

§ 670.1. Listing of Endangered and Threatened Species.

(Note: These regulations were drafted to provide a petition form and rules and procedures governing the submission and review of petitions for listing, uplisting, downlisting and delisting of endangered and threatened species of plants and animals. The intent of the 1994 amendments is a smoother and more effective implementation of the California Endangered Species Act (CESA) through procedural clarity. While these amendments generally follow the chronology of the CESA statutes, they do not recreate each procedural step of the statutes in regulations.)

Pursuant to Sections 2071 and 2071.5 of the California Fish and Game Code, the following rules and procedures shall govern the submission and review of petitions for listing, uplisting, downlisting and delisting of threatened or endangered species:

(a) Petition Requirement. Every person recommending that a species or subspecies be added to or removed from the ~~State~~state listing of endangered and threatened plants and animals or be changed in status (endangered to threatened or threatened to endangered) must submit a petition to the California Fish and Game Commission office at 715 P Street, 16th Floor, Sacramento, CA 95815, via mail to, 1416 Ninth Street, Post Office-Box 944209, Sacramento, California 94244-2090 or via email to fgc@fgc.ca.gov. Only petitions submitted ~~en~~with a completed an authorized petition form (~~PETITION TO THE STATE OF CALIFORNIA FISH AND GAME COMMISSION~~Petition to the State of California Fish and Game Commission, FGC-670.1 (~~3/94~~10/2024), which is incorporated by reference herein), will be considered by the commission. Form FGC-670.1 is available at the Commission~~commission~~ office, by contacting the commission at fgc@fgc.ca.gov, on the commission's website at <https://fgc.ca.gov/CESA> and at the offices of the California Department of Fish and Game~~Wildlife~~, ~~will be considered by the Commission.~~

(b) Review of Petition for Completeness. An incomplete petition shall be returned to the petitioner by the commission staff within 10 days of receipt. A petition shall be deemed incomplete if it is not submitted ~~en~~with FGC-670.1 (~~3/94~~10/2024) or fails to contain information in each of the required categories set forth in subsection (d)(1).

(c) Notice of Receipt of Petition. Pursuant to Section 2073.3 of the California Fish and Game Code, the commission staff shall submit a notice of receipt of an accepted petition to the Office of Administrative Law, for publication in the California Regulatory Notice Register, at the time the petition is transmitted to the department for evaluation. ~~Notice of the~~Upon receipt of a petition submitted by the department, the commission shall submit a notice of receipt ~~shall be submitted~~ to the Office of Administrative Law for publication ~~upon receipt~~. Notices shall contain the date and location of the Commission meeting at which the petition is scheduled for receipt.

(d) Department Initial Evaluation of Petition. (90-Day Review)

(1) Sufficient Scientific Information. The department's evaluation report, required pursuant to Section 2073.5 of the California Fish and Game Code, shall contain an evaluation of whether or not the petition provides sufficient scientific information on the following petition components of Section 2072.3 of the California Fish and Game Code to indicate that the petitioned action may be warranted:

- (A) population trend;
- (B) range;
- (C) distribution;
- (D) abundance;
- (E) life history;
- (F) kind of habitat necessary for survival;
- (G) factors affecting the ability to survive and reproduce;
- (H) degree and immediacy of threat;
- (I) impact of existing management efforts;
- (J) suggestions for future management;
- (K) availability and sources of information; and
- (L) a detailed distribution map.

(e) Consideration of Petition by Commission (rejection or acceptance).

(1) Rejection of Petition by Commission. Pursuant to Section 2074.2 of the California Fish and Game Code, a petition will be rejected by the commission if it fails to include sufficient scientific information under the categories of Section 2072.3 of California Fish and Game Code (subsections (d)(1)(A) through (L) above) that the petitioned action may be warranted. If the commission finds that the petition does not provide sufficient information to indicate that the petitioned action may be warranted, the commission will submit a notice of finding that the petition is rejected, including the reason for objections, to the Office of Administrative Law for publication ~~will be published~~ in the California Regulatory Notice Register.

(2) Acceptance of Petition by Commission. If the commission finds that the petition provides sufficient information to indicate that the petitioned action may be warranted, the commission will submit a notice of finding that the petition is accepted for consideration to the Office of Administrative Law for publication ~~will be published~~ in the California Regulatory Notice Register. If the petitioned action is to add a species to the threatened or endangered species list, the notice will declare the species a candidate.

(f) Department Review of Candidate Species. Pursuant to Section 2074.6 of the California Fish and Game Code, within 12 months of the date of publication of notice of acceptance of a petition for consideration by the commission, the department shall provide a written report to the commission, based upon the best scientific information available to the department. This report shall indicate whether or not the petitioned action is warranted.

(1) Recommendations for Management and Recovery. Pursuant to Section 2074.6 of the California Fish and Game Code, the department's status report shall contain a preliminary identification of the habitat which may be essential to the continued existence of the species and recommendations for management activities and other recommendations for recovery of the species.

