

Memorandum 2017-38

Fish and Game Law: Tentative Recommendation Part 3

In this study, the Commission¹ is developing a proposed recodification of the Fish and Game Code. In its prior work in the study, the Commission has released two tentative recommendations.

The first (“Part 1”) contains the following divisions of a proposed Fish and Wildlife Code:

- Division 1. General Provisions
- Division 2. Administration
- Division 3. Law Enforcement
- Division 4. Inter-Jurisdictional Compacts
- Division 5. Native American Tribes [Reserved]

The second (“Part 2”) contains the following divisions:

- Division 6. Hunting, Trapping, and Fishing Generally
- Division 7. Wildlife Propagation, Domestication, and Possession
- Division 8. Birds
- Division 9. Mammals
- Division 10. Fish
- Division 11. Invertebrates
- Division 12. Amphibians
- Division 13. Reptiles
- Division 14. Plants

This memorandum presents a staff draft of the third tentative recommendation (“Part 3”), which contains the following divisions:

- Division 15. Habitat Conservation and Enhancement
- Division 16. Protected and Managed Areas
- Division 17. Activities that Affect Wildlife

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.

Much of the material in the attached staff draft has already been presented to the Commission as preliminary drafts. Memorandum 2017-17 presented Divisions 15 and 16; Memorandum 2017-29 presented the first two parts of Division 17.

The attached staff draft also includes material that has not previously been presented to the Commission in a preliminary staff draft (Parts 3 through 6 of Division 17). The Commission approved this expedited approach at its June meeting.²

The new material is organized as follows:

Part 3. Pollution

Title 1. Water Pollution

Title 2. California Marine Resources Legacy Act

Title 3. Oil Sumps

Title 4. Finances

Part 4. Water Diversion, Obstruction, and Alteration

Title 1. Dams, Conduits, and Screens

Title 2. Diversion of Water From Streams

Title 3. Fish and Wildlife Protection and Conservation

Part 5. Mining

Title 1. Vacuum or Suction Dredging

Title 2. Mining Mitigation Plans

Title 3. Mining in Specific Areas

Part 6. Other Activities

Title 1. Forestry

Title 2. Activities That Affect Watering Places

Title 3. Airports

As usual, Notes in that new material request comment on specific drafting issues.

The Commission needs to decide whether to approve the attached draft, for circulation as a tentative recommendation, with or without changes.

Respectfully submitted,

Brian Hebert
Executive Director

2. Minutes (June 2017), p. 6 (“The Commission directed the staff to include the remainder of the Fish and Game Code in a draft of a ‘Part 3’ tentative recommendation, rather than presenting that material first as a preliminary staff draft.”).

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

TENTATIVE RECOMMENDATION

Fish and Wildlife Code Part 3
(Divisions 15-17)

August 2017

The purpose of this tentative recommendation is to solicit public comment on the Commission's tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN December 15, 2017.

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

In 2010, the Secretary of the Resources Agency was directed to convene a committee to develop and submit a “strategic vision” for the Fish and Game Commission and the Department of Fish and Game (now the Department of Fish and Wildlife). The resulting report recommended that the Law Revision Commission be tasked with cleaning up the Fish and Game Code.

In response to that report, Senator Fran Pavley and Assembly Member Jared Huffman (the Chairs of the Senate Natural Resources and Water Committee and the Assembly Water, Parks, and Wildlife Committee at that time) requested that the Commission conduct a comprehensive review and clean-up of the Fish and Game Code, noting “the need for a comprehensive, thorough review and updating of the Fish and Game Code, to identify obsolete, inconsistent or duplicative sections, and to provide support for more readily understood and enforceable fish and wildlife regulations.” Authority to conduct that study was granted by concurrent resolution in 2012.

In order to achieve the greatest degree of improvement to the organization and expression of the Fish and Game Code, the Commission decided to prepare a recommendation that would repeal the existing code and replace it with a new Fish and Wildlife Code. The new code would continue the substance of the former code in a more user-friendly form, without making any significant substantive change to the effect of existing law.

This tentative recommendation presents the third part of the proposed Fish and Wildlife Code. It was prepared pursuant to Resolution Chapter 150 of the Statutes of 2016.

FISH AND WILDLIFE CODE

1 In 2010, the Secretary of the Resources Agency was directed to convene a
2 committee to develop and submit a “strategic vision” for the Fish and Game
3 Commission and the Department of Fish and Game (now the Department of Fish
4 and Wildlife).¹ The resulting report recommended, among other things, that the
5 Law Revision Commission be tasked with cleaning up the Fish and Game Code.²

6 In response to that recommendation, Senator Fran Pavley and Assembly
7 Member Jared Huffman (the Chairs of the Senate Natural Resources and Water
8 Committee and the Assembly Water, Parks, and Wildlife Committee at that time)
9 requested that the Commission conduct a comprehensive review and clean-up of
10 the Fish and Game Code, noting “the need for a comprehensive, thorough review
11 and updating of the Fish and Game Code, to identify obsolete, inconsistent or
12 duplicative sections, and to provide support for more readily understood and
13 enforceable fish and wildlife regulations.”³ In 2012, the Legislature directed the
14 Commission to conduct the requested study:

15 [The] Legislature approves for study by the California Law Revision
16 Commission the new topic listed below:

17 Whether the Fish and Game Code and related statutory law should be revised to
18 improve its organization, clarify its meaning, resolve inconsistencies, eliminate
19 unnecessary or obsolete provisions, standardize terminology, clarify program
20 authority and funding sources, and make other minor improvements, without
21 making any significant substantive change to the effect of the law[.]⁴

22 In order to achieve the greatest degree of improvement to the organization and
23 expression of the Fish and Game Code, the Commission decided to prepare a
24 recommendation that would repeal the existing code and replace it with a new Fish
25 and Wildlife Code. The new code would continue the substance of the former code
26 in a more user-friendly form, without making any significant substantive change to
27 the effect of existing law.

28 This tentative recommendation presents “Part 3” of the proposed Fish and
29 Wildlife Code.⁵ It includes Divisions 15 through 17 of the proposed code:⁶

1. 2010 Cal. Stat. ch. 424.

2. See *California Fish & Wildlife Strategic Vision, Recommendations for Enhancing the State’s Fish and Wildlife Management Agencies*, A13 (April 2012).

3. See Memorandum 2012-5, pp. 22-23.

4. 2012 Cal. Stat. res. ch. 108 (ACR 98 (Wagner)).

5. “Part 1” of the proposed Fish and Wildlife Code was approved by the Commission and circulated for public comment in April 2017.

6. For ease of reference, the tentative recommendation also reprints Division 1 (“General Provisions”) of the proposed Fish and Wildlife Code, which was included in *Tentative Recommendation on Fish and Wildlife Code Part 1 (Divisions 1-4)* (April 2017).

- 1 Division 15. Habitat Conservation and Enhancement
- 2 Division 16. Protected and Managed Areas
- 3 Division 17. Activities that Affect Wildlife

4 The general character and noteworthy features of the tentative recommendation
5 are discussed below.

6 STUDY OBJECTIVES

7 **Improve Accessibility of the Law**

8 The primary purpose of this study is to simplify and improve the organization
9 and expression of the Fish and Game Code, to make it more understandable and
10 useable, without making any significant substantive changes to the effect of that
11 law.

12 The Fish and Game Code needs to be understandable to non-experts. Many
13 laypeople take advantage of the wildlife resources of the state, for recreational or
14 commercial purposes. Those persons need to be able to understand the code in
15 order to comply with the law and avoid criminal liability. Ambiguity and
16 confusion do not promote the public policy goals that the Fish and Game Code
17 was designed to accomplish.

18 In addition, improvement of the clarity and organization of the Fish and Game
19 Code would facilitate the future development of the law, by making it easier for
20 the Legislature to assess the state of existing law and thereby avoid redundancy or
21 inconsistency in enacting new provisions.

22 **Nonsubstantive Reform**

23 The proposed law would improve the organizational clarity of the Fish and
24 Game Code, as intended. However, there is an important limit on the extent to
25 which the Commission can make that law clearer, simpler, or better organized. In
26 authorizing this study, the Legislature specifically prohibited any “significant
27 substantive change to the effect of the law.”⁷

28 That limitation has been the controlling principle in the preparation of the
29 proposed law. The Commission has exercised care to ensure that the proposed law
30 would not result in any significant substantive change in outcome under the
31 affected statutes.

32 Specific measures taken by the Commission to avoid making any significant
33 substantive change in the law are described below.

34 ***Objective and Participatory Study Process***

35 The Commission’s study process is well-suited to the development of a
36 nonsubstantive reform of the Fish and Game Code, for the following reasons:

7. *Id.*

- 1 • The Commission is neutral and objective, with no special interest in the
2 subject of fish and game. The Commission has no motivation to introduce
3 significant substantive changes into fish and game law.
- 4 • The Commission has prior experience in drafting legislation to recodify
5 complex bodies of law without making any significant substantive change.⁸
- 6 • The Commission’s work is transparent. All materials are publicly
7 distributed. All deliberations are conducted at open public meetings.
- 8 • The Commission actively solicits input from affected interest groups.
9 Interim drafts of the proposed law are provided to those groups for review.
10 Any objection that a change would have a substantive effect is carefully
11 analyzed and addressed by the Commission.
- 12 • In proposing legislative reform, the Commission prepares a thorough
13 explanatory report that explains the purpose and effect of the proposed law,
14 and sets out a complete draft of the proposed legislation, with a detailed
15 table of contents and a table showing the disposition of every affected
16 section. This report facilitates public review of the proposed law.

17 ***Commission Comments***

18 In preparing a recommendation, the Commission drafts an explanatory
19 “Comment” for every section that is added, amended, or repealed.⁹ A Comment
20 indicates the derivation of a section and often explains its purpose, its relation to
21 other law, and potential issues concerning its meaning or application.

22 For the most part, the Comments in this tentative recommendation state
23 expressly, for each affected section, that the proposed law is not intended to make
24 any change to the substance of the affected provision. In the rare instance that a
25 minor substantive improvement is proposed, it is specifically identified as such.

26 On completion of a final recommendation, the full recommendation, including
27 the proposed legislation and the Comments, will be presented to the Legislature
28 and the Governor. If legislation is introduced to effectuate the proposed law, the
29 full recommendation will be provided to each member of every policy committee
30 that reviews the legislation.

31 Commission materials that have been placed before and considered by the
32 Legislature are considered evidence of legislative intent,¹⁰ and are entitled to great

8. For example, in 2009 the Commission recommended the nonsubstantive recodification of the deadly weapon statutes, an important and sensitive body of law. See *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm’n Reports 217 (2009); enacted as 2010 Cal. Stat. ch. 178, 2010 Cal. Stat. ch. 711.

9. The Comments follow each section of the proposed legislation *infra*.

10. See, e.g., *Fair v. Bakhtiari*, 40 Cal. 4th 189, 195, 147 P.3d 653, 657, 51 Cal. Rptr. 3d 871, 875 (2006) (“The Commission’s official comments are deemed to express the Legislature’s intent.”); *People v. Williams*, 16 Cal. 3d 663, 667-68, 547 P.2d 1000, 128 Cal. Rptr. 888 (1976) (“The official comments of the California Law Revision Commission on the various sections of the Evidence Code are declarative of the intent not only of the draft[ers] of the code but also of the legislators who subsequently enacted it.”).

1 weight in construing statutes.¹¹ The materials are a key interpretive aid for
2 practitioners as well as courts,¹² and courts may judicially notice and rely on
3 them.¹³ Courts at all levels of the state¹⁴ and federal¹⁵ judicial systems use
4 Commission materials to construe statutes enacted on Commission
5 recommendation.¹⁶

6 The Commission’s Comments will make clear that, with a small number of
7 specifically identified exceptions, the proposed law should be construed as an
8 entirely nonsubstantive reorganization of the law.

