

First Supplement to Memorandum 2014-26

**Fish and Game Law:
Draft Tentative Recommendation**

Memorandum 2014-26¹ presents a draft tentative recommendation proposing several technical and minor substantive improvements to provisions of the existing Fish and Game Code.

Among the revisions presented in the draft recommendation are those that would revise obsolete references to the “Department of Fish and Game,” to instead read “department.”² The provisions presented in the draft tentative recommendation containing those obsolete references are provisions the staff has previously presented to the Commission, in conjunction with its ongoing compilation of a proposed recodification of the Fish and Game Code.

The staff has also identified a number of other provisions that need similar amendments, which have not yet been presented to the Commission as part of the review of the Fish and Game Code. Despite the fact that we may eventually propose other changes to those provisions, the staff sees no reason why they can’t be amended to correct the department name references now, in the draft tentative recommendation.

Draft language to effect those changes (with other minor technical revisions of the type we routinely propose) is attached. **If the Commission approves that language, it will be integrated into the draft tentative recommendation.** A few minor points about the proposed revisions are discussed below.

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See Fish & Game Code §§ 700(c) (“Whenever the term ‘Department of Fish and Game’ appears in a law, the term means the ‘Department of Fish and Wildlife.’”); 37 (“‘Department’ means the Department of Fish and Wildlife.”)

Notes on Proposed Revisions

In a few provisions, there appears to be good reason to keep the full department name (with corrections to reflect the recent name change), rather than use the defined term “department.”³

In one provision, Section 1505, we are proposing to make a fairly significant nonsubstantive revision, to make the section easier to understand. The current text of the section reads as follows:

1505. In addition to any other powers vested in the department, it may manage, control and protect such portions of the following spawning areas which occupy state-owned lands to the extent necessary to protect fishlife in these areas. *In the event of any conflict under this section with the action of another department or agency of the state or any other public agency, the action of the Department of Fish and Game taken pursuant to this section shall prevail except for: (a) action of the state or regional water quality control boards in establishing waste discharge requirements, (b) action as required for commerce and navigation, (c) action by public agencies reasonably necessary for bridge crossings, water conservation or utilization, or flood protection projects, including the construction, maintenance, and operation thereof. The exceptions in subdivision (c) shall not extend to the depositing of materials, other than necessary structural materials, in, or the removing of materials from the streambeds in the areas designated in this section, other than as necessary for the installation of structures.* These areas are:

The Sacramento River between Keswick and Squaw Hill Bridge, near Vina.

The Feather River between Oroville and the mouth of Honcut Creek.

The Yuba River between Englebright Dam and a point approximately four miles east of Marysville.

The American River between Nimbus Dam and a point one mile downstream from Arden Way.

The Mokelumne River between Pardee Dam and Lockeford.

The Stanislaus River between Goodwin Dam and Riverbank.

The Tuolumne River between La Grange Dam and the Geer Road (J14) Bridge.

The Merced River between Crocker Huffman Dam and Cressey.

The Trinity River between Lewiston Dam and the confluence of the North Fork Trinity, near Helena.

The Eel River, from Fort Seward to Lake Pillsbury.

The South Fork Eel River.

The Middle Fork Smith River, from its mouth to Knopti Creek.

The South Fork Smith River, from its mouth to Harrington Creek.

3. See proposed revisions to Fish & Game Code §§ 1014, 1505, 12151.5.

The Salmon River, from its mouth to Rush Creek on the South Fork Salmon River, to Carter Meadow on the east fork of the South Fork Salmon River, and to Finley Camp on the North Fork Salmon River.

Battle Creek, from its mouth to Coleman Powerhouse.

The Cosumnes River, from Meiss Road Bridge to Latrobe Road Bridge.

The Van Duzen River, from Yager Creek to the falls 11/2 miles above Bloody Run Creek.

The Mad River, from Blue Lake Bridge to Bug Creek.

The Middle Fork Eel River.

The Mattole River.

The Noyo River.

The Big River, Mendocino County.

The Gualala River.

The Garcia River, Mendocino County.

Until ownership of any land in these areas has been legally determined, the director shall disapprove any stream alterations of any prime salmon and steelhead spawning areas when in his opinion such alterations would prove deleterious to fishlife.

Section 1505 (emphasis added).

The proposed revision of this section would add subdivision and paragraph designations to the section, delete some superfluous language, and make other nonsubstantive stylistic revisions. The revision would also revise and relocate the language shown in italics in the first paragraph of the section, in order to textually join the list of geographic areas listed in the section with the language of the first paragraph that refers to those areas, as follows:

1505. (a) ~~In addition to any other powers vested in the department, it~~ The department may manage, control and protect such the portions of the following spawning areas which that occupy state-owned lands, to the extent necessary to protect fishlife in these areas:

(1) The Sacramento River between Keswick and Squaw Hill Bridge, near Vina.

(2) The Feather River between Oroville and the mouth of Honcut Creek.

....