(2) Solicitation of Data and Comments. In satisfying the requirements of Section 2074.4 of the California Fish and Game Code, the department shall solicit both existing data on the candidate species from independent sources and comments on the petitioned action. During the status review period the department shall seek independent and competent peer review of the department status report whenever possible. For purposes of these regulations, peer review is defined as the analysis of a scientific report by persons of the scientific/academic community commonly acknowledged to be experts on the subject under consideration, possessing the knowledge and expertise to critique the scientific validity of the report. The department shall include in the status report a listing of the individuals and agencies that were given an opportunity to review the status report prior to its submittal to the commission. Any comments received shall also be included in the status report.

(3) Review Period for Department-Initiated Petitions. When a department-initiated petition is accepted by the commission for consideration, ~~the commission staff~~ shall schedule receipt of the department's report prepared pursuant to Section 2074.6 of the California Fish and Game Code for a commission meeting no sooner than 90 days from the date the notice of candidate species is published in the California Regulatory Notice Register.

(g) Receipt of Department's Status Report and Scheduling of Finding Hearing.

(1) Commission Meetings for Receipt of Report and Making of Finding. The commission shall receive the department's status report at a regularly scheduled meeting and provide for final consideration of the petition at the next scheduled meeting. Agendas for both of these meetings shall be distributed to all individuals requesting such notification.

(2) Upon Receipt by the Commission Office, Availability of Status Report. The ~~Department's~~ department's status report shall be made available for public review.

(h) Submission of Reports by Interested Parties During the Department's Review Period of Candidate Species.

(1) Time of Submission. Public comments, including critiques, rebuttals or comments on the petition or on the department's status review report, may be submitted in writing to the commission office or presented as oral or written testimony at the finding hearing on the petition. Interested parties who wish to submit a detailed written scientific report to the commission on the petitioned action must submit such report not later than the time the department submits its report pursuant to Section 2074.6 of the California Fish and Game Code. Detailed scientific reports received after the department submits its review report may not be considered. The department shall provide interested parties with a preliminary estimation of the date the status review report will be submitted to the commission. Such estimations will be provided only upon written request and shall not obligate the department to submit the report at the time identified. The department shall reserve the right to submit the report at a later or earlier date. If, however, the report will be submitted appreciably earlier or later than the estimated date, the department shall notify those who made written requests at the earliest possible time. (Parties planning to submit scientific reports are encouraged to coordinate with the department during its review period and to share scientific information useful to the department in its review.)

(2) Solicitation of Comments. Interested individuals who wish to submit a detailed scientific report pursuant to subsection 670.1(h)(1) above may seek independent and competent peer review of this report prior to submission. All comments from the reviewers shall be included with the report to verify that peer review has been solicited. Failure to obtain peer review of privately prepared detailed scientific reports may be a factor considered by the ~~Commission~~commission in its final determination on the petition.

(3) Availability of Detailed Scientific Report from Interested Individuals. Detailed scientific reports from private individuals shall be made available for public review upon receipt by the ~~Commission~~commission office.

(i) Final Consideration of Petition by Commission. (Action warranted or not warranted.)

(1) Petition Action Warranted.

(A) Listing. A species shall be listed as endangered or threatened, as defined in sections 2062 and 2067 of the California Fish and Game Code, if the ~~Commission~~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.

(B) Delisting. A species may be delisted as endangered or threatened, as defined in sections 2062 and 2067 of the California Fish and Game Code, if the ~~Commission~~commission determines that its continued existence is no longer threatened by any one or any combination of the factors provided in subsection (i)(1)(A) above.

1. Status During Delisting Process. A threatened or endangered species petitioned for delisting shall retain its listed status throughout the delisting process.

~~2. Removal of Species. After the commission has determined that the petitioned action is warranted, a delisted species shall retain its listed status until 30 days after the Office of Administrative Law has approved the associated rulemaking file and filed the regulation change with the Secretary of State.~~

(C) Uplisting and Downlisting. A threatened species may be uplisted to endangered if its continued existence throughout all or a significant portion of its range is in serious danger of the species becoming extinct by any one or any combination of the factors listed in subsection (i)(1)(A) above. An endangered species may be downlisted to threatened if it is no longer in serious danger of becoming extinct but special protection and management are still required because of continued threats to its existence by any one or any combination of the factors listed in subsection (i)(1)(A) above.

(2) Petitioned Action Not Warranted. The commission shall enter its findings in the public records and the subject species shall revert to its status prior to the filing of the petition.

(j) Submission of Regulatory Document. ~~The department shall prepare an Initial Statement of Reasons for Regulation Change (also called Pre-publication of Notice Statement), including an assessment of the potential for adverse economic impact pursuant to Government Code Sections 11346.5 and 11346.53, when listing, delisting or change in status is recommended in the Department's report prepared pursuant to subsection (f) of this section. This document shall be submitted to the commission staff at the commission meeting after final consideration of the petition if the commission makes a finding that the petitioned action is warranted. If the commission finds that the petitioned action is warranted, or the petitioned action is not warranted but listing the petitioned species at a different status than that requested by the petitioner is warranted, the commission shall submit a regulation change reflecting the change in status of the species to the Office of Administrative Law consistent with California Fish and Game Code subdivision 2075.5(e)(2).~~

NOTE: Authority cited: Sections 2071 and 2071.5, Fish and Game Code. Reference: Sections 2062, 2067, 2071, 2071.5, 2072, 2072.3, 2072.7, 2073.3, 2073.5, 2074.2, 2074.4, 2074.6 and 2075.5, Fish and Game Code.