11. See, e.g., *Dep’t of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.*, 40 Cal. 4th 1, 12-13 n.9, 145 P.3d 462, 469 n.9, 50 Cal. Rptr. 3d 585, 593 n.9 (2006) (Commission’s official comments are persuasive evidence of Legislature’s intent); *Hale v. S. Cal. IPA Med. Group, Inc.*, 86 Cal. App. 4th 919, 927, 103 Cal. Rptr. 2d 773, 778 (2001):

In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute. (*Kern v. County of Imperial* (1990) 226 Cal.App.3d 391, 400, fn. 8, 276 Cal.Rptr. 524; *Coopers & Lybrand v. Superior Court* (1989) 212 Cal.App.3d 524, 535, fn. 7, 260 Cal. Rptr. 713.) In particular, reports and interpretive opinions of the Law Revision Commission are entitled to great weight. (*Schmidt v. Southern Cal. Rapid Transit Dist.* (1993) 14 Cal.App.4th 23, 30, fn. 10, 17 Cal.Rptr.2d 340.)

12. *Cf.* 7 B. Witkin, *Summary of California Law Constitutional Law* § 123, at 230 (10th ed. 2005) (Commission reports as aid to construction); Gaylord, *An Approach to Statutory Construction*, 5 Sw. U. L. Rev. 349, 384 (1973).

13. See, e.g., *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, 133 Cal. App. 4th 26, 34 Cal. Rptr. 3d 520 (2005) (providing overview of materials that may be judicially noticed in determining legislative intent); *Hale*, 86 Cal. App. 4th at 927; *Barkley v. City of Blue Lake*, 18 Cal. App. 4th 1745, 1751 n.3, 23 Cal. Rptr. 2d 315, 318-19 n.3 (1993).

14. See, e.g., *Sullivan v. Delta Air Lines, Inc.*, 15 Cal. 4th 288, 298, 935 P.2d 781, 63 Cal. Rptr. 2d 74 (1997) (California Supreme Court); *Admin. Mgmt. Services, Inc. v. Fid. & Deposit Co. of Md.*, 129 Cal. App. 3d 484, 488, 181 Cal. Rptr. 141 (1982) (court of appeal); *Rossetto v. Barross*, 90 Cal. App. 4th Supp. 1, 5-6, 110 Cal. Rptr. 2d 255 (2001) (appellate division of superior court).

15. See, e.g., *California v. Green*, 399 U.S. 149, 154 n.3 (1970) (United States Supreme Court); *S. Cal. Bank v. Zimmerman* (*In re Hilde*), 120 F.3d 950, 953 (9th Cir. 1997) (federal court of appeals); *Williams v. Townsend*, 283 F. Supp. 580, 582 (C.D. Cal. 1968) (federal district court); *Ford Consumer Fin. Co. v. McDonell* (*In re McDonell*), 204 B.R. 976, 978-79 (B.A.P. 9th Cir. 1996) (bankruptcy appellate panel); *In re Garrido*, 43 B.R. 289, 292-93 (Bankr. S.D. Cal. 1984) (bankruptcy court).

16. See, e.g., *Jevne v. Superior Court*, 35 Cal. 4th 935, 947, 111 P.3d 954, 962, 28 Cal. Rptr. 3d 685, 694-95 (2005) (Commission report entitled to substantial weight in construing statute); *Collection Bureau of San Jose v. Rumsey*, 24 Cal. 4th 301, 308 & n.6, 6 P.3d 713, 718 & n.6, 99 Cal. Rptr. 2d 792, 797 & n.6 (2000) (Comments to reenacted statute reiterate the clear understanding and intent of original enactment); *Brian W. v. Superior Court*, 20 Cal. 3d 618, 623, 574 P.2d 788, 791, 143 Cal. Rptr. 717, 720 (1978) (Comments persuasive evidence of Legislature’s intent); *Volkswagen Pac., Inc. v. City of Los Angeles*, 7 Cal. 3d 48, 61-63, 496 P.2d 1237, 1247-48, 101 Cal. Rptr. 869, 879-80 (1972) (Comments evidence clear legislative intent of law); *Van Arsdale v. Hollinger*, 68 Cal. 2d 245, 249-50, 437 P.2d 508, 511, 66 Cal. Rptr. 20, 23 (1968) (Comments entitled to substantial weight), *overruled on other grounds*, *Privette v. Superior Court*, 5 Cal. 4th 689, 696, 854 P.2d 721, 21 Cal. Rptr. 2d 72 (1993); *County of Los Angeles v. Superior Court*, 62 Cal. 2d 839, 843-44, 402 P.2d 868, 870-71, 44 Cal. Rptr. 796, 798-99 (1965) (statutes reflect policy recommended by Commission).

1 *Statements of Legislative Intent*

2 The proposed law would be known as the Fish and Wildlife Code of 2019.¹⁷ It
3 would include a number of codified general provisions to expressly state the
4 purpose and effect of the recodification.

5 Proposed Section 10 would make clear that a provision of the proposed law is
6 intended as a restatement and continuation of the provision that it restates, and that
7 any reference to a restated provision is deemed to include a reference to the
8 section that restates it (and vice versa):

9 10. (a) A provision of this code, insofar as it is substantially the same as a
10 previously existing provision relating to the same subject matter, shall be
11 construed as a restatement and continuation thereof, and not as a new enactment.

12 (b) A reference in a statute or regulation to a previously existing provision that
13 is restated and continued in this code shall, unless a contrary intent appears, be
14 deemed a reference to the restatement and continuation.

15 (c) A reference in a statute or regulation to a provision of this code that is
16 substantially the same as a previously existing provision, shall, unless a contrary
17 intent appears, be deemed to include a reference to the previously existing
18 provision.

19 In addition, proposed Sections 15 and 20 would make clear that restatement of a
20 provision is not intended to have any effect, positive or negative, on a judicial
21 interpretation of the restated provision or a judicial holding regarding the
22 provision's constitutionality:

23 15. (a) A judicial decision interpreting a provision of the former Fish and Game
24 Code is relevant in interpreting any provision of this code that restates or
25 continues that provision of the former Fish and Game Code.

26 (b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature
27 has not evaluated the correctness of any judicial decision interpreting a provision
28 of the former Fish and Game Code.

29 (c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and
30 does not, reflect any assessment of any judicial decision interpreting any
31 provision of the former Fish and Game Code.

32 20. (a) A judicial decision determining the constitutionality of a provision of the
33 former Fish and Game Code is relevant in determining the constitutionality of any
34 provision of this code that restates or continues that provision of the former Fish
35 and Game Code.

36 (b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature
37 has not evaluated the constitutionality of any provision enacted by that act, or the
38 correctness of any judicial decision determining the constitutionality of any
39 provision of the former Fish and Game Code.

40 (c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and
41 does not, reflect any determination of the constitutionality of any provision
42 enacted by that act.

17. See proposed Section 1(b) *infra*. The title will require adjustment if the proposed legislation is enacted in a different year.

1 Those provisions are particularly important with respect to provisions that were
2 added by initiative or to effectuate an initiative. The Commission’s
3 recommendation to continue those provisions without any significant change
4 should not be construed as acquiescence in any court case construing the
5 continued provisions or an indication that the Commission has assessed the
6 constitutionality of the provisions.

7 ***Legislative Process***

8 After the Commission completes its study process and issues a final
9 recommendation, the proposed law would be scrutinized carefully in the
10 legislative process. This would serve as a final safeguard against any unintended
11 substantive change in the law.

12 **DRAFTING APPROACH**

13 **Structure of Proposed Law**

14 As noted above, this tentative recommendation presents the second part of a
15 proposed Fish and Wildlife Code. Specifically, it includes the following proposed
16 divisions:

- 17 Division 15. Habitat Conservation and Enhancement
- 18 Division 16. Protected and Managed Areas
- 19 Division 17. Activities that Affect Wildlife

20 The only part of the existing Fish and Game Code that has not yet been included
21 in a tentative recommendation are the provisions that specifically govern
22 California Tribes. Those will be addressed later in the Commission’s study.

23 The proposed Fish and Wildlife Code would be organized into five levels:
24 divisions, parts, titles, chapters, and articles. This provides as much latitude as
25 possible to group similar provisions together, and then combine similar groupings
26 into a logical hierarchical structure.

27 This approach complies with the Legislature’s directive to improve the
28 organization of the Fish and Game Code.¹⁸ It allows for a more coherent and
29 intuitive organizational structure, which should make it easier for a reader to find
30 relevant provisions within the statute.

31 **Short, Simple Sections**

32 One common problem in statutory drafting is code sections that are excessively
33 long. Excessively long sections can obscure relevant details of law, especially if a
34 single section addresses several different subjects.

18. 2016 Cal. Stat. res. ch. 150.

1 A better approach is to divide the law into a larger number of smaller sections,
2 with each section limited to a single subject. Short sections have numerous
3 advantages. They enhance readability and understanding of the law, and make it
4 easier to locate and refer to pertinent material. In contrast to a long section, a short
5 section can be amended without undue technical difficulties and new material can
6 be inserted where logically appropriate, facilitating sound development of the law.
7 The use of short sections is the preferred drafting technique of the California Code
8 Commission,¹⁹ the Legislature,²⁰ the Legislative Counsel,²¹ and the Law Revision
9 Commission.²²

10 For those reasons, the proposed law would divide lengthy sections into shorter
11 and simpler provisions.

12 **Definition of Terms**

13 Under existing law, some definitions are scattered throughout the Fish and
14 Game Code. Some terms are used with different definitions in different contexts,
15 or are defined for some uses but not others. This can create uncertainty as to
16 whether any given term is subject to a statutory definition. That may lead to
17 misunderstanding of the law. It may also lead to unintended consequences, if the
18 Legislature uses a defined term without realizing that it would be subject to an
19 already existing definition.

20 The proposed law would group most of those definitions in a separate part near
21 the beginning of the proposed law, in alphabetical order. This approach would
22 make it easier for members of the public, attorneys, judges, and the Legislature to
23 quickly determine whether a term is subject to a statutory definition. It will also
24 make it easier for the Legislature to identify and review cases where a single term
25 has multiple definitions that are similar but not identical, or is defined for some
26 purposes but not for others. That would facilitate future simplification of the law.

27 Those definitions of general application have already been presented in Parts 1
28 and 2 of the tentative recommendation, with Notes asking for public comment on
29 specific issues.

30 **Those definitions are again included in Part 3, but only for reference**
31 **purposes. The Notes presented in Parts 1 and 2 have been deleted. The**
32 **Commission is not soliciting any further comment on the definitions at this**
33 **time.**

19. California Code Commission, *Drafting Rules and Principles for Use of California Code Commission Draftsmen*, 1947-48 Report, app. G, at 4.

20. Senate & Assembly Joint Rule 8 (May 14, 2009).

21. Legislative Counsel of California, *Legislative Drafting Manual* 26-28 (1975).

22. Commission Staff Memorandum 76-24 (Feb. 17, 1976); First Supplement to Commission Staff Memorandum 85-64 (May 31, 1985).

1 **Cross-References**

2 The Fish and Game Code contains numerous cross-references. The
3 reorganization of existing law will require that the existing references be updated
4 to reflect the numbering of the new code.

5 This tentative recommendation updates cross-references to provisions in this
6 document, and in Parts 1 and 2.

7 To facilitate review of the cross-reference updates made in this tentative
8 recommendation, the Commission has provided three tables, located at the end of
9 the proposed legislation:

- 10 • A “disposition table” that shows, for each provision of existing law that is
11 included in Parts 1-3 of the tentative recommendation, the proposed
12 provision that would continue it.
- 13 • A “derivation table” that shows, for each provision proposed in Parts 1-3 of
14 the tentative recommendation, the provision of existing law that it would
15 continue.
- 16 • A table showing the new number assigned to each existing Fish and Wildlife
17 District.

18 **MINOR SUBSTANTIVE IMPROVEMENTS**

19 While the Legislature directed the Commission to avoid making any *significant*
20 substantive changes to the effect of the law, this leaves open the possibility of
21 making improvements that would have a de minimis substantive effect. The
22 Commission has done so sparingly.

23 In Part 3, the Commission made a small number of revisions that were intended
24 to be technical but that might possibly have a minor substantive effect. Notes
25 following those provisions describe the changes and invite public comment on
26 whether the proposed changes would have a problematic substantive effect.²³

27 **REQUEST FOR PUBLIC COMMENT**

28 The Commission seeks public comment on its tentative recommendation.
29 Comments supporting the proposed approach are just as important as comments
30 suggesting changes to that approach or expressing other views.