(b) In the event of any conflict under this section with the action of another department or agency of the state or any other public agency, the action of the Department of Fish and ~~Game~~ Wildlife taken pursuant to this section shall prevail, except ~~for~~ in the event of conflict with the following actions:

~~(a) action~~ (1) An action of the state or regional water quality control boards in establishing waste discharge requirements.

~~-(b) action as~~ (2) An action required for commerce and navigation.

~~-(c) action by public agencies~~ (3) An action by a public agency that is reasonably necessary for bridge crossings, water conservation or utilization, or flood protection projects, including the construction, maintenance, and operation thereof. The exceptions in subdivision (c) shall not extend This paragraph shall not apply to the depositing of materials, other than necessary structural materials, in, or the removing of materials from the streambeds in the areas designated in this section, other than as necessary for the installation of structures.

(c)

The full text of the proposed revision can be seen in the attachment to this supplement. **The Commission welcomes public comment on whether the proposed revision to Fish and Game Code Section 1505 would cause any substantive change in the meaning of the existing provision.**

Respectfully submitted,

Steve Cohen
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PROPOSED LEGISLATION

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PROPOSED LEGISLATION

1 **Fish & Game Code § 393 (amended). Out of state law enforcement officers**

2 SEC. ____ . Section 393 of the Fish and Game Code is amended to read:

3 393. (a) Any regularly employed law enforcement officer of an Oregon, Nevada,
4 or Arizona state law enforcement agency, including, but not limited to, the Oregon
5 State Police, the Nevada Department of Wildlife, or the Arizona Game and Fish
6 Department, is a peace officer in this state if all of the following conditions are
7 met:

8 (1) The officer is providing, or attempting to provide, law enforcement services
9 within this state, within a distance of up to 50 statute miles of the contiguous
10 border of this state and the state employing the officer, or within waters offshore
11 of this state in the Exclusive Economic Zone.

12 (2) The officer is providing, or attempting to provide, law enforcement services
13 pursuant to either of the following:

14 (A) In response to a request for services initiated by a member of the
15 department.

16 (B) In response to a reasonable belief that emergency law enforcement services
17 are necessary for the preservation of life, and a request for services by a member
18 of the ~~Department of Fish and Game~~ department is impractical to obtain under the
19 circumstances. In those situations, the officer shall obtain authorization as soon as
20 practical.

21 (3) The officer is providing, or attempting to provide, law enforcement services
22 for the purpose of assisting a member of the ~~Department of Fish and Game~~
23 department in response to misdemeanor or felony criminal activity, pursuant to the
24 authority of a peace officer as provided in subdivision (e) of Section 830.2 of the
25 Penal Code, or, in the event of emergency incidents or other similar public safety
26 problems, whether or not a member of the department is present at the scene of the
27 event.

28 (4) An agreement pursuant to Section 392 is in effect between the ~~Department of~~
29 ~~Fish and Game~~ department and the agency of the adjoining state employing the
30 officer, the officer acts in accordance with that agreement, and the agreement
31 specifies that the officer and employing agency of the adjoining state shall be
32 subject to the same civil immunities and liabilities as a peace officer and his or her
33 employing agency in this state.

34 (5) The officer receives no separate compensation from this state for providing
35 law enforcement services within this state.

36 (6) The adjoining state employing the officer confers similar rights and authority
37 upon a member of the department who renders assistance within that state.

38 (b) Notwithstanding any other provision of law, any person who is acting as a
39 peace officer in this state in the manner described in this section shall be deemed
40 to have met the requirements of Section 1031 of the Government Code and the

1 selection and training standards of the Commission on Peace Officer Standards
2 and Training if the officer has completed the basic training required for peace
3 officers in his or her state.

4 (c) A peace officer of an adjoining state shall not provide services within a
5 California jurisdiction during any period in which officers of the department are
6 involved in a labor dispute that results in a formal work slowdown or stoppage.

7 **Comment.** Section 393 is amended to update obsolete references to the Department of Fish
8 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

9 **Heading of Division 2 (commencing with Section 700) (amended). Department Of Fish And**
10 **Wildlife**

11 SEC. _____. The heading of Division 2 (commencing with Section 700) of the
12 Fish and Game Code is amended to read:

13 Division 2. Department Of Fish And ~~Game~~ Wildlife

14 **Comment.** The heading of Division 2 is amended to update an obsolete reference to the
15 Department of Fish and Game.

16 **Fish & Game Code § 1014 (amended). Administration of facilities**

17 SEC. _____. Section 1014 of the Fish and Game Code is amended to read:

18 1014. In the event the Department of Parks and Recreation contracts with the
19 federal government pursuant to Public Law 89-161 for the administration of
20 recreation development or fish and wildlife enhancement facilities, as authorized
21 by Section 5006.6 of the Public Resources Code, the Department of Fish and
22 ~~Game~~ Wildlife is authorized to operate, maintain and replace those facilities
23 designated as fish and wildlife enhancement facilities and to assume all costs of
24 such operation, maintenance and replacement, subject to appropriation of funds by
25 the Legislature.

26 **Comment.** Section 1014 is amended to update an obsolete reference to the Department of Fish
27 and Game.

