

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

Add Section 540  
Amend Sections 550, 551, and 630  
Title 14, California Code of Regulations  
Re: Department Lands

I. Dates of Statements of Reasons

- |                                       |                         |
|---------------------------------------|-------------------------|
| (a) Initial Statement of Reasons      | Date: November 20, 2023 |
| (b) Pre-adoption Statement of Reasons | Date: January 26, 2024  |
| (c) Final Statement of Reasons        | Date: February 29, 2024 |

II. Dates and Locations of Scheduled Hearings

- |                        |                         |                      |
|------------------------|-------------------------|----------------------|
| (a) Notice Hearing     |                         |                      |
|                        | Date: October 11, 2023  | Location: San Jose   |
| (b) Discussion Hearing |                         |                      |
|                        | Date: December 13, 2023 | Location: San Diego  |
| (c) Adoption Hearing   |                         |                      |
|                        | Date: February 15, 2024 | Location: Sacramento |

III. Update

In the Pre-adoption Statement of Reasons, dated January 26, 2024, the Department of Fish and Wildlife (Department) recommended the following amendments to the originally proposed language:

**Amend Subsection 550(c)(4)**

In subsection 550(c)(4) regarding electric bicycles and motorized transportation devices, add language to specify that the Department may allow electric bicycles in particular areas based on the purposes for the Department land; the infrastructure, capacity, and staffing available to support the activity; human safety considerations; and/or the protection of natural resources.

The additional language clarifies the criteria or circumstances under which electric bicycles may be allowed by Department regional managers and staff.

**Subsection 630(d)(7)**

In subsection 630(d)(7), regarding hunting allowances on Burton Mesa Ecological Reserve, replace “Allowed for upland game birds and department sponsored special hunt program events.” with “Allowed for upland game birds during department sponsored special hunt program events.”

The revised language was the Departments original intent, that upland game bird hunting is allowed only during Department sponsored special hunts. No other hunting is allowed.

The Burton Mesa property contains State Lands Commission (SLC) leases, including hydrocarbon pipelines, domestic water production wells and pipelines. Allowing hunting only during Department sponsored special hunts will allow the Department to define the hunting area to avoid SLC leased areas and the facilities they contain.

### **Subsection 551(m)(18)**

In subsection 551(m)(18) Mendota Wildlife Area, remove the proposed regulatory language concerning trailer use and parking on the property.

The original purpose of the proposed regulatory language was to allow an equitable distribution of limited trailer parking at this location; however, the Department recommended removing the proposed language in order to better prepare the language for a future rulemaking.

**The Fish and Game Commission (Commission) adopted the revised proposed regulatory language on February 15, 2024. Minor edits have been made to correct unamended regulatory language to match official regulatory language and to correct the subsection numbering in ~~strikeout text~~ in subsection 630(b).**

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

Responses to public comments received prior to January 25, 2024 were included in the Pre-adoption Statement of Reasons (see attached). The Commission concurs with the Department responses provided in the Pre-adoption Statement of Reasons. Comments on or after January 25, 2024 are summarized and responded to below.

- **February 2, 2024 – Phil Beguhl (written comment forwarded via email by David Villalobos)**

Commenter, representing Santa Barbara County Fish and Wildlife Commission strongly supports the proposed changes to subsection 630(d) that would provide public hunting opportunities at Burton Mesa Ecological Reserve and Chorro Creek Ecological Reserve.

**Response:** The Commission appreciates and acknowledges the comment in support of the proposed package.

- **February 8, 2024 – Christopher Lish (written comment)**

Commenter expressed support for the addition of Section 540 that prohibits Department use of neonicotinoid pesticides on Department lands. Mr. Lish noted that adoption of Section 540 is essential for the wellbeing of California's pollinators as well as crucial for the protection of habitat and special status species in the State.

