~equally-allotted harvest~~ amounts to preclude exceeding the annual overall fishery quota and the annual license quota specified in subsection 165(e)(2)(A), ~~as may be announced.~~

a. Allotted harvest amounts will be calculated as the difference between the annual overall fishery quota and bull kelp harvest from Humboldt and Del Norte counties reported in the monthly harvest reports required pursuant to subsection 165(b)(3) and the weekly harvest reports required pursuant to subsection 165(c)(9)(C), divided by the number of licensed harvesters who indicated "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application (DFW 658) and those who have not indicated "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application (DFW 658) but have reported take of bull kelp in Del Norte and/or Humboldt counties on their Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Reports (DFW 113A) in one or more months during the current annual fishery quota period.

b. Licensed harvesters who indicated "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application (DFW 658) and licensed harvesters who did not indicate "Bull Kelp (Human Consumption)" on their Kelp Harvesting License and Drying Application (DFW 658) but have reported take of bull kelp in Del Norte and/or Humboldt counties on their Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Reports (DFW 113A) in one or more months during the current annual fishery quota period shall be allotted the amount calculated in subsection 165(c)(9)(B)1.a. If the allotment exceeds the amount remaining in a licensed harvester's annual license quota specified in subsection 165(e)(2)(A), the licensed harvester's allotment shall be decreased to the amount remaining in the licensed harvester's annual license quota and the amount of the allotment in excess of the licensed harvester's annual license quota shall be divided equally between the remaining licensed harvester(s) who have not exceeded their annual license quota specified in subsection 165(e)(2)(A). Prior to reopening the fishery, the department shall notify licensed harvesters via email of their allotted amount."

2. The department shall inform the public by posting a notice on its webpage <https://wildlife.ca.gov/Conservation/Marine/Kelp/Commerical-Harvest> and shall notify commercial ~~Kelp Harvester License~~ kelp harvester license holders by email prior to any implementation of ~~restrictions~~ a temporary closure pursuant to subsection 165(c)(9)(B)1., allotments pursuant to subsections 165(c)(9)(B)1. through 165(c)(9)(B)1.b., or an annual closure triggered by the annual overall fishery quota. (Note: A department status report on progress toward the annual overall fishery quota is updated weekly and available at

<https://wildlife.ca.gov/Conservation/Marine/Kelp/Commerical-Harvest.>)

3. It is the responsibility of the harvester to keep themselves informed of the remaining quota by monitoring the reported harvest on the ~~department's~~ department's webpage: <https://wildlife.ca.gov/Conservation/Marine/Kelp/Commerical-Harvest.> Any announcement issued shall constitute ~~an~~ official notice.
4. All harvest in excess of ~~any established~~ the annual overall fishery quota ~~or allotments~~ shall be forfeited to the department by signing a Release of Property form DFW 1108 incorporated by reference in Section 705.1. The excess harvest shall be ~~disposed of or used in a manner determined by the department used, sold, disposed of, or donated to a non-profit institution. If sold, the proceeds of all such sales shall be paid into the Fish and Game Preservation Fund.~~

(C) Mandatory Harvest Data Reporting Requirements for bull kelp.

~~[Subsection (c)(9)(C)1. Option 1 — if subsection (c)(9)(A) Option 1 is selected:]~~

1. In addition to monthly reporting, persons harvesting bull kelp in Humboldt and Del Norte counties must submit weekly reports by email to kelp@wildlife.ca.gov.

~~[Subsection (c)(9)(C)1. Option 2 if subsection (c)(9)(A) Option 2 is selected:]~~

~~1. In addition to monthly reporting, persons harvesting bull kelp in Sonoma, Mendocino, Humboldt, and Del Norte counties must submit weekly reports by email to kelp@wildlife.ca.gov.~~

~~1. In addition to monthly reporting, persons harvesting bull kelp in Humboldt and Del Norte counties must submit weekly reports by email to kelp@wildlife.ca.gov.~~

2. Weekly harvest reports shall be submitted by 5:00 p.m. on each Monday for the Sunday through Saturday of the preceding week. Weekly harvest reporting is required for the duration of the annual license unless the harvester provides a notice via email to kelp@wildlife.ca.gov that bull kelp ~~harvest~~ will not be harvested within a specified time frame or no longer occur for the remainder of the license year.
3. Harvest ~~Reporting~~ reporting shall be provided in the email body and shall include business name, business contact name, harvester license number, amount of harvest in pounds by county in which harvest occurred, and time period of harvest ~~to which includes~~ to which includes the month, specific calendar days of harvest, and year.

(d) Harvesting of marine plants of the genera *Gelidium*, *Pterocladia*, *Gracilaria*, *Iridaea*, *Gloiopeltis* or *Gigartina* which are classified as agar-bearing plants.

(1) General Provisions.

- (A) All agar-bearing plants must be harvested by cutting, except that drift or loose plants may be picked up by the harvester. Agar-bearing plants may be cut no closer than two inches to the holdfast and no holdfast may be removed or disturbed. All agar-bearing plants which are removed from a bed must be taken from the water for weighing and processing.
- (B) While harvesting agar-bearing plants, it is unlawful to ~~harvest abalone or to have abalone harvesting equipment in possession. take or possess abalone.~~
- (C) When harvesting agar-bearing plants, the harvester's license number ~~License numbers of the harvesters~~ will be legibly displayed on both sides of the boat from which they are operating in 10-inch black numbers on a white background. However, on boats less than 12 feet long, the harvester's license number may be displayed no smaller than 6-inch black numbers on a white background on both sides of the boat from which they are operating. All harvester's license numbers must be kept clearly legible, kept in good

repair, and the harvester must ensure that the harvester's license number is not obstructed from view.

(D) A harvester may use conventional underwater diving gear or SCUBA when harvesting agar-bearing plants.

(E) Weighing of Agar-bearing Marine Plants. All agar-bearing marine plants shall be weighed upon landing pursuant to the provisions of subsection (b)(3)(D) of these regulations.

~~(2) Kelp Drying Permits. Pursuant to section 6653.5 of the Fish and Game Code, no company or individuals shall reduce the moisture content or otherwise dry agar-bearing plants harvested from waters of the state except under the authority of a kelp drying permit issued by the department. Drying permits shall be issued under the following conditions:~~

~~(A) Where Issued. Requests for kelp drying permits shall be submitted to the Department of Fish and Game at the address listed in section 165(a)(3).~~

~~(B) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit.~~

~~(C) Permit Review. The department shall return permit application forms to the applicant within three working days of receipt.~~

~~(D) Duration of Permits. Except as otherwise provided, kelp drying permits shall be valid for a term of one year from date of issue.~~

~~(E) Weighing of Kelp. All agar-bearing marine plants shall be weighed upon landing pursuant to the provisions of subsection (b)(1) of these regulations.~~

~~(F) Plant Delivery. Every person taking delivery of agar-bearing marine plants for drying purposes from persons licensed pursuant to section 6650 of the Fish and Game Code or harvesters drying their own plants shall keep a book or books recording the following:~~

~~1. A full and correct record of all agar-bearing plants received from other licensed agar harvesters or taken by permittee.~~

~~2. Names of the different species.~~

~~3. The number of pounds received.~~

~~4. Name, address and kelp harvester number of the person from whom the agar-bearing plants were received. The book(s) shall be open at all times for inspection by the department.~~

~~(G) Landing Receipts. Receipts shall be issued by all kelp drying permittees to harvesters licensed pursuant to subsection (b)(3) of these regulations and shall show:~~

~~1. Price paid.~~

~~2. Department origin block number where the agar-bearing plants were harvested.~~

~~3. Such other statistical information the department may require.~~

~~(H) The original signed copy of receipt shall be delivered to the agar harvester at the time of purchase or receipt of the agar-bearing plants. The duplicate copy shall be kept by the kelp drying permittee for a period of one year and shall be available for inspection at any time within that period by the department, and the triplicate shall be delivered to the department at the address indicated within 10 days after the close of each month, with a royalty of \$17.00 per wet ton (2,000 lbs.) for all agar-bearing seaweed received. Failure to submit the required landing receipts and royalty fees within the prescribed time limit is grounds for revocation of the permittee's drying permit.~~

(2) Monthly Harvest Reports shall be made in duplicate using Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report DFW 113A, see subsection (b)(3) and incorporated by reference in Section 705.1.

(3) Royalty rate amount due. In addition to the license fee, an agar-bearing marine plant harvester shall pay a royalty fee of \$17.00 per ton (2,000 lbs) of wet agar-bearing marine plant harvested.

- (4) Maintenance and submission requirements for Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report and submission requirements for royalty fees are specified in subsection (b)(3).
- (e) Harvesting of marine plants, including the genera Porphyra, Laminaria, Monostrema, and other aquatic plants utilized fresh or preserved as human food and classified as edible seaweed.
- (1) General Provisions.
- (A) Edible varieties of marine plants must be harvested by cutting or picking, except that drift or loose plants may be picked up by the harvester. All harvested plants must be processed.
- (B) Edible seaweed may be harvested from state waters throughout the year, except as provided under section~~Section~~ 164.
- (C) While harvesting edible seaweed, it is unlawful to take or possess abalone~~harvest abalone or to have abalone harvesting equipment in possession.~~
- (D) A harvester may use conventional underwater diving gear or SCUBA while harvesting edible seaweed.
- (E) Harvesters of giant and bull kelp shall adhere to regulations specified in subsections (c)(1) and (c)(4) through (c)(5). Harvesters of giant kelp shall adhere to the regulations specified in subsection (c)(2).
- (2) Harvest of Bull Kelp for Human Consumption. ~~Notwithstanding subsection 165(c) (5)(A), persons operating under the authority of an edible seaweed harvesters license may take, not to exceed, 2 tons (4,000 lbs) of bull kelp per year. The entire plant may be harvested.~~
- (A) Unless otherwise prohibited, in addition to open or leasable beds, bull kelp may be harvested for human consumption in a closed or lease-only administrative kelp beds described in subsection 165.5(k) if the beds are not leased. Persons operating under the authority of an edible seaweed harvesters license may take, not to exceed, 2 tons (4,000 lbs) of bull kelp annually per license. The entire plant may be harvested.
- (B) Temporary bull kelp harvest restrictions and harvest reporting are specified in subsections (c)(9) through (c)(9)(C)3.
- (3) Weighing of Edible Marine Plants. All edible marine plants shall be weighed pursuant to the provisions of subsection ~~(b)(1)-(b)(3)(D) of these regulations~~ and landing receipts in duplicate ~~issued as per subsection (b)(3).~~
- ~~(4) The original copy of the receipt shall be delivered to the department at the address indicated within 10 days after the close of each month with a royalty of \$24 per wet ton (2,000 lbs.) of edible marine plants harvested from state waters other than San Francisco Bay and Tomales Bay.~~
- (4) Monthly Harvest Reports shall be made in duplicate using Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report DFW 113A, ~~see subsection (b)(3) and incorporated by reference in~~ Section 705.1.
- (5) In addition to the license fee, an edible seaweed harvester shall pay a royalty fee of \$24 per ton (2,000 lbs) of wet edible seaweed harvested.
- (6) Maintenance and submission requirements for Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report and submission requirements for royalty fees are specified in subsection (b)(3).
- (f) All Other Species of Kelp.
- (1) Applicant shall apply to the commission, outlining the species to be harvested, amount and location. The commission may set conditions and amount of royalty after review of the application.
- (g) Commercially manufactured and processed food for human consumption in California is regulated by the California Department of Public Health. Commercial marine algae harvesters

shall refer to the California Department of Public Health for information on regulations, requirements, and permitting for commercially manufactured and processed food.

NOTE: Authority cited: Sections 6653 and 6653.5, Fish and Game Code. Reference: Sections 51, 6650, 6651, 6652, 6653, 6653.5, 6654, 6656 and 6680, Fish and Game Code.

Section 165.5, Title 14, CCR, is amended to read:

§165.5. Lease of Kelp Beds for Exclusive Harvest of *Macrocystis* and *Nereocystis*.

- (a) The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed or beds, or part thereof described in subsection (j)-(k). In this section, kelp means giant kelp, bull kelp, or both.
- (b) A current list of kelp beds considered by the commission to be available for leasing may be obtained through written request to the department's Marine Region at 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940. Any person desiring to lease the exclusive privilege of harvesting kelp shall make a written application to the Fish and Game Commission, ~~1416 Ninth Street, Sacramento, CA 95814~~ (or by postal delivery to P.O. Box 944209, Sacramento, CA ~~94244-2090~~). 94244-2090. The application for kelp bed lease shall include:
 - (1) The number of the designated **kelp** bed or beds as shown in subsection (k), a description of the kelp bed or portion of the kelp bed requested, and the designated number of square miles in each bed or portion thereof.
 - ~~(1)-(2)~~ A minimum deposit of \$2,565 per square mile for kelp beds lying south of Point Arguello and \$1,368 per square mile for kelp beds lying north of Point Arguello. (The deposit shall be returned to the applicant if a lease is not executed.) The deposit shall be made payable to the California Department of Fish and Wildlife and submitted with the lease application to the Fish and Game Commission at the address in subsection (b). The deposit shall be returned to the applicant if a lease is not executed.
 - ~~(2)~~ A detailed kelp harvest plan. The kelp harvest plan must be updated and resubmitted every five years.
 - ~~(A)~~ If kelp is mechanically harvested, the kelp harvest plan must identify how a mechanical harvester will be used while avoiding:
 - 1. repetitive harvest from individual giant kelp plants;
 - 2. harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and
 - 3. harvest of giant kelp near sea otter rafting sites used by female sea otters with dependent pups.
 - ~~(B)~~ All kelp harvest plans (mechanical or hand harvest) shall also include the following:
 - 1. the number of the designated bed or beds as shown in subsection (j), a description of the kelp bed or portion of the kelp bed requested and the designated number of square miles in each bed or portion thereof;
 - 2. intended use of kelp;
 - 3. amount of kelp proposed to harvest on a monthly and annual basis during the next five years;
 - 4. estimated frequency of harvesting activities for each kelp bed;
 - 5. number of harvest boats, maximum kelp holding capacity in wet tons for each boat, including the operating vessel gross tonnage and fuel tank capacity;
 - 6. harvesting methodology (harvest operation description);
 - 7. all locations (addresses) where kelp landing and weighing will take place;
 - 8. specific details of wet kelp weighing equipment and methods to be used at the landing sites for accurate reporting; and
 - 9. name, address, phone number, and license number of kelp processor and method of transporting the kelp to the processing location.

(3) The specified bid amount. The bid process is defined in subsection 165.5(d).

~~(3)-(4)~~ Copy of business license.

~~(4)~~ The financial capabilities of the lessee to carry out the proposed harvest plan.

(5) A detailed kelp harvest plan. Kelp harvest plans must be updated and submitted to the commission for approval every five years. Requirements of a kelp harvest plan are defined in subsection 165(c)(8).

~~(5)-(6)~~ Applicants for available lease only kelp beds in the 301-312 series shall, in addition to the above requirements, submit evidence of a scientifically acceptable survey of the requested kelp bed, conducted within one year of the date of the application, showing the extent of the kelp bed and the quantity (biomass) of kelp present. Evidence of such a survey must be submitted annually prior to beginning harvest. Harvest of bull kelp from leased beds shall be limited to not more than 15 percent of the bull kelp biomass revealed by the survey.

~~[Option: Temporarily closes the lease only kelp beds. The Commission will select a date within the range provided.]~~

~~(c)~~ Lease only administrative kelp beds 308, 309, and 312 are temporarily closed and cannot be leased through ~~[date will be three to five years from the effective date of this subsection]~~ ~~[OAL will insert date three years after the effective date of these regulations]~~ ~~unless a later enacted amendment deletes or extends that date.~~ Beds 308, 309, and 312 are available for lease on or after ~~[date will be the day after the date in the first sentence of this subsection]~~ ~~[OAL will insert date one day after three years from effective date of these regulations]~~ ~~unless a later enacted amendment deletes or extends that date.~~

~~(e)-(d)~~ The department shall evaluate the submitted application, application and provide its evaluation to the commission. Kelp leases may be awarded to applicants determined by the commission to possess the capabilities to harvest and utilize kelp in a manner beneficial to the state.

(1) In case more than one application is received for the lease of a specified kelp bed or beds, the lease shall be awarded to the highest qualified bidder.

(2) Bids tendered for the exclusive right to harvest kelp from designated kelp beds will be for the dollar amount of royalty to be paid on each wet ton of kelp harvested. The minimum acceptable bid will be for a royalty rate of no less than \$1.71 per wet ton of kelp harvested.

(3) The commission may reject any or all applications for the lease of the exclusive privilege to harvest kelp, if it deems the rejection to be in the public interest.

~~(d)-(e)~~ If the specified kelp harvesting area applied for is found to be available for lease, and that the lease would be in the public interest, the commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located. The department shall, in addition, notify by mail all current holders of kelp harvesting licenses that a kelp lease is being considered.

~~(e)-(f)~~ Upon termination of a kelp bed lease for any reason, the commission shall notify all current holders of kelp licenses of the availability of such bed(s) for lease.

~~(f)-(g)~~ Kelp bed leases may be awarded for a maximum term of 20 years.

~~(g)-(h)~~ The royalty rate for kelp harvested from leased kelp beds shall be no less than \$1.71 per wet ton of kelp harvested from such beds. A nonrefundable advance payment computed on the basis of the harvest of 800 tons of kelp annually times the bid royalty rate per square mile for kelp beds located north of Point Arguello and the harvest of 1,500 tons of kelp annually times the bid royalty rate per square mile for beds lying south of that point is due and payable to the department on January 1 each year. Kelp harvested from each bed during the calendar year will be credited

against the advance payment at the specified royalty rate until the deposit has been depleted. Kelp harvested from each bed in excess of the amount covered by the advance deposit shall be assessed at the basic royalty rate established by subsection ~~165(c)(7)~~165(c)(6)(A).

~~(h)~~(i) Each kelp lease shall specify a period prior to expiration when renewal of the lease may be requested by lessee. If during the notification period the lessee successfully demonstrates to the commission that all conditions of the lease have been met, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms of a lease renewal are not agreed upon prior to termination of a lease agreement, the commission shall advertise for bids on the individual kelp beds comprising the lease. If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

~~(i)~~(j) Notwithstanding the provisions of subsections ~~(f)~~(g) and ~~(h)~~(i), at any time during the term of a lease, a lessee may notify the commission of its desire to enter into a new lease. If the lessee can successfully demonstrate to the commission that all conditions of its lease have been met and that a new lease would be in the best interest of the state, a new lease may be drawn on terms agreed upon between the two parties, provided a new lease is negotiated for an additional period not to exceed 20 years.

~~(j)~~(k) ~~Administrative Kelp~~ kelp beds are defined as follows: kelp bed number, designation, area (approximate square miles of kelp canopy within a kelp bed based on historic survey data), and boundary descriptions. Kelp bed designations are defined as follows: open — kelp bed is open to all kelp harvesting, and leases cannot be issued; closed — kelp bed is closed to all kelp harvesting; lease only — kelp bed is closed to all kelp harvesting unless an exclusive lease is obtained; and leasable — kelp bed is open to kelp harvesting until the bed is leased and, once leased, can only be harvested by the lessee. It is the responsibility of the potential harvester to contact the department to ensure leasable beds are not leased before harvest occurs. The grand total for all administrative kelp beds = 74.17 square miles. All geographic coordinates listed use the North American Datum 1983 (NAD83) reference datum:

(1) ~~Mainland Kelp Beds (U.S./Mexico Border to Pt. Arguello)~~administrative kelp beds
U.S./Mexico Border to Pt. Arguello (Total 19.07 square miles)

(A) Bed 1—Administrative kelp bed 1. Open. 0.20 square miles. This bed extends from the U.S./Mexico Border to the southern tip of San Diego Bay, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

32° 32.063' N. lat. 117° 07.431' W. long.; thence westward along the U.S./Mexico border to:

32° 31.847' N. lat. 117° 11.018' W. long.; thence northward along the three nautical mile offshore boundary to

32° 35.979' N. lat. 117° 11.601' W. long.; and

32° 35.979' N. lat. 117° 08.010' W. long.

(B) Bed 2—Administrative kelp bed 2. Open. 0.10 square miles. This bed extends from the southern tip of San Diego Bay to the southern tip of Point Loma, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

32° 35.979' N. lat. 117° 08.010' W. long.;

32° 35.979' N. lat. 117° 11.601' W. long.; thence northwestward along the three nautical mile offshore boundary to
32° 39.189' N. lat. 117° 18.171' W. long.; and
32° 39.891' N. lat. 117° 14.559' W. long.

- (C) ~~Bed 3. Administrative kelp bed 3. Leasable. 2.58 square miles. This bed extends from the southern tip of Point Loma to the south jetty of Mission Bay, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:~~

~~32° 39.891' N. lat. 117° 14.559' W. long.;~~
~~32° 39.189' N. lat. 117° 18.171' W. long.; thence northward along the three nautical mile offshore boundary to~~
~~32° 45.492' N. lat. 117° 19.169' W. long.;~~
~~32° 45.364' N. lat. 117° 15.501' W. long.; and~~
~~32° 45.398' N. lat. 117° 15.221' W. long.~~

- (D) ~~Bed 4. Administrative kelp bed 4. Leasable. 2.53 square miles. This bed extends from the south jetty of Mission Bay to Scripps Pier, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:~~

~~32° 45.398' N. lat. 117° 15.221' W. long.;~~
~~32° 45.364' N. lat. 117° 15.501' W. long.;~~
~~32° 45.492' N. lat. 117° 19.169' W. long.; thence northward along the three nautical mile offshore boundary to~~
~~32° 52.941' N. lat. 117° 19.411' W. long.;~~
~~32° 52.025' N. lat. 117° 15.445' W. long.; and~~
~~32° 51.976' N. lat. 117° 15.273' W. long.~~

- (E) ~~Bed 5. Administrative kelp bed 5. Leasable. 0.00 square miles. This bed extends from Scripps Pier to the mouth of the San Dieguito River, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:~~

~~32° 51.976' N. lat. 117° 15.273' W. long.;~~
~~32° 52.025' N. lat. 117° 15.445' W. long.;~~
~~32° 52.941' N. lat. 117° 19.411' W. long.; thence northward along the three nautical mile offshore boundary to~~
~~32° 58.482' N. lat. 117° 19.992' W. long.; and~~
~~32° 58.482' N. lat. 117° 16.208' W. long.~~

- (F) ~~Bed 6. Administrative kelp bed 6. Leasable. 1.52 square miles. This bed extends from the mouth of the San Dieguito River to Loma Alta Creek (at South Oceanside), defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:~~

~~32° 58.482' N. lat. 117° 16.208' W. long.;~~
~~32° 58.482' N. lat. 117° 19.992' W. long.; thence northward along the three nautical mile offshore boundary to~~
~~33° 08.674' N. lat. 117° 25.021' W. long.; and~~
~~33° 10.601' N. lat. 117° 22.164' W. long.~~

- (G) ~~Bed 7. Administrative kelp bed 7.~~ Open. 0.66 square miles. This bed extends from Loma Alta Creek (at South Oceanside) to the middle of the city of San Onofre, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 10.601' N. lat. 117° 22.164' W. long.;
33° 08.674' N. lat. 117° 25.021' W. long.; thence northwestward along the three nautical mile offshore boundary to
33° 20.034' N. lat. 117° 36.352' W. long.; and
33° 22.790' N. lat. 117° 34.422' W. long.
- (H) ~~Bed 8. Administrative kelp bed 8.~~ Open. 1.53 square miles. This bed extends from the middle of the city of San Onofre to San Juan Creek, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 22.790' N. lat. 117° 34.422' W. long.;
33° 20.034' N. lat. 117° 36.352' W. long.; thence northwestward along the three nautical mile offshore boundary to
33° 24.473' N. lat. 117° 43.639' W. long.; and
33° 27.707' N. lat. 117° 41.020' W. long.
- (I) ~~Bed 9. Administrative kelp bed 9.~~ Open. 0.39 square miles. This bed extends from San Juan Creek to Abalone Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 27.707' N. lat. 117° 41.020' W. long.;
33° 24.473' N. lat. 117° 43.639' W. long.; thence northwestward along the three nautical mile offshore boundary to
33° 30.698' N. lat. 117° 51.298' W. long.; and
33° 33.219' N. lat. 117° 49.182' W. long.
- (J) ~~Bed 10. Administrative kelp bed 10.~~ Closed. 0.00 square miles. This bed extends from Abalone Pt. to the south jetty of Newport Bay, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 33.219' N. lat. 117° 49.182' W. long.;
33° 30.698' N. lat. 117° 51.298' W. long.; thence northwestward along the three nautical mile offshore boundary to
33° 32.813' N. lat. 117° 54.793' W. long.;
33° 35.373' N. lat. 117° 52.645' W. long.;
33° 35.531' N. lat. 117° 52.654' W. long.; and
33° 35.555' N. lat. 117° 52.662' W. long.
- (K) ~~Bed 13. Administrative kelp bed 13.~~ Open. 0.54 square miles. This bed extends from the San Pedro Breakwater Lighthouse to Pt. Vicente, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 42.482' N. lat. 118° 16.637' W. long.;
33° 42.249' N. lat. 118° 16.188' W. long.;

33° 42.223' N. lat. 118° 16.053' W. long.;
33° 42.247' N. lat. 118° 15.903' W. long.;
33° 42.513' N. lat. 118° 15.094' W. long.;
33° 39.690' N. lat. 118° 13.838' W. long.; thence westward along the three nautical
mile offshore boundary to
33° 42.308' N. lat. 118° 27.456' W. long.; and
33° 44.469' N. lat. 118° 24.691' W. long.

(L) ~~Bed 14. Administrative kelp bed 14.~~ Open. 0.74 square miles. This bed extends from
Pt. Vicente to the southern tip of the Redondo Beach Breakwater, defined as the area
bounded by the mean high tide line and straight lines connecting the following points
in the order listed except where noted:

33° 44.469' N. lat. 118° 24.691' W. long.;
33° 42.308' N. lat. 118° 27.456' W. long.; thence northward along the three nautical
mile offshore boundary to
33° 49.486' N. lat. 118° 27.625' W. long.;
33° 50.459' N. lat. 118° 23.721' W. long.;
33° 50.513' N. lat. 118° 23.650' W. long.;
33° 50.475' N. lat. 118° 23.550' W. long.; and
33° 50.479' N. lat. 118° 23.529' W. long.

(M) ~~Bed 15. Administrative kelp bed 15.~~ Closed. 0.04 square miles. This bed extends from
the Santa Monica Pier to Malibu Pt., defined as the area bounded by the mean high
tide line and straight lines connecting the following points in the order listed except
where noted:

34° 00.528' N. lat. 118° 29.887' W. long.;
34° 00.444' N. lat. 118° 29.993' W. long.;
33° 57.994' N. lat. 118° 32.278' W. long.; thence westward along the three nautical
mile offshore boundary to
33° 59.044' N. lat. 118° 39.530' W. long.; and
34° 01.853' N. lat. 118° 40.931' W. long.

(N) ~~Bed 16. Administrative kelp bed 16.~~ Leasable. 0.21 square miles. This bed extends
from Malibu Pt. to Pt. Dume, defined as the area bounded by the mean high tide line
and straight lines connecting the following points in the order listed except where
noted:

34° 01.853' N. lat. 118° 40.931' W. long.;
33° 59.044' N. lat. 118° 39.530' W. long.; thence westward along the three nautical
mile offshore boundary to
33° 56.897' N. lat. 118° 48.604' W. long.; and
34° 00.026' N. lat. 118° 48.330' W. long.

(O) ~~Bed 17. Administrative kelp bed 17.~~ Leasable. 0.62 square miles. This bed extends
from Pt. Dume to Pt. Mugu, defined as the area bounded by the mean high tide line
and straight lines connecting the following points in the order listed except where
noted:

34° 00.026' N. lat. 118° 48.330' W. long.;

33° 56.897' N. lat. 118° 48.604' W. long.; thence westward along the three nautical mile offshore boundary to
34° 02.348' N. lat. 119° 05.122' W. long.; and
34° 05.136' N. lat. 119° 03.701' W. long.

(P) ~~Bed 18. Administrative kelp bed 18.~~ Open. 0.15 square miles. This bed extends from the mouth of Ventura River to Pitas Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 16.442' N. lat. 119° 18.425' W. long.;
34° 13.835' N. lat. 119° 20.389' W. long.; thence northwestward along the three nautical mile offshore boundary to
34° 16.413' N. lat. 119° 25.172' W. long.; and
34° 19.071' N. lat. 119° 23.379' W. long.

(Q) ~~Bed 19. Administrative kelp bed 19.~~ Leasable. 0.05 square miles. This bed extends from Pitas Pt. to Rincon Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 19.071' N. lat. 119° 23.379' W. long.;
34° 16.413' N. lat. 119° 25.172' W. long.; thence northwestward along the three nautical mile offshore boundary to
34° 19.818' N. lat. 119° 30.669' W. long.; and
34° 22.376' N. lat. 119° 28.671' W. long.

(R) ~~Bed 20. Administrative kelp bed 20.~~ Leasable. 0.24 square miles. This bed extends from Rincon Pt. to Loon Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 22.376' N. lat. 119° 28.671' W. long.;
34° 19.818' N. lat. 119° 30.669' W. long.; thence northwestward along the three nautical mile offshore boundary to
34° 21.817' N. lat. 119° 35.552' W. long.; and
34° 24.749' N. lat. 119° 34.600' W. long.

(S) ~~Bed 21. Administrative kelp bed 21.~~ Leasable. 0.19 square miles. This bed extends from Loon Pt. to Edgecliff Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 24.749' N. lat. 119° 34.600' W. long.;
34° 21.817' N. lat. 119° 35.552' W. long.; thence westward along the three nautical mile offshore boundary to
34° 21.929' N. lat. 119° 38.626' W. long.; and
34° 24.953' N. lat. 119° 38.415' W. long.

(T) ~~Bed 22. Administrative kelp bed 22.~~ Closed. 0.05 square miles. This bed extends from Edgecliff Pt. to the tip of the Santa Barbara Breakwater, defined as the area bounded

by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 24.953' N. lat. 119° 38.415' W. long.;

34° 21.929' N. lat. 119° 38.626' W. long.; thence westward along the three nautical mile offshore boundary to

34° 21.150' N. lat. 119° 40.483' W. long.;

34° 24.290' N. lat. 119° 41.266' W. long.;

34° 24.187' N. lat. 119° 41.506' W. long.; and

34° 24.187' N. lat. 119° 41.520' W. long.

- (U) ~~Bed 23. Administrative kelp bed 23.~~ Open. 0.10 square miles. This bed extends from the tip of the Santa Barbara Breakwater to the Santa Barbara Lighthouse, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 24.187' N. lat. 119° 41.520' W. long.;

34° 24.187' N. lat. 119° 41.506' W. long.;

34° 24.290' N. lat. 119° 41.266' W. long.;

34° 21.150' N. lat. 119° 40.483' W. long.; thence westward along the three nautical mile offshore boundary to

34° 20.703' N. lat. 119° 44.181' W. long.; and

34° 23.734' N. lat. 119° 43.369' W. long.

- (V) ~~Bed 24. Administrative kelp bed 24.~~ Closed. 0.05 square miles. This bed extends from the Santa Barbara Lighthouse to Rogue Creek (Arroyo Burro), defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 23.734' N. lat. 119° 43.369' W. long.;

34° 20.703' N. lat. 119° 44.181' W. long.; thence westward along the three nautical mile offshore boundary to

34° 21.056' N. lat. 119° 45.509' W. long.; and

34° 24.183' N. lat. 119° 44.590' W. long.

- (W) ~~Bed 25. Administrative kelp bed 25.~~ Open. 0.18 square miles. This bed extends from Rogue Creek (Arroyo Burro) to Hope Ranch Creek, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 24.183' N. lat. 119° 44.590' W. long.;

34° 21.056' N. lat. 119° 45.509' W. long.; thence northwestward along the three nautical mile offshore boundary to

34° 21.626' N. lat. 119° 47.085' W. long.; and

34° 24.875' N. lat. 119° 46.801' W. long.

- (X) ~~Bed 26. Administrative kelp bed 26.~~ Leaseable. 0.60 square miles. This bed extends from Hope Ranch Creek to Goleta Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 24.875' N. lat. 119° 46.801' W. long.;

34° 21.626' N. lat. 119° 47.085' W. long.; thence westward along the three nautical mile offshore boundary to
34° 21.219' N. lat. 119° 50.437' W. long.; and
34° 24.276' N. lat. 119° 50.651' W. long.

(Y) ~~Bed 27. Administrative kelp bed 27.~~ Leaseable. 0.43 square miles. This bed extends from Goleta Pt. to Coal Oil Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 24.276' N. lat. 119° 50.651' W. long.;
34° 21.219' N. lat. 119° 50.437' W. long.; thence westward along the three nautical mile offshore boundary to
34° 21.675' N. lat. 119° 54.268' W. long.; and
34° 24.413' N. lat. 119° 52.687' W. long.

(Z) ~~Bed 28. Administrative kelp bed 28.~~ Open. 0.61 square miles. This bed extends from Coal Oil Pt. to the middle of Gato Canyon, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 24.413' N. lat. 119° 52.687' W. long.;
34° 21.675' N. lat. 119° 54.268' W. long.; thence northwestward along the three nautical mile offshore boundary to
34° 24.045' N. lat. 120° 00.375' W. long.; and
34° 26.989' N. lat. 119° 59.304' W. long.

(AA) ~~Bed 29. Administrative kelp bed 29.~~ Leasable. 0.17 square miles. This bed extends from the middle of Gato Canyon to Refugio Creek, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 26.989' N. lat. 119° 59.304' W. long.;
34° 24.045' N. lat. 120° 00.375' W. long.; thence westward along the three nautical mile offshore boundary to
34° 24.570' N. lat. 120° 04.347' W. long.; and
34° 27.767' N. lat. 120° 04.180' W. long.

(BB) ~~Bed 30. Administrative kelp bed 30.~~ Leasable. 0.39 square miles. This bed extends from Refugio Creek to the middle of Canada de Molino, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 27.767' N. lat. 120° 04.180' W. long.;
34° 24.570' N. lat. 120° 04.347' W. long.; thence westward along the three nautical mile offshore boundary to
34° 25.122' N. lat. 120° 10.123' W. long.; and
34° 28.175' N. lat. 120° 10.123' W. long.

(CC) ~~Bed 31. Administrative kelp bed 31.~~ Leasable. 0.16 square miles. This bed extends from the middle of Canada de Molino to the middle of Alegria Canyon, defined as the

area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 28.175' N. lat. 120° 10.123' W. long.;

34° 25.122' N. lat. 120° 10.123' W. long.; thence westward along the three nautical mile offshore boundary to

34° 25.000' N. lat. 120° 16.338' W. long.; and

34° 28.136' N. lat. 120° 16.338' W. long.

(DD) ~~Bed 32. Administrative kelp bed 32.~~ Leasable. 2.76 square miles. This bed extends from the middle of Alegria Canyon to Pt. Conception, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 28.136' N. lat. 120° 16.338' W. long.;

34° 25.000' N. lat. 120° 16.338' W. long.; thence westward along the three nautical mile offshore boundary to

34° 23.644' N. lat. 120° 28.313' W. long.; and

34° 26.899' N. lat. 120° 28.313' W. long.

(EE) ~~Bed 33. Administrative kelp bed 33.~~ Open. 0.97 square miles. This bed extends from Pt. Conception to Espada Bluff, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 26.899' N. lat. 120° 28.313' W. long.;

34° 23.644' N. lat. 120° 28.313' W. long.; thence northwestward along the three nautical mile offshore boundary to

34° 29.575' N. lat. 120° 34.185' W. long.; and

34° 31.846' N. lat. 120° 31.380' W. long.

(FF) ~~Bed 34. Administrative kelp bed 34.~~ Leasable. 0.31 square miles. This bed extends from Espada Bluff to Pt. Arguello, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 31.846' N. lat. 120° 31.380' W. long.;

34° 29.575' N. lat. 120° 34.185' W. long.; thence northwestward along the three nautical mile offshore boundary to

34° 34.612' N. lat. 120° 42.763' W. long.; and

34° 34.612' N. lat. 120° 39.039' W. long.

~~Total Area Mainland Kelp Beds (U.S./Mexico Border to Pt. Arguello)~~

~~19.07 square miles~~

(2) ~~Channel Island Kelp Beds~~ administrative kelp beds (Total 20.68 square miles)

(A) ~~Bed 101. Administrative kelp bed 101.~~ San Clemente Island. Open. 0.66 square miles. This bed extends from Pyramid Head to China Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

32° 49.221' N. lat. 118° 20.948' W. long.;

32° 47.494' N. lat. 118° 17.943' W. long.; thence southwestward along the three nautical mile offshore boundary to
32° 45.198' N. lat. 118° 27.222' W. long.; and
32° 48.054' N. lat. 118° 25.564' W. long.

- (B) ~~Bed 102. Administrative kelp bed 102.~~ San Clemente Island. Leasable. 2.39 square miles. This bed extends from China Pt. to Seal Cove, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
32° 48.054' N. lat. 118° 25.564' W. long.;
32° 45.198' N. lat. 118° 27.222' W. long.; thence northwestward along the three nautical mile offshore boundary to
32° 51.927' N. lat. 118° 34.637' W. long.; and
32° 54.458' N. lat. 118° 32.017' W. long.
- (C) ~~Bed 103. Administrative kelp bed 103.~~ San Clemente Island. Leasable. 2.90 square miles. This bed extends from Seal Cove to Northwest Harbor, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
32° 54.458' N. lat. 118° 32.017' W. long.;
32° 51.927' N. lat. 118° 34.637' W. long.; thence northward along the three nautical mile offshore boundary to
33° 05.298' N. lat. 118° 35.312' W. long.; and
33° 01.713' N. lat. 118° 35.312' W. long.
- (D) ~~Bed 104. Administrative kelp bed 104.~~ San Clemente Island. Open. 0.22 square miles. This bed extends from Northwest Harbor to Pyramid Head, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 01.713' N. lat. 118° 35.312' W. long.;
33° 05.298' N. lat. 118° 35.312' W. long.; thence southeastward along the three nautical mile offshore boundary to
32° 47.494' N. lat. 118° 17.943' W. long.; and
32° 49.221' N. lat. 118° 20.948' W. long.
- (E) ~~Bed 105. Administrative kelp bed 105.~~ Santa Catalina Island. Open. 0.75 square miles. This area is bounded by the mean high tide line and the three nautical mile offshore boundary surrounding Santa Catalina Island.
- (F) ~~Bed 106. Administrative kelp bed 106.~~ Santa Barbara Island. Leasable. 0.24 square miles. This area is bounded by the mean high tide line and the three nautical mile offshore boundary surrounding Santa Barbara Island.
- (G) ~~Bed 107. Administrative kelp bed 107.~~ San Nicolas Island. Leasable. 1.15 square miles. This bed extends along the southern side of San Nicolas Island from the east end at Sand Spit to the west end at Vizcaino Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 13.618' N. lat. 119° 26.070' W. long.;

33° 14.733' N. lat. 119° 21.909' W. long.; thence westward along the three nautical mile offshore boundary to
33° 17.813' N. lat. 119° 39.569' W. long.; and
33° 16.690' N. lat. 119° 34.705' W. long.

- (H) ~~Bed 108.~~ Administrative kelp bed 108. San Nicolas Island. Leasable. 2.85 square miles. This bed extends along the northern side of San Nicolas Island from the west end at Vizcaino Point to the east end at Sand Spit, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

33° 16.690' N. lat. 119° 34.705' W. long.;
33° 17.813' N. lat. 119° 39.569' W. long.; thence eastward along the three nautical mile offshore boundary to
33° 14.733' N. lat. 119° 21.909' W. long.; and
33° 13.618' N. lat. 119° 26.070' W. long.

- (I) ~~Bed 109.~~ Administrative kelp bed 109. Anacapa Islands. Open. 0.32 square miles. This bed encompasses all of the Anacapa Islands, defined as the area bounded by the mean high tide line and a straight line connecting the following points in the order listed except where noted:

34° 03.605' N. lat. 119° 28.116' W. long.; and
~~33° 58.999'~~ 34° 58.999' N. lat. 119° 29.556' W. long.; thence eastward along the three nautical mile offshore boundary to
34° 03.605' N. lat. 119° 28.116' W. long.

- (J) ~~Bed 110.~~ Administrative kelp bed 110. Santa Cruz Island. Open. 0.64 square miles. This bed extends from San Pedro Pt. to Bowen Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 02.046' N. lat. 119° 31.220' W. long.;
34° 02.233' N. lat. 119° 28.545' W. long.;
33° 58.999' N. lat. 119° 29.556' W. long.; thence westward along the three nautical mile offshore boundary to
33° 54.557' N. lat. 119° 42.741' W. long.; and
33° 57.562' N. lat. 119° 43.271' W. long.

- (K) ~~Bed 111.~~ Administrative kelp bed 111. Santa Cruz Island. Leasable. 0.61 square miles. This bed extends from Bowen Pt. to West Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

33° 57.562' N. lat. 119° 43.271' W. long.;
33° 54.557' N. lat. 119° 42.741' W. long.; thence westward along the three nautical mile offshore boundary to
33° 56.287' N. lat. 119° 54.419' W. long.;
34° 03.640' N. lat. 119° 59.420' W. long.; thence northeastward along the three nautical mile offshore boundary to
34° 06.632' N. lat. 119° 57.912' W. long.; and
34° 04.632' N. lat. 119° 55.159' W. long.

- (L) ~~Bed 112. Administrative kelp bed 112.~~ Santa Cruz Island. Open. 0.11 square miles. This bed extends from West Pt. to San Pedro Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
34° 04.632' N. lat. 119° 55.159' W. long.;
34° 06.632' N. lat. 119° 57.912' W. long.; thence eastward along the three nautical mile offshore boundary to
34° 03.605' N. lat. 119° 28.116' W. long.;
34° 02.233' N. lat. 119° 28.545' W. long.; and
34° 02.046' N. lat. 119° 31.220' W. long.
- (M) ~~Bed 113. Administrative kelp bed 113.~~ Santa Rosa Island. Open. 0.59 square miles. This bed extends from Skunk Pt. to South Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 58.979' N. lat. 119° 58.837' W. long.;
34° 00.021' N. lat. 119° 56.958' W. long.;
33° 56.287' N. lat. 119° 54.419' W. long.; thence southwestward along the three nautical mile offshore boundary to
33° 50.623' N. lat. 120° 06.954' W. long.; and
33° 53.657' N. lat. 120° 06.954' W. long.
- (N) ~~Bed 114. Administrative kelp bed 114.~~ Santa Rosa Island. Open. 2.18 square miles. This bed extends from South Pt. to Sandy Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 53.657' N. lat. 120° 06.954' W. long.;
33° 50.623' N. lat. 120° 06.954' W. long.; thence northwestward along the three nautical mile offshore boundary to
33° 58.204' N. lat. 120° 17.918' W. long.;
34° 00.631' N. lat. 120° 16.744' W. long.; and
34° 00.161' N. lat. 120° 14.992' W. long.
- (O) ~~Bed 115. Administrative kelp bed 115.~~ Santa Rosa Island. Open. 1.59 square miles. This bed extends from Sandy Pt. to Carrington Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
34° 00.161' N. lat. 120° 14.992' W. long.;
34° 00.631' N. lat. 120° 16.744' W. long.;
34° 03.466' N. lat. 120° 15.373' W. long.; thence eastward along the three nautical mile offshore boundary to
34° 04.486' N. lat. 120° 00.248' W. long.; and
34° 02.146' N. lat. 120° 02.587' W. long.
- (P) ~~Bed 116. Administrative kelp bed 116.~~ Santa Rosa Island. Open. 0.62 square miles. This bed extends from Carrington Pt. to Skunk Pt., defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 02.146' N. lat. 120° 02.587' W. long.;
 34° 04.486' N. lat. 120° 00.248' W. long.; thence southeastward along the three
 nautical mile offshore boundary to
 34° 03.640' N. lat. 119° 59.420' W. long.;
 34° 00.021' N. lat. 119° 56.958' W. long.; and
 33° 58.979' N. lat. 119° 58.837' W. long.

(Q) ~~Bed 117. Administrative kelp bed 117. San Miguel Island. Open. 1.35 square miles.~~
 This bed extends along the southern side of San Miguel Island from Cardwell Pt. to Pt.
 Bennett, defined as the area bounded by the mean high tide line and straight lines
 connecting the following points in the order listed except where noted:

34° 01.305' N. lat. 120° 18.514' W. long.;
 34° 02.984' N. lat. 120° 15.606' W. long.;
 33° 58.204' N. lat. 120° 17.918' W. long.; thence westward along the three nautical
 mile offshore boundary to
 33° 59.614' N. lat. 120° 29.817' W. long.; and
 34° 01.778' N. lat. 120° 27.144' W. long.

(R) ~~Bed 118. Administrative kelp bed 118. San Miguel Island. Open. 1.51 square miles.~~
 This bed extends along the northern side of San Miguel Island from Pt. Bennett to
 Cardwell Pt., defined as the area bounded by the mean high tide line and straight lines
 connecting the following points in the order listed except where noted:

34° 01.778' N. lat. 120° 27.144' W. long.;
 33° 59.614' N. lat. 120° 29.817' W. long.; thence northwestward along the three
 nautical mile offshore boundary to
 34° 03.466' N. lat. 120° 15.373' W. long.;
 34° 02.984' N. lat. 120° 15.606' W. long.; and
 34° 01.305' N. lat. 120° 18.514' W. long.

Total Channel Island Kelp Beds.....20.68 square miles

(3) Mainland Kelp Beds (Pt. Arguello to Point Montara) administrative kelp beds Pt. Arguello to
 Point Montara (Total 28.59 square miles)

(A) ~~Bed 202. Administrative kelp bed 202. Leasable. 0.10 square miles.~~ This bed extends
 from Pt. Arguello to Point Sal., defined as the area bounded by the mean high tide line
 and straight lines connecting the following points in the order listed except where
 noted:

34° 34.612' N. lat. 120° 39.039' W. long.;
 34° 34.612' N. lat. 120° 42.763' W. long.; thence northward along the three nautical
 mile offshore boundary to
 34° 54.182' N. lat. 120° 44.006' W. long.; and
 34° 54.182' N. lat. 120° 40.311' W. long.

(B) ~~Bed 203. Administrative kelp bed 203. Closed. 0.00 square miles.~~ This bed extends
 from Point Sal to Pismo Beach Pier, defined as the area bounded by the mean high
 tide line and straight lines connecting the following points in the order listed except
 where noted:

34° 54.182' N. lat. 120° 40.311' W. long.;
34° 54.182' N. lat. 120° 44.006' W. long.; thence northward along the three nautical
mile offshore boundary to
35° 06.359' N. lat. 120° 45.369' W. long.;
35° 08.259' N. lat. 120° 45.369' W. long.;
35° 08.259' N. lat. 120° 38.803' W. long.; and
35° 08.311' N. lat. 120° 38.636' W. long.

- (C) ~~Bed 204. Administrative kelp bed 204.~~ Leasable. 0.72 square miles. This bed extends from Pismo Beach Pier to Point San Luis, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed:

35° 08.311' N. lat. 120° 38.636' W. long.;
35° 08.259' N. lat. 120° 38.803' W. long.;
35° 08.259' N. lat. 120° 45.369' W. long.; and
35° 09.600' N. lat. 120° 45.369' W. long.

- (D) ~~Bed 205. Administrative kelp bed 205.~~ Open. 0.64 square miles. This bed extends from Point San Luis to Point Buchon, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

35° 09.600' N. lat. 120° 45.369' W. long.;
35° 06.359' N. lat. 120° 45.369' W. long.; thence northwestward along the three
nautical mile offshore boundary to
35° 14.015' N. lat. 120° 57.535' W. long.; and
35° 15.308' N. lat. 120° 53.984' W. long.

- (E) ~~Bed 206. Administrative kelp bed 206.~~ Closed. 0.04 square miles. This bed extends from Point Buchon to Morro Rock, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

35° 15.308' N. lat. 120° 53.984' W. long.;
35° 14.015' N. lat. 120° 57.535' W. long.; thence northward along the three nautical
mile offshore boundary to
35° 22.161' N. lat. 120° 55.921' W. long.; and
35° 22.161' N. lat. 120° 52.228' W. long.

- (F) ~~Bed 207. Administrative kelp bed 207.~~ Leasable. 1.46 square miles. This bed extends from Morro Rock to Point Estero, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

35° 22.161' N. lat. 120° 52.228' W. long.;
35° 22.161' N. lat. 120° 55.921' W. long.; thence northwestward along the three
nautical mile offshore boundary to
35° 24.609' N. lat. 121° 00.704' W. long.; and
35° 27.621' N. lat. 121° 00.173' W. long.

- (G) ~~Bed 208. Administrative kelp bed 208.~~ Leasable. 2.61 square miles. This bed extends from Point Estero to Von Helm Rock, defined as the area bounded by the mean high

tide line and straight lines connecting the following points in the order listed except where noted:

35° 27.621' N. lat. 121° 00.173' W. long.;

35° 24.609' N. lat. 121° 00.704' W. long.; thence northwestward along the three nautical mile offshore boundary to

35° 30.694' N. lat. 121° 08.680' W. long.; and

35° 32.904' N. lat. 121° 06.046' W. long.

- (H) ~~Bed 209. Administrative kelp bed 209.~~ Leasable. 2.20 square miles. This bed extends from Von Helm Rock to San Simeon Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

35° 32.904' N. lat. 121° 06.046' W. long.;

35° 30.694' N. lat. 121° 08.680' W. long.; thence northwestward along the three nautical mile offshore boundary to

35° 35.234' N. lat. 121° 12.753' W. long.; and

35° 38.063' N. lat. 121° 11.723' W. long.

- (I) ~~Bed 210. Administrative kelp bed 210.~~ Leasable. 2.02 square miles. This bed extends from San Simeon Point to Point Piedras Blancas, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

35° 38.063' N. lat. 121° 11.723' W. long.;

35° 35.234' N. lat. 121° 12.753' W. long.; thence northwestward along the three nautical mile offshore boundary to

35° 37.682' N. lat. 121° 19.849' W. long.; and

35° 39.905' N. lat. 121° 17.201' W. long.

- (J) ~~Bed 211. Administrative kelp bed 211.~~ Leasable. 1.50 square miles. This bed extends from Point Piedras Blancas to Salmon Head, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

35° 39.905' N. lat. 121° 17.201' W. long.;

35° 37.682' N. lat. 121° 19.849' W. long.; thence northwestward along the three nautical mile offshore boundary to

35° 46.880' N. lat. 121° 25.878' W. long.; and

35° 48.725' N. lat. 121° 22.414' W. long.

- (K) ~~Bed 212. Administrative kelp bed 212.~~ Leasable. 1.26 square miles. This bed extends from Salmon Head to Cape San Martin, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

35° 48.725' N. lat. 121° 22.414' W. long.;

35° 46.880' N. lat. 121° 25.878' W. long.; thence northwestward along the three nautical mile offshore boundary to

35° 51.420' N. lat. 121° 31.231' W. long.; and

35° 53.346' N. lat. 121° 27.895' W. long.

- (L) ~~Bed 213. Administrative kelp bed 213.~~ Open. 2.14 square miles. This bed extends from Cape San Martin to Lopez Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
35° 53.346' N. lat. 121° 27.895' W. long.;
35° 51.420' N. lat. 121° 31.231' W. long.; thence northwestward along the three nautical mile offshore boundary to
35° 59.281' N. lat. 121° 37.281' W. long.; and
36° 01.164' N. lat. 121° 34.019' W. long.
- (M) ~~Bed 214. Administrative kelp bed 214.~~ Leasable. 2.03 square miles. This bed extends from Lopez Point to Partington Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
36° 01.164' N. lat. 121° 34.019' W. long.;
35° 59.281' N. lat. 121° 37.281' W. long.; thence northwestward along the three nautical mile offshore boundary to
36° 08.740' N. lat. 121° 44.957' W. long.; and
36° 10.494' N. lat. 121° 41.919' W. long.
- (N) ~~Bed 215. Administrative kelp bed 215.~~ Open. 0.80 square miles. This bed extends from Partington Point to Pfeiffer Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
36° 10.494' N. lat. 121° 41.919' W. long.;
36° 08.740' N. lat. 121° 44.957' W. long.; thence northwestward along the three nautical mile offshore boundary to
36° 11.127' N. lat. 121° 49.986' W. long.; and
36° 14.124' N. lat. 121° 48.895' W. long.
- (O) ~~Bed 216. Administrative kelp bed 216.~~ Leasable. 3.08 square miles. This bed extends from Pfeiffer Point to Point Sur, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
36° 14.124' N. lat. 121° 48.895' W. long.;
36° 11.127' N. lat. 121° 49.986' W. long.; thence northwestward along the three nautical mile offshore boundary to
36° 14.629' N. lat. 121° 55.539' W. long.; and
36° 18.431' N. lat. 121° 54.156' W. long.
- (P) ~~Bed 217. Administrative kelp bed 217.~~ Open. 2.38 square miles. This bed extends from Point Sur to Yankee Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
36° 18.431' N. lat. 121° 54.156' W. long.;
36° 14.629' N. lat. 121° 55.539' W. long.; thence northward along the three nautical mile offshore boundary to
36° 29.407' N. lat. 122° 00.729' W. long.; and

36° 29.407' N. lat. 121° 56.758' W. long.

- (Q) ~~Bed 218. Administrative kelp bed 218.~~ Open. 0.49 square miles. This bed extends from Yankee Point to Point Lobos, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

36° 29.407' N. lat. 121° 56.758' W. long.;

36° 29.407' N. lat. 122° 00.729' W. long.; thence northward along the three nautical mile offshore boundary to

36° 31.445' N. lat. 122° 01.314' W. long.; and

36° 31.445' N. lat. 121° 57.282' W. long.

- (R) ~~Bed 219. Administrative kelp bed 219.~~ Open. 1.28 square miles. This bed extends from Point Lobos to Point Cypress, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

36° 31.445' N. lat. 121° 57.282' W. long.;

36° 31.445' N. lat. 122° 01.314' W. long.; thence northward along the three nautical mile offshore boundary to

36° 34.809' N. lat. 122° 02.581' W. long.; and

36° 34.809' N. lat. 121° 58.722' W. long.

- (S) ~~Bed 220. Administrative kelp bed 220.~~ Open. 1.88 square miles. This bed extends from Point Cypress to Monterey Pier, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

36° 34.809' N. lat. 121° 58.722' W. long.;

36° 34.809' N. lat. 122° 02.581' W. long.; thence northward along a line three nautical miles from shore to

~~36° 40.597' N. lat. 121° 53.385' W. long.;~~

36° 40.597' N. lat. 121° 53.385' W. long.;

36° 36.351' N. lat. 121° 53.385' W. long.;

36° 36.290' N. lat. 121° 53.357' W. long.; and

36° 36.113' N. lat. 121° 53.385' W. long.

A kelp harvester may not harvest kelp in that portion of kelp bed 220 that lies south of latitude 36° 36.830' N. and north of the Monterey Breakwater.

- (T) ~~Bed 221. Administrative kelp bed 221.~~ Open. 0.90 square miles. This bed extends from Monterey Pier to Santa Cruz Pier, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed:

36° 36.113' N. lat. 121° 53.385' W. long.;

36° 36.290' N. lat. 121° 53.357' W. long.;

36° 36.351' N. lat. 121° 53.385' W. long.;

36° 40.597' N. lat. 121° 53.385' W. long.; thence northward along a line three nautical miles from shore to

36° 54.053' N. lat. 122° 01.035' W. long.;

36° 57.433' N. lat. 122° 01.035' W. long.;

36° 57.529' N. lat. 122° 01.070' W. long.; and

36° 57.727' N. lat. 122° 01.369' W. long.

- (U) ~~Bed 222. Administrative kelp bed 222.~~ Open. 0.81 square miles. This bed extends from Santa Cruz Pier to Sand Hill Bluff, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

36° 57.727' N. lat. 122° 01.369' W. long.;

36° 57.529' N. lat. 122° 01.070' W. long.;

36° 57.433' N. lat. 122° 01.035' W. long.;

36° 54.053' N. lat. 122° 01.035' W. long.; thence northwestward along a line three nautical miles from shore to

36° 56.762' N. lat. 122° 12.317' W. long.; and

36° 58.575' N. lat. 122° 09.178' W. long.

- (V) ~~Bed 223. Administrative kelp bed 223.~~ Leasable. 0.19 square miles. This bed extends from Sand Hill Bluff to Point Ano Nuevo, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

36° 58.575' N. lat. 122° 09.178' W. long.;

36° 56.762' N. lat. 122° 12.317' W. long.; thence northwestward along the three nautical mile offshore boundary to

37° 04.681' N. lat. 122° 23.354' W. long.; and

37° 06.765' N. lat. 122° 19.743' W. long.

- (W) ~~Bed 224. Administrative kelp bed 224.~~ Closed. 0.06 square miles. This bed extends from Point Ano Nuevo to Pescadero Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

37° 06.765' N. lat. 122° 19.743' W. long.;

37° 04.681' N. lat. 122° 23.354' W. long.; thence northwestward along the three nautical mile offshore boundary to

37° 14.514' N. lat. 122° 29.134' W. long.; and

37° 14.514' N. lat. 122° 25.169' W. long.

- (X) ~~Bed 225. Administrative kelp bed 225.~~ Closed. 0.00 square miles. This bed extends from Pescadero Point to Point Montara, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

37° 14.514' N. lat. 122° 25.169' W. long.;

37° 14.514' N. lat. 122° 29.134' W. long.; thence northward along the three nautical mile offshore boundary to

37° 32.173' N. lat. 122° 35.012' W. long.; and

37° 32.173' N. lat. 122° 31.194' W. long.