28 **Fish & Game Code § 1505 (amended). Management of spawning areas**

29 SEC. _____. Section 1505 of the Fish and Game Code is amended to read:

30 1505. ~~(a) In addition to any other powers vested in the department, it~~ The
31 department may manage, control and protect ~~such~~ the portions of the following
32 spawning areas ~~which~~ that occupy state-owned lands, to the extent necessary to
33 protect fishlife in these areas. :

34 ~~In the event of any conflict under this section with the action of another~~
35 ~~department or agency of the state or any other public agency, the action of the~~
36 ~~Department of Fish and Game taken pursuant to this section shall prevail except~~
37 ~~for: (a) action of the state or regional water quality control boards in establishing~~
38 ~~waste discharge requirements, (b) action as required for commerce and navigation,~~
39 ~~(c) action by public agencies reasonably necessary for bridge crossings, water~~
40 ~~conservation or utilization, or flood protection projects, including the construction,~~

1 ~~maintenance, and operation thereof. The exceptions in subdivision (c) shall not~~
2 ~~extend to the depositing of materials, other than necessary structural materials, in,~~
3 ~~or the removing of materials from the streambeds in the areas designated in this~~
4 ~~section, other than as necessary for the installation of structures. These areas are:~~

5 (1) The Sacramento River between Keswick and Squaw Hill Bridge, near Vina.

6 (2) The Feather River between Oroville and the mouth of Honcut Creek.

7 (3) The Yuba River between Englebright Dam and a point approximately four
8 miles east of Marysville.

9 (4) The American River between Nimbus Dam and a point one mile downstream
10 from Arden Way.

11 (5) The Mokelumne River between Pardee Dam and Lockeford.

12 (6) The Stanislaus River between Goodwin Dam and Riverbank.

13 (7) The Tuolumne River between La Grange Dam and the Geer Road (J14)
14 Bridge.

15 (8) The Merced River between Crocker Huffman Dam and Cressey.

16 (9) The Trinity River between Lewiston Dam and the confluence of the North
17 Fork Trinity, near Helena.

18 (10) The Eel River, from Fort Seward to Lake Pillsbury.

19 (11) The South Fork Eel River.

20 (12) The Middle Fork Smith River, from its mouth to Knopti Creek.

21 (13) The South Fork Smith River, from its mouth to Harrington Creek.

22 (14) The Salmon River, from its mouth to Rush Creek on the South Fork
23 Salmon River, to Carter Meadow on the east fork of the South Fork Salmon River,
24 and to Finley Camp on the North Fork Salmon River.

25 (15) Battle Creek, from its mouth to Coleman Powerhouse.

26 (16) The Cosumnes River, from Meiss Road Bridge to Latrobe Road Bridge.

27 (17) The Van Duzen River, from Yager Creek to the falls 11/2 miles above
28 Bloody Run Creek.

29 (18) The Mad River, from Blue Lake Bridge to Bug Creek.

30 (19) The Middle Fork Eel River.

31 (20) The Mattole River.

32 (21) The Noyo River.

33 (22) The Big River, Mendocino County.

34 (23) The Gualala River.

35 (24) The Garcia River, Mendocino County.

36 (b) In the event of any conflict under this section with the action of another
37 department or agency of the state or any other public agency, the action of the
38 Department of Fish and Wildlife taken pursuant to this section shall prevail,
39 except in the event of conflict with the following actions:

40 (1) An action of the state or regional water quality control boards in establishing
41 waste discharge requirements.

42 (2) An action required for commerce and navigation.

1 (3) An action by a public agency that is reasonably necessary for bridge
2 crossings, water conservation or utilization, or flood protection projects, including
3 the construction, maintenance, and operation thereof. This paragraph shall not
4 apply to the depositing of materials, other than necessary structural materials, in,
5 or the removing of materials from the streambeds in the areas designated in this
6 section, other than as necessary for the installation of structures.

7 ~~(c) Until ownership of any land in these areas has been legally determined, the~~
8 The director shall disapprove any stream ~~alterations~~ alteration of any prime
9 salmon ~~and~~ or steelhead spawning ~~areas~~ area on land of which ownership has not
10 been legally determined, when in his the director's opinion such alterations the
11 alteration would prove deleterious to fishlife.

12 **Comment.** Section 1505 is amended to update an obsolete reference to the Department of Fish
13 and Game.

14 The section is also amended to improve its clarity, add subdivision designations, and make
15 stylistic changes, without making any substantive change.

16 **Fish & Game Code § 1930 (amended). Legislative declarations**

17 SEC. _____. Section 1930 of the Fish and Game Code is amended to read:

18 1930. The Legislature finds and declares that:

19 (a) Areas containing diverse ecological and geological characteristics are vital to
20 the continual health and well being of the state's natural resources and of its
21 citizens.

22 (b) Many habitats and ecosystems that constitute the state's natural diversity are
23 in danger of being lost.

24 (c) Connectivity between wildlife habitats is important to the long-term viability
25 of the state's biodiversity.

26 (d) Increasingly fragmented habitats threaten the state's wildlife species.

27 (e) There is insufficient incentive for private landowners to maintain and
28 perpetuate significant local natural areas in their natural state.