23. See Notes following proposed Sections 56815, 56820, 56825, 59790, 59795, 63000, 71000 *infra*.

FISH AND WILDLIFE CODE

Note: The document that follows contains a proposed recodification of provisions of the existing Fish and Game Code reasonably described by the indicated topical headings.

A draft of an official Commission “Comment” follows each proposed code section in the proposed recodification. Such Comments will be included in any final recommendation. The Comments indicate the source of each recodified code section (or provision within the code section) and describe how the recodified code section or provision compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation. For guidance on the terminology used in Commission Comments, see the Comment following proposed Section 20.

There is a “disposition table” at the end of the proposed recodification. It summarizes, in tabular form, the disposition of every provision of the existing code that has been included in this proposed recodification. If an existing provision would be repealed as unnecessary, the table identifies that provision as “omitted.”

Some code sections in the proposed recodification are followed by a Commission “Note.” Commission Notes are intended to be temporary, and will not be part of the Commission’s final recommendation. **The Notes are intended to flag issues requesting special attention and comment from stakeholders and the general public.**

However, the Commission welcomes public comment on *any* issue relating to the content of the recodification. In addition to comment on the matters raised in Commission Notes, the Commission is particularly interested in comments addressing any of the following matters:

(1) Any inconsistency, obsolescence, ambiguity, or problems relating to program authority and funding, whether revealed *within* a provision of this proposed recodification, or *between* a provision of this recodification and any other provision of law.

(2) Provisions that should have been included in this proposed recodification but were not, or provisions included in this recodification that should be located in a proposed recodification of the existing code to follow.

(3) Technical drafting errors.

Comments should be directed to Brian Hebert at bhebert@clrc.ca.gov.

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1 DIVISION 1. GENERAL PROVISIONS

2 PART 1. PRELIMINARY PROVISIONS

3 **§ 1. Code title**

4 1. (a) This code shall be known as the Fish and Wildlife Code.

5 (b) The act that added this code shall be known and may be cited as the “Fish
6 and Wildlife Code of 2019.”

7 **Comment.** Subdivision (a) of Section 1 is comparable to former Fish and Game Code Section
8 1.

9 Subdivision (b) is new. It provides a convenient means of referring to the recodification of the
10 former Fish and Game Code.

11 **§ 5. Application of part**

12 5. Unless the provision or context otherwise requires, the provisions of this part
13 govern the construction of this code.

14 **Comment.** Section 5 is new. It is a common general provision in the codes. See, e.g., Prob.
15 Code § 6.

16 **§ 10. Restatement and continuation**

17 10. (a) A provision of this code, insofar as it is substantially the same as a
18 previously existing provision relating to the same subject matter, shall be
19 construed as a restatement and continuation thereof, and not as a new enactment.

20 (b) A reference in a statute or regulation to a previously existing provision that is
21 restated and continued in this code shall, unless a contrary intent appears, be
22 deemed a reference to the restatement and continuation.

23 (c) A reference in a statute or regulation to a provision of this code that is
24 substantially the same as a previously existing provision, shall, unless a contrary
25 intent appears, be deemed to include a reference to the previously existing
26 provision.

27 **Comment.** Subdivision (a) of Section 10 continues the first sentence of former Fish and Game
28 Code Section 3 without substantive change.

29 Subdivision (b) is drawn from Government Code Section 9604.

30 Subdivision (c) is drawn from Family Code Section 2.

31 A number of terms and phrases are used in the Comments to the sections of the Fish and
32 Wildlife Code to indicate the sources of the sections, and to describe how they compare with
33 prior law. The following discussion is intended to provide guidance in interpreting the
34 terminology most commonly used in the Comments.

35 (1) *Continues without change.* A new provision “continues” a former provision “without
36 change” if the two provisions are identical or nearly so. In some cases, there may be insignificant
37 technical differences, such as where punctuation is changed without a change in meaning. Some
38 Comments may describe the relationship by simply stating that the Fish and Wildlife Code
39 provision “continues” or is “the same as” a former provision, or is “the same as” a provision of a
40 uniform act.

1 (2) *Continues without substantive change.* A new provision “continues” a former provision
2 “without substantive change” if the substantive law remains the same but the language differs to
3 an insignificant degree.

4 (3) *Restates without substantive change.* A new provision “restates” a former provision
5 “without substantive change” if the substantive law remains the same but the language differs to a
6 significant degree. Some Comments may describe the new provision as being the “same in
7 substance.”

8 (4) *Exceptions, additions, omissions.* If part of a former provision is “continued” or “restated,”
9 the Comment may say that the former provision is continued or restated but also note the specific
10 differences as “exceptions to,” “additions to,” or “omissions from” the former provision.

11 (5) *Generalizes, broadens, restates in general terms.* A new provision may be described as
12 “generalizing,” “broadening,” or “restating in general terms” a provision of prior law. This
13 description means that a limited rule has been expanded to cover a broader class of cases.

14 (6) *Supersedes, replaces.* A provision “supersedes” or “replaces” a former provision if the new
15 provision deals with the same subject as the former provision but treats it in a significantly
16 different manner.

17 (7) *New.* A provision is described as “new” when it has no direct source in prior statutes.

18 (8) *Drawn from, similar to, consistent with.* A variety of terms are used to indicate a source for
19 a new provision, typically a source other than California statutes. For example, a provision may
20 be “drawn from” a uniform act, model code, or the statutes of another state. In these cases, it may
21 be useful to consult any available commentary or interpretation of the source from which the new
22 provision is drawn for background information.

23 (9) *Codifies.* A Comment may state that a new provision “codifies” a case-law rule that has not
24 previously been enacted into statutory law.

25 (10) *Makes clear, clarifies.* A new provision may be described as “making clear” a particular
26 rule or “clarifying” a rule as a way of emphasizing the rule, particularly if the situation under
27 prior law was doubtful or contradictory.

28 (11) *Statement in Comment that section is “comparable” to another section.* A Comment may
29 state that a provision is “comparable” to another provision. If the Comment to a section notes that
30 another section is “comparable,” that does not mean that the other section is the same or
31 substantially the same. The statement is included in the Comment so that the statute user is
32 alerted to the other section and can review the cases under that section for possible use in
33 interpreting the section containing the statement in the Comment.

34 § 15. Judicial decisions

35 15. (a) A judicial decision interpreting a provision of the former Fish and Game
36 Code is relevant in interpreting any provision of this code that restates or
37 continues that provision of the former Fish and Game Code.

38 (b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature
39 has not evaluated the correctness of any judicial decision interpreting a provision
40 of the former Fish and Game Code.

41 (c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and
42 does not, reflect any assessment of any judicial decision interpreting any provision
43 of the former Fish and Game Code.

44 **Comment.** Section 15 is new. Subdivision (a) makes clear that case law construing a
45 predecessor provision of the former Fish and Game Code is relevant in construing its successor
46 provision or provisions in the Fish and Wildlife Code.

47 Subdivisions (b) and (c) make clear that in enacting the Fish and Wildlife Code of 2019, the
48 Legislature has not taken any position on any judicial opinion interpreting any provision of the
49 former Fish and Game Code.

1 **§ 20. Constitutionality of provisions**

2 20. (a) A judicial decision determining the constitutionality of a provision of the
3 former Fish and Game Code is relevant in determining the constitutionality of any
4 provision of this code that restates or continues that provision of the former Fish
5 and Game Code.

6 (b) However, in enacting the Fish and Wildlife Code of 2019, the Legislature
7 has not evaluated the constitutionality of any provision enacted by that act, or the
8 correctness of any judicial decision determining the constitutionality of any
9 provision of the former Fish and Game Code.

10 (c) The enactment of the Fish and Wildlife Code of 2019 is not intended to, and
11 does not, reflect any determination of the constitutionality of any provision
12 enacted by that act.

13 **Comment.** Section 20 is new. Subdivision (a) makes clear that case law determining the
14 constitutionality of a predecessor provision of the former Fish and Game Code is relevant in
15 determining the constitutionality of its successor provision or provisions in the Fish and Wildlife
16 Code of 2019.

17 Subdivisions (b) and (c) make clear that in enacting the Fish and Wildlife Code of 2019, the
18 Legislature has not taken any position on the constitutionality of any provision of that act, or of
19 any provision of the former Fish and Game Code.

20 **§ 25. Transitional provision**

21 25. (a) As used in this section:

22 (1) “New law” means either of the following, as the case may be:

23 (A) The act that enacted this code.

24 (B) The act that makes a change in this code, whether effectuated by
25 amendment, addition, or repeal of a provision of this code.

26 (2) “Old law” means the applicable law in effect before the operative date of the
27 new law.

28 (3) “Operative date” means the operative date of the new law.

29 (b) This section governs the application of the new law except to the extent
30 otherwise expressly provided in the new law.

31 (c) Subject to the limitations provided in this section, the new law applies on the
32 operative date to all matters governed by the new law, regardless of whether an
33 event occurred or circumstance existed before, on, or after the operative date,
34 including, but not limited to, commencement of a proceeding, making of an order,
35 or taking of an action.

36 (d) If a document or paper is filed before the operative date, the contents,
37 execution, and notice thereof are governed by the old law and not by the new law,
38 but subsequent proceedings taken after the operative date concerning the
39 document or paper, including an objection or response, a hearing, an order, or
40 other matter relating thereto is governed by the new law and not by the old law.

41 (e) If an order is made before the operative date, or an action on an order is
42 taken before the operative date, the validity of the order or action is governed by
43 the old law and not by the new law. Nothing in this subdivision precludes

1 proceedings after the operative date to modify an order made, or alter a course of
2 action commenced, before the operative date, to the extent proceedings for
3 modification of an order or alteration of a course of action of that type are
4 otherwise provided in the new law.

5 (f) No person is liable for an action taken before the operative date that was
6 proper at the time the action was taken, even though the action would be improper
7 if taken on or after the operative date, and the person has no duty, as a result of the
8 enactment of the new law, to take any step to alter the course of action or its
9 consequences.

10 (g) If the new law does not apply to a matter that occurred before the operative
11 date, the old law continues to govern the matter notwithstanding its repeal or
12 amendment by the new law.

13 (h) If a party shows, and the court determines, that application of a particular
14 provision of the new law or of the old law in the manner required by this section
15 or by the new law would substantially interfere with the effective conduct of the
16 proceedings or the rights of the parties or other interested persons in connection
17 with an event that occurred or circumstance that existed before the operative date,
18 the court may, notwithstanding this section or the new law, apply either the new
19 law or the old law to the extent reasonably necessary to mitigate the substantial
20 interference.

21 **Comment.** Section 25 replaces the second sentence of former Fish and Game Code Section 3.

22 Section 25 is similar to Family Code Section 4 and Probate Code Section 3. It provides general
23 transitional rules applicable to the Fish and Wildlife Code. This section applies both to the act
24 that enacted the Fish and Wildlife Code and to any later act that changes the code, whether the
25 change is effectuated by amendment, addition, or repeal of a provision of the code.

26 The rules stated in this section are general provisions that apply absent a special rule stated in a
27 new law. Special rules may defer or accelerate application of a new law despite the general rules
28 stated in this section. See subdivision (b).

29 The general rule prescribed in subdivision (c) is that a new law applies immediately on its
30 operative date to all matters, including pending proceedings. The general rule is qualified by the
31 exceptions listed in subdivision (d) (contents, execution, and notice of papers and documents are
32 governed by the law applicable when the paper or document is filed), subdivision (e) (orders are
33 governed by the law applicable when the order is made, subject to any applicable modification
34 procedures), and subdivision (f) (acts are governed by the law applicable when the act is done).

35 Where a new law fails to address a matter that occurred before its operative date, subdivision
36 (g) makes clear that old law continues to govern the matter.

37 Because it is impractical to attempt to deal with all the possible transitional problems that may
38 arise in the application of a new law to various circumstances, subdivision (h) provides a safety
39 valve that permits the court to vary the application of the new law where there would otherwise
40 be a substantial impairment of procedure or justice. This provision is intended to apply only in the
41 extreme and unusual case, and is not intended to excuse compliance with the basic transitional
42 provisions simply because of minor inconveniences or minor impacts on expectations or other
43 interests.

44 In addition to governing other substantive provisions, Section 25 also governs itself. It
45 therefore becomes operative on the date the Fish and Wildlife Code becomes operative and
46 applies to provisions enacted and operative before, on, or after that date.