~~Total area of Mainland Kelp Beds (Pt. Arguello to Point Montara)28.59 square miles~~

(4) Mainland administrative kelp beds ~~Kelp Beds (Point Montara to Oregon).~~ Point Montara to California/Oregon Border (Total 5.83 square miles)

- (A) ~~Bed 226.~~ Administrative kelp bed 226. Closed. 0.00 square miles. This bed extends from Point Montara to Fort Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
37° 32.173' N. lat. 122° 31.194' W. long.;
37° 32.173' N. lat. 122° 35.012' W. long.; thence northward along the three nautical mile offshore boundary to
37° 48.661' N. lat. 122° 36.577' W. long.; and
37° 48.661' N. lat. 122° 28.649' W. long.
- (B) ~~Bed 301.~~ Administrative kelp bed 301. Closed. 0.00 square miles. This bed extends from Fort Point to Point Reyes, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
37° 48.661' N. lat. 122° 28.649' W. long.;
37° 48.661' N. lat. 122° 36.577' W. long.; thence northwestward along the three nautical mile offshore boundary to
37° 59.717' N. lat. 123° 05.276' W. long.; and
37° 59.717' N. lat. 123° 01.449' W. long.
San Francisco Bay is excluded from Bed 301. For the purposes of this subsection San Francisco Bay is defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed:
37° 49.534' N. lat. 122° 28.760' W. long.; and
37° 48.661' N. lat. 122° 28.649' W. long.
- (C) ~~Bed 302.~~ Administrative kelp bed 302. Closed. 0.00 square miles. This bed extends from Point Reyes to Duncan's Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
37° 59.717' N. lat. 123° 01.449' W. long.;
37° 59.717' N. lat. 123° 05.276' W. long.; thence northward along the three nautical mile offshore boundary to
38° 21.787' N. lat. 123° 08.807' W. long.; and
38° 23.572' N. lat. 123° 05.714' W. long.
- (D) ~~Bed 303.~~ Administrative kelp bed 303. Closed. 1.33 square miles. This bed extends from Duncan's Point to Gualala Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
38° 23.572' N. lat. 123° 05.714' W. long.;
38° 21.787' N. lat. 123° 08.807' W. long.; thence northwestward along the three nautical mile offshore boundary to
38° 45.158' N. lat. 123° 36.973' W. long.; and
38° 45.158' N. lat. 123° 31.627' W. long.
- (E) ~~Bed 304.~~ Administrative kelp bed 304. Closed. 0.89 square miles. This bed extends from Gualala Point to Iverson Point, defined as the area bounded by the mean high

tide line and straight lines connecting the following points in the order listed except where noted:

38° 45.158' N. lat. 123° 31.627' W. long.;

38° 45.158' N. lat. 123° 36.973' W. long.; thence northwestward along the three nautical mile offshore boundary to

38° 48.954' N. lat. 123° 41.880' W. long.; and

38° 50.724' N. lat. 123° 38.819' W. long.

- (F) ~~Bed 305. Administrative kelp bed 305.~~ Closed. 1.11 square miles. This bed extends from Iverson Point to Point Arena, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

38° 50.724' N. lat. 123° 38.819' W. long.;

38° 48.954' N. lat. 123° 41.880' W. long.; thence northward along the three nautical mile offshore boundary to

39° 00.332' N. lat. 123° 46.245' W. long.; and

38° 57.310' N. lat. 123° 44.501' W. long.

- (G) ~~Bed 306. Administrative kelp bed 306.~~ Closed. 1.03 square miles. This bed extends from Point Arena to Stillwell Point, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

38° 57.310' N. lat. 123° 44.501' W. long.;

39° 00.332' N. lat. 123° 46.245' W. long.; thence northward along the three nautical mile offshore boundary to

39° 15.200' N. lat. 123° 51.699' W. long.; and

39° 15.200' N. lat. 123° 47.211' W. long.

- (H) ~~Bed 307. Administrative kelp bed 307.~~ Closed. 0.93 square miles. This bed extends from Stillwell Point to the mouth of Ten-mile River, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

39° 15.200' N. lat. 123° 47.211' W. long.;

39° 15.200' N. lat. 123° 51.699' W. long.; thence northward along the three nautical mile offshore boundary to

39° 33.260' N. lat. 123° 50.548' W. long.; and

39° 33.260' N. lat. 123° 46.000' W. long.

- (I) ~~Bed 308. Administrative kelp bed 308.~~ Lease only. Temporary lease restrictions per subsection (c). 0.20 square miles. This bed extends from the mouth of Ten-mile River to Point Delgada, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

39° 33.260' N. lat. 123° 46.000' W. long.;

39° 33.260' N. lat. 123° 50.548' W. long.; thence northward along the three nautical mile offshore boundary to

39° 57.631' N. lat. 124° 04.134' W. long.; and

40° 01.278' N. lat. 124° 04.134' W. long.

- (J) ~~Bed 309. Administrative kelp bed 309. Lease only. Temporary lease restrictions per subsection (c).~~ 0.14 square miles. This bed extends from Point Delgada to Cape Mendocino, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
 40° 01.278' N. lat. 124° 04.134' W. long.;
 39° 57.631' N. lat. 124° 04.134' W. long.; thence northwestward along the three nautical mile offshore boundary to
 40° 25.120' N. lat. 124° 31.323' W. long.; and
 40° 26.309' N. lat. 124° 24.582' W. long.
- (K) ~~Bed 310. Administrative kelp bed 310. Closed. 0.00 square miles. This bed extends from Cape Mendocino to the South jetty of Humboldt Bay, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:~~
 40° 26.309' N. lat. 124° 24.582' W. long.;
 40° 25.120' N. lat. 124° 31.323' W. long.; thence northeastward along the three nautical mile offshore boundary to
 40° 47.711' N. lat. 124° 17.801' W. long.;
 40° 45.889' N. lat. 124° 14.644' W. long.; and
 40° 45.433' N. lat. 124° 14.102' W. long.
- (L) ~~Bed 311. Administrative kelp bed 311. Closed. 0.00 square miles. This bed extends from the South jetty of Humboldt Bay to the mouth of the Klamath River, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:~~
 40° 45.433' N. lat. 124° 14.102' W. long.;
 40° 45.889' N. lat. 124° 14.644' W. long.;
 40° 47.711' N. lat. 124° 17.801' W. long.; thence northward along the three nautical mile offshore boundary to
 41° 32.828' N. lat. 124° 10.636' W. long.; and
 41° 32.828' N. lat. 124° 04.821' W. long.
- (M) ~~Bed 312. Administrative kelp bed 312. Lease only. Temporary lease restrictions per subsection (c).~~ 0.20 square miles. This bed extends from the mouth of the Klamath River to the California/Oregon Border, defined as the area bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
 41° 32.828' N. lat. 124° 04.821' W. long.;
 41° 32.828' N. lat. 124° 10.636' W. long.; thence northward along the three nautical mile offshore boundary to
 42° 00.000' N. lat. 124° 19.814' W. long.; and
 42° 00.000' N. lat. 124° 12.735' W. long.

~~Total of Mainland Kelp Beds (Point Montara to California/Oregon Border)~~

~~.....5.83 square miles~~

~~Grand Total74.17 square miles~~

NOTE: Authority cited: Sections 6653, 6700 and 6701, Fish and Game Code. Reference: Sections 6653, 6700, 6701, 6701.5, 6702, 6703, 6704, 6705, 6706 and 6707, Fish and Game Code.

[Revisions to Section 705.1 that were included in the February 22, 2022 15-day notice of revised proposed regulatory language are shown below as originally proposed regulatory language. Please refer to the February 22, 2022 notice for illustration of the February 22, 2022 changes.]

Section 705.1, Title 14, CCR, is added to read:

§ 705.1 Commercial Kelp Harvesting and Drying Application, Monthly Harvest Reports.

(a) Application	Permit Fees (US\$)
(1) 2022 Kelp Harvesting License and Drying Application DFW 658 (REV. 01/06/22), incorporated by reference herein.	\$161.00 (does not include the fees specified in subsection 700.4(e)).

(a) Application

- (1) 2022 Kelp Harvesting License and Drying Application DFW 658 (REV. 01/06/22), incorporated by reference herein.
- (2) Permit Fees (US\$). \$161.00 (does not include the fees specified in subsection 700.4(e)).

(b) Monthly Harvest Reports

- (1) Commercial Kelp Harvester's Monthly Report DFW 113 (REV. 01/06/22), incorporated by reference herein.
- (2) Commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Report DFW 113A (NEW 01/06/22), incorporated by reference herein.

(c) Release of Property

- (1) Release of Property DFW 1108 (NEW 11/01/21-07/01/22), incorporated by reference herein.

(d) Maps of department origin blocks also known as fishing blocks

- (1) Northern California Fisheries Chart (September 2015), incorporated by reference herein.
- (2) Central California Fisheries Chart (September 2015), incorporated by reference herein.
- (3) Southern California Fisheries Chart (April 2016), incorporated by reference herein.

Note: Authority cited: Sections ~~713~~, 1050, 6651, 6653, and 6653.5, Fish and Game Code.

Reference: Sections 713, 1050, 6650, 6651, 6652, 6653, and 6653.5, Fish and Game Code.

Northern California Fisheries Chart

California Department of Fish and Wildlife

- This chart is not intended for use in navigation -



Marine GIS Lab
September 2015

Cape Sebastian

Cape Ferrelo

Brookings

Point St. George

Crescent
City

Reading Rock

Trinidad

Eureka

Cape Mendocino

Punta Gorda

Delgado Canyon

Gorda Valley

Vizcaino Canyon

Noyo Canyon

Arena Canyon

Point Arena

1175

1170

1169

1111

1110

1109

1108

1107

1106

1105

1104

1103

1102

1101

138

139

241

Gorda Escarpment

280

281

484

101

102

103

104

105

106

108

109

110

111

112

114

115

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117

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0 15 30 60

Kilometers

0 15 30 60

Miles

1:2,800,000

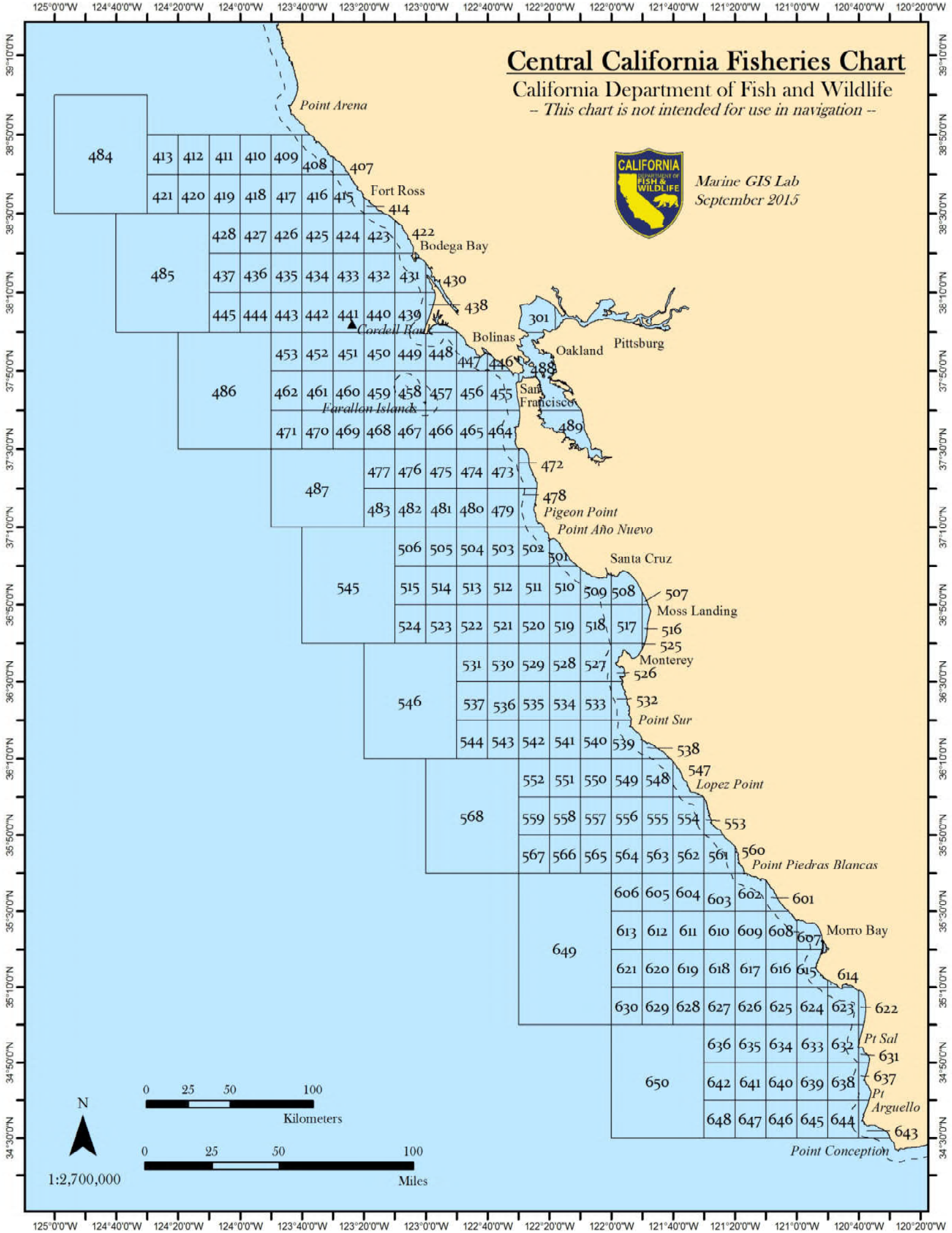
Central California Fisheries Chart

California Department of Fish and Wildlife

- This chart is not intended for use in navigation -



Marine GIS Lab
September 2015



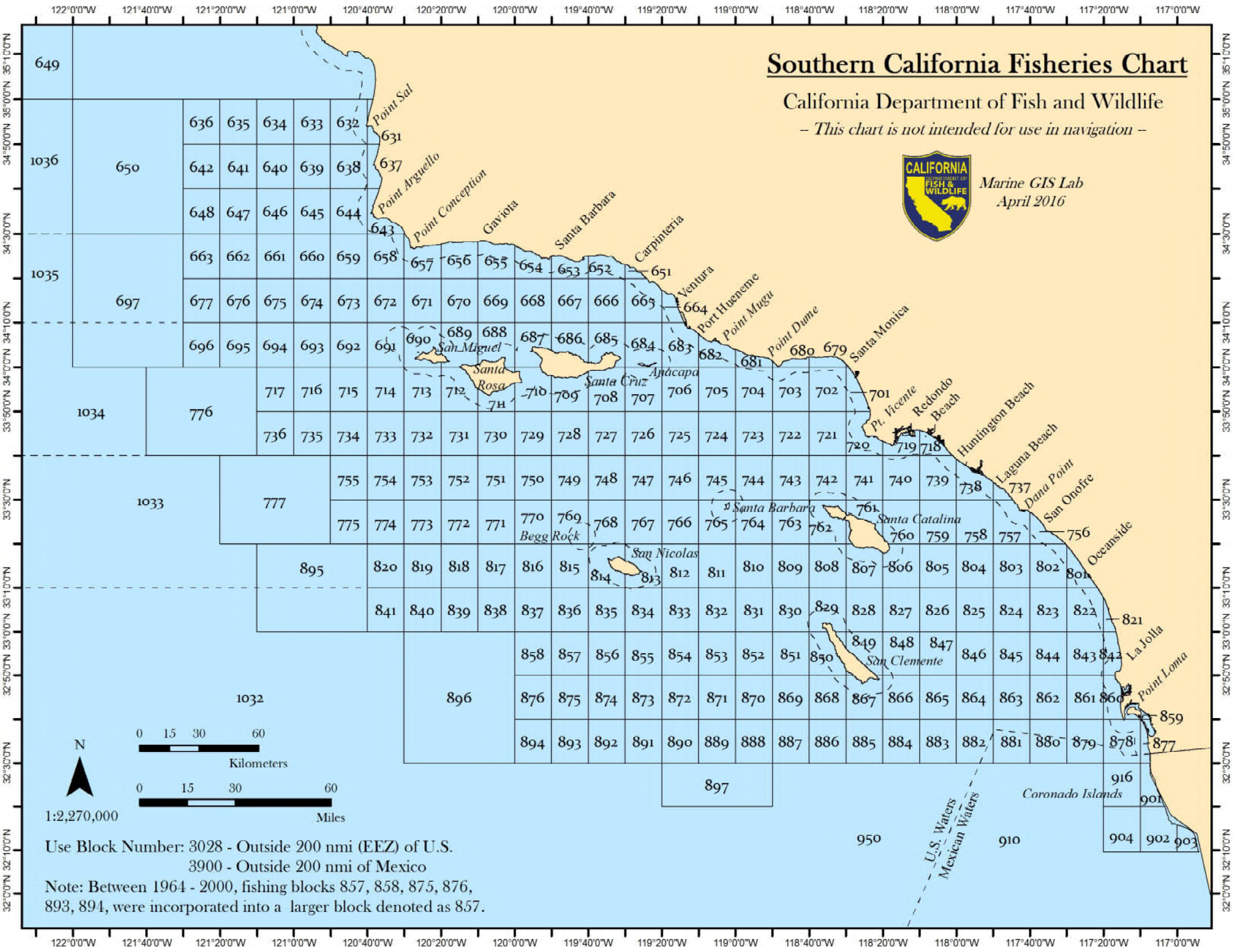
Southern California Fisheries Chart

California Department of Fish and Wildlife

- This chart is not intended for use in navigation -



Marine GIS Lab
April 2016



Use Block Number: 3028 - Outside 200 nmi (EEZ) of U.S.
3900 - Outside 200 nmi of Mexico
Note: Between 1964 - 2000, fishing blocks 857, 858, 875, 876,
893, 894, were incorporated into a larger block denoted as 857.

In the ISOR, DFW 658 (REV. 08/14) was proposed to be repealed and replaced with DFW 658 (REV. 11/01/21)



State of California – Department of Fish and Wildlife
2015 KELP HARVESTING LICENSE APPLICATION
DFW 658 (REV. 08/14) Previously MRD 658
FEE: \$143.69 (Valid January 1, 2015 through December 31, 2015)

KELP HARVESTING

Doc. ID: _____

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

FIRST NAME		MI.	LAST NAME		GOID#	
BUSINESS NAME				SEX <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	DATE OF BIRTH	
MAILING ADDRESS				HAIR COLOR	EYE COLOR	HEIGHT
CITY		STATE	ZIP CODE	DAY TELEPHONE ()		BUSINESS TELEPHONE ()
STREET ADDRESS				COUNTY		
CITY		STATE	ZIP CODE	E-MAIL ADDRESS (Voluntary)		
BOAT NAME		CA VESSEL REGISTRATION NUMBER			NUMBER OF PROCESSING PLANTS	
METHOD OF HARVESTING <input type="checkbox"/> HAND <input type="checkbox"/> MECHANICAL		CHECK THE BOX FOR EACH TYPE OF AQUATIC PLANT TO BE HARVESTED <input type="checkbox"/> AGAR <input type="checkbox"/> EDIBLE SEAWEED <input type="checkbox"/> BULL KELP <input type="checkbox"/> BULL KELP (HUMAN CONSUMPTION) <input type="checkbox"/> GIANT KELP				
NAME, PLACE, AND DATE OF INCORPORATION						

☐ **(Required)** I understand that I must obtain a valid license from the Department's Los Alamitos office once per year before I begin harvesting, kelp, or other aquatic plants. I have also read and understand the Kelp Harvesting Regulation Packet.

In the event a license is granted, I hereby agree to abide by all conditions of said license and all laws and regulations of the Fish and Game Code of California, and Title 14 of the California Code of Regulations. I am eligible for the indicated license and I am not under revocation or suspension, nor is there a case pending that would restrict me from obtaining a license. I hereby certify that all information contained on this application and/or submitted to meet the requirements for issuance of subject license is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the license issued will be considered invalid and must be surrendered to the Department of Fish and Wildlife and that I will be subject to criminal prosecution. I understand this license or permit may be suspended or revoked by the Fish and Game Commission if I am convicted of, or plead guilty or nolo contendere to, a Fish and Wildlife violation.

SIGNATURE **X** _____ DATE _____

FOR DEPARTMENT OF FISH AND WILDLIFE USE ONLY

ISSUED BY LOS ALAMITOS/DATE	TRANSACTION#	KELP HARVESTING REGULATION PACKET ISSUED <input type="checkbox"/> YES <input type="checkbox"/> NO
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IF NEW YOU MUST INCLUDE VALID IDENTIFICATION WITH THIS APPLICATION

INSTRUCTIONS FOR COMPLETING THE KELP HARVESTING LICENSE APPLICATION

Contact the Department of Fish and Wildlife (Department), 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, (562) 342-7100, if you need additional information regarding kelp harvesting licenses.

INSTRUCTIONS

1. It is mandatory to complete all items unless specified as voluntary.
2. Sign and date the application.
3. Mail **ALL COPIES** of this application with a cashier's check, money order, personal check* or credit card** with the appropriate fee to the **Department of Fish and Wildlife, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, (562) 342-7100. DO NOT SEND CASH.** This application will become your license when validated and returned to you by the Department.

IDENTIFICATION REQUIREMENT

Section 700.4(c), Title 14 of the California Code of Regulations (CCR) states any applicant applying for any license, tag, permit, reservation or other entitlement issued via the Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors identification number (GO ID) previously issued via ALDS
- A valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious personnel)
- US Certificate or Report of Birth Abroad
- US Birth Certificate
- Tribal Identification Card, as defined by each sovereign tribal nation
- US Passport
- A foreign government-issued photo identification
- Certificate of Naturalization or Citizenship
- Birth Certificate or passport issued from a US Territory

Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include any form of identification described above; or a parent or legal guardian's identification as described above.

At all times when engaged in any activity for which a commercial fishing license is required, the licensee shall have in his or her possession, or immediately available to the licensee, a valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile. A current passport may be used in lieu of a valid driver's license or identification card by a holder of a valid nonresident commercial fishing license issued pursuant to FGC Section 7852(b). The licensee's driver's license, identification card or, if applicable, passport, shall be exhibited upon demand to any person authorized by the Department to enforce this code or regulations. (FGC Section 7852.27)

NOTICE

Under Fish and Game Code (FGC) §6650-6680, and Title 14, California Code of Regulations §165 and 165.5, the Department is authorized to collect information from kelp harvester license applicants to maintain a record of licensure. All information requested on the application is mandatory unless otherwise indicated. Other personal information submitted on this application may be released for law enforcement purposes, pursuant to court order, or for official natural resources management purposes.

PAYMENT POLICY

***Personal Checks** will be accepted by the Department if name and address are imprinted on the check. Checks returned to the Department due to insufficient funds will render your license or permit invalid. The Department may also deny the issuance or renewal of any commercial license or permit if a person has failed to reimburse the Department for the amount due plus an additional processing fee of \$30 (FGC §7852.25). Any commercial activity performed without a valid license or permit is a violation of the FGC and therefore subject to enforcement action.

****Credit Cards**—Licenses, permits, tags, stamps, or registrations may be purchased with a Visa or MasterCard.

Indicate type of payment: ☐ Check* ☐ Money Order ☐ Visa ☐ MasterCard

*Make checks or money orders payable to **California Department of Fish and Wildlife**
(Please do not send cash)

TOTAL \$ _____

CARD #: _____ EXPIRATION DATE (MM/YY): _____

CVC Number (On back of credit card) _____

I authorize CDFW to charge the agreed amount listed above to my credit card provided herein. I agree that I will pay for this purchase in accordance with the issuing bank cardholder agreement.

PRINT NAME:(As it appears on credit card)

SIGNATURE:

DATE:

In the PSOR, DFW 658 (REV. 11/01/21) was proposed to be replaced with DFW 658 (REV 01/06/22).



State of California – Department of Fish and Wildlife

2022 KELP HARVESTING LICENSE AND DRYING APPLICATION

DFW 658 (REV. 11/01/21) Page 1 of 2

FEE: \$165.83 (Valid January 1, 2022, through December 31, 2022)

SEE INSTRUCTIONS ON REVERSE. PRINT CLEARLY

FIRST NAME		M.I.	LAST NAME		GO ID#	
BUSINESS NAME			HARVESTER'S LICENSE # (Required unless first permit)		GENDER <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> NONBINARY	
DATE OF BIRTH						
MAILING ADDRESS			HAIR COLOR	EYE COLOR	HEIGHT	WEIGHT
CITY	STATE	ZIP CODE	DAY TELEPHONE		BUSINESS TELEPHONE	
STREET ADDRESS			COUNTY			
CITY	STATE	ZIP CODE	EMAIL ADDRESS			
BOAT NAME (Complete if boat used. If kayak, write "kayak")			CA VESSEL REGISTRATION NUMBER		NUMBER OF PROCESSING PLANTS	
METHOD OF HARVESTING <input type="checkbox"/> HAND <input type="checkbox"/> MECHANICAL		CHECK THE BOX FOR EACH TYPE OF AQUATIC PLANT TO BE HARVESTED <input type="checkbox"/> AGAR <input type="checkbox"/> EDIBLE SEAWEED <input type="checkbox"/> BULL KELP <input type="checkbox"/> BULL KELP (HUMAN CONSUMPTION) <input type="checkbox"/> GIANT KELP				
<input type="checkbox"/> DRYING PERMIT (Select this option if you choose to dry harvest pursuant to California Code of Regulations (CCR), Title 14, Section 165(a)(1)(B).)						

NAME, PLACE, AND DATE OF INCORPORATION

☐ **(Required)** I understand that I must obtain a valid license from the Department's Los Alamitos office once per year before I begin harvesting, kelp or other aquatic plants.

In the event a license is granted, I hereby agree to abide by all conditions of said license and all laws and regulations of the Fish and Game Code (FGC) and the CCR, including FGC Sections 6650 – 6711 and CCR, Title 14, Sections 165, 165.5, and 705.1. I am eligible for the indicated license, and I am not under revocation or suspension, nor is there a case pending that would restrict me from obtaining a license. I hereby certify that all information contained on this application and/or submitted to meet the requirements for issuance of subject license is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the license issued will be considered invalid and must be surrendered to the California Department of Fish and Wildlife and that I will be subject to criminal prosecution. I understand this license or permit may be suspended or revoked by the California Fish and Game Commission if I am convicted of, or plead guilty or *nolo contendere* to, a Fish and Wildlife violation.

SIGNATURE

X

DATE

FOR DEPARTMENT OF FISH AND WILDLIFE USE ONLY

ISSUED BY LOS ALAMITOS/DATE

TRANSACTION #

IF NEW YOU MUST INCLUDE VALID IDENTIFICATION WITH THIS APPLICATION



State of California – Department of Fish and Wildlife

2022 KELP HARVESTING LICENSE AND DRYING APPLICATION

DFW 658 (REV. 11/01/21) Page 2 of 2

FEE: \$165.83 (Valid January 1, 2022, through December 31, 2022)

INSTRUCTIONS FOR COMPLETING THE KELP HARVESTING LICENSE APPLICATION

Contact the California Department of Fish and Wildlife (CDFW) Los Alamitos office by phone (562) 342-7100, if you need additional information regarding the kelp harvesting license and drying application.

INSTRUCTIONS

1. It is mandatory to complete all items unless specified as voluntary.
2. Sign and date the application.
3. Mail the application with a cashier's check, money order, personal check, or credit card authorization form with the appropriate fee to the **California Department of Fish and Wildlife, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, (562) 342-7100**. This application will become your license when validated and returned to you by CDFW.

IDENTIFICATION REQUIREMENT

California Code of Regulations (CCR), Title 14, Section 700.4(c), states any applicant applying for any license, tag, permit, reservation or other entitlement issued via the Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors identification number (GO ID) previously issued via ALDS
- A valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious personnel)
- US Certificate or Report of Birth Abroad
- US Birth Certificate
- Tribal Identification Card, as defined by each sovereign tribal nation
- US Passport
- A foreign government-issue photo identification
- Certificate of Naturalization or Citizenship
- Birth Certificate or passport issued from a US Territory

Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include any form of identification described above; or a parent or legal guardian's identification as described above.

At all times when engaged in any activity for which a commercial fishing license is required, the licensee shall have in his or her possession, or immediately available to the licensee, a valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile. A current passport may be used in lieu of a valid driver's license or identification card by a holder of a valid nonresident commercial fishing license issued pursuant to Fish and Game Code (FGC), Section 7852(b). The licensee's driver's license, identification card or, if applicable, passport, shall be exhibited upon demand to any person authorized by CDFW to enforce this code or regulations pursuant to FGC Section 7852.27.

NOTICE

Pursuant to FGC, Sections 6650 - 6680, and CCR, Title 14, Sections 165 and 165.5, CDFW is authorized to collect information from kelp harvester license applicants to maintain a record of licensure. All information requested on the application is mandatory unless otherwise indicated. Pursuant to FGC, Section 391, CDFW may exchange or release to appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by CDFW.

PAYMENT POLICY

Personal Checks will be accepted if name and address are imprinted on the check. Make checks payable to "California Department of Fish and Wildlife". Checks returned to CDFW due to insufficient funds will render your license or permit invalid. CDFW may also deny the issuance or renewal of any license or permit if a person has failed to reimburse CDFW for the amount due. Any commercial activity performed without a valid license or permit is a violation of the FGC and therefore subject to enforcement action.

Credit Cards- Licenses, permits, and other entitlements may be purchased with debit or credit cards displaying the Visa or Mastercard logo.

Cash is not accepted at CDFW's license sales offices.

In the July 14, 2022 notice, form DFW 658 (REV. 01/16/22) is proposed to be edited as illustrated below in double strikeout/double underline format.



State of California – Department of Fish and Wildlife
2022 KELP HARVESTING LICENSE AND DRYING APPLICATION
DFW 658 (REV. 01/06/22) Page 1 of 2
FEE: \$165.83 (Valid January 1, 2022, through December 31, 2022)

PROPOSED FORM. NOT FOR OFFICIAL USE.

SEE INSTRUCTIONS ON REVERSE. PRINT CLEARLY

FIRST NAME		M.I.	LAST NAME		GO ID#	
BUSINESS NAME		HARVESTER LICENSE # <small>(Required unless first permit)</small>		GENDER <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE <input type="checkbox"/> NONBINARY		DATE OF BIRTH
MAILING ADDRESS			HAIR COLOR	EYE COLOR	HEIGHT	WEIGHT
CITY	STATE	ZIP CODE		DAY TELEPHONE		BUSINESS TELEPHONE
STREET ADDRESS				COUNTY		
CITY	STATE	ZIP CODE		EMAIL ADDRESS		
BOAT NAME <small>(Complete if boat used. If kayak, write "kayak")</small>		CA VESSEL REGISTRATION NUMBER		NUMBER OF PROCESSING PLANTS		
METHOD OF HARVESTING <input type="checkbox"/> HAND <input type="checkbox"/> MECHANICAL		CHECK THE BOX FOR EACH TYPE OF AQUATIC PLANT TO BE HARVESTED <input type="checkbox"/> AGAR <input type="checkbox"/> EDIBLE SEAWEED <input type="checkbox"/> BULL KELP <input type="checkbox"/> BULL KELP (HUMAN CONSUMPTION) <input type="checkbox"/> GIANT KELP				
<input type="checkbox"/> DRYING PERMIT <small>(Select this option if you choose to dry harvest pursuant to California Code of Regulations (CCR), Title 14, Section 165(a)(1)(B).)</small>						

NAME, PLACE, AND DATE OF INCORPORATION

☐ **(Required)** I understand that I must obtain a valid license from the Department's Los Alamitos office once per year before I begin harvesting, kelp or other aquatic plants.

In the event a license is granted, I hereby agree to abide by all conditions of said license and all laws and regulations of the Fish and Game Code (FGC) and the CCR, including FGC Sections 6650 – 6711 and CCR, Title 14, Sections 165, 165.5, and 705.1. I am eligible for the indicated license, and I am not under revocation or suspension, nor is there a case pending that would restrict me from obtaining a license. I hereby certify that all information contained on this application and/or submitted to meet the requirements for issuance of subject license is true and correct. I understand that, in the event that this information is found to be untrue or incorrect, the license issued will be considered invalid and must be surrendered to the California Department of Fish and Wildlife and that I will be subject to criminal prosecution. I understand this license or permit may be suspended or revoked by the California Fish and Game Commission if I am convicted of, or plead guilty or nolo contendere to, a Fish and Wildlife violation.

SIGNATURE X	DATE
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FOR DEPARTMENT OF FISH AND WILDLIFE USE ONLY

ISSUED BY LOS ALAMITOS/DATE	TRANSACTION #
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IF NEW YOU MUST INCLUDE VALID IDENTIFICATION WITH THIS APPLICATION



State of California – Department of Fish and Wildlife

2022 KELP HARVESTING LICENSE AND DRYING APPLICATION

DFW 658 (REV. 01/06/22) ~~Page 1 of 2~~ Page 2 of 2

FEE: \$165.83 (Valid January 1, 2022, through December 31, 2022)

INSTRUCTIONS FOR COMPLETING THE KELP HARVESTING LICENSE AND DRYING APPLICATION

Contact the California Department of Fish and Wildlife (CDFW) Los Alamitos office by phone (562) 342-7100, if you need additional information regarding the kelp harvesting license and drying application.

INSTRUCTIONS

1. It is mandatory to complete all items unless specified as voluntary.
2. Sign and date the application.
3. Mail the application with a cashier's check, money order, personal check, or credit card authorization form with the appropriate fee to the **California Department of Fish and Wildlife, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, (562) 342-7100.**

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California Code of Regulations (CCR), Title 14, Section 700.4(c), states any applicant applying for any license, tag, permit, reservation or other entitlement issued via the Automated License Data System (ALDS) shall provide valid identification. Acceptable forms of identification include:

- Any license document or Get Outdoors identification number (GO ID) previously issued via ALDS
- A valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile
- US Military Identification Cards (Active or reserve duty, dependent, retired member, discharged from service, medical/religious personnel)
- US Certificate or Report of Birth Abroad
- US Birth Certificate
- Tribal Identification Card, as defined by each sovereign tribal nation
- US Passport
- A foreign government-issue photo identification
- Certificate of Naturalization or Citizenship
- Birth Certificate or passport issued from a US Territory

Any applicant less than 18 years of age applying for any license, tag, permit, reservation or other entitlement issued via the ALDS shall provide valid identification. Acceptable forms of identification include any form of identification described above; or a parent or legal guardian's identification as described above.

At all times when engaged in any activity for which a commercial fishing license is required, the licensee shall have in his or her possession, or immediately available to the licensee, a valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile. A current passport may be used in lieu of a valid driver's license or identification card by a holder of a valid nonresident commercial fishing license issued pursuant to Fish and Game Code (FGC), Section 7852(b). The licensee's driver's license, identification card or, if applicable, passport, shall be exhibited upon demand to any person authorized by CDFW to enforce this code or regulations pursuant to FGC Section 7852.27.

NOTICE

Pursuant to FGC, Sections 6650 - 6680, and CCR, Title 14, Sections 165 and 165.5, CDFW is authorized to collect information from kelp harvester license applicants to maintain a record of licensure. All information requested on the application is mandatory unless otherwise indicated. Pursuant to FGC, Section 391, CDFW may exchange or release to appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by CDFW.

PAYMENT POLICY

Personal Checks will be accepted if name and address are imprinted on the check. Make checks payable to "California Department of Fish and Wildlife". Checks returned to CDFW due to insufficient funds will render your license or permit invalid. CDFW may also deny the issuance or renewal of any license or permit if a person has failed to reimburse CDFW for the amount due. Any commercial activity performed without a valid license or permit is a violation of the FGC and therefore subject to enforcement action.

Credit Cards- Licenses, permits, and other entitlements may be purchased with debit or credit cards displaying the Visa or Mastercard logo.

Cash is not accepted at CDFW's license sales offices.

In the ISOR, FG 114 (Rev. 1/07) was proposed to be combined with FG 113 (January 1, 1997) and replaced with DFW 113 (REV. 11/01/21)

**STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
GIANT /BULL KELP HARVESTER'S MONTHLY REPORT- DETAIL SHEET**

Name of Kelp Harvester _____ Month _____ Year _____
Harvest License Number _____

Tons (short tons- 2000 lbs/ton) Of Kelp Harvested By Bed Number (§165.5, T14, CCR).
Please designate leased beds by prefixing bed number with letter (for example, "L23" or
"L-32") and portions of beds within marine protected areas with the name of the marine
protected area (§632, T14, CCR) (for example "Edward F. Ricketts SMCA - 220").

DAY	BED #	BED #	BED #	BED #	BED #	BED #	BED #
1							
2							
3							
4							
5							
6							
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31							



COMMERCIAL KELP HARVESTER'S MONTHLY REPORT

Business Name _____ Business Contact Name _____

~~Number of individuals harvesting for the business during this report _____~~

Check if no harvest occurred ☐ Number of report pages submitted:

TOTAL DUE (ALL BEDS)	
-----------------------------	--

Signature _____ Title _____ Date _____



Regulations governing this report are found in Fish and Game Code section 6650 et seq. and California Code of Regulations, Title 14, Sections 165-165.5. This report is made in accordance with provisions established in Chapter 6, Articles 1-3, Sections 6650-6711, Fish and Game Code, and CA Code of Regulations, Title 14, Sections 165-165.5. The purpose of this form is to report the number of tons of wet kelp harvested during the month.

General Instructions:

- A) Report must be completed each month regardless of whether harvest occurred (indicate no harvest). Include additional harvest reports as needed and specify the number of pages submitted.
- B) Make checks payable to California Dept. of Fish and Wildlife.
- C) Prepare report in duplicate. Retain one copy for your files. Submit the original to California Department of Fish and Wildlife, Accounting Services Branch/Cash Receipts at 715 P Street, 16th Floor, Sacramento, CA, 95814 or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090.
- D) Questions regarding this report may be addressed to: kelp@wildlife.ca.gov.

Log Instructions:

- 1. Administrative kelp bed number. Indicate leased bed by prefixing bed number with "L."
- 2. If harvest is within an marine protected area (MPA) that allows take, specify the MPA name.
- 3. Central latitude/longitude coordinates of bull kelp harvest. If multiple locations of harvest are visited, provide the central coordinates for each location. Latitude/longitude coordinates should use the Decimal Degrees format with 5 decimal places. Use World Geodetic System of 1984 (WGS84) coordinate system/datum.
- 4. Short ton = 2,000 pounds.
- 5. Leased bed, enter the contract rate per ton.
- 6. Leased bed, enter the balance of advanced deposit. If balance of advance deposit is less than "Total amount due" show the difference in "Net amount due" column.



State of California – Department of Fish and Wildlife
COMMERCIAL KELP HARVESTER'S MONTHLY REPORT
DFW 113 (REV. 01/06/22) Page 1 of 2

PROPOSED FORM - not for official use

Business Name _____ Business Contact Name _____

Harvester's License Number _____ Report Period: Month _____ Year _____

Number of individuals harvesting for the business during this report _____

Check if no harvest occurred ☐

Number of report pages submitted: _____

Date	Bed # ¹	MPA ²	Giant or bull kelp	Latitude/Longitude for bull kelp harvest only ³	Tons harvested ⁴

OPEN or LEASABLE BEDS Bed #:	Total tons harvested	
	Rate per ton	\$1.71
	Total amount due	\$

LEASED BED (use additional reports as needed) Bed #:	Total tons harvested	
	Rate per ton ⁵	\$
	Total amount due	\$
	Balance of advanced deposit ⁶	\$
	Net amount due	\$

TOTAL DUE (ALL BEDS)	
-----------------------------	--

Certificate: I hereby certify that I have reviewed this report and the information shown herein is true and correct to the best of my knowledge pursuant to the provisions of the Fish and Game Code of California and Title 14 of the California Code of Regulations.

Signature _____ Title _____ Date _____



Regulations governing this report are found in Fish and Game Code section 6650 et seq. and California Code of Regulations, Title 14, sections 165-165.5. This report is made in accordance with provisions established in Chapter 6, Articles 1-3, sections 6650-6711, Fish and Game Code, and CA Code of Regulations, Title 14, sections 165-165.5. The purpose of this form is to report the number of tons of wet kelp harvested during the month.

General Instructions:

- A) Report must be completed each month regardless of whether harvest occurred (indicate no harvest). Include additional harvest reports as needed and specify the number of pages submitted.
- B) Make checks payable to California Dept. of Fish and Wildlife.
- C) Prepare report in duplicate. Retain one copy for your files. Submit the original to California Department of Fish and Wildlife, Accounting Services Branch/Cash Receipts at 715 P Street, 16th Floor, Sacramento, CA 95814 or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090.
- D) Questions regarding this report may be addressed to: kelp@wildlife.ca.gov.

Log Instructions:

- 1. Administrative kelp bed number. Indicate leased bed by prefixing bed number with "L."
- 2. If harvest is within a marine protected area (MPA) that allows take, specify the MPA name.
- 3. Central latitude/longitude coordinates of bull kelp harvest. If multiple locations of harvest are visited, provide the central coordinates for each location. Latitude/longitude coordinates should use the Decimal Degrees format with 5 decimal places. Use World Geodetic System of 1984 (WGS84) coordinate system/datum.
- 4. Short ton = 2,000 pounds.
- 5. Leased bed, enter the contract rate per ton.
- 6. Leased bed, enter the balance of advanced deposit. If balance of advanced deposit is less than "Total amount due" show the difference in "Net amount due" column.

**COMMERCIAL EDIBLE SEAWEED/AGARWEED AQUATIC
PLANT HARVESTER'S MONTHLY REPORT**

~~Business Name~~ Business Contact Name

~~Harvester's License Number~~ Report Period: Month Year

~~Number of individuals harvesting for the business during report~~

Check if no harvest occurred _____ Number of report pages submitted: _____

[illegible]

~~Certificate: I hereby certify that I have reviewed this report and the information shown herein is true and correct to the best of my knowledge pursuant to the provisions of the Fish and Game Code of California and Title 14 of the California Code of Regulations.~~

Signature _____ Title _____ Date _____



**COMMERCIAL EDIBLE SEAWEED/AGARWEED AQUATIC
PLANT HARVESTER'S MONTHLY REPORT**

DFW 113A (NEW 11/01/21) Page 2 of 2

Regulations governing this report are found in Fish and Game Code section 6650 et seq. and California Code of Regulations, Title 14, Sections 165-165.5. This report is made in accordance with provisions established in Chapter 6, Articles 1-3, Sections 6650-6711, Fish and Game Code and CA Code of Regulations, Sections 165-165.5. The purpose of this report is to report the number of tons of wet edible seaweed/agarweed aquatic plants harvested during the month.

General Instructions:

- A) Report must be completed each month regardless of whether harvest occurred (indicate no harvest). Include additional harvest reports as needed and specify the number of pages submitted.
- B) Make checks payable to California Dept. of Fish and Wildlife.
- C) Prepare report in duplicate. Retain one copy for your files. Submit the original to California Department of Fish and Wildlife, Accounting Services Branch/Cash Receipts at 715 F Street, Sacramento, CA, 95814. Or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090.
- D) Questions regarding this report may be addressed to: kelp@wildlife.ca.gov.

Log Instructions:

¹ Central latitude/longitude coordinates of bull kelp harvest. If multiple locations of harvest are visited, provide the central coordinates for each location. Latitude/longitude coordinates should use the Decimal Degrees format with 5 decimal places. Use World Geodetic System of 1984 (WGS84) coordinate system/datum.

²\$17.00 per wet ton (2,000 lbs.) or \$0.0085 per lb. of **agarweed/agar-bearing** marine plants.

³\$24.00 per wet ton (2,000 lbs.) or \$0.012 per lb. of **edible seaweed**.



COMMERCIAL EDIBLE SEAWEED/AGARWEED AQUATIC PLANT HARVESTER'S MONTHLY REPORT

PROPOSED FORM - not for official use

Check if no harvest occurred _____ Number of report pages submitted: _____

Certificate: I hereby certify that I have reviewed this report and the information shown herein is true and correct to the best of my knowledge pursuant to the provisions of the Fish and Game Code of California and Title 14 of the California Code of Regulations.

Signature _____ Title _____ Date _____



**COMMERCIAL EDIBLE SEAWEED/AGARWEED AQUATIC
PLANT HARVESTER'S MONTHLY REPORT**

Regulations governing this report are found in Fish and Game Code section 6650 et seq. and California Code of Regulations, Title 14, sections 165-165.5. This report is made in accordance with provisions established in Chapter 6, Articles 1-3, sections 6650-6711, Fish and Game Code and CA Code of Regulations, sections 165-165.5. The purpose of this report is to report the weight of wet edible seaweed/agarweed aquatic plants harvested during the month.

General Instructions:

- A) Report must be completed each month regardless of whether harvest occurred (indicate no harvest). Include additional harvest reports as needed and specify the number of pages submitted.
- B) Make checks payable to California Dept. of Fish and Wildlife.
- C) Prepare report in duplicate. Retain one copy for your files. Submit the original to California Department of Fish and Wildlife, Accounting Services Branch/Cash Receipts at 715 P Street, 16th Floor, Sacramento, CA 95814. Or by postal delivery to P.O. Box 944209, Sacramento, CA 94244-2090.
- D) Questions regarding this report may be addressed to: kelp@wildlife.ca.gov.

Log Instructions:

¹ Central latitude/longitude coordinates of bull kelp harvest. If multiple locations of harvest are visited, provide the central coordinates for each location. Latitude/longitude coordinates should use the Decimal Degrees format with 5 decimal places. Use World Geodetic System of 1984 (WGS84) coordinate system/datum.

²\$17.00 per wet ton (2,000 lbs.) or \$0.0085 per lb. of **agarweed/agar-bearing** marine plants.

³\$24.00 per wet ton (2,000 lbs.) or \$0.012 per lb. of **edible seaweed**.



State of California - Department of Fish and Wildlife

RELEASE OF PROPERTY

DFW 1108 (NEW 11/01/21~~07/01/22~~)

PROPOSED FORM. NOT FOR OFFICIAL USE.

PROPERTY: _____

I hereby certify that I understand the above described property may not be taken, possessed, transported and/or sold under legislative or regulatory mandate.

I hereby release the above described property to the California Department of Fish and Wildlife (Department) and in so doing, authorize the Department to use, sell, dispose of, or donate subject property to a non-profit institution, or, if applicable, the proceeds from the sale of property to the Fish and Game Preservation Fund. If sold, the proceeds of all such sales shall be paid into the Fish and Game Preservation Fund.

Signature _____ Date _____

Name _____

Address _____

Received by _____ Date _____
(Department Representative)

FOR DEPARTMENT USE ONLY:

Pursuant to the above release, subject property was delivered to the following non-profit institution:

Name _____

Address _____

Phone _____

Received By _____ Date _____
(Signature)

Delivered By _____ Date _____
(Department Representative Signature)

Instructions: Send the Original to California Department of Fish and Wildlife, 20 Lower Ragsdale Drive, Suite 100, Monterey CA 93940. Send a copy to the Subject Releasing Property subject releasing property and copy to the Institution Receiving Property institution receiving property.

The purpose of this form is to release property to the Department and to maintain a record of property released.

Re: Update: 15-day Notice - Commercial Harvest of Kelp and Other Aquatic Plants

Doug Bush <dbush@culturedabalone.com>

Fri 07/29/2022 01:55 PM

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

Cc: Flores Miller, Rebecca@Wildlife <[REDACTED]>; Ashcraft, Susan@FGC <[REDACTED]>

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hello

Commenting on the commercial harvest of kelp regulatory changes.

Under General Harvest Provisions, section 4 reads that eelgrass may not be cut, disturbed, or **possessed**. Drift eelgrass, seasonally due to either swell or current, is sometimes found tangled in the kelp canopy. It is never mechanically harvested (this is excluded by default due to the shallow depth in which it is found). By prohibiting possession, an enforcement situation may be created when drift eelgrass is found in the canopy and incidentally collected. Suggest that a provision for incidental collection of eelgrass is added, or that the possession clause is removed.

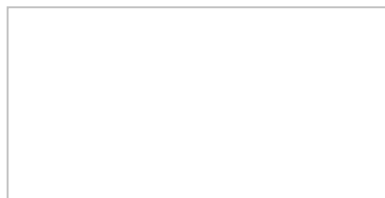
2nd comment: the new format for the kelp harvesting monthly report does not meaningfully improve the reporting. The prior design, in which harvest by date/bed/tonnage (the "detail" page) was segregated from the summary and royalty page was clear and intuitive. It appears that the Department wishes to add MLPA data and location data for Nereo harvest- these items would be more cleanly included by adding them to the existing detail page. The template that my farm uses for the summary page in which the beds of typical use are pre-filled into the summary provide a clearer picture of use to the resource manager than the proposed form will. I recommend not redesigning the form for the sake of redesigning. The only meaningful improvement would be online reporting.

3rd comment: there has been no effort to address the issues that arise from the licensee being a company and for employees of the company being permitted under that company's license. The license application continues to request "height" and "hair color," instead of indexing the license to the DFW registration of my kelp harvesting vessel, for example. And the regs do not clarify that the employees operating under a company kelp harvesting license do not also need to carry a commercial fishing license- a situation which arises 1-2 times per year between my crew and DFW enforcement. Each of these points were brought up during the stakeholder comment process.

Best

db

*douglas bush
managing member/gm
the cultured abalone farm, llc
c. 805 729 4830*



On Fri, Jul 29, 2022 at 12:00 PM FGC <FGC@fgc.ca.gov> wrote:

Greetings,

Pursuant to Government Code Section 6707, the Fish and Game Commission will accept comments on the revised proposed kelp harvesting regulations through 5:00 p.m. on Monday, August 1, 2022.

Please refer to the original notice below.

Sherrie Fonbuena
California Fish and Game Commission

From: FGC

Sent: Friday, July 15, 2022 08:33 AM

To:

Subject: 15-day Notice - Commercial Harvest of Kelp and Other Aquatic Plants

Greetings,

A 15-day notice of revised proposed regulatory language concerning commercial harvest of kelp and other aquatic plants has been posted to the Commission's website. The notice and associated documents can be accessed [at https://fgc.ca.gov/Regulations/2021-New-and-Proposed#165](https://fgc.ca.gov/Regulations/2021-New-and-Proposed#165).

Please refer to the notice for additional information.

Sincerely,

Sherrie Fonbuena
California Fish and Game Commission

Re: Update 15-day Notice - Commercial Harvest of Kelp and Other Aquatic Plants

kevin roux <[REDACTED]>

Mon 08/01/2022 03:52 PM

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

You don't often get email from [REDACTED] [Learn why this is important](#)

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To California Fish and Game Commission,

California Fish and Game with its proposed and current regulations, and desire to release more permits for growing kelp on all levels, whether edible or for commercial products is in need of desperate re evaluation.

First, there are no boating safety regulations in place for marking the growing / harvesting areas. No radar deflectors, no buoy's with lights or bells to warn of impending vessel collision with sites. If the commission is not familiar with the weather patters of the Santa Barbara Channel low lying fog is highly present, and yes recreational boaters do night sailing / cruising. The Commissions disregard for safety is unacceptable, and must be held accountable as Fish and Game is our public servants. The Commission does not serve self interest. That is dictatorship!

Second, the Commission has not put forth any regulations of what these "farms" will be constructed of. Plastics, synthetics, plastic lines, or other polluting products that will eventually kill marine life and seep into our environment causing harm to our children and grandchildren will not be tolerated.

Third, the process of self reporting by lease holders will not take place. If Fish and Game cannot or will not strictly monitor these aquaculture ventures the sovereignty of California Fish and Game to act in the Santa Barbara Channel must be dissolved. Is this necessary? ABSOLUTELY !!! There will be no tolerance from a Government agency that is required to act as our Guardian of our Ocean, Marine life, and Human Health, but instead is acting as our Anti Guardian by allowing unprecedented pollution.

In conclusion Fish and Game has no right to move forward on any projects because past projects, rules and regulations, set forth by the Commission are already running unrestrained in our ocean waters. In fact Fish and Game has already lost most of its authority to be our Guardian through lack of resources, hands on field knowledge data, and allowing self reporting on a number of existing regulations. Mainly the Commercial Lobster Trapping Industry. It is time for authority of our waters to be transferred to County Governments and the National Park Service, especially to safe guard our Northern Channel Islands. Shame on you for becoming supporters of unprecedented pollution of our coastlines, open waters, and the Norther Channel Islands.

Best Regards Kevin F Roux

On Jul 29, 2022, at 2:01 PM, California Fish and Game Commission <fgc@fgc.ca.gov> wrote:

**California
Fish and Game Commission**

Wildlife Heritage and Conservation Since 1870

Greetings,

Pursuant to Section 6707 of the Government Code, the Commission will accept comments on the revised proposed kelp harvesting regulations through 5:00 p.m., Monday, August 1, 2022.

Please refer to the 15-day notice and associated documents [at https://fgc.ca.gov/Regulations/2021-New-and-Proposed#165](https://fgc.ca.gov/Regulations/2021-New-and-Proposed#165) for additional information.

Sincerely,

Sherrie Fonbuena
California Fish and Game Commission

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California Fish and Game Commission | 715 P Street, 16th Floor, Sacramento, CA 95814

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attn: Sherrie re:15-day continuation notice comment

andrew pacificwildcraft.com <andrew@pacificwildcraft.com>

Mon 08/01/2022 04:50 PM

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

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July 31, 2022

California Fish and Game Commission
Melissa Miller-Henson Executive Director
P.O. Box 944209 Sacramento, CA 94244-2090

fgc@fgc.ca.gov

Re: 15-day continuation notice concerning the proposed regulations for the commercial harvest of kelp and other aquatic plants

Dear Director Miller-Henson,

My name is Andrew Daunis. I am a small business owner and seaweed harvester along the Mendocino County coastline and adversely impacted by the proposed regulations.

I have significant concerns regarding the proposed regulation changes, and perhaps more significantly, the administrative process and substance of scientific and economic review which the CDFW and FGC relied upon as the basis for the rulemaking.

1. Regarding proposed closure of bull kelp harvest in Mendocino and Sonoma counties: The CDFW and FGC habitually ignored input of expert scientists throughout the process who stated that harvest has zero impact on bull kelp recruitment (and therefore, biomass). Citing a lack of data as the basis for the rulemaking that adversely impacts our local businesses, Department wrote: "lack of scientific data to explain whether commercial harvest does or does not have an impact on the current kelp population, the California Department of Fish and Wildlife (Department) has determined that a precautionary management approach is warranted and is recommending amendments to harvest regulations in the interest of maintaining the bull kelp population that remains," the Department and the Commission have ignored the scientific input that supports the viability of small scale hand harvest of bull kelp which occurs north of the Golden Gate Bridge. Even Commissioner Zavaleta, herself an expert scientist, stated at the December 16, 2021 Commission meeting that the science indicated that there is no need for a total closure of bull kelp harvest in Mendocino and Sonoma counties.

2. New proposed harvest restrictions in Humboldt and Del Norte county, and additional harvest landing reporting requirements, propose a punitive fine and seizure of property for lawfully conducting business activity. Under no circumstances should a business or private party be forced to have their property seized and their hard work confiscated by the state for inadvertently exceeding a harvest quota in the course of lawfully conducting business activity, especially when the Department and Commission openly recognize that there is no need for the harvest restriction in the first place, because there has been no decline in the resource. This is a blatant violation of APA rules.

("Considering bull kelp harvest in Del Norte and Humboldt counties was greater proportionally, and canopy area did not decline dramatically compared to Mendocino and Sonoma counties during that timeframe, the Department determined capping harvest in Del Norte and Humboldt counties would maintain current use and harvest post 2014.")

3. CDFW and FGC have not evaluated adverse economic impact, and at this point appear to have knowingly misrepresented their degree of due diligence regarding Economic Impact Assessment.

Despite harvesters' efforts, neither Department nor Commission have made any meaningful effort to understand our business model or harvest activities, and therefore are in no position to assess economic impact, especially without consulting the businesses that are impacted. We have not been consulted regarding economic impact.

Local seaweed harvest businesses are crafters of unique specialty artisanal foods. We are not commodity extraction businesses.

Neither the Commission nor the Department have conducted any kind of economic review whatsoever regarding Economic Impact to seaweed harvesters, they have not consulted with seaweed harvesters regarding economic impact, and by claiming that they have conducted such a review, have essentially falsified their findings published in the "TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations".

The proposed regulations will affect our ability to compete with businesses from other states; will impact the creation or elimination of jobs within the state, and will impact the expansion of existing businesses.

Our artisanal bull kelp fronds are unique in the greater seaweed market, which includes natural food stores and restaurants. Proposed regulations will cripple my ability to access new markets and "upsell" other seaweeds. It limits us not only in terms of direct sales and value-added products, but also in our ability to stand out in the market place.

For example, I just established a new relationship with a burgeoning restaurant because of their interest in the bull kelp fronds, and then was able to interest them in other seaweeds as well.

Another aspect of the Economic Impact Assessment, the Commission and Department have failed to demonstrate any expected benefit, and anticipated benefits such as tourism will actually be adversely impacted as I will no longer be able to lead people on experiential tours to kayak and sustainably harvest bull kelp fronds.

4. The Economic Impact Assessment also fails to acknowledge that the Department has proposed the elimination of harvest of seapalm as well as bull kelp, and that the Department has decided to separate seaweed harvest regulations review into at least 3 different categories: bull kelp, sea palm, and other species. There has been no comprehensive assessment of the economic assessment of intended future proposed regulations for other seaweeds and their economic impact in their totality.

5. The Commission has a duty to APA rules and the Consideration of Alternatives:

“The Commission must determine 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 provision of law.”

Again, Commissioner Zavaleta stated that the bull kelp science in Mendocino and Sonoma Counties does not support total closure. Department and Commission openly acknowledge that bull kelp canopy has not deviated from historic levels in Humboldt and Del Norte counties.

In resubmitting its rulemaking, the Commission has the duty to enact alternatives that do not violate APA rules, such as temporarily limiting entry to new harvesters out of an abundance of caution, while allowing existing businesses to continue to conduct their sustainable harvest business activities.

If the Commission resubmits its current rulemaking as proposed, it seems that the Commission would have the duty to notify the Office of Administrative Law that it did not conduct an Economic Impact Assessment or develop its rulemaking in accord with its Consideration of Alternatives.

Public Comment on Commercial Harvest of Kelp and Other Aquatic Plants

James Jungwirth <[REDACTED]>

Mon 08/01/2022 04:55 PM

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

 1 attachments (18 KB)

James Jungwirth public comment letter re Kelp policy 7-31-22.docx;

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hi Sherrie,

Please forward my public comment letter (attached below) on commercial harvest of kelp and other aquatic plants.

Thanks!

James

James Jungwirth
[REDACTED]

On Jul 29, 2022, at 2:01 PM, California Fish and Game Commission <fgc@fgc.ca.gov> wrote:

California Fish and Game Commission

Wildlife Heritage and Conservation Since 1870

Greetings,

Pursuant to Section 6707 of the Government Code, the Commission will accept comments on the revised proposed kelp harvesting regulations through 5:00 p.m., Monday, August 1, 2022.

Please refer to the 15-day notice and associated documents [at https://fgc.ca.gov/Regulations/2021-New-and-Proposed#165](https://fgc.ca.gov/Regulations/2021-New-and-Proposed#165) for additional information.

Sincerely,

Sherrie Fonbuena
California Fish and Game Commission

California Fish and Game Commission

RE: Public comment on commercial harvest of kelp and other aquatic plants
July 31, 2022

Dear Commissioners,

My wife Kari and I founded our family business, Naturespirit Herbs LLC, in 1990. We harvest, produce and sell a broad selection of value-added kelp and seaweeds products for food, nutrition, and medical purposes. We have worked very hard to develop our niche business, our products, and our markets over the decades.

Our business is one of the two seaweed harvesting businesses that currently harvest Bull Kelp in Del Norte and Humboldt counties, and we are gravely concerned about several of the proposed regulations regarding the harvest of Bull Kelp.

The Department has proposed a set of completely arbitrary closures and harvest limits. This sets a dangerous precedent for the management of our industry. From the beginning of the regulatory process, the Department has ignored their own 2001 Kelp CEQA data and the advice of qualified scientists and experienced harvesters. They have chosen instead to claim there is a "lack of data", vaguely invoking the "Precautionary Principle" and "Traditional Ecological Knowledge".

