

State of California  
Fish and Game Commission  
Preadoption 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 Statements of Reasons:

- (a) Initial Statement of Reasons                      Date: November 20, 2023
- (b) Preadoption Statement of Reasons              Date: January 26, 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. Description of and Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons (ISOR)

This Pre-adoption Statement of Reasons includes the sufficiently related changes that have been noticed via 15-day continuation period on January 29, 2024 of two minor changes. The Department of Fish and Wildlife (Department) recommends the following modifications of the originally proposed language of the ISOR:

**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.

It is further recommended that the following provision be removed from the proposed text:

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

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

The original purpose of the new text was to allow an equitable distribution of limited trailer parking at this location; however, the Department would like to remove the proposed language at this time in order to better prepare the language for a future rulemaking.

IV. Summary of Primary Considerations Raised in Opposition and in Support:

Public comments received between **December 1, 2023, and January 25, 2024**, are summarized and responded to below.

- **December 13, 2023 – Libby Lucas (oral comment)**

Commenter, retired Department environmental scientist from the Natural Communities Conservation and Planning Program in southern California. Ms. Lucas noted that prohibiting drones and electric bicycles is essential to prevent or minimize potential negative effects on wildlife. She also noted the Department’s inadequate management of and enforcement on its lands due to so few land managers and wardens relative to acreage, as documented in the state Wildlife Action Plan. She addressed the Commission with the question at what point does such economic assessment instead conclude that more positions for land managers, and wardens are needed for the Department to adequately protect its lands and the species they support.

**Response:** Refer to the Response to Libby Lucas’ comment from January 23, 2024, below.

- **December 8, 2023 – Dan Silver (written comment)**

Commenter, representing the Endangered Habitats League, expressed general support for the control of electric bicycles and motorized transportation devices on Department lands. Mr. Silver noted that strong regulation with commensurate enforcement is needed, and Department lands are failing in their purpose of wildlife protection and compatible recreation. Mr. Silver provided examples of illegal trails on the Carlsbad Highlands, Meadowbrook, and Del Mar Mesa ecological reserves in San Diego County.

**Response:** The Department appreciates and acknowledges these two comments in support of the limitations on electric bicycles and motorized transportation devices. The regulations are proposed to address illegal use and inform visitors of regulations related to electric bicycles and motorized transportation device use on Department lands. See ISOR for details subsections 550(c) page 3; 551(j) page 5; and 630(g) page 19.

While the comment regarding staffing is outside the scope of this rulemaking, the Commission encourages all stakeholders to continue engaging the Department in future rulemaking and other management actions related to Department Lands.

- **December 13, 2023 – Mark Hennelly (oral comment)**

Commenter, representing California Waterfowl Association. Mr. Hennelly noted support for the overall package that will benefit public area hunters and other outdoor enthusiasts. He specifically noted support for several proposed regulations, including new quail and deer hunts in the Central Valley, allowing boats with electric motors during waterfowl season on Lake Earl Wildlife Area and the creation of El Dorado Wildlife Area in the Sacramento area. He also commented that he recognized the need to revise the dog training and dog trialing regulations to accommodate new hunting opportunities.

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

- **December 20, 2023 – John Hotchkiss (written comment)**

Commenter, representing the Santa Maria Valley Sportsmen’s Association strongly supports the proposed changes to subsection 630(d) that would provide new hunting opportunities on Chorro Creek and Burton Mesa ecological reserves. Mr. Hotchkiss noted that for years hunters have been faced with fewer places to legally hunt. These proposed regulations will make it easier for new hunters to become successful and stick with hunting.

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

- **January 23, 2024 – Libby Lucas, WHCC, (written comment)**

The Commenter, representing the Wildlife and Habitat Conservation Coalition (WHCC), supports the prohibition of neonicotinoid pesticide use, the prohibition of the use of drones and other unmanned aircraft without a special use permit, and the regulation of electric bicycles and motorized transportation devices. WHCC noted that the prohibition of electric bicycles and motorized transportation devices is essential to prevent or minimize such devices’ negative effects on wildlife.

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

WHCC also noted the Department’s inadequate management of and enforcement on its lands due to so few land managers and wardens relative to acreage, as documented in the state Wildlife Action Plan and stated that inadequate management has resulted in widespread proliferation of unauthorized trails in at least three ecological reserves.

WHCC asked: What criteria are used to determine the number of permanent positions for land managers and wardens needed to enable the Department to adequately protect its lands and the species they support?

WHCC asked: How do the economic analyses factor in the costs that arise when there is inadequate management and enforcement? WHCC asked: At what point will the

Department utilize its authority to raise funds to help defray the costs of the needed increased management and enforcement.

**Response:** While the comments regarding staffing are outside the scope of this rulemaking, the Commission encourages all stakeholders to continue engaging the Department in future rulemaking and other management actions related to Department Lands.

WHCC asked: “Under what conditions or circumstances would electric bicycles be posted as allowed? Will the Commission provide any guidance for regional managers to use to determine whether electric bicycles should or should not be allowed in any particular ER or wildlife area?”

**Response:** The Department has requested that the Commission, at the time of adoption, accept a change adding a provision 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 (as set forth in amended subsection 550(c)(4)).

## 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**

**Three sufficiently related changes are requested of the Fish and Game Commission from the original proposal. Two changes were noticed via 15-day continuation period on January 29, 2024:**

- 1) 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.**
- 2) 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.”**

**The Department further recommends following provision be removed from the proposed text:**

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

**There are no further changes to the proposed regulatory text.**

## Revised Proposed Regulatory Language

**KEY:**

Language originally proposed to be added is shown in underline.

Language originally proposed to be deleted is shown in ~~strikeout~~.

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.

**The following portion of the originally proposed language in subsection 550(c)(4) is revised to read:**

(c) Visitor Entry and Responsibilities.

(4) Electric bicycles and motorized transportation devices (including but not limited to motorized bicycles, scooters, and carts) are prohibited on all department lands except where posted as allowed. 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 following portion of the originally proposed language in subsection 551(m) is revised to read:**

(m) Wildlife Areas with Camping, Camp Trailers and Motorhomes as a Designated Use: Unless permitted in this subsection, camping and the use of camp trailers and motorhomes are prohibited on wildlife areas. For additional rules about camping on department lands, see subsection 550(p) of these regulations.

| <b>AREA</b>  | <b>HUNTING DESCRIPTIONS</b>  |
|--|--|
| <p><del>(19)</del> <u>(18)</u> Mendota Wildlife Area</p> | <p>Allowed only in checking station parking lot, and only during waterfowl season.</p> <p><del>A limited number of season trailer parking permits are issued to hunters through the Mendota Wildlife Area. To obtain a season trailer parking permit, trailers may be placed at the check station parking lot no sooner than the Wednesday prior to opening of waterfowl season and must be attended.</del></p> <p><del>Weekend and Wednesday trailer use allowed without permit, but trailers need to be removed following the hunt day(s).</del></p> |

The following portion of the originally proposed language in subsection 630(d)(7) is revised to read:

(d) Ecological Reserves with Hunting as a Designated Public Use:

| <b>AREA</b>                               | <b>HUNTING DESCRIPTIONS</b>  |
|---|--|
| <u>(7) Burton Mesa Ecological Reserve</u> | <u>Allowed for upland game birds <del>and</del> during department sponsored special hunt program events. Shotgun and archery only.</u> |

[Note that there are no other changes to the originally proposed Regulations.]