1 **§ 30. Effect of headings**

2 30. Division, part, title, chapter, article, and section headings do not in any
3 manner affect the scope, meaning, or intent of the provisions of this code.

4 **Comment.** Section 30 continues former Fish and Game Code Section 4 without substantive
5 change.

6 **§ 35. Reference to specified part of code**

7 35. Unless otherwise expressly stated:

8 (a) “Division” means a division of this code.

9 (b) “Part” means a part of the division in which that term occurs.

10 (c) “Title” means a title of the part in which that term occurs.

11 (d) “Chapter” means a chapter of the division, part, or title, as the case may be,
12 in which that term occurs.

13 (e) “Article” means an article of the chapter in which that term occurs.

14 (f) “Section” means a section of this code.

15 (g) “Subdivision” means a subdivision of the section in which that term occurs.

16 (h) “Paragraph” means a paragraph of the subdivision in which that term occurs.

17 (i) “Subparagraph” means a subparagraph of the paragraph in which that term
18 occurs.

19 **Comment.** Subdivisions (f) and (g) of Section 35 restate former Fish and Game Code Section
20 73 without substantive change. The other provisions of Section 35 are new. They are similar to
21 Probate Code Section 8, except that references to “title” have been added.

22 **§ 40. Reference to statute includes amendments and additions**

23 40. Whenever reference is made to any portion of this code or of any other law
24 of this state, the reference applies to all amendments and additions heretofore or
25 hereafter made.

26 **Comment.** Section 40 continues former Fish and Game Code Section 5 without substantive
27 change.

28 **§ 45. Delegation**

29 45. Whenever a power is granted to, or duty is imposed upon, a public officer,
30 the power may be exercised or the duty may be performed by a deputy of the
31 officer, or by a person authorized, pursuant to law, by the officer, unless this code
32 expressly provides otherwise.

33 **Comment.** Section 45 continues former Fish and Game Code Section 6 without change.

34 **§ 50. Use of English in statements and reports**

35 50. Whenever a statement or report is required to be made, it shall be made in
36 the English language. Nothing in this section shall prohibit the department from
37 providing an unofficial translation of a statement or report in a language other than
38 English.

39 **Comment.** The first sentence of Section 50 continues former Fish and Game Code Section 7
40 without change.

1 The second sentence is drawn from Code of Civil Procedure Section 185. It authorizes, but
2 does not require, unofficial translation of statements and reports into languages other than
3 English.

4 See also Gov't Code §§ 7290-7299.8 (Dymally-Alatorre Bilingual Services Act).

5 **§ 55. Tenses**

6 55. The present tense includes the past and future tenses, and the future, the
7 present.

8 **Comment.** Section 55 continues former Fish and Game Code Section 8 without change.

9 **§ 60. Gender**

10 60. The masculine gender includes the feminine and the neuter.

11 **Comment.** Section 60 continues former Fish and Game Code Section 9 without change.

12 **§ 65. Number**

13 65. The singular number includes the plural, and the plural, the singular.

14 **Comment.** Section 65 continues former Fish and Game Code Section 10 without change.

15 **§ 70. Days**

16 70. Whenever in this code the doing of an act between certain dates or from one
17 date to another is allowed or prohibited, the period of time thereby indicated
18 includes both dates specified. The first date specified designates the first day of the
19 period, and the second day specified designates the last day of the period. No
20 period of time specified in this code exceeds one year unless otherwise expressly
21 provided.

22 **Comment.** Section 70 continues former Fish and Game Code Section 11 without change.

23 **§ 75. Mailed notice**

24 75. Unless otherwise specified by statute, any notice or other written
25 communication required to be sent to any person by this code or regulations
26 adopted pursuant to this code is sufficient notice, if sent by first-class mail to the
27 last address furnished to the department by that person.

28 **Comment.** Section 75 continues former Fish and Game Code Section 13 without substantive
29 change.

30 **§ 80. “Shall” and “may”**

31 80. “Shall” is mandatory and “may” is permissive.

32 **Comment.** Section 80 continues former Fish and Game Code Section 79 without change.

33 **§ 85. Order, rule, and regulation**

34 85. “Order,” “rule,” and “regulation” are used interchangeably and each includes
35 the others.

36 **Comment.** Section 85 continues former Fish and Game Code Section 64 without change.

1 § 220. “Angling”

2 220. “Angling” means the taking of, or attempting to take, fish by hook and line
3 with the line held in the hand, or by hook and line with the line attached to a pole
4 or rod that is closely attended or held in the hand in a manner that the fish
5 voluntarily takes the bait or lure in its mouth.

6 **Comment.** Section 220 continues former Fish and Game Code Section 15 without substantive
7 change.

8 § 225. “Aquaculture”

9 225. (a) “Aquaculture” means that form of agriculture devoted to the
10 propagation, cultivation, maintenance, and harvesting of aquatic plants and
11 animals in marine, brackish, and fresh water.

12 (b) “Aquaculture” does not include species of ornamental marine or freshwater
13 plants and animals not utilized for human consumption or bait purposes that are
14 maintained in closed systems for personal, pet industry, or hobby purposes,
15 however, these species continue to be regulated under Part 7 (commencing with
16 Section 26500) of Division 7.

17 **Comment.** Section 225 continues former Fish and Game Code Section 17 without substantive
18 change.

19 § 230. “Bag limit”

20 230. “Bag limit” means the maximum limit, in number or amount, of birds,
21 mammals, fish, reptiles, or amphibians that may lawfully be taken by any one
22 person during a specified period of time.

23 **Comment.** Section 230 continues former Fish and Game Code Section 18 without change.

24 § 235. “Bait net”

25 235. “Bait net” means a lampara net or round haul type net, the mesh of which is
26 constructed of twine not exceeding Standard No. 9 medium cotton seine twine, or
27 synthetic twine of equivalent size or strength.

28 **Comment.** Section 235 generalizes the first sentence of former Fish and Game Code Section
29 8780(a).

30 § 240. “Beach net”

31 240. “Beach net” means a net hauled from the water to the beach or shore, and
32 includes a beach seine and a haul seine.

33 **Comment.** Section 240 generalizes former Fish and Game Code Section 8800.

34 § 245. “Bird”

35 245. “Bird” means a wild bird or part of a wild bird.

36 **Comment.** Section 245 continues former Fish and Game Code Section 22 without change.

37 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
38 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to

1 affect the meaning of any other provision of this code that includes or omits a reference to a
2 “part” of an animal.

3 **§ 250. “Body-gripping trap”**

4 250. A body-gripping trap is one that grips the mammal’s body or body part,
5 including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps,
6 conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver
7 traps, and common rat and mouse traps shall not be considered body-gripping
8 traps.

9 **Comment.** Section 250 continues the second and third sentences of former Fish and Game
10 Code Section 3003.1(a) without change.

11 **§ 255. “Bucket trap”**

12 255. “Bucket trap” means a plastic bucket of five gallons or less in capacity.

13 **Comment.** Section 255 generalizes former Fish and Game Code Section 9000.5(a).

14 **§ 260. “Buy”**

15 260. “Buy” includes an offer to buy, purchase, barter, exchange, or trade.

16 **Comment.** Section 260 continues former Fish and Game Code Section 24 without change.

17 **§ 265. “Bycatch”**

18 265. “Bycatch” means fish or other marine life that are taken in a fishery but
19 which are not the target of the fishery. “Bycatch” includes discards.

20 **Comment.** Section 265 generalizes former Fish and Game Code Section 90.5.

21 **§ 270. “Chumming”**

22 270. “Chumming” means the placing in the water of fish, or other material upon
23 which fish feed, for the purpose of attracting fish to a particular area in order that
24 they may be taken.

25 **Comment.** Section 270 continues former Fish and Game Code Section 27 without change.

26 **§ 275. “Closed season”**

27 275. “Closed season” means that period of time during which the taking of
28 birds, mammals, fish, amphibians, or reptiles is prohibited.

29 **Comment.** Section 275 continues former Fish and Game Code Section 29 without change.

30 **§ 280. “Commercial fisherman”**

31 280. “Commercial fisherman” means a person engaging in an activity for which
32 a commercial fishing license is required pursuant to Section 14500.

33 **Comment.** Section 280 is drawn from former Fish and Game Code Sections 8040(a) and 7850.
34 It is added for drafting convenience.

1 **§ 285. “Commercial fishing entitlement”**

2 285. “Commercial fishing entitlement” means a commercial fishing license, or
3 any other permit, stamp, or entitlement issued by the department, to take, possess
4 aboard a boat, or land fish for a commercial purpose, but not including the
5 following entitlements:

6 (a) A license issued pursuant to Title 9 (commencing with Section 20200) of
7 Part 6 of Division 6.

8 (b) A license issued pursuant to Title 13 (commencing with Section 22100) of
9 Part 6 of Division 6.

10 (c) A commercial boat registration or other entitlement authorizing the use of a
11 vessel.

12 **Comment.** Section 285 is new. It is added for drafting convenience.

13 **§ 290. “Commercial fishing license”**

14 290. “Commercial fishing license” means a valid, unrevoked commercial fishing
15 license issued pursuant to Chapter 1 (commencing with Section 14500) of Title 2
16 of Part 6 of Division 6.

17 **Comment.** Section 290 generalizes former Fish and Game Code Section 8031(a)(4). It is
18 added for drafting convenience.

19 **§ 295. “Commercial passenger fishing boat”**

20 295. For purposes of this title, “commercial passenger fishing boat” means a
21 boat or vessel from which its owner, for profit, permits a passenger to take fish.

22 **Comment.** Section 295 is drawn from the first sentence of former Fish and Game Code
23 Section 7920. It is added for drafting convenience.

24 **§ 300. “Commercial passenger fishing boat owner”**

25 300. “Commercial passenger fishing boat owner” means a person engaging in an
26 activity for which a commercial passenger fishing boat license is required pursuant
27 to Sections 21900 and 21905.

28 **Comment.** Section 300 is drawn from the first paragraph of former Fish and Game Code
29 Section 7920. It is added for drafting convenience.

30 **§ 305. “Commission”**

31 305. “Commission” means the Fish and Game Commission.

32 **Comment.** Section 305 continues the first clause of former Fish and Game Code Section 30
33 without change.

34 **§ 310. “Commissioner”**

35 310. “Commissioner” means a member of the Fish and Game Commission.

36 **Comment.** Section 310 continues the second clause of former Fish and Game Code Section 30
37 without change.

1 § 315. “County”

2 315. “County” includes city and county.

3 **Comment.** Section 315 continues former Fish and Game Code Section 32 without change.

4 § 320. “Credible science”

5 320. “Credible science” means the best available scientific information that is
6 not overly prescriptive due to the dynamic nature of science, and includes the
7 evaluation principles of relevance, inclusiveness, objectivity, transparency,
8 timeliness, verification, validation, and peer review of information as appropriate.
9 Credible science also recognizes the need for adaptive management, as scientific
10 knowledge evolves.

11 **Comment.** Section 320 continues former Fish and Game Code Section 33 without substantive
12 change.

13 § 325. “Day”

14 325. “Day” means calendar day.

15 **Comment.** Section 325 continues the first clause of former Fish and Game Code Section 35
16 without change.

17 § 330. “Deeper nearshore species”

18 330. “Deeper nearshore species” means those finfish identified as deeper
19 nearshore species in regulations adopted by the commission pursuant to Section
20 22620.

21 **Comment.** Section 330 generalizes former Fish and Game Code Section 9000.5(b).

22 § 335. “Department”

23 335. “Department” means the Department of Fish and Wildlife.

24 **Comment.** Section 335 continues former Fish and Game Code Section 37 without change.

25 § 340. “Depressed”

26 340. “Depressed,” with regard to a marine fishery, means the condition of a
27 fishery for which the best available scientific information, and other relevant
28 information that the commission or department possesses or receives, indicates a
29 declining population trend has occurred over a period of time appropriate to that
30 fishery. With regard to fisheries for which management is based on maximum
31 sustainable yield, or in which a natural mortality rate is available, “depressed”
32 means the condition of a fishery that exhibits declining fish population abundance
33 levels below those consistent with maximum sustainable yield.

34 **Comment.** Section 340 generalizes former Fish and Game Code Section 90.7.

35 § 345. “Director”

36 345. “Director” means the Director of Fish and Wildlife.

37 **Comment.** Section 345 continues former Fish and Game Code Section 39 without change.

1 **§ 350. “Discards”**

2 350. “Discards” means fish that are taken in a fishery but are not retained
3 because they are of an undesirable species, size, sex, or quality, or because they
4 are required by law not to be retained.

5 **Comment.** Section 350 generalizes former Fish and Game Code Section 91.

6 **§ 355. “District”**

7 355. “District” means fish and wildlife district.

8 **Comment.** Section 355 continues former Fish and Game Code Section 41 without substantive
9 change.

10 **§ 360. “Ecosystem-based management”**

11 360. “Ecosystem-based management” means an environmental management
12 approach relying on credible science that recognizes the full array of interactions
13 within an ecosystem, including humans, rather than considering single issues,
14 species, or ecosystem services in isolation.

15 **Comment.** Section 360 continues former Fish and Game Code Section 43 without substantive
16 change.

17 **§ 365. “Essential fishery information”**

18 365. “Essential fishery information,” with regard to a marine fishery, means
19 information about fish life history and habitat requirements; the status and trends
20 of fish populations, fishing effort, and catch levels; fishery effects on fish age
21 structure and on other marine living resources and users, and any other
22 information related to the biology of a fish species or to taking in the fishery that is
23 necessary to permit fisheries to be managed according to the requirements of this
24 code.

25 **Comment.** Section 365 generalizes former Fish and Game Code Section 93.

26 **§ 370. “Exotic nonresident game bird”**

27 370. “Exotic nonresident game bird” means a bird of the order Galliformes
28 (pheasant, grouse, quail) that is not established as a wild resident population in this
29 state.

30 **Comment.** Section 370 continues former Fish and Game Code Section 3514 without
31 substantive change.

32 **§ 375. “Finfish”**

33 375. “Finfish” means any species of bony fish or cartilaginous fish.

34 **Comment.** Section 375 is drawn from Section 1.46 of Title 14 of the California Code of
35 Regulations. It is added for drafting convenience.

36 **§ 380. “Fish”**

37 380. “Fish” means a wild fish, mollusk, crustacean, invertebrate, amphibian, or
38 part, spawn, or ovum of any of those animals.

1 **Comment.** Section 380 continues former Fish and Game Code Section 45 without substantive
2 change.

3 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
4 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
5 affect the meaning of any other provision of this code that includes or omits a reference to a
6 “part” of an animal.

7 **§ 385. “Fish importer”**

8 385. “Fish importer” means a person engaging in an activity for which a fish
9 importer’s license is required pursuant to Section 20350.

10 **Comment.** Section 385 is drawn from former Fish and Game Code Section 8036(a). It is added
11 for drafting convenience.

12 **§ 390. “Fish processor”**

13 390. “Fish processor” means a person engaging in an activity for which a fish
14 processor’s license is required pursuant to Section 20400.

15 **Comment.** Section 390 is drawn from former Fish and Game Code Section 8034. It is added
16 for drafting convenience.

17 **§ 395. “Fish receiver”**

18 395. “Fish receiver” means a person engaging in an activity for which a fish
19 receiver’s license is required pursuant to Section 20450.

20 **Comment.** Section 395 is drawn from former Fish and Game Code Section 8033. It is added
21 for drafting convenience.

22 **§ 400. “Fish retailer”**

23 400. “Fish retailer” means a person engaging in an activity for which a fish
24 retailer’s license is required pursuant to Section 20500.

25 **Comment.** Section 400 is drawn from former Fish and Game Code Section 8033.5(a). It is
26 added for drafting convenience.

27 **§ 405. “Fish wholesaler”**

28 405. “Fish wholesaler” means a person engaging in an activity for which a fish
29 wholesaler’s license is required pursuant to Section 20550.

30 **Comment.** Section 405 is drawn from former Fish and Game Code Section 8035. It is added
31 for drafting convenience.

32 **§ 410. “Fishery”**

33 410. “Fishery” means both of the following:

34 (a) One or more populations of marine fish or marine plants that may be treated
35 as a unit for purposes of conservation and management and that are identified on
36 the basis of geographical, scientific, technical, recreational, and economic
37 characteristics.

38 (b) Fishing for, harvesting, or catching the populations described in subdivision
39 (a).

1 **Comment.** Section 410 generalizes former Fish and Game Code Section 94.

2 **§ 415. “Fully protected amphibian”**

- 3 415. “Fully protected amphibian” means any of the following amphibians:
4 (a) Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*).
5 (b) Limestone salamander (*Hydromantes brunus*).
6 (c) Black toad (*Bufo boreas exsul*).

7 **Comment.** Section 415 continues former Fish and Game Code Section 5050(b)(3)-(5) without
8 substantive change.

9 **§ 420. “Fully protected bird”**

- 10 420. “Fully protected bird” means any of the following birds:
11 (a) American peregrine falcon (*Falco peregrinus anatum*).
12 (b) Brown pelican.
13 (c) California black rail (*Laterallus jamaicensis coturniculus*).
14 (d) California clapper rail (*Rallus longirostris obsoletus*).
15 (e) California condor (*Gymnogyps californianus*).
16 (f) California least tern (*Sterna albifrons browni*).
17 (g) Golden eagle.
18 (h) Greater sandhill crane (*Grus canadensis tabida*).
19 (i) Light-footed clapper rail (*Rallus longirostris levipes*).
20 (j) Southern bald eagle (*Haliaeetus leucocephalus leucocephalus*).
21 (k) Trumpeter swan (*Cygnus buccinator*).
22 (l) White-tailed kite (*Elanus leucurus*).
23 (m) Yuma clapper rail (*Rallus longirostris yumanensis*).

24 **Comment.** Section 420 continues former Fish and Game Code Section 3511(b) without
25 substantive change.

26 **§ 425. “Fully protected fish”**

- 27 425. “Fully protected fish” means any of the following fish:
28 (a) Colorado River squawfish (*Ptychocheilus lucius*).
29 (b) Humpback sucker (*Xyrauchen texanus*).
30 (c) Lost River sucker (*Catostomus luxatus*).
31 (d) Modoc sucker (*Catostomus microps*).
32 (e) Mohave chub (*Gila mohavensis*).
33 (f) Owens pupfish (*Cyprinoden radiosus*).
34 (g) Rough sculpin (*Cottus asperrimus*).
35 (h) Shortnose sucker (*Chasmistes brevirostris*).
36 (i) Thicktail chub (*Gila crassicauda*).
37 (j) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

38 **Comment.** Section 425 continues former Fish and Game Code Section 5515(b) without
39 substantive change.

1 **§ 430. “Fully protected mammal”**

2 430. “Fully protected mammal” means any of the following mammals:

3 (a) Bighorn sheep (*Ovis canadensis*), except a mature Nelson bighorn ram
4 (subspecies *Ovis canadensis nelsoni*) when the object of sport hunting authorized
5 by subdivision (b) of Section 35900.

6 (b) Guadalupe fur seal (*Arctocephalus townsendi*).

7 (c) Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*).

8 (d) Northern elephant seal (*Mirounga angustirostris*).

9 (e) Pacific right whale (*Eubalaena sieboldi*).

10 (f) Ring-tailed cat (genus *Bassariscus*).

11 (g) Salt-marsh harvest mouse (*Reithrodontomys raviventris*).

12 (h) Southern sea otter (*Enhydra lutris nereis*).

13 (i) Wolverine (*Gulo luscus*).

14 **Comment.** Section 430 continues former Fish and Game Code Section 4700(b) without
15 substantive change.

16 **§ 435. “Fur-bearing mammal”**

17 435. “Fur-bearing mammal” means any of the following mammals:

18 (a) Badger.

19 (b) Beaver.

20 (c) Fisher.

21 (d) Gray fox.

22 (e) Kit fox.

23 (f) Mink.

24 (g) Muskrat.

25 (h) Pine marten.

26 (i) Raccoon.

27 (j) Red fox.

28 (k) River otter.

29 **Comment.** Section 435 continues former Fish and Game Code Section 3900 without
30 substantive change.

31 **§ 440. “Fully protected reptile”**

32 440. “Fully protected reptile” means either of the following reptiles:

33 (a) Blunt-nosed leopard lizard (*Crotaphytus wislizenii silus*).

34 (b) San Francisco garter snake (*Thamnophis sirtalis tetrataenia*).

35 **Comment.** Section 440 continues former Fish and Game Code Section 5050(b)(1)-(2) without
36 substantive change.

37 **§ 445. “Game amphibian”**

38 445. “Game amphibian” means an amphibian that can be lawfully taken for a
39 noncommercial purpose.

40 **Comment.** Section 445 is new. It is added for drafting convenience.

1 § 450. “Game bird”

2 450. “Game bird” means a resident game bird or a migratory game bird.

3 **Comment.** Section 450 continues former Fish and Game Code Section 3500(c) without
4 substantive change.

5 § 455. “Game fish”

6 455. “Game fish” means a fish that can be lawfully taken for a noncommercial
7 purpose.

8 **Comment.** Section 455 is new. It is added for drafting convenience.

9 § 460. “Game mammal”

10 460. (a) “Game mammal” means any of the following mammals:

11 (1) Black and brown or cinnamon bear (genus *Euarctos*).

12 (2) Deer (genus *Odocoileus*).

13 (3) Elk (genus *Cervus*).

14 (4) Jackrabbit and varying hare (genus *Lepus*), cottontails, brush rabbits, pigmy
15 rabbits (genus *Sylvilagus*).

16 (5) Mature Nelson bighorn ram (subspecies *Ovis canadensis nelsoni*), only when
17 the object of sport hunting authorized by subdivision (b) of Section 35900.

18 (6) Mountain lion (genus *Felis*).

19 (7) Prong-horned antelope (genus *Antilocapra*).

20 (8) Tree squirrel (genus *Sciurus* and *Tamiasciurus*).

21 (9) Wild pig, including feral pig and European wild boar (genus *Sus*).

22 (b) Notwithstanding subdivision (a) or any other provision of this code, the
23 mountain lion (genus *Felis*) shall not be listed as, or considered to be, a game
24 mammal by the department or the commission.

25 (c) Section 1025 does not apply to subdivision (b). Neither the commission nor
26 the department shall adopt any regulation that conflicts with or supersedes this
27 subdivision, or subdivision (b).

28 **Comment.** Subdivisions (a)(1)-(4) and (a)(6)-(9) of Section 460 continue former Fish and
29 Game Code Section 3950(a) without substantive change.

30 Subdivision (a)(5) continues former Fish and Game Code Section 3950(b) without substantive
31 change.

32 Subdivisions (b) and (c) restate former Fish and Game Code Section 3950.1 without
33 substantive change.

34 § 465. “Game reptile”

35 465. “Game reptile” means a reptile that can be lawfully taken for a
36 noncommercial purpose.

37 **Comment.** Section 465 is new. It is added for drafting convenience.

38 § 470. “General trap permit”

39 470. “General trap permit” means a valid permit to take fish for a commercial
40 purpose issued pursuant to Section 19205 that has not been suspended or revoked.

1 **Comment.** Section 470 generalizes former Fish and Game Code Section 9000.5(c).

2 **§ 475. “Guide boat”**

3 475. “Guide boat” means a boat or vessel under 25 feet in length, which is used
4 by a guide, who is licensed under Title 4 (commencing with Section 8800) of Part
5 1 of Division 6, in inland waters for any of the following purposes:

6 (1) For the business of packing or guiding.

7 (2) For compensation, to assist another person in taking or attempting to take
8 any fish or amphibian.

9 (3) For compensation, to assist another person in locating any bird or mammal.

10 **Comment.** Section 475 continues former Fish and Game Code Section 46 without substantive
11 change.

12 **§ 480. “Hook” and related terms**

13 480. “Hook” or “fishhook” means an implement to catch or hold fish or
14 amphibians. “Single hook” means any hook with one point and with or without a
15 barb; “double hook” means any hook with two points and with or without barbs;
16 “treble or triple hook” means any hook with three points and with or without
17 barbs. “Snag” or “gaff” hooks are hooks with or without handles used to take fish
18 in such manner that the fish does not take the hook voluntarily in its mouth.

19 **Comment.** Section 480 continues former Fish and Game Code Section 48 without substantive
20 change.