The Department has also failed to define any of the parameters guiding their proposed closures and limits. They have provided no trigger points for initiating or ending their proposed closures and limits. There has been no determination of canopy-to-biomass levels, no definition of sustainable harvest levels, and no definition of decline or recovery. Moreover, the Department has failed to come up with any scientific data indicating that their proposed closures and limits will be of any benefit to Bull Kelp populations.

The Department has failed to assess the financial impacts to small businesses of a full harvest closure in Sonoma and Mendocino counties, as required by APA rules. The Department's decision to close harvest in Sonoma and Mendocino counties does not recognize the significant adverse financial impact to Andrew Daunis' and Terry D'Selkie's small rural seaweed businesses. These two harvesters were never consulted.

In general, the Department has steadfastly ignored the fact that most seaweed harvesters' businesses are artisanal, entrepreneurial, and focused on value-added products, and is attempting to regulate our harvest as if it were just another fishery.

However, unlike other fisheries, we have no commercial seaweed buyers; there is no "market" for our products. Most of us have worked for *decades* to develop mail order businesses, value-added products, and niche markets for these products. Most of us have hundreds of retail and wholesale customers that return to buy specific products from us year after year. We diligently strive to avoid running out of any particular seaweed species or seaweed product.

Our businesses are almost entirely entrepreneurial. It takes us *years* to develop a market for a new product. Along the same lines, if we can no longer supply a customer with the product they have been purchasing from us for years, they will likely go somewhere else to buy it, and in many cases they will not come back.

Seaweed harvesters are business owners, not fishermen. Because of this, even a temporary harvest limit, season or closure on a particular species of marine algae will result in significant and long-term financial impacts to our businesses and livelihoods.

In general, setting harvest limits, seasons, and closures (especially without any restrictions on new licensees) sets up a derby-style, first-come-first-served system that undermines cooperation between harvesters and is not conducive to stable, long-term niche market businesses. They are also completely unnecessary, since the total amount of seaweed harvested represents a tiny fraction of 1% of the total seaweed biomass.

Allowing the harvest of 2,000 lbs. of Bull Kelp per year in Sonoma and Mendocino counties is in the public interest, and is required by APA rules. The Commission is required to act in the public interest. In light of Commissioner Zavaleta's statement at the December 16, 2021 Commission meeting that the harvest of 2,000 lbs. of Bull Kelp per year is not going to have an impact on kelp recovery in those counties, and considering the significant adverse financial impacts of a harvest closure to two small rural Mendocino seaweed businesses, a failure to allow for the harvest of 2,000 lbs. per year in Sonoma and Mendocino counties is obviously *not* in the public interest. Additionally, APA rules require that the Department and Commission explore management alternatives that avoid undue financial impacts on small businesses.

The Department's proposed "Release of Property" policy is:

1. Completely unnecessary. A viable and scientifically supported alternative exists, which is to eliminate the arbitrary and capricious annual harvest limit of 4 tons per year, or to simply limit the harvest in these counties to the current two harvesters. There are no declines in Bull Kelp populations in Humboldt and Del Norte counties, and current levels of harvest are less than 0.1% of the total biomass of Bull Kelp per year.

2. A de facto punitive fine that serves no purpose whatsoever, and would cause major adverse financial impacts to harvesters' businesses. If a harvester unknowingly lands more Bull Kelp than the quota allows before they are given notice by the Department, the Department proposes to require the harvester to "release" it.

Freshly harvested Bull Kelp fronds are not worth very much. However, a few days later, after they have been transported, manually hung up to dry, taken down, sorted, trimmed, and packaged for human consumption, they become value-added products that are worth *many* times what they were worth when they were harvested.

Drying and processing is completed within a couple days after harvest, so by the time the Department could ask us to “release” the excess harvest, we will have invested \$2,000 to \$3,000 in labor costs for each day's harvest. Thus, the "release of property" policy is a de facto punitive fine that serves no purpose whatsoever, and is bad policy.

3. A violation of APA rules. APA rules require the Department and Commission to consider alternatives that cause less adverse financial impacts on small businesses. As mentioned in #1, viable alternatives exist.

4. Wasteful of valuable resources. If the Department requires us to “release” a day's harvest, where will they sell it? It took us *decades* to develop our customer base for dried Bull Kelp fronds; there is no "market" for it. The resource will be wasted. Bad policy.

Sincerely,
James Jungwirth
Naturespirit Herbs LLC

Summaries and responses to public comments received on the 15-day notice of revised proposed amendments to Sections 165 and 165.5, and forms DFW 658, DFW 113 and DFW 114, and addition of Section 705.1, forms DFW 113A and DFW 1108, and incorporation by reference of Department origin block (a.k.a. fishing block) maps, Title 14, California Code of Regulations Re: Commercial Harvesting of Kelp and Other Aquatic Plants; Lease of Kelp Beds for Exclusive Harvest of *Macrocystis* and *Nereocystis*; Commercial Kelp Harvesting and Drying Application, Monthly Harvest Reports.

Summaries and responses to public comments received from July 14 to August 1, 2022

Table 1. List of assigned commenter identification number, date received, comment type, commenter name(s) and organization(s) (if applicable).

Commenter ID Number	Date Received	Comment Type	Commenter Name and Organization(s), if applicable
21	7/29/22	Email	Douglas Bush, The Cultured Abalone Farm, LLC
22	8/01/22	Email	Andrew Daunis, commercial edible seaweed harvester in Mendocino
23	8/01/22	Letter via Email	James Jungwirth, Naturespirit Herbs, LLC
24	8/01/22	Email	Kevin F. Roux

Table 2. Comment summaries and responses to comments. Each comment has an associated commenter identification number and corresponding comment designated as “a”, “b” etc.

Comment	Comment Summary	Response
21a.	1a. Refers to the proposed regulatory language which amends existing regulation prohibiting cutting or disturbing eel grass (<i>Zostera</i>) or surf grass (<i>Phyllospadix</i>) to include that eel grass or surf grass may not be possessed. States that, although not mechanically harvested, drift eel grass is occasionally tangled in kelp canopy and is taken incidentally. Suggests the possession restriction is removed or to include an allowance of incidental take of eel grass.	21a. Comments are outside the scope of the 15-day notice.

Comment	Comment Summary	Response
21b.	<p>1b. States the amended format of the kelp harvesting monthly report [Commercial Kelp Harvester's Monthly Report DFW 113 (REV. 01/06/22)] "does not meaningfully improve the reporting." States the existing two separate forms [Kelp Harvester's Monthly Report FG 113 (January 1, 1997) and Giant/Bull Kelp Harvester's Monthly Report – Detail Sheet FG 114 (Rev. 1/07)] were more intuitive. States it would be better to include the Marine Protected Area location and central latitude/longitude coordinates for bull kelp harvest on the existing detail page [Giant/Bull Kelp Harvester's Monthly Report – Detail Sheet FG 114 (Rev. 1/07)]. States his business uses a summary form template that they have pre-filled with the bed numbers his business typically harvests and that the form he uses provides is a more clear "picture of use" for resource managers than the amended Commercial Kelp Harvester's Monthly Report DFW 113 (REV. 01/06/22). States he recommends to not amend the reporting forms for kelp and only online reporting of take would provide "meaningful improvement."</p>	21b. Comments are outside the scope of the 15-day notice.

Comment	Comment Summary	Response
21c.	1c. States that there have been continuing issues with the commercial kelp harvesting licenses not being clear that employees are allowed to harvest under the business license. Provides an example that the license application [2022 Kelp Harvesting License and Drying Application DFW 658 (REV. 01/06/22)] continues to request “height” and “hair color”, instead of indexing the license to the DFW [California Department of Fish and Wildlife (CDFW)] registration of the kelp harvesting vessel. States the regulations do not clearly state that employees working under a business license for commercial kelp harvest are not also required to obtain a commercial fishing license. States that his employees have one to two occurrences per year with [C]DFW Law Enforcement on this issue.	21c. Comments are outside the scope of the 15-day notice.
22a.	States concern about the proposed regulation changes, specifically related to the administrative process and scientific and economic review for the rulemaking. States CDFW and FGC [California Fish and Game Commission] ignored input from expert scientists who state harvest has zero impact on bull kelp recruitment and biomass. States that lack of data is insufficient reason for harvest closure in Sonoma and Mendocino.	22a. Comments are outside the scope of the 15-day notice. Refer to responses 1d, 3d, 4e, 4j, 5i and 7j.

Comment	Comment Summary	Response
22b.	<p>States proposed harvest regulations in Humboldt and Del Norte counties and additional harvest landing reporting requirements propose a punitive fine and seizure of property for lawfully conducting business activity. States that CDFW and FGC recognize there is no need for harvest restriction due to lack of decline in the resource in Humboldt and Del Norte counties. States the proposed punitive fine and seizure of property following inadvertent exceeding of a harvest quota in Humboldt and Del Norte counties is a violation of APA [Administrative Procedure Act] rules.</p>	<p>22b. The “Release of Property” form will ensure any bull kelp harvest in excess of the quota is forfeited to CDFW. Subsection 165(c)(9)(B)1. and subsection 165(c)(9)(B)2. state harvest restrictions will be announced to harvesters prior to implementation, including progress toward the quota, to ensure communications to harvesters are timely and to mitigate potential “inadvertent” excess harvest over quota due to delay in communications to harvesters.</p> <p>Proposed changes to subsection 165(c)(9)(B)1. and subsection 165(c)(9)(B)2. define when the fishery will reopen or not reopen and clarify that neither the annual overall fishery quota nor the annual license quota may be exceeded. Specifically, subsection 165(c)(9)(B)1.b. clarifies CDFW notification to harvesters affected by the allotment process, including timing and notification mechanism (i.e., email).</p> <p>Also see responses 1c and 6m.</p>
22c.	<p>States CDFW and FGC did not evaluate the adverse economic impacts (of the proposed regulation changes). States consultation with seaweed harvesters did not occur as a part of the economic impact assessment. States proposed regulations will affect (harvester’ s) ability to compete with businesses from other states, will impact creation/elimination of jobs, and impact the expansion of existing businesses. States economic impact assessment does not demonstrate any expected benefit, nor account for impacts on tourism.</p>	<p>22c. Comments are outside the scope of the 15-day notice. Refer to responses 3c, 4d, 4l, 5i and 7m; Initial Statement of Reasons (ISOR) section VII(f); Economic and Fiscal Impact Statement (std 399) and addendum.</p>

Comment	Comment Summary	Response
22d.	States the economic impact assessment does not include information about proposed elimination of seapalm harvest. States CDFW decided to separate seaweed harvest regulations into 3 different categories (bull kelp, seapalm, and other species). States there hasn't been a comprehensive economic assessment that accounts for future proposed regulations for other seaweeds.	22d. Comments on potential future rulemakings are outside the scope of the proposed regulation.
22e.	Stated that FGC must determine that no reasonable alternative considered by FGC, or that has otherwise been identified and brought to the attention of FGC, 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 provision of law.	22e. Comments are outside the scope of the 15-day notice. See Response 4m; and Final Statement of Reasons (FSOR) sections IX(a), IX(c) and IX(d).
22f.	Referred to Commissioner Zavaleta's statement during the December 2021 FGC meeting which suggests it is not necessary to close bull kelp harvest in Mendocino and Sonoma counties due to the current harvest levels and bull kelp biomass.	22f. Comments are outside the scope of the 15-day notice. Refer to Response 1d.
22g.	Stated that FGC has the duty to enact alternatives that do not violate the APA rules, such as temporarily limiting entry to new harvesters out of an abundance of caution, while allowing existing businesses to continue to conduct their sustainable harvest business activities.	22g. Comments are outside the scope of the 15-day notice. Refer to Response 4m.

Comment	Comment Summary	Response
22h.	States that FGC has a duty to notify the Office of Administrative Law that it did not conduct an Economic Impact Assessment or develop its rulemaking in accord with its Consideration of Alternatives.	22h. FGC has completed an Economic Impact Assessment and has considered alternatives in compliance with the APA.
23a.	Founded their business in 1990, harvests, produces and sells kelp and seaweed products for food, nutrition, and medicinal use. Have developed their niche business/market over decades. States their business is one of two businesses currently harvesting bull kelp in Del Norte and Humboldt counties and they are concerned with the stakeholder engagement process and several of the proposed regulations.	23a. Comment noted.
23b.	States CDFW's proposed bull kelp harvest limits and/or closures are arbitrary and set a dangerous precedent for managing their industry.	23b. Comments are outside the scope of the 15-day notice. Refer to Response 1c.
23c.	States CDFW has ignored 2001 Kelp CEQA [California Environmental Quality Act] data, input from qualified scientists and experienced commercial harvesters; did not define parameters guiding proposed limits and/or closures; and has claimed lack of data vaguely invoking the precautionary principle and traditional ecological knowledge.	23c. Comments are outside the scope of the 15-day notice. Refer to responses 1c, 1d, 4b, 4j and 6d.
23d.	States CDFW has not provided trigger points to initiate or end proposed harvest limits and closures. Canopy-to-biomass levels have not been determined, and definitions of sustainable harvest levels and decline or recovery are not provided. States CDFW has not provided any scientific data which indicates limits and/or closures will benefit bull kelp populations.	23d. Comments are outside the scope of the 15-day notice. Refer to responses 1b and 1c.

Comment	Comment Summary	Response
23e.	States CDFW has not assessed the financial impact of closing bull kelp harvest to small businesses in Mendocino and Sonoma counties - specifically, the closure option does not recognize the significant adverse financial impact to Terry d'Selkie and Andrew Daunis' small seaweed businesses. States that these harvesters were not consulted.	23e. Comments are outside the scope of the 15-day notice. Refer to responses 3c and 4d.
23f	States CDFW ignored the fact that seaweed harvest businesses are 'artisanal, entrepreneurial, and focused on value-added products.' States that most (harvesters) worked for decades to develop mail order businesses and niche markets for their products. States it takes years to develop a market for a new product and if products can't reliably be supplied, long-term customers will go elsewhere to purchase and likely not return. State (harvesters) avoid running out of their seaweed products.	23f. Comments noted. Comments are outside the scope of the 15-day notice. Refer to responses 4d and 4l.
23g	States kelp harvest is distinct from other fisheries in that there is no 'market' for the products. States seaweed harvesters are business owners and not fishermen, noting even temporary harvest limit, season or closure will result in significant and long-term economic impact.	23g. Comments are outside the scope of the 15-day notice. Refer to responses 4d and 4m, and the std 399 and addendum.
23h	States setting harvest limits, seasons, and closures particularly when not imposing a restriction on new licenses, results in a derby-style fishery that will undermine cooperation between harvesters and is not conducive to stable long-term business. States the total amount of seaweed harvested accounts for less than 1% of the total seaweed biomass.	23h. Comments are outside the scope of the 15-day notice. Refer to responses 1b, 1d, 4n and 6f.

Comment	Comment Summary	Response
23i.	<p>States allowing the harvest of 2,000 lbs. of Bull Kelp per year in Sonoma and Mendocino counties is in the public interest and is required by APA rules. States the FGC is required to act in the public interest and refers to Commissioner Zavaleta's statements during the December 16, 2021, FGC meeting that an annual 2,000 lbs. harvest limit is not going to impact recovery. States it is not in the public interest to close bull kelp harvest in the Mendocino and Sonoma counties due to the significant financial impacts to the two businesses. States that APA requires CDFW and FGC explore management alternatives that avoid undue financial impacts on small business.</p>	<p>23i. Comments are outside the scope of the 15-day notice. See responses 3d, 4d, 4m and 6j; and FSOR sections IX(a), IX(c) and IX(d).</p>
23j.	<p>23j. States the CDFW's proposed "Release of Property" form is unnecessary. Commenter presents an alternative approach which would be to eliminate the annual harvest limit or to simply limit the harvest in Humboldt and Del Norte to the two current harvesters, noting the lack of declines in bull kelp within these two counties.</p>	<p>23j. The alternative approach provided by the commenter to eliminate the annual harvest limit [annual overall fishery quota] is outside the scope of the 15-day notice. See responses to comments 1c, 4n, 6f.</p> <p>The alternative approach provided by the commenter to limit the harvest in Humboldt and Del Norte to the two current harvesters, does not address the purpose of the regulation to ensure that any illegal harvest in excess of the annual overall fishery quota or allotments is forfeited to the Department to be used, sold, disposed of or donated to a non-profit institution in order to prevent waste, and consistent with subsection 165(b)(6).</p> <p>Also see responses 6m and 22b; and ISOR section IV(a)</p>

Comment	Comment Summary	Response
23k.	States the CDFW's proposed "Release of Property" form and punitive fine in response to exceeding a harvest quota could have major adverse financial impacts to businesses. If bull kelp harvest exceeds the quota before they receive notice from CDFW, CDFW can require them to release the overage. Although bull kelp fronds that are freshly harvested are not worth much, once transported, hung to dry, processed and packaged for human food it is worth many times more than what it was worth when it was harvested. It takes a couple of days after harvest to dry and process bull kelp, by the time the CDFW can request them to release harvest they would have invested \$2,000 to \$3,000 in cost of labor. Asked if CDFW requires businesses to release harvest where will CDFW sell it? Stated it took them years to develop their customer base of bull kelp fronds and there is no real "market" for it.	<p>23k. See responses 1c, 6m, 22b and 23j.</p> <p>Any bull kelp released to CDFW will be used, sold, disposed of, or donated to a nonprofit institution. If sold, the proceeds of all such sales shall be paid into the Fish and Game Preservation Fund. Please refer to the ISOR, FSOR, and the "Release of Property" form for additional details.</p>
24a.	FGC with its proposed and current regulations, and desire to release more permits for growing kelp on all levels, whether edible or for commercial products is in desperate need of re-evaluation.	24a. The comments are outside the scope of the proposed regulations. This rulemaking is not related to the aquaculture of kelp.
24b.	States there are no boating safety regulations in place or surface markers indicating growing and harvest areas. Identifies presence of low-lying fog and night sailing/cruising as safety concerns.	24b. Comments are outside the scope of the proposed regulations as they do not pertain to kelp harvesting practices or regulations.

Comment	Comment Summary	Response
24c.	States FGC does not provide regulations for what “farms” will be constructed of and notes several materials that will have negative impact on marine life and the environment.	24c. Comments are outside the scope of the proposed regulations as they do not pertain to kelp harvesting practices or regulations.
24d.	States that self-reporting by lease holders will not take place.	<p>24d. FGC may lease to any person the exclusive privilege to harvest kelp in designated kelp beds. However, taken in context with the whole of the letter, this comment appears to be about aquaculture of kelp; therefore, the comments are outside the scope of the proposed regulations as they do not pertain to kelp harvesting practices or regulations.</p> <p>If the comment does pertain to self-reporting by kelp bed lease holders, this comment is outside the scope of the 15-day notice.</p>
24e.	Identifies concerns about monitoring of aquaculture ‘ventures’ and states such activities allow unprecedented pollution. States authority of ‘our waters’ should be transferred to County governments and the National Park Service, specifically to safeguard the Northern Channel Islands.	24e. The comments are outside the scope of the proposed regulations as they do not pertain to kelp harvesting practices or regulations.

Excerpt of summary and response to public comments received from December 31, 2021 to February 16, 2022.

Table 3. List of assigned commenter identification number, date received, comment type, commenter name(s) and organization(s) (if applicable).

Commenter ID Number	Date Received	Comment Type	Commenter Name and Organization(s)
1	1/31/22	Letter via email	Doug Bush, The Cultured Abalone Farm, LLC
6	2/3/22	Letter via email	James Jungwirth and Kari Rein, Naturespirit Herbs, LLC

Table 4. Excerpt of comment summaries and responses to comments. Each comment has an associated commenter identification number and corresponding comment designated as “a,” “b” etc.

Comment	Comment Summary	Response
1c.	1c. It is not possible for CDFW to use quantitative data to determine when to close and reopen harvest when lacking the status of bull kelp biomass. The proposal suggests an indeterminate closure that “feels appropriate” and does not improve management of the resource.	<p>1c. The quantitative data for bull kelp, Landsat satellite imagery quarterly dataset of kelp canopy area from 1984 to the third quarter of 2021 compiled by the Santa Barbara Coastal Long Term Ecological Research program (SBC LTER), is the best available science. The data reveal the maximum annual bull kelp canopy area has remained at least 90% below the historical average (1984–2013) from 2014 through the third quarter of 2021 for Sonoma and Mendocino counties. The data are detailed in the Pre-Adoption Statement of Reasons (PSOR), January 14, 2022. Previously, data was provided through 2020 in the Initial Statement of Reasons (ISOR), November 10, 2021.</p> <p>There is a lack of scientific data to explain if commercial kelp harvest does or does not have an impact on the currently depressed kelp population. Therefore, as described in the ISOR Section III(b), CDFW is taking a precautionary approach as mandated by the Marine Life Management Act (MLMA) to protect and maintain the remaining bull kelp populations.</p> <p>The bull kelp harvest limits and closures are temporary, with a three-year sunset date to allow development and potential adoption of a comprehensive, statewide Kelp Restoration and Management Plan (KRMP).</p>

Comment	Comment Summary	Response
6m.	<p>6m. The CDFW's proposed "Release of Property" form could have major adverse financial impacts to businesses. If bull kelp harvest exceeds the quota before they receive notice from CDFW, the CDFW can require them to release the overage. Although bull kelp fronds that are freshly harvested are not worth much, once transported, hung to dry, processed and packaged for human food it is worth many times more than what it was worth when it was harvested. It takes a couple of days after harvest to dry and process bull kelp, by the time the CDFW can request them to release harvest they would have invested \$2,000 to \$3,000 in cost of labor. Asked if CDFW requires businesses to release harvest will CDFW buy the harvest from them and if so, will CDFW sell it? Stated it took them years to develop their customer base of bull kelp fronds and there is no real "market" for it. States that if CDFW will not pay for the release of bull kelp it will cause major adverse financial impacts to their business which serves no reasonable purpose.</p>	<p>6m. For counties with bull kelp harvest quotas, harvesters are required to provide weekly email reporting of harvest to CDFW. CDFW will compile and track harvest and post status updates on the CDFW webpage, compare the weekly to monthly reporting and will communicate with license holders as needed if there are any discrepancies found to determine the status of harvest towards the quota. CDFW will draft and email notices to license holders prior to implementation of restrictions triggered by the quota and post notice of temporary closure on the CDFW webpage.</p> <p>The "Release of Property" form is a record-keeping tool and does not authorize or provide additional regulatory authority independent of the regulations which sets forth the release of property requirements under authority of Fish and Code sections 1001, 1050(b) and 6653.</p> <p>Only harvesters who exceed the legally permissible limit for bull kelp are subject to release the harvest overlimit. Surrender of excess harvest would only result after notice of harvest restrictions. Harvesters would therefore already have been put on notice of harvest restrictions prior to harvest and subsequent processing. The Department could not apply and/or enforce an amended quota retroactively and seize kelp that did not violate the previously set limit that applied when the kelp was harvested. So, if the harvest complies with the noticed restrictions, no lost processing costs would be incurred.</p> <p>Harvesters should keep themselves informed of the annual fishery quota status updates that will be posted on the CDFW webpage and emails regarding temporary closures to avoid forfeiture and associated financial loss.</p> <p>Any bull kelp released to CDFW will be used, sold, disposed of, or donated to a non-profit institution. If sold, the proceeds shall be paid into the Fish and Game Preservation Fund. Please refer to the ISOR, July 14, 2022 15-day notice, and the "Release of Property" form for additional details.</p>

Office of Administrative Law Non-Substantive Edits to Kelp Regulatory Text
9/16/2022

- a. Pg. 6, Sec. 165, Sub. (c)(9)(B)1.a. Delete parens around form numbers to align with the titles of the forms (3 instances)
- b. Pg. 6, Sec. 165, Sub. (c)(9)(B)1.b.
 - i. Delete parens around form numbers to align with the titles of the forms (3 instances)
 - ii. Delete quotation mark after “amount.”
- c. Pg. 7, Sec. 165, Sub. (c)(9)(B)4. Delete the word “form” between “Property” and “DFW”
- d. Pg. 9, Sec. 165, Sub. (e)(3). Insert “of these regulations” in strikeout between “(b)(3)(D)” and “and landing” to align with existing CCR text
- e. Pg. 12, Sec. 165.5(k).
 - i. Underline “g” in “grand”
 - ii. Revise “=” to “equals”
- f. Pg. 21, Sec. 165.5(k)(2)(I). Publisher error. Revise text to align with text previously approved by OAL (without underline/strikeout)
- g. Pg. 31, Sec. 165.5(k)(4). Strikeout “.....” before “5.83”
- h. Pg. 32, Sec. 705.1, Sub. (a)(2). Delete “(US\$)”
- i. Form DFW 658. Add comma between “If new” and “you must”
- j. Pg 1, Form DFW 113. Revise certificate to refer to “Fish and Game Code sections 6650-6711 and sections 165, 165.5, and 705.1 of Title 14 of the California Code of Regulations.”
- k. Pg. 2, Form DFW 113. Insert missing citations to section 705.1 (2 instances)
- l. Pg 1, Form DFW 113A. Revise certificate to refer to “Fish and Game Code sections 6650-6711 and sections 165, 165.5, and 705.1 of Title 14 of the California Code of Regulations.”
- m. Pg. 2, Form DFW 113A.
 - i. Insert missing citations to section 705.1 (2 instances)
 - ii. General instruction C). Revise “Or” to lowercase and delete period between sentences (to align with phrasing used in DFW 113)

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Fish and Game Commission	CONTACT PERSON David Thesell	EMAIL ADDRESS fgc@fgc.ca.gov	TELEPHONE NUMBER 916 902-9291
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Amend Sections 165, 165.5, Appendix A, add Sect. 705.1 CCR, Title 14, Re: Commercial Harvesting of Kelp and			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input checked="" type="checkbox"/> e. Imposes reporting requirements |
| <input checked="" type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below): |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The **Fish and Game Commission** estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- ☒ Below \$10 million
- ☐ Between \$10 and \$25 million
- ☐ Between \$25 and \$50 million
- ☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: 10Describe the types of businesses (Include nonprofits): Commercial Kelp Harvesters and marine algae harvestersEnter the number or percentage of total businesses impacted that are small businesses: 100%4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: Proposed temporary closure would apply to 3% of historic harvest and harvest limit option are near historic levels5. Indicate the geographic extent of impacts: ☐ Statewide
☒ Local or regional (List areas): Mendocino, Sonoma, Humboldt, Del Norte counties6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: N/A7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☒ NOIf YES, explain briefly: Commercial harvest of wild marine algae is not allowed in nearby states of Oregon and Washington therefore the industry is not competing with nearby markets for wild harvested marine algae.

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 2,438.80
- a. Initial costs for a small business: \$ 243.88 reporting costs Annual ongoing costs: \$ 243.88 Years: 1
- b. Initial costs for a typical business: \$ 243.88 Annual ongoing costs: \$ 243.88 Years: 1
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: 1
- d. Describe other economic costs that may occur: Some may buy a \$200 hand-held GPS unit to record latitude/longitude of bull kelp harvest. If temporary closure in Mendo/Sonoma counties is chosen, income losses may occur.
2. If multiple industries are impacted, enter the share of total costs for each industry: N/A
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. \$ 243.88
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.
4. Will this regulation directly impact housing costs? ☐ YES ☒ NO
 If YES, enter the annual dollar cost per housing unit: \$ _____
 Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☒ NO
 Explain the need for State regulation given the existence or absence of Federal regulations: Resource is within State waters in which notable resource declines have been documented.
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: No impact on health and welfare, nor worker safety.
Benefits include the value of commercial harvest, ecosystem benefits for other commercial and recreational fisheries, cultural traditions, and tourism.
2. Are the benefits the result of: ☐ specific statutory requirements, or ☒ goals developed by the agency based on broad statutory authority?
 Explain: FGC code sections 6653 provides the authority to regulate taking of kelp and other aquatic plants.
3. What are the total statewide benefits from this regulation over its lifetime? \$ harvest+ecosystem values
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: No expansion is anticipated.

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: Alt 1: Harvest limit set at 15 % of current kelp biomass; Alt 2: Bull kelp harvest closure for ten years

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$	<u>25K</u>	Cost: \$	<u>10,772</u>
Alternative 1:	Benefit: \$	<u>25K</u>	Cost: \$	<u>60,772</u>
Alternative 2:	Benefit: \$	<u>0</u>	Cost: \$	<u>(25K)no harvest</u>

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: Bull kelp value is a small share of all kelp varieties industry value = \$25K/year; minimize harm to ecosystem values; Alt 1: biomass survey >\$50K/yr (see Addendum)

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☒ NO

Explain: harvest limits and harvest reports are more enforceable for kelp resource management

E. MAJOR REGULATIONS Include calculations and assumptions in the rulemaking record.

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ YES ☐ NO

If YES, complete E2. and E3

If NO, skip to E4

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☒ NO

If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: No impact on the level of investment in the State is anticipated.

The incentive for innovation in products, materials or processes: No impact on the incentive for innovation in products, materials, or processes is anticipated.

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: No benefits to the health, safety, or welfare of CA residents, or to worker safety. Reduce cumulative impacts to kelp.

ECONOMIC AND FISCAL IMPACT STATEMENT**(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

- ☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

- ☐ a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

- ☐ b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

- ☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

- ☐ a. Implements the Federal mandate contained in _____

- ☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

- ☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

- ☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

- ☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

- ☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

- ☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

- ☐ 3. Annual Savings. (approximate)

\$ _____

- ☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

- ☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

- ☐ 6. Other. Explain _____

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

☒ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ 8,333 (see Addendum)

It is anticipated that State agencies will:

☒ a. Absorb these additional costs within their existing budgets and resources.

☐ b. Increase the currently authorized budget level for the _____ Fiscal Year

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☐ 3. No fiscal impact exists. This regulation does not affect any State agency or program.

☒ 4. Other. Explain CDFW staff time will be shifted to additional quota management tasks and to logging additional weekly harvest reports and the reporting of harvest coordinates.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

☐ 4. Other. Explain _____

FISCAL OFFICER SIGNATURE

Haley Young

DATE

3/17/2022

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

Bryan Cash

4/26/2022

DocuSigned by:

Melissa A. Miller-Hanson

74DED80ABE5A48B...

DATE

4/25/2022

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

Devin Aguirre

DATE

5/31/22

STD 399 Addendum
Amend Sections 165 and 165.5, and Appendix A, Add Section 705.1
Title 14, California Code of Regulations
Re: Commercial Harvesting of Kelp and Other Aquatic Plants; Lease of Kelp Beds
for Exclusive Harvest of *Macrocystis* and *Nereocystis*;
Commercial Kelp Harvesting and Drying Application, Monthly Harvest Reports

ECONOMIC IMPACT STATEMENT

Amendments in blue font in response to Dept. of Finance comments February 2022

Background

The proposed regulatory amendments aim to protect and maintain the remaining bull kelp (*Nereocystis luetkeana*) beds along the north coast counties of Sonoma, Mendocino, Humboldt, and Del Norte by temporarily limiting commercial harvest. The temporary harvest limits would sunset in three to five years as determined by the Fish and Game Commission (Commission) which will allow the Department of Fish and Wildlife (Department) to draft and the Commission to potentially adopt the Kelp Restoration and Management Plan. In addition to the value of bull kelp commercial harvest, as a foundational species, bull kelp forms the physical structure of kelp forest habitats, and supports other commercial and recreational fisheries, cultural and ceremonial traditions, and tourism.

For Mendocino and Sonoma counties combined, the Commission will consider the proposed regulations:

Option 1: Temporary commercial bull kelp harvest closure regardless of intended use of harvested kelp.

Option 2: Temporary annual overall commercial bull kelp harvest quota from 1 pound to 2,000 pounds (1 ton) wet weight for the combined counties between January 1 and December 31. Harvest is limited for the purposes of human consumption only.

For Humboldt and Del Norte counties combined, a temporary annual overall quota for commercial take not to exceed 4 tons (8,000 lbs) wet weight.

Except for the closure option, both proposed harvest limits are within recent harvest amounts from 2014 – 2020, thus the average revenue per harvester is anticipated to be within historic levels (see Table 1). The proposed regulatory amendments would pertain to about ten kelp harvesters in Sonoma, Mendocino, Humboldt, and Del Norte counties.

Bull kelp harvest has historically constituted a small share of all edible marine algae harvested for human consumption and the total quantity of bull kelp harvested has been declining as the incidence of bull kelp has diminished over the past seven years.

Harvest data from all edible seaweed harvesters who have taken bull kelp in Mendocino and Sonoma counties show a decline in the share of bull kelp harvested from 11% during the years of 2007-2013 to 3% during the most recent years on record, 2014-2020. In Del Norte and Humboldt counties, conversely the total harvest has increased over the same timeframe. Bull kelp represented 12% of total edible seaweed take for the three permittees who have harvested bull kelp in the seven years prior to the decline (2007-2013). Bull kelp take was 34% of the total edible seaweed harvested by two harvesters from 2014 – 2020 in the same two counties.

Since bull kelp harvest in Del Norte and Humboldt counties was greater proportionally and canopy area did not decline as dramatically compared to Mendocino and Sonoma counties, the Department determined that capping harvest in Del Norte and Humboldt counties would maintain current use and harvest post 2014.

Table 1a. Bull Kelp Individual and Combined Harvest Averages: 2014-2020

Mendocino and Sonoma Counties

Year	2014	2015	2016	2017	2018	2019	2020	Average 2014-2020
Number of Harvesters	3	4	2	4	1	0	1	2
Individual Average (lbs.)	317	479	446	30	560	0	5	262
Combined Harvest (lbs.)	951	1915	892	118	560	0	5	634

Note: Department commercial bull kelp harvest data reported from commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Reports. No reported harvest for 2019.

Del Norte and Humboldt Counties

Year	2014	2015	2016	2017	2018	2019	2020	Average 2014-2020
Number of Harvesters	2	2	2	2	2	2	0	2
Individual Average (lbs.)	1,556	3,159	1,789	1,570	1,624	2,065	0	1,680
Combined Harvest (lbs.)	3,111	6,317	3,577	3,140	3,248	4,129	0	3,360

Note: Department commercial bull kelp harvest data reported from commercial Edible Seaweed/Agarweed Aquatic Plant Harvester's Monthly Reports. No reported harvest for 2020.

A. ESTIMATED PRIVATE SECTOR COSTS IMPACTS

1. Answer (from STD 399): a. Impacts business and/or employees; b. Impacts small businesses

B. ESTIMATED COSTS

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with the proposed regulation?

The proposed weekly reporting requirement for bull kelp harvest from the current monthly only reporting requirement would introduce additional time that is estimated in Table 2. Bull Kelp Harvester Weekly Reporting Costs. Additionally, the proposed increase in reporting location of bull kelp harvest beyond fishing block and the nearest prominent landmark to spatial geographical coordinates (latitude/longitude) may require the acquisition of a GPS location device (approximately \$200 one-time cost) or a mobile phone application if GPS capacity is not already possessed. **The proposed temporary closure in Mendocino and Sonoma counties would curtail potential income opportunities from bull kelp harvest for the duration of the closure.**

- a. **Initial costs for a small business:** = \$243.88 in reporting costs and a GPS unit if needed at \$200. A kelp harvester must have a means to record the central latitude and longitude of bull kelp harvest if they do not already have a suitable device. Boat navigation equipment, or a GPS unit would enable the reporting of latitude/longitude coordinates. Costs for a GPS unit are estimated to be a \$200 one-time cost.

Annual ongoing costs: = \$243.88 in proposed weekly reporting costs for bull kelp.

- b. **Initial costs for a typical business:** = \$243.88 in reporting costs and a GPS unit if needed at \$200. A kelp harvester must have a means to record the central latitude and longitude of bull kelp harvest if they do not already have a suitable device. Widely available boat navigation equipment, or a GPS unit would enable the reporting of latitude and longitude. Costs for such equipment estimated = \$200.

Annual ongoing costs: = \$243.88 in reporting costs

- c. **Initial costs for an individual:** = \$0 (N/A to individuals unless a business owner)

Annual ongoing costs: = \$0.

Total Statewide costs: = \$2,439 for ten kelp harvesters

- d. **Describe other economic costs that may occur: If a temporary closure for Mendocino and Sonoma counties is chosen, approximately two kelp harvesters would incur reductions in annual gross revenue. Working with reported harvest weight; a preliminary wet to dry weight conversion factor; and listed retail prices of finished bull kelp products; the gross revenue per harvester is estimated to be range from \$0 -**

\$2,066/year over the years of 2014-2020, in which individual harvested weight varied from 0 – 560 wet lbs (see Table 1a) in Mendocino and Sonoma counties. This estimate is conservative, because gross revenue does not subtract out the costs of labor and other inputs utilized in the production of the finished bull kelp products. Additionally, the prices used are retail and not wholesale prices (see Table 1b).

Table 1b. Mendocino and Sonoma Counties Individual and Combined Average Gross Revenue for Bull Kelp: 2014-2020

Year	2014	2015	2016	2017	2018	2019	2020	Average
Number of Harvesters	3	4	2	4	1	0	1	2
Individual Gross Revenue	\$1,368	\$2,066	\$1,924	\$129	\$2,416	\$0	\$22	\$1,132
Combined Gross Revenue	\$4,103	\$8,266	\$3,848	\$518	\$2,416	\$0	\$22	\$2,739

Sources: CDFW harvest report data; preliminary wet kelp to dry conversion factor 14.14 lbs wet = 1 lb dry bull kelp; Retail price/lb = \$40-\$82 or \$61/lb average.

- If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* = \$243.88 per kelp harvesting business.**

Table 2. Bull Kelp Harvester Weekly Reporting Costs

Task	Minutes	Hourly Rate	Cost
Record Keeping	15 (0.25 hour)	\$26.16	\$6.54
Reporting to CDFW	5 (0.083 hour)	\$26.16	\$2.17
Total	20 (0.333 hour)	\$26.16	\$8.71

Sources: Department analysis; Bureau of Labor Statistics, Supervisor of Fishing Workers hourly wage rate, 2020, <https://www.bls.gov/oes/current/oes451011.htm>.

\$8.71 x 4 extra reports x 7 months = \$243.88 maximum annual costs per harvester (ten small businesses) = \$2,438.80 for kelp harvesting industry as a whole. Seven (7) months is the period of harvest activity and thus the metric for calculating potential costs.

GPS equipment may need to be purchased if the harvester does not already have a device that can provide the latitude and longitude of harvest. Widely available boat navigation equipment, or a GPS unit would enable the reporting of latitude and longitude. Costs for such equipment estimated = \$200.

- Are there comparable Federal regulations? Answer: No**

Explain the need for State regulation given the existence or absence of Federal regulations:

There are no comparable Federal regulations regarding kelp harvesting. State regulations have become necessary to help to conserve kelp resources within California state waters.

C. ESTIMATED BENEFITS

- 1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment:**

The adoption of these regulations is anticipated to benefit the state's environment in the sustainable management of this resource. As a foundational species forming the physical structure of kelp forest habitats, bull kelp supports fisheries, cultural and ceremonial traditions, and tourism. Sustaining kelp resources benefits the kelp harvest industry, and other commercial and recreational fisheries that benefit from kelp forest habitats.

There are some challenges in the monetization of much of the anticipated benefits of the proposed regulation because a portion of the intended outcomes are comprised of non-market traded ecosystem values.¹

No direct benefits to the health and welfare of California residents, or to worker safety are anticipated.

- 2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?**

Explain: Answer: "goals developed by the agency based on broad statutory authority." It is the policy of the state to involve all interested parties, including, but not limited to, individuals from the sport and commercial fishing industries, aquaculture industries, coastal and ocean tourism and recreation industries, marine conservation organizations, local governments, marine scientists, and the public in marine living resource management decisions. The Fish and Game Commission, under Fish and Game Code sections 6653 and 6653.5 is authorized to regulate taking of kelp and other aquatic plants.

- 3. What are the total statewide benefits from this regulation over its lifetime?**
= Kelp harvest value + ecosystem values

¹ For example, in widely cited research, ecologists and economists derived an annual ecosystems value of \$7,600 per acre of kelp habitat (Costanza, R. and 11 others.1997. The Value of the World's Ecosystem Services and Natural Capital. Nature 387: 253-260).

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation:

No impact on the expansion of businesses is anticipated because harvest limits are within recent historic amounts.

D. ALTERNATIVES TO THE REGULATION

1. List Alternatives Considered

Alternative 1: Bull kelp harvest limit set at 15% of the assessed bull kelp biomass.

Alternative 2: Ten-year bull kelp harvest closure

2. Summarize the Total Statewide Costs and Benefits from this Regulation and Each Alternative Considered

Regulation Costs: calculated as \$2,439 kelp harvester costs (Table 2) + \$8,333 Department costs for proposed Mendocino/Sonoma and Humboldt/Del Norte (Table 3) = \$10,772

Regulation Benefits: \$25,000 bull kelp estimated harvest value (calculated as wet harvest weight converted to dry/processed weight times average market price). Difficult-to-monetize ecosystem value is not included in reported total dollar value.

Alternatives Costs/Benefits

Alternative 1 Costs: **Greater than** \$60,772 (calculated as the \$10,772 regulation costs plus the cost of CDFW to run the biomass assessment, estimated to cost more than \$50,000).

Department cost estimates to conduct bull kelp biomass surveys throughout bull kelp's range are projected to exceed \$50,000 per year (Table 2a). This estimate was informed by the \$50,000 cost of the Department's red abalone surveys that employ subtidal biomass dive surveys. However, bull kelp biomass surveys would also include aerial imaging work with drones and PlanetScope satellite imagery along with more extensive field and laboratory sampling. The effort and cost to conduct annual bull kelp biomass surveys were considered not practicable at this time.

Table 2a. Bull Kelp Biomass Survey Annual Cost

Method	Tasks summary	Rate	Total
Subtidal biomass survey	15 sites: Scuba Dive Field survey: Document bull kelp location and characteristics	15 sites year	\$50,000
Aerial drone survey	10-15 sites: Staff time to define map grid; travel, obtain drone insurance and conduct video surveys and post processing	\$8,500 + \$2,000/site, each site twice per year	\$30,000
PlantScope satellite imagery subscription	Obtain satellite imagery		\$15,000
Environmental Scientist – Range C	PlanetScope imagery processing	\$ 66.32 /hr.	\$131,048
Subtotal			\$226,048
Overhead		24.32%	\$54,975
Total			\$281,023

Notes: CDFW Marine Region estimate, California Department of Human Resources California State Civil Service Pay Scales by Classification, (24.32%) non-federal overhead rate.

Alternative 1 Benefits: \$25,000 bull kelp harvest value for each year of the 10 years

Alternative 2 Costs: (\$25,000) in bull kelp harvest industry losses for each year of the 10 years

Alternative 2 Benefits: \$0 (minimize additional harm to ecosystem benefits and the value of harvest)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT

Answer: 5. No fiscal impact exists. This regulation does not affect any local entity or program.

B. FISCAL EFFECT ON STATE GOVERNMENT

1. Additional expenditures in current State Fiscal Year, Answer: \$8,333 or \$4,268

a. Absorb these additional costs within their existing budgets and resources.

- 4. Other. Explain:** Some increase or shift in work effort for staff within the Department is estimated to sum to approximately, \$8,333, (estimated costs for Mendocino/Sonoma and Humboldt/Del Norte Counties quotas) or \$4,268 (estimated costs if a closure for Mendocino/Sonoma counties is chosen) (see Table 3). In addition, if the bull kelp harvest closure option is chosen for Mendocino and Sonoma counties, then royalty fee revenue is anticipated to decline by an estimated \$8.88. The royalty fee per wet pound is $\$0.012 \times 740 \text{ lbs.}$ (2014-2020 Mendocino and Sonoma) average harvest = \$8.88.

Management of bull kelp harvest quota and reporting of harvest coordinates will result in new duties for the Department. Management tasks in counties with a harvest quota will include: weekly compiling and tracking of harvest and posting status updates on the Department webpage, comparison of weekly to monthly reporting and communications with license holders as needed if discrepancies occur in the reports, determining status of harvest toward the quota as needed, drafting and emailing notices to license holders prior to implementation of restrictions triggered by the quota, posting notice of temporary closure or closures on the Department webpage, and ensuring any harvest in excess of any established quota is forfeited to the Department through a Release of Property form DFW 1108. Reporting of bull kelp harvest coordinates will require the Department to modify the current harvest database and enter coordinates into the harvest database, and verify coordinates reported by harvesters to determine county of harvest.

Table 3. Department Bull Kelp Harvest Quota Management Costs

Classification	Task	Rate	Hours^A	Total	Hours^B	Total
Environmental Scientist - Range C	Quota and location reporting management	\$61.62	105.00	\$6,469.89	51.94	\$3,200.54
Sr. Environmental Scientist, Supervisor	Review/Oversight	\$96.42	1	\$96.42	1	\$96.42
Environmental Program Manager	Review/Oversight	\$111.49	0.5	\$55.75	0.5	\$55.75
Fish and Game Warden – Range B	Review notifications	\$60.62	0.5	\$30.31	0.5	\$30.31
Attorney III		\$100.19	0.5	\$50.09	0.5	\$50.09
	Program Subtotal	--	107.497	\$6,702.46	54.44	\$3,433.11
	Overhead	24.32%	--	\$1,630.04	--	\$834.93
	Program Total		107.497	\$8,332.50	54.44	\$4,268.04

Notes: ^A = hours for the proposed Mendocino/Sonoma and Humboldt/Del Norte Counties quotas. ^B = hours if a closure for Mendocino/Sonoma counties is chosen. CalHR California State Civil Service Pay Scales by Classification; Rate is the median hourly salary including benefits (staff benefit rates: Peace Officer=60.960%, Non-Peace Officer=52.734%) and (24.32%) overhead.

Add Section 705.1

Section 705.1 was added to update the Kelp Harvest License fee (per FGC 713). The year-to-year application of the Implicit Price Deflator (IPD) for government services to adjust fees for inflation is shown in Table 4 below.

Table 4 Kelp Harvest License Fee Annual IPD Adjustments: 2016 – 2022

Year	2015	2016	2017	2018	2019	2020	2021	2022
Base Fee	\$139.50	\$139.50	\$140.00	\$144.00	\$148.75	\$152.00	\$156.75	\$161.00
IPD (for following year calculation)	0.000063	0.00269	0.02914	0.03249	0.02211	0.03049	0.02731	
Proposed Increase per IPD	0.01	0.38	4.08	4.68	3.29	4.63	4.28	
Proposed Increase Rounded to .25	\$0.00	\$0.50	\$4.00	\$4.75	\$3.25	\$4.75	\$4.25	

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Answer: 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

CALIFORNIA FISH AND GAME COMMISSION

RECEIPT LIST FOR PETITIONS FOR REGULATION CHANGE: RECEIVED BY 5:00 PM ON SEPTEMBER 29, 2022

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

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
2022-14	8/19/2022	Daniel Schoen	Ocean recreational fishing: Gooseneck barnacles	Request to add gooseneck barnacles to list of harvestable species.	10/12-13/2022	12/14-15/2022
2022-16	9/19/2022	Randal South	Waterfowl hunting: Prohibit hunting at Lake Earl Wildlife Area	Request to prohibit waterfowl hunting at Lake Earl Wildlife Area (Del Norte County).	10/12-13/22	12/14-15/22



Tracking Number: (2022-14_)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Daniel Schoen

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 205 and 265, Fish and Game Code

Overview (Required) - Summarize the proposed changes to regulations: addition of Gooseneck barnacles to the list of ocean animals that recreational California Sportsmen may harvest.

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

Gooseneck barnacles are currently illegal to harvest in California. This is not because they were delisted due to population concerns. It is because they were never included in a list of harvestable animals when the list was drafted, likely due to its lack of culinary popularity at the time. Current populations are more than sufficient to support a recreational allowance for California foragers and will improve the public knowledge of these members of our California ecosystem. Outdoorsmen are consistently the strongest group of conservationists and adding this species to their table fare will bring all barnacles into their realm of awareness, and protection.

SECTION II: Optional Information

3. Date of Petition: 14 August, 2022



4. Category of Proposed Change

- ☐ Sport Fishing
- ☐ Commercial Fishing
- ☐ Hunting

X Other, please specify: Foraging of invertebrates in Tidepools or other areas between the high tide mark (defined as Mean Higher High Tide) and 1,000 feet seaward and lateral to the low tide mark (defined as Mean Lower Low Water)

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

X Amend Title 14 Section(s): 29.05 B 1 |

- ☐ Add New Title 14 Section(s): [Click here to enter text.](#)
- ☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

6. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition : Not applicable.

7. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: January 1, 2023

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

- a. https://animaldiversity.org/accounts/Pollicipes_polymerus/
- b. <https://www.iucnredlist.org/search?query=pollicipes%20&searchType=species>
- c. <https://marine.ucsc.edu/target/target-species-pollicipes.html>
- d. <https://www.centralcoastbiodiversity.org/goose-neck-barnacle-bull-pollicipes-polymerus.html>

9. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Addition of Pollicipes Polymerus to the list of forageable invertebrates would not negatively affect businesses, jobs, schools or housing. It's main effect is to involve conservationists in the protection of an important piece of California's ecosystem by including barnacles in their diet.

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

[Click here to enter text.](#) |

SECTION 3: FGC Staff Only

Date received: 8/19/2022 |

FGC staff action:

x Accept - complete



☐ Reject - incomplete

☐ Reject - outside scope of FGC authority

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change



Tracking Number: (2022-16)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Randal South

Address:

Telephone number:

Email address:

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

- 1) Fish & Game Code (FGC), Chapter 2, Section 203
- 2) Fish & Game Code (FGC), Chapter 2, Section 219

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

- 1) Ban bird hunting at the Lake Earl Wildlife area.
- 2) Replace county operated Lake Earl breaching practice with a solar powered aqueduct.

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

Too close to human habitation, and consistent violation of the rule that requires hunters not to discharge their firearms within 150 yards of human habitation (FGC, Article 1, Section 3004).

(see attached brief supplement)

SECTION II: Optional Information

5. Date of Petition: 09-17-22

6. Category of Proposed Change

☐ Sport Fishing

☐ Commercial Fishing

☒ Hunting

☒ Other, please specify: Habitat Maintenance



7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
☒ Amend Title 14 Section(s): Chapter 10, Section 625
☐ Add New Title 14 Section(s): [Click here to enter text.](#)
☐ Repeal Title 14 Section(s): [Click here to enter text.](#)
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: 11-01-22, but no later than 11-01-23 if FGC and CDFW are unable to complete proposed amendments in the 2022 calendar year.
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Statement from petitioner, and following url --
<https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/>
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Ban on bird hunting will likely have a positive impact in terms of public revenue generated by Del Norte county (continued on attached)
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: 9/19/22

FGC staff action:

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

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

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

Petition to The California Fish & Game Commission
(*Supplement* to FGC 1, Dated 09-16-22 [Revolving 06/19])

4. Rational (*continued*):

TO CLOSE TO HUMAN HABITATION

The petitioner supervises a youth hostel that shares a border with the Lake Earl Wildlife area, and guests commonly complain about the sound of gun shots during the hunting season. The petitioner's property is less than 200 feet from Lake Earl during the summer time, and part of the petitioner's property is submerged by Lake Earl during the flood season. Guests can not walk to the end of our property without concern about getting shot by duck hunters. As a result, it potentially jeopardizes revenue that Del Norte County receives from the operation since the hostel pays 10% transient occupancy tax on a quarterly basis to Del Norte County.

Similarly the home across the street from the Petitioner's property is occupied by a family that purchased the property from the Lamoore estate, and some of the Lamoore's have previously signed petitions objecting to hunting on CDFW property because it was too close to their property.

HUNTERS DO NOT TAKE HOME WHAT THEY KILL

The graphic images presented in the following URL demonstrate hunters don't take home their birds <https://www.thepetitionsite.com/613/953/649/stop-bird-hunting-on-the-lake-earl-wildlife-refuge/> These images were taken by the petitioner who started a petition on petitionsite.org after the local newspaper (Triplicate) refused to publish the story and images, but instead of leaving the dead birds for the local animal population to consume, CDFW and the county came by to pick them up quickly so that no one would know about it after receiving a complaint.

Other reasons justifying the end of bird hunting include poaching, hunter misconduct, and all of the reasons mentioned in the onsite petition that has as of today has more than 246,047 signatures -- 92,804 of those signatures are in California. The petition on the petitionsite.org provides an authoritative, and historical perspective that suggest that the construction of the road to the mouth of Lake Earl in 1971 changed the character of hunting, and the type of people that hunt in this area.

A detailed analysis of the problem as well as other problems from current bird hunting practices are described in detail on petitionsite.org

10. Supporting Documentation:

The issue of damage from breaching, and lack of breaching of the sand bar has been thoroughly aired as evidenced by the multitude of the following news articles on the matter, and the lawsuit filed against CDFW by property owners in the Ocean Shores area, etc :

<https://www.sfgate.com/bayarea/article/Beach-breach-battle-3052593.php>
<https://derrickjensen.org/culture-of-make-believe/lake-earl/>
<https://www.casemine.com/judgement/us/5914b319add7b0493476413f>
<https://ceqanet.opr.ca.gov/1989013110/8>

https://www.academia.edu/64658644/Barrier_Beach_Breaching_from_the_Lagoon_Side_With_Reference_to_Northern_California

The issue before FGC is not whether or not the water level should be breached during flood season, but best practices on how to do it. Historically the Army Core of Engineers “has not” reviewed aqueduct technology in this area. As a result, aqueduct technology should be incorporated into the Master Plan so as to minimize ecologic damage, damage to the water table, and enhance the usability of the lagoon by fish and birds.

11. Economic & Fiscal Impact:

Del Norte County’s Revenue will likely be enhanced by the ban on duck hunting since guests at the hostel pay a 10% transient occupancy tax to Del Norte County. The loss of revenue to the state from duck hunting license is not germane to the equation because CDFW has consistently refused to engage in discussions about other streams of revenue to them besides the meager amount of money they collect from duck hunting licenses at Lake Earl.

During previous discussions with CDFW, it was proposed that they consider offering organized bird tours for a fee which are already conducted on an informal basis by Ornithologist in the area. Additionally CDFW failed to rebuild their 100 year old farm house they purchased at the intersection of Lake Earl Drive, and Lakeview Drive after it burned down from a fire even though this was an insurable risk. The loss of this building reduced housing stocks in the area since it was capable of housing at least 12 people. Those 12 people inevitably would have provided a consistent source of revenue to CDFW. As a result, the issue of a loss of revenue from hunting licenses is not really germane since CDFW has chosen not to accept funding from other revenue streams.

Del Norte County’s economic impact from aqueduct construction is negligible. The county will save money on the cost of a bulldozer opening up the sand bar, save money on the cost of permits with various regulators, but will incur annual, or biannual costs in cleaning filters on the intake of the aqueduct which are needed in order to insure the aqueduct doesn’t suck up animal life when it dumps water into the ocean.

HABITAT PRESERVATION

CDFW should replace the process of breaching Lake Earl with a solar powered, pump driven, electric aqueduct, or similar apparatus as reviewed by the Army Core of Engineers.

The current breaching process of Lake Earl has significantly increased the salt level which is evident by the dying plant life that surrounds the lake including the death of large coniferous trees on its perimeter. Other concerns are potential contamination to the underground aquifer which many residents are dependent on since most of the county is on well water.

The result of piping the water over the sand bar is that the lake will desalinate over time as water is pumped from the lake without opening up the sand bar.

CALIFORNIA FISH AND GAME COMMISSION PETITIONS FOR REGULATION CHANGE - ACTION ON OCTOBER 12-13, 2022

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

Grant: FGC is willing to consider the petitioned action through a process Deny: FGC is not willing to consider the petitioned action Refer: FGC needs more information before the final decision

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt	FGC Initial Action Date	Initial Staff Recommendation	Referral Date	Referred to	Final Staff Recommendation
2021-018	9/24/2021	Tom Wheeler, Environmental Protection Information Center	Nongame birds: Barred owl	Request to implement a new permitting system for the take of barred owls	10/14/2021	12/15-16/2021	REFER for DFW review and recommendation.	12/15-16/2021	DFW	DENY based on rationale presented in DFW's memo dated September 27, 2022 (Exhibit B8). Scientific collecting permits can allow for the take of non-native, invasive, or detrimental wildlife for management purposes, while mandating conditions and restrictions to ensure proper methods, training, and consistency with relevant management plans such as the Barred Owl Management Strategy.
2022-06	3/4/2022	Ken Kurtis	Marine protected areas: Casino Point State Marine Conservation Area (SMCA)	Request to rename Casino Point State Marine Conservation Area to commemorate Dr. Bill Bushing	4/20-21/2022	6/15-16/2022	REFER to FGC staff for review and recommendation.	6/15-16/2022	FGC Staff	DENY due to inconsistency with FGC Naming Installations Policy (https://fgc.ca.gov/About/Policies/Miscellaneous#Installations). The policy dictates, with one exception, that installations shall not be named for any person, living or dead, and shall be named in a manner that will indicate their geographical location, avoiding the names of political units. The exception is marine protected areas (MPAs), where FGC may commemorate an individual by including that individual's name after the geographic name of an MPA if four criteria are met. The petition does not meet the first criteria which requires the individual be deceased for a minimum of five years. Since the first criteria has not been met, staff has not dedicated the time and outreach necessary to assess the additional three criteria.
2022-10	6/23/2022	Armando Estrada	Mammal hunting: Air gun for taking deer	Request to authorize air guns as a method of take for deer	8/17/2022	10/12-13/2022	REFER to DFW for review and recommendation.			
2022-11	6/29/2022	Andy Guiliano	Sport fishing: Dungeness crab and vessel permits	Request to modify Dungeness crab regulations related to fishery start times, crab trap stamps, and best practices for trap buoy rigging.	8/17/2022	10/12-13/2022	REFER to DFW for review and recommendation.			
2022-12	8/1/2022	James Stone	Sport fishing: Striped bass slot limit (marine)	Request to establish a slot limit for striped bass in marine waters, consistent with proposed slot limit for inland waters.	8/17/2022	10/12-13/2022	REFER to DFW for review and recommendation.			
2022-13	8/5/2022	Gary Smith	Sport fishing: Willow Creek trout	Request to modify authorized methods of take and bag and possession limits for trout at Willow Creek, upstream from the confluence of West Fork of Carson River (Alpine County)	8/17/2022	10/12-13/2022	REFER to DFW for review and recommendation.			



Tracking Number: (2021-018_)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Tom Wheeler, Environmental Protection Information Center
Address: 145 G St., Eureka, California
Telephone number: 707 822-7711
Email address: tom@wildcalifornia.org

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

3.

Fish and Game Code sections 3503.5 and 3800 provide ample authority for the Commission to issue the requested regulations. While section 3503.5 ordinarily prohibits taking of "any birds in the orders Falconiformes or Strigiformes," the same section provides an explicit exception for any regulation adopted pursuant thereto the code. The Department of Fish and Wildlife already understand that this prohibition on take is not complete, as the Department currently issues take scientific collection permits for species otherwise protected by this section. The same logic applies for section 3800. Section 3800 prohibits the taking of nongame birds except "in accordance with regulations of the commission."

The Fish and Game Code should also be read in its entirety, as a whole, and to give effect to every word of the statute. Further, to the extent possible, the code should be harmonized and not read as creating a conflict. In reading the Fish and Game Code together, as a whole, the Commission's authority likewise becomes clearer. Fish and Game Code § 200 gives the Commission broad authority to regulate the taking of wildlife within the state.

4. Overview (Required) - Summarize the proposed changes to regulations: The proposed regulation would allow for the taking of barred owls, a non-native species that is endangering the northern spotted owl, as a wildlife management tool if authorized by the California Department of Fish and Wildlife through a revocable permit.



Add 14 CCR § 486:

(a) Application. A person who is a property owner or tenant may apply to the department for a permit to take barred owls (*Strix varia*) for the purposes of benefiting northern spotted owls or California spotted owls.

(b) Permit Period. Permits shall be valid for a period not to exceed three years.

(c) Required Information and Conditions of Permit.

(1) The department shall collect the following information before issuing a barred owl take permit:

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

(B) The name, mailing address, and contact information of the person(s) responsible for removing barred owls.

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

(d) Methods of Take.

(1) The Department shall prescribe the method of taking as part of the permit.

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

(3) The Department shall ensure that the applicant or their agent will follow all best available management practices for locating and removing barred owls.

(e) Utilization of Carcass. Barred owls taken pursuant to this permit must be disposed of as required in the permit.

(f) Suspension and Revocation of Permits. The Department may suspend or revoke a barred owl take permit at any time.

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

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

Amend 14 CCR § 475.

Methods of Take for Nongame Birds and Nongame Mammals.

Nongame birds and nongame mammals may be taken in any manner except as follows:

(a) Poison may not be used.

(b) Recorded or electrically amplified bird or mammal calls or sounds or recorded or electrically amplified imitations of bird or mammal calls or sounds may not be used to take any nongame bird or nongame mammal except coyotes, bobcats, barred owls American crows and starlings.

(c) Fallow deer, sambar deer, axis deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only with the equipment and ammunition specified in Section 353 of these regulations.

(d) Traps may be used to take nongame birds and nongame mammal only in accordance with the provisions of Section 465.5 of these regulations and sections 3003.1 and 4004 of the Fish and Game Code.



(e) No feed, bait or other material capable of attracting a nongame mammal may be placed or used in conjunction with dogs for the purpose of taking any nongame mammals. Nothing in this section shall prohibit an individual operating in accordance with the provisions of Section 465.5 from using a dog to follow a trap drag and taking the nongame mammal caught in that trap.

(f) The take or attempted take of any nongame bird or nongame mammal with a firearm shall be in accordance with the use of nonlead projectiles and ammunition pursuant to Section 250.1 of these regulations.

5. Rationale (Required) –

Barred owls are not native to the Western United States and are a threat to our native northern spotted owl and likely a threat to California spotted owls. The science is clear: Barred owl removal is necessary to prevent the extinction of the northern spotted owl. Current state law broadly prohibits the taking “any nongame bird” (FGC § 38000) and “any birds in the orders Falconiformes or Strigiformes” (FGC § 3503.5). Both prohibitions limit the ability of wildlife managers to take invasive barred owls to benefit native species, like the northern spotted owl and California spotted owl. The proposed regulation would allow for the California Department of Fish and Wildlife to permit the taking of non-native barred owls for the benefit of northern spotted owls or California spotted owls.

SECTION II: Optional Information

6. Date of Petition: September 24, 2021

7. Category of Proposed Change

☐ Sport Fishing

☐ Commercial Fishing

☐ Hunting

☒ Other, please specify: Take prohibitions for non-game species

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

☒ Amend Title 14 Section(s): 475

☒ Add New Title 14 Section(s): 486

☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

9. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition [Click here to enter text.](#)

Or ☒ Not applicable.

10. Effective date: If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: [Click here to enter text.](#)

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

Attached to this petition, please find:



Peery, Zach; Wiens, David; Bown, Robin; Carlson, Peter C.; Dugger, Katie; Dumbacher, Jack; Franklin, Alan B.; Hamm, Keith A.; Higley, Mark; Keane, John J. 2018. Barred owl research needs and prioritization in California. Sacramento, CA: California Department of Fish and Wildlife.

Wiens, J. David, Katie M. Dugger, J. Mark Higley, Damon B. Lesmeister, Alan B. Franklin, Keith A. Hamm, Gary C. White et al. "Invader removal triggers competitive release in a threatened avian predator." Proceedings of the National Academy of Sciences 118, no. 31 (2021).

- 12. Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: [Click here to enter text.](#)
- 13. Forms:** If applicable, list any forms to be created, amended or repealed:
Permit application for barred owl removal permit.

SECTION 3: FGC Staff Only

Date received: Oct 14, 2021 |

FGC staff action:

☒ Accept - complete

☐ Reject - incomplete

☐ Reject - outside scope of FGC authority

Tracking Number

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

Meeting date for FGC consideration: Dec 15-16, 2021 _____ |

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____ |

Tracking Number

☐ Granted for consideration of regulation change



Tracking Number: (2022-06)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Ken Kurtis

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: [Marine Life Protection Act (Fish and Game Code 2850-2863), and California Code Regulations, Title 14, Section 632, Marine Managed Area Improvement Act (Public Resources Code 36700-36900)]

3. Overview (Required) - Summarize the proposed changes to regulations: [Rename the currently-designated "Casino Point SMCA" to the "Dr. Bill Bushing SMCA at Casino Point."]

4. Rationale (Required) - Describe the problem and the reason for the proposed change: [Bill Bushing – or "Dr. Bill" as he was known to just about everybody he ever met – was (1947-2021) a local icon and diving enthusiast who not only had a passion for the ocean that he shared with anyone who wanted to know, but he spent much of his life diving specifically in the MPA currently designated as the Casino Point SMCA. Environmental management and the ecological restoration of regions impacted by human activity were of particular interest to him.]

There is precedent for renaming an existing MPA after an individual. Case in point would be the Lovers Point SMR on the central coast which was renamed Lovers Point-Julia Platt SMR. Like Dr. Bill, she was a well-known marine biologist and conservation enthusiast in the Monterey Bay area. As with Lovers Point, our proposal honors the individual while also preserving the geographic designation.



Dr. Bill was the resident marine biologist on Catalina for more than 55 years. After graduating from Harvard in 1969 (yes that Harvard), Bill became head of the science and math department at the Catalina Island School. A few years later, he started teaching marine biology to Avalon's high school students in both theory (classroom) and practice (he took his students diving in the Casino Point SMCA). Dr. Bill was able to use Catalina's terrestrial and marine habitats as natural laboratories.

After the school closed in 1979, Bill continued his teaching by reaching out to the public through his very popular "Diving Dry with Dr. Bill." This took the form of both a 30-minute public-access television show with over 100 episodes produced, as well as a regular column in the *Catalina Islander* newspaper with over 800 entries. Dr. Bill was an ocean geek in the best possible sense of the word.

Bill could be found almost daily at his beloved Casino Point SMCA (known colloquially in its entirety as the Avalon Underwater Park, which incorporates the land portion under the jurisdiction of the City of Avalon) where he completed thousands of dives. When you'd see his golf cart parked near the entry stairs, you knew Dr. Bill was in the area and most likely underwater. And if you had a question for him or just wanted to say hello, he'd eventually emerge from the water, dripping with salt water and brimming with enthusiasm for whatever fauna he'd just encountered.

One year we found an unusual fish in shallow water right by the entry stairs. It looked out of place. Fortunately, we were able to photograph it and sent it to Dr. Bill. He was able to tell us it was a White-Tailed Damsel (ID confirmed with Dan Gotshall) and that it was 200 miles further north than it had ever before been spotted. That's just one example of how his expertise helped expand ours as a diving community.

Dr. Bill was always willing to share his knowledge of the ocean with anyone who asked. He took his passion for the ocean and helped nurture that passion in others. A number of those people – including Dr. Bill's longtime friend Jean-Michel Cousteau - have taken time to write a short note about what Dr. Bill meant to them and their enjoyment of diving, and those comments are attached as supporting documentation to this request.

We hope you'll agree with us that Dr. Bill's legacy is deserving of permanent recognition in the form of renaming this MPA the "Dr. Bill Bushing State Marine Conservation Area at Casino Point."

SECTION II: Optional Information

5. Date of Petition: **March 4, 2022**

6. Category of Proposed Change

☐ Sport Fishing

☐ Commercial Fishing

☐ Hunting

☒ Other, please specify: **Rename existing MPA**



7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
☒ Amend Title 14 Section(s): 632(b)(127) |
☐ Add New Title 14 Section(s): Click here to enter text. |
☐ Repeal Title 14 Section(s): Click here to enter text. |
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text. |
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: June 12, 2022, if possible – this would have been Dr. Bill's 75th birthday |
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Please see attached PDF – “Dr. Bill Bushing SMCA at Casino Point – Community comments of support” - which contains hundreds of notes of support from the local diving community, as well one from Jean-Michel Cousteau. |
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: None known nor anticipated |
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
None known |

SECTION 3: FGC Staff Only

Date received: 03/04/22 |

FGC staff action:

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

Tracking Number

Date petitioner was notified of receipt of petition and pending action: 3/29/22 |

Meeting date for FGC consideration: Receive 4/20-21/22; act 6/15-16/22 |

FGC action:

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

Tracking Number

- ☐ Granted for consideration of regulation change
☒ Referred

**SUPPORTING DOCUMENTS
(COMMUNITY COMMENTS)**

**RENAME EXISTING MPA
DR. BILL BUSHING SMCA AT CASINO POINT**

**SUBMITTED BY:
KEN KURTIS
MARCH 4, 2022**



23 PAGES FOLLOW THIS COVER PAGE:

- **LETTER FROM JEAN-MICHEL COUSTEAU (1 page)**
 - **E-MAILS FROM DIVING COMMUNITY (8 pages)**
- **COMMENTS FROM CHANGE.ORG PETITON (14 pages)**

*"Protect the
Ocean and You
Protect Yourself."*



03/03/2022

To the California Fish & Game Commission:

I am writing in support of renaming the existing Casino Point State Marine Conservation Area the "Dr. Bill Bushing SMCA at Casino Point."


I first met Dr. Bill (as he was known to everyone) over 25 years ago and we stayed in touch regularly. Over that period of time, I came to know Dr. Bill as a fierce advocate, not only for the ocean in general, but for the waters in the vicinity of Avalon and specifically what you call the Casino Point SMCA and what others known as the Avalon Underwater Park.

Bill dove those waters regularly, many times on a daily basis. He came to know the many inhabitants of this MPA as well as he could see environmental changes that occurred as well, such as when Giant Sea Bass started coming back to the area in large numbers as well as when Sargassum would flourish within the park boundaries. But Bill never kept this knowledge and observations to himself. He would regularly share his insights with anyone who asked (and even some who didn't). He put his knowledge and love for the ocean to the best possible use: To educate others as to the intricacies of the marine environment and to show them the things they could do to help make it better.

As humans, we all hope people will remember us when we're gone. As educators, we hope that our memory we will continue to live on through those who we have taught and hopefully inspired. And in the case of Dr. Bill, he did that on a grand scale. There could be no more fitting acknowledgment of his impact on marine education than to rename the MPA the "Dr. Bill SMCA at Casino Point" and that is something I sincerely hope you will do with the utmost urgency.

Thank you.

Sincerely,



Jean-Michel Cousteau

President

**DIVING COMMUNITY COMMENTS
IN SUPPORT OF RENAMING THE EXISTING MPA
THE "DR. BILL BUSHING SMCA AT CASINO POINT"**

I support renaming the Casino Point State Marine Conservation Area to the Dr. Bill Bushing State Marine Conservation Area at Casino Point. Bill was a long time scientific diver who worked for the Catalina Conservancy as its Director of Education in the early 2000s. Bill helped teach a variety of community scientists who were part of Catalina Conservancy Divers to identify the species found in the waters off Catalina. He was often found at Casino Point diving and sharing his knowledge with divers visiting Casino Point. This would be a great honor for Bill and I am fully supportive of this effort.

Thomas W. Turney

Director

Wrigley Institute of Environmental Sciences/Catalina Conservation Divers

I am a PADI DiveMaster now living and diving in the Pacific Northwest. My training and over a decade of diving initially was done in So Cal. As a So Cal diver and dive professional, I and so many spoke of the incredible, unofficial mayor of the dive park, Dr. Bill. He was a living legend, an incredible guide, a wealth of knowledge and arguably the biggest ambassador to diving in Avalon at the park. A true SoCal treasure.

I had the pleasure of meeting and speaking with him nearly every time I dove the park. He would be so easily spotted in or out of the water. On land, he helped give sound advice, watch over the area and get people to truly understand the majesty of our treasured Avalon and its underwater world.

The Express trip was worth it just to meet and see Dr. Bill.

Please add my request to the list of many in order to honor his life and the many people he influenced. Thank you.

Bill Bergschneider



PADI DM ##351184

I write in support of the effort to rename the Casino Point MPA the "Dr. Bill Bushing State Marine Conservation Area at Casino Point," or any other variation that honors Dr. Bill and his contributions.

I was not a relative or close friend of Dr. Bill. I was one of thousands of near-strangers he taught, encouraged, and treated like a friend. I began diving a little over 3 years ago, and quickly became aware of our local celebrity in the dive community. I began following him on ScubaBoard and FaceBook to learn more about the local marine life. He accepted my friend request, wished me a happy birthday, and began answering my questions when I posted pictures I'd taken of fish and critters I couldn't identify. I would see him at the dive park, in his characteristic tattered wetsuit, and though he likely never recognized me, he always greeted me warmly. I would ask if he'd seen any wreckfish--I learned from him that "giant sea bass" was a misnomer. I keep half-expecting to see him there still.

I like to think a bit of Dr. Bill lives on in each of us who warn a buddy against touching white feather hydroids or educate snorkelers against camping out on the stairs. But it would be nice to see it formally acknowledged. Thank you for your consideration.

Regards,
Amy Meier

[REDACTED]
[REDACTED]
[REDACTED]

I support renaming the Casino Point State Marine Conservation Area to the Dr. Bill Bushing State Marine Conservation Area at Casino Point. Bill was a long time scientific diver who worked for the Catalina Conservancy as its Director of Education in the early 2000s. Bill helped teach a variety of community scientists who were part of Catalina Conservancy Divers to identify the species found in the waters off Catalina. He was often found at Casino Point diving and sharing his knowledge with divers visiting Casino Point. This would be a great honor for Bill and I am fully supportive of this effort.

Jill A Boivin
Event Chair
Avalon Harbor Cleanup

I write today in support of renaming the Casino Point State Marine Conservation Area in memory Dr. Bill Bushing with the proposed name of "Dr. Bill Busing State Marine Conservation Area at Casino Point".

Though I did know Dr. Bill well in the personal sense, I had many interactions with Dr. Bill over the years. As an enthusiast in underwater photography Dr. Bill was always available to help identify a fish or unusual creature. His depth of knowledge was invaluable to those of us who love to explore and conserve the ocean. So many times while diving a blue torpedo would streak by and it was Dr. Bill, off to the depths of the dive park in search of giant black sea bass, or to do his best to rid the park of invasive seaweed. He'd strike up a conversation with anyone, and seemed to know everyone. His loss isn't just a gaping hole in the local dive community, but also for the protection and conservation of the ocean we all love and depend on. The renaming of the dive park is a fitting tribute to the person whose presence there was nearly indistinguishable from the ocean itself. Thank you.

Justin Jolly

I have known Dr. Bill Bushing for two decades, as a fellow scuba diver and marine ecology enthusiast. His devotion to preserving marine life and educating everyone he could about the underwater world is legendary among divers, marine biologists and much of the public. His favorite scuba diving spot was Casino Point, which he likely dived thousands of times, and he authored hundreds of informative articles about the marine life he witnessed there over the decades. Accordingly, I believe it is fitting that Casino Point be memorialized and renamed in Dr. Bill's honor for the many contributions he made to increasing public awareness of the importance and beauty of our oceans.
Thank you for your kind consideration in doing so.

Kevin Lee
Explorers Club MN '17
Adventurers Club #1163

I fully support renaming the Casino Point MPA (officially known as "Casino Point State Marine Conservation Area") to the "Dr. Bill Bushing State Marine Conservation Area at Casino Point." Dr. Bill's career and life at Catalina embodied everything state marine conservation areas are designed to achieve - safeguarding the long-term health of California's marine life and environment, ensuring future generations are able to enjoy and appreciate California's underwater treasures the way they historically were, and educate future generations on marine conservation, including as a constantly evolving natural resource to study and learn from. Dr. Bill epitomizes marine conservation, underwater education, and a love of the natural underwater beauty of Catalina, and in particular the area around Avalon. He was beloved by many, and in multiple ways served as an ambassador for the undersea world around Avalon through his writings, many online contributions, and travels. This is no name more fitting than the Casino Point MPA than linking it to Dr. Bill, and no better posthumous tribute to Dr. Bill than naming the Casino Point MPA in his honor.

Geoff Walsh

I'd like to submit a few words in support of renaming the Casino Point Dive Park in Avalon in honor of Dr. Bill Bushing.

Over several summers doing the Casino Point Dive Trail for the Catalina Conservancy Divers, I noted that Dr. Bill was a fixture at the park in his tattered wetsuit. He was always a good source of information for divers, frequently sharing observations on underwater wildlife in the park. He frequently filmed subjects, for his column there as well. Through those and his participation in an internet dive forum, divers from all over enjoyed meeting him at the park; in that regard, he was an integral part of the Catalina diving experience.

Mary-Lou Quinn

My name is James McMullin, I am the Owner and Director of operations @Signature Scuba Diving, 11955 Jack Benny DR., Rancho Cucamonga, Ca 91739.

My life was not easy growing up, but one of the greatest accomplishments is my success in Scuba. Part of the success was being able to spend time with Dr. Bill at Catalina's casino point dive park, his knowledge and inspiration has always helped me with my growth. Understanding the importance and knowledge he shared with everyone.

I know this is supposed to be short and I am trying my best, but there is nothing short with Dr. Bill, he is an amazing Person that gave back and shared his passion and knowledge. Dr Bill was and always will be an inspiration to all divers who crossed paths even after his passing. He will be missed and not forgotten.

I am grateful and Blessed to have known him . I respectfully request to have the Avalon Dive Park in honor of Dr. Bills contribution to be changed in representing his love, passion and lifelong commitment.

James R. McMullin
SDI/TDI Instructor Trainer
PADI Master Instructor

Website: www.signaturescuba.com

I first met Dr. Bill 12 years ago at the Avalon Dive Park. I quickly learned that he was a kind, unassuming, and approachable man. His knowledge of marine flora and fauna around Catalina is unmatched given his life-long devotion to the study and protection Catalina's marine resources. He was quick to answer anyone's questions about the things they saw beneath the surface. As a regular traveler to the dive park, I always looked forward to seeing him there and discussing the latest subjects of my underwater photos. As a dive instructor, I often took students to meet him. He kindly answered every one of their questions no matter how obscure or off-base their questions were. Besides merely answering questions, Dr. Bill produced a public access television show and published a weekly newspaper column which is one of the most comprehensive resources to learn about the life beneath the waves along our coast. Even while battling a terminal illness, he remained actively engaged with the dive community through social media and both in-person and online presentations to dive clubs. He committed his life to the preservation of our precious marine resources through education and activism. If anyone deserves to be honored by renaming the Casino Point SMCA, it is his him.

Sincerely,
Michael Francisco
Head Instructor
Sharky's Scuba & Swim, San Dimas, CA

I've been diving for 11 years, my first dive was when I was 12 at Catalina Dive Park. After getting out of the water and feeling a huge sense of accomplishment as this was one of my life goals to become a diver, Dr. Bill congratulated me and made me feel welcomed into the community. I have been diving at the park multiple times a month for the past 11 years. It is one of my favorite places in the world. Dr. Bill has and always will be a huge motivating force for me as I continue to peruse my graduate school in marine biology. He would could always be seen at the park taking to divers, talking about the dive conditions, and anything else divers wanted to talk about. The dive community was greatly changed for the better by Dr. Bill. He has made a great impact on my own life as I am sure he has on others, he will be greatly missed. Nothing would make me happier than to see one of my hero's honored by having his favorite dive location renamed after him.

Daniel Benjamin Ortega
Executive Director
Marine Genome Project
Work: (951) 234-9971

I am writing because I am highly in favor of renaming the Casino Point Dive Park to reflect Dr. Bill Bushing's name. I have taught and dove here in Catalina for 20 years now, and there was not a time when Dr. Bill didn't have a moment for my many students. Dr. Bill also spoke yearly at my Women's Dive Weekend event. He was an absolute wealth of information and always willing to answer questions about the local ecosystem. I think by doing this very simple thing, it will help to keep his vision and passion for the ocean alive for our future divers. It would also bring

closure to the many who called him a friend in the dive community. He was well loved and an icon in Catalina. I, for one, miss him dearly.

Cindy Sieman
PADI IDC Staff
NAUI and HSA dive instructor
Owner/operator of World Wide Scuba, Global Elite Divers and Scuba Women

I am writing to request that the AVALON SMCA be renamed in honor of Dr. Bill Bushing.

Dr. Bill was an inspiration to divers world-wide and is a personal hero of mine, HE did so much for the community.

Michael Zwibel, Scuba Diver

I think it's a necessity to rename the Avalon SCMA in honor of Dr. Bill Bushing. He was an icon! Whenever we thought of the dive park, we thought of Dr. Bill. He was always around imparting knowledge and goodwill to divers there.

When I heard of his death my first thought was " the dive park will never be the same".
Renaming it in his honor is a must!

Sheri Bauer

My name is Glenn Kerr and I am the General Manager for Signature Scuba Diving, in Rancho Cucamonga. I've met Dr. Bill many times and he was always there with encouragement and willing to lend a hand to all. I respectfully request to have the Avalon Dive Park in honor of Dr. Bill's contribution to be changed in representing his love, passion and life-long commitment.

Signature Scuba Diving
11955 Jack Benny Dr #102
Rancho Cucamonga CA 91739
909-476-8183

I think it's imperative to rename the Avalon SCMA in honor of Dr. Bill Bushing. He was the embassies of the dive park. Whenever we thought of the dive park, we thought of Dr. Bill. He was always around imparting knowledge and goodwill to divers there. Many, many, many of his "diving dry" articles pictures were shot there.

Upon hearing of his death my first thought was "the dive park will never be the same."
Renaming it in his honor insures the warm feel of his presence for divers now and in the future.

Sheri and Bill Kendig
Santa Barbara Divers

Although I have been a diver since 1984, I have only been a dive professional for 10 years now. During that time I was fortunate enough to meet Dr. Bill Bushing. From the first time I was introduced to him he was a wealth of knowledge, not only of "all things dive park", but also about the history of Avalon. He always had time to meet new divers, but also answer any of our questions.

I was also fortunate to call him a friend! We would often make time to get together for lunch, dinner or sit and chat. On many occasions he was my escape from the crazy work world. He would brief us on the last changes underwater in the park (i.e. Kelp, Sargasm and fish life). Even during the recent time when he couldn't dive, he would share info from the other divers that he spoke with in the park.

To say Dr. Bill will be missed would be an understatement! Renaming the park would keep his memory alive and prompt ongoing conversations about diving and what the park has to offer.

Sincerely,

Craig Yeaton
Instructor/Owner
Sharky's Scuba & Swim
490 W Arrow Hwy, Suite F
San Dimas CA 91773
(909) 596-2505

My name is Ben Jarvis and I have been actively diving for over 35 years, including many dives at Casino Point in Avalon. Each time I dove Avalon, Dr. Bill Bushing was there to greet me, ask me about my dives, and provide pointers to the newer divers who did not yet know their way around the underwater park. Bill was a true ambassador for both Catalina Island and the waters that surround it. I support renaming the Avalon SMCA in his honor.

Sincerely,

Ben Jarvis
Newhall, CA

My name is Lisa M. Anaya-Munoz, an AAUS Scientific Diver, volunteer at the USC Catalina Hyperbaric Chamber and Social Media Contributor for Signature Scuba Diving located at 11955 Jack Benny Drive - Rancho Cucamonga, Ca 91739.

I still remember when I became friends with Dr. Bill. It was after the clean up on February 6th 2014 when a small group of divers including myself volunteered to remove wreckage from the sailboat that sank on December 30th 2014. We remained in contact after that. I even had the pleasure to come and help out clean Doug Aitken's Underwater Pavilions in 2016. It was easy to keep in touch. We will see each other at the Scuba Show, Reef Check Galas and of course at Santa Catalina Island. He is deeply missed.

I respectfully request for this State Marine Conservation gem to be renamed, Dr. Bill Bushing State Marine Conservation Area at Casino Point in honor of Dr. Bill's contribution as a whole.

Lisa M. Anaya-Munoz
AAUS Scientific Diver
PADI Rescue Diver

[REDACTED]

I am a resident of Orange County and a California scuba diver. I have been scuba certified since 1993 and have been to the Avalon – Casino Point State Marine Conservation Area (i.e. the “Avalon Dive Park”) many times.

I am writing this letter in support of re-naming the Dive Park in honor of Dr. Bill Bushing. Specifically to support the re-designation of the Dive Park as the **Dr. Bill Bushing State Marine Conservation Area at Casino Point.**

While I only met Dr. Bill Bushing a few times in person, I corresponded with him on a regular basis over the last few years. I was constantly impressed with his knowledge of the underwater world, his enthusiasm for the marine environment and his dedication to sharing the underwater experience with others. He was able to broaden my knowledge of the marine world and Catalina Island waters in particular. He was a regular (to say the least) at the dive park and worked to provide exposure of the resources of the Park to many others.

I can think of no better way to honor his efforts than to undertake this effort and I urge action accordingly.

Please feel free to contact me if you have questions. Thank you for your consideration.

Robert E. Anslow

[REDACTED]

[REDACTED]

I am writing in regards to renaming the Casino Point (Catalina Island) State Marine Conservation Area in honor of Doctor Bill Bushing. Dr Bill as he was affectionately known to thousands of divers via his social media presence, as well as to hundreds who knew him personally, was a Catalina island resident for almost 50 years. Most of us knew him as an avid scuba diver and marine scientist. Dr Bill was also a tremendous person, always willing to share a story, or help educate us about our local underwater world. He shared his knowledge willingly to any who would listen, and with a purpose so we could all understand and enjoy our waters more fully. His time as a teacher, his online contributions, articles and in person discussions were always enlightening. And his opinions came from vast experience from his thousands of dives in our local waters, not just academics. He was also very outspoken about the need for conservation of this environment.

In addition to his knowledge, Bill was also a very nice person. More often than not if you dove in the Casino Point Dive Park you would at some point see him. A quick hello usually became a longer conversation. And his love of Catalina and the Dive Park was evident in these talks. His impact to the Southern California dive community is hard to quantify, but I can honestly say I doubt it would be as robust as it is without his influence.

There would be no better tribute to such an Icon of the island and to our community than to name this MPA after Dr. Bill Bushing.

Mike Laban

I fully support the renaming of the dive park to Dr. Bill Bushing State Marine Conservation Area as Dr. Bill was a diving icon synonymous with the casino point diving ecosystem. He proudly championed and represented the local diving community and was literally a fixture at the park, always smiling willing to talk and answer questions about the local kelp forests and its inhabitants. He was and always will be a part of my Catalina Island diving experience. Armed, always, with his video camera, a well worn wetsuit and a big smile, Bill captured the very essence and spirit of the sport, the dive park and the diving community at large. He was very simply an ambassador to the dive park. Bill always “passed it forward”. Let’s help him, now, to keep passing it forward, by renaming the water portion of the dive park after Dr. Bill, a real hero and forever legend.

Sincerely,
Matt Brandt



Rename the SMCA the "Dr. Bill Bushing SMCA at Casino Point"

Original Change.org petition comments as of 1/20/2022

"Diving community looks at him with greatest respect and he is an active environmentalist and educator"

-Abdul Aziz Khan
Woodbridge, VA

"Knowledge is an invaluable gift, and he gifted geneeatiins to come"

-Alez Aripez
Spring Valley, CA

"What a terrific idea. Would love to see this happen."

-Alf Johnson
Yorba Linda, CA

"dr bill is awesome"

-Allan Swann
Granada Hills, CA

"Dr. Bill so richly deserves this honor for his tireless work within, love for, and promotion of this park."

-Allison Vitsky
San Diego, CA

"His sister is a dear friend and I have followed his works through her"

-Angela Keener
Shawnee, KS

"Come alive SCUBA dive"

-Ann Volkman
Coronado, CA

"I dive catalina bring my fivers from San Diego and want to show respect for those who show respect and protect our diving enviornment"

-Ann Volkman
Coronado, CA

"bill is from my home town and a great guy! deserves the honor"

-Annette Levin
Northbrook, IL

"Dr. Bill greatly deserves this honor!"

-Austin Meredith
Los Angeles, CA

"This work is so important and Dr Bushing deserves to be memorialized for his contributions to the ecology of our seashore."

-Barbara Souza
Orange, CA

"Dr. Bill is a great ambassador for Avalon, the dive park, and planet. Naming the park after him would be very appropriate!"

-Ben Jarvis
Santa Clarita, CA

"Dr Bill is a long time friend and has done more than anyone for Catalina, its environment, and SoCal diving in general."

-Bill Powers
Torrance,

"Dr. Bushing ..what a amazing Man. Wonder if he ever dry out. You have my vote. Bob Evans Force Fin"

-Bob Evans
Santa Barbara, CA

"Bill deserves to be recognized, honored and remembered through history for his life long dedication and contribution to environmental and marine science. The Avalon dive park was his home."

-Bonnie Dichter
Silver spring, MD

"When I dive there, Dr Bushing is always active and supports the dive park community. Avid photographer and contributes much to the Dive Park at Avalon"

-Brenda Gustin
Newport Beach, CA

"Decades of Unrecognised Research that he has Accomplished w/o placing himself in the spotlight."

-Bret Culpepper
La Verne, CA

"Yes!"

-Brett Kotheimer
Marina del Rey, CA

"Dr Bill was instrumental in my dive education of cold water diving. He was always there to encourage and tell us about what was happening around Catalina under the surface."

-Brian Ko
Winnetka, CA

"This is a great cause."

-Brian Turner
Fullerton, CA

"Gracious, fun, knowledgeable and has loved this dive park. Forever. Please it deserves his name."

-Bruce Bray
Enumclaw, WA

"I can't think of a more fitting tribute. Dr Bushing's contributions to the love and understanding of Catalina's underwater world are unequaled. His Dive Dry with Dr. Bill articles, Facebook posts and pictures and the educational articles and videos on his website (<http://www.starthrower.org>) allow those around the world to develop an appreciation of Catalina's coastline."

-Bruce Guay
Delmont, PA

"Dr. Bill has been a steady, selfless, energetic, and articulate defender of Catalina's flora and fauna, especially its marine biodiversity. His teachings and writings are a legacy of decades of tireless work on behalf of the Island. I would love to see this honor bestowed on him. Adding my signature with joy!"

-Carlos de la Rosa
Pleasant Hill, CA

"Yes! Dr. Bill Bushing Park!! I'm going to call it that regardless!"

-Caro Yamazaki

"I think this is a great idea.. you have my vote"

-Cary Gitre
Oscoda,

"Bill is the very essence of Avalon and the dive park. His knowledge and his enthusiasm for diving and for the creatures we share the ocean with are limitless and he shares all of this willingly with anyone and everyone. This generosity should be rewarded!"

-Catherine Genender
Malibu, CA

"Friend since high school days. He's devoted his professional and personal life to Catalina and it's ocean life."

-Cathy Rivers
Lyons, CO

"Dr. Bill is a legend on Catalina, and deserves to be honored"

-Chris Menjou
Torrance, CA

"As a favor to a friend."

-Christine Lorber
Hollywood, FL

"Considering the irrefutable existence of angelfish and fact that one of heaven's most famous logos is ichthys, I'd say most assuredly, there is scuba diving in heaven! Happy Diving Bill"

-Christopher Conrad
Seattle, WA

"I couldn't think of a better tribute! If the moderator/petitioner would please contact me I would appreciate it."

-Cinde MacGugan-Cassidy
Avalon, CA

"For an honorable man!"

-Cindi Emerson
Chapel Hill, NC

"Dr. Bill had been the heart of the dive community as long as I can remember."

-CINDY SIEHAN
Taft, CA

"Absolutely support this!!! Please make it happen!"

-Cristi Quill
San Diego, CA

"I support honoring influential people in direct view of others who share their passion and legacy."

-Curtis W
Monterey, CA

"In addition to renaming the dive park I have suggested a memorial statue at or near the dive park steps with a plaque. A fund raiser in the dive community at our annual fundraising event we hold at the L B Aquarium. Even if the dive community donated \$2 each it would more than cover the cost."

-Dan Jonathan Blake
La Verne, CA

"Dr Bill has been amazing for our community! Really our local Darwin of the dive park! He is so important to our community this only makes sense."

-Daniel Rugenstein
Valencia, CA

"Well deserved."

-Darcy Escovedo
Palo Alto, CA

"his contributions to marine science"

-david Bergman
Minneapolis, MN

"He deserves it."

-David Bower
Monrovia, CA

"Bill is a champion of the area and deserves public recognition for this."

-David Chambers
Lincoln, CA

"DR Bill Bushing (Boo) was an inspirational teacher/Professor for me while I attended Catalina Island School 75 to 77. At that age I had wanted to pursue Marine Biology and he heaped it on me. The many wonderful dives he would take the class on, the hours we would spend in the Lab observing the microscopic sea life, identifying 100 of these sea creatures was an amazing odyssey for a teenager. My last dive with him was in 2012 and I came over for a weekend reunion with several classmates of the school we attended not too long ago. Forever our friend, forever loved, forever remembered; this would be the most fitting tribute for an amazing man that had inspired so many of us. Farewell, you are now one with the waves and with those that have passed before us."

-David Chenelle
Santee, CA

"Dr. Bill has taught me love for Catalina's waters since my childhood. From the garibaldi to the kelp bass to the leopard sharks, he's had me explore most of the island the best way, through the underwater parks."

-David Hunter
Orlando, FL

"I enjoyed Dr. Bills online articles."

-David Jackson
Tustin, CA

"Having lived in southern CA for a portion of my life, I'm familiar with Dr. Bill and his work. He is most deserving of this honor!"

-Debbie Chandler
Spokane, WA

"I stand with Bill Bushing and Avalon dive park"

-Debra Worman
Enumclaw, WA

"I am signing this because Bill Bushing PhD has been a wonderful ambassador for the dive community."

-Dennis Berube
Carson, CA

"Awesome"

-Dewitt Jones
Waukeg, IA

"Because I should for it's legacy."

-Dhaval Shukla
Ahmedabad,

"I was able to enjoy Bill Bushing's wonderful educational presentation about the wonders of the underwater world and I hope his efforts continue to inspire."

-Diana Henry
Newport, VT

"This is important! Please rename to "Dr Bill Bushing Avalon Dive Park""

-Diane lane
Sierra Madre, CA

"I can't think of a more fitting name for the park.Honoring Dr Bill for his tireless contributions to understanding the local underwater habitat is the least that Avalon can do, even more so for Catalinas unofficial Ambassador"

-Don Beary
San Diego, CA

"Dr. Bill is such a great ambassador to not only Avalon, but the Oceans in general. His love and knowledge is spread world wide and this would most definitely be a very appropriate acknowledgement."

-Dori Booth
Surprise, AZ

"Dr Bill rules!"

-Dylan Sharp
El Segundo, CA

"I love the park and Dr. Bill's work"

-Edwin Chiu
Sunnyvale, CA

"I've enjoyed Dr. Bill's online posts about Casino Point for years now. He's very generous in keeping the dive community informed about the status of the dive park. I definitely think he deserves this recognition for all his dedication and hard work."

-Elizabeth Tuttle
San Diego,

"Dr Bill!"

-Eloise Williams

"It was an honor to have met Dr. Bill Bushing...his spirit lives on in those waters and among the kelp forests ♥"

-Ericka Gutierrez
Anaheim, CA

"He deserves recognition."

-Evelyn Sardina
Houston, TX

"Dr Bill did so much for Catalina diving."

-Fiona Rattray
elora,

"I have been diving at casino point for pleasure and helping tech scuba for almost a decade. I've lost track of the number of times I've visited the city. Very rarely is Dr. Bill not present in the park, freely sharing his research and expertise and exciting and enticing people to come back and look even closer at the beauty of the park and surrounding areas. The entire diving community values this great man."

-Francisco Artes
Round Rock, TX

"In honor of the contributions made by Dr. Bill Bushing to the City of Avalon."

-Frank Tullo
Pasadena, CA

"I respect and have followed Dr Bill's Scuba postings for years. He is a true resource for the dive community"

-Gary OpBroek
LEWISVILLE, TX

"Dr. Bill has always given, now is your turn to give back."

-Geoff Matson
Crystal Lake,

"Bill deserves this!"

-George Austin
Los Angeles, CA

"Dr. Bill Bushing is the heart of the Park by educating all divers and diving students about our part of the ocean."

-George Spanos
Santa Monica, CA

"It's the right thing to do. He deserves this honor."

-Greg Buck
Denver, PA

"I'm signing this petition because Dr. Bill has contributed significant time of his life to study the local ecology of this area."

-Gregory Borodiansky
New York, NY

"A much deserved name for a beautiful dive spot."

-H G
Escondido, CA

"We have a true California Ocean Ecology expert at our fingertips when we visit Catalina Island. Bill has taught me so much about the history, the seasonal changes, the preservation and the fight to keep the Dive Park for all to enjoy. The Dive Park in Avalon is a worldwide icon in diving and a lot of the credit for that status is attributed to Doctor Bill."

-Hal Wells
Los Angeles, CA

"A Harvard Classmate and an inspiration to us all for his enthusiasm and knowledge"

-Henry Doerr
Auckland,

"Dr. Bill has contributed so much to the local diving community, it would be well deserved recognition."

-Hilary Bein
Los Angeles, CA

"Dr Bill has had a huge impact on my understanding of marine biology."

-Howard Mount
Bremen, GA

"This will be the best tribute to Dr. Bill Bushing."

-J. Huston
Oakland, CA

"It's the right thing to do"

-Jack Strieter
Coxoa Beach, FL

"I am a former resident of Avalon, and recognize and appreciate the contributions Bill has made to the community. Including Dr. Bill Bushing's name further distinguishes one of Avalon's most treasured natural resources, a well-deserved honor."

-Jacqueline Lehr
Haverhill, MA

"In recognition of his hard work and dedication to the the underwater world"

-Jai Guillemaud
Calgary,

"No one has done more for the park than Dr. Bill. He's truly its ambassador."

-Jamie Extract
Simi Valley, CA

"One of my favorite places to dive!!! Love the dive park and the island and reading Dr Bill's posts."

-Janet Kobs
Murrieta, CA

"I share a friends passion"

-JANET NEWMAN
Solana Beach, CA

"Who has dived Avalon more than Dr. Bill?? He has contributed so much knowledge about this park to the local dive community"

-Jason Shoup
Los Angeles, CA

"Thank you, Dr. Bill, for always answering our Fish ID and other marine-related questions and for always being a model diver and citizen of Avalon!"

-Jayleen Sun
Gardena, CA

"Dr Bill has accomplished so much to help others understand and enjoy Gods treasures!!"

-Jennifer Simonis
Tuscaloosa,

"I support Bill Bushing and all that he has done for diving at Catalina. What a great guy."

-Jerald Pratt
Poway, CA

"Dr. BI'll deserves to be honored for his contributions to the preservation and spread of information about our island and beyond."

-Jessica Herzog
Avalon, CA

"Dr. Bill has unselfishly shared his love and knowledge of the ocean environment, to the enlightenment of a legion of admirers."

-Jim Forte
Hillsboro, TX

"My sweet cousin, Kathy asked me to. :-)"

-Jim Mutchler
Forest, VA

"I met Dr. Bill on the King Neptune during my certification class. He is, as he was then, a valuable source information regarding the ecology of SoCal waters."

-Joe Tugas
North Hollywood, CA

"Dr Bill is a incredible person who has touch many lives, not just divers. A deserving person who devoted his life to the Catalina dive community."

-John Gelrud
Orange, CA

"A fitting tribute to a man who truly loved the sea"

-John Lawton
Vista, CA

"Respect Bill and all he has achieved."

-John Lewis
Irving, TX

"Someone I care about believes in this cause and asked me to contribute, high respect and trust her judgment therefore I believe the is a good cause"

-John Scordino
Eules, TX

"I'm signing because Bill Bushing is one of the smartest people I've ever known and has done so much for Avalon and Catalina Island!! He is also one of the best teachers I ever had the pleasure of learning from!!!"

-Jonathan Hurst
Grass Valley, CA

"Dr Bill knows more about diving in Catalina Island than anybody else, has done so much for the area and has a wealth of knowledge of the aquatic life and environment there. He definitely deserves some recognition!"

-Jonathan Schmitt
El Cajon,

"Dr. Bill has been a long time steward of Casino Point diving and an inspiration to the entire community. His mark on the dive park is unmatched."

-Jonathan Weirick
La Jolla, CA

"Why not? Dr. Bill is the dive park. This is a great opportunity for Avalon to put a humane face to a diver friendly city and dive site. To be in the presents of Jacques Cousteau, Dr. Bill deserves this."

-Joseph Kiszeli
Pomona,

"Dr. Bill is always helpful and informative."

-Joshua Christensen
Lakewood, CA

"An appropriate tribute to a great man who has made it his life work to educate others on the great resource that is our oceans."

-Joyce Klein
Deerfield Beach, FL

"I've learned a lot from Dr. Bill through the years. He deserves this honor."

-June Sisemore
Land O Lakes, FL

"Followed Dr. Bill on online forums for a long time. How awesome it would be to recognize him. Good luck"

-Justin Myers
Santa Ana, CA

"Dr. Bushing has focused his entire life on contributing to the conservation and education of the water wonders of Avalon. He deserves this recognition."

-Karen Russo
Lake Oswego, OR

"I always loved talking with him."

-Karl Ross
Santa Clarita, CA

"Dr. Bill has made diving at Casino Point immeasurably better for thousands of divers. While he and the park are informally synonymous to so many of us in the dive community, I'd love to see that relationship officially recognized."

-Kathryn Kempton

"Dr Bill has made this his life's work, done so much for the marine enviroment he loves and deserves this honor!"

-Kathy Mallon
Hermosa Beach, CA

"Dr. Bill has been an ambassador to scuba diving, especially the underwater park in Avalon. He has even presented on the topic of marine biology to our local dive clubs to educate, enthuse, and generate more curiosity keeping divers active. The love he has for the underwater park is amazing."

-Kaz Aizawa
South Pasadena, CA

"Dr. Bill Bushing Kicks Butt"

-Kevin Connolly
Round Rock,

"Dr. Bill has done more for the dive park than any other group or individual. There is no other name appropriate, than his. :)"

-Kim Calder
Lakewood, CA

"Because he loved Catalina and he loved the ocean. And the dive park was his home."

-Kim OBrien Jordan
Culver City, CA

"Dr. Bill IS Catalina diving! You cannot stump him with any diving question. Great asset to Catalina and I'm proud to call him a friend!"

-Kirstin Rowe
Long Beach, CA

"Dr. Bill is a legend and devotee to the Catalina U/W park. He has cataloged all the life there for years. A great scientist and wonderful human being!"

-Konrad Fry
Mission Viejo, CA

"Kristen Bowe"

-Kristen Bowe
Canyon lake, CA

"Dr Bill has long supported and promoted the Southern California dive community with his passion for diving and selfless sharing of his wealth of scientific knowledge. Both the dive park and the SoCal diving community would benefit by this appropriate and deserving memorial. I wholeheartedly stand in favor."

-L Richard
Scottsdale, AZ

"In honor of Dr. Bill!"

-LeAnn Adam
corvallis, OR

"During my active diving years there was rarely a time when I dove the Point where Dr Bill wasn't present, with his stories, advice, or just his smiling, friendly presence."

-Lew Turlington
Los Angeles,

"Thing need to be done"

-li meng tan
Singapore,

"My uncle was an amazing person and he will be missed — what an incredible tribute to his life's work."

-Liane Hunter
Atlanta, GA

"A befitting tribute to a man who cared enough to make a difference for the greatness of all species."

-Linda Jane O'Brien
Geneva,

"Dr. Bill's passion for our oceans and their critters is inspiring, his wealth of knowledge enviable. He never hesitates to share all he has learned about them. Renaming the Avalon, Catalina dive park his honor would be a fitting tribute to an incredibly generous man and educator."

-Lisann Francisco
Temple City, CA

"Dr Bill is a living legend and tireless advocate for Catalina island diving. He freely shares his knowledge while encouraging kids to put down the phone and dive in."

-Liz Taylor
Alameda, CA

"Absolutely, hands down.... Love Dr. Bill!"

-Lorenzo Murillo
Oxnard, CA

"This is important as a diver it mean a lot to me and others."

-Louis Marinucci
Philadelphia, PA

"He was Mr Catalina diving...period!"

-Makoto Nakanishi
Fountain Valley, CA

"Bill was a champion of the ocean and willing to share his knowledge with anyone who came to Casino Point."

-Maria Korcsmaros
Corona, CA

"I like the idea of honoring him"

-Maricela Garcia
Avalon, CA

"Dr. Bill is a wonderful guy who has wisely advised so many scuba divers over the years. This is a great chance to honor him!"

-Marie Bailey
Montrouge,

"Dr. Bill Bushing's contributions to studying and protecting the local ecology add permanent value to the City of Avalon and deserve to be commemorated by this initiative!"

-Marie-Elise Zovko
Zagreb,

"Wenn es mehr Menschen wie ihn gäbe. Wäre diese Welt besser und friedlicher."

-Mario Martin Fehd
Hagen /Essen,

"Dr Bill is and has been synonymous with the dive park, I cannot think of one without the other. He's my go to resource on the kelp forest and Southern California marine life."

-Mark Donoghue
APO, AP

"His study, knowledge, and the enthusiasm with which he shares it (with me and my students) have long been one of the high points of my visits to the park, and he has been a wonderful representative for the park and the local marine ecology."

-Mark Kampe
Los Angeles, CA

"Dr Bills study of creatures in the park and the eagerness with which he shared that knowledge."

-Mark Kampe
Los Angeles, CA

"Everything I just read is so true and much more. Please do this for someone who has always supported Avalon. Thanx."

-Marsha Larson
Laguna Woods, CA

"Bill deserves this honor in his lifetime. To acknowledge the research and learning Bill dedicated To the dive park will personalize and add character as a place of interest in Avalon"

-Martha Bill
Irvine, CA

"Bill has tirelessly inspired divers to dive Casino point for many many years and so deserves to have it named in his honor!"

-Martha Edge
Santa Ana, CA

"I know how often Dr. Bill dives this park and how he has contributed to the knowledge of the area with his observations. I think this would be a fitting tribute."

-Mary McCulley
Redondo Beach, CA

"I am signing to honor Bill."

-Mary Menke
Sherman, TX

"None could be more deserving of this honor than Bill!"

-Matthew Addison
Las Vegas, NV

"Dr Bill has independently studied events in this marine park for years and produced hundreds if not thousands of hours of video footage that will serve future generations of diving enthusiasts and ecologists in years to come. This recognition is a small display of appreciation for his endless dedication to conservation."

-Mauricio Moreno
Santa Ana, CA

"Bill Bushing is THE diving legend of Catalina. His efforts to educate divers and everyone else about the marine ecosystems of Catalina are unsurpassed. This is a fitting name change for the park he made famous. Please do it!"

-Melanie Moreno
, CA

"I believe this brave man needs recognition for the work he has done for Catalina and the diving community."

-Melissa Weber
Los Angeles, CA

"I taught with Bill at CIS and he supported my efforts in developing an outdoor program for the students. He was/is loved by students and staff of CIS."

-Michael Acebo
East Marion, NY

"It's difficult not to associate the dive park with Dr. Bill. I owe much of what I know about the Catalina marine environment to him. Not only have his informative posts and videos have been a great resource, he is always willing to answer questions directly. I think this would be a great way of saying "thanks" to Dr. Bill for everything he's done for us."

-Michael Francisco
La Verne, CA

"He has both taught Marine Biology on Catalina and has worked tirelessly to promote the Dive Park on the city's behalf. Dr. Bill is fighting Cancer, so the timing is important that it be made official sooner than later. Thank you."

-Michael Kienholz
Carlsbad, CA

"When I think of the Dive Park I always think of Dr. Bill"

-Michael Orlando
Palmdale, CA

"Dr. Bill was a fixture of the dive park and cared more about Catalina's marine environment than anyone."

-Michelle Hoalton
Huntington Beach, CA

"Minerva Vasquez"

-Minerva Vasquez
Menifee, CA

"Because Dr Bill has devoted his life to the care and educational research of the dive park!"

-Missy Parker
Moab, UT

"I recognize his contributions and share this sentiment"

-Nancy Caruso
Garden Grove, CA

"Thank you for honoring our brother. This means so much to all of us!"

-Nancy Hunter
Jasper, GA

"Bill deserves the recognition"

-Nancy Starnes
Davison, MI

"He was an extraordinary man!!"

-Nancy Witherell
Redding, CA

"Renaming the park would be a fitting gesture to show appreciation for Dr Bushing's work as a marine conservationist and his devotion to the Island"

-Naomi Ware
Tucson, AZ

"There isn't, will never be and has never been a greater Human being. He also happened to have a memory which talking to a kid or an arrogant Marine biologist from Woods Hole Institution of Oceanography. His knowledge and endless curiosity always with a smile. He touched many thousands of lives. I Was intelligent but had Zero focus from my first day in his class he got me. Pre-Med for 3 years until family issues and my decision"

-Nathan Wesley

"Dr. Bill has dedicated his whole life to the underwater park and surrounding areas and this is the least we/you could do to honor him."

-Neta Platt
Capo Beach, CA

"Dr Bill is a wonderful knowledgeable human being."

-Nicki Shaw
Azusa, CA

"I want to honor this man who has helped the environment."

-Noel Hoekstra
Downers Grove, IL

"He deserves even more recognition here! He could enjoy a bit more.. soon."

-Norma Carlyon
Avalon, CA

"Dr. Bill was the guardian angel, interpreter and evangelist for Catalina, the Dive Park and our marine environment. Super nice. Super committed. Super knowledgeable. And a friend to all who showed interest. This would be a great way to honor his life."

-Oren Noah
Sebastopol, CA

"Dr. Bill has done so much for Avalon, Catalina and especially for the underwater life there. His constant educational and conservation messages have been a powerful force well beyond the island."

-Oren Noah
Sebastopol, CA

"A well deserved tribute to a man who is passionate about our precious aquatic environment. PLEASE SIGN AND SHARE!!!"

-Patricia Conroy
Delray Beach, FL

"Dr. Bill personified the Dive Park. Period."

-Paul Golonski
Waipahu,

"I'm signing this petition to acknowledge and give due recognition to a man that contributed so much to the Avalon dive park (casino point) and to Southern California diving."

-Paula Rohland
Lancaster, CA

"I believe this man deserves recognition for all the contributions he did for Avalon (casino point) dive park. Renaming the location will be a way to honor and remember all that he has done for park and the sport of diving in Southern California."

-Paula Rohland
Lancaster, CA

"Harvard class of 1969. Roommate 1965-66."

-Peter Keiser
Johnston, RI

"Love Dr. Bill. He is an asset to the local dive community."

-Phillip Rexinger
Lake Elsinore, CA

"I and many others learned about the value, science and wonder of the marine biology environment at Catalina from Dr. Bushing. His sharing of bountiful knowledge has enriched the ecosystem and taught generations of people the value of protecting these waters. He is a natural treasure."

-PJ Doyle
Vernon, BC

"It's good to honor those who given selflessly to Catalina for their entire life"

-Ray McKewon
Vista, CA

"Awesome idea and do it sooner than later!"

-Richard Harp
Avalon, CA

"He has done more for diving in that area than anyone."

-Richard Watson
Bakersfield, CA

"Dr. Bill deserves this no matter what."

-Rick Lewis
Simi Valley, CA

"I believe the in it"

-Rodney Mullannix
Flatwoods, KY

"This is a perfect way to honor this mans
legacy!"

-Ronald Hoogenboom
Scottsdale, AZ

"I've followed and learned a lot from Dr Bill
Bushing and we have engaged in several
discussions on forums related to diving. He is an
ambassador for the diving community and is
more than deserving to preserve his legacy into
the future."

-Russell Worman
Everett, WA

"Bill helped me when I was getting started
diving."

-Sam Osteen
Oak Harbor, WA

"Bill Bushing had dedicated his life to this cause
and should be recognized"

-Sandra Feloni
Farmington Hills, MI

"This is a great way to honor Dr. Bill!"

-Sandra Rios
Tempe, AZ

"Dr Bushing has contributed to the knowledge
of so many people, divers and non-divers alike
..... he's a wonderful human being who greatly
deserves this honor Hope you agree"

-Sandra Snyder
Sun City, CA

"Applaud his commitment and dedication"

-Sandra St John
Danielson, CT

"Dr. Bill has done a lot to promote education
and conservation of marine life. His work has
helped tourism, as it brings in divers and
tourists to the area."

-Sandy Cook
Jupiter, FL

"I agree"

-Scott Nelson
Long Beach, CA

"Met Dr. Bill in the late 80's for the first time,
then again about seven years ago. Never
hesitated then and now to stop and talk about
SoCal waters to a visitor. Very deserving."

-Scott Whitney
West Jordan, UT

"His body of work in the field if diving speaks for
itself. He is a lical fixture at tyhe park, aiding in
the maintenance and comraderie at the park."

-Sean Shrum
Anaheim, CA

"I traveled half way around the world to have
the honor of diving this site with Dr Bill. This
site IS Dr Bill"

-Sheila Bowtle

"It's Dr. Bill...of course I signed!"

-Sherri Clarke
Palm Springs, CA

"Would love to see this happen and have gotten
an Avalon city councilwoman involved."

-Sherri Cline
Wimberley, TX

"Great work deserves great recognition!"

-Siena McKim
Bonita, CA

"I support the name change."

-Sigrid Twomey
Santa Barbara, CA

"Dr. Bushing gave alotnof time and effort to preserve and protect the area and his love for the environment was important."

-Stephen Cary
Vado, NM

"I fully support renaming the dive park in Avalon the Dr. Bill Bushing Dive Park in honor of Dr. Bill and his many contributions to marine science."

-Stephen Mendel
Ventura, CA

"Bill has dedicated his life to the advancement of science, particularly in the Avalon Dive Park"

-Steven Wilson
Glendale, CA

"I would like to see Dr Bill honored"

-Susy Horowitz
Burbank, CA

"Love to read Dr Bill Bushing's blogs, respect his knowledge and feel as if I dive there because of his sharing and caring."

-Suuz Martines
Charlotte, NC

"In honor of the contributions made by Dr. Bill Bushing to the City of Avalon."

-T Grannis
MONROVIA, CA

"I hope this passes. Bill is a legend in the Catalina diving community."

-T W Turney
Hermosa Beach, CA

"I believe the naming of this park after Dr. Bill Bushing should be done immediately!"

-Tatsuo Hirano
Glendale, CA

"I've spent a lot of time at Avalon's dive park & know Dr. BI'll and all he has done to share the underwater world at Catalina"

-Terri Schwenzer
Kailua-Kona, HI

"Hey, it's Dr Bill"

-Thomas Harris
Moreno Valley, CA

"Dr. Bill truly deserves this honor. He has dedicated countless hours of research for this dive park!"

-Tiffany Chao
Woodland Hills, CA

"Dr. Bill already comes to mind every time I think of Avalon, and I look for him every time I dive there, just in case! Renaming the park after him would be so fitting."

-Tiffany Poon
San Diego, CA

"Because it is the right thing to do. Bill spent his time and money to save this area and to educate others on the importance of conservation."

-Tom Hallquist
Franklin, TN

"This would be an appropriate honor."

-Tony Brazzale
West Palm Beach, FL

"It is fitting"

-Tracey Anonymous
Ferndale, MI

"He's a great man"

-Travis Gober
hanford, CA

"Dr Bill has done so much for divers and. Education about the underwater world."

-Trish Pedroza
Lancaster, CA

"A perfect gesture"

-Tyler Stalter
San Diego, CA

"The best way to honor such a great man who had contributed so much to the dive community :-)"

-Vanessa Homyak
San Diego, CA

"Dr Bill is the epitome of what a Marine Biologist should be and is ever present at the dive park, and to those who have never visited Catalina, his blog "Dive Dry with Dr Bill" conveys the best of what's underwater at the Casino Point."

-Walt Conklin
Redondo Beach, CA

"No one spent more time, love and care than Dr Bushing in this park."

-Weiwei Gao
La Jolla, CA

"Dr. Bill has devoted so many years to education awareness and conservation of the area around the island. He has published many great articles, cultivating an interest to bring in new tourists, while educating the locals as to the areas which needed ecological attention and preservation. A vocal conservationist and educator of the underwater world of Avalon Dive Park and more, he has done all this with enthusiasm and dedication throughout his life. I stand behind those advocating for this simple recognition which he so obviously deserves. Thank you!"

-Wendy Crown
Cambria, CA

"Dr. Bill has devoted so many years to education awareness and conservation of the area around the island. He has published many great articles, cultivating an interest to bring in new tourist, while educating the locals as to the areas which need ecological attention and preservation. A vocal conservationist and educator of the underwater world of Avalon Dive Park and more, he has done all this with enthusiasm and dedication throughout his life. I stand behind those advocating for this simple recognition which he so obviously deserves. Thank you!"

-Wendy Crown
Cambria, CA

"It's important to honor those who dedicate their lives to the preservation and protection of our Beloved oceans and dive park."

-Yasmine Salas
Laguna Niguel,

"Dr. Bill has done so much. Educates to preserve the oceans of the world. His love of Catalina Island has given him even more reason to bring his message to us all. Diver, non diver, it doesn't matter. It would be a great show of respect to an amazing man."

-Yvette 'Betsy' Laban
Duarte, CA



Tracking Number: (2022-10_)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: Armando Estrada

Address:

Telephone number:

Email address:

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 203 and 265, Fish and Game Code.

3. Overview (Required) - Summarize the proposed changes to regulations: allow deer hunting with an airgun. they made big calibers like 357 457 50 cal airgun. 357 going 1000 fps and fpe is 200 or 300 and the 457 is doing 1000 fps and fpe 600 to 700 fpe , the 50 cal is 1000 fps and doing 700 hundred something to 800 fpe . They also sell airgun that shoots arrows. Plenty of power . If airguns can't be used for hunting cuz of lead they make non lead for the 50 cal it's copper.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: I want to hunt deer and I can't own a firearm I am disabled it would be nice to hunt deer different ways like airguns slugs non lead copper or arrow guns please

SECTION II: Optional Information

Date of Petition: 06/21/2022



5. Category of Proposed Change

- ☐ Sport Fishing
☐ Commercial Fishing
☒ Hunting
☐ Other, please specify: [Click here to enter text.](#)

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

- ☒ Amend Title 14 Section(s): 353
☐ Add New Title 14 Section(s): [Click here to enter text.](#)
☐ Repeal Title 14 Section(s): [Click here to enter text.](#)

7. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition [Click here to enter text.](#)

Or ☒ Not applicable.

8. Effective date: If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: [Click here to enter text.](#)

9. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: [Click here to enter text.](#)

10. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: [Click here to enter text.](#)

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

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: [06/23/22](#)

FGC staff action:

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

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

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



Tracking Number: (2022-11)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: [Andy Guiliano]
Address: 3310 Powell Street, Emeryville, CA 94608
Telephone number: [REDACTED]
Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: [Petition to modify Recreational crab regulations, Title 14 CCR sections 200, 205, 265, 270, and 275]

3. Overview (Required) - Summarize the proposed changes to regulations: [Overview—Establish a “preset” period of 64 hours for recreational Dungeness crab consistent with Commercial regulations. Allow recreational Dungeness crab traps to be deployed 64 hours prior to season start date... Traps could not be pulled or checked, and no crab harvested, prior to season start. 2) Replace individual recreational crab trap stamp for CPFV anglers with a “Dungeness Crab Vessel Stamp-CPFV”. All CPFV who participate in the recreational Dungeness crab fishery would be required to purchase an annual “Dungeness Crab Vessel Stamp” in lieu of an individual crab trap validation for each passenger. 3) Allow CPFV to rig trap gear in accordance with Whale Working Group and RAMP best practices. Best practice standards allow for a single main buoy and trailer buoy no longer than 3 fathoms from main buoy.]

4. Rationale (Required) - Describe the problem and the reason for the proposed change: [Under current regulations vessels often set crab traps at 12:01am the opening day of crab season. CPFV in particular are driven by the competitive nature of the business to set pots as early as possible. Changes would provide CPFV and private vessels to safely deploy crab traps during daylight hours and avoid deployment in poor, unsafe weather conditions. 2) Per FGC Initial statement of Reasons, “The purpose of the proposed Recreational Crab Trap Validation would be to identify sport fishers that use crab traps so that the Department could conduct outreach on entanglement minimization efforts and collect essential fishery information” Anglers crabbing onboard CPFV’s have little data to contribute regarding



whale interactions, crabbing effort and gear set up. We propose regulations to be modified such that each participating CPFV would be required to submit data on fishery effort and fishing block locations, along with catch data through daily electronic vessel logbook portal. Allows DFW to calculate daily recreational Dungeness crab catch rates and locations in a real time format at minimal cost. CPFV could provide critical data to the department regarding whale safe fishing practices, gear/rope practices and effort (number of traps). 3) Allow CPFV to rig trap gear in accordance with Whale Working Group and RAMP best practices. Best practice standards allow for a single main buoy and trailer bouy no longer than 3 fathoms from main buoy.]

SECTION II: Optional Information

5. **Date of Petition:** June 24, 2022.
6. **Category of Proposed Change**
☒ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☐ Other, please specify: Click here to enter text.
7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)
☒ Amend Title 14 Section(s): Click here to enter text.
☐ Add New Title 14 Section(s): Click here to enter text.
☐ Repeal Title 14 Section(s): Click here to enter text.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: November 1, 2022
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: None
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: None.
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
None.

SECTION 3: FGC Staff Only

Date received: June 29, 2022

FGC staff action:



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

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

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

Tracking Number



Tracking Number: (2022-12)

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

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)

Name of primary contact person: James Stone

Address: PO Box 111, Sutter CA 95982

Telephone number: [REDACTED]

Email address: jstone@ncgasa.org

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

3. Overview (Required) - Summarize the proposed changes to regulations: NCGASA and our partners are proposing a slot limit on striped bass from 20-30 inches. This would increase, from 18 inches to 20 inches, the size of a fish that may be harvested, and further restrict the harvest of any mature fish in the system above 30 inches. This slot limit would apply in both fresh and salt water, since striped bass are an anadromous species. Our organizations believe the 20-30 inch slot limit is an appropriate starting point to balance angler harvest, recreational enthusiasm, and protection of the species; we understand the Commission and Department may have perspectives on other limits and we welcome that discussion.

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

NCGASA previously submitted a Petition for Regulatory Change for a striped bass slot limit, for the purpose of protecting the species, on April 3rd, 2020. NCGASA and our partners believed that petition would cover both inland and marine waters, given that striped bass are an anadromous species. Recently, we have been informed by Department staff that they interpreted this request to apply only to inland waters. After consultation with Department staff we have been encouraged to submit this clarifying petition. Therefore, we are additionally submitting this petition to clarify that the proposed slot limit should apply for the protection of this species in both inland (fresh) and marine (salt) waters.



NCGASA has been collaborating with nearly every other angling organization in the state that cares about striped bass, both inland and in marine waters. Our organizations collectively represent the voice of California's recreational angling community, from charter boats in the estuary and ocean to inland guides, fly fishers, and others. Together, we represent the vision of the majority of California's recreational angler communities, whose fishing license revenue fund fishery-related research, and enforce regulatory protection of fish and wildlife.

The Fish and Game Commission (FGC) recently approved changes to California's 1996 Striped Bass policy which our collective organizations strenuously objected. In addition to removing numeric targets for one of California's most heavily sought-after recreational angling species (Striped Bass), the FGC further directed the Department of Fish and Wildlife (DFW) to deprioritize investment in Striped Bass population research because of their non-native status. This despite the fact that Striped Bass were introduced 146 years ago and face exactly the same poor aquatic habitat conditions and water conveyance threats to survival as native fishes, including listed anadromous salmonids.

Over the past two years, our recreational angling community has been a committed party in discussions with FGC's and the DFW's leadership to present pragmatic solutions to the management of Striped Bass as a game fish. This included finding fiscal and non-fiscal management actions, including funding for the DFW to study, develop and implement a Fisheries Management Plan and/or other alternatives geared toward Striped Bass long term health and viability (conservation).

This proposal is one of those alternatives. The regulatory change petition proposed by NCGASA and supported by our organizations offers a low-cost alternative management tool that will promote the conservation of Striped Bass. By restricting take to a specific target size range, younger, sub-adult, Striped Bass females will have an opportunity to reach reproductive maturity and older large adults will be prevented from catch from the SFEW during their most reproductive years.

Additionally, NCGASA has committed financial resources to collect real time data on the Striped Bass population to facilitate management decisions based upon defensible science. It is our sincere hope that our recreational angling community can team with DFW to provide credible science on the current status of the Striped Bass to conserve Striped Bass for future generations of anglers.

It is not just the salmon and delta smelt populations that are in crisis. The striped bass population is collapsing parallel to the salmon populations and for the same reasons. The striped bass population is in desperate trouble at each life stage critical to supporting a viable population. Striped bass are broadcast spawners with each female producing hundreds of thousands if not millions of eggs/larvae. In a healthy ecosystem only a very few of these larvae ever survive to become adults. It's been documented for over a 10 year period that maternal transfer of contaminants causes over 90% of striped bass larvae to die prior to first feeding (Ostrach et al. PNAS, 2008, Ostrach et al. POD final report 2009) . It has been documented in the pelagic organism decline studies that the few larvae that survive as juveniles are subjected to poor water quality and contaminants such that extremely high incidences of parasitism and disease are found in these young fish and very few survive as young of the year fish (Ostrach



D.J. et al., POD final report 2009, Durieux E.D. et al. 2010, Spearow J.L. et al. 2010). This provides clear credible scientific evidence as to why the young of the year index for striped bass has been near zero for the past decades. The young of the year index directly relates to population recruitment. The latest fall midwater trawl data for striped bass indicates one of the lowest indices ever recorded. In addition, current fishing regulations allow for the removal of female striped bass before they reach sexual maturity removing them from the breeding population resulting in having fewer females to spawn in subsequent years. Current regulations also allow for the removal of the largest females from the system. Typically the larger/older fish produce the most and the highest quality eggs. Removing them from the system causes the most successful and fecund striped bass to be taken out of the breeding pool. Striped bass growth rates are approximately half of what they were 25 or 30 years ago which relates to poor quality food and environmental conditions. For there to be a robust viable recreational fishery the striped bass population needs to be stabilized and restored.

In order to sustain Striped Bass populations, several East Coast states (e.g., Maine, Massachusetts, New York, and others), adopted slot lengths. These slot length limits ensure that female Striped Bass reach sexual maturity and have more than one opportunity to spawn before been captured. Over the decades of the slot length limit regulation implementation, small changes have been made based upon the health of the Striped Bass population which is tied to riverine, estuarine, and marine habitat conditions and food availability. The recreational angling community strongly supports the principles for Adaptive Management which must be built into Fishery Management Plans due to unpredictable environmental changes to sustain viable recreational angling opportunities in California. Bradley et al (2019) provided a new approach to fisheries data systems which promotes innovation to increase data coverage, accuracy and resolution, while reducing costs and allowing adaptive, responsive, near real-time management decision-making to improve fisheries outcomes.

SECTION II: Optional Information

5. Date of Petition: 8/1/2022

6. Category of Proposed Change

☒ Sport Fishing

☐ Commercial Fishing

☐ Hunting

☐ Other, please specify:

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

☒ Amend Title 14 Section(s): 27.85 |

☐ Add New Title 14 Section(s):

☐ Repeal Title 14 Section(s): |

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



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

Implementation consistent with the original petition for a striped bass slot limit which is under discussion.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: NONE
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: NONE
12. **Forms:** If applicable, list any forms to be created, amended or repealed: NONE

SECTION 3: FGC Staff Only

Date received: Originally rec'd 8/1 (incomplete); updated 8/4/22

FGC staff action:

☒ Accept - complete

☐ Reject - incomplete

☐ Reject - outside scope of FGC authority

Tracking Number

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

Meeting date for FGC consideration: _____

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change



Tracking Number: (2022-13)

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SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
Name of primary contact person: Gary Smith
Address: [REDACTED]
Telephone number: [REDACTED]
Email address: [REDACTED]
2. **Rulemaking Authority (Required)** - Reference to the statutory or constitutional authority of the Commission to take the action requested: Statutory authority of the California Fish and Game Commission to amend California Code of Regulations Section 7.50(b)–Alphabetical List of Trout Waters with Special Fishing Regulations–under California Title 14–Natural Resources.
3. **Overview (Required)** - Summarize the proposed changes to regulations: please include the sentence and words, as shown below, in the California Code of Regulations (CCR) Section 7.50(b) Alphabetical List of Trout Waters with Special Fishing Regulations:
Body of Water: Willow Creek (Alpine County) upstream from the confluence with the West Fork of Carson River to the main tributary of Willow Creek a distance of two to three miles.
Open Season: All year.
Gear: Only artificial flies with barbless hooks may be used.
Bag and Possession Limit: 0 Trout any species including Brook Trout



4. **Rationale (Required)** - Describe the problem and the reason for the proposed change: In the two mile lower section of Willow Creek, the section of Willow Creek upstream from it's confluence with the West Fork of Carson River (see **photo IMG_2343**), Willow Creek's trout population is very low being almost non-existent in that one-to-two mile easily accessible to fishermen lower section of Willow Creek. That lack of trout, in the most accessible for fishermen lower section of Willow Creek, is leaving nearly the entire **two-to-three mile lower-to-middle section of Willow Creek (the section of Willow Creek that this petition pertains to)** with nearly a non-existent trout population except for a small population of small brook trout (under 10 inches total length) in a 1/4 mile meadowy section of Willow Creek about 1 ½ miles upstream from Willow Creek's confluence with the West Fork of Carson River.

The rationale for the proposed change, requested by this petition, is to encourage conservation and maintenance of a trout population in the more accessible, lower two-mile section of Willow Creek.

The desired outcome of this petition is to improve the fishing experience for trout fishermen who fish or might be interested in fishing for trout in the most accessible one-to-two mile lower section of Willow Creek. Most of the lower 2-3 mile section of Willow Creek (the section of stream that this petition applies to) is readily accessible by foot to fishermen since a good length of the lower two miles of Willow Creek flows through a meadowy and/or semi meadowy area except for the section of Willow Creek, about ½ mile below (downstream) from Willow Creek's major tributary, which is dense with willows and poplar trees in that approximate ½ mile long section of Willow Creek as is some of the other middle-to-upper three miles of Willow Creek a combination of semi-open small meadows with very dense willows and trees.

While the petitioner has not seen or caught Lahontan Cutthroat Trout in Willow Creek, Lahontan Cutthroat Trout were most likely present in the entire five mile length of Willow Creek, the main tributary of the West Fork of the Carson River, many years ago. Also, it appears that the lower-to-middle 2-3 mile section of Willow Creek, partially because of its current lack of Trout of any species, including very few Brook Trout in the lower 2-3 mile section of Willow Creek, that the lower 2-3 mile section of Willow Creek could now support and maintain Lahontan Cutthroat Trout should the California Department of Fish and Game decide to plant Lahontan Cutthroat Trout in the lower 2-3 mile section of Willow Creek.

The existing parking, signage, and walking entry point to the lower, more accessible section of Willow Creek by fishermen will make it easier for the California Department of Fish and Game and Alpine County to communicate Trout fishing Bag, Possession, and fishing Gear regulations and gather written fishing reports from fishermen, who fish the more accessible lower two-mile section of Willow Creek, should this petition be approved by the California Fish and Game Commission.

This petition should help facilitate the gathering of field information about existing Trout in Willow Creek. Trout fishing data could be gathered from trout fisherman who fish Willow Creek, by hand-written report cards (a volunteer system practiced on other trout streams), in order for the State of California Fish and Game Department to collect info from trout fishermen including what species of trout and what size of trout they're catching and-releasing to Willow Creek (in Alpine County). That volunteer trout fishing report card method, which is lacking at present along the entire five mile lower and upper section of Willow Creek, could help the State of California and trout fishermen in general.

As shown on National Forest map (see **attached map from Cal Topo with file name: QEL33.jpg**), all of Willow Creek's main branch (5-to-6 miles of adequate year-round flowing water) is entirely on State-



owned land (purple color on map), or on National Forest land (green color on map), with the only exception being a short section approx 1/4 mile (yellow color on map) at approximately 2 ½ miles upstream from Willow Creek’s confluence with the West Fork of Carson River.

The main branch of Willow Creek does not flow through the short section of private property (as shown on attached map).

The “main tributary” of Willow Creek joins Willow Creek (**see attached photos IMG-3126 and IMG_3124 both taken in July 2022**) on Willow Creek’s northeast side about 2 ½ miles upstream from Willow Creek’s confluence with the West Fork of Carson River, and that point is where the “upstream” boundary of this petition for 0 Trout Limit would start on Willow Creek itself but not on the main tributary of Willow Creek.

The “downstream” boundary of this petition, as mentioned above, would be at the confluence of Willow Creek with the West Fork of Carson River, or a distance of approximately 2 ½ miles of Willow Creek, between the downstream and upstream boundaries of Willow Creek that would be impacted by this petition.

There is adequate year-round water flow along approximately all five miles of Willow Creek (lower-to-upper section) to sustain Trout (**see attached photo DSC_0486-001.jpg** taken on Oct. 8, 2021 on the lower section of Willow Creek) . The consistent, natural year-round water flow rate of Willow Creek will – with a Zero Trout Daily Bag and Possession Limit and a Gear regulation of “only artificial flies with barbless hooks may be used” on the lower-to-middle two-to-three mile section of Willow Creek -- help to restore and maintain a healthy trout population in that most accessible lower section of Willow Creek.

As stated above, this petition requests that a 2-3 mile lower section of Willow Creek be added to **Section 7.50(b)**; however, this petition does not (would not) change the trout fishing regulations on the to-upper 2-3 miles of Willow Creek, upstream from its main tributary, where the upper 2-3 mile section of Willow Creek, including its main tributary mentioned above, would continue under the statewide California **Section 5.85 Trout** and statewide California **Section 5.84 Brook Trout** fishing regulations.

The upper 2-3 mile section of Willow Creek, upstream from its main tributary, like the lower 2-3 mile section of Willow Creek, downstream from its main tributary, has an adequate year-round water flow rate to sustain trout (**see attached photo IMG-3094**) taken in July 2022 in the upper section of Willow Creek approximately 3-4 miles upstream from Willow Creek’s confluence with the West Fork of Carson River.

At present, the 2-3 mile upper section of Willow Creek has more trout (Brook Trout) than the 2-3 mile lower section of Willow Creek which (the lower section of Willow Creek) has very few trout (only a small population of small Brook Trout) that remain in the lower two-mile section of Willow Creek.

Thus, this petition’s goal is to help restore and maintain a Trout population (all species of Trout) in the lower 2-3 mile section of Willow Creek, below its main tributary creek.

Willow Creek (Alpine County) has potential to emulate a similar-size stream – the Upper Truckee River – a California State heritage trout stream – that has a 0 Trout bag and possession limit along with fishing Gear Special Regulation – above the Upper Truckee River’s confluence with Showers Creek.

SECTION II: Optional Information



5. **Date of Petition:** August 5, 2022

6. **Category of Proposed Change**

☒ **Sport Fishing**

☐ Commercial Fishing

☐ Hunting

☐ Other, please specify: [Click here to enter text.](#)

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

☒ **Amend Title 14 Section(s):** by adding Willow Creek (Alpine County) to California Code of Regulations–Section 7.50(b) Alphabetical List of Trout Waters with Special Fishing Regulations

☐ Add New Title 14 Section(s):

☐ Repeal Title 14 Section(s):

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**

Or ☒ Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: Prefer sometime in year 2023, when the next annual update to Section 7.50(b) Alphabetical List of Trout Waters with Special Fishing Regulations will start.

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

See attached **letter with date of July 12, 2022 from the Alpine County Fish and Game Commission**. Also, a Board Member of the Alpine County Fish and Game Commission mentioned during the “Willow Creek” agenda item at their Board meeting on October 12, 2021, that “they have not been planting trout in Willow Creek.”

For a comparison and a confirmation of adequate water flow rates in Willow Creek (Alpine County), see two attached **photos taken at the same location but in different years**, with one **attached photo DSC_0982.jpg** taken on July 27, 2017 after a wet winter that year, and the other **attached photo DSC_0480-002.jpg** taken on Oct. 5, 2021 in early Fall before any significant rain or snow began last Fall after two consecutive below-normal winter snowfall seasons.

Using artificial flies with barbless hooks, in July 2017 and in 2019, Gary Smith fished upstream from wooden bridge over Willow Creek (see **attached photo IMG_2999** a photo taken on 6/10/22) near parking area on Highway 89, for approximately ½ mile upstream along Willow Creek, but he did not



catch or see any trout.

Petitioner fished downstream along Willow Creek, from the same wooden bridge mentioned above, for approximately ½ mile downstream to the confluence of the West Fork of Carson River, one day in July 2020, and he saw a few small trout in the six to eight inch length (species of trout were not able to be identified).

On Oct. 4, 2021, petitioner fished downstream the same approximately ½ mile of Willow Creek from the wooden bridge mentioned above, as he did the prior year, to the confluence of the West Fork of Carson River, but he did not see or catch any Trout along the same section of Willow Creek where he saw a few small trout the year before.

On June 9, 2022, petitioner fished starting further upstream from the wooden bridge mentioned above along Willow Creek, starting approximately one mile upstream from the confluence with the West Fork of Carson River, and then for approximately one mile going upstream over several hours of fishing, petitioner caught-and-released four small trout all approximately six to eight inches in length. All four Trout were Brook Trout as shown by two attached photos (**IMG_2985 and IMG_2988**) that show two small Brook Trout that petitioner caught-and-released along Willow Creek approximately 1 1/4 mile to 1 ½ mile upstream from Willow Creek's confluence with the West Fork of Carson River.

- 11. Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:

Willow Creek could become better known to more people—both trout fishermen and others – should this petition be accepted by the State of California Fish & Game Commission.

Improving the trout fishing experience for any angler on the lower two mile section of Willow Creek, may in turn help the local economy by attracting more anglers to Alpine County. Right

now, as mentioned above, there are very few if any trout on the lower 1 to 1 ½ mile section of Willow Creek (the most accessible section of Willow Creek to the average trout fishermen) which doesn't make Willow Creek's most accessible section very attractive for trout fishermen, who prefer to fish where at least a modest population of trout are present in the stream. A restored trout population (all species of Trout including Brook Trout) in the more accessible lower 1-2 section of Willow Creek, will help attract anglers of all levels, and can help business including small businesses in and near Alpine County. The State of California may see less need to stock hatchery-raised Trout species where, as you know, some hatchery-raised Trout species cannot reproduce in the wild. When streams like the lower 2-3 mile section of Willow Creek have a zero Trout Limit and Gear Regulations, that can help increase the wild trout population increase which will be an attraction to many trout fishermen and businesses in the area. The outcome of this petition, should it be approved by the State of California, could make better use of the **existing parking and existing signage (see attached photo DSC_0475-001.JPG) near Willow Creek** as mentioned above, that the State of California and Alpine County have invested in on Highway 89 near the intersection of Highways 88 and 89 in Picketts Junction.

A zero Trout Limit with fishing Gear “only artificial flies with Barbless Hooks are allowed for the lower two mile section of Willow Creek” could be posted next to existing signage as well as a trout fisherman report card (voluntary reporting) station, placed next to the existing signage at the parking area on Highway 89 near Picketts Junction, which can benefit the State Fish & Game Commission with data from trout fishermen (voluntary basis), as mentioned above, which in turn could help local businesses in

Request to correct info shown on Section I Question 2 on new Petition #2022-13 and request to waive 10-day response requirement

Gary Smith <[REDACTED]>

Fri 08/12/2022 11:19 AM

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

Cc: Gary Smith <[REDACTED]>; [REDACTED]
<[REDACTED]>; [REDACTED] <[REDACTED]>

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Hello Fish and Game Commission:

In response to your helpful email that you sent as shown below on August 11, 2022, would you please correct the info that I show on Petition no. 2022-13 under that petition section I, Question 2 "Rule Making Authority" by adding the following text:

Fish and Game Code

Division 1. Fish and Game Commission (Sections 101-500)

Chapter 2. Regulation of Take and Possession Generally (Sections 200-275);

whereby,

Section 200. (a) states: "There is hereby delegated to the Commission the power to regulate the taking or possession of birds, mammals, fish, amphibians, and reptiles."

Section 205 states "Any regulation of the Commission pursuant to this article which relates to fish, amphibia and reptiles, may apply to all or any areas, districts, or portion thereof at the discretion of the Commission, and may do any or all of the following as to any or all species or subspecies:

- (a) Establish, extend, shorten, or abolish open seasons and closed seasons.
- (b) Establish, change, or abolish bag limits, possession limits, and size limits.
- (c) Establish and change areas or territorial limits for their taking.
- (d) Decrease the manner and the means for their taking."

Section 219 states "Any regulation adopted pursuant to this article may supersede any section of this code designated by number in the regulations, but shall do so only to the extent specifically provided in the regulation. A regulation which is adopted pursuant to this section shall be valid only to the extent that it makes additions, deletions, or changes to this code under the following circumstances:

(a) The regulation is necessary for the protection of fish, wildlife, and other natural resources under the jurisdiction of the Commission."

Also, unrelated to the Fish and Game Code Sections noted above, would you please waive the "10-day Response Requirement" in regard to my Petition #2022-13.

Please call [REDACTED] or email [REDACTED] with any questions. Thank you.
Gary Smith

> On Aug 11, 2022, at 4:29 PM, FGC <FGC@fgc.ca.gov> wrote:
>

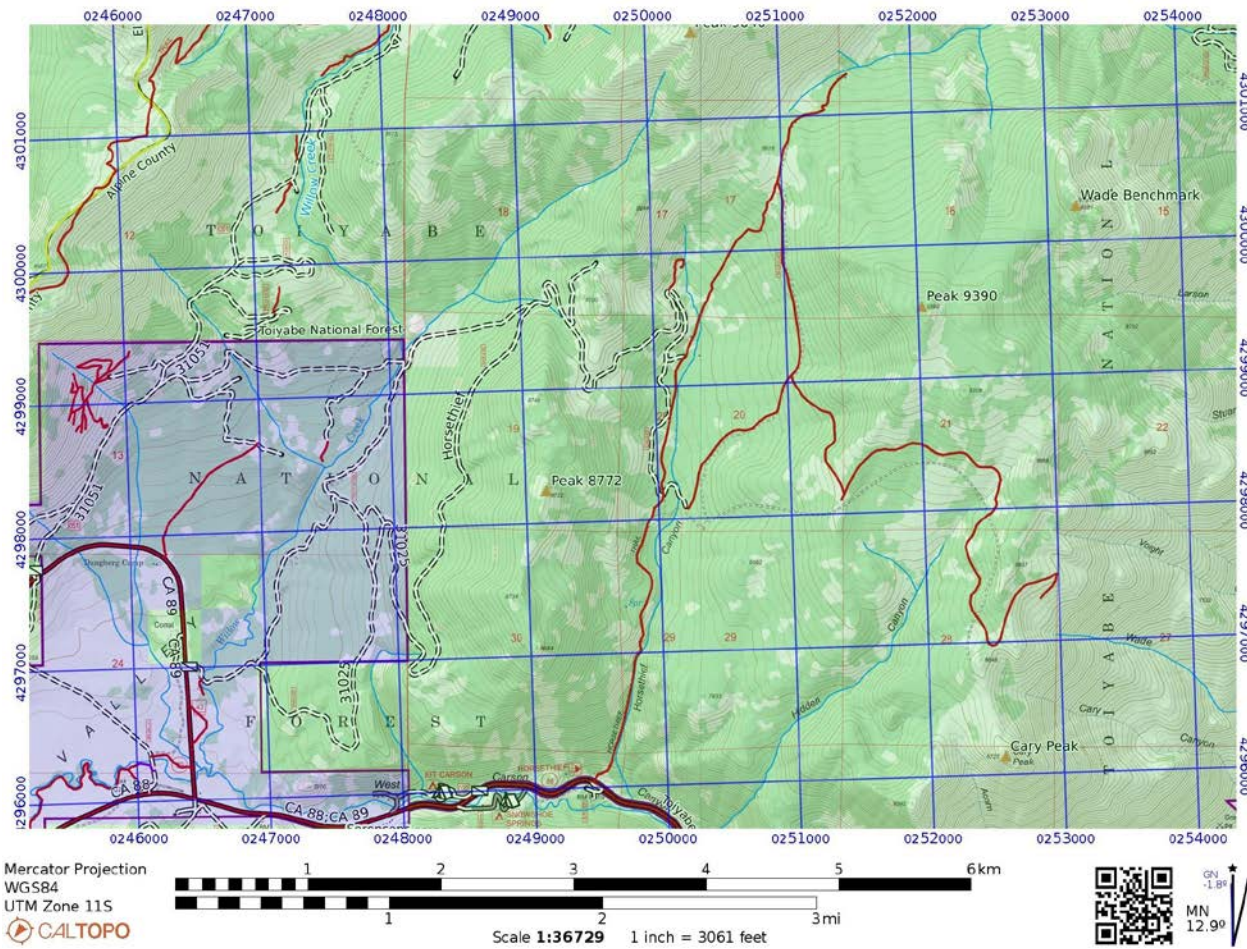













photo by Gary Smith

ALPINE COUNTY FISH AND GAME COMMISSION
C/O PO BOX 473
MARKLEEVILLE, CA 96120

July 12, 2022

Gary Smith


Dear Mr. Smith:

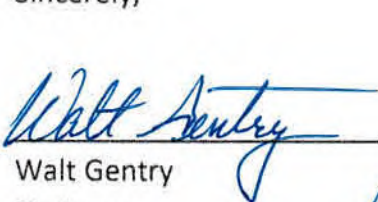
Re: Willow Creek

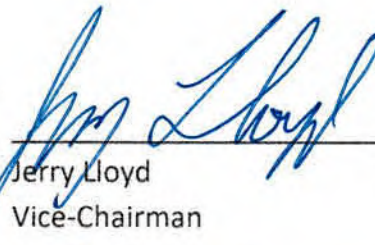
On behalf of the Alpine County Fish and Game Commission, we would like to thank you very much for all your hard work in the preparation of making Willow Creek a catch & release fly fishing only stream.

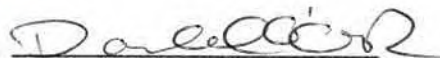
The Alpine County Fish and Game Commission wholeheartedly supports you in this endeavor with the State of California.

If anyone wishes to reach the Alpine County Fish and Game Commission, I can be reached at 707-889-3943.

Sincerely,


Walt Gentry
Chairman



Jerry Lloyd
Vice-Chairman



Donald O'Connor


Wedge Oldham


Bill Scherbak


John Smith


Bruce Huff


Stefan Krayk


Terrie Peets
Secretary

WG:tap

Memorandum

Date: September 26, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Petition #2021-018: Take of Barred Owl (*Strix varia*)

A petition submitted by Mr. Tom Wheeler of the Environmental Protection and Information Center to the Fish and Game Commission (Commission) proposes to amend Title 14 to add new Section 486 to allow for take of *Strix varia*, the barred owl. The California Department of Fish and Wildlife (Department) has reviewed the petition and finds that the proposed regulatory change is not warranted at this time.

The barred owl is not native to California and poses a threat to the federally- and state-listed northern spotted owl (*S. occidentalis caurina*), and the state Species of Special Concern California spotted owl (*S. occidentalis occidentalis*; hereafter collectively referred to as spotted owls). The Department recognizes this threat and is actively collaborating with the U.S. Fish and Wildlife Service (USFWS) and other partners to alleviate the threat across the spotted owl range.

Fish and Game Code Section 3503.5 explicitly prohibits take of *Strigiformes* birds (owls) except as allowed by other provisions of Fish and Game Code or Title 14 of the California Code of Regulations. Title 14 Section 650(c)(3)(C) allows the Department to authorize individuals proposing to “improve or restore ecosystem or habitat conditions; or otherwise enhance the sustainability of native wildlife” to take non-native, invasive, or detrimental wildlife such as barred owls through the issuance of Scientific Collecting Permits (SCP). Through the SCP application and approval process, the Department evaluates the experience and aptitude of applicants proposing to take barred owls. Conditions and restrictions apply to each SCP, such as the kind and number of individuals that may be taken, the type of equipment and methods to be used, the time and seasons for take, and the geographic locations where take may occur.

As barred owls and spotted owls are very difficult to distinguish from one another in the field, Department scientists rely on the evaluation of applicant experience and the ability to impose conditions through the SCP issuance process to ensure authorizations to remove barred owls also minimize the risk of inadvertent take of spotted owls. For this reason, the Department has rigorous training and mentorship requirements in place for individuals seeking SCP authorization to independently take barred owls.

Additionally, a Barred Owl Management Strategy (Strategy) is currently under development by the USFWS, in collaboration with experts across institutions and organizations, including the Department. Scientists involved with drafting the Strategy are carefully considering various barred owl management actions and recommendations for the conservation and recovery of spotted owls. These actions will likely include, but may not be limited to, take of barred owls. While experimental removal of barred owls has proven to be beneficial to spotted owls, there are many additional factors that will play a critical role in determining the most appropriate actions to implement in specific areas of the spotted owl range. Once complete, the Strategy will inform coordinated future barred owl management decisions by the Department, partner agencies, and landowners to best achieve spotted owl conservation and recovery goals. Currently, the existing regulatory mechanism of SCPs allows the Department to authorize and oversee barred owl take. Consequently, the Department recommends the Commission deny Petition 2021-018.

Please direct further questions to Scott Gardner, Wildlife Branch Chief, at (916) 801-6257 or by email at Scott.Gardner@wildlife.ca.gov.

Sources:

California Department of Fish and Wildlife. 2022. Northern Spotted Owls in California. Accessed on August 19, 2022. <https://wildlife.ca.gov/Conservation/Birds/Northern-Spotted-Owl>

California Department of Fish and Wildlife. 2022. Barred Owl Threat. Accessed on August 19, 2022. <https://wildlife.ca.gov/Conservation/Birds/Barred-Owl-Threat>

U.S. Fish and Wildlife Service. 2022. Barred Owl Management. Accessed on August 19, 2022. <https://www.fws.gov/project/barred-owl-management>

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

Scott Gardner, Chief
Wildlife Branch

Daniel Applebee, Conservation and Recovery Unit Supervisor
Wildlife Diversity Program

Shannon Skalos, Statewide Raptor and Nongame Bird Conservation Coordinator
Wildlife Diversity Program

From: Volker Hoehne <[REDACTED]>

Sent: Wednesday, September 21, 2022 12:16 PM

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

Subject: opposed to re naming "Casino Point SMCA" to the "Dr. Bill Bushing SMCA at Casino Point

You don't often get email from [REDACTED]. [Learn why this is important](#)

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I am opposed to re naming "Casino Point SMCA" to the "Dr. Bill Bushing SMCA at Casino Point."

The MPA network was created within parameters set by the California's leading politicians, and scientists who specifically prohibited marine protected areas from being named after people. I believe this was done to depersonalize closures, focusing on common interests instead of issues. Another MPA cornerstone is, Adaptive management which seeks flexibility to adjust closures as ecosystems evolve. Re-naming a closed area after a person reduces flexibility and limits adaptive management by focusing on icons instead of common interests.

During the Marine Life Protection Act's implementation many people and organizations showed their true nature. For 10 year pro fishing and anti-fishing organizations slugged it out, resulting in the current MPA network. The MLPA process was a low point in California's Marine Management Process, complete with black mail, extortion, secret meetings, and corruption. During this process Bill Bushing was divisive and anti-fishing seeking total closure of all prime spots.

Volker Hoehne

Watermens Alliance

San Diego Freedivers.

[REDACTED]

From: Phoebe Lenhart <[REDACTED]>
Sent: Thursday, September 29, 2022 2:23 PM
To: FGC <FGC@fgc.ca.gov>
Subject: Agenda item: 19, Regulation change petitions; (B) Previously received petitions; (III) Air guns to hunt deer

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

Dear FGC,

Regarding this petition above to allow the use of air guns to hunt deer.

There is voluminous information (and contradictions) regarding the power needed to ethically hunt a deer for a "quick kill" using an air gun. It is my hope, in considering this petition to allow hunting with an air gun, that the FGC thoroughly research and determine the correct "big bore" and/or "caliber" to use for an "ethical quick kill" of a deer. It is my understanding that air guns were designed to hunt smaller mammals, not larger animals, such as deer.

Thank you in advance for your consideration regarding the ethical use of air guns in hunting. Mammals, such as deer, have higher intelligence and are aware of pain. Please carefully decide what is ethically appropriate and inappropriate use of air guns.

Sincerely,

Phoebe Lenhart
[REDACTED]
[REDACTED]
[REDACTED]

Sent from my iPad

From: Colin Gallagher <[REDACTED]>

Sent: Saturday, September 24, 2022 9:15 AM

To: Cornman, Ari@FGC <[REDACTED]>

Cc: Bess, David@Wildlife <[REDACTED]>; Kelley, Garry@Wildlife

<[REDACTED]>; Gardner, Scott@Wildlife <[REDACTED]>

Subject: Request now that SB 856 (wild pigs) has been signed into law re. Regulatory Petition 2021-007

WARNING: This message is from an external source. Verify the sender and exercise caution when clicking links or opening attachments.

I am the author of Regulatory Petition 2021-007.

I have received notification that SB 856 has been signed into law by the Governor. This was not long after the September 22, 2022 Wild Pig Forum of the Fish and Game Commission and CA Department of Fish and Wildlife that I participated in.

This message is to reiterate my August 11, 2022 request regarding what I want to have happen if SB 856 becomes law (which now SB 856 has become law, so my August request is now brought to the forefront). As such, as I did in August, I request that the Fish and Game Commission make a small change in my Regulatory Petition 2021-007 that has been sent to the DFW. (This would be a minor amendment in consideration of SB 856, the now changed State law.) The amended Regulatory Petition portion of 2021-007 that was forwarded to the DFW should read (I would request it to be amended to read as follows and for the FGC to transmit the amended text to the DFW):

"Additional Methods Authorized for Taking Wild Pig: so that it will be considered to be legal to utilize a BB device for hunting wild pig in California, BB devices can be used with **any** ammunition, so long as the BB device is at least .357 caliber designation, and is designed to be single shot or semiautomatic."

The meaning of "any ammunition" above is in fact any ammunition. Currently BB devices (as they are known and defined under California state law) **are not subject to lead-free ammunition restrictions.**

SB 856 (which is now law) will limit hunting of the "exotic" game category for wild pig to use of lead free ammunition, but **only if you are using firearms**. BB devices **do not legally constitute firearms** under California law and thus would be exempt from SB 856 prohibitions if the Commission were to add them as a method of take. (There is no legal prohibition that would keep the Commission from doing so, and it is in the public interest to do so.)

Notably, the BB devices can also be integrally suppressed (silencer added) by the manufacturer and sent directly to the hunter in California without burdensome forms, fees, months of wait, and taxes, since

California Fish and Game Commission
Non-Regulatory Requests for Action - Updated September 27, 2022

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

Date Received	Name of Requestor	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Initial Action Scheduled	Initial Staff Recommendation
6/10/2022	Kerry Kriger	Non-native Frogs and Turtles	Requests that stakeholder involvement and decision-making on the issue of non-native frogs and turtles be expedited.	8/17/22	10/12-13/22	A discussion regarding next steps for the bullfrog and non-native turtle project took place at the Sep WRC meeting. See the meeting video for details.
6/16/2022	Gabrielle Crowe	Ballona Wetlands	Requests that FGC allow for expanded public access to the Ballona Wetlands Ecological Reserve and increase tribal engagement in that area.	8/17/22	10/12-13/22	These requests concern day-to-day management of Ballona and are within the normal administration of the Department. No further action necessary.
6/27/2022	Phoebe Lenhart	Item Update Requests	Requests department updates on several matters including take of salmon, nearshore fisheries, elk, and crabbing regulations.	8/17/22	10/12-13/22	DFW has previously provided updates on some of these topics, and will continue to provide updates to FGC as needed. No action recommended.

they are not a firearm. The standard California silencer prohibition does not apply to BB devices, thus enabling the possibility of removal of more than one or several wild pigs before the rest of the group scatter.

I look forward to the Airguns / BB Devices regulatory petition(s) final review at the Commission's meeting in October 2022.

Respectfully,

Colin Gallagher

California Fish and Game Commission Marine Resources Committee (MRC) Work Plan

Updated Sep 30, 2022

Note: Proposed changes to topics/timing are shown in blue underscore or strike-out font.

TOPICS	CATEGORY	Jul 2022	Nov 2022	Mar 2023
Planning Documents & Fishery Management Plans (FMPs)				
MLMA Master Plan for Fisheries – Implementation Updates	Plan Implementation			
Red Abalone FMP / Abalone Recovery Management Plan Update	FMP	X/R	X/R	
California Halibut Fishery Management Review	Management Review			
California Halibut Bycatch Evaluation for Fishery Management Review	Management Review	X*	X	<u>X</u>
Market Squid Fishery Management and FMP Review	Management/ FMP Review	X*		
Kelp Recovery and Management Plan development	Management Plan			
Marine Protected Area Network 2022 Decadal Management Review	Management Review		X*	<u>X/R</u>
Regulations				
California Halibut Trawl Grounds Review	Commercial Take	X*		
Kelp and Algae Commercial Harvest – Sea Palm (<i>Postelsia</i>)	Commercial Take			
California Spiny Lobster FMP Implementing Regulations Review	Implementing Regulations	X/R		
California Sheephead Recreational Fishery Regulations	Recreational Take			
Implementation of 365-Day Sport Fishing License	Recreational Take	X		
Marine Aquaculture				
Aquaculture Program Planning (State Aquaculture Action Plan)	Planning Document		X*	
Aquaculture State Water Bottom Leases: Existing & Future Lease Considerations	Current Leases / Planning			
<i>Public Interest Determination Criteria</i> for New State Water Bottom Aquaculture Lease Applications	FGC Policy – New Leases	X	X/R	
Aquaculture Lease Best Management Practices Plans (Hold, TBD)	Regulatory			
Emerging Management Issues				
Kelp Restoration and Recovery Tracking	Kelp		X	<u>X</u>
Invasive Non-native Kelp and Algae Species	Kelp / Invasive Species			
Special Projects				
California's Coastal Fishing Communities Project	MRC Special Project			
Coastal Fishing Communities Policy	FGC Policy	X*	X/R	<u>X/R</u>
Box Crab Experimental Fishing Permit (EFP) Research Project	EFP			

Key: X = Discussion scheduled X/R = Recommendation may be developed and may move to Commission
* = Written agency update

California Fish and Game Commission Tribal Committee (TC) Work Plan

Updated September 30, 2022

Topic / Goal	Type / Lead	Aug 2022	Dec 2022	Apr 2023
Special Projects				
FGC justice, equity, diversity and inclusion plan	FGC Project	X		X
Tribal subsistence definition and related management mechanisms	TC Project	X	X	X
Co-management roundtable discussion	TC Project	X	X	X
Coastal Fishing Communities Project: Updates	MRC Project	X		X
Regulatory / Legislative				
Kelp and algae harvest management regulations: Updates and then recommendation and guidance	DFW Project and Regulation Change	X	X	X
Management Plans				
Sheep, deer, antelope, trout, abalone, kelp/seaweed: Updates and guidance (timing as appropriate for each)	DFW	X	X	X
Informational Topics				
Agency updates OPC – MPA Statewide Leadership Team; tribal outreach strategy; Tribal Marine Stewards Network DFW – Possible items include: – Marine protected areas decadal management review, update on tribal participation – Drought/wildfire impacts and state response – Climate adaptation, mitigation, science – Statewide kelp and abalone recovery efforts – Proposition 64 (cannabis) implementation – Other items as identified by DFW Other agencies, as appropriate or requested	OPC DFW	X	X X	X
Cross-pollination with MRC and WRC: Identify tribal concerns and common themes with MRC and WRC	FGC Committees	X	X	X
FGC regulatory calendar: Update	FGC staff	X	X	X

Key: X = Discussion scheduled X/R = Recommendation developed and moved to FGC

FGC = California Fish and Game Commission

MRC = FGC's Marine Resources Committee

DFW = California Department of Fish and Wildlife

WRC = FGC's Wildlife Resources Committee

OPC = California Ocean Protection Council

California Fish and Game Commission
Wildlife Resources Committee (WRC) Work Plan
Scheduled Topics and Timeline for Items Referred to WRC
Updated October 3, 2022

TOPICS	CATEGORY	Sep 2022	Jan 2023	May 2023
Periodic Regulations				
Upland (Resident) Game Birds	Regulatory	X/R		X
Mammal Hunting	Regulatory	X/R		X
Waterfowl Hunting	Annual Regulatory	X/R		X
Central Valley Sport Fishing	Annual Regulatory	X/R		X
Klamath River Basin Sport Fishing	Annual Regulatory	X/R		X
Inland Sport Fishing	Regulatory	X/R	X/R	X
Regulations & Legislative Mandates				
Falconry	Referral for Review			
Preference Points and Refunds for Hunting Tags	Regulatory	X/R	X/R	
Restricted Species	Regulatory		X	
Wildlife Rehabilitation	Regulatory	X	X/R	
Upland Game Hunting Draws	Regulatory	X	X/R	
Chronic Wasting Disease	Regulatory		X/R	
Special Projects				
American Bullfrog and Non-native Turtle Stakeholder Engagement Project	Referral for Review	X	X	X
Bear Management Plan Development	Information	X	X	X
Regulation Change Petitions				
Petition 2021-017	Referral for Review	X/R	X/R	

KEY: X Discussion scheduled X/R Recommendation developed and moved to FGC

Secure Food, Trash And Other Summer Attractants: Keep Tahoe Bears Wild!

August 16, 2022



*** An Interagency, Lake Tahoe Basin News Release ***

Summer can be a tough time to be a bear.

Green grasses have dried up and berries haven't quite ripened for eating yet, causing black bears to move around more in search of easy food. This means there is a lot to think about when living, visiting, or recreating in the Lake Tahoe Basin this time of year.

Food on barbecues and picnic tables brings curious bears into neighborhoods and campgrounds to investigate, making it very important always to practice proper food storage.

Never leave food unattended. Any attractant left out becomes accessible to bears and could result in a food reward, which will bring bears back for future visits and make bears think it's OK to look to humans for food. If a bear approaches, yell at the bear, honk a horn, and scare the bear off before it is rewarded.

If you are unable to chase the bear away, there are others who can help. On National Forest lands, a campground host or employee may be able to assist in moving the bear along and securing attractants. Likewise on California State Parks properties, park rangers can often

assist. If you are in a residential area, call 911 for a trained local sheriff to come and help move the bear away from the property.

Bears love barbecues. If you have used a barbecue, grease and food bits left on the grill could be a tasty snack for a hungry bear. After you have finished cooking your own food, keep the grill fired up on high heat for about 10 minutes to burn off any residual food scraps and make the barbecue less attractive to passing bears. Make sure you clean up all food and place garbage in a secure wildlife-resistant container or bear box. Never keep food or garbage in your vehicle. Bears will break in.

The point is this: It is neither natural nor healthy for bears to forage on human food and garbage. This can damage their claws, teeth, and digestive systems. Whether intentional or not, it is illegal to feed bears. Do your part to follow the law and prevent bears from accessing human food and garbage. Human-sourced food keeps bears from participating in the natural ecosystem, which depends on bears to scatter native seeds, control insects, and clean up animals that have died. A healthy, wild bear means a healthy, wild ecosystem.

Here are a few seasonal tips for summer:

Visitors to Home Rentals: If your bear box is full, take your garbage home with you. Please don't leave it next to the bear box. Bears will get into it and get the food reward before the garbage is picked up, creating more conflicts for future visitors and residents.

Businesses: Always keep your dumpsters locked, even during the day when employees may be accessing them frequently. If dumpsters are overflowing, businesses should make every effort to empty them or find another secured location to place excess garbage.

Campers: Bears will approach at all times of the day. Never leave your food or garbage outside of the bear box, except while closely attended and in use. Diligently follow all campground rules regarding food storage.

Beachgoers: If you bring food to the beach, it must be attended to, and garbage must be thrown away properly. If all bear-resistant garbage containers are full, take your garbage with you so it is not available to bears.

The warm summer days and cool nights in the Tahoe Basin make us all want to open our windows to let in the mountain air. However, as we let the fresh air in, we let food smells out. Black bears, with their keen sense of smell, will gravitate to open windows and doors. It is very important to make sure you close all windows when you are either away from a house or asleep at night.

Bears know when humans are active or present and will take advantage of those quiet times to enter a home through a window or a door to access a kitchen for easy food. Likewise, it is wise to lock your doors. Some bears know how to open doors and locking them is the only way to keep bears from entering a home.

Living and recreating in the Lake Tahoe Basin's bear country is a year-round responsibility. Please do your part to help keep Tahoe's bears wild and healthy.

Other year-round, bear best-practices include:

Never feed wildlife. Feeding wildlife often brings animals in conflict with people and attracts wildlife to human homes and neighborhoods where they can get struck by vehicles and encounter other human hazards.

Store all garbage in and properly close bear-resistant garbage containers, preferably bear boxes. Inquire with local refuse companies about new bear box incentives and payment programs. In California, visit [South Tahoe Refuse & Recycling Services](#) (opens in new tab) for information and resources. In Nevada residents should check the Nevada Department of Wildlife's (NDOW) [Living with Bears](#) (opens in new tab) resources.

Never leave groceries, animal feed, garbage, or anything scented in vehicles, campsites, or tents.

Be sure to always lock vehicles and close the windows. Understand that eating – even drinking coffee – in your car often leaves lingering odors that attract bears.

Keep barbecue grills clean and stored in a garage or shed when not in use.

Keep doors and windows closed and locked when the home is unoccupied.

Vegetable gardens, compost piles, fruit trees, and chickens may attract bears. Use electric fences where allowed to keep bears out. Refrain from hanging bird feeders.

When camping, always store food (including pet food), drinks, toiletries, coolers, cleaned grills, cleaned dishes, cleaning products, and all other scented items in the bear-resistant containers (storage lockers/bear boxes) provided at campsites. Bear-resistant coolers that come equipped with padlock devices should always be locked to meet bear-resistant requirements.

Always place garbage in bear-resistant dumpsters in campgrounds or in bear-resistant containers at campsites (storage lockers/bear boxes), and close and lock after each use

Store food in bear-resistant, hard-sided food storage canisters while recreating in the backcountry.

Give wildlife space. Enjoy wildlife from a distance, especially when they have young with them.

To report human-bear conflicts in California, contact the California Department of Fish and Wildlife (CDFW) at (916) 358-2917 or report online using CDFW's Wildlife Incident Reporting (WIR) system at apps.wildlife.ca.gov/wir. Non-emergency wildlife interactions within California State Parks property can be reported to public dispatch at (916) 358-1300. To

report human-bear conflicts in Nevada, contact NDOW at (775) 686-BEAR (2327). If the issue is a direct threat or emergency, call 911 to seek immediate help from local law enforcement.

For more information on peacefully coexisting with bears, visit TahoeBears.org(opens in new tab).

Endangered Voles Begin To Repopulate In Inyo County, With Help From Scientists, Conservationists And Landowner

September 2, 2022



Trail cam photos showing mother vole and pups.



Amargosa playa landscape

Seven years of carefully planned habitat restoration on private land in the Mojave Desert have yielded hope for the persistence of the endangered Amargosa vole. On Aug. 8, a photograph from a wildlife camera placed by researchers from the University of California, Davis revealed the presence of one, possibly two, vole pups born from parents that were reintroduced to restored marsh habitat on private land in Shoshone Village, Inyo County.

The Amargosa vole was first discovered in the marshes of Shoshone in the late 1800s but had disappeared by the early 1900s because of habitat conversion to agriculture and other uses that destroyed the marshes. The only other place in the world where the voles persist in the wild is near the town of Tecopa, about 8 miles south of Shoshone. Restoration of the Shoshone Spring marsh started in 2015 as a joint effort of Shoshone Village, the Amargosa Conservancy, UC Davis and the California Department of Fish and Wildlife (CDFW). The restoration was funded by U.S. Fish and Wildlife Service (USFWS) Section 6 and Partners in Fish and Wildlife grants.

By 2020, the Shoshone Spring marsh habitat appeared comparable to Tecopa marshes that support wild voles, and thus the team was ready to take the next step: returning voles home to Shoshone. The USFWS and landowner entered into a voluntary agreement, and – in coordination with the Bureau of Land Management (BLM) — UC Davis and CDFW have translocated 16 voles from marshes with stable wild populations near Tecopa into the new Shoshone habitat since 2020.

“The goal is to create an independent population in Shoshone to improve resilience of the species,” said Dr. Janet Foley, professor and vole lead at UC Davis. “We were incredibly thrilled to see pups this year on camera – this tells us that the restored marsh has the right conditions to support voles.”

“Amargosa voles live nowhere else on Earth, except these unique Mojave Desert marshes fed by natural springs and the mostly underground Amargosa River,” noted Deana Clifford, CDFW senior wildlife veterinarian and co-lead on the vole reintroduction effort. “By restoring marsh habitat, not only will we help voles, but we will provide critically needed water and habitat

that many other species need and will increasingly rely on in the future to survive the predicted impacts of climate change. The two go hand-in-hand – to save the vole, we must save and restore the marshes that support not only voles, but many other species.”

“The Amargosa Vole Recovery Implementation Team is an excellent example of how federal and state agencies, academic institutions, non-governmental organizations and private partners can work together to conserve listed species,” said Scott Sobiech, field supervisor for the USFWS Carlsbad and Palm Springs offices. “We can accomplish more for wildlife through collaborative planning.”

For the landowner, Susan Sorrells, this achievement is part of a long-term commitment to land stewardship. “It is so exciting to discover that the first generation of Amargosa voles have been born at Shoshone Spring, their ancestral home!” she said. “As landowners, we are dedicated to incorporating community and nature, and also to protecting endangered species by assessing and stewarding the entire ecosystem. It has been a delight to collaborate with the Amargosa Vole Team as we work together to bring the Amargosa vole back from the brink. If we are successful, the vole will be the second subspecies, joining the Shoshone pupfish, that has been rescued by implementing this approach.”

For now, the vole team will keep watching for more signs of hope in the marsh and will forge ahead with further plans for future habitat restoration.

Drought Forces Closure Of Shasta Valley Wildlife Area To Waterfowl Hunting; Other Northeastern Waterfowl Properties Impacted By Water Shortages

September 16, 2022



The California Department of Fish and Wildlife (CDFW) has announced that the Shasta Valley Wildlife Area in Siskiyou County will be closed to waterfowl hunting for the entirety of the 2022-23 season as a result of lost wetlands and waterfowl habitat due to ongoing drought conditions.

The Northeastern Zone waterfowl season runs from October 1, 2022, through January 11, 2023. The Shasta Valley Wildlife Area closure includes the preseason Northeastern Zone Youth Waterfowl Hunting Days scheduled for September 17-18, 2022, and the postseason Veterans and Active Military Personnel Waterfowl Hunting Days scheduled for January 14-15, 2023.

The 4,700-acre Shasta Valley Wildlife Area typically provides important seasonal wetlands for migrating waterfowl supplied by three reservoirs on the property. Two of those reservoirs – Steamboat Lake and Bass Lake – are completely dry and a third reservoir – Trout Lake – is at approximately 25 percent of capacity. Closing the wildlife area to all waterfowl hunting is necessary to protect the waterfowl using what limited habitat remains.

The Shasta Valley Wildlife Area will be open for upland game bird hunting for dove, quail, snipe and pheasant as regulations permit. Pheasant hunting is allowed only on Sundays during the season and will be by reservation only with no walk-ins, sweat line or refills. A Type A Season Pass or Type B Season Pass is required for all non-Junior Hunting License holders. Reservation applications for Sunday pheasant hunts are available at CDFW's Online License Sales and Services website([opens in new tab](#)). Shasta Valley's annual apprentice pheasant hunt for Junior Hunting License holders will take place Saturday, Nov. 19, 2022. The area will be closed to all hunting Sunday, December 25, 2022, in observance of the Christmas holiday.

Waterfowl hunting opportunities will vary at other Northeastern Zone state and federal lands popular with duck and goose hunters. Hunters are strongly advised to call ahead in preparing for any Northeastern Zone waterfowl hunt. Other popular public waterfowl hunting areas in the Northeastern Zone include:

Ash Creek Wildlife Area

A bright spot among Northeastern Zone public hunting areas, Ash Creek expects its wetlands to be mostly flooded for waterfowl season due to its combination of spring-fed creeks and groundwater supplies. Reservations are required to hunt the opening weekend, October 1-2, along with a Type A or Type B Season Pass for all non-Junior Hunting License holders. Ash Creek also will be open for the preseason Youth Waterfowl Hunting Days on a walk-in basis. No reservations or other check-in procedures required. (530) 294-5824.

Butte Valley Wildlife Area

Butte Valley began pumping groundwater in July to flood its seasonal wetlands in time for the Northeastern Zone waterfowl opener. Butte Valley expects to have 600 or 700 acres flooded by opening day. Reservations are required to hunt opening weekend along with a Type A or Type B Season Pass for all non-Junior Hunting License holders. Butte Valley also will be open for the preseason Youth Waterfowl Hunting Days on a walk-in basis. (530) 398-4627.

Honey Lake Wildlife Area

Another option for youth hunters, the Honey Lake Wildlife Area Fleming Unit will be open for the preseason Youth Waterfowl Hunting Days on a walk-in basis though hunters will find far fewer wetlands than in 2021-22. The Dakin Unit will be dry this upcoming season – though still open to dry field waterfowl hunting and upland game bird hunting. The Fleming Unit will see just about 25 percent of its seasonal wetlands flooded by the October 1 season opener. Reservations are required to hunt opening weekend. A Type A or Type B Season Pass is required of all non-Junior Hunting License holders. (530) 254-6644.

Willow Creek Wildlife Area

This 2,700-acre wildlife area north of Susanville in Lassen County expects 250 acres of huntable, flooded wetlands by the Northeastern Zone season opener Oct. 1. Reservations are required to hunt opening weekend. A Type A or Type B Season Pass is required of all non-Junior Hunting License holders. No preseason youth hunt will take place. (530) 254-6644.

Modoc National Wildlife Refuge([opens in new tab](#))

Water conditions have improved at the Modoc National Wildlife Refuge outside of Alturas and the refuge will once again welcome youth waterfowl hunters Sept. 17-18 after having to cancel its youth hunt last season. The youth waterfowl hunt at Modoc is only open to reservation holders. The refuge's Northeastern Zone general season opener is also on schedule but with a reduced quota of 50 hunters for opening weekend. Opening weekend Oct. 1-2, like the youth shoot before it, is only open to reservation holders. After opening weekend, Modoc is open to waterfowl hunting on a walk-in, self-registration basis. Shoot days are Tuesdays, Thursdays and Saturdays. (530) 233-3572.

Klamath Basin National Wildlife Refuge Complex([opens in new tab](#))

The U.S. Fish and Wildlife Service (USFWS) has announced that the Tule Lake and Lower Klamath National Wildlife Refuges will be closed to all public upland game bird and waterfowl hunting during the fall and winter 2022-23 hunting seasons. Beginning September 17, 2022, and continuing through March 10, 2023, the closure applies to all upland game bird seasons, the entirety of the Northeastern Zone waterfowl season, and special group waterfowl hunts, including youth, veterans and women's hunts, and late-season duck and goose hunts. The decision to close the hunt season was based on the ongoing and severe drought conditions and the lack of available habitat, including food, water and shelter to support upland game birds and migratory water birds. For more information, please call the USFWS Hunter Hotline at (458) 232-6123.

Testing Underway For Pilot Project To Return Endangered Salmon To Their Historic Habitat

September 30, 2022



Collection System Would Help Restore Salmon Populations in McCloud River Above Shasta Reservoir

***** News Release Issued Jointly by the California Department of Water Resources, the California Department of Fish and Wildlife, NOAA Fisheries, the U.S. Fish and Wildlife Service, the USDA Forest Service and the Bureau of Reclamation *****

State and federal biologists and engineers, in partnership with the Winnemem Wintu Tribe, have begun testing an experimental system in Shasta Reservoir that could help collect young salmon from the McCloud River in future years.

The Juvenile Salmonid Collection System([opens in new tab](#)), a pilot project three years in the making, is part of a long-term effort to help fish better survive California's hotter, drier future and more extreme droughts. The collection system will float in the McCloud River arm of the reservoir and guide cold water toward a collection point, with this cold water flowing down from the Shasta Trinity National Forest. The initial testing, which will run from September to

mid-November, will not involve salmon but will use temperature and hydraulic measurements to assess the operation and performance of the collection system.

If successful, the system will be tested in future years with salmon to determine its efficacy and if it can be a critical part of winter-run salmon reintroduction. Biologists expect that juvenile salmon will follow the colder water to that collection point, where they can be retrieved and transported downstream around the dam to continue their migration to the ocean.

Recovery plans call for returning endangered Chinook salmon to their original spawning grounds in the cold McCloud River above Shasta Reservoir, where the fish may better survive drought and climate change. Juvenile salmon hatched in the river need to be collected as they migrate downstream but before they enter the reservoir that is home to warmer waters and potential predators.

"This is an innovative and important project that comes at a critical time for endangered winter-run Chinook salmon," said Scott Rumsey, Acting Regional Administrator for NOAA Fisheries West Coast Region. "While we will need a few years to move this ahead, we have no time to waste in preparing this native California species for the rising challenges of climate change."

Reintroduction efforts strive to reestablish endangered winter-run salmon in colder, high-elevation rivers where they once spawned before reservoirs blocked their migration. This would improve their resilience to a changing climate and could allow for more flexibility in managing water in the Sacramento River.

An important component of the project has been the commitment of state, federal, and regional authorities to Tribal engagement. Strategic efforts and planning have been enhanced with the support and commitment to developing a partnership with the Winnemem Wintu Tribe. The participation of the Winnemem Wintu Tribe brings unique perspectives and incorporates Tribal knowledge to the project.

"DWR is excited about the strong state, federal, and Tribal partnerships that are beginning to test the Juvenile Salmon Collection System," said Karla Nemeth, DWR Director. "This team effort is critical in supporting salmon and their adaptation to our climate-driven hotter, drier future."

The testing of the system will require intermittent restricted access for boats in the McCloud Arm of the reservoir. DWR and contractor staff will be on site, and the system may be repositioned as reservoir levels decline in the fall. Rachel Birkey, Forest Supervisor at the Shasta-Trinity National Forest shared that, "we are proud to join in this collective effort and share the ability of the national forest to contribute cold water flowing in the efforts to help safeguard this imperiled species."

"This really is a monumental step for securing a future for this imperiled, iconic California species," said Charlton H. Bonham, Director of the California Department of Fish and Wildlife

(CDFW). "This is the first step in creating the infrastructure necessary to connect winter-run Chinook salmon in the Sacramento River with that ideal, cold-water spawning and rearing habitat in the McCloud River. We're eagerly anticipating the testing of this system."

The testing of the collection system is a separate effort from the transfer of about 40,000 winter-run eggs from the Livingston Stone National Fish Hatchery to the McCloud River, where they incubated throughout the summer. That effort, supported by the Winnemem Wintu Tribe, CDFW, NOAA Fisheries, and the U.S. Fish and Wildlife Service (USFWS), was an urgent response to the severe drought and will improve the salmon's odds of survival this year.

"Returning winter-run Chinook salmon to their original spawning grounds in the McCloud River has always been part of the plan to recover the species, but now climate change is accelerating the urgency of this action," said Paul Souza, Pacific Southwest Regional Director for the USFWS. "We are grateful to have dedicated partners standing with us to test out this innovative technology and help this endangered salmon survive."

"Winter-run Chinook salmon are an important species for the Central Valley Project, and we carefully manage water temperatures to protect the last naturally-spawning population below Keswick Dam on the Sacramento River," said Ernest Conant, director of the Bureau of Reclamation's California-Great Basin Region. "We have been able to support population resiliency and this reintroduction effort through our funding of the operation of the Livingston-Stone National Fish Hatchery and in the Battle Creek Restoration Program. We look forward to the day NOAA Fisheries can add a McCloud River population to those on the Sacramento River."



Department of Fish & Wildlife Legislative Report

October 2022

(as of October 3, 2022)

CHAPTERED

[AB 26](#)

([Holden](#) D) Peace officers: use of force.

Introduced: 12/7/2020

Last Amend: 7/7/2021

Status: 9/30/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 403, Statutes of 2021.

Location: 9/30/2021-A. CHAPTERED

Summary: Current law requires each law enforcement agency, on or before January 1, 2021, to maintain a policy that provides a minimum standard on the use of force. Current law requires that policy, among other things, to require that officers report potential excessive force to a superior officer when present and observing another officer using force that the officer believes to be unnecessary, and to require that officers intercede when present and observing another officer using force that is clearly beyond that which is necessary, as specified. This bill would require those law enforcement policies to require those officers to immediately report potential excessive force, as defined.

[AB 30](#)

([Kalra](#) D) Equitable Outdoor Access Act.

Introduced: 12/7/2020

Last Amend: 8/11/2022

Status: 9/30/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 939, Statutes of 2022.

Location: 9/30/2022-A. CHAPTERED

Summary: Would establish the Equitable Outdoor Access Act, which sets forth the state's commitment to ensuring all Californians can benefit from, and have meaningful access to, the state's rich cultural and natural resources. The bill would declare that it is state policy, among other things, to ensure that all Californians have equitable opportunities to safe and affordable access to nature and access to the benefits of nature, and to prevent and minimize the intentional and unwarranted limitation of sustainable public access to public lands, where appropriate, including, but not limited to, local, regional, state, and federal parks, rivers, lakes, beaches, forests, mountain ranges, deserts, and other natural landscapes. The bill would require specified state

agencies to consider and incorporate, as appropriate, the state policy when revising, adopting, or establishing policies, regulations, or grant criteria, or making expenditures, as specified. The bill would require all state agencies implementing the above-described state policy to do so in a manner consistent with the mission of their agency and that protects the health and safety of the public and conserves natural and cultural resources. The bill would require the state to encourage the types of access that promote, and are consistent with, specified conservation goals. The bill would require the Natural Resources Agency to prepare and submit a report to the Legislature with information related to the implementation of these provisions on or before January 1, 2024.

AB 63

(Petrie-Norris D) Marine resources: Marine Managed Areas Improvement Act: restoration and monitoring activities.

Introduced: 12/7/2020

Last Amend: 8/30/2021

Status: 9/28/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 368, Statutes of 2021.

Location: 9/28/2021-A. CHAPTERED

Summary: Under the MMAIA, in a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes, that the designating entity or managing agency determines would compromise protection of the species of interest, natural community, habitat, or geological features. The MMAIA authorizes the designating entity or managing agency to permit, among other things, research, education, and recreational activities. This bill would authorize the designating entity or managing agency to also permit restoration and monitoring activities.

AB 89

(Jones-Sawyer D) Peace officers: minimum qualifications.

Introduced: 12/7/2020

Last Amend: 9/3/2021

Status: 9/30/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 405, Statutes of 2021.

Location: 9/30/2021-A. CHAPTERED

Summary: Current law requires the Commission on Peace Officer Standards and Training (POST) to establish a certification program for specified peace officers, including officers of the Department of the California Highway Patrol. Current law requires the commission to establish basic, intermediate, advanced, supervisory, management, and executive certificates for the purpose of fostering the education and experience necessary to perform general police service duties. Current law requires certificates to be awarded on the basis of a combination of training, education, experience, and other prerequisites, as determined by the commission. This bill would require the office of the Chancellor of the California Community Colleges to develop a modern policing degree program, with the commission and other stakeholders to serve

as advisors, as specified, and to submit a report on recommendations to the Legislature outlining a plan to implement the program on or before June 1, 2023.

AB 141

(Committee on Budget) Budget Act of 2021: Department of Cannabis Control: licensure: safety and quality assurance.

Introduced: 1/8/2021

Last Amend: 6/27/2021

Status: 7/12/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 70, Statutes of 2021.

Location: 7/5/2021-A. CHAPTERED

Summary: Would establish the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency, would transfer to this department the powers, duties, purposes, functions, responsibilities, and jurisdiction of the bureau, the Department of Food and Agriculture, and the State Department of Public Health under MAUCRSA, except as specified, and would make conforming changes. The bill would require the department to be under the supervision and control of a director.

AB 151

(Committee on Budget) State employment: State Bargaining units: agreements: compensation and benefits.

Introduced: 1/8/2021

Last Amend: 8/26/2022

Status: 9/6/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 250, Statutes of 2022.

Location: 9/6/2022-A. CHAPTERED

Summary: (1) Current law provides that a provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees that requires the expenditure of funds does not become effective unless approved by the Legislature in the annual Budget Act. This bill, notwithstanding the above statutory provisions, would approve provisions of agreements entered into by the state employer and State Bargaining Units 2, 8, 9, 10, 18, and 19. The bill would provide that the provisions of the agreements that require the expenditure of funds will not take effect unless funds for these provisions are specifically appropriated by the Legislature. The bill would authorize the state employer or State Bargaining Units 2, 8, 9, 10, 18, or 19 to reopen negotiations if funds for these provisions are not specifically appropriated by the Legislature. The bill would require the provisions of the agreements that require the expenditure of funds to become effective even if the provisions are approved by the Legislature in legislation other than the annual Budget Act. This bill contains other related provisions and other existing laws.

AB 195

(Committee on Budget) Cannabis.

Introduced: 1/8/2021

Last Amend: 6/26/2022

Status: 6/30/2022-Approved by the Governor. Chaptered by Secretary of State -

Chapter 56, Statutes of 2022.

Location: 6/30/2022-A. CHAPTERED

Summary: The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA establishes the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency to administer the act, and requires the department to be under the supervision and control of a director. Current law specifies the annual compensation for various directors of state departments and agencies, including the Director of Transportation and the Director of Fish and Wildlife. This bill would require the annual compensation for the Director of Cannabis Control to be consistent with the directors described above.

[AB 223](#)

([Ward](#) D) Wildlife: dudleya: taking and possession.

Introduced: 1/11/2021

Last Amend: 7/15/2021

Status: 9/28/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 370, Statutes of 2021.

Location: 9/28/2021-A. CHAPTERED

Summary: Would make it unlawful to uproot, remove, harvest, or cut dudleya, as defined, from land owned by the state or a local government or from property not their own without written permission from the landowner in their immediate possession, except as provided, and would make it unlawful to sell, offer for sale, possess with intent to sell, transport for sale, export for sale, or purchase dudleya uprooted, removed, harvested, or cut in violation of that provision. The bill would require a violation of those provisions, or any rule, regulation, or order adopted pursuant to those provisions, to be a misdemeanor punishable by a specified fine, imprisonment in a county jail for not more than 6 months, or both the fine and imprisonment.

[AB 315](#)

([Stone](#) D) Voluntary stream restoration property owner liability: indemnification.

Introduced: 1/25/2021

Last Amend: 9/3/2021

Status: 10/6/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 580, Statutes of 2021.

Location: 10/6/2021-A. CHAPTERED

Summary: Would require a qualifying state agency, as defined, that funds a project to restore fish and wildlife habitats to indemnify and hold harmless a real property owner who voluntarily allows their real property to be used for such a project from civil liability for property damage or personal injury resulting from the project if the project qualifies for a specified exemption and meets specified requirements, including that the liability arises from, and the real property owner or any person or entity retained by the real property owner does not perform, the construction, design specifications, surveying, planning, supervision, testing, or observation of construction related to the project. The bill would authorize a qualifying state agency to indemnify and hold harmless a real property owner who voluntarily allows their real property to be used for that project from

civil liability for property damage or personal injury resulting from the project in the case the project does not meet the specified exemption.

AB 379

(Gallagher R) Wildlife conservation.

Introduced: 2/1/2021

Last Amend: 8/26/2021

Status: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 701, Statutes of 2021.

Location: 10/8/2021-A. CHAPTERED

Summary: Current law authorizes the Department of Fish and Wildlife, with the approval of the Wildlife Conservation Board , to enter into agreements with any other department or agency of this state, any local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the board, and authorizes such other department or agency of this state, local agency, or nonprofit organization, and each of them to construct, manage, or maintain those facilities pursuant to the agreement. Current law authorizes the board to make grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for various purposes in connection with fish and wildlife habitats. This bill would authorize the department to also enter into that type of agreement with a California Native American tribe.

AB 522

(Fong R) Forestry: Forest Fire Prevention Exemption.

Introduced: 2/10/2021

Last Amend: 1/12/2022

Status: 9/23/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 491, Statutes of 2022.

Location: 9/23/2022-A. CHAPTERED

Summary: The Z'berg-Nejedly Forest Practice Act of 1973 authorizes the State Board of Forestry and Fire Protection to exempt from some or all of those provisions of the act a person engaging in specified forest management activities, as prescribed, including the harvesting of trees for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, as provided, known as the Forest Fire Prevention Exemption. The act provides that the Forest Fire Prevention Exemption is operative for a period of 5 years after the effective date of emergency regulations adopted by the board to implement the exemption and is inoperative after that 5-year period. Current regulations implementing that exemption specify that it becomes inoperative 5 years after February 19, 2019. This bill would make the operation of the Forest Fire Prevention Exemption inoperative on January 1, 2026.

AB 525

(Chiu D) Energy: offshore wind generation.

Introduced: 2/10/2021

Last Amend: 9/3/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State -

Chapter 231, Statutes of 2021.

Location: 9/23/2021-A. CHAPTERED

Summary: Current law requires the Public Utilities Commission and the Energy Commission to undertake various actions in furtherance of meeting the state's clean energy and pollution reduction objectives. This bill would require the Energy Commission, on or before June 1, 2022, to evaluate and quantify the maximum feasible capacity of offshore wind to achieve reliability, ratepayer, employment, and decarbonization benefits and to establish offshore wind planning goals for 2030 and 2045, as specified.

AB 614

(Aguilar-Curry D) Wildlife habitat: birds.

Introduced: 2/12/2021

Last Amend: 7/1/2021

Status: 10/5/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 521, Statutes of 2021.

Location: 10/5/2021-A. CHAPTERED

Summary: Would raise by \$10 the upland game bird hunting validation and the state duck hunting validation fees, as specified, with that \$10 to be deposited, and available upon appropriation to the Department of Fish and Wildlife for the Nesting Bird Habitat Incentive Program, in the Nesting Bird Habitat Incentive Program Account, which the bill would create in the Fish and Game Preservation Fund.

AB 804

(Dahle, Megan R) Free hunting days.

Introduced: 2/16/2021

Last Amend: 8/16/2021

Status: 9/30/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 413, Statutes of 2021.

Location: 9/30/2021-A. CHAPTERED

Summary: Current law authorizes the Director of Fish and Wildlife to establish 2 free hunting days per year: one in the fall, and one in the winter. Current law authorizes a California unlicensed resident to hunt during a free hunting day if accompanied by a licensed hunter, subject to certain conditions. Existing law prohibits these provisions from being implemented until the Department of Fish and Wildlife's Automated License Data System is fully operational for at least one year. This bill would require, rather than authorize, the director to establish 2 free hunting days per year no later than July 1, 2023. The bill would require the department to issue a registration for free hunting days to any California resident who provides the department with all of the information required to issue an annual California hunting license and evidence of completing a course in hunter education, as specified.

AB 817

(Wood D) Sport fishing licenses: electronic display: 12-consecutive-month licenses.

Introduced: 2/16/2021

Last Amend: 7/15/2021

Status: 10/7/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 607, Statutes of 2021.

Location: 10/7/2021-A. CHAPTERED

Summary: Would authorize the Department of Fish and Wildlife, on or before January 1, 2023, to provide an option to display a sport fishing license, validation, report card, or other sport fishing entitlement issued pursuant to the Fish and Game Code or regulations adopted pursuant to this code electronically on a mobile device, except as provided. The bill would provide that a person who displays a sport fishing entitlement electronically on a mobile device in accordance with this provision shall be deemed to be in compliance with any requirement to possess or affix the entitlement.

AB 819

([Levine D](#)) California Environmental Quality Act: notices and documents: electronic filing and posting.

Introduced: 2/16/2021

Last Amend: 5/28/2021

Status: 7/16/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 97, Statutes of 2021.

Location: 7/16/2021-A. CHAPTERED

Summary: CEQA requires, if an environmental impact report is required, the lead agency to mail a notice of determination to each responsible agency, the Office of Planning and Research, and public agencies with jurisdiction over natural resources affected by the project. CEQA requires the lead agency to provide notice to the public and to organizations and individuals who have requested notices that the lead agency is preparing an environmental impact report, negative declaration, or specified determination. CEQA requires notices for an environmental impact report to be posted in the office of the county clerk of each county in which the project is located. This bill would instead require the lead agency to mail or email those notices, and to post them on the lead agency's internet website. The bill would also require notices of an environmental impact report to be posted on the internet website of the county clerk of each county in which the project is located.

AB 1096

([Rivas, Luz D](#)) Alien: change of terms.

Introduced: 2/18/2021

Last Amend: 9/3/2021

Status: 9/24/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 296, Statutes of 2021.

Location: 9/24/2021-A. CHAPTERED

Summary: Current federal law, for purposes of various provisions related to immigration, defines "alien" to mean a person who is not a citizen or national of the United States. Current state law uses the word "alien" on its own and within various other terms to refer to persons in provisions relating to, among other things, education, housing, natural resources, employment, probate, social services, drivers' licenses, firearm permits, service in the state militia, and criminal punishment. This bill would

revise those state law provisions to refer instead to those persons using other terms that do not contain the word "alien," including a person who is not a citizen or national of the United States. The bill would make other related nonsubstantive changes. The bill would state the intent of the Legislature in enacting this measure to make only nonsubstantive changes, as specified.

AB 1138

(Rubio, Blanca D) Unlawful cannabis activity: civil enforcement.

Introduced: 2/18/2021

Last Amend: 9/3/2021

Status: 10/5/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 530, Statutes of 2021.

Location: 10/5/2021-A. CHAPTERED

Summary: Would impose a civil penalty on persons aiding and abetting unlicensed commercial cannabis activity of up to 3 times the amount of the license fee for each violation, but in no case more than \$30,000 for each violation. The bill would prohibit filing an action for civil penalties brought against a person pursuant to MAUCRSA 3 years after the first date of discovery of the violation.

AB 1183

(Ramos D) California Desert Conservation Program.

Introduced: 2/18/2021

Last Amend: 7/12/2021

Status: 9/28/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 380, Statutes of 2021.

Location: 9/28/2021-A. CHAPTERED

Summary: Would establish the California Desert Conservation Program under the administration of the Conservation Board to: (1) protect, preserve, and restore the natural, cultural, and physical resources of the portions of the Mojave and Colorado Deserts region in California through the acquisition, restoration, and management of lands, (2) promote the protection and restoration of the biological diversity of the region, as specified, (3) provide for resilience in the region to climate change, as provided, (4) protect and improve air quality and water resources within the region, and (5) undertake efforts to enhance public use and enjoyment of lands owned by the public, as provided.

AB 1219

(Berman D) Income taxes: Natural Heritage Preservation Tax Credit Act of 2000.

Introduced: 2/19/2021

Status: 9/30/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 419, Statutes of 2021.

Location: 9/30/2021-A. CHAPTERED

Summary: The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws in the amount equal to 55% of the fair market value of any qualified contribution, defined as a contribution of property that has been approved for acceptance by the Wildlife Conservation Board, that is made on or after January 1, 2010, and no later than June 30, 2020, during the taxable year pursuant to

the Natural Heritage Preservation Tax Credit Act of 2000, as provided. Those laws allow the credit to be carried over for 15 years if necessary. This bill would renew this tax credit for qualified contributions on or after January 1, 2021, and no later than June 30, 2026.

AB 1298

(Bloom D) Pesticides: use of 2nd generation anticoagulant rodenticides.

Introduced: 2/19/2021

Last Amend: 3/25/2021

Status: 10/4/2021-Approved by the Governor. Chaptered by Secretary of State - Chapter 479, Statutes of 2021.

Location: 10/4/2021-A. CHAPTERED

Summary: Current law prohibits the use of 2nd generation anticoagulant rodenticides in wildlife habitat areas. Current law additionally prohibits the use of 2nd generation anticoagulant rodenticides in the state until the director certifies to the Secretary of State that certain conditions have occurred including that the Department of Fish and Wildlife determines that control or eradication of invasive rodent populations is necessary for the protection of threatened or endangered species or their habitats and requires the use of a 2nd generation anticoagulant rodenticide. Current law exempts the use of 2nd generation anticoagulant rodenticides from these prohibitions under certain circumstances. This bill would delete the requirement that the Director of Pesticide Regulation certify that the Department of Fish and Wildlife has made that specified determination.

AB 1384

(Gabriel D) Resiliency Through Adaptation, Economic Vitality, and Equity Act of 2022.

Introduced: 2/19/2021

Last Amend: 8/26/2021

Status: 9/16/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 338, Statutes of 2022.

Location: 9/16/2022-A. CHAPTERED

Summary: Current law requires the Natural Resources Agency to release a draft of the state's climate adaptation strategy, known as the Safeguarding California Plan, by January 1, 2017, and every 3 years thereafter, to update the plan by July 1, 2017, and every 3 years thereafter, and to coordinate with other state agencies to identify vulnerabilities to climate change by sectors and priority actions needed to reduce the risks in those sectors. Current law requires, to address the vulnerabilities identified in the plan, state agencies to maximize specified objectives. This bill would instead require the agency to release the draft plan by January 1, 2024, and every 3 years thereafter, and to update the plan by July 1, 2024, and every 3 years thereafter. The bill would require the agency to also coordinate with the Office of Planning and Research and identify, among other things, vulnerabilities to climate change for vulnerable communities, an operational definition of "climate resilience" for each sector and for vulnerable communities, special protections of vulnerable communities and industries that are disproportionately impacted by climate change, opportunities to improve policy

and budget coordination across jurisdictions, and timetables and specific metrics to measure and evaluate the state's progress in implementing the plan.

AB 1658

(Nguyen R) Oil spill response and contingency planning: oil spill elements: area plans.

Introduced: 1/14/2022

Last Amend: 4/28/2022

Status: 9/30/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 860, Statutes of 2022.

Location: 9/30/2022-A. CHAPTERED

Summary: The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act requires the administrator for oil spill response, taking into consideration the California oil spill contingency plan, to promulgate regulations regarding the adequacy of oil spill elements of area plans adopted pursuant to specified current law. The act authorizes the administrator to offer, to a unified program agency with jurisdiction over or directly adjacent to waters of the state, a grant to complete, update, or revise an oil spill element of the area plan. The act requires each oil spill element prepared under those provisions to be consistent with the local government's local coastal program, the California oil spill contingency plan, and the National Contingency Plan. This bill would additionally require that each oil spill element prepared under those provisions be consistent with the area contingency plan.

AB 1909

(Friedman D) Vehicles: bicycle omnibus bill.

Introduced: 2/9/2022

Last Amend: 8/11/2022

Status: 9/16/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 343, Statutes of 2022.

Location: 9/16/2022-A. CHAPTERED

Summary: Current law generally regulates the operation of bicycles upon a highway. A violation of these provisions, generally, is punishable as an infraction. Current law prohibits the operation of a motorized bicycle or a class 3 electric bicycle on a bicycle path or trail, bikeway, bicycle lane, equestrian trail, or hiking or recreational trail, as specified. Current law authorizes a local authority to additionally prohibit the operation of class 1 and class 2 electric bicycles on these facilities. This bill would remove the prohibition of class 3 electric bicycles on these facilities and would instead authorize a local authority to prohibit the operation of any electric bicycle or any class of electric bicycle on an equestrian trail, or hiking or recreational trail.

AB 2109

(Bennett D) White sharks: prohibition on use of attractants.

Introduced: 2/14/2022

Last Amend: 8/10/2022

Status: 9/19/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 437, Statutes of 2022.

Location: 9/19/2022-A. CHAPTERED

Summary: Would make it unlawful, except as provided, to use any shark bait, shark lure, or shark chum, as defined, to attract any white shark; to place any shark bait, shark lure, or shark chum into the water within one nautical mile of any shoreline, pier, or jetty when a white shark is either visible or known to be present; or to place any shark bait, shark lure, or shark chum into the water for the purpose of viewing any shark when a white shark is visible or known to be present. Because a violation of these prohibitions would be a crime, this bill would impose a state-mandated local program.

AB 2344

(Friedman D) Wildlife connectivity: transportation projects.

Introduced: 2/16/2022

Last Amend: 8/24/2022

Status: 9/30/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 964, Statutes of 2022.

Location: 9/30/2022-A. CHAPTERED

Summary: Would require Caltrans, in consultation with the Department of Fish and Wildlife (DFW) and other appropriate agencies, to establish an inventory of connectivity needs on the state highway system where the implementation of wildlife passage features could reduce wildlife-vehicle collisions or enhance wildlife connectivity, as specified. The bill would require Caltrans, no later than July 1, 2024, to develop and publish the inventory and a list of funded transportation projects with wildlife passage features that address wildlife connectivity needs and would require Caltrans to update the inventory and the project list at least once every 2 years.

AB 2805

(Bauer-Kahan D) Department of Fish and Wildlife: advance mitigation and regional conservation investment strategies.

Introduced: 2/18/2022

Last Amend: 6/29/2022

Status: 9/22/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 463, Statutes of 2022.

Location: 9/22/2022-A. CHAPTERED

Summary: Existing law authorizes the Department of Fish and Wildlife, or any other public agency, to propose a regional conservation investment strategy, to be developed in consultation with applicable local agencies that have land use authority, for the purpose of informing science-based nonbinding and voluntary conservation actions and habitat enhancement actions that would advance the conservation of focal species and provide voluntary nonbinding guidance for various activities. This bill would additionally authorize a federally recognized tribe to propose a regional conservation investment strategy, as provided. The bill would eliminate a restriction on the department that authorizes the department to approve a regional conservation investment strategy only if one or more state agencies request approval through a letter sent to the Director of Fish and Wildlife and a requirement that a regional conservation investment strategy include an explanation of the extent that the strategy is consistent with any previously approved or amended strategy. This bill contains other related provisions and other

existing laws.

AB 2895

(Arambula D) Water: permits and licenses: temporary changes: water or water rights transfers.

Introduced: 2/18/2022

Last Amend: 8/22/2022

Status: 9/28/2022-Approved by the Governor. Chaptered by Secretary of State - Chapter 675, Statutes of 2022.

Location: 9/28/2022-A. CHAPTERED

Summary: Under current law, the State Water Resources Control Board administers a water rights program pursuant to which the board grants permits and licenses to appropriate water. Current law authorizes a permittee or licensee to temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses. This bill would revise and recast the provisions regulating temporary changes due to a transfer or exchange of water rights, including, among other revisions, specifying that those provisions apply to a person who proposes a temporary change for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation. The bill would eliminate the requirement that a petitioner publish notice of a petition in a newspaper.

SB 2

(Bradford D) Peace officers: certification: civil rights.

Introduced: 12/7/2020

Last Amend: 9/1/2021

Status: 9/30/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 409, Statutes of 2021.

Location: 9/30/2021-S. CHAPTERED

Summary: Under current law, the Tom Bane Civil Rights Act, if a person or persons, whether or not acting under color of law, interferes or attempts to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney, is authorized to bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the exercise or enjoyment of the right or rights secured. Current law also authorizes an action brought by the Attorney General, or any district attorney or city attorney, to seek a civil penalty of \$25,000. Current law also allows an individual whose exercise or enjoyment of rights has been interfered with to prosecute a civil action for damages on their own behalf. This bill would eliminate certain immunity provisions for peace officers and custodial officers, or public entities employing peace officers or custodial officers sued under the act.

SB 16

(Skinner D) Peace officers: release of records.

Introduced: 12/7/2020

Last Amend: 8/30/2021

Status: 9/30/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 402, Statutes of 2021.

Location: 9/30/2021-S. CHAPTERED

Summary: Current law makes peace officer and custodial officer personnel records and specified records maintained by any state or local agency, or information obtained from these records, confidential and prohibits these records from being disclosed in any criminal or civil proceeding except by discovery. Current law sets forth exceptions to this policy, including, among others, records relating to specified incidents involving the discharge of a firearm, sexual assault, perjury, or misconduct by a peace officer or custodial officer. Existing law makes a record related to an incident involving the use of force against a person resulting in death or great bodily injury subject to disclosure. Current law requires a state or local agency to make these excepted records available for inspection pursuant to the California Public Records Act, subject to redaction as specified. This bill would make a sustained finding involving force that is unreasonable or excessive, and any sustained finding that an officer failed to intervene against another officer using unreasonable or excessive force, subject to disclosure.

SB 80

(McGuire D) Commercial fishing: inspection: crab traps.

Introduced: 12/15/2020

Last Amend: 9/3/2021

Status: 10/9/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 757, Statutes of 2021.

Location: 10/9/2021-S. CHAPTERED

Summary: Would require a person who holds a commercial fishing license or a commercial fish business license, upon request of an authorized agent or employee of the Department of Fish and Wildlife, to immediately relinquish, at no charge, fish or parts of fish caught or landed in California to the department for the purpose of collecting a biological sample. Because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

SB 160

(Committee on Budget and Fiscal Review) Department of Cannabis Control: licensure: appellations of origin: trade samples.

Introduced: 1/8/2021

Last Amend: 7/11/2021

Status: 7/16/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 87, Statutes of 2021.

Location: 7/16/2021-S. CHAPTERED

Summary: AB 141 of the 2021–22 Regular Session (AB 141) would, among other things, establish the Department of Cannabis Control within the Business, Consumer

Services, and Housing Agency, would transfer to this department the powers, duties, purposes, functions, responsibilities, and jurisdiction of the bureau, the Department of Food and Agriculture, and the State Department of Public Health under MAUCRSA, except as specified, and would make conforming changes. This bill would revise, as described below, certain provisions of MAUCRSA that would be amended or added by AB 141, and would become operative only if AB 141 is enacted before this bill. MAUCRSA defines "manufacture" for purposes of the act to mean to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. This bill would revise the definition of "manufacture" to include to package or label a cannabis product. MAUCRSA authorizes licensing authorities to create, issue, deny, renew, discipline, suspend, or revoke licenses, and provides that this is a matter of statewide concern. AB 141 would give the department this authority and would remove the statement that this is a matter of statewide concern.

SB 369

(Pan D) Flood control: Yolo Bypass Cache Slough Partnership Multibenefit Program.

Introduced: 2/10/2021

Last Amend: 6/14/2021

Status: 9/23/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 275, Statutes of 2021.

Location: 9/23/2021-S. CHAPTERED

Summary: Would establish the Yolo Bypass Cache Slough Partnership Multibenefit Program to support the development and implementation of projects within the Yolo Bypass and Cache Slough region. The bill would define "Yolo Bypass Cache Slough Partnership" to mean the multiagency partnership established pursuant to a memorandum of understanding signed in May 2016 by a total of 15 participating federal, state, and local agencies. The bill would require the participating state agencies, including the Natural Resources Agency, the Department of Water Resources, the Department of Fish and Wildlife, the Central Valley Flood Protection Board, the State Water Resources Control Board, and the Central Valley Regional Water Quality Control Board, to work in collaboration with the participating federal and local agencies and the City of West Sacramento, if it chooses to participate, to advance specified objectives in the Yolo Bypass and Cache Slough region.

SB 370

(Dodd D) Wildlife: Big Game Management Account: uses.

Introduced: 2/10/2021

Last Amend: 4/28/2021

Status: 7/19/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 132, Statutes of 2022.

Location: 7/19/2022-S. CHAPTERED

Summary: Current law requires revenue from the sale of tags for antelope, elk, deer, wild pig, bear, and sheep to be deposited into the Big Game Management Account, except as provided. Current law requires funds deposited into the account to be expended, upon appropriation by the Legislature, by the Department of Fish and

Wildlife, solely for specified purposes and pursuant to specified limitations. Current law authorizes the department to make grants to, reimburse, or enter into contracts or other agreements with nonprofit organizations for the use of the funds from the account to carry out those purposes, including related habitat conservation projects. This bill instead would authorize the department to make grants to, reimburse, or enter into contracts or other agreements with public and private entities, including nonprofit organizations, and federally recognized Indian tribes for the use of the funds from the account to carry out those purposes. The bill would require the department, in acting pursuant to that authorization, to consider the state's biodiversity goals.

SB 716

(McGuire D) Land use: habitat restoration and enhancement: mitigation lands.

Introduced: 2/19/2021

Last Amend: 9/3/2021

Status: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 735, Statutes of 2021.

Location: 10/8/2021-S. CHAPTERED

Summary: The Habitat Restoration and Enhancement Act authorizes a project proponent to submit a habitat restoration or enhancement project to the Director of Fish and Wildlife for approval. This bill would extend the operation of the act until January 1, 2027, and would require the Department of Fish and Wildlife to submit a report on the implementation of the act to the Legislature no later than December 31, 2025.

SB 790

(Stern D) Wildlife connectivity actions: compensatory mitigation credits.

Introduced: 2/19/2021

Last Amend: 8/30/2021

Status: 10/8/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 738, Statutes of 2021.

Location: 10/8/2021-S. CHAPTERED

Summary: Would authorize the Department of Fish and Wildlife approve compensatory mitigation credits for wildlife connectivity actions taken under the conservation and mitigation banking program or the regional conservation investment strategy program. In order to receive compensatory mitigation credits from the department under this authority, the bill would require the wildlife connectivity action to meet specified requirements. The bill would authorize a compensatory mitigation credit created under this authority to be used to fulfill, in whole or in part, compensatory mitigation requirements established under any state or federal environmental law, as determined by the applicable local, state, or federal regulatory agency. The bill would authorize the department to adopt guidelines and criteria to aid in the implementation of these provisions and would exempt the development, adoption, or amendment of these guidelines or criteria from the Administrative Procedure Act.

SB 822

(Committee on Natural Resources and Water) Marine resources.

Introduced: 3/9/2021

Last Amend: 6/21/2021

Status: 10/9/2021-Approved by the Governor. Chaptered by Secretary of State. Chapter 770, Statutes of 2021.

Location: 10/9/2021-S. CHAPTERED

Summary: Current law establishes the Department of Fish and Wildlife. Current law provides that it is the department's mission to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment of the public. Current law establishes various provisions prohibiting the taking of fish under specified circumstances, including the taking of any fish for the sole purpose of removing its eggs except for the purpose of developing a brood stock for aquaculture purposes. This bill would authorize the department to issue a letter of authorization to allow the taking of marine living resources or to authorize the take and possession of marine resources and possession of gear or equipment that would otherwise be prohibited in marine waters to support data collection, environmental cleanup, hazard removal, or public health and safety.

SB 856

(Dodd D) Wild pigs: validations.

Introduced: 1/19/2022

Last Amend: 8/16/2022

Status: 9/22/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 469, Statutes of 2022.

Location: 9/22/2022-S. CHAPTERED

Summary: Current law requires the Department of Fish and Wildlife to prepare a plan for the management of wild pigs and lists certain content that may be included in the plan. This bill would revise and recast the provisions applicable to wild pigs by, among other things, specifying that the wild pig is not a game mammal or nongame mammal, but rather is an exotic game mammal, a term defined to include wild pigs, feral pigs, and wild boar. The bill would expand the definition of "wild pig" to include any pig that has 2 or more specified phenotypical characteristics and that does not have a permanent mark or visible tag, as specified, and any free-roaming pig, feral pig, or European wild boar having no visible tags, markings, or characteristics indicating that the pig or boar is from a domestic herd. The bill would also prohibit the use of poison to take exotic game mammals. The bill would make conforming changes to reflect the creation of the separate category of exotic game mammal.

SB 945

(Laird D) Falconry: American peregrine falcons.

Introduced: 2/8/2022

Last Amend: 8/15/2022

Status: 9/22/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 471, Statutes of 2022.

Location: 9/22/2022-S. CHAPTERED

Summary: Current law authorizes the Fish and Game Commission to adopt regulations for the possession or training, and the capture, importation, exportation, or intrastate transfer, of birds in the orders Falconiformes and Strigiformes (birds-of-prey) used in the

practice of falconry. Current law authorizes the commission to authorize the issuance and provide for the revocation of licenses and permits to persons for the practice of falconry. Existing law also prohibits the taking or possession at any time of fully protected birds, as specified. Existing law designates the American peregrine falcon as a fully protected bird. This bill would exempt the capture, possession, or training of an American peregrine falcon in the practice of falconry from the prohibitions in the fully protected bird statute.

SB 1010

(Skinner D) Air pollution: state vehicle fleet.

Introduced: 2/14/2022

Last Amend: 8/24/2022

Status: 9/16/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 360, Statutes of 2022.

Location: 9/16/2022-S. CHAPTERED

Summary: Current law sets forth requirements for the acquisition of goods and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies. This bill would require the department, on and after January 1, 2024, to develop criteria to evaluate bidders, at least in part, based on the number of zero-emission vehicles or plug-in hybrid electric vehicles in their rental car fleet when seeking to award a contract for commercial rental car services.

SB 1029

(Hurtado D) One Health Program: zoonotic diseases.

Introduced: 2/15/2022

Last Amend: 8/15/2022

Status: 9/30/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 990, Statutes of 2022.

Location: 9/30/2022-S. CHAPTERED

Summary: Current law sets forth various responsibilities for the Department of Fish and Wildlife with regard to disease investigation, pest control, and conservation, in relation to certain animals and plants and to wildlife generally. This bill would require the State Department of Public Health, the Department of Food and Agriculture, and the Department of Fish and Wildlife to jointly establish and administer the One Health Program for the purpose of developing a framework for interagency coordination in responding to zoonotic diseases and reducing hazards to human and nonhuman animal health, in accordance with the One Health principles set forth by the federal Centers for Disease Control and Prevention.

SB 1205

(Allen D) Water rights: appropriation.

Introduced: 2/17/2022

Last Amend: 8/24/2022

Status: 9/16/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 369, Statutes of 2022.

Location: 9/16/2022-S. CHAPTERED

Summary: Would require the State Water Resources Control Board to develop and adopt regulations to govern consideration of climate change effects in water availability analyses used in the board's review of applications for water rights permits, including consideration of the effects of climate change, as specified, upon watershed hydrology, as specified. The bill would require the board to consult with the Department of Water Resources, the Department of Fish and Wildlife, and qualified hydrologists and climate change scientists, among others, in preparing the regulations. The bill would prohibit the board from refusing to accept or delay processing or approval of an application on the grounds that the regulations have not yet been adopted.

SB 1392

(McGuire D) Aquaculture: registration, renewal, surcharge, and penalty fees: reports.

Introduced: 2/18/2022

Last Amend: 6/22/2022

Status: 9/13/2022-Approved by the Governor. Chaptered by Secretary of State. Chapter 307, Statutes of 2022.

Location: 9/13/2022-S. CHAPTERED

Summary: Current law requires the owner of an aquaculture facility to register certain information with the Department of Fish and Wildlife by March 1 of each year, and requires the department to impose prescribed fees for registration and renewal. Current law also requires, in addition to the registration and renewal fees, a surcharge fee to be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed \$25,000. Current law imposes a penalty for delinquent payment of fees. Current law, until January 1, 2023, increases those registration, renewal, surcharge, and penalty fees, as prescribed. Current law requires the department to prepare and submit to the Legislature, on or before February 1, 2022, a report regarding the aquaculture program. Current law requires the department, at least once every 5 years, to analyze the fees and taxes authorized for the aquaculture program to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the program. This bill would extend the increased registration, renewal, surcharge, and penalty fees until January 1, 2024.

Vetoed Bills

AB 334

(Mullin D) Workers' compensation: skin cancer.

Introduced: 1/27/2021

Status: 9/29/2022-Vetoed by Governor.

Location: 9/29/2022-A. VETOED

Summary: Current law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Current law provides, among other things, that skin cancer developing in active lifeguards, as defined, is presumed to arise out of and in the course of employment, unless the presumption is

rebutted. This bill would expand the scope of those provisions to certain peace officers of the Department of Fish and Wildlife and the Department of Parks and Recreation.

AB 2382

(Lee D) Light pollution control.

Introduced: 2/17/2022

Last Amend: 8/22/2022

Status: 9/23/2022-Vetoed by the Governor

Location: 9/23/2022-A. VETOED

Summary: Would require, with certain exceptions, a state agency, as defined, to ensure that an outdoor lighting fixture that is installed or replaced on or after January 1, 2023, on a structure or land that is owned, leased, or managed by the state agency is shielded, as defined, and meets additional specified criteria.

SB 284

(Stern D) Workers' compensation: firefighters and peace officers: post-traumatic stress.

Introduced: 2/1/2021

Last Amend: 8/18/2022

Status: 9/29/2022-Vetoed by the Governor. In Senate. Consideration of Governor's veto pending.

Location: 9/29/2022-S. VETOED

Summary: Current law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of employment. Current law provides, only until January 1, 2025, that, for certain state and local firefighting personnel and peace officers, the term "injury" includes post-traumatic stress that develops or manifests during a period in which the injured person is in the service of the department or unit, but applies only to injuries occurring on or after January 1, 2020. Current law requires the compensation awarded pursuant to this provision to include full hospital, surgical, medical treatment, disability indemnity, and death benefits. This bill would make that provision applicable to active firefighting members of the State Department of State Hospitals, the State Department of Developmental Services, the Military Department, and the Department of Veterans Affairs, and to additional peace officers, including security officers of the Department of Justice when performing assigned duties as security officers and the officers of a state hospital under the jurisdiction of the State Department of State Hospitals or the State Department of Developmental Services, among other officers.

SB 1065

(Eggman D) California Abandoned and Derelict Commercial Vessel Program.

Introduced: 2/15/2022

Last Amend: 8/23/2022

Status: 9/28/2022-Vetoed by the Governor. In Senate. Consideration of Governor's veto pending.

Location: 9/28/2022-S. VETOED

Summary: Would establish the California Abandoned and Derelict Commercial Vessel Program within the Natural Resources Agency, to be administered by the commission, upon appropriation by the Legislature, to bring federal, state, and local agencies together to identify, prioritize, and fund the removal and proper disposal of abandoned and derelict commercial vessels and other debris from commercially navigable waters, as defined. The bill would require the commission, upon appropriation by the Legislature, on or before July 1, 2024, to create, and regularly update and maintain thereafter, an inventory of abandoned and derelict commercial vessels on or in commercially navigable waters, as provided, and, on or before July 1, 2025, to develop a plan to prevent or reduce abandoned and derelict commercial vessels on or in commercially navigable waters, as provided.

SB 1224

(Bates R) Watersheds: wildlife habitat: Counties of Orange and San Diego.

Introduced: 2/17/2022

Last Amend: 5/19/2022

Status: 9/28/2022-Vetoed by the Governor. In Senate. Consideration of Governor's veto pending.

Location: 9/28/2022-S. VETOED

Summary: Would authorize the Wildlife Conservation Board, upon an appropriation by the Legislature, to make grants to acquire fee title or conservation easements or to perform restoration, or a combination thereof, in watersheds with habitats for sensitive wildlife populations in specified regions in the Counties of Orange and San Diego, as provided.

Dead Bills

AB 2

(Fong R) Regulations: legislative review: regulatory reform.

Introduced: 12/7/2020

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/21/2022-A. DEAD

Summary: The Administrative Procedure Act requires an agency, prior to submitting a proposal to adopt, amend, or repeal an administrative regulation, to determine the economic impact of that regulation, in accordance with certain procedures. The act defines a major regulation as a regulation, as specified, that will have an economic impact on California business enterprises and individuals in an amount exceeding \$50,000,000, as estimated by the agency. The act requires the office to transmit a copy of a regulation to the Secretary of State for filing if the office approves the regulation or fails to act on it within 30 days. The act provides that a regulation or an order of repeal of a regulation becomes effective on a quarterly basis, as prescribed, except in specified instances. This bill would require the office to submit to each house of the Legislature for review a copy of each major regulation that it submits to the Secretary of State.

AB 17

(Cooper D) Peace officers: disqualification from employment.

Introduced: 12/7/2020

Last Amend: 1/12/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would disqualify a person from being a peace officer if the person has been discharged from the military for committing an offense that would have been a felony if committed in California or if the person has been certified as a peace officer and has had that certification revoked by the Commission on Peace Officer Standards and Training.

AB 29

(Cooper D) State bodies: meetings.

Introduced: 12/7/2020

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/21/2022-A. DEAD

Summary: The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public, and that all persons be permitted to attend any meeting of a state body, except as otherwise provided in that act. Current law requires the state body to provide notice of its meeting, including specified information and a specific agenda of the meeting, as provided, to any person who requests that notice in writing and to make that notice available on the internet at least 10 days in advance of the meeting. This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that are in connection with a matter subject to discussion or consideration at the meeting.

AB 60

(Salas D) Law enforcement.

Introduced: 12/7/2020

Last Amend: 3/16/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would disqualify a person from being employed as a peace officer if that person has been convicted of, or has been adjudicated by a military tribunal as having committed an offense that would have been a felony if committed in this state. The bill would also disqualify any person who has been certified as a peace officer by the Commission on Peace Officer Standards and Training and has had that certification revoked by the commission.

AB 125

(Rivas, Robert D) Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022.

Introduced: 12/18/2020

Last Amend: 4/12/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/31/2022-A. DEAD

Summary: Would enact the Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,302,000,000 pursuant to the State General Obligation Bond Law, to finance programs related to, among other things, agricultural lands, food and fiber infrastructure, climate resilience, agricultural professionals, including farmers, ranchers, and farmworkers, workforce development and training, air quality, tribes, disadvantaged communities, nutrition, food aid, meat processing facilities, fishing facilities, and fairgrounds.

AB 267

(Valladares R) California Environmental Quality Act: exemption: prescribed fire, thinning, and fuel reduction projects.

Introduced: 1/15/2021

Last Amend: 6/30/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was INACTIVE FILE on 8/29/2022)

Location: 8/31/2022-S. DEAD

Summary: Current law, until January 1, 2023, exempts from the requirements of CEQA prescribed fire, thinning, or fuel reduction projects undertaken on federal lands to reduce the risk of high-severity wildfire that have been reviewed under the federal National Environmental Policy Act of 1969, as provided. Current law requires the Department of Forestry and Fire Protection, beginning December 31, 2019, and annually thereafter until January 1, 2023, to report to the relevant policy committees of the Legislature the number of times the exemption was used. This bill would extend the exemption from CEQA to January 1, 2026. The bill would additionally require that a project's significant impacts identified in an environmental impact statement prepared pursuant to the federal National Environmental Policy Act of 1969 are avoided or mitigated in order for the exemption to apply. The bill would require the lead agency, if it determines that the exemption applies and determines to approve or carry the project, to file a notice of exemption with the Office of Planning and Research and the county clerk of the county in which the project is located. If the lead agency is not the department, the bill would require the lead agency to file a notice with the department containing specified information about the project. If the lead agency is the department, the bill would require the department to maintain records containing that specified information.

AB 303

(Rivas, Robert D) Aquaculture: mariculture production and restoration: pilot program.

Introduced: 1/25/2021

Last Amend: 1/3/2022

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would require the Department of Fish and Wildlife, in collaboration with the California Coastal Commission, to, by January 1, 2024, create a pilot program in state waters to further develop shellfish and seaweed mariculture production and restoration capacity in California. The bill would require the department to establish a process to designate tracts for shellfish and seaweed mariculture production and restoration as part of the pilot program, as specified. The bill would authorize an applicant with a proposed shellfish, seaweed, or shellfish and seaweed mariculture production and restoration project to apply for a lease of any pilot program tract, or a portion thereof. The bill would require the State Lands Commission or the Fish and Game Commission, or both, if applicable to approve, deny, or return for revision a lease application within 4 months.

AB 380

(Seyarto R) Forestry: priority fuel reduction projects.

Introduced: 2/2/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Under the authority provided pursuant to the California Emergency Services Act, the Governor, on March 22, 2019, issued a proclamation of a state of emergency directing the Department of Forestry and Fire Protection to implement, without delay, fuel reduction projects identified using a methodology developed by the department to determine which communities are at greatest risk of wildfire based on best available science and socioeconomic factors and to identify projects that would reduce the risk of catastrophic wildfire, if completed. The proclamation of a state of emergency exempts those identified fuel reduction projects from various legal requirements, including, among others, requirements regarding public contracting for those projects, requirements for environmental review under the California Environmental Quality Act for those projects, and licensure requirements for individual conducting certain activities for those projects, as provided. This bill would require the department, before December 31, 2022, and before December 31 of each year thereafter, to identify priority fuel reduction projects, as provided.

AB 391

(Villapudua D) Pollinator habitat conservation: funding.

Introduced: 2/2/2021

Last Amend: 8/26/2021

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was DEAD on 2/1/2022)

Location: 8/31/2022-A. DEAD

Summary: Would, upon appropriation by the Legislature, allocate \$5,000,000 from the General Fund to the Department of Food and Agriculture in order to provide funding to partner with the University of California Cooperative Extension, California resource conservation districts, and the United States Department of Agriculture Natural Resources Conservation Service to deliver technical assistance and outreach, and provide grants to incentivize participation in state and federal conservation programs where pollinator habitat and forage is established. The bill would make related findings

and declarations.

AB 517

(Dahle, Megan R) California State Safe Harbor Agreement Program Act: notice.

Introduced: 2/10/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/21/2022-A. DEAD

Summary: The California State Safe Harbor Agreement Program Act establishes a program to encourage landowners to manage their lands voluntarily, by means of state safe harbor agreements approved by the Department of Fish and Wildlife, to benefit endangered, threatened, or candidate species without being subject to additional regulatory restrictions as a result of their conservation efforts. Current law requires a participating landowner to provide the department, its contractors, or agents with access to the land or water proposed to be enrolled in the agreement to develop the agreement, determine the baseline conditions, monitor the effectiveness of management actions, or safely remove or salvage species proposed to be taken. Current law requires the department to provide notice to the landowner at least 7 days before accessing the land or water for these purposes. This bill would increase the notice period to the landowner to at least 7 business days.

AB 534

(Bonta, Mia D) Fishing: ropeless fishing gear.

Introduced: 2/10/2021

Last Amend: 4/19/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would require, on or before November 1, 2025, ropeless fishing gear, as determined by the Department of Fish and Wildlife, to be used when fishing in a national marine sanctuary and taking any species of fish for commercial or recreational purposes in any trap fishery, upon implementation of this requirement by the department and the Fish and Game Commission. The bill would require the department and the commission to promulgate regulations to implement the above requirement, including establishing a public process to certify fishing gear as ropeless and defining ropeless fishing gear as including only gear in which there is no static vertical buoy line. The bill would authorize the director to extend the November 1, 2025, implementation deadline for the above requirement by up to 2 years, by making findings that suitable ropeless fishing gear is not yet commercially available, as specified.

AB 554

(Mathis R) Department of Fish and Wildlife: Office of the Ombudsperson.

Introduced: 2/10/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/21/2022-A. DEAD

Summary: Would establish in the Department of Fish and Wildlife the Office of the Ombudsperson, administered through the ombudsperson. The bill would require the Fish and Game Commission to appoint the ombudsperson and would require the office

to operate independently of department staff and to report to the president of the commission. The bill would require the office to undertake specified duties under the supervision of the president of the commission, including working independently as an intermediary to provide individuals with a confidential process to address complaints regarding the department and resolve disputes with the department.

AB 564

(Gonzalez, Lorena D) Biodiversity Protection and Restoration Act.

Introduced: 2/11/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would establish the Biodiversity Protection and Restoration Act and would provide that it is the policy of the state that all state agencies, boards, and commissions shall utilize their authorities in furtherance of the biodiversity conservation purposes and goals of certain executive orders. The bill would require all state agencies, boards, and commissions to consider and prioritize the protection of biodiversity in carrying out their statutory mandates. The bill would require strategies related to the goal of the state to conserve at least 30% of California's land and coastal waters by 2030 to be made available to the public and provided to certain legislative committees by no later than June 30, 2022.

AB 581

(Irwin D) Cybersecurity.

Introduced: 2/11/2021

Last Amend: 6/20/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 6/27/2022)

Location: 8/12/2022-S. DEAD

Summary: Would require all state agencies, as generally defined, to review and implement specified National Institute of Standards and Technology (NIST) guidelines for, among other things, reporting, coordinating, publishing, and receiving information about a security vulnerability relating to information systems and the resolution thereof, no later than July 1, 2023. The bill would require the chief to review the NIST guidelines and to create, update, and publish any appropriate standards or procedures in the State Administrative Manual and Statewide Information Management Manual to apply the NIST guidelines to state agencies and state entities no later than April 1, 2023. The bill would authorize a state agency, and require certain state agencies and state entities, to satisfy their requirement to implement NIST guidelines by adopting those standards and procedures published in the State Administrative Manual and Statewide Information Management Manual. The bill would require the office to provide assistance to any state agency or state entity that requests assistance in implementing the guidelines or the standards and procedures, and to provide operational and technical assistance to state agencies and state entities on reporting, coordinating, publishing, and receiving information about cybersecurity vulnerabilities of information systems, until that agency or entity withdraws their request for assistance with implementation or cybersecurity.

AB 620

(Mullin D) Unified online environmental permit application.

Introduced: 2/12/2021

Status: 2/1/2022-Died at Desk.

Location: 1/21/2022-A. DEAD

Summary: Current law declares the intent of the Legislature to provide a mechanism by which the California Environmental Protection Agency may further this objective of environmental protection by bringing relevant agencies together to synchronize, to the maximum extent feasible, the environmental permit requirements imposed on applicants by the departments or boards within the agency, among other objectives. This bill would express the intent of the Legislature to enact subsequent legislation creating a unified online environmental permit application and process for state agencies that simplify the submittal and tracking of environmental permits for permit applicants and state agencies, and supports interagency coordination.

AB 645

(Gallagher R) Fish and wildlife: poaching: penalties: probation period.

Introduced: 2/12/2021

Last Amend: 3/11/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/21/2022-A. DEAD

Summary: Current law prescribes certain penalties for the illegal sale or purchase of abalone taken by a person required to be licensed, as specified. Current law prescribes certain penalties for the illegal take, possession, import, export, sale, purchase, barter, trade, or exchange of a bird, fish, mammal, reptile, amphibian, or part of any of those animals, or the illegal take or possession in the field of more than 3 times the daily bag limit, or the illegal possession of more than 3 times the legal possession limit, of those animals. Current law prescribes certain penalties for the knowing violation and conviction of certain provisions involving trophy deer, elk, antelope, bighorn sheep, or wild turkey. This bill would prohibit, if the court grants probation to a person punished pursuant to the above provisions, the period of probation from exceeding 3 years.

AB 718

(Cunningham R) Peace officers: investigations of misconduct.

Introduced: 2/16/2021

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 7/5/2021)

Location: 8/12/2022-S. DEAD

Summary: Would require a law enforcement agency or oversight agency to complete its investigation into an allegation of the use of force resulting in death or great bodily injury, sexual assault, discharge of a firearm, or dishonesty relating to the reporting, investigation, or prosecution of a crime or misconduct by another peace officer or custodial officer, despite the peace officer's or custodial officer's voluntary separation from the employing agency. The bill would require the investigation to result in a finding that the allegation is either sustained, not sustained, unfounded, or exonerated, as

defined. The bill would also require an agency other than an officer's employing agency that conducts an investigation of these allegations to disclose its findings with the employing agency no later than the conclusion of the investigation.

AB 836

(Gabriel D) California Building Standards Commission: recycled water: nonpotable water systems.

Introduced: 2/17/2021

Last Amend: 3/25/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would require, on or before January 1, 2023, the California Building Standards Commission to adopt mandatory building standards requiring that a newly constructed nonresidential building be constructed with dual plumbing to allow the use of recycled water for all applicable nonpotable water demands, as defined, if that building is located within an existing or planned recycled water service area, as specified. This bill would require, on or before January 1, 2023, the commission to adopt mandatory building standards requiring that a newly constructed nonresidential building with a total gross floor area of 100,000 square feet or more be constructed with dual plumbing to allow the use of nonpotable water sources for all applicable nonpotable water demands and provide for the collection, onsite treatment, and reuse of available onsite rainwater, graywater, and foundation drainage.

AB 878

(Dahle, Megan R) Wildlife resources: natural community conservation plans: public review and comment.

Introduced: 2/17/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/21/2022-A. DEAD

Summary: The Natural Community Conservation Planning Act authorizes the Department of Fish and Wildlife to enter into agreements with any person or public entity for the purpose of preparing a natural community conservation plan, in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species. Current law requires the public to have 21 calendar days to review and comment on a proposed planning agreement before department approval of the planning agreement. This bill would expand the time for public review and comment on a proposed planning agreement from 21 calendar days to 21 business days.

AB 885

(Quirk D) Bagley-Keene Open Meeting Act: teleconferencing.

Introduced: 2/17/2021

Last Amend: 3/24/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would require a state body that elects to conduct a meeting or proceeding by teleconference to make the portion that is required to be open to the public both audibly and visually observable. The bill would require a state body that elects to conduct a meeting or proceeding by teleconference to post an agenda at the designated primary physical meeting location in the notice of the meeting where members of the public may physically attend the meeting and participate. The bill would extend the above requirements of meetings of multimember advisory bodies that are held by teleconference to meetings of all multimember state bodies. The bill would require a multimember state body to provide a means by which the public may both audibly and visually remotely observe a meeting if a member of that body participates remotely.

AB 910

(Bigelow R) Forestry: Small Timberland Owner Exemption.

Introduced: 2/17/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Would increase the acreage owned by a small forestland owner within the northern forest district and southern forest district to which the Small Timberland Owner Exemption is applicable to 300 acres or less. The bill would repeal the limitation on authority of the department to grant no more than 3 Small Timberland Owner Exemptions to each landowner. The bill would authorize the construction or reconstruction of temporary roads on slopes of 30 percent or less that meet certain requirements under the Small Timberland Owner Exemption.

AB 912

(Bigelow R) Z'berg-Nejedly Forest Practice Act of 1973: working forest management plans.

Introduced: 2/17/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Existing law, the Z'berg-Nejedly Forest Practice Act of 1973, declares the policy of the state to encourage prudent and responsible forest management of nonindustrialized timberlands through the approval of working forest management plans. Existing law authorizes a person who intends to become a working forest landowner to file a working forest management plan with the Department of Forestry and Fire Protection, with the long-term objective of an uneven aged timber stand and sustained yield through the implementation of the plan. Existing law defines "working forest landowner" to mean an owner of timberland with less than 10,000 acres who has an approved working forest management plan and is not primarily engaged in the manufacture of forest products. Existing law also defines "working forest management plan," and allows multiple working forest landowners to submit a working forest management plan, but provides that the plan may cover no more than 10,000 acres of timberland. This bill would revise the definition of "working forest landowner" to mean an owner of timberland with less than 15,000 acres who has an approved working forest management plan and is not primarily engaged in the manufacture of forest products. The bill would revise the definition of "working forest management plan" to allow

multiple working forest landowners to submit a working forest management plan, but provide that the plan may cover no more than 15,000 acres of timberland. The bill would also make nonsubstantive changes to other definitions applicable to working forest management plans.

AB 953

(Kiley R) California Environmental Quality Act: Department of Fish and Wildlife: review of environmental documents: revenue and cost tracking and accounting.

Introduced: 2/17/2021

Last Amend: 3/17/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Current law authorizes the Department of Fish and Wildlife to impose and collect a filing fee to defray the costs of managing and protecting fish and wildlife trust resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of CEQA, and other activities protecting those trust resources identified in the review pursuant to CEQA. This bill would require the department to separately track and account for all revenues collected under the above filing fee provision and all costs incurred in its role as a responsible agency or trustee agency under CEQA.

AB 954

(Petrie-Norris D) City of Laguna Woods: leases: fire protection and public safety.

Introduced: 2/17/2021

Last Amend: 3/25/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Existing law, the California Clean Water, Clean Air, and Safe Neighborhood Parks, and Coastal Protection Act of 2002, approved by the voters as Proposition 40 at the March 5, 2002, statewide primary election, authorizes the issuance of bonds in the amount of \$2,600,000,000, for the purpose of financing a program for the acquisition, development, restoration, protection, rehabilitation, stabilization, reconstruction, preservation, and interpretation of park, coastal, agricultural land, air, and historical resources, as specified. Existing law also authorizes the legislative body of any local agency to contract with any other local agency for the furnishing of fire or police protection to that other local agency. This bill would authorize the City of Laguna Woods to lease to a public agency or joint powers authority, for purposes related to fire protection or public safety, the park property upon which improvements were made pursuant to specified grant agreements funded in accordance with the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002. The bill would require those leases to be subject to the requirements set forth in the grant contracts that are otherwise applicable to property sales or other dispositions. This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Laguna Woods.

[AB 956](#)

([Flora](#) R) Wildfire mitigation plans: fire retardants.

Introduced: 2/17/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/21/2022-A. DEAD

Summary: Current law requires the State Fire Marshal to establish minimum standard requirements and adopt rules and regulations to regulate the manufacture, sale, and application of flame-retardant chemicals. This bill would expressly authorize a wildfire mitigation plan to include the use of fire-retardant chemicals approved by the State Fire Marshal on a planned basis for wildfire mitigation and risk management.

[AB 1154](#)

([Patterson](#) R) California Environmental Quality Act: exemption: egress route projects: fire safety.

Introduced: 2/18/2021

Last Amend: 6/16/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/2/2022)

Location: 8/12/2022-S. DEAD

Summary: Would, until January 1, 2029, exempt from the California Environmental Quality Act (CEQA) egress route projects undertaken by a public agency to improve emergency access to and evacuation from a subdivision without a secondary egress route if the State Board of Forestry and Fire Protection has recommended the creation of a secondary access to the subdivision and 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 1255](#)

([Bloom](#) D) Fire prevention: fire risk reduction guidance: local assistance grants.

Introduced: 2/19/2021

Last Amend: 4/19/2021

Status: 2/1/2022-Died on inactive file.

Location: 2/1/2022-A. DEAD

Summary: Would require the Natural Resources Agency, on or before July 1, 2023, and in collaboration with specified state agencies and in consultation with certain other state agencies, to develop a guidance document that describes goals, approaches, opportunities, and best practices in each region of the state for ecologically appropriate, habitat-specific fire risk reduction. The bill would require the guidance document to be developed through a public process, including region-specific public workshops hosted by the agency, and would require the agency to post the document on its internet website.

[AB 1260](#)

([Chen](#) R) California Environmental Quality Act: exemptions: transportation-related projects.

Introduced: 2/19/2021

Last Amend: 7/6/2021

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/16/2021)

Location: 8/12/2022-S. DEAD

Summary: CEQA includes exemptions from its environmental review requirements for numerous categories of projects, including, among others, projects for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use and projects by a public transit agency to construct or maintain infrastructure to charge or refuel zero-emission transit buses. This bill would further exempt from the requirements of CEQA projects by a public transit agency to construct or maintain infrastructure to charge or refuel zero-emission trains, provided certain requirements are met, including giving prior notice to the public and holding a noticed public meeting, as provided.

[AB 1429](#)

([Holden](#) D) State agency records: Records Management Coordinator duties: personnel training.

Introduced: 2/19/2021

Last Amend: 6/29/2021

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/23/2021)

Location: 8/12/2022-S. DEAD

Summary: The State Records Management Act requires each head of a state agency to establish and maintain an active, continuing program for the economical and efficient management of the records and information collection practices of the agency, and to appoint a representative from the agency to serve as the Records Management Coordinator. Current law requires the coordinator to, among other duties, attend records management training classes offered by the Secretary of State, act as liaison between the agency, the California Records and Information Management Program (CalRIM), the State Records Center, and the State Records Appraisal Program (SRAP), and schedule CalRIM and SRAP training for agency staff who have records management duties. Current law also requires the Records Management Coordinator to coordinate an agency's records management program. This bill would revise the duties of the Records Management Coordinator with respect to coordinating an agency's records management program to expressly require that this coordination be in accordance with the provisions of the State Records Management Act and applicable standards established by the Secretary of State in the State Administrative Manual.

[AB 1458](#)

([Frazier](#) D) Fish and wildlife protection and conservation: lake and streambed alteration agreements: exemptions

Introduced: 2/19/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Current law prohibits a person, a state or local governmental agency, or a public utility from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or depositing or disposing of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless prescribed requirements are met, including written notification to the Department of Fish and Wildlife regarding the activity. Current law requires the department to determine whether the activity may substantially adversely affect an existing fish and wildlife resource and, if so, to provide a draft lake or streambed alteration agreement to the person, agency, or utility. Current law prescribes various requirements for lake and streambed alteration agreements. Current law also establishes various exemptions from these provisions. This bill would additionally exempt from these provisions vegetation management or fuels treatment projects undertaken, carried out, or approved by a state or local governmental agency necessary to prevent or mitigate the threat or intensity of a wildfire.

AB 1500

([Garcia, Eduardo](#) D) Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.

Introduced: 2/19/2021

Last Amend: 5/11/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/31/2022-A. DEAD

Summary: Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$7,080,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

AB 1525

([Garcia, Cristina](#) D) Cannabis provisional licenses.

Introduced: 2/19/2021

Status: 2/1/2022-Died at Desk.

Location: 1/21/2022-A. DEAD

Summary: MAUCRSA, until January 1, 2022, authorizes a licensing authority, in its sole discretion, to issue a provisional license if the applicant has submitted a completed license application to the licensing authority, including evidence that compliance with the California Environmental Quality Act (CEQA) or local cannabis ordinances is underway, if applicable, as specified. This bill would make nonsubstantive changes to the provisions authorizing a licensing authority to issue provisional licenses.

AB 1539

([Levine](#) D) Commercial vessels: protection and indemnity insurance.

Introduced: 2/19/2021

Last Amend: 3/23/2021

Status: 2/1/2022-From committee: Filed with the Chief Clerk pursuant to Joint Rule 56.

Location: 1/14/2022-A. DEAD

Summary: Current law expresses the policy of the state to promote safety for persons and property in and connected with the use and equipment of vessels. Current law requires every for-hire vessel company to procure adequate liability protection for the payment of damages for personal bodily injuries, including death, and property damage as a result of an accident. This bill would require a vessel used for commercial purposes to have a minimum of \$1,000,000 of protection and indemnity insurance to cover wreck removal costs of the vessel.

AB 1611

([Davies](#) R) Oil spills: potential casualties with submerged oil pipelines: vessels: reporting.

Introduced: 1/5/2022

Last Amend: 6/15/2022

Status: 7/5/2022-Failed Deadline pursuant to Rule 61(b)(14). (Last location was S. JUD. on 6/14/2022)

Location: 7/5/2022-S. DEAD

Summary: The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act requires, without regard to intent or negligence, any party responsible for the discharge or threatened discharge of oil in waters of the state to report the discharge immediately to the Office of Emergency Services. The act makes it a crime to fail to notify the office in violation of that requirement. The act requires the office, immediately upon receiving a report of discharge or threatened discharge, to notify specified state agencies, and the appropriate local governmental agencies in the area surrounding the discharged oil, and to take specified actions. This bill would require a potential casualty with a submerged oil pipeline, as described, to be treated as a threatened discharge of oil in waters of the state pursuant to the above-specified reporting provision.

AB 1657

([Nguyen](#) R) Oil spills: reporting: waters of the state.

Introduced: 1/14/2022

Last Amend: 4/28/2022

Status: 7/5/2022-Failed Deadline pursuant to Rule 61(b)(14). (Last location was S. N.R. & W. on 5/25/2022)

Location: 7/5/2022-S. DEAD

Summary: The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act requires, without regard to intent or negligence, any party responsible for the discharge or threatened discharge of oil in waters of the state to report the discharge immediately to the Office of Emergency Services. The act makes it a crime to fail to notify the office in violation of that requirement. This bill would define "threatened discharge of oil in waters of the state" to mean a discharge by an offshore facility, as defined, including an offshore pipeline, located where an oil spill may impact state waters. The bill would require an offshore facility to be presumed to be located where an oil spill may impact

state waters if certain circumstances apply, including that any portion of an offshore pipeline that services the offshore facility transports oil to, from, or through state waters. By expanding the scope of a crime, the bill would impose a state-mandated local program.

AB 1733

(Quirk D) State bodies: open meetings.

Introduced: 1/31/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was G.O. on 2/18/2022)

Location: 8/31/2022-A. DEAD

Summary: The Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. Current law requires a state body to provide notice of its meeting to any person who requests that notice in writing and to provide notice of the meeting of its internet website at least 10 days in advance of the meeting, as prescribed. Current law exempts from the 10-day notice requirement, special meetings and emergency meetings in accordance with specified provisions. Current law authorizes a state body to adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment, and authorizes a state body to similarly continue or recontinue any hearing being held, or noticed, or ordered to be held by a state body at any meeting. This bill would specify that a "meeting" under the act, includes a meeting held entirely by teleconference.

AB 1753

(Gallagher R) Fish and wildlife: poaching: penalties: probation period.

Introduced: 2/1/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was W.,P. & W. on 2/10/2022)

Location: 4/29/2022-A. DEAD

Summary: Current law prescribes certain penalties for the illegal sale or purchase of abalone taken by a person required to be licensed, as specified. Existing law prescribes certain penalties for the illegal take, possession, import, export, sale, purchase, barter, trade, or exchange of a bird, fish, mammal, reptile, amphibian, or part of any of those animals, or the illegal take or possession in the field of more than 3 times the daily bag limit, or the illegal possession of more than 3 times the legal possession limit, of those animals. Current law prescribes certain penalties for the knowing violation and conviction of certain provisions involving trophy deer, elk, antelope, bighorn sheep, or wild turkey. This bill would prohibit, if the court grants probation to a person punished pursuant to the above provisions, the period of probation from exceeding 3 years.

AB 1791

(Nazarian D) Rent control: local ordinances: residential units.

Introduced: 2/3/2022

Last Amend: 4/18/2022

Status: 5/6/2022-Failed Deadline pursuant to Rule 61(b)(6). (Last location was A. H. &

C.D. on 4/18/2022)

Location: 5/6/2022-A. DEAD

Summary: The Costa-Hawkins Rental Housing Act prescribes statewide limits on the application of local rent control with regard to certain properties. That act, among other things, authorizes an owner of residential real property to establish the initial and all subsequent rental rates for a dwelling or unit that has been issued a certificate of occupancy after February 1, 1995, has already been exempt from a residential rent control ordinance as of February 1, 1995, pursuant to a local exemption for newly constructed units, or is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision and meets specified requirements, subject to certain exceptions. This bill would prevent the application of the above-described limitation on local rent control measures where the property is owned by an applicable large business, defined as a business entity that owns 10 or more single-family residential properties and has annual gross receipts of \$1 billion or more.

AB 1795

(Fong R) Open meetings: remote participation.

Introduced: 2/7/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was G.O. on 2/18/2022)

Location: 4/29/2022-A. DEAD

Summary: The Bagley-Keene Open Meeting Act, requires state bodies to allow all persons to attend meetings and provide an opportunity for the public to address the state body regarding any item included in its agenda, except as specified. This bill would require state bodies, subject to existing exceptions, to provide all persons the ability to participate both in-person and remotely, as defined, in any meeting and to address the body remotely.

AB 1996

(Cooley D) State government: administrative regulations: review.

Introduced: 2/10/2022

Status: 5/20/2022-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 4/27/2022)

Location: 5/20/2022-A. DEAD

Summary: The Administrative Procedure Act, in part, authorizes various state entities to adopt, amend, or repeal regulations for various specified purposes. These rulemaking provisions of the act require the Office of Administrative Law and the state agency proposing to adopt, amend, or repeal a regulation to review the proposed changes for, among other things, consistency with current state regulations. Current law requires the office to initiate a priority review of existing regulations when requested by a committee of the Legislature, as specified. This bill would require each state agency to, on or before January 1, 2026, review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. The bill would repeal these provisions on January 1, 2027.

AB 2005

(Valladares R) Forestry: Wildfire and Forest Resilience Action Plan.

Introduced: 2/14/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was NAT. RES. on 2/24/2022)

Location: 4/29/2022-A. DEAD

Summary: Current law requires the Wildfire and Forest Resilience Task Force to develop a comprehensive implementation strategy to track and ensure the achievement of the goals and key actions identified in the state's Wildfire and Forest Resilience Action Plan, as provided. Current law requires the task force, on or before January 1, 2023, and annually thereafter until January 1, 2048, to submit a report containing specified information, including progress made in achieving the goals and key actions identified in the action plan, to the appropriate policy and budget committees of the Legislature. This bill would extend the time period for the submission of the annual report to January 1, 2049.

AB 2225

(Ward D) Resource conservation: Native American tribes: traditional ecological knowledge: policy: conservation and management of lands.

Introduced: 2/15/2022

Last Amend: 5/19/2022

Status: 7/5/2022-Failed Deadline pursuant to Rule 61(b)(14). (Last location was S. N.R. & W. on 6/8/2022)

Location: 7/5/2022-S. DEAD

Summary: Would require the Natural Resources Agency, no later than January 1, 2024, to conduct regional workshops with Native American tribes across the state to solicit the input, priorities, and concerns of Native American tribes regarding the state's collection, acquisition, storage, and use of traditional ecological knowledge, as defined. The bill would require the agency, no later than July 1, 2024, in consultation with the Governor's tribal advisor, to adopt a policy regarding the state's collection, acquisition, storage, and use of traditional ecological knowledge, as provided. The bill would require, on and after July 1, 2024, every department, board, conservancy, and commission under the agency to, among other things, incorporate the policy described above, including in guidelines for grant programs that offer land conservation or management funding.

AB 2241

(Nguyen R) Coastal resources: California Coastal Commission: scientific advice and recommendations.

Introduced: 2/16/2022

Status: 5/6/2022-Failed Deadline pursuant to Rule 61(b)(6). (Last location was A. PRINT on 2/16/2022)

Location: 5/6/2022-A. DEAD

Summary: The California Coastal Act of 1976 requires any person wishing to perform or undertake any development in the coastal zone, as defined, to obtain a coastal

development permit, except as provided. Under current law, the Legislature finds and declares that sound and timely scientific recommendations are necessary for many coastal planning, conservation, and development decisions and that the commission should interact with members of the scientific and academic communities in the social, physical, and natural sciences so that the commission may receive technical advice and recommendations with regard to its decisionmaking, especially with regard to issues that include, among other specified issues, coastal erosion and geology, marine biodiversity, and wetland restoration. This bill would make a nonsubstantive change to the latter provision.

AB 2346

(Gabriel D) Outdoor recreation: Outdoors for All Program.

Introduced: 2/16/2022

Last Amend: 4/19/2022

Status: 5/20/2022-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 5/11/2022)

Location: 5/20/2022-A. DEAD

Summary: Would establish in the Natural Resources Agency the Outdoors for All Program to support access to natural or cultural resources for at-risk youth, outdoor environmental educational experiences for underserved and at-risk populations, and equitable access to parks and outdoor spaces for all Californians. This program would encompass the existing Outdoor Equity Grants Program and Youth Community Access Program, as well as the Californians Outside Program, established by this bill, to provide grants to an eligible entity, as defined, for projects that provide transportation to outdoor spaces, outdoor-related recreation, outdoor physical activity programming, outdoor education, natural resources workforce development, and communications related to water, parks, climate, coastal protection, and other outdoor pursuits.

AB 2370

(Levine D) Public records: state agency retention.

Introduced: 2/16/2022

Last Amend: 3/23/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 6/27/2022)

Location: 8/12/2022-S. DEAD

Summary: The California Public Records Act requires a public agency, defined to mean any state or local agency, to make public records available for inspection, subject to certain exceptions. Current law specifies that public records include any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. This bill 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 state agency, for purposes of the California Public Records Act, to retain and preserve for at least 2 years every public record, as defined, regardless of physical form or characteristics.

AB 2377

(Muratsuchi D) Fire prevention: Secretary of the Natural Resources Agency: responsibilities.

Introduced: 2/17/2022

Last Amend: 6/29/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/2/2022)

Location: 8/12/2022-S. DEAD

Summary: Current law provides that the Department of Forestry and Fire Protection is responsible for the fire protection, fire prevention, maintenance, and enhancement of the state's forest, range, and brushland resources, contract fire protection, associated emergency services, and assistance in civil disasters and other nonfire emergencies. This bill would require the Secretary of the Natural Resources Agency to be responsible for specified actions as provided, including, in consultation with the State Water Resources Control Board, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection, and the State Board of Forestry and Fire Protection, coordinating and synchronizing all necessary permits and agreements for forest management, wildfire prevention, and fuel reduction.

AB 2387

(Garcia, Eduardo D) Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.

Introduced: 2/17/2022

Last Amend: 3/21/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was APPR. SUSPENSE FILE on 5/11/2022)

Location: 8/31/2022-A. DEAD

Summary: Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$7,430,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

AB 2421

(Rubio, Blanca D) Water: unlicensed cannabis cultivation.

Introduced: 2/17/2022

Last Amend: 4/20/2022

Status: 7/5/2022-Failed Deadline pursuant to Rule 61(b)(14). (Last location was S. N.R. & W. on 6/8/2022)

Location: 7/5/2022-S. DEAD

Summary: Current law makes it unlawful to deposit, permit to pass, or place where it can pass, specified pollutants into the waters of this state, including any substance or material deleterious to fish, plant life, mammals, or bird life. A violation of this provision

is a crime under the Fish and Game Code. Current law also subjects a violation of that provision to a civil penalty of no more than \$25,000 for each violation and an additional civil penalty of no more than \$10 for each gallon or pound of material discharged, and requires the civil action to be brought by the Attorney General upon complaint by the Department of Fish and Wildlife or by the district attorney or city attorney in the name of the people of the State of California. Current law provides that a specified affirmative defense to a violation of the criminal provision does not apply to an action for civil penalties or injunctive relief pursuant to that civil provision. This bill would provide that the specified affirmative defense to a violation of the criminal provision also does not apply in any other civil action that alleges a violation resulting from unlicensed cannabis cultivation.

AB 2451

(Wood D) State Water Resources Control Board: drought planning.

Introduced: 2/17/2022

Last Amend: 8/1/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/8/2022)

Location: 8/12/2022-S. DEAD

Summary: (1)Current law establishes within the Natural Resources Agency the State Water Resources Control Board and the California regional water quality control boards. Current law requires the work of the state board to be divided into at least 2 divisions, known as the Division of Water Rights and the Division of Water Quality. Current law requires the state board to formulate and adopt state policy for water quality control. This bill would create a Drought Section within the state board, as specified. The bill would require the state board, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines for diversion and use of water in coastal watersheds, as specified, during times of water shortage for drought preparedness and climate resiliency. The bill would require that the principles and guidelines provide for the development of watershed-level contingency plans to support public trust uses, public health and safety, and the human right to water in times of water shortage, among other things. The bill also would require the state board, prior to adopting those principles and guidelines, to allow for public comment and hearing, as provided. The bill would require the state board to adopt those principles and guidelines no later than March 31, 2024.

AB 2512

(Bloom D) Animals: aquatic plants: importation, transportation, and sheltering.

Introduced: 2/17/2022

Last Amend: 4/20/2022

Status: 5/20/2022-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 5/11/2022)

Location: 5/20/2022-A. DEAD

Summary: Current law prohibits the importation, transportation, possession, or live release of specified wild animals, except under a revocable, nontransferable permit. Current law permits the Fish and Game Commission, by regulation, and in cooperation with the Department of Food and Agriculture, to add or delete wild animals from the list

of specified wild animals. Current law requires the Department of Fish and Wildlife to publish, from time to time as changes arise, a list of animals that may not be imported or transported into this state. Under existing law, any violation of the Fish and Game Code, or of any rule, regulation, or order made or adopted under this code, is a crime. This bill would authorize the commission to adopt regulations to limit the number of individuals or authorized uses of a wild animal, or prohibit the importation, transportation, or possession of any wild animal. The bill would delete the requirement for the department to publish the list and would instead require the department to establish a list of wild animals that may not be imported into, transported, or possessed in this state.

AB 2532

(Bennett D) Scoping plan: state agency, board, and department compliance and implementation: reports.

Introduced: 2/17/2022

Last Amend: 4/19/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/8/2022)

Location: 8/12/2022-S. DEAD

Summary: The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years. The act requires the scoping plan to identify and make recommendations on direct emissions reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and potential monetary and nonmonetary incentives for sources and categories of sources that the state board finds are necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of greenhouse gas emissions, as provided. This bill would require, on or before March 1, 2023, and on or before March 1 of each year thereafter, each state agency, board, or department to post on its internet website a report regarding its compliance with and efforts to implement any goal or recommendation related to that state agency, board, or department, as defined, that is identified by the state board in the scoping plan, including any scoping plan updates. The bill would require a state agency, board, or department to include specified information in its report, including, but not limited to, identification of all scoping plan goals or recommendations that the state agency, board, or department is charged with or responsible, in whole or in part, for implementing, a description of the state agency's, board's, or department's, efforts to implement each scoping plan goal or recommendation, and whether the state agency, board, or department has fully implemented each scoping plan goal or recommendation.

AB 2557

(Bonta, Mia D) Peace officers: records.

Introduced: 2/17/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was JUD. on 4/19/2022)

Location: 4/29/2022-A. DEAD

Summary: Would make records and information obtained from records maintained by an agency or body established by a city, county, city and county, local government entity, state agency, or state department for the purpose of civilian oversight of peace officers subject to disclosure pursuant to the California Public Records Act. The bill would require those records to be redacted only as specified. By increasing duties on local entities, this bill would create a state-mandated local program.

AB 2600

(Dahle, Megan R) State agencies: letters and notices: requirements.

Introduced: 2/18/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was A. & A.R. on 3/10/2022)

Location: 4/29/2022-A. DEAD

Summary: Would require that every state agency, when sending any communication to any recipient, state, in bolded font at the beginning of the communication, whether it requires action on the part of the recipient or serves as notice requiring no action.

AB 2609

(Petrie-Norris D) Oil: facility response plan.

Introduced: 2/18/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was NAT. RES. on 3/10/2022)

Location: 4/29/2022-A. DEAD

Summary: Would require an operator of a onshore facility or marine facility that poses any risk of discharging oil into or on waters and that is required to prepare an Facility Response Plan (FRP) pursuant to the federal law to submit the plan to the State Lands Commission. The bill would require the commission to post the plan on its internet website within 30 days of receiving the plan from an operator. The bill would require the commission to hold at least 2 public hearings in different parts of the state to receive public comment on the plans.

AB 2610

(Friedman D) Wildlife Conservation Board: ecologically sensitive vegetation management: wildfire risk reduction.

Introduced: 2/18/2022

Last Amend: 3/24/2022

Status: 5/20/2022-Failed Deadline pursuant to Rule 61(b)(8). (Last location was A. APPR. SUSPENSE FILE on 5/11/2022)

Location: 5/20/2022-A. DEAD

Summary: The Wildlife Conservation Law of 1947 establishes the Wildlife Conservation Board in the Department of Fish and Wildlife. Current law requires the board to determine the areas in the state that are most essential and suitable for wildlife production and preservation and that will provide suitable recreation, and to determine those lands in the state that are suitable for specified wildlife-related purposes. This bill would express the intent of the Legislature to encourage ecologically sensitive vegetation management practices for the purpose of maintaining ecological health and

strengthening biodiversity while mitigating wildfire risk through fuel load reduction.

AB 2719

([Fong](#) R) California Environmental Quality Act: exemptions: highway safety improvement projects.

Introduced: 2/18/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was NAT. RES. on 3/10/2022)

Location: 4/29/2022-A. DEAD

Summary: CEQA includes exemptions from its environmental review requirements for numerous categories of projects, including, among others, emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway under specified circumstances. This bill would further exempt from the requirements of CEQA highway safety improvement projects, as defined, undertaken by the Department of Transportation or a local agency.

AB 2757

([Dahle, Megan](#) R) Wildlife resources: natural community conservation plans: public review.

Introduced: 2/18/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was W.,P. & W. on 3/17/2022)

Location: 4/29/2022-A. DEAD

Summary: The Natural Community Conservation Planning Act authorizes the Department of Fish and Wildlife to enter into agreements with any person or public entity for the purpose of preparing a natural community conservation plan, in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species. Current law requires the department to establish a process for public participation throughout plan development and review, and requires this process to include a requirement that draft documents associated with a natural community conservation plan that are being considered for adoption by the plan lead agency are available for public review and comment for at least 60 days before the adoption of that draft document, and preliminary public review documents are made available by the plan lead agency at least 10 working days before any public hearing addressing these documents. This bill would also require draft documents associated with a natural community conservation plan and preliminary public review documents to be posted on the plan lead agency's internet website within the timeframes described above.

AB 2772

([Dahle, Megan](#) R) Livestock: losses to wolves: compensation program.

Introduced: 2/18/2022

Status: 5/6/2022-Failed Deadline pursuant to Rule 61(b)(6). (Last location was A. PRINT on 2/18/2022)

Location: 5/6/2022-A. DEAD

Summary: Current law establishes the Department of Food and Agriculture to promote and protect the agricultural industry of the state. Current law authorizes the Secretary of Food and Agriculture to employ hunters and trappers throughout the state to control or eradicate coyotes and other harmful predatory animals and to shoot or trap bears that are damaging livestock, agricultural crops, or standing timber. This bill would state the intent of the Legislature to enact subsequent legislation to develop a compensation program for livestock owners who lose animals to wolves.

AB 2792

(Rubio, Blanca D) Cannabis: excise tax: cultivation tax.

Introduced: 2/18/2022

Last Amend: 4/18/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was B.&P. on 3/24/2022)

Location: 8/31/2022-A. DEAD

Summary: The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) imposes an excise tax on upon purchasers of cannabis or cannabis products sold in this state at the rate of 15% of the average market price of any retail sale by a cannabis retailer. Current law defines average market price in an arm's length transaction to mean the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a markup, as determined by the California Department of Tax and Fee Administration on a biannual basis in 6-month intervals. Current law prohibited the department from increasing the markup amount during the period beginning on and after September 18, 2020, and before July 1, 2021. This bill, from July 1, 2022, to July 1, 2025, inclusive, would prohibit the department from including any markup amount in the average market price in an arm's length transaction for purposes of the cannabis excise tax, and would reduce the rate of the cannabis excise tax imposed on purchasers in a nonarm's length transaction to 8%. The bill, from July 1, 2022, to July 1, 2025, inclusive, would suspend the imposition of the excise tax upon purchasers of cannabis or cannabis products sold in this state by licensees eligible for a fee waiver or deferral pursuant to the program established by the Department of Cannabis Control under the California Cannabis Equity Act.

AB 2893

(Daly D) Administrative Procedure Act: standardized regulatory impact analysis: comments, updates, and format.

Introduced: 2/18/2022

Last Amend: 4/21/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/2/2022)

Location: 8/12/2022-S. DEAD

Summary: The Administrative Procedure Act requires each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, to prepare a standardized regulatory impact analysis, as described, as part of the initial statement of reasons. Existing law requires each state agency that has prepared that analysis to submit the analysis to the Department of Finance. Existing law authorizes the state

agency to update its analysis to reflect any comments received from the department. This bill would, instead, require the state agency to update its analysis to reflect any comments received from the department, as described above. The bill would also require, if the proposed major regulation is updated following the department's comments, the state agency to take public comment for 30 additional days each time the regulation is updated and the state agency to update its analysis and submit the analysis to the department for comment, as described.

AB 2919

(Fong R) Dams: release of water: fish populations.

Introduced: 2/18/2022

Last Amend: 3/24/2022

Status: 4/29/2022-Failed Deadline pursuant to Rule 61(b)(5). (Last location was W.,P. & W. on 3/24/2022)

Location: 4/29/2022-A. DEAD

Summary: Current law requires the owner of a dam to allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. This bill would provide that, notwithstanding any other law, the release of water from a dam shall only be regulated based on actual fish populations and not based on approximate fish populations.

AB 2940

(Dahle, Megan R) Water rights: reasonable and beneficial use of water.

Introduced: 2/18/2022

Status: 5/6/2022-Failed Deadline pursuant to Rule 61(b)(6). (Last location was A. PRINT on 2/18/2022)

Location: 5/6/2022-A. DEAD

Summary: Current law declares that the right to water is limited to that water that is reasonably required for the beneficial use to be served, and does not extend to the waste or unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. This bill would make nonsubstantive changes to that provision.

SB 42

(Wieckowski D) Department of Fish and Wildlife: Eden Landing Ecological Reserve.

Introduced: 12/7/2020

Last Amend: 6/23/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was THIRD READING on 6/27/2022)

Location: 8/31/2022-A. DEAD

Summary: Would amend the Budget Act of 2021 by revising "Congressman Pete Stark Ecological Reserve" to "Congressman Pete Stark Ecological Reserve at Eden Landing" within that appropriation and would rename the "Eden Landing Ecological Reserve," as specified in certain regulations, the "Congressman Pete Stark Ecological Reserve at Eden Landing." The bill would require the department to implement that name change

and would provide that, notwithstanding any other law, commission approval is not required to implement the name change.

SB 59

(Caballero D) Cannabis provisional licenses: local equity applicants.

Introduced: 12/7/2020

Last Amend: 4/12/2021

Status: 2/1/2022-Died on file pursuant to Joint Rule 56.

Location: 2/1/2022-S. DEAD

Summary: MAUCRSA, until January 1, 2022, authorizes a licensing authority, in its sole discretion, to issue a provisional license if the applicant has submitted a completed license application to the licensing authority, including evidence that compliance with the California Environmental Quality Act (CEQA) or local cannabis ordinances is underway, if applicable, as specified. This bill would prohibit a licensing authority from issuing a new provisional license to an applicant on or after July 1, 2022, unless the applicant is a qualified equity applicant, as defined by the California Cannabis Equity Act, and would authorize a licensing authority to reinstate a provisional license issued prior to July 1, 2022, to an applicant for the same activity previously licensed at the location. The bill would extend the repeal date of these provisional license provisions to July 1, 2028.

SB 195

(Committee on Budget and Fiscal Review) Cannabis.

Introduced: 1/8/2021

Last Amend: 6/26/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was BUDGET on 6/30/2022)

Location: 8/31/2022-A. DEAD

Summary: Current law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA establishes the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency to administer the act, and requires the department to be under the supervision and control of a director. Existing law specifies the annual compensation for various directors of state departments and agencies, including the Director of Transportation and the Director of Fish and Wildlife. This bill would require the annual compensation for the Director of Cannabis Control to be consistent with the directors described above.

SB 322

(Laird D) Grazing land: California Conservation Ranching Incentive Program.

Introduced: 2/5/2021

Last Amend: 3/7/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/21/2022-S. DEAD

Summary: Would establish the California Conservation Ranching Incentive Program as a separate component of the California Farmland Conservancy Program. The bill would

authorize the Director of Conservation to, subject to appropriation, enter into contracts for an initial term of 3 years with nonpublic entities that are owners of record or lessees of productive rangelands, grazing lands, or grasslands that are determined by the director to be important for the conservation of grassland birds, soil health, and biodiversity. The bill would require these contracts to include an agreement by the owner and any lessee to restore, enhance, and protect the grassland habitat character of the land subject to the contract and to require the Department of Conservation to pay a specified amount to the owner or lessee for undertaking conservation obligations under the contract.

SB 337

(Newman D) West Coyote Hills Conservancy Program.

Introduced: 2/8/2021

Last Amend: 3/9/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/14/2022-S. DEAD

Summary: Would, until January 1, 2028, establish the West Coyote Hills Conservancy Program, to be administered by the conservancy and to undertake projects and award grants in the West Coyote Hills area, as specified, for purposes relating to improvement of public access, and the protection, restoration, and enhancement of natural resources in the area. The bill would prescribe the duties of the conservancy with regard to the implementation and administration of the program. The bill would create the West Coyote Hills Conservancy Program Account within the fund, for the purpose of depositing and disbursing funds, upon appropriation by the Legislature, for program purposes. The bill would require that the \$28,500,000 appropriated in the Budget Act of 2021 for the purposes of this bill be deposited in the account to be used for the purchase of specified property and related projects.

SB 376

(Stern D) Wildlife: prohibitions on possession, transportation, and importation of wild animals: live animal markets.

Introduced: 2/10/2021

Last Amend: 5/4/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/21/2022-S. DEAD

Summary: Current law authorizes the Department of Fish and Wildlife to exchange or release to any appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by the department under any provision of the Fish and Game Code or any regulation adopted pursuant to this code. This bill would require the Director of Fish and Wildlife, or a designated representative, to coordinate with and cooperate on wildlife trafficking with authorized representatives of the States of Oregon, Washington, and any other state. The bill would provide that these efforts shall include, but are not limited to, notification of wildlife trafficking violations observed in this state, and any potential emerging zoonotic disease risk associated with wildlife.

SB 396

(Bradford D) Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard.

Introduced: 2/11/2021

Last Amend: 6/30/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was CONCURRENCE on 8/4/2022)

Location: 8/31/2022-S. DEAD

Summary: Existing law authorizes any person who owns, controls, operates, or maintains any electrical transmission or distribution line to traverse land as necessary, regardless of land ownership or express permission to traverse land from the landowner, after providing notice and an opportunity to be heard to the landowner, to prune trees to maintain clearances, as provided, and to abate, by pruning or removal, any hazardous, dead, rotten, diseased, or structurally defective live trees. This bill would subject property access by an electrical corporation for felling, cutting, or trimming trees to provisions similar to those applicable to pruning trees, maintaining clearances, and abating trees around electrical transmission or distribution lines, including provisions requiring notice to the landowner and an opportunity to be heard. The bill would explicitly require tree felling, cutting, and trimming activities to comply with certain commission vegetation management rules, if applicable, and with the California Coastal Act of 1976 and the forest practice rules and regulations adopted by the State Board of Forestry and Fire Protection. This bill contains other related provisions and other existing laws.

SB 412

(Ochoa Bogh R) California Environmental Quality Act: emergency definition.

Introduced: 2/12/2021

Last Amend: 4/12/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/14/2022-S. DEAD

Summary: Would expand the definition of "emergency" provided in CEQA to include a project jointly identified by a state or local agency and the Department of Forestry and Fire Protection or the State Board of Forestry and Fire Protection, with notice to the Department of Fish and Wildlife, as mitigating a high threat to life and safety by preventing, minimizing, or mitigating damage to life, health, property, natural resources, or essential public services, resulting from a catastrophic fire in areas of the state that a lead agency determines, based on substantial evidence, are at a heightened risk of the occurrence of that event. The bill would also specify that "emergency" includes, but is not limited to, man-made or natural occurrences, as specified, and would make other nonsubstantive changes.

SB 413

(McGuire D) Electricity: offshore wind generation facilities: site certification.

Introduced: 2/12/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/14/2022-S. DEAD

Summary: Would require the Energy Commission, in consultation with the Offshore Wind Project Certification, Fisheries, Community, and Indigenous Peoples Advisory Committee, which the bill would create, to establish a process for the certification of offshore wind generation facilities that is analogous to the existing requirements for certification of thermal powerplants, but applicable to offshore wind generation facilities, and would make the Energy Commission the exclusive authority for the certification of offshore wind generation facilities. The bill would require an applicant for certification of an offshore wind generation facility to certify specified matter.

SB 470

(Jones R) Fishing and hunting: annual combined hunting and fishing licenses.

Introduced: 2/17/2021

Last Amend: 4/20/2021

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 7/14/2021)

Location: 8/12/2022-A. DEAD

Summary: Would create the annual combined hunting and fishing license that would grant the holder of the license the same privileges as the annual hunting and fishing licenses and that would be valid for a term of one year from the date of purchase of the license. The bill would require the Department of Fish and Wildlife to issue these licenses beginning January 1, 2024. The bill would require the department to submit a report to the Legislature on or before July 1, 2023, that among others things, estimates the initial license fee necessary to fully recover the cost of developing, implementing, and administering the license and associated enforcement activities. The bill would require the Fish and Game Commission to determine the amount of the initial license fee based upon information in that report.

SB 475

(Cortese D) Transportation planning: sustainable communities strategies.

Introduced: 2/17/2021

Last Amend: 3/10/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/14/2022-S. DEAD

Summary: Would require the State Air Resources Board, on or before June 30, 2023, and in coordination with the California Transportation Commission and the Department of Housing and Community Development, to issue new guidelines on sustainable communities strategies and require these guidelines to be updated thereafter at least every 4 years. The bill would delete the provisions related to the Regional Targets Advisory Committee and instead require the State Air Resources Board to appoint, on or before January 31, 2022, the State-Regional Collaborative for Climate, Equity, and Resilience, consisting of representatives of various entities. The bill would require the State-Regional Collaborative for Climate, Equity, and Resilience to develop a quantitative tool for metropolitan planning organizations to use to evaluate a transportation plan's consistency with long-range greenhouse gas emission reduction targets and recommend guidelines for metropolitan planning organizations to use when

crafting long-range strategies that integrate state goals related to climate resilience and social equity.

SB 482

(Hueso D) Salton Sea: long-term strategy.

Introduced: 2/17/2021

Last Amend: 4/7/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/14/2022-S. DEAD

Summary: Current law, including the Salton Sea Restoration Act , specifies various sources of funding for Salton Sea restoration and mitigation projects, and provides for the allocation of various responsibilities among state agencies and regional water agencies for implementation and administration of those projects. This bill would require the secretary to work with local stakeholders to develop a long-term strategy for the Salton Sea. The bill would require the long-term strategy to, among other things, assess the environmental impacts and economic viability of the Salton Sea, identify challenges to enacting a long-term strategy, and provide recommendations for addressing the identified challenges.

SB 592

(Dahle R) Fish and wildlife: working group: catastrophic wildfires: reports.

Introduced: 2/18/2021

Last Amend: 4/20/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/21/2022-S. DEAD

Summary: Would require the Director of Fish and Wildlife to establish a working group, composed of the director or the director's representative, the Director of Forestry and Fire Protection or their representative, and a county government representative from each county impacted by any catastrophic wildfire being studied by the workgroup, as described below. The bill would require the working group to study, investigate, and report, on or before December 31, 2022, and by December 31 each year thereafter, 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, and would require, to the extent feasible, the department to obtain and keep current baseline data suitable for interpreting that impact.

SB 595

(Caballero D) Climate change adaptation: workforce development retraining.

Introduced: 2/18/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/21/2022-S. DEAD

Summary: Would express the intent of the Legislature to enact subsequent legislation that would require climate change adaptation regulations to take into account workforce development retraining needs and plans to meet those needs.

SB 604

(Hueso D) Natural resources: the Nature and Parks Career Pathway and Community Resiliency and Equity Act of 2021.

Introduced: 2/18/2021

Last Amend: 4/5/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/21/2022-S. DEAD

Summary: Existing law establishes various environmental and economic policies and programs. This bill, upon appropriation by the Legislature, as provided, would establish the Nature and Parks Career Pathway and Community Resiliency and Equity Act of 2021, which would require state conservancies and the Wildlife Conservation Board to establish grant programs to fund climate mitigation, adaptation, or resilience, natural disaster, and other climate emergency projects, as specified.

SB 698

(Grove R) Water rights: reasonable and beneficial use of water.

Introduced: 2/19/2021

Status: 2/1/2022-Returned to Secretary of Senate pursuant to Joint Rule 56.

Location: 1/21/2022-S. DEAD

Summary: Existing law declares that the right to water is limited to that water that is reasonably required for the beneficial use to be served, and does not extend to the waste or unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. This bill would make nonsubstantive changes to that provision.

SB 865

(Dodd D) Junior hunting licenses: age of eligibility.

Introduced: 1/20/2022

Last Amend: 6/20/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/3/2022)

Location: 8/12/2022-A. DEAD

Summary: This bill, on July 1, 2023, would increase the age of eligibility for an applicant for a reduced-fee junior hunting license from 16 to 18 years of age, as specified. The bill, on July 1, 2028, would restore the age of eligibility for an applicant for a reduced-fee junior hunting license to 16 years of age. The bill would also make related conforming changes.

SB 977

(Laird D) Grazing land: California Conservation Ranching Incentive Program.

Introduced: 2/10/2022

Last Amend: 4/20/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/3/2022)

Location: 8/12/2022-A. DEAD

Summary: Would, upon an appropriation by the Legislature, establish the California

Conservation Ranching Incentive Program. The bill would require the Wildlife Conservation Board to administer the program to award grants to eligible entities, as defined, to administer, plan, and implement local programs to enhance or restore California's private rangelands, as specified. The bill would require the board to develop program grant guidelines and would require the board and any program grantee, in evaluating proposed projects, to consider specified selection criteria. The bill would permit the board to authorize a program grantee to use not more than 30% of the grant moneys for specified administrative and outreach purposes relating to the program. The bill would require each program grantee, on or before a date determined by the board in the grant agreement, to submit to the board an annual report describing and evaluating the implementation of the project and the use of the grant moneys for the project during the previous year, as specified.

SB 1000

(Becker D) Law enforcement agencies: radio communications.

Introduced: 2/14/2022

Last Amend: 5/19/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/3/2022)

Location: 8/12/2022-A. DEAD

Summary: Current law establishes the California Law Enforcement Telecommunications System (CLETS) to make specified criminal justice databases, including individual criminal histories, wanted and missing persons, and stolen firearms, vehicles, and property, available to participating law enforcement agencies. Current law prohibits unauthorized access to CLETS and the unlawful use of CLETS information by authorized users. Existing law authorizes the Attorney General to adopt policies, procedures, and practices related to the use of CLETS. These rules require a participating agency to restrict access to CLETS and define "access" as the ability to see or hear any information obtained from CLETS. This bill would require a law enforcement agency, including the California Highway Patrol, municipal police departments, county sheriff's departments, specified local law enforcement agencies, and specified university and college police departments, to, by no later than January 1, 2024, ensure public access to the radio communications of that agency, as specified.

SB 1074

(McGuire D) Cannabis: excise tax: cultivation tax.

Introduced: 2/15/2022

Last Amend: 5/9/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was INACTIVE FILE on 5/25/2022)

Location: 8/31/2022-S. DEAD

Summary: The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. AUMA imposes an excise tax on upon purchasers of

cannabis or cannabis products sold in this state at the rate of 15% of the average market price of any retail sale by a cannabis retailer, and a separate cultivation tax on harvested cannabis that enters the commercial market, as specified. Current law requires the California Department of Tax and Fee Administration to administer and collect the taxes. Current law requires revenues from those taxes to be deposited into the California Cannabis Tax Fund, and continuously appropriates that tax fund for specified purposes. This bill would discontinue, beginning on July 1, 2022, the imposition of the cultivation tax, as specified.

SB 1077

(Bates R) Coastal resources: Climate Ready Program: grants: nonnative and invasive plants: removal and restoration.

Introduced: 2/15/2022

Last Amend: 5/19/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. SUSPENSE FILE on 8/3/2022)

Location: 8/12/2022-A. DEAD

Summary: Would specifically authorize the State Coastal Conservancy to award grants to public agencies and nonprofit organizations that increase resilience of habitat and natural lands. The bill would require the conservancy, in awarding grants, as part of the prioritization of projects described above, to include those projects that accomplish the removal of nonnative and invasive plants from coastal features, habitats, and ecosystems, and their replacement with native plant species, upon appropriation. The bill would authorize the conservancy to consult, as needed, with the Department of Fish and Wildlife, the Invasive Species Council of California, and other entities in determining the invasive status of any species.

SB 1086

(Melendez R) Greenhouse Gas Reduction Fund: Salton Sea restoration.

Introduced: 2/15/2022

Last Amend: 3/14/2022

Status: 5/6/2022-Failed Deadline pursuant to Rule 61(b)(6). (Last location was S. E.Q. on 3/23/2022)

Location: 5/6/2022-S. DEAD

Summary: The California Global Warming Solutions Act of 2006 authorizes the State Air Resources Board to include the use of market-based compliance mechanisms. Current law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature. Current law states the intent of the Legislature that moneys collected pursuant to the market-based compliance mechanism be appropriated to include certain priorities, including air toxic and criteria air pollutants from stationary and mobile sources. This bill would include pollutants from the Salton Sea as air toxic and criteria air pollutants from stationary and mobile sources for purposes of the priorities established in the above-described statement of intent of the Legislature. The bill would require, if moneys are appropriated from the Greenhouse

Gas Reduction Fund for the Salton Sea ecosystem as a priority, that those moneys be deposited into the Salton Sea Restoration Fund.

SB 1146

(Grove R) Water rights: reasonable and beneficial use of water.

Introduced: 2/16/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was RLS. on 2/16/2022)

Location: 8/31/2022-S. DEAD

Summary: Current law declares that the right to water is limited to that water that is reasonably required for the beneficial use to be served, and does not extend to the waste or unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. This bill would make nonsubstantive changes to that provision.

SB 1148

(Laird D) Cannabis: licenses: California Environmental Quality Act.

Introduced: 2/16/2022

Last Amend: 6/30/2022

Status: 8/12/2022-Failed Deadline pursuant to Rule 61(b)(15). (Last location was APPR. on 6/27/2022)

Location: 8/12/2022-A. DEAD

Summary: Would provide that CEQA does not apply to the issuance of a state license for a project to engage in commercial cannabis activity if the appropriate local jurisdiction has (1) approved the project, either adopted a negative declaration or mitigated negative declaration for the project or certified an environmental impact report for the project, and filed a notice of determination, or (2) approved the project following a determination that the project complies with a local ordinance governing commercial cannabis activity for which an environmental impact report has been certified and the project does not result in an impact that was not analyzed in that environmental impact report. The bill, in order to qualify for the exemption, would require the local jurisdiction's determination on the project or local ordinance to be final and not the subject of pending judicial review, as described.

SB 1244

(Cortese D) Department of Fish and Wildlife: Public Resources Account.

Introduced: 2/17/2022

Last Amend: 3/16/2022

Status: 5/20/2022-Failed Deadline pursuant to Rule 61(b)(8). (Last location was S. APPR. SUSPENSE FILE on 5/16/2022)

Location: 5/20/2022-S. DEAD

Summary: Would transfer the moneys appropriated from the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund for programs to protect, restore, enhance, or maintain waterfowl habitat to the Department of Fish and Wildlife. The bill would require the department to use the moneys received from the Public Resources Account for programs to protect, restore, enhance, or maintain waterfowl habitat, as specified.

SB 1281

(Bradford D) Cannabis taxes.

Introduced: 2/18/2022

Last Amend: 5/9/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was REV. & TAX on 6/2/2022)

Location: 8/31/2022-A. DEAD

Summary: The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure, as additionally amended by statute, imposes a weight-based cultivation tax on harvested cannabis that enters the commercial market and a separate excise tax on purchasers of cannabis or cannabis products sold in this state at the rate of 15% of the average market price of any retail sale by a cannabis retailer, as specified. Current law defines average market price in an arm's length transaction to mean the average retail price determined by the wholesale cost of the cannabis or cannabis products sold or transferred to a cannabis retailer, plus a mark-up, as determined by the California Department of Tax and Fee Administration on a biannual basis in 6-month intervals. Current law requires revenues from the cultivation and excise taxes to be deposited into the California Cannabis Tax Fund, and continuously appropriates that tax fund for specified purposes. This bill, beginning on January 1, 2023, would discontinue the imposition of the cultivation tax, as specified, and would impose the excise tax on purchasers of cannabis or cannabis products sold in this state at the rate of 5% of the gross receipts of any retail sale by a cannabis retailer, as specified.

SB 1426

(Caballero D) Cannabis: water pollution crimes.

Introduced: 2/18/2022

Last Amend: 5/2/2022

Status: 8/31/2022-Failed Deadline pursuant to Rule 61(b)(18). (Last location was APPR. SUSPENSE FILE on 5/16/2022)

Location: 8/31/2022-S. DEAD

Summary: Would amend the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) by making it a misdemeanor or felony to plant, cultivate, harvest, dry, or process more than 50 living cannabis plants, or any part thereof, and where that activity involves unauthorized tapping into a water conveyance or storage infrastructure or digging or extracting groundwater from an unpermitted well. The bill would also clarify that causing substantial environmental harm to public resources includes groundwater. By expanding the scope of a crime, this bill would impose a state-mandated local program.

For more information call:

Clark Blanchard, CDFW Deputy Director at (916) 591-0140

Julie Oltmann, CDFW Legislative Representative at (916) 799-8804

Kristin Goree, CDFW Legislative Coordinator at (916) 203-5551

You can also find legislative information on the web at <http://leginfo.legislature.ca.gov/> and follow the prompts from the 'bill information' link.

Commissioners
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Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

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October 5, 2022

Nancy Wallace, Director
NOAA Marine Debris Program

Re: Support for the California State Lands Commission FY22 Marine Debris Removal Grant Application

Dear Director Wallace:

I am writing on behalf of the California Fish and Game Commission to express support of our sibling agency, the California State Lands Commission, application for Priority 1 funding being made available under NOAA's FY22 Marine Debris Removal Grant opportunity. The State Lands Commission (CSLC) proposes to use the grant for a Sonoma-Marin Marine Debris Removal Program.

The California Fish and Game Commission is a decision-making body with broad authority and mandates from the California State legislature to hold California's fish and wildlife and their habitats in the public trust through adopting policies and regulations to both sustain and enhance its fish, wildlife, and ecosystems, and foster a rich and enduring outdoor heritage to benefit all generations. The Commission's authorities and mandates extend into the marine environment.

As you may recall, the Commission invited NOAA Marine Debris Program staff to engage in dialogue at our Marine Resources Committee meeting regarding aquaculture- and fishing-related marine debris, and to explore pathways for interagency coordination. Subsequently, the Commission formerly endorsed the *2018 California Ocean Litter Prevention Strategy: Addressing Marine Debris from Source to Sea* and signed on as a lead and/or partner organization for several action items, including Item 6.4.5., *Identify and remove, when deemed appropriate, legacy debris from California's coastal ocean (e.g., legacy aquaculture debris, anchorage debris)*, for which the commission and NOAA Marine Debris Program committed to partner. Several of the targets proposed in the CSLC application are aligned with this priority objective. While, to date, funding has not been allocated to the commission, the commission continues to support and encourage pursuit of this objective, especially through partner efforts such as those your program activates.

The requested grant funds will leverage a broad, diverse regional partnership spanning Marin and Sonoma counties. The project proposed by CSLC will draw on the expertise and knowledge of stakeholders from state, local and federal government, the non-profit and private sectors, our local tribal communities, and private citizens who live in the communities directly impacted by the presence of large marine debris.

This grant to CSLC will help finance the removal of large, complex debris targets, such as the much-publicized *American Challenger* debris site, other abandoned or derelict vessels, and a decades-old tire debris site in Tomales Bay near the community of Marconi, among other targets. The Sonoma-Marin Marine Debris Removal Program would remove more than a dozen abandoned or derelict vessels and many tons of solid or hazardous waste. The removal of such large debris sites will greatly contribute to the revitalization of our shared coastal and marine habits, including vital eelgrass habits and other California trust resources.

The Commission has long recognized that marine debris presents a risk to marine life and the habitats upon which they depend, including biogenic habitat, and can interfere with meeting conservation goals, and with the promulgation of sustainable commercial and recreational fishing, aquaculture activities, and safe navigation and public health in those pursuits. This grant provides a valuable opportunity to make headway in cleaning up persisting, large debris sites in Sonoma and Marin counties that otherwise is not feasible without both the funding and partnerships proposed through this project.

The Commission is committed to supporting high-impact partnerships and projects such as the ones that will be created using a NOAA Marine Debris Removal Grant award; we respectfully encourage you to support approval of the requested funding to CSLC.

Thank you for considering this important marine debris removal opportunity. Please contact Marine Advisor Susan Ashcraft at Susan.Ashcraft@fgc.ca.gov or (650) 222-9036 with any questions.

Sincerely,



Melissa Miller-Henson
Executive Director

Memorandum

Date: September 15, 2022

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **October 2022 Request for Changes to the Fish and Game Commission's
Timetable for Anticipated Regulatory Actions**

The Department of Fish and Wildlife (Department) requests the following change to the Fish and Game Commission's (Commission's) 2022/2023 regulatory timetable:

1. Add a rulemaking, "Elk Hunting," to amend sections 364 and 364.1 to increase tag limits, open two new hunting zones, and change existing hunt zone boundaries to help control an expanding elk population and improve public hunting opportunities. These rules are needed to also help prevent Treponeme-associated hoof disease from spreading from introduced non-native species to wild populations.
 - The proposed meeting schedule is notice at the December 2022 meeting, discussion at the February 2023 meeting, and adoption at the April 2023 meeting.

If you have any questions or need additional information, please contact the Acting Regulations Unit Manager, Brian Owens at Brian.Owens@wildlife.ca.gov

cc: Chad Dibble, Deputy Director
Wildlife and Fisheries Division

David Bess, Chief
Law Enforcement Division

Scott Gardner, Branch Chief
Wildlife Branch

Brian Owens, Acting Program Manager
Regulations Unit

Fish and Game Commission:

David Thesell, Program Manager
Fish and Game Commission

California Fish and Game Commission: Perpetual Timetable for Anticipated Regulatory Actions

October 5, 2022

Items proposed for change are shown in blue underlined or strikethrough

Regulatory Change Category	Title 14 Section(s)	FGC Kings Beach October 12, 2022	FGC Kings Beach October 13, 2022	FGC Teleconference November 1, 2022	MRC San Diego November 17, 2022	TC San Diego December 13, 2022	FGC San Diego Dec. 14, 2022	FGC San Diego Dec. 15, 2022	WRC Los Angeles Area January 12, 2023	FGC Sacramento February 7, 2023	FGC Sacramento February 8, 2023	MRC Monterey / Santa Cruz Area March 16, 2023	TC Fresno / Bakersfield Area April 18, 2023	FGC Fresno / Bakersfield Area April 19, 2023	FGC Fresno / Bakersfield Area April 20, 2023	FGC Teleconference May 17, 2023	WRC Monterey / Santa Cruz Area May 17, 2023	FGC TBD 1 June 14, 2023	FGC TBD 2 June 15, 2023	MRC Sonoma / San Francisco Bay Area July 20, 2023	TC Smith River Area / North Coast August 21, 2023	FGC Smith River Area / North Coast August 22, 2023	FGC Smith River Area / North Coast August 23, 2023	WRC Chico Area September 21, 2023			
Central Valley Sport Fishing (Annual)	7.40(b)(4), (43), (66), (80)									N				D		A				E 7/16							
Klamath River Basin Sport Fishing (Annual)	7.40(b)(50)									N				D		A					E 8/15						
Waterfowl (Annual)	502							N		D				A						E 7/1							
Pink Shrimp Fishery Management Plan Implementing Regulations	56.00, 56.01, 120, 120.1, 705	A		E 11/1					This file was withdrawn from OAL on 8/24 pending approval of rulemaking revisions. The effective date of 11/1 is still anticipated.																		
Harvesting of Kelp and Other Aquatic Plants, Commercial Marine Algae Management Policies	165, 165.5, 705.1		A						E 1/1	This file was withdrawn from OAL on 9/16 This file was withdrawn from the Office of Administrative Law on 6/1 and resubmitted on 6/4-- An effective date of 9/1 was requested																	
Low Flow Fishing Restrictions Due to Drought Conditions Emergency (90-day Extension)	7.40(b)(40)(A)1., 8.00(a), 8.00(b)			EE 11/1																							
Game Fish Contests	230					This file was withdrawn from the OAL on 8/12. Resubmittal and Effective Date Pending.																					
Sport Fishing Regulation Updates	2.00, 2.25, 2.30, 5.00, 5.15, 5.20, 5.41, 5.75, 5.79, 5.85, 5.87, 5.88, 7.00, 7.40, 7.50, 8.00, 29.85								E 1/1																		
Recreational Fishing Regulations for Federal Groundfish and Associated Species	1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 28.90	D		A					E 1/1																		
Recreational Sub-Bag Limits for Vermilion, Copper and Quillback Rockfishes Emergency (First 90-Day Extension)	28.55	EE 10/5																									
Recreational Sub-Bag Limits for Vermilion, Copper and Quillback Rockfishes Emergency (Second 90-Day Extension)	28.55	E 10/5							EE 1/2																		
Pre-Existing Structures in Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures	632														N				D								
Implementation of AB 817 (Electronic Display of Licenses)	700.4		N					D		A										E 7/1							
Recreational Hoop Net Regulations Emergency	29.80	A		E 10/31												EE 4/29											
Recreational Hoop Net Regulations Emergency (First 90-Day Extension)	29.80										A					E 4/29					EE 7/28						
Recreational Hoop Net Regulations Emergency (Second 90-Day Extension)	29.80																	A			E 7/28						
Commercial and Recreational Take of California Spiny Lobster; Recreational Hoop Net Requirements for Take of Crustaceans	29.80, 29.90, 29.91, 121, 122.1, 122.2						N				D					A							E 9/1				
Elk Hunting	364, 364.1							N		D				A						E 7/1							
Southern California Steelhead 2084 Emergency	749.13			EE 11/15																							
Southern California Steelhead 2084 Emergency (First 90-day extension)	749.13		A	E 11/15						EE 2/13																	
Southern California Steelhead 2084 Emergency (Second 90-day extension)	749.13							A		E 2/13						EE 5/14											

Rulemaking Schedule to be Determined	Title 14 Section(s)	FGC Kings Beach October 12, 2022	FGC Kings Beach October 13, 2022	FGC Teleconference November 1, 2022	MRC San Diego November 17, 2022	TC San Diego December 13, 2022	FGC San Diego Dec 14, 2022	FGC San Diego Dec 15, 2022	WRC Los Angeles Area January 12, 2023	FGC Sacramento February 7, 2023	FGC Sacramento February 8, 2023	MRC Monterey / Santa Cruz Area March 16, 2023	TC Fresno / Bakersfield Area April 18, 2023	FGC Fresno / Bakersfield Area April 19, 2023	FGC Fresno / Bakersfield Area April 20, 2023	FGC Teleconference May 17, 2023	WRC Monterey / Santa Cruz Area May 17, 2023	FGC TBD 1 June 14, 2023	FGC TBD 2 June 15, 2023	MRC Sonoma / San Francisco Bay Area July 20, 2023	TC Smith River Area / North Coast August 21, 2023	FGC Smith River Area / North Coast August 22, 2023	FGC Smith River Area / North Coast August 23, 2023	WRC Chico Area September 21, 2023
Santa Cruz Harbor Salmon Fishing (FGC Petition 2016-018)	TBD																							
European Green Crab (FGC Petition 2017-006)	TBD																							
Wildlife Areas/Public Lands ⁴	TBD																							
Possess Game / Process Into Food	TBD																							
American Zoological Association / Zoo and Aquarium Association	671.1																							
Night Hunting in Gray Wolf Range (FGC Petition #2015-010)	474																							
Shellfish Aquaculture Best Management Practices	TBD																							
Ban of Neonicotinoid Pesticides on Department Lands (FGC Petition 2017-008)	TBD																							
Ridgeback Prawn Incidental Take Allowance	120(e)																							
North Yuba River Special Fishing Regulations (FGC Petition 2021-020) ⁵	TBD																							
Commercial Take of Pacific Herring: Lampara Bait Nets ⁷	163, 163.1																							

KEY
FGC = California Fish and Game Commission MRC = FGC Marine Resources Committee WRC = FGC Wildlife Resources Committee TC = FGC Tribal Committee OAL = Office of Administrative Law

EM = Emergency EE = Emergency Expires E = Anticipated Effective Date (RED "X" = expedited OAL review) EUF = Effective Upon Filing w/ Secretary of State

N = Notice Hearing D = Discussion Hearing A = Adoption Hearing V = Vetoed R = Committee Recommendation

4 = Includes FGC Petition 2018-003 6 = Includes FGC Petition 2019-012 7 = Includes FGC Petition 2020-015 8 = To be included in a future sportfishing regulations update

California Fish and Game Commission
Potential Agenda Items for November and December 2022 Commission
Meetings
October 5, 2022

The next Commission meetings are scheduled for November 1, 2022 via webinar/teleconference only and December 14-15, 2022 in San Diego and via webinar/teleconference. This document identifies potential agenda items for the meetings, including items to be received from Commission staff and the California Department of Fish and Wildlife (Department).

Tuesday, November 1: Teleconference and webinar

1. General public comment for items not on the agenda
2. Recreational fishing regulations for federal groundfish and associated species

December 14: Marine-related and administrative items

1. General public comment for items not on the agenda (day 1)
2. Commission executive director and Department reports (Department director's report and Law Enforcement Division report)
3. Justice, equity, diversity and inclusion
4. Notice: Commercial and Recreational Take of California Spiny Lobster; Recreational Hoop Net Requirements for Take of Crustaceans
5. Receive and discuss an update on the Pacific Fishery Management Council process and timeline for recreational ocean salmon and Pacific halibut recommendations, and automatic conformance to federal regulations
6. Receive annual report on Department's Statewide Marine Protected Areas Program management activities
7. Action on marine petitions for regulation change
8. Action on marine non-regulatory requests from previous meetings
9. Items of interest from previous meetings (marine)
10. Committee and Department reports (Marine Resources Committee, Department Marine Region, and Tribal Committee)
11. Executive (closed) session

Thursday, December 15: Wildlife- and inland fisheries-related and administrative items

12. General public comments for items not on the agenda (day 2)
13. Consider ratifying findings on the decision to list Shasta snow-wreath as endangered under CESA
14. Notice: Waterfowl hunting (annual)
15. Notice: Elk hunting
16. Discuss: Electronic display of licenses via mobile application

17. Adopt: Southern California steelhead 2084 emergency re-adopt
18. Receive and consider for approval Department recommendations for species to be depicted on the California State Duck Stamp, 2023-2027.
19. California Waterfowler's Hall of Fame
20. Action on wildlife and inland fisheries petitions for regulation change
21. Action on wildlife and inland fisheries non-regulatory requests from previous meetings
22. Items of interest from previous meetings (wildlife)
23. Committee and Department reports (Wildlife Resources Committee, Department Wildlife and Fisheries Division, and Ecosystem Conservation Division)
24. Administrative items (legislation and other agency regulations, rulemaking timetable, next meeting, new business)



California Fish and Game Commission
FGC@fgc.ca.gov
(916) 653-4899

STATE OF CALIFORNIA
GAVIN NEWSOM, GOVERNOR
NATURAL RESOURCES AGENCY



California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090

Wild Pig in California Forum
September 22, 2022, 9:00 a.m.

Agenda

1. Welcome and Introduction

2. Wild Pig Issues

Animal Health Presentation: Hector Webster, DVM, California Department of Food and Agriculture

Wildlife Health Presentation: Brandon Munk, DVM, California Department of Fish and Wildlife

Ecosystem Health Presentation: Matt Chaney, Midpeninsula Regional Open Space District

Economic Impacts Presentation: Katie Little, California Farm Bureau

Panel Discussion

Facilitator: Brett Furnas, PhD, California Department of Fish and Wildlife
Matt Chaney, Midpeninsula Regional Open Space District
Katie Little, California Farm Bureau
Brandon Munk, California Department of Fish and Wildlife
Dennis Orthmeyer, USDA, APHIS Wildlife Services
Hector Webster, California Department of Food and Agriculture

Break

3. Potential Solutions

Wild Pig Management Presentation: Dennis Orthmeyer, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services

Panel Discussion

Facilitator: Taylor Williams, California Department of Fish and Wildlife
Roger Baldwin, PhD, University of California, Davis
Chris Lopez, Rural County Representatives of California
Dennis Orthmeyer, USDA, APHIS Wildlife Services
Dana Page, Santa Clara County Parks
Dan Skalos, California Department of Fish and Wildlife
Chris Stoots, California Department of Fish and Wildlife

4. Participant Comments

5. Conclusion

Facilitator and Panelist Short Biographies

Roger Baldwin, PhD, University of California, Davis

Roger Baldwin is a Professor of Cooperative Extension at the University of California, Davis, specializing in human-wildlife conflict. Roger conducts his research and extension program primarily in agricultural and natural resource environments, with a special emphasis on mammalian species. Roger received his B.S., M.S., and Ph.D. degrees in various wildlife-related programs from Kansas State University, The University of Memphis, and New Mexico State University, respectively.

Matt Sharp Chaney, Midpeninsula Regional Open Space District

Matt Sharp Chaney is a Wildlife Biologist and the Lead Mammalogist for the Midpeninsula Regional Open Space District (Midpen) where he has worked for the past 8 years. Matt received a bachelor's degree in environmental science from California State University, Monterey Bay in 2015, and a master's certificate in wildlife management from Oregon State University in 2018. Midpen manages over 65,000 acres of public preserves located within the Santa Cruz Mountains along the San Francisco Peninsula. Matt's work focuses on the conservation of native mammal species, as well as human/wildlife conflict management. Midpen is currently working to reduce the regional population of wild pigs by partnering with USDA and other local land managers to reduce source populations and prevent further spread/establishment of wild pigs into other parts of the peninsula.

Brett Furnas, PhD, California Department of Fish and Wildlife

Dr. Brett Furnas is Acting Supervisor of the Big Game Unit at the California Department of Fish and Wildlife, responsible for conservation and management of deer, elk, bear, bighorn sheep, pronghorn, and wild pig. He is also a quantitative ecologist who advises on survey design and data analysis for projects that monitor wildlife populations.

Katie Little, California Farm Bureau

Katie Little, born and raised in Anaheim, California, always knew she wanted to work with animals. She attended UC Davis where she majored in Animal Science and became passionate about agriculture. After graduating from UC Davis, Katie was hired at the California Cattlemen's Association (CCA) where she discovered government policies were an important aspect of agriculture in the state. During her time at CCA, she learned to appreciate the advocacy portion of politics, and wanted to pursue that path further. Katie continued working in advocacy at the Association of California Water Agencies, and the California Building Officials where she developed her lobbying and professional skills. She earned her master's degree in Public Policy from the University of Southern California. Katie brings a combination of her education and work experiences into her current role with California Farm Bureau. She is thrilled to be working in agriculture again and is excited to be advocating on behalf of ranchers and farmers throughout the state.

Chris Lopez, Rural County Representatives of California

Supervisor Lopez graduated from Claremont McKenna College, receiving his Bachelor of Arts with focus in the areas of International Relations and Economics in 2008. He met

his wife when they founded Mariachi Serrano de Claremont as students. Supervisor Lopez spent time interning in Hong Kong, Hong Kong for the Pacific Basin Economic Council and in Guanajuato, Mexico for the CASAs Office of the Governor of the State of Guanajuato.

Returning to the Salinas Valley after graduation, Supervisor Lopez approached Supervisor Simon Salinas with an offer he couldn't refuse; he requested an unpaid internship. After proving his skills invaluable, he was offered a full-time position as Board Aide working with Supervisor Salinas. Soon Supervisor Salinas promoted Lopez to Chief of Staff where he would remain for the next seven and a half years. He was elected to serve on the Board of Supervisors in June of 2018 and took his Oath of Office in January of 2019.

Supervisor Lopez has served on several boards and currently serves on numerous commissions. He is also President of the Salinas Valley Solid Waste Authority, board member to the Hartnell Foundation, Chair of the First 5 Monterey County, and Second Vice Chair of Rural County Representatives of California.

Brandon Munk, MS, DVM, California Department of Fish and Wildlife

Brandon is Senior Wildlife Veterinarian for game species at the California Department of Fish and Wildlife. He has been working in the wildlife health and disease fields since 2010. Prior to that I was trained as an ecologist and evolutionary behaviorist. His work focuses on wildlife disease surveillance, diagnostics, and research as well as wild animal health and welfare.

Dennis Orthmeyer, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services

Dennis completed his B.S. Degree in 1976 at North Dakota State University and completed his graduate work at the University of Montana in 1987; both in Wildlife Biology. He has moved 37 times in his career, all across the US, all time being involved with wildlife. He became a Research Biologist for U.S. Fish and Wildlife Service and U.S. Geological Survey researching patterns, movement, distribution, and survival of migratory waterfowl on the Pacific Rim. He joined the U.S. Department of Agriculture APHIS Wildlife Services in 2006 becoming the Assistant State Director, and then becoming the State Director in 2011. Currently, as State Director he has the pleasure of supervising 100 employees, working on diverse jobs such as livestock protection, property damage, public safety at airports, and endangered species protection. He provides program direction and supervision in resolving wildlife conflicts that occur in agriculture, property, people, and natural resources.

Dana Page, Santa Clara County Parks

Dana is Natural Resources Program Coordinator for Santa Clara County Parks. Dana has over a decade of experience working in California as a wildlife biologist, specializing in sea birds and island restoration. Dana currently works in rangeland management, tree safety, forest health, habitat enhancement and restoration, wildlife management, forest health and prescribed fire. She received a bachelor's degree in Environmental Studies from University of California, Santa Cruz and a master's degree in Environmental Management from University of San Francisco.

Dan Skalos, California Department of Fish and Wildlife

Dan Skalos is the Supervisor of the Upland Game Unit in the Wildlife Branch at the California Department of Fish Wildlife. Dan received his bachelor's degree in wildlife biology in 2003 from the State University of New York College of Environmental Science and Forestry. Dan then moved across the country in 2004 where he has worked for the USDA Forest Service conducting research on spotted owls in New Mexico, the USGS Western Ecological Research Center conducting research on waterfowl and giant garter snakes in California's Central Valley, and various nonprofit organizations, including California Waterfowl Association and Point Blue Conservation Science. Dan earned his master's degree in avian sciences in 2012 from UC Davis studying pacific greater white-fronted geese. He then started working for CDFW in 2013 as an Environmental Scientist in the Waterfowl Unit where he remained until 2020 before moving into his current position. As an avid hunter and birder, Dan is dedicated to the conservation and management of California's wildlife, as well as providing hunting and outdoor recreation opportunities to all Californians.

Chris Stoots, California Department of Fish and Wildlife

Chris Stoots, is the Assistant Chief in the Law Enforcement Division, overseeing Administration and Training. Chris has been with the California Department of Fish Wildlife for 14 years. Chris has a diverse array of experience with the Department, including patrol officer for San Benito and Colusa County, both of which have a robust Wild Pig population lending to Chris' experience with the species. Chris has been involved in legislation and regulations for the past eight-years, and has served as the wild pig subject matter expert for the Law Enforcement Division.

Hector Webster, California Department of Food and Agriculture

Dr. Hector Webster is a Research Specialist with the California Department of Food and Agriculture (CDFA) Animal Health Branch (AHB). He oversees the species programs for Swine Health, Small Ruminant Health, and is the species liaison for domestic-wildlife interface disease threats. In addition, he manages the cooperative program agreements for Scrapie, Classical and African Swine Fever and the swine garbage feeding control program. As an AHB staff member for twenty-five years, Dr. Webster has participated in disease outbreak eradication responses, including the accelerated swine pseudorabies eradication program (Iowa 1999), the Exotic Newcastle Disease outbreak (CA 2002-03), the Virulent Newcastle Disease outbreak (CA 2018-2020) and several bovine tuberculosis incidents. Dr. Webster has a MS degree in Animal Science from the University of Hawaii at Manoa and a Doctor degree in Veterinary Medicine from the University of Cuenca in Ecuador. During his free time, Dr. Webster enjoys playing the guitar and home brewing beer.

Taylor Williams, California Department of Fish and Wildlife

Taylor Williams is the Hunter and Angler Recruit, Retain, Reactivate Manager for the California Department of Fish and Wildlife, working to further enhance and encourage participation of hunting, angling, foraging and shooting sports throughout California.

Bullfrog Stakeholder Group

Kerry Kriger [REDACTED]

Fri 06/10/2022 04:37 PM

To: Cornman, Ar [REDACTED] FGC <FGC@fgc.ca.gov>; Madeline Bernstein
[REDACTED] Miller-Henson, Melissa [REDACTED]

 1 attachments (94 KB)

2017 CDFW Bullfrog Stakeholder Group - Item_10_Bullfrogs_and_Turtles (1).pdf;

Hi,

Please see the attached document from 2017 and note that the stakeholder process is more than five years in. Please expedite the process.

Thank you, Kerry

Dr. Kerry Kriger

SAVE THE FROGS!

Founder, Executive Director & Ecologist

www.savethefrogs.com/kerry-kriger

[REDACTED]

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STAFF SUMMARY FOR OCTOBER 11-12, 2017

10. AMERICAN BULLFROGS AND NON-NATIVE TURTLES**Today's Item****Information** ☒**Action** ☐

Discuss staff proposal for stakeholder engagement on American bullfrog and non-native turtles statutes and regulations.

Summary of Previous/Future Actions

- FGC discussion Feb 8-9, 2017; Rohnert Park
- FGC discussion Apr 26-27, 2017; Van Nuys
- **Today's discussion Oct 11-12, 2017; Atascadero**

Background

Annually there are approximately two million non-native American bullfrogs and 300,000 non-native turtles (mostly red-eared sliders and softshell turtles) imported into California for food and the pet trade. Even though these species are not imported into California with the intention of being released, they have established wild populations that threaten native amphibians, fish, and wildlife by direct predation, competition for resources and habitat, and disease.

In Feb 2015, DFW provided a report regarding the implications of American bullfrog importation and notified FGC of its decision to stop issuing long-term importation permits and to only issue short-term individual event permits, consistent with Section 236(c)(6)(I) of Title 14. At its Feb 2015 meeting, FGC directed staff to work with DFW to identify a list of potential actions FGC could take to further address the issues identified in the DFW report.

In Feb 2017, FGC staff presented four possible regulatory options to address impacts on California's native wildlife resulting from the importation of American bullfrogs and non-native turtles, and provided additional information in a joint memorandum prepared by FGC and DFW staff (Exhibit 1). At the meeting, FGC directed staff to add this topic to the Apr 2017 agenda for further discussion with more information on two of the four options. In Apr 2017, FGC directed FGC and DFW staff to develop a proposal for stakeholder engagement to further evaluate possible solutions to address the impacts of American bullfrogs and non-native turtles on native wildlife. Today, staff will present the stakeholder engagement proposal for FGC consideration.

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

FGC staff: Provide input on the staff proposal and direction on next steps.

Exhibits

1. [FGC and DFW joint memorandum, dated Jan 26, 2017](#)
2. [Staff proposal on stakeholder engagement, dated Sep 15, 2017](#)

Motion/Direction (N/A)

**STATE OF CALIFORNIA
FISH AND GAME COMMISSION
and
DEPARTMENT OF FISH AND WILDLIFE
JOINT MEMORANDUM**

DATE: January 26, 2017

TO: President Sklar and Members
Fish and Game Commission

FROM: Mike Yaun (Legal Counsel, Commission)
Erin Chappell (Wildlife Advisor, Commission)
Kevin Shaffer (Chief, Fisheries Branch, Department)
Karen Mitchell (Senior Environmental Scientist, Fisheries Branch, Department)

SUBJECT: Importation of live American bullfrogs and non-native turtles

Commission and California Department of Fish and Wildlife (Department) staff drafted this memo to inform the Commission of regulatory options to address impacts on California's native wildlife resulting from the importation of American bullfrogs and non-native turtles.

Background

Approximately two million non-native American bullfrogs and 300,000 non-native turtles (mostly red-eared sliders and softshell turtles) are imported into California annually for the food and pet trade. Even though the species are not imported into California with the intention of being released, these species have established wild populations in California's wetlands and waterways. For instance, the American bullfrog (*Rana catesbeiana*) was introduced into California in the late 19th century and has since established wild populations throughout the state which threaten populations of native amphibians, fish, and wildlife by direct predation and competition for resources and habitat. Bullfrogs are gape-limited generalist predators that will consume anything they can catch and fit in their mouths.

The California red-legged frog (*Rana draytonii*) is an example of a native amphibian that has been severely impacted by the introduction and invasion of American bullfrog populations into California's waterways. Similarly, non-native turtles, in particular red-eared sliders (*Trachemys scripta elegans*) and softshell turtles (*Apalone* spp.), have also established wild populations in California and can out-compete native western pond turtles (*Emys marmorata*) for basking space and food. The western pond turtle is the only freshwater turtle species native to California. It is listed as a Species of Special Concern by the Department and is currently under review for listing under the federal Endangered Species Act. Western pond turtles in California evolved without any other turtles. As a result, interspecific competition and

disease may put them at greater risk from introduced turtles than other areas where sliders and softshell turtles are released. Studies in Europe that investigated the impact of sliders on European pond turtles (related to western pond turtles) found that sliders did out-compete pond turtles for basking spots and reduced their growth. Western pond turtles are documented to aggressively defend their basking space, and less time basking can result in lower metabolic rate, which can affect growth, reproduction, and survival in extreme cases.

Importation of these species also serves as a vector for the introduction of novel diseases into California. One such introduction is chytrid fungus (*Batrachochytrium dendrobatidis*), a waterborne fungus that leads to a potentially fatal amphibian disease Chytridiomycosis. Chytrid fungus has spread from ports of entry across California and into high elevation waters of the Sierra Nevada Mountains, where it has significantly impacted two species of native mountain yellow-legged frogs (*Rana sierrae* and *Rana muscosa*) that are listed under both the California and federal Endangered Species Acts. In the State of Washington, where western pond turtles are listed as endangered under the federal Endangered Species Act, one population declined by a third due to an upper respiratory tract disease that was suspected to have been introduced by sliders.

A ban on the importation of American bullfrogs would bring California in line with the States of Oregon and Washington, which do not allow the importation of American bullfrogs. Also, the State of Oregon does not allow the importation of *Apalone* (softshells) and *Trachemys* (slider) species of non-native turtles.

State regulations must comply with the protections for interstate commerce contained in the United States Constitution. When a state's regulation prohibits importation of an item, but allows continued commercial activity of an item, that regulation disproportionately impacts interstate commerce. To comply with the constitutional protections, such a regulation must be for a legitimate state purpose and the purpose cannot be satisfied by a non-discriminatory method. The U.S. Supreme Court has upheld state regulation prohibiting live importation of species to protect native fish and wildlife species from the consequences of the importation when the state could show harm that could not otherwise be avoided.

Currently the Department is issuing Importation Permits for American bullfrogs and non-native turtles in an effort to provide a level of control to protect the native resources of the state. The conditions for these permits are:

1. Long-term importation permits valid for one month (turtles)
2. Standard importation permits valid for one shipment (bullfrogs)
3. No stocking in waters of the state
4. Operators must retain copies of sales information for one year
5. All products must be killed before leaving the store
6. Operators must keep a distribution report

Recent Commission Actions

There is a long history related to this subject, and the Commission has received considerable testimony on this issue. Periodically since 1998, members of the public have spoken at Commission meetings in opposition to sales of frogs and turtles in the live animal market. On March 3, 2010, the Commission directed the Department to stop issuing importation permits for non-native frogs and turtles pursuant to Section 236, Title 14, CCR, citing potential threats to the state's natural resources as the result of live escapes or releases. The Commission then adopted a formal policy statement on the matter at its April 10, 2010 meeting. In September 2010, the Commission directed the Department to prepare an Initial Statement of Reasons that would ban the importation of live bullfrogs and turtles. At the February 2011 meeting, the Commission rescinded their direction to prepare the Initial Statement of Reasons but approved Department amendments to the permits. These amendments included shortening the permit period from annual to one month, including reporting and documentation provisions, and requiring that animals be killed prior to leaving the stores.

Based on public testimony received at Commission meetings over the last 20 years, there are diverse opinions on the importation and sale of American bullfrogs and non-native turtles with three primary conflicting interests. One segment of the public is involved in marketing bullfrogs and turtles for human consumption. California's Asian-American and Asian immigrant communities are the largest consumers of American bullfrogs and imported turtles in the state. Banning importation for the live animal food market could impact long-standing cultural practices and have financial impacts on the businesses and individuals that profit from importation and retail sale of these animals if the market declines or collapses. The second segment of the public is opposed to the importation and sale of American bullfrogs and non-native turtles due to potential threats to native amphibians from disease, hybridization, competition, and predation; a portion of this segment is also opposed due to animal welfare concerns. Finally, the third segment of the public is involved in marketing bullfrogs and turtles for the pet industry. Pet industry sales of non-native frogs and turtles are significant in California and occur with minimal disease monitoring or regulatory restrictions.

In February 2015, the Commission and Department revisited the issue again. The Department provided an overview of their report, *Implications of Importing American Bullfrog (*Lithobates catesbeianus* = *Rana catesbeiana*) into California*. The Department determined that American bullfrogs posed a significant risk to the fish and wildlife resources of the state. At the meeting, the Department notified the Commission of its decision to stop the issuance of long-term importation permits and to only issue short-term individual event permits, consistent with Section 236(c)(6)(I) of Title 14, CCR. At the meeting, the Commission directed staff to work with Department staff to identify a list of potential actions the Commission could take to further address the issues identified in the Department's report.

Since 2015, the Commission and the Department have received numerous requests via e-mail, letter, and public comment, to ban the importation of live bullfrogs and non-native turtles due to the potential threats to native amphibians from disease, hybridization, competition, and predation. Two petitions for regulatory change were submitted to the Commission with requests to add American bullfrogs to the list of restricted species (Section 671(c), Title 14, CCR) in 2016. The first petition (#2016-016) submitted by Save the Frogs was rejected during Commission staff review as incomplete. The second petition (#2016-030) was submitted jointly by the Center for Biological Diversity and Save the Frogs in December. This petition was reviewed and accepted by Commission staff and will be received by the Commission at the February 2017 Commission meeting (see Agenda Item 2 - Public Forum).

Options for Restricting Importation

Per Commission direction, Commission and Department staff evaluated four potential options to restrict the importation of live American bullfrogs and non-native turtles. All of these options will require compliance with California Environmental Quality Act (CEQA; Public Resources Code, Section 21000 et seq.) prior to final Commission action.

- *Option 1*

Ban the importation of live American bullfrogs and *Apalone* and *Trachemys* species of non-native turtles into California, except as allowed under Section 236(b)(2). This option would prohibit the importation of American bullfrogs and non-native turtles for the live food market but allow aquaculture facilities to continue to raise bullfrogs and non-native turtles for commercial purposes, including human consumption, and allow for their importation for personal, pet, or hobby purposes without an importation permit.

This option would require amendments to sections 236 and 41.7 Title 14, CCR. Section 236 regulates the importation of live aquatic plants and animals. Section 41.7 regulates the commercial take and use of frogs for human consumption.

- *Option 2*

Ban the importation of live American bullfrogs and *Apalone* and *Trachemys* species of non-native turtles into California with no exceptions. This option would prohibit the live importation of American bullfrogs and *Apalone* and *Trachemys* species of non-native turtles into California for any purpose but would still allow for them to be sold alive.

This option would require amendments to sections 236 and 41.7, Title 14, CCR and Fish and Game Code sections 2271 and 15300. Fish and Game Code Section 2271(b)(2) allows for the importation of live animals for personal, pet industry, or hobby purposes without an importation permit. Fish

and Game Section 15300 permits the importation of aquatic animals for aquaculture purposes. Therefore, this option would require the Legislature to amend these code sections prior to the Commission adopting regulations to implement it.

- *Option 3*

Ban the importation *and sale* of live American bullfrogs and *Apolone* and *Trachemys* species of non-native turtles in the State of California, with no exceptions. This option would affect businesses that import these animals into the state for use by educational and scientific institutions, the pet industry, and those that raise and/or sell bullfrogs and turtles for human consumption.

This option would require amendments to sections 236 and 41.7 Title 14, CCR and Fish and Game Code sections 2271(b)(2), 15300; 6851 and 6852. Fish and Game Code Section 6851 prohibits the taking or possession of frogs for commercial purposes but does not apply to aquaculture. Section 6852 authorizes possession of frogs, pursuant to the Fish and Game Code or regulations adopted by the Commission, by any person in the business of selling frogs. This section applies to the selling of frogs for food and to educational and scientific institutions. In addition to importation, Section 15300 also allows frogs to be obtained from “(a) A holder of a commercial fishing license (b) A registered aquaculturist or (c) The department.” This option would also require the Legislature to amend these sections of Fish and Game Code prior to the Commission adopting regulations to implement it.

- *Option 4*

Add American bullfrog and *Apalone* and *Trachemys* species of non-native turtles to the list of restricted species, making it unlawful to import, transport, or possess them without a permit issued by the Department.

This option would require amendments to sections 671 and 41.7 Title 14, CCR and Fish and Game Code sections 6881, 6883, and 6885. Fish and Game Code sections 6881, 6883, and 6885 apply to the acquisition, use, and possession of frogs for use in frog-jumping contests. They are found in Division 6, Chapter 7, Article 2 of the Fish and Game Code. Section 6881 allows frogs for use in frog-jumping contests to be taken at any time without a license or permit. Section 6883 allows any person to possess any number of live frogs to use in frog-jumping contests. Section 6885 specifies that the Commission has no power to modify the provisions of this article by any order, rule, or regulation. This option would require the Legislature to amend these sections of Fish and Game Code prior to the Commission adopting regulations to implement it.

Staff Recommendation

Based on the Department's finding that American bullfrogs and non-native turtles pose a significant risk to the fish and wildlife resources of the state, staff recommends Option 1, amending sections 236 and 41.7, Title 14, CCR, to prohibit the live importation of American bullfrogs and non-native turtles into California, except for as allowed under Section 236(a)(2). Option 1 would thereby reduce threats to California's native reptile and amphibian populations. Unlike Options 2-4, Option 1 would allow aquaculture facilities to continue to raise bullfrogs and non-native turtles for commercial purposes and allow the importation of live American bullfrogs and non-native turtles for personal, pet, or hobby purposes without an importation permit. However, because Option 1 is consistent with the Commission's current authority under the Fish and Game Code, the Commission would not have to ask the Legislature to amend any provision of the code to implement the option.

Justification for Staff Recommendation

An importation restriction on American bullfrogs and non-native turtles into California would help protect California's native fauna, especially state-listed species including California red-legged frog, western pond turtle, mountain yellow-legged frog, California tiger salamander, and the giant garter snake, from predation, competition, and disease. These stressors result in significant impacts and declines to native California fauna, particularly native amphibians and reptile species. Imported live American bullfrogs and non-native turtles have served as vectors for the introduction of novel wildlife diseases to California. In addition, ecological restoration efforts benefitting California's native amphibians often involve costly efforts to eradicate American bullfrogs. An importation restriction would reduce the potential for continued introduction of American bullfrogs into these restored habitats and benefit taxpayers from the reduction in costly bullfrog eradication programs implemented by federal, state, and local wildlife protection agencies.

An importation restriction may have cultural as well as fiscal impacts. Businesses and individuals that profit from importation and retail sale of American bullfrogs and non-native turtles for the live animal food market will suffer impacts as the market declines or collapses. It is also possible the market will move underground and will necessitate the use of law enforcement resources to maintain a ban. Therefore, additional funds and wildlife officers may be necessary to enforce the new law.

In addition, it was determined that changes to regulations in Title 14, CCR, would require CEQA compliance, potentially incurring significant cost to the Department in staff time or costs to contract with outside consulting services. The Department would lose about \$7,200 annually in permit fees from an importation ban on American bullfrogs and non-native turtles; however, staff time associated with permitting may then be spent on other issues.

California Fish and Game Commission
Staff Proposal for
Stakeholder Engagement on American Bullfrogs and Non-native Turtles

Purpose: Fish and Game Commission (FGC) and California Department of Fish and Wildlife (CDFW) staff recommendation on a process and timeline for stakeholder engagement to identify potential regulatory and statutory changes, funding mechanisms, and strategies for existing wild populations of American bullfrogs and non-native turtles to reduce the impacts on California's native wildlife.

List of Possible Participants:

- Environmental / Animal welfare Non-Governmental Organizations
 - Petitioners – Center for Biological Diversity and Save-the-Frogs!
 - Action for Animals
 - Humane Society of the United States
 - Rescue group representative – TBD
- Industry Representatives
 - Live Food Market – TBD
 - Aquaculture – TBD
 - Pet trade – TBD
- Agency Representatives
 - FGC - Executive Director, Wildlife Advisor, and Legal Counsel
 - CDFW - Wildlife Branch, Wildlife Investigations Lab, Fisheries Branch, and Law Enforcement Division
 - California Department of Food and Agriculture (CDFA) - TBD
 - California Department of Public Health (CDPH) - TBD
 - U.S. Fish and Wildlife Service (USFWS) – TBD; Region 1 and Region 8
 - Santa Cruz County and/or City - TBD
 - State of Washington and/or Oregon – Fish and Wildlife departments
- Legislature
 - California Asian and Pacific Islander Legislative Caucus staff
 - Natural Resources Committee staff
 - Joint Committee on Fisheries and Aquaculture staff

Proposed Process:

- Agency Outreach - FGC staff hold several meetings (2-4) with agency staff to discuss implementation, management, enforcement, and regulatory consistency and compatibility.
 - One or two conference calls with implementing agencies CDFW, USFWS, Santa Cruz, Washington, and Oregon to discuss management strategies, implementation, and enforcement

- One or two meetings with state agencies CDFW, CDFA, CDPH to discuss regulatory consistency and compatibility and enforcement of regulations (Sacramento)
- Stakeholder Outreach - FGC staff hold series of small meetings (2-4) with key stakeholders to solicit input on options, including possible statutory and regulatory changes and management strategies.
 - Invitation only
 - Size – limit to 10-12 people each
 - Locations – Sacramento, Bay Area, Southern California
 - Structure
 - One or two meetings with environmental/animal welfare organizations, CDFW staff, and FGC staff (Sacramento)
 - One to two meetings with industry representatives, California Asian and Pacific Islander Legislative Caucus staff, CDFW staff, and FGC staff (Bay Area and Southern California)
- Legislative Outreach – FGC staff meetings (3) with California Asian and Pacific Islander Legislative Caucus, Natural Resources Committee, and Joint Committee on Fisheries and Aquaculture staff
- CDFW and FGC staff compile meeting outcomes and draft proposal
- FGC and CDFW staff co-host one-day public workshop to present draft proposal
 - Open to all interested parties
 - Location – Bay Area
 - Facilitated by FGC staff
 - Attendance by 1-2 Commissioners
- CDFW and FGC staff prepare and present final proposal to Commission
- Commission action on final proposal

Proposed Timeline:

- **Oct 2017** - Present stakeholder outreach proposal to Commission
- **Oct-Dec 2017** –
 - Identify and confirm stakeholders for small group and agencies meetings
 - CDFW and FGC staff preparation for meetings (logistics, materials, format, etc.)
- **Jan-Apr 2018** – Hold stakeholder and agencies meetings
- **Apr-Oct 2018** –
 - Outreach meetings with legislative caucus/committees
 - CDFW and FGC staff draft proposal
 - CDFW and FGC staff preparation for workshop
- **Oct 2018** – Public workshop
- **Nov-Dec 2018** – CDFW and FGC finalize proposal
- **Feb 2019** – Staff presentation and possible action on proposal by Commission

Comments for 6/16 meeting

Gabrielle Crowe [REDACTED]

Thu 06/16/2022 11:17 AM

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

Miyiiha and good morning,

Unfortunately I am unable to stay on the zoom as it is my two sons' last day of school and they are having parents come to the school for a mural reveal. My comments for the meeting today are as follows:

Miyiiha and good morning Honorable Commissioners. My name is Gabrielle Crowe and I am the Vice Chair for the Gabrielino-Shoshone Tribal Council of Southern California. I am here this morning to discuss the access to the Ballona Wetlands Ecological Reserve. Recently I helped lead several field trips to Area A with the Ballona Wetlands Land Trust. We are very appreciative to the CA Department of Fish and Wildlife for the access we have now and we are asking the commission to consider allowing more access to other areas of the Ecological Reserve. These are areas that are already being used by other organizations. As an environmental educator I understand the importance of getting kids outdoors to teach them about conservation (especially after this pandemic). I've been teaching about the cultural significance of the plants and the wetlands of Ballona. We have an opportunity to expand the amount of people that can learn about not only the cultural significance but also the ecological significance of my ancestral lands the Ballona Wetlands. We need your commission to also increase tribal engagement at Ballona. Thank you for your time and consideration.

Much gratitude,

Gabrielle Crowe (she/her)

Vice Chair, Gabrielino-Shoshone Tribal Council of Southern California

Cultural and Environmental Education Consultant

[Ballona Wetlands Land Trust](#)

[REDACTED]

[REDACTED]

Follow up on the meeting, June 16, 2022

Phoebe Lenhart [REDACTED]

Mon 06/27/2022 02:32 PM

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

Dear FGC,

I am sending this e-mail to your attention to follow up on the "public comments" concerns that I expressed.

First, I am very concerned regarding that matters affecting the populations of the coho and chinook salmon which were not on the FGC Agenda. I think that the critically low population numbers of both species demands more attention from the DFW/FGC. As I expressed, I think these agencies are patronizing too many "special interest groups", including the Tribes, at the risk of the tragic extinction of both the coho and chinook salmon.

As I said, the salmon that are being caught and brought into the Harbor in Crescent City are very small, 5 pounds. In my opinion, I stated, that there should be NO further salmon fishing this year until there is data to support a larger population of salmon and a larger size of salmon. Please consider halting all salmon fishing in 2022. In further consideration, there is no concern that I see from the DFW/FGC regarding the drought and increasing water temperatures. These are grave omissions for the salmon.

Second, it was not addressed on the Agenda this month, the pelicans off of the CA coast are starving! Why are they starving? Where are the anchovies and sardines, among other fish? This is another topic that needs attention and proactive intervention by the DFW/FGC. Why is this not a concern?

Third, according to the DFW's records for 2020-2022, 67 Roosevelt elk in Del Norte County have been euthanized due to the TAHD! I think this is a very high number considering how low the population of elk is, how small the herds are, and how high the number of hunting tags sold! It appears to me that the Roosevelt elk are not respected in this County; this is tragic, because they should be. The Roosevelt elk's history in the USA is a remarkable story of migration across the Bering Strait.

Lastly, in the 2021-2022 crabbing season, 5 ships had their crab hauls seized by the DFW, because the crabbers brought in undersized crabs. Shame on the crabbers! That being said, I fear that these 5 ships are only the few of many boats who brought in undersized crabs. I would like to see more DFW enforcement for the 2022-2023 crabbing season. That being said, I understand that the crabbing regulations approved by the DFW/FGC are partially to blame. Being that it is June, I think it provides the DFW/FGC with a few months to clarify and simplify these poor crabbing regulations.

Thank you for your consideration. I would like to hear from those departments involved in the above 4 areas regarding their efforts to improve circumstances for our wildlife.

Sincerely,

Phoebe Lenhart

Sent from my iPad

STAFF SUMMARY FOR OCTOBER 12-13, 2022

5. PACIFIC LEATHERBACK SEA TURTLE (CONSENT)**Today's Item**Information ☐Action ☒

Consider ratifying findings for the decision to list Pacific leatherback sea turtle (*Dermochelys coriacea*) as endangered under the California Endangered Species Act (CESA).

Summary of Previous/Future Actions

- | | |
|--|---|
| • Received petition | Jan 23, 2020 |
| • FGC determined listing may be warranted, initiating DFW's one-year status review | Aug 19-20, 2020; Webinar/Teleconference |
| • FGC determined listing is warranted | Oct 14, 2021; Webinar/Teleconference |
| • Today consider adopting findings | Oct 12-13, 2022; Kings Beach |

Background

In Jan 2020, FGC received a petition from the Center for Biological Diversity and the Turtle Island Restoration Network to list Pacific leatherback sea turtle (Pacific leatherback) as endangered under CESA. At its Aug 2020 meeting, FGC determined that listing may be warranted, and subsequently provided notice regarding Pacific leatherback's protected, candidate species status. The notice prompted DFW's status review of the species as required by California Fish and Game Code Section 2074.6.

FGC publicly received DFW's status review report in Aug 2021. In Oct 2021, pursuant to Section 2075.5 of the Fish and Game Code, FGC determined that listing Pacific leatherback as endangered is warranted. Section 2075.5 of the Fish and Game Code requires that FGC adopt written findings supporting its decision.

FGC staff developed a draft notice of findings for Commission consideration (Exhibit 1).

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

FGC staff: Under a motion to adopt the consent calendar, adopt the proposed findings for the decision to list Pacific leatherback as endangered under CESA (Exhibit 1).

Exhibits

1. [Draft notice of findings, dated Sep 26, 2022](#)

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for items 5 through 10 on the consent calendar.

California Fish and Game Commission
DRAFT Notice of Findings for
Pacific Leatherback Sea Turtle
(*Dermochelys coriacea*)

September 28, 2022 DRAFT

NOTICE IS HEREBY GIVEN that the California Fish and Game Commission (Commission), at a meeting on October 14, 2021, found pursuant to California Fish and Game Code, Section 2075.5, that the information contained in the petition to list Pacific leatherback sea turtle (*Dermochelys coriacea*) (hereinafter “Pacific leatherback”) and other information in the record before the Commission, warrants adding Pacific leatherback to the list of endangered species under the California Endangered Species Act (CESA; California Fish and Game Code, Section 2050 et seq.). (See also California Code of Regulations, Title 14, Section 670.1, subsection (i).)

NOTICE IS ALSO GIVEN that, at its October 12-13, 2022 meeting, the Commission adopted the following findings outlining the reasons for its determination.

I. Background and Procedural History

Petition History

On January 23, 2020, the Center for Biological Diversity and Turtle Island Restoration Network submitted to the Commission a petition to list Pacific leatherback sea turtle as endangered (Petition) pursuant to CESA. The Commission referred the Petition to the California Department of Fish and Wildlife (Department) on February 3, 2020 for evaluation, in accordance with Fish and Game Code Section 2073, and published a formal notice of receipt of the Petition on February 14, 2020 (California Regulatory Notice Register (Notice Register) 2020, No. 7-Z, p. 243).

On June 2, 2020, the Department provided the Commission with its evaluation of the Petition to assist the Commission in making a determination as to whether the petitioned action may be warranted based on the sufficiency of scientific information (Fish and Game Code, sections 2073.5 and 2074.2; California Code of Regulations, Title 14, Section 670.1, subdivisions (d) & (e)). The Department recommended that the Commission accept the Petition.

At its August 19, 2020 meeting, the Commission found that sufficient information existed to indicate the petitioned action may be warranted and accepted the Petition for consideration. Upon publication of the Commission’s Notice of Findings on September 4, 2020, the Pacific leatherback sea turtle was designated a candidate species (Notice Register 2020, No. 36-Z, p. 1220).

Status Review Overview

The Commission’s action designating Pacific leatherback as a candidate species triggered the Department’s process for conducting a status review to inform the Commission’s decision on whether to list the species.

The Department transmitted its report to the Commission, titled “A Status Review of Pacific Leatherback Sea Turtle (*Dermochelys coriacea*) in California” (Status Review) on July 20,

2021. And on August 18, 2021, the Commission formally received the Department's Status Review. On October 14, 2021, the Commission found that the information contained in the petition to list Pacific leatherback and the other information in the record before the Commission warrants listing Pacific leatherback as an endangered species under the California Endangered Species Act.

Species Description

Leatherback Sea Turtle

Leatherback sea turtle is the largest turtle species in the world and the fourth largest living reptile (McClain et al. 2015). Adults weigh an average of 453 kilograms (1,000 pounds) with the carapace length commonly exceeding 1.5 meters (4.9 feet) (McClain et al. 2015, Davenport et al. 2011). The skin-covered carapace is predominantly black with pale spotting. (CDFW 2021; NMFS & USFWS 1998). The carapace is lined with seven longitudinal ridges, notably white in hatchlings, that taper posteriorly to a blunt point (Pritchard 2015). The underside is often mottled with white to pinkish to black coloration, and the degree of pigmentation is variable (NMFS & USFWS 1998). Leatherback hatchlings, in addition to their white longitudinal ridges, have a mottled underside and are covered with small polygonal bead-like scales (CDFW 2021). Unlike other sea turtle species, leatherback sea turtles have clawless flippers, with proportionally longer front flippers that span up to 2.7 meters (8.9 feet) wide in adults (NMFS & USFWS 1998). Leatherback sea turtles also have pointed, tooth-like cusps in their upper jaw that, in addition to backward pointing keratinized papillae in the mouth and throat, aid in the capture and ingestion of gelatinous prey (Pritchard 2015).

Leatherback sea turtles exhibit a shallow phylogeny as shown through mitochondrial deoxyribonucleic acid (mtDNA) analysis (Dutton et al. 1999). Significant extirpation events during the early Pleistocene glaciation likely reduced the species to a single lineage for the basis of current populations (Dutton et al 1999, Dutton 2004, Dutton et al. 2013). Unlike other sea turtle species which each have multiple mtDNA lineages, the genetic structure of leatherback sea turtles shows an expansion from a single mtDNA lineage approximately 0.17 million years ago (Bowen and Karl 1997, Dutton et al. 1996, Dutton et al. 1999, Duschene et al. 2012). Consequently, shared haplotypes between leatherback populations are most likely a result of common ancient ancestry rather than from gene flow through interbreeding (NMFS & USFWS 2020).

As mentioned in section 1.3 of the Status Review, there are seven federally recognized subpopulations that each meet the discreteness and significance criteria of the "Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Federal ESA" (i.e., DPS Policy; 61 FR 4722; February 7, 1996). All subpopulations are discrete, exhibit genetic discontinuity representative of marked separation from one another, and are each significant to the global population (Wallace et al. 2010, NMFS and USFWS 2020). As such, each subpopulation can be considered nearly independent from other subpopulations. Any loss of one or more subpopulations would result in a significant gap in the global nesting range and reduce the overall genetic diversity of the species globally (NMFS and USFWS 2020).

Pacific Leatherback Sea Turtle

Two subpopulations of leatherback sea turtle exist in the Pacific Ocean - the West Pacific population and the East Pacific population (CDFW 2021). Pacific leatherback sea turtle subpopulations (east and west) account for two of the seven federally recognized

subpopulations. Analysis of mtDNA showed a significant genetic differentiation between East Pacific population nesting sites (Mexico, Costa Rica) and West Pacific population nesting sites (Solomon Islands, Indonesia, Papua New Guinea), verifying the discreteness between the two populations (Barragan et al. 1998, Dutton et al. 1999, Dutton et al. 2000b, Dutton et al. 2005, Dutton et al. 2006, Dutton et al. 2007). Though the East Pacific and West Pacific populations are genetically different, the two populations overlap in their marine foraging areas.

II. STATUTORY AND LEGAL FRAMEWORK

The Commission, as established by the California State Constitution, has exclusive statutory authority under California law to designate endangered, threatened, and candidate species under CESA. (California Constitution, Article IV, Section 20, Subdivision (b); Fish and Game Code, Section 2070.) The CESA listing process began in the present case with the petitioners' submittal of the Petition to the Commission. The regulatory and legal process that ensued is described in some detail in the preceding section above, along with related references to the Fish and Game Code and controlling regulation. The CESA listing process generally is also described in some detail in published appellate case law in California, including:

- *Mountain Lion Foundation v. California Fish and Game Commission* (1997) 16 Cal.4th 105, 114-116;
- *California Forestry Association v. California Fish and Game Commission* (2007) 156 Cal.App.4th 1535, 1541-1542;
- *Center for Biological Diversity v. California Fish and Game Commission* (2008) 166 Cal.App.4th 597, 600;
- *Natural Resources Defense Council v. California Fish and Game Commission* (1994) 28 Cal.App.4th 1104, 1111-1116;
- *Central Coast Forest Association v. California Fish and Game Commission* (2017), 2 Cal. 5th 594, 597-598; and
- *Central Coast Forest Association v. California Fish and Game Commission* (2018) 18 Cal. App. 5th 1191, 1196-1197.

The “is warranted” determination at issue here stems from Commission obligations established by Fish and Game Code Section 2075.5. Under this provision, the Commission is required to make one of two findings for a candidate species at the end of the CESA listing process; namely, whether listing a species is warranted or is not warranted. Here, with respect to the Pacific leatherback, the Commission made the finding under Section 2075.5(e)(2) that listing the Pacific leatherback as endangered is warranted.

The Commission was guided in making these determinations by statutory provisions and other controlling law. The Fish and Game Code, for example, defines an endangered species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, over exploitation, predation, competition, or disease.” (Fish and Game Code, Section 2062.) Similarly, the Fish and Game Code defines a threatened species under CESA as “a native species or subspecies of a bird, mammal, fish, amphibian, reptile or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter.” (*Id.*, Section 2067.)

The Commission also considered Title 14, Section 670.1, subsection (i)(1)(A), of the California Code of Regulations in making its determination regarding Pacific leatherback. This provision provides, in pertinent part, that Pacific leatherback shall be listed as endangered or threatened under CESA if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat,
2. overexploitation,
3. predation,
4. competition,
5. disease, or
6. other natural occurrences or human-related activities.

Fish and Game Code Section 2070 provides similar guidance. This section provides that the Commission shall add or remove species from the list of endangered and threatened species under CESA only upon receipt of sufficient scientific information that the action is warranted. Similarly, CESA provides policy direction not specific to the Commission per se, indicating that all state agencies, boards, and commissions shall seek to conserve endangered and threatened species and shall utilize their authority in furtherance of the purposes of CESA (Fish and Game Code, Section 2055). This policy direction does not compel a particular determination by the Commission in the CESA listing context. Nevertheless, “[l]aws providing for the conservation of natural resources’ such as the CESA ‘are of great remedial and public importance and thus should be construed liberally.’” (*California Forestry Association v. California Fish and Game Commission*, supra, 156 Cal. App.4th at pp. 1545-1546, citing *San Bernardino Valley Audubon Society v. City of Moreno Valley* (1996) 44 Cal.App.4th 593, 601; Fish and Game Code, sections 2051 and 2052.)

Finally, in considering these factors, CESA and controlling regulations require the Commission to actively seek and consider related input from the public and any interested party (see, e.g., Id., sections 2071, 2074.4, 2078; California Code of Regulations, Title 14, Section 670.1, subsection (h)). The related notice obligations and public hearing opportunities before the Commission are also considerable (Fish and Game Code, sections 2073.3, 2074, 2074.2, 2075, 2075.5, 2078; California Code of Regulations, Title 14, Section 670.1, subsections (c), (e), (g), (i); see also Government Code, Section 11120 et seq.). All of these obligations are in addition to the requirements prescribed for the Department in the CESA listing process, including an initial evaluation of the petition and a related recommendation regarding candidacy, and a review of the candidate species’ status culminating with a report and recommendation to the Commission as to whether listing is warranted based on the best available science (Fish and Game Code, sections 2073.4, 2073.5, 2074.4, 2074.6; California Code of Regulations, Title 14, Section 670.1, subsections (d), (f), (h)).

III. Factual and Scientific Bases for the Commission’s Final Determination

The factual and scientific bases for the Commission’s determination that designating the Pacific leatherback as an endangered species under CESA is warranted are set forth in detail in the Commission’s record of proceedings including the Petition; the Department’s petition evaluation report; the Department’s status review report; written and oral comments received

from members of the public, the regulated community, tribal entities, and the scientific community; and other evidence included in the Commission's record of proceedings.

The Commission determines that the continued existence of Pacific leatherback in the state of California is in serious danger or threatened by one or a combination of the following factors as required by the California Code of Regulations Title 14, Section 670.1, subsection (i)(1)(A):

1. Present or threatened modification or destruction of its habitat,
2. overexploitation,
3. predation,
4. competition,
5. disease, or
6. other natural occurrences or human-related activities.

The Commission also determines that the information in the Commission's record constitutes the best scientific information available and establishes that designating Pacific leatherback as an endangered species under CESA is warranted. Similarly, the Commission determines that Pacific leatherback is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease.

The items highlighted here and detailed in the following section represent only a portion of the complex issues aired and considered by the Commission during the CESA listing process for Pacific leatherback. Similarly, the issues addressed in these findings represent some, but not all of the evidence, issues, and considerations affecting the Commission's final determination. Other issues aired before and considered by the Commission are addressed in detail in the record before the Commission, which record is incorporated herein by reference.

Background

The Commission bases its "is warranted" finding for Pacific leatherback on the significant threats posed by four of the six listing factors (all except competition and disease).

Qualification for listing

The Petition requests that the Commission list Pacific leatherback. Pacific leatherback sea turtles are comprised of two subpopulations (CDFW 2021). The two subpopulations are reproductively isolated as mating occurs off nesting beaches and not at foraging sites (CDFW 2021). Both subpopulations may occur within the California Current Ecosystem. (Dutton et al. 2007).

The Department ultimately concluded that the petitioned action to list Pacific leatherback was warranted and recommended that the Commission do so (CDFW 2021). Pacific leatherback constitutes two subpopulations, which, while they can be genetically differentiated, have substantial geographic overlap within foraging habitat (Dutton et al. 2007; CDFW 2021). Based on the foregoing factors, the Commission finds Pacific leatherback qualifies for listing under CESA.

Threats

Pacific leatherback is threatened due to:

1. Present or threatened modification of its habitat,
2. overexploitation,
3. predation, and
4. other natural events or human related activities.

Present or Threatened Modification or Destruction of Habitat

Based on review of the best available science, the destruction or modification of nesting habitats is a threat to Pacific leatherback.

In Indonesia, the monsoon season beginning in September has been documented to remove entire beaches at Jamursba-Medi, making the beach unsuitable for nesting (Hitipeuw et al. 2007). In the 2003-2004 nesting season, 80% of marked nests at Jamursba-Medi were washed away before hatching (Hitipeuw et al. 2007). A similar threat occurs at Wermon, with 23% and 26% of nests lost due to beach inundation during the 2003-2004 and 2008-2009 nesting seasons, respectively (NMFS and USFWS 2020). Beach erosion at less consistently monitored beaches in Papua New Guinea and Vanuatu has also been documented, with low hatching success in years with turbulent water activity caused by storms, floods, and high tides (Petro et al. 2007, Pilcher 2008, WSB 2016 referenced in NMFS and USFWS 2020).

Despite recent research showing California's leatherback foraging habitat is not contributing to the declining abundance and population trends, climate change has the potential to reduce prey availability by altering ocean productivity (CDFW 2021). This change in prey availability can alter foraging behavior and would have unknown consequences on Pacific leatherback survival and reproduction (Benson et al. 2020; CDFW 2021).

The Commission finds habitat modification and destruction to be a significant threat to the continued existence of Pacific leatherback.

Overexploitation

The harvest of leatherback sea turtles and eggs occurs in all four countries where the West Pacific population nests and is well documented (Bellagio Sea Turtle Conservation Initiative 2008, Jino et al. 2018, Kinch et al. 2009, Petro et al. 2007, Suarez and Starbird 1996, Tiwari et al. 2013a, NMFS and USFWS 2013, Tapilatu et al. 2017, NMFS and USFWS 2020). In Indonesia, leatherback turtle and egg take at Jamursba-Medi and Wermon has been eliminated since the enactment of the monitoring program in 1993 (Hitipeuw et al. 2007). However, recent surveys show leatherback turtle eggs are harvested from other Indonesian beaches and sold in local markets. Between 2016 and 2017 at Buru Island, Indonesia, it is estimated three to five nesting females were killed and approximately 114 of 203 leatherback nests were harvested (CDFW 2021). It is estimated that three to five females are killed annually at Buru Island (USFW and NMFS 2020). The killing of leatherback turtles (juveniles and adults) in the Kei Islands foraging habitat is also an ongoing threat to the population (NMFS and USFWS 2020). Prior information on the local tradition of hunting Pacific leatherback turtles in the Kei Islands suggested up to 100 adult leatherbacks are killed annually (Kinan 2005). Similarly, in Papua New Guinea, leatherback sea turtles have been

protected since 1976, but illegal take of turtles and eggs continues throughout the country due to lack of enforcement and long-standing community-based traditions (Bellagio Sea Turtle Conservation Initiative 2008). Kinch (2009) documented the taking of 21 nesting females in Bougainville Island, Papua New Guinea. From 2008 to 2013, a conservation measure providing financial rewards to locals for non-harvest of eggs and turtles increased hatchling emergence success by 60% (Pilcher 2013 referenced in NMFS and USFWS 2020). However, egg and turtle harvest resumed when the program ended in 2013 (NMFS and USFWS 2020). Egg and turtle harvest have also been well documented in Vanuatu and the Solomon Islands despite similar conservation efforts (NMFS and USFWS 2020). In 2011 at Isabel Island, Solomon Islands, nearly all the eggs in 315 leatherback nests were taken (USFWS and NMFS 2020). On Vangunu Island, Solomon Islands, Jino et al. (2018) found that approximately 10-20 nesting females are taken annually.

Harvest of West Pacific leatherback eggs and turtles remains a major threat to the population. Though regulatory mechanisms exist in all four nations where the population nests, the laws are rarely enforced. Lack of community buy-in and conservation funding combined with the continued practice of traditional customs has made mitigation from the threat of harvest difficult (Kinch 2006, Gjersten and Pakiding 2012, Von Essen et al. 2014). Though the exact number of West Pacific leatherback turtles removed from the population via harvest is unquantified, the removal of West Pacific leatherback turtles and eggs reduces both abundance and productivity (NMFS and USFWS 2020). The taking of female turtles directly removes reproductive individuals from the population, reducing the overall reproductive potential of the population. Similarly, egg harvest reduces future population recruitment. The continued harvest of leatherback turtles and eggs in the West Pacific adversely impacts the population.

The Commission finds that overexploitation is a significant threat to the continued existence Pacific leatherback.

Predation

Predation of leatherback sea turtle eggs is a well-documented threat to the West Pacific population. Nest predation by feral pigs, feral dogs, and monitor lizards (*Varanus salvator*) occurs at many beaches in Indonesia, Papua New Guinea, and Solomon Islands (Bellagio Sea Turtle Conservation Initiative, 2008; NMFS and USFWS 2020). For example, between June and July of 2005, 29.3% of nests were destroyed by pigs at Jamursba-Medi (Tapilatu and Tiwari 2007). At Wermon, 21% of nests were lost to predation during the 2004-2005 nesting season (Wurlianty and Hitipeuw 2005). In Papua New Guinea, predation by village dogs is a significant threat to nests. All nests laid during the 2003-2004 and 2004-2005 nesting season were lost to predation by dogs (NMFS and USFWS 2020).

The Commission finds that predation is a significant threat to the continued existence of Pacific leatherback.

Other Natural Occurrences or Human-Related Activities

Fishery Bycatch

The West Pacific population's foraging range and migratory routes expose the population to coastal and pelagic fisheries in many nations and international waters. Information on bycatch and Pacific leatherback mortality in international pelagic and coastal fisheries suggests these fisheries negatively impact the population, though few studies accurately quantify mortality in

international fishery interactions due to inconsistent reporting and lack of information on small-scale coastal fisheries (CDFW 2021). Annual fisheries interaction and mortality rates of leatherback sea turtles are only reliably available for U.S. fisheries. U.S.-managed fisheries operate under strict regulatory management regimes designed to mitigate sea turtle bycatch and mortality that have significantly reduced Pacific leatherback sea turtle interactions. NMFS currently estimates approximately 13.3 leatherback sea turtle interactions have occurred between 2001 and 2018 in the drift gill net fishery, with approximately 7.7 mortality/serious injury occurrences (Carretta 2020).

In California, the Department's Risk and Mitigation Program and its Lost and Abandoned Dungeness Crab Trap Gear Retrieval Program are designed to reduce the entanglement risks of Pacific leatherback sea turtles in the commercial Dungeness crab fishery, and the state's Drift Gill Net Transition Program is designed to reduce potential bycatch in the large-mesh drift gill net fishery. Nonetheless, any mortality of females (including those in California) reduces the population's productivity (CDFW 2021).

Although this threat is mitigated by existing regulations in California and the United States, its severity is significantly greater in certain international fisheries

Therefore, fishery bycatch is a threat to the persistence of the Pacific leatherback.

Climate Change

The Earth's climate is warming, and the primary causes are greenhouse gas emissions and deforestation (IPCC 2007; USGCRP 2009; USGCRP 2017). Since 1900 global average temperature has increased 0.7° C (NRC 2006) due to carbon dioxide emissions. Ice core data indicates that atmospheric carbon dioxide is currently 30% greater than its peak in the last 800,000 years. If current conditions remain unchanged, studies project that global climate will change drastically. Projections include an increase of 1.1 – 6.4° C in average global surface temperature (USGCRP 2009), sea level rise of 1 – 3 m (IPCC 2007; USGCRP 2009; USGCRP 2017).

Increased frequency of abnormal environmental conditions as a result of climate change can impact the survivability of Pacific leatherback turtles. Rising sea levels adversely change nesting habitat and increase the risk of beach erosion (Benson et al. 2015). Warmer temperatures at nesting sites have the potential to increase the occurrence of lethal incubation temperatures, alter incubation times, and change hatchling sex ratios (Benson et al. 2015). In 2007, Tapilatu and Tiwari attributed low hatching success and a female skewed sex ratio to high average sand temperatures (Tapilatu and Tiwari 2007). In Papua New Guinea, incubation duration was observed to decrease as beach temperatures warmed (Steckenreuter et al. 2010).

For Pacific leatherback sea turtles foraging off the California Coast, an additional impact of climate change is the effect on prey availability. Benson et al. (2007a) found a correlation between annual abundance of West Pacific leatherback sea turtles foraging off California between 1990 and 2003 and the strength of upwelling each year, indicating the West Pacific cohort that forages off California may be impacted by ocean productivity. Weak upwelling and lower ocean productivity, particularly if exacerbated by climate change, has the potential to reduce prey availability and alter West Pacific leatherback foraging behavior.

Therefore, climate change is a threat to the persistence of Pacific leatherback.

The Commission finds the natural or human-related activities discussed above to be a significant threat to the continued existence of Pacific leatherback.

IV. FINAL DETERMINATION BY THE COMMISSION

The Commission has weighed and evaluated the information for and against designating Pacific leatherback as an endangered species under CESA. This information includes scientific and other general evidence in the Petition; the Department's petition evaluation report; the Department's status review; the Department's related recommendations; written and oral comments received from members of the public, the regulated community, various public agencies, and the scientific community; and other evidence included in the Commission's record of proceedings.

Based upon the evidence in the record, the Commission has determined that the best scientific information available indicates that the continued existence of Pacific leatherback is in serious danger or threatened by present or threatened modification or destruction of the species' habitat, overexploitation, predation, or other natural events or human-related activities, where such factors are considered individually or in combination (see generally California Code of Regulations, Title 14, Section 670.1, subsection (i)(1)(A); Fish and Game Code, sections 2062 and 2067). The Commission determines there is sufficient scientific information to indicate that designating Pacific leatherback as an endangered species under CESA is warranted at this time and that, with adoption and publication of these findings, Pacific leatherback, for purposes of its legal status under CESA, shall be listed as endangered.

V. Citations

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