**Response:** The Commission appreciates and acknowledges the comment in support of the proposed regulation.

- **February 9, 2024 – Eric Stein (written comment)**

Commenter, representing Western Plant Health Association, urged the Commission to preserve the ability to utilize neonicotinoids. Western Plant Health Association supports the proper use of pesticides following state and federal regulations, responsible stewardship of pesticides, and the adoption of integrated pest management practices that minimize the impact of pesticides on non-targets and protect agriculture, natural resources, and public health.

**Response:** The Commission adopted the regulation as originally proposed. Neonicotinoid insecticides can be highly toxic to non-target insects, including desirable pollinators such as bees. The Department does not currently use neonicotinoids, and the Commission does not believe that use of neonicotinoids will be necessary to achieve conservation objectives on Department lands in the future.

- **February 15 – Mark Hennelly (oral comment)**

Commenter, representing California Waterfowl Association, noted support for the overall package that will benefit public area hunters and other outdoor enthusiasts. Mr. Hennelly supports additional hunting opportunities and access to new public lands.

**Response:** The Commission appreciates and acknowledges the comment in support of the proposed package.

- **February 15 – Bill Gaines (oral comment)**

Commentor agrees with comments provided by Mark Hennelly. Mr. Gaines also noted the new public hunting and public access opportunities, and the newly designated lands El Dorado Wildlife Area and Peace Valley Ecological Reserve.

**Response:** The Commission appreciates and acknowledges the comment in support of the proposed package.

- **February 15 – Hardy Kern (oral comment)**

Commentor, representing American Bird Conservancy, supports the addition of Section 540. The American Bird Conservancy was part of the initial petition request and appreciates the Commission promulgating a rule into effect. Mr. Kern stated that they would be interested in understanding why the language is restricted in such a way that it is just the use of neonicotinoid pesticides on Department lands by the Department itself, as opposed to those who might lease out the land or sublet it in some areas.

**Response:** This language is focused on Department use because use of neonicotinoids by visitors is covered under other regulatory language.

V. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change

At its June 20-21, 2018 meeting, the Commission granted for consideration in the next lands rulemaking a public petition for regulation change (tracking number 2018-003) requesting an addition to subsection 551(i) to permit dog training in the Big Sandy Wildlife Area. However, since that meeting, it has been determined that dog training is not compatible with the other

uses and resources on the Big Sandy Wildlife Area. Big Sandy Wildlife Area is habitat for the federally endangered, state threatened species San Joaquin kit fox (*Vulpes macrotis mutica*). Dogs off leash are generally not compatible with kit foxes, so it is reasonable to limit dogs to those on leash or those that are actively engaged in upland game hunting during the upland game seasons. Big Sandy Wildlife Area is also open for hunting every day of the year for other species, and dog training will interfere with hunters' ability to hunt for species such as deer, rabbit, and pig. Dog training will also interfere with those who utilize Big Sandy Wildlife Area for passive wildlife-dependent activities, namely bird watching in the Salinas River riparian corridor. The Department recommends that the Commission reject this alternative based on the impact dog training would have on listed species on this property.

No other alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

Without the proposed changes, proposed property specific regulations that improve public safety, increase recreational opportunities, and provide resource protection will not be implemented. Improvements to existing regulations that clarify current regulations will not be incorporated. The designation of one ecological reserve and one wildlife area would not take place. These two properties will offer occasional public use opportunities, such as special hunts, wildlife viewing and educational activities.

(c) Consideration of Alternatives

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 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 Commission does not anticipate significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed regulation is largely administrative in nature to improve the clarity and consistency of the regulations that govern public use of Department lands and is not anticipated to affect the demand for goods and services related to outdoor recreation in California.

- (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 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 because the proposed regulation is largely administrative in nature to improve the clarity and consistency of the regulations that govern public use of Department lands and is not anticipated to affect the demand for goods and services related to outdoor recreation in California. The Commission anticipates general benefits to the health and welfare of California residents, no impacts to worker safety, and benefits to the state's environment.