21 **§ 485. “Kelp”**

22 485. “Kelp” means kelp or other marine aquatic plants and the seeds thereof.

23 **Comment.** Section 485 continues former Fish and Game Code Section 51 without change.

24 **§ 490. “Korean trap”**

25 490. “Korean trap” means a molded plastic cylinder that does not exceed 6
26 inches in diameter and does not exceed 24 inches in length.

27 **Comment.** Section 490 generalizes former Fish and Game Code Section 9000.5(d).

28 **§ 495. “Limited entry fishery”**

29 495. “Limited entry fishery” means a fishery in which the number of persons
30 who may participate or the number of vessels that may be used in taking a
31 specified species of fish is limited by statute or regulation.

32 **Comment.** Section 495 continues former Fish and Game Code Section 8100 without change.

33 **§ 500. “Live freshwater bait fish dealer”**

34 500. “Live freshwater bait fish dealer” means a person engaging in an activity
35 for which a live freshwater bait fish license is required pursuant to Section 22100.

36 **Comment.** Section 500 is drawn from former Fish and Game Code Section 8460. It is added
37 for drafting convenience.

1 **§ 505. “Mammal”**

2 505. “Mammal” means a wild or feral mammal or part of a wild or feral
3 mammal, but not a wild, feral, or undomesticated burro.

4 **Comment.** Section 505 continues former Fish and Game Code Section 54 without change.

5 The reference to a “part” of an animal in this section is superfluous. See Section 95 (reference
6 to animal generally includes part of animal). It is retained solely for clarity, and is not intended to
7 affect the meaning of any other provision of this code that includes or omits a reference to a
8 “part” of an animal.

9 **§ 510. “Marine aquaria collector”**

10 510. “Marine aquaria collector” means a person engaging in an activity for
11 which a marine aquaria collector’s permit is required pursuant to Section 20705.

12 **Comment.** Section 510 is drawn from former Fish and Game Code Section 8597(a). It is added
13 for drafting convenience.

14 **§ 515. “Marine aquaria receiver”**

15 515. “Marine aquaria receiver” means a person engaging in an activity for which
16 a marine aquaria receiver’s license is required pursuant to Section 20600.

17 **Comment.** Section 515 is drawn from former Fish and Game Code Section 8033.1(a). It is
18 added for drafting convenience.

19 **§ 520. “Marine finfish aquaculture”**

20 520. “Marine finfish aquaculture” means the propagation, cultivation, or
21 maintenance of finfish species in the waters of the Pacific Ocean that are regulated
22 by this state.

23 **Comment.** Section 520 continues former Fish and Game Code Section 54.5 without change.

24 **§ 525. “Marine living resources”**

25 525. “Marine living resources” includes all wild mammals, birds, reptiles, fish,
26 and plants that normally occur in or are associated with salt water, and the marine
27 habitats upon which these animals and plants depend for their continued viability.

28 **Comment.** Section 525 generalizes former Fish and Game Code Section 96.

29 **§ 530. “Marine mammal”**

30 530. “Marine mammal” means any of the following mammals:

- 31 (a) Dolphin
- 32 (b) Porpoise.
- 33 (c) Sea lion.
- 34 (d) Sea otter.
- 35 (e) Seal.
- 36 (f) Whale.

37 **Comment.** Section 530 generalizes former Fish and Game Code Section 4500(c).

1 **§ 535. “Master”**

2 535. “Master,” with regard to a vessel, means the person on board a vessel who
3 is in charge of the vessel.

4 **Comment.** Section 535 continues the 3rd paragraph of former Fish and Game Code Section
5 12002.7, and former Fish and Game Code Section 12002.8(f), without substantive change.

6 **§ 540. “Maximum sustainable yield”**

7 540. “Maximum sustainable yield” in a marine fishery means the highest
8 average yield over time that does not result in a continuing reduction in stock
9 abundance, taking into account fluctuations in abundance and environmental
10 variability.

11 **Comment.** Section 540 generalizes former Fish and Game Code Section 96.5.

12 **§ 545. “Migratory game bird”**

13 545. “Migratory game bird” means any of the following birds:

- 14 (a) Band-tailed pigeon.
- 15 (b) Coot.
- 16 (c) Duck.
- 17 (d) Gallinule.
- 18 (e) Goose.
- 19 (f) Jacksnipe.
- 20 (g) Western mourning dove.
- 21 (h) White-winged dove.

22 **Comment.** Section 545 continues former Fish and Game Code Section 3500(b) without
23 substantive change.

24 **§ 550. “Mile”**

25 550. “Mile” means either a statute mile (5,280 feet) or a nautical mile (6,077
26 feet) depending on the application. Statute miles shall be the unit of measurement
27 for all land masses, rivers, streams, creeks, and inland bodies of water. Nautical
28 miles shall be the unit of measurement for all marine waters.

29 **Comment.** Section 550 continues former Fish and Game Code Section 55 without change.

30 **§ 555. “Native California trout”**

31 555. “Native California trout” means any of the following fish:

- 32 (a) California golden trout.
- 33 (b) Coastal cutthroat trout.
- 34 (c) Coastal rainbow trout/steelhead.
- 35 (d) Eagle Lake rainbow trout.
- 36 (e) Goose Lake redband trout.
- 37 (f) Kern River rainbow trout.
- 38 (g) Lahontan cutthroat trout.
- 39 (h) Little Kern golden trout.

1 (i) McCloud River redband trout.

2 (j) Paiute cutthroat trout.

3 (k) Warner Valley redband trout.

4 **Comment.** Section 555 continues former Fish and Game Code Section 7261 without
5 substantive change.

6 **§ 557. “Native plant”**

7 557. “Native plant” means a plant growing in a wild uncultivated state, which is
8 normally found native to the plantlife of this state.

9 **Comment.** Section 557 generalizes the second sentence of former Fish and Game Code
10 Section 1901.

11 **§ 560. “Nearshore species”**

12 560. “Nearshore species” means those finfish identified as nearshore species in
13 regulations adopted by the commission pursuant to Section 22620.

14 **Comment.** Section 560 generalizes former Fish and Game Code Section 9000.5(e).

15 **§ 565. “Net”**

16 565. “Net” means any gear made of any kind of twine, thread, string, rope, wire,
17 wood, or other materials used for the gilling, entangling, trapping, or impounding
18 fish.

19 **Comment.** Section 565 continues former Fish and Game Code Section 56 without change.

20 **§ 570. “Nongame bird”**

21 570. “Nongame bird” means a bird occurring naturally in California that is not a
22 resident game bird, migratory game bird, or fully protected bird.

23 **Comment.** Section 570 continues the first sentence of former Fish and Game Code Section
24 3800(a) without substantive change.

25 **§ 575. “Nongame mammal”**

26 575. “Nongame mammal” means any of the following mammals:

27 (a) A mammal occurring naturally in California that is not a game mammal,
28 fully protected mammal, or fur-bearing mammal.

29 (b) A house cat (*Felis domesticus*) found within the limits of a fish and game
30 refuge, except if in the residence of its owner or on the grounds adjacent to that
31 residence.

32 **Comment.** Subdivision (a) of Section 575 continues the first sentence of former Fish and
33 Game Code Section 4150 without substantive change.

34 Subdivision (b) continues former Fish and Game Code Section 4151 without substantive
35 change.

36 **§ 580. “Nonresident”**

37 580. “Nonresident” means a person who is not a resident as defined in Section
38 660.

1 **Comment.** Section 580 restates former Fish and Game Code Section 57 to reconcile the
2 definition of the term “nonresident” with the definition of the term “resident” in former Fish and
3 Game Code Section 70. See also Section 660 (“resident”).

4 **§ 585. “Oath”**

5 585. “Oath” includes affirmation.

6 **Comment.** Section 585 continues former Fish and Game Code Section 60 without change.

7 **§ 590. “Ocean ranching”**

8 590. “Ocean ranching” means aquaculture where juvenile anadromous fish are
9 reared and released into state waters to grow and return to an aquaculture facility
10 to be harvested commercially.

11 **Comment.** Section 590 continues former Fish and Game Code Section 61 without change.

12 **§ 595. “Open season” and “season”**

13 595. “Open season” means that period of time during which the taking of birds,
14 mammals, fish, reptiles, or amphibians is allowed as prescribed in this code and
15 regulations adopted by the commission. If used to define the period of time during
16 which take is allowed, “season” means “open season.”

17 **Comment.** Section 595 continues former Fish and Game Code Section 62 without change.

18 **§ 600. “Optimum yield”**

19 600. “Optimum yield,” with regard to a marine fishery, means the amount of
20 fish taken in a fishery that does all of the following:

21 (a) Provides the greatest overall benefit to the people of California, particularly
22 with respect to food production and recreational opportunities, and takes into
23 account the protection of marine ecosystems.

24 (b) Is the maximum sustainable yield of the fishery, as reduced by relevant
25 economic, social, or ecological factors.

26 (c) In the case of an overfished fishery, provides for rebuilding to a level
27 consistent with producing maximum sustainable yield in the fishery.

28 **Comment.** Section 600 generalizes former Fish and Game Code Section 97.

29 **§ 605. “Overfished”**

30 605. “Overfished,” with regard to a marine fishery, means both of the following:

31 (a) A depressed fishery.

32 (b) A reduction of take in the fishery is the principal means for rebuilding the
33 population.

34 **Comment.** Section 605 generalizes former Fish and Game Code Section 97.5.

35 **§ 610. “Overfishing”**

36 610. “Overfishing” means a rate or level of taking that the best available
37 scientific information, and other relevant information that the commission or

1 department possesses or receives, indicates is not sustainable or that jeopardizes
2 the capacity of a marine fishery to produce the maximum sustainable yield on a
3 continuing basis.

4 **Comment.** Section 610 generalizes former Fish and Game Code Section 98.

5 **§ 615. “Participants”**

6 615. “Participants” in regard to a fishery means the sportfishing, commercial
7 fishing, and fish receiving and processing sectors of the fishery.

8 **Comment.** Section 615 generalizes former Fish and Game Code Section 98.2.

9 **§ 620. “Person”**

10 620. “Person” means any natural person or any partnership, corporation, limited
11 liability company, trust, or other type of association.

12 **Comment.** Section 620 continues former Fish and Game Code Section 67 without change.

13 **§ 625. “Population”**

14 625. “Population” means a species, subspecies, geographical grouping, or other
15 category of fish capable of management as a unit.

16 **Comment.** Section 625 generalizes a part of former Fish and Game Code Section 98.5. See
17 also Section 745 (“stock”).

18 **§ 630. “Popup”**

19 630. “Popup” means a mechanism capable of releasing a submerged buoy at a
20 predetermined time.

21 **Comment.** Section 630 generalizes former Fish and Game Code Section 9000.5(f).

22 **§ 635. “Possession limit”**

23 635. “Possession limit” means the maximum, in number or amount, of birds,
24 mammals, fish, reptiles, or amphibians that may be lawfully possessed by one
25 person.

26 **Comment.** Section 635 continues former Fish and Game Code Section 19 without change.

27 **§ 640. “Project”**

28 640. “Project” has the same meaning as defined in Section 21065 of the Public
29 Resources Code.

30 **Comment.** Section 640 continues the definition of “project” in former Fish and Game Code
31 Section 711.2(a) without change.

32 **§ 645. “Purchase”**

33 645. “Purchase” means “buy” as defined in Section 260.

34 **Comment.** Section 645 continues former Fish and Game Code Section 68 without substantive
35 change.

1 **§ 650. “Raw fur”**

2 650. “Raw fur” means any of the following:

3 (a) A fur, pelt, or skin that has not been tanned or cured.

4 (b) A pelt that is salt-cured or sun-cured.

5 **Comment.** Section 650 restates the second sentence of former Fish and Game Code Section
6 4005(a) without substantive change.

7 **§ 655. “Recycled water” or “reclaimed water”**

8 655. “Recycled water” or “reclaimed water” has the same meaning as “recycled
9 water” as defined in subdivision (n) of Section 13050 of the Water Code.

10 **Comment.** Section 655 continues former Fish and Game Code Section 89 without substantive
11 change.

12 **§ 660. “Resident”**

13 660. “Resident” means any person who has resided continuously in the State of
14 California for six months or more immediately prior to the date of application for a
15 license or permit, any person on active military duty with the Armed Forces of the
16 United States or auxiliary branch thereof, or any person enrolled in the Job Corps
17 established pursuant to Section 2883 of Title 29 of the United States Code.

18 **Comment.** Section 660 continues former Fish and Game Code Section 70 without substantive
19 change.

20 **§ 665. “Resident game bird”**

21 665. “Resident game bird” means any of the following birds:

22 (a) California quail and varieties thereof.

23 (b) Dove of the genus *Streptopelia*, including, but not limited to, spotted dove,
24 ringed turtledove, and Eurasian collared-dove.

25 (c) Gambel’s or desert quail.

26 (d) Hungarian partridge.

27 (e) Mountain quail and varieties thereof.

28 (f) Red-legged partridge, including the chukar and other varieties thereof.

29 (g) Ring-necked pheasant and varieties thereof.

30 (h) Ruffed grouse.

31 (i) Sage hens or sage grouse.

32 (j) Sooty or blue grouse and varieties thereof.

33 (k) Wild turkey.

34 **Comment.** Section 665 continues former Fish and Game Code Section 3500(a) without
35 substantive change.

36 **§ 670. “Restricted access”**

37 670. “Restricted access,” with regard to a marine fishery, means a fishery in
38 which the number of persons who may participate, or the number of vessels that
39 may be used in taking a specified species of fish, or the catch allocated to each
40 fishery participant, is limited by statute or regulation.

1 **Comment.** Section 670 generalizes former Fish and Game Code Section 99.

2 **§ 675. “Round haul net”**

3 675. “Round haul net” means a circle seine, and includes a purse seine, ring net,
4 half ring net, and lampara net.

5 **Comment.** Section 675 generalizes former Fish and Game Code Section 8750.

6 **§ 680. “Sell”**

7 680. “Sell” includes offer or possess for sale, barter, exchange, or trade.

8 **Comment.** Section 680 continues former Fish and Game Code Section 75 without change.

9 **§ 685. “Set line”**

10 685. “Set line” means a line used to take fish that is anchored to the bottom on
11 each end and is not free to drift with the tide or current.

12 **Comment.** Section 685 combines and generalizes the parts of former Fish and Game Code
13 Section 8601 and the second sentence of former Fish and Game Code Section 9029.5 applicable
14 to set lines.

15 **§ 690. “Set net”**

16 690. (a) “Set net” means either of the following:

17 (1) A net used to take fish that is anchored to the bottom on each end and is not
18 free to drift with the tide or current.

19 (2) A net placed so that it will catch or impound fish within a bight, bay, or
20 estuary, or against the shore upon the receding of the tide.

21 (b) Notwithstanding subdivision (a), the following nets are not set nets:

22 (1) A fyke net.

23 (2) A shrimp net.

24 (3) A crab net.

25 **Comment.** Section 690 generalizes the part of former Fish and Game Code Section 8601
26 applicable to set nets.

27 **§ 695. “Signature” or “subscription”**

28 695. “Signature” or “subscription” includes mark when the signer or subscriber
29 cannot write, such signer’s or subscriber’s name being written near the mark by a
30 witness who writes his own name near the signer’s or subscriber’s name; but a
31 signature or subscription by mark can be acknowledged or can serve as a signature
32 or subscription to a sworn statement only when two witnesses also sign their own
33 names.

34 **Comment.** Section 695 continues former Fish and Game Code Section 81 without substantive
35 change.

36 **§ 700. “Slurp gun”**

37 700. “Slurp gun” means a self-contained, hand-held device used to capture fish
38 by rapidly drawing water containing fish into a closed chamber.

1 **Comment.** Section 700 continues former Fish and Game Code Section 82 without change.

2 **§ 705. “Spike buck”**

3 705. “Spike buck” means a male deer with unbranched antlers on both sides that
4 are more than three inches in length.

5 **Comment.** Section 705 continues the third sentence of former Fish and Game Code Section
6 200(b)(2) without change.

7 **§ 710. “Spiny lobster”**

8 710. “Spiny lobster” refers to the species *Panulirus interruptus*.

9 **Comment.** Section 710 continues former Fish and Game Code Section 8250 without change.

10 **§ 715. “Sport fishing”**

11 715. “Sport fishing” means the take of a fish, amphibian, or reptile, for a
12 purpose other than profit.

13 **Comment.** Section 715 is new, and added for drafting convenience. It is consistent with former
14 usage. See, e.g., former Fish and Game Code §§ 7145, 7149.05, 7149.2, 7150, 7151, 7180.1.

15 **§ 720. “Spotted fawn”**

16 720. “Spotted fawn” means a deer one year of age or less that has spotted
17 pelage.

18 **Comment.** Section 720 continues the second sentence of former Fish and Game Code Section
19 200(b)(2) without change.

20 **§ 725. “Spouse”**

21 725. “Spouse” includes “registered domestic partner,” as required by Section
22 297.5 of the Family Code.

23 **Comment.** Section 725 continues former Fish and Game Code Section 9.2 without change.

24 **§ 730. “Stamp”**

25 730 “Stamp” includes an electronic validation of privileges issued to the
26 licensee.

27 **Comment.** Section 730 generalizes former Fish and Game Code Section 7700(d).

28 **§ 735. “State”**

29 735. “State” means the State of California, unless applied to the different parts
30 of the United States. In the latter case, it includes the District of Columbia and the
31 territories.

32 **Comment.** Section 735 continues former Fish and Game Code Section 83 without change.

33 **§ 740. “State waters”**

34 740. “State waters” means “waters of the state,” as defined in Section 790.

35 **Comment.** Section 740 continues a part of former Fish and Game Code Section 89.1 without
36 change.

1 § 745. “Stock”

2 745. “Stock” means “population,” as defined in Section 625.

3 **Comment.** Section 745 generalizes a part of former Fish and Game Code Section 98.5.

4 § 750. “Sustainable,” “sustainable use,” and “sustainability”

5 750. “Sustainable,” “sustainable use,” and “sustainability,” with regard to a
6 marine fishery, mean both of the following:

7 (a) Continuous replacement of resources, taking into account fluctuations in
8 abundance and environmental variability.

9 (b) Securing the fullest possible range of present and long-term economic,
10 social, and ecological benefits, maintaining biological diversity, and, in the case of
11 fishery management based on maximum sustainable yield, taking in a fishery that
12 does not exceed optimum yield.

13 **Comment.** Section 750 generalizes former Fish and Game Code Section 99.5.

14 § 755. “Take”

15 755. “Take” means hunt, pursue, catch, capture, or kill, or attempt to hunt,
16 pursue, catch, capture, or kill.

17 **Comment.** Section 755 continues former Fish and Game Code Section 86 without change.

18 § 760. “Transport”

19 760. “Transport” includes offer or receive for transportation.

20 **Comment.** Section 760 continues former Fish and Game Code Section 88 without change.

21 § 765. “Trawl net”

22 765. “Trawl net” means a cone or funnel-shaped net that is towed or drawn
23 through the water by a fishing vessel, and includes any gear appurtenant to the net.

24 **Comment.** Section 765 generalizes the first sentence of former Fish and Game Code Section
25 8830.

26 § 770. “Troll line”

27 770. “Troll line” means a line with one or more hooks towed by a vessel
28 underway and making way.

29 **Comment.** Section 770 generalizes former Fish and Game Code Section 9025.5(b).

30 § 775. “Upland game bird”

31 775. “Upland game bird” means any of the following birds:

32 (a) Band-tailed pigeon.

33 (b) California quail and varieties thereof.

34 (c) Dove of the genus *Streptopelia*, including, but not limited to, spotted dove,
35 ringed turtledove, and Eurasian collared dove.

36 (d) Gambel’s or desert quail.

37 (e) Hungarian partridge.

1 (f) Jacksnipe.

2 (g) Mountain quail and varieties thereof.

3 (h) Red-legged partridge including the chukar and other varieties.

4 (i) Ring-necked pheasant and varieties thereof.

5 (j) Ruffed grouse.

6 (k) Sage hen or sage grouse.

7 (l) Sooty or blue grouse.

8 (m) Western mourning dove.

9 (n) White-tailed ptarmigan.

10 (o) White-winged dove.

11 (p) Wild turkey.

12 **Comment.** Section 775 continues former Fish and Game Code Section 3683 without
13 substantive change.

14 **§ 780. “Vertical fishing line”**

15 780. “Vertical fishing line” means a fishing line that is anchored to the ocean
16 bottom at one end and attached at the other end on the surface to a fishing vessel
17 or a buoy.

18 **Comment.** Section 780 generalizes the part of the second sentence of former Fish and Game
19 Code Section 9029.5 applicable to a vertical fishing line.

20 **§ 785. “Vessel owner”**

21 785. (a) “Vessel owner,” or a reference to an owner of a vessel, means the
22 person or persons designated as the registered owner of a vessel, on a certificate of
23 documentation issued by the United States Coast Guard or on a copy of the vessel
24 registration issued by the vessel registration agency of the state where the owner is
25 a resident.

26 (b) For purposes of this section, the vessel registration agency in California is
27 the Department of Motor Vehicles.

28 **Comment.** Section 785 restates and generalizes former Fish and Game Code Section 7601.

29 **§ 790. “Waters of the state,” “waters of this state”**

30 790. “Waters of the state” or “waters of this state” have the same meaning as
31 “waters of the state” as defined in subdivision (e) of Section 13050 of the Water
32 Code.

33 **Comment.** Section 790 continues a part of former Fish and Game Code Section 89.1 without
34 change. See also Section 740 (“state waters”).

35 **§ 795. “Week”**

36 795. “Week” means calendar week.

37 **Comment.** Section 795 continues the second clause of former Fish and Game Code Section 35
38 without change.

1 § 800. “Wildlife”

2 800. “Wildlife” means and includes all wild animals, birds, plants, fish,
3 amphibians, reptiles, and related ecological communities, including the habitat
4 upon which the wildlife depends for its continued viability.

5 **Comment.** Section 800 continues former Fish and Game Code Section 89.5 without change.

6 ...

7 DIVISION 15. HABITAT CONSERVATION AND ENHANCEMENT

8 PART 1. GENERAL PROVISIONS

9 TITLE 1. CONSERVATION OF WILDLIFE
10 RESOURCES

11 § 54500. “Wildlife” defined

12 54500. As used in this title “wildlife” means birds, mammals, and reptiles not
13 raised in captivity.

14 **Comment.** Section 54500 continues former Fish and Game Code Section 1800 without
15 substantive change.

16 § 54505. Policy

17 54505. It is hereby declared to be the policy of the state to encourage the
18 preservation, conservation, and maintenance of wildlife resources under the
19 jurisdiction and influence of the state. This policy shall include the following
20 objectives:

21 (a) To maintain sufficient populations of all species of wildlife and the habitat
22 necessary to achieve the objectives stated in subdivisions (b), (c), and (d).

23 (b) To provide for the beneficial use and enjoyment of wildlife by all citizens of
24 the state.

25 (c) To perpetuate all species of wildlife for their intrinsic and ecological values,
26 as well as for their direct benefits to all persons.

27 (d) To provide for aesthetic, educational, and nonappropriative uses of the
28 various wildlife species.

29 (e) To maintain diversified recreational uses of wildlife, including the sport of
30 hunting, as proper uses of certain designated species of wildlife, subject to
31 regulations consistent with the maintenance of healthy, viable wildlife resources,
32 the public safety, and a quality outdoor experience.

33 (f) To provide for economic contributions to the citizens of the state, through the
34 recognition that wildlife is a renewable resource of the land by which economic
35 return can accrue to the citizens of the state, individually and collectively, through
36 regulated management. That management shall be consistent with the maintenance

1 of healthy and thriving wildlife resources and the public ownership status of the
2 wildlife resources.

3 (g) To alleviate economic losses or public health or safety problems caused by
4 wildlife to the people of the state either individually or collectively. That
5 resolution shall be in a manner designed to bring the problem within tolerable
6 limits consistent with economic and public health considerations and the
7 objectives stated in subdivisions (a), (b), and (c).

8 (h) It is not intended that this policy shall provide any power to regulate natural
9 resources or commercial or other activities connected therewith, except as
10 specifically provided by the Legislature.

11 **Comment.** Section 54505 continues former Fish and Game Code Section 1801 without
12 substantive change.

13 **§ 54510. Department jurisdiction**

14 54510. The department has jurisdiction over the conservation, protection, and
15 management of fish, wildlife, native plants, and habitat necessary for biologically
16 sustainable populations of those species. The department, as trustee for fish and
17 wildlife resources, shall consult with lead and responsible agencies and shall
18 provide, as available, the requisite biological expertise to review and comment
19 upon environmental documents and impacts arising from project activities, as
20 those terms are used in the California Environmental Protection Act (Division 13
21 (commencing with Section 21000) of the Public Resources Code).

22 **Comment.** Section 54510 continues former Fish and Game Code Section 1802 without
23 substantive change.

24 **TITLE 2. CONSERVATION OF AQUATIC**
25 **RESOURCES**

26 **§ 54525. Policy**

27 54525. It is hereby declared to be the policy of the state to encourage the
28 conservation, maintenance, and utilization of the living resources of the ocean and
29 other waters under the jurisdiction and influence of the state for the benefit of all
30 the citizens of the state and to promote the development of local fisheries and
31 distant-water fisheries based in California in harmony with international law
32 respecting fishing and the conservation of the living resources of the oceans and
33 other waters under the jurisdiction and influence of the state. This policy shall
34 include all of the following objectives:

35 (a) The maintenance of sufficient populations of all species of aquatic organisms
36 to insure their continued existence.

37 (b) The recognition of the importance of the aesthetic, educational, scientific,
38 and nonextractive recreational uses of the living resources of the California
39 Current.

1 (c) The maintenance of a sufficient resource to support a reasonable sport use,
2 where a species is the object of sport fishing, taking into consideration the
3 necessity of regulating individual sport fishery bag limits to the quantity that is
4 sufficient to provide a satisfying sport.

5 (d) The growth of local commercial fisheries, consistent with aesthetic,
6 educational, scientific, and recreational uses of living resources, the utilization of
7 unused resources, taking into consideration the necessity of regulating the catch
8 within the limits of maximum sustainable yields, and the development of distant-
9 water and overseas fishery enterprises.

10 (e) The management, on a basis of adequate scientific information promptly
11 promulgated for public scrutiny, of the fisheries under the state’s jurisdiction, and
12 the participation in the management of other fisheries in which California
13 fishermen are engaged, with the objective of maximizing the sustained harvest.

14 (f) The development of commercial aquaculture.

15 **Comment.** Section 54525 continues former Fish and Game Code Section 1700 without
16 substantive change.

17 TITLE 3. DEPARTMENT AUTHORITY

18 **§ 54550. Habitat improvement**

19 54550. (a) The department may expend any funds that may be necessary for the
20 improvement of property, including nonnavigable lakes and streams, riparian
21 zones, and upland, in order to restore, rehabilitate, and improve fish and wildlife
22 habitat. The improvement activities may include, but are not limited to, the
23 removal of barriers to migration of fish and wildlife and the improvement of
24 hatching, feeding, resting, and breeding places for wildlife.

25 (b) The department may undertake the services and habitat improvement work
26 on private, public, and public trust lands without the state acquiring an interest in
27 the property.

28 **Comment.** Section 54550 continues former Fish and Game Code Section 1501 without
29 substantive change.

30 **§ 54555. Contracts for habitat improvement**

31 54555. (a) The department may enter into contracts for fish and wildlife habitat
32 preservation, restoration, and enhancement with public and private entities
33 whenever the department finds that the contracts will assist in meeting the
34 department’s duty to preserve, protect, and restore fish and wildlife.

35 (b) The department may grant funds for fish and wildlife habitat preservation,
36 restoration, and enhancement to public agencies, Indian tribes, and nonprofit
37 entities whenever the department finds that the grants will assist it in meeting its
38 duty to preserve, protect, and restore fish and wildlife.

39 (c) Contracts authorized under this section are contracts for services and are
40 governed by Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of

1 Division 2 of the Public Contract Code. No work under this section is public work
2 or a public improvement, and is not subject to Chapter 1 (commencing with
3 Section 1720) of Part 7 of Division 2 of the Labor Code.

4 (d) This section does not apply to contracts for any of the following:

5 (1) Construction of office, storage, garage, or maintenance buildings.

6 (2) Drilling wells and installation of pumping equipment.

7 (3) Construction of permanent hatchery facilities, including raceways, water
8 systems, and bird enclosures.

9 (4) Construction of permanent surfaced roadways and bridges.

10 (5) Any project requiring engineered design or certification by a registered
11 engineer.

12 (6) Any contract, except contracts with public agencies, nonprofit organizations,
13 or Indian tribes that exceed fifty thousand dollars (\$50,000) in cost, excluding the
14 cost for gravel, for fish and wildlife habitat preservation, restoration, and
15 enhancement for any one of the following:

16 (A) Fish screens, weirs, and ladders.

17 (B) Drainage or other watershed improvements.

18 (C) Gravel and rock removal or placement.

19 (D) Irrigation and water distribution systems.

20 (E) Earthwork and grading.

21 (F) Fencing.

22 (G) Planting trees or other habitat vegetation.

23 (H) Construction of temporary storage buildings.

24 **Comment.** Section 54555 continues former Fish and Game Code Section 1501.5 without
25 substantive change.

26 TITLE 4. SIGNIFICANT NATURAL AREAS

27 § 54575. Findings and declarations

28 54575. The Legislature finds and declares that:

29 (a) Areas containing diverse ecological and geological characteristics are vital to
30 the continual health and well-being of the state's natural resources and of its
31 citizens.

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

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

36 (d) Preserving and connecting high-quality habitat for wildlife can create habitat
37 strongholds.

38 (e) Increasingly fragmented habitats threaten the state's wildlife species.

39 (f) There is an opportunity to provide incentive for private landowners to
40 maintain and perpetuate significant local natural areas in their natural state.

1 (g) Efforts to preserve natural areas have been fragmented between federal,
2 state, local, and private sectors.

3 (h) Analysis of the state’s habitat connectivity benefits from the consideration of
4 all relevant data, including information from private and public landowners.

5 (i) The department’s existing mapping activities and products should be
6 developed and sustained.

7 (j) The importance of wildlife corridors to assist in adapting to climate change
8 has been recognized by such groups as the Western Governors’ Association,
9 which unanimously approved a policy to protect wildlife migration corridors and
10 crucial wildlife habitat in 2007. Individual local, state, and federal agencies have
11 also adopted policies aimed at protecting wildlife corridors and habitat
12 connectivity, in order to protect ecosystem health and biodiversity and to improve
13 the resiliency of wildlife and their habitats to climate change. However, these
14 efforts could be enhanced through establishment of a statewide policy to protect
15 important wildlife corridors and habitat linkages where feasible and practicable.

16 **Comment.** Section 54575 continues former Fish and Game Code Section 1930 without
17 substantive change.

18 **§ 54580. Identification of wildlife corridors**

19 54580. (a) Contingent upon funding being provided by the Wildlife
20 Conservation Board from moneys available pursuant to Section 75055 of the
21 Public Resources Code, or from other appropriate bond funds, upon appropriation
22 by the Legislature, the department shall investigate, study, and identify those areas
23 in the state that are most essential as wildlife corridors and habitat linkages, as
24 well as the impacts to those wildlife corridors from climate change, and shall
25 prioritize vegetative data development in these areas.

26 (b) It is the intent of the Legislature that the Wildlife Conservation Board use
27 various funds to work with the department to complete a statewide analysis of
28 wildlife corridors and connectivity to support conservation planning and climate
29 change adaptation activities.

30 **Comment.** Section 54580 continues former Fish and Game Code Section 1930.5(a)-(b)
31 without substantive change.

32 **§ 54585. Significant Natural Areas Program**

33 54585. There is hereby established the Significant Natural Areas Program,
34 which shall be administered by the department. The department, in administering
35 this program, shall do all of the following:

36 (a) Obtain access to the most recent information with respect to natural
37 resources. In order to accomplish this, the department shall maintain, expand, and
38 keep current a data management system, designated the California Natural
39 Diversity Data Base, designed to document information on these resources. That
40 data shall be made available to interested parties on request.

1 (b) Develop and maintain a spatial data system that identifies those areas in the
2 state that are most essential for maintaining habitat connectivity, including wildlife
3 corridors and habitat linkages. This data should include information essential for
4 evaluating the needs of wildlife species that require habitat connectivity for their
5 long-term conservation, including distribution and movement patterns.

6 (c) As appropriate, develop and maintain the database by incorporating mapping
7 products and data developed by other state agencies.

8 (d) Make all of the data sets, and associated analytical products, available to the
9 public and other government entities.

10 (e) Ensure cost sharing by all who use the data management system and develop
11 an appropriate schedule of compensation to be paid by individuals using the data
12 management system, not to exceed the actual costs for use of the data management
13 system.

14 (f) Ensure recognition of the state’s most significant natural areas, including
15 those affected by climate change. The department shall, after consultation with
16 federal, state, and local agencies, education institutions, civic and public interest
17 organizations, private organizations, landowners, and other private individuals,
18 identify by means of periodic reports those natural areas deemed to be most
19 significant.

20 (g) Seek the maintenance and perpetuation of the state’s most significant natural
21 areas for present and future generations in the most feasible manner. The
22 department shall consider alternative approaches for that maintenance, including
23 alternatives to fee acquisition such as incentives, leasing, and dedication.

24 (h) Reduce unnecessary duplication of effort. The department shall provide
25 coordinating services to federal, state, local, and private interests wishing to aid in
26 the maintenance and perpetuation of significant natural areas.

27 (i) Actively pursue grants and cost-sharing opportunities with local, state, or
28 federal agencies, or private entities that use the data sets and benefit from their
29 creation and maintenance.

30 **Comment.** Section 54585 continues former Fish and Game Code Section 1932 without
31 substantive change.

32 **Note.** Existing Section 1932(b) incorporates the definition of “wildlife” provided in Section
33 89.5. That language is not continued here, because the Commission is proposing to generalize
34 Section 89.5 so that its definition of “wildlife” applies to the entire code.

35 **§ 54590. Vegetation mapping standard**

36 54590. (a) The department shall undertake the development of a vegetation
37 mapping standard for the state.

38 (b) The development of a state vegetation mapping standard by the department
39 shall be done in consultation with interested stakeholders, including, but not
40 limited to, government agencies, nongovernmental conservation organizations,
41 landowners, agriculture, recreation, scientific entities, and industry. Components
42 of the standard shall include the following:

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

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

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

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

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

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

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

22 **Comment.** Section 54590 continues former Fish and Game Code Section 1940 without
23 substantive change.

24 **§ 54595. Cooperation with public and private entities**

25 54595. (a) The Legislature further finds and declares that it is the policy of this
26 state to encourage the cooperation of federal, state, local, and private sectors,
27 including private organizations and individuals, in efforts to maintain the state's
28 most significant natural areas.

29 (b) In carrying out its responsibilities pursuant to this title, the department shall
30 solicit and utilize all relevant results of existing studies and information from local
31 government, state, and federal agencies, academic institutions, nonprofit
32 organizations, certified environmental documents, private and public landowners,
33 and agricultural and rangeland information developed by the Department of
34 Conservation and agriculture associations.

35 (c) The department shall seek input from representatives of other state agencies,
36 local government, federal agencies, nongovernmental conservation organizations,
37 landowners, agriculture, recreation, scientific entities, and industry in determining
38 essential wildlife corridors and habitat linkages.

39 (d) Private and public landowners shall be given a reasonable opportunity to
40 review and comment on the wildlife characteristics of their land if it is identified
41 pursuant to this title. The department shall utilize all relevant information when
42 developing data sets and associated analytical products pursuant to this title.

1 **Comment.** Subdivision (a) of Section 54595 continues former Fish and Game Code Section
2 1931 without substantive change.

3 Subdivisions (b)-(d) continue former Fish and Game Code Section 1932.5(a)-(b) without
4 substantive change.

5 **§ 54600. Voluntary protections**

6 54600. (a) It is the policy of the state to promote the voluntary protection of
7 wildlife corridors and habitat strongholds in order to enhance the resiliency of
8 wildlife and their habitats to climate change, protect biodiversity, and allow for the
9 migration and movement of species by providing connectivity between habitat
10 lands. In order