29 (f) Efforts to preserve natural areas have been fragmented between federal, state,
30 local, and private sectors.

31 (g) Analysis of the state's habitat connectivity benefits from the consideration of
32 all relevant data, including information from private and public landowners.

33 (h) ~~The Department of Fish and Game's~~ department's existing mapping
34 activities and products should be developed and sustained.

35 **Comment.** Section 1930 is amended to update an obsolete reference to the Department of Fish
36 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

37 **Fish & Game Code § 1940 (amended). Vegetation mapping standard**

38 SEC. _____. Section 1940 of the Fish and Game Code is amended to read:

39 1940. (a) ~~The Department of Fish and Game~~ department shall undertake the
40 development of a vegetation mapping standard for the state.

41 (b) The development of a state vegetation mapping standard by the department
42 shall be done in consultation with interested stakeholders, including, but not

1 limited to, government agencies, nongovernmental conservation organizations,
2 landowners, agriculture, recreation, scientific entities, and industry. Components
3 of the standard shall include the following:

4 (1) A published classification system for all natural and seminatural vegetation
5 communities present in California with sufficient detail to meet the analytical
6 needs of government and nongovernment entities. The classification shall be
7 consistent with national standards adopted by the Federal Geographic Data
8 Committee.

9 (2) Methods for field data collection, image interpretation, and digital map
10 production and attribution.

11 (3) Manuals, training materials, tools, and database structures for use by parties
12 interested in performing vegetation mapping according to the standard.

13 (4) Documented methods for performing postproject accuracy assessments to
14 quantify that validity of the work. Private and public landowners shall be given
15 reasonable opportunity to review, and comment on the accuracy of, the data
16 collected on their lands.

17 (5) Mechanisms for integrating new map products that meet the standard into a
18 cohesive database with the intent of eventually completing statewide coverage.

19 (c) The department shall submit a report to the budget committee of each house
20 of the Legislature no later than January 10, 2008, providing its mapping standard
21 and advising how the department will ensure that its standard will be updated to
22 reflect changing technology and serve as the state's center of expertise on
23 vegetation mapping.

24 (d) The department may adopt regulations to implement this section.

25 **Comment.** Section 1940 is amended to update an obsolete reference to the Department of Fish
26 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

27 **Fish & Game Code § 2069 (amended). Mitigation actions**

28 SEC. _____. Section 2069 of the Fish and Game Code is amended to read:

29 2069. (a) For purposes of this section, the following terms have the following
30 meanings:

31 (1) “Desert Renewable Energy Conservation Plan” means the completed
32 conservation plan in the Mojave and Colorado Desert regions adopted pursuant to
33 the Natural Community Conservation Planning Act (Chapter 10 (commencing
34 with Section 2800)), and covers the geographical area described in the Draft
35 Planning Agreement, as amended by, and among, the ~~Department of Fish and~~
36 ~~Game department~~, California Energy Commission, United States Bureau of Land
37 Management, and United States Fish and Wildlife Service for the Desert
38 Renewable Energy Conservation Plan.

39 (2) “Energy Commission” means the State Energy Resources Conservation and
40 Development Commission.

41 (b) The department, in consultation with the Energy Commission and, to the
42 extent practicable, the United States Fish and Wildlife Service and the United

1 States Bureau of Land Management, may design and implement actions, including
2 the purchase of land and conservation easements, to protect, restore, or enhance
3 the habitat of plants and wildlife that can be used to fully mitigate the impacts of
4 the take of endangered species, threatened species, or candidate species, for
5 purposes of paragraph (2) of subdivision (b) of Section 2081 and Chapter 6
6 (commencing with Section 25500) of Division 15 of the Public Resources Code,
7 resulting from solar thermal, photovoltaic, wind, and geothermal powerplants in
8 the Desert Renewable Energy Conservation Plan planning area that meet either of
9 the following requirements:

10 (1) Either the Energy Commission determines that the application for
11 certification is complete by December 31, 2011, or the lead agency for purposes of
12 the California Environmental Quality Act (Division 13 (commencing with Section
13 21000) of the Public Resources Code) has determined the project permit
14 application is complete or has issued a notice of preparation of an environmental
15 impact report by December 31, 2011.

16 (2) The developer or owner of the proposed powerplant or generation facility
17 has applied for, and would qualify for, funding under the federal American
18 Recovery and Reinvestment Act of 2009 (Public Law 111-5). For purposes of this
19 paragraph, “funding” means a loan guarantee made pursuant to Section 406 of the
20 act (42 U.S.C. Sec. 16516) or a grant for specified energy property in lieu of a tax
21 credit provided pursuant to Section 1603 of Division B of the act, which division
22 is titled the American Recovery and Reinvestment Tax Act of 2009.

23 (c) A mitigation action may only be used for the mitigation purposes described
24 in subdivision (b) if it meets one of the following conditions:

25 (1) The department has implemented the mitigation action and determined that
26 the action has resulted in the protection, restoration, or enhancement of the habitat
27 of one or more species that are proposed to be covered by the Desert Renewable
28 Energy Conservation Plan, and that are located in the planning area, and, based
29 upon that determination, can be used, for purposes of paragraph (2) of subdivision
30 (b) of Section 2081, to fully mitigate for the impacts of the take of those species
31 from one or more projects that meet the requirement of subdivision (b).

32 (2) The mitigation action is included in an interim mitigation strategy for
33 projects that meet the requirement of subdivision (b). An interim mitigation
34 strategy pursuant to this paragraph shall be developed by the department, in
35 consultation with the Energy Commission and, to the extent practicable, the
36 United States Fish and Wildlife Service and the United States Bureau of Land
37 Management, and shall include all of the following:

38 (A) A description of specific mitigation areas and specific actions on public or
39 private land within the Desert Renewable Energy Conservation Plan planning area
40 that are to be implemented, including a focus on habitat preservation, while also
41 including enhancement or restoration actions that will do all of the following:

42 (i) Contribute to the conservation of each candidate species, threatened species,
43 or endangered species for which a permit is issued.

1 (ii) Adopt a regional planning perspective that provides a foundation for, or that
2 will complement, any conservation strategy to be developed for the Desert
3 Renewable Energy Conservation Plan.

4 (iii) Implement mitigation actions within a reasonable period of time relative to
5 the impact to the affected candidate species, threatened species, or endangered
6 species, including, where feasible, advance mitigation. For purposes of this clause,
7 “advance mitigation” means mitigation implemented before, and in anticipation
8 of, future impacts to natural resources.

9 (iv) Include a description of the species that would be benefited by each
10 mitigation action and how it would be benefited.

11 (B) A cost estimate for each action, whether on public or private land, using
12 total cost accounting, including, as applicable, land acquisition costs, conservation
13 easement costs, monitoring costs, transaction costs, restoration costs, the amount
14 of a perpetual endowment account for land management or easement stewardship
15 costs by the department or other management entity, and administrative costs.

16 (d) The interim mitigation strategy shall be based on best available science and
17 shall be reviewed by the Desert Renewable Energy Conservation Plan independent
18 science advisers. The department shall seek and consider comments from the
19 Desert Renewable Energy Conservation Plan independent science advisers in the
20 design and location of each mitigation action implemented pursuant to this section.
21 If the department elects to not incorporate comments of the independent science
22 advisers into mitigation actions, the department shall explain the reasons for that
23 decision in writing.

24 (e) The interim mitigation strategy shall be completed by the department no later
25 than 60 days following the operative date of the act adding this section.

26 (f)(1) This section does not modify the requirements of Section 2081, including
27 the requirement to avoid and minimize impacts, where feasible, or the
28 requirements of Division 13 (commencing with Section 21000) of, or Chapter 6
29 (commencing with Section 25500) of Division 15 of, the Public Resources Code,
30 or affect the existing authority of the department to authorize mitigation actions to
31 comply with this chapter.

32 (2) With respect to the Energy Commission, in the case of an applicant seeking
33 certification for a solar thermal or geothermal powerplant pursuant to Chapter 6
34 (commencing with Section 25500) of Division 15 of the Public Resources Code,
35 or a lead agency, as defined in Section 21067 of the Public Resources Code, in the
36 case of an applicant seeking approval of a renewable energy powerplant not
37 subject to the Energy Commission’s jurisdiction, the sole effect of a mitigation
38 action described in subdivision (c), and paid for through the deposit of fees as
39 described in Section 2099, is to relieve an applicant of the obligation to directly
40 take actions that are taken instead by the department or its contractor or designee
41 pursuant to subdivision (b) to meet the applicant’s obligations with respect to
42 mitigating the powerplant’s impacts to species and habitat. The mitigation action
43 and deposit of fees shall not relieve the applicant of any other obligation, or the

1 Energy Commission or the lead agency of any of its existing requirements of
2 Division 13 (commencing with Section 21000) of, or the requirements of Chapter
3 6 (commencing with Section 25500) of Division 15 of, the Public Resources Code
4 to analyze, avoid, minimize, or mitigate impacts to species and habitat, or make
5 the findings required by those statutes.

6 (g) The mitigation actions implemented pursuant to this section shall be
7 incorporated into the Desert Renewable Energy Conservation Plan upon the
8 finalization of the plan, to the extent the mitigation actions are consistent with the
9 plan's conservation strategy.

10 **Comment.** Section 2069 is amended to update an obsolete reference to the Department of Fish
11 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

12 **Fish & Game Code § 2119 (amended). List of prohibited animals**

13 SEC. _____. Section 2119 of the Fish and Game Code is amended to read:

14 2119. The ~~Department of Fish and Game~~ department shall publish from time to
15 time as changes arise, a list of animals ~~which~~ that may not be imported or
16 transported into this ~~State~~ state.

17 **Comment.** Section 2119 is amended to update an obsolete reference to the Department of Fish
18 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

19 The section is also amended to make nonsubstantive stylistic changes.

20 **Fish & Game Code § 2701 (amended). Statement of purpose**

21 SEC. _____. Section 2701 of the Fish and Game Code is amended to read:

22 2701. (a) The fundamental requirement for healthy, vigorous populations of fish
23 and wildlife is habitat. Without adequate habitat, efforts to conserve and manage
24 fish and wildlife resources will have limited success. Further, California contains
25 the greatest diversity of wildlife and plant species of virtually any state in the
26 nation. This rich natural heritage enables Californians to enjoy a great variety of
27 recreational, aesthetic, ecological, and other uses and benefits of these biological
28 resources. The public interest is served only by ensuring that these resources are
29 preserved, protected, and propagated for this and future generations.

30 (b) Many of California's wildlife, fish, and plant species and biological
31 communities are found nowhere else on earth. Without adequate protection and
32 management, rare native species and communities could easily become extinct. In
33 such an event, the benefits they provide to the people of California, whether
34 presently realized or which remain to be discovered, will be lost forever, and
35 California will be significantly poorer as a result.

36 (c) The people of California have vested in the ~~Department of Fish and Game~~
37 department the principal responsibility for protecting, conserving, and
38 perpetuating native fish, plants, and wildlife, including endangered species and
39 game animals, for their aesthetic, ~~intrinsic~~ intrinsic, ecological, educational, and
40 economic values. To help accomplish this goal, the people of California have
41 further established a significant natural areas program and a natural diversity data

1 base in the ~~Department of Fish and Game~~ department, which is charged with
2 maintaining and perpetuating California's most significant natural areas for
3 present and future generations. To ensure the perpetuation of areas containing
4 uncommon elements of natural diversity and to ensure the continued abundance of
5 habitat for more common species, especially examples of those which are
6 presently threatened with destruction, the purchase of land is often necessary.

7 (d) Accordingly, the purpose of this chapter is to provide the Wildlife
8 Conservation Board and the ~~Department of Fish and Game~~ department the
9 financial means to correct the most severe deficiencies in wildlife habitat and in
10 the statewide system of areas designated for the preservation of California's
11 natural diversity through a program of acquisition, enhancement, restoration, and
12 protection of areas that are most in need of proper conservation.

13 **Comment.** Section 2701 is amended to update obsolete references to the Department of Fish
14 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

15 The section is also amended to correct a spelling error.

16 **Fish & Game Code § 2729 (amended). Augmenting of staff**

17 SEC. _____. Section 2729 of the Fish and Game Code is amended to read:

18 2729. (a) For the purpose of administering this chapter, the Wildlife
19 Conservation Board and the ~~Department of Fish and Game~~ department shall
20 augment its existing staff, whenever possible, by contracting for those services
21 necessary for the administration of this chapter. Any contract shall, however, be
22 entered into only pursuant to Sections 19130 to 19132, inclusive, of the
23 Government Code and shall be only for the minimum period necessary for
24 completion of the particular project or projects for which the contract was entered
25 into.

26 (b) Due to the limited duration of the program authorized by this chapter, in the
27 event some services cannot be provided by contract, any personnel directly hired
28 by the Wildlife Conservation Board for the administration of this chapter shall be
29 hired, to the extent permitted by Article 2 (commencing with Section 19080) of
30 Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code, as limited-
31 term appointments.

32 **Comment.** Section 2729 is amended to update an obsolete reference to the Department of Fish
33 and Game. See Section 37 ("department" means Department of Fish and Wildlife).

34 **Fish & Game Code § 6440 (amended). Management of carp**

35 SEC. _____. Section 6440 of the Fish and Game Code is amended to read:

36 6440. The Legislature finds and declares that triploid grass carp have the
37 potential to control aquatic nuisance plants in non-public waters allowing for
38 reduced chemical control but that the threat that grass carp pose to aquatic habitat
39 may outweigh its benefits. It is the intent of this section to allow the ~~Department of~~
40 ~~Fish and Game~~ department to use its management authority to provide for the
41 long-term health of the ecosystem in the state including the aquatic ecosystem, and

1 in that context, manage grass carp either through control of movement, eradication
2 of populations, acquisition of habitat and any other action that the department
3 finds will maintain the biological diversity and the long term, overall health of the
4 state’s environment. The department shall undertake the management of grass carp
5 in a manner that is consistent with provisions of this code and for the purposes of
6 this section the department shall define management as handling, controlling,
7 destroying, or moving species. The Legislature does not intend for this section to
8 provide a right for the use of triploid grass carp if the department finds that use of
9 the species poses an unacceptable risk to the state’s existing ecosystem.

10 **Comment.** Section 6440 is amended to update an obsolete reference to the Department of Fish
11 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

12 **Fish & Game Code § 6901 (amended). Legislative findings**

13 SEC. ____ . Section 6901 of the Fish and Game Code is amended to read:

14 6901. The Legislature, for purposes of this chapter, finds as follows:

15 (a) According to the department, the natural production of salmon and steelhead
16 trout in California has declined to approximately 1,000,000 adult chinook or king
17 salmon, 100,000 coho or silver salmon, and 150,000 steelhead trout.

18 (b) The naturally spawning salmon and steelhead trout resources of the state
19 have declined dramatically within the past four decades, primarily as a result of
20 lost stream habitat on many streams in the state.

21 (c) Much of the loss of salmon and steelhead trout and anadromous fish in the
22 state has occurred in the central valley.

23 (d) Protection of, and an increase in, the naturally spawning salmon and
24 steelhead trout resources of the state would provide a valuable public resource to
25 the residents, a large statewide economic benefit, and would, in addition, provide
26 employment opportunities not otherwise available to the citizens of this state,
27 particularly in rural areas of present underemployment.

28 (e) Proper salmon and steelhead trout resource management requires
29 maintaining adequate levels of natural, as compared to hatchery, spawning and
30 rearing.

31 (f) Reliance upon hatchery production of salmon and steelhead trout in
32 California is at or near the maximum percentage that it should occupy in the mix
33 of natural and artificial hatchery production in the state. Hatchery production may
34 be an appropriate means of protecting and increasing salmon and steelhead in
35 specific situations; however, when both are feasible alternatives, preference shall
36 be given to natural production.

37 (g) The protection of, and increase in, the naturally spawning salmon and
38 steelhead trout of the state must be accomplished primarily through the
39 improvement of stream habitat.

40 (h) Funds provided by the Legislature since 1978 to further the protection and
41 increase of the fisheries of the state have been administered by the ~~Department of~~
42 ~~Fish and Game~~ department in a successful program of contracts with local

1 government and nonprofit agencies and private groups in ways that have attracted
2 substantial citizen effort.

3 (i) The department’s contract program has demonstrated that California has a
4 large and enthusiastic corps of citizens that are eager to further the restoration of
5 the stream and fishery resources of this state and that are willing to provide
6 significant amounts of time and labor to that purpose.

7 (j) There is need for a comprehensive salmon, steelhead trout, and anadromous
8 fisheries plan, program, and state government organization to guide the state’s
9 efforts to protect and increase the naturally spawning salmon, steelhead trout, and
10 anadromous fishery resources of the state.

11 **Comment.** Section 6901 is amended to update an obsolete reference to the Department of Fish
12 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

13 **Fish & Game Code § 7183 (amended). Issuance of Arizona and California licenses**

14 SEC. ____ . Section 7183 of the Fish and Game Code is amended to read:

15 7183. (a) The Arizona Game and Fish Commission shall handle California
16 sportfishing licenses and California special use stamps and issue them to Arizona
17 license dealers. Prior to August 31 of each year, that commission shall make an
18 audit report and send a remittance for those sales to the ~~California Department of~~
19 ~~Fish and Game~~ department.

20 (b) The ~~California Department of Fish and Game~~ department shall handle
21 Arizona special use stamps and issue them to California license dealers. Prior to
22 August 31 of each year, that department shall make an audit report and send a
23 remittance for those sales to the Arizona Game and Fish Commission.

24 (c) This section does not apply to licenses, permits, reservations, tags, or other
25 entitlements issued through the Automated License Data System.

26 **Comment.** Section 7183 is amended to update obsolete references to the Department of Fish
27 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

28 **Fish & Game Code § 7183.1 (amended). Issuance of Arizona and California ALDS licenses**

29 SEC. ____ . Section 7183.1 of the Fish and Game Code is amended to read:

30 7183.1. (a) The Arizona Game and Fish Commission shall handle California
31 sportfishing licenses and California special use validations and issue them through
32 Arizona license dealers. Prior to August 31 of each year, that commission shall
33 make an audit report and send a remittance for those issued to the ~~California~~
34 ~~Department of Fish and Game~~ department.

35 (b) The ~~California Department of Fish and Game~~ department shall handle
36 Arizona special use validations and issue them through California license dealers.
37 Prior to August 31 of each year that department shall make an audit report and
38 send a remittance for those issued to the Arizona Game and Fish Commission.

39 (c) This section applies only to licenses, permits, reservations, tags, and other
40 entitlements issued through the Automated License Data System.

1 **Comment.** Section 7183.1 is amended to update obsolete references to the Department of Fish
2 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

3 **Fish & Game Code § 7880 (amended). Display of registration number**

4 SEC. ____ . Section 7880 of the Fish and Game Code is amended to read:

5 7880. (a) Every person owning or operating any vessel used in connection with
6 fishing operations for profit who has been issued a commercial boat registration
7 pursuant to Section 7881 shall display, for the purpose of identification, a
8 ~~Department of Fish and Game~~ department registration number on the vessel in a
9 manner designated by the department.

10 (b) The method of displaying the registration number on the vessel shall be
11 determined by the department after consultation with the Department of Boating
12 and Waterways, taking into consideration the responsibilities and duties of the
13 Department of Boating and Waterways as prescribed in the Harbors and
14 Navigation Code.

15 (c) The registration number is not transferable, and it is a permanent fixture
16 upon the vessel for which it is originally issued.

17 **Comment.** Section 7880 is amended to update an obsolete reference to the Department of Fish
18 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

19 **Fish & Game Code § 8079.1 (amended). Emergency license to dispose of fish**

20 SEC. ____ . Section 8079.1 of the Fish and Game Code is amended to read:

21 8079.1. Notwithstanding any other provision of this code or regulation ~~enacted~~
22 ~~pursuant thereto~~ adopted pursuant to this code, the ~~Director of the Department of~~
23 ~~Fish and Game~~ director, or a representative appointed by ~~him~~ the director, may,
24 without notice or a hearing, grant a license to fish reduction plants to dispose of
25 dead or dying fish. The license may be immediately issued by the director or ~~his~~
26 the director’s representative whenever ~~such~~ that person determines, in ~~his~~ that
27 person’s discretion, that an emergency situation exists. The estimated tonnage to
28 be reduced shall be specified as a limit in the license.

29 **Comment.** Section 8079.1 is amended to update an obsolete reference to the director of the
30 Department of Fish and Game. See Section 39 (“director” means Director of Fish and Wildlife).

31 The section is also amended to make nonsubstantive stylistic changes.

32 **Fish & Game Code § 8182 (amended). Display of registration number**

33 SEC. ____ . Section 8182 of the Fish and Game Code is amended to read:

34 8182. The operator of any boat engaged in taking anchovies in waters south of
35 the line described in Section 8180 shall at all times while operating ~~such~~ the boat
36 identify it by displaying on an exposed part of the superstructure, amidships on
37 each side and on top of the house visible from the air, the ~~Department of Fish and~~
38 ~~Game~~ department registration number of the boat, in 14-inch black numerals on
39 white background.

40 **Comment.** Section 8182 is amended to update an obsolete reference to the Department of Fish
41 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

1 The section is also amended to make a nonsubstantive stylistic change.

2 **Fish & Game Code § 8393 (amended). Purchase or sale of marlin meat**

3 SEC. ____ . Section 8393 of the Fish and Game Code is amended to read:

4 8393. (a) Except where subdivision (b) has been complied with, marlin meat,
5 whether fresh, smoked, canned, or preserved by any means, shall not be bought or
6 sold, or possessed or transported for the purpose of sale.

7 (b) Notwithstanding the provisions of subdivision (a) of this section, black
8 marlin (*Makaira Indica*) may be imported into this state for the purpose of
9 processing (manufacturing) a product commonly known as fish cakes for human
10 consumption. All such black marlin (*Makaira Indica*) imported into this state must
11 be in an identifiable condition and accompanied by a bill of lading, showing the
12 name of the consignor, the consignee, and the weight or number of fish shipped. A
13 copy of the bill of lading must be delivered to the nearest office of the ~~Department~~
14 ~~of Fish and Game~~ department either prior to or no later than two days after receipt
15 of the fish. No such marlin (*Makaira Indica*) imported into California may leave
16 the premises of the original consignee unless written permission is received from
17 the ~~Department of Fish and Game~~ department, or unless processed into the form of
18 the product commonly known as fish cakes.

19 **Comment.** Section 8393 is amended to update obsolete references to the Department of Fish
20 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

21 **Fish & Game Code § 8563 (amended). Responsibilities of permittee**

22 SEC. ____ . Section 8563 of the Fish and Game Code is amended to read:

23 8563. (a) Except as provided in subdivision (b), the permittee shall be aboard the
24 vessel and shall be in possession of a valid drift gill net shark and swordfish
25 permit when engaged in operations authorized by the permit.

26 (b) A permittee may have any person serve in his or her place on the permittee’s
27 vessel and engage in fishing under his or her drift gill net shark and swordfish
28 permit for not more than 15 calendar days in any one year, except that a longer
29 period may be allowed in the event of serious illness. A permittee shall notify the
30 department’s Long Beach office of a substitution of 15 days or less per calendar
31 year, by certified letter or telegram at least 24 hours prior to the commencement of
32 the trip. Written authorization for a substitution of greater than 15 days shall be
33 obtained from the director and shall be given only on the director’s finding that the
34 permittee will not be available to engage in the activity due to serious illness,
35 supported by medical evidence. An application for a substitution of greater than 15
36 days shall be made to the ~~Department of Fish and Game~~, department’s
37 Headquarters Office, in Sacramento, and shall contain ~~such~~ any information as the
38 director ~~may require~~ requires. Any denial of the substitution may be appealed to
39 the commission.

40 **Comment.** Section 8563 is amended to update an obsolete reference to the Department of Fish
41 and Game. See Section 37 (“department” means Department of Fish and Wildlife).

42 The section is also amended to make nonsubstantive stylistic changes.

1 **Fish & Game Code § 12151.5 (amended). Report of hunting injury**

2 SEC. _____. Section 12151.5 of the Fish and Game Code is amended to read:

3 12151.5. Any person who, while hunting, kills or wounds or witnesses the
4 killing or wounding of any human being, or domestic animal belonging to another,
5 shall, within 48 hours after the incident, forward a complete written report to the
6 Department of Fish and Game Wildlife, 1416 Ninth Street, Sacramento, California
7 95814, ~~giving his~~ providing the reporter's full name and address and all facts
8 relating to the incident.

9 **Comment.** Section 12151.5 is amended to update an obsolete reference to the Department of
10 Fish and Game.

11 The section is also amended to make nonsubstantive stylistic changes.