- (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.

## Updated Informative Digest/Policy Statement Overview

*Note: All section references in this document are to Title 14, California Code of Regulations (CCR), unless otherwise indicated.*

Current regulations in sections 550, 551, and 630, Title 14, CCR, provide the regulatory framework for the public use of lands owned, managed and/or administered by the California Department of Fish and Wildlife (Department), including wildlife areas and ecological reserves.

The proposed regulation changes would:

- Improve the clarity and consistency of the regulations that govern public use of lands owned and/or managed by the Department (Section 550).
- Designate land the Department has recently acquired, one as a wildlife area and one as an ecological reserve (subsections 551(b) and 630(b) respectively).
- Make site-specific regulation changes for certain properties to improve public safety, increase recreational opportunities, provide resource protection, and manage staff resources (subsections 551(i) through (z) and 630(d) through (h)).
- Add new Section 540 to prohibit use of neonicotinoid pesticides on Department lands.

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

The proposed regulations package includes the following changes:

- Add Section 540: Neonicotinoid pesticide use is prohibited on Department lands.
  - Prohibit the use of neonicotinoid pesticides.
- Amend Section 550: General Regulations for Public Use on All Department of Fish and Wildlife Lands.
  - Sets a 3:00 p.m. deadline for waterfowl and pheasant season hunters to obtain their entry permit.
  - Prohibits electric bicycles on all lands except where posted as allowed.
  - Adds drones and other unmanned aircraft to the list of devices prohibited without a Special Use Permit issued by the Department.
  - Prohibits woodcutting on all Department lands.
- Amend Section 551: Additional Visitor Use Regulations on Department Lands Designated as Wildlife Areas.
  - Add El Dorado Wildlife Area, El Dorado County.
  - Amend site-specific regulations regarding permitted uses on wildlife areas affecting dog training and dog trials, bicycles, off-highway vehicles, boats, horse and pack stock, camping, fires, closure and restriction, hunt requirements, firearms, species, and reservations.
- Amend Section 630, Additional Visitor Use Regulations on Department Lands Designated as Ecological Reserves.
  - Add Peace Valley Ecological Reserve, Los Angeles County.

- Amend site-specific regulations regarding permitted uses on ecological reserves affecting fishing, swimming, boating, bicycles, horse and pack stock, closures and restrictions, hunting opportunities and restrictions.
- Minor editorial changes are also proposed to clarify the regulations.

The proposed regulations will allow the Department to pursue its 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 by the public. The Commission anticipates general benefits to the health and welfare of California residents, no impacts to worker safety, and benefits to the state's environment.

#### Evaluation of incompatibility with existing regulations

The Commission has reviewed its regulations and conducted a search for other regulations on this topic and has concluded that the proposed amendments are neither inconsistent nor incompatible with existing state regulations. No other state agency has the authority to promulgate regulations concerning the public use and conservation of wildlife areas and ecological reserves.

#### **UPDATE**

**In the Pre-adoption Statement of Reasons, dated January 26, 2024, the Department recommended the following amendments to the originally proposed language:**

**In subsection 550(c)(4) regarding electric bicycles and other motorized transportation devices, add language to specify that the Department may allow electric bicycles in particular areas based on the purposes for the Department land; the infrastructure, capacity, and staffing available to support the activity; human safety considerations; and/or the protection of natural resources.**

**In subsection 630(d)(7) Burton Mesa Ecological Reserve, replace "Allowed for upland game birds and department sponsored special hunt program events." with "Allowed for upland game birds during department sponsored special hunt program events."**

**In subsection 551(m)(18) Mendota Wildlife Area, remove the proposed text concerning trailer use and parking on the property.**

**The Commission adopted the revised proposed regulatory text on February 15, 2024. Minor edits have been made to correct unamended regulatory language to match official regulatory language and to correct the subsection numbering in strikeout text in subsection 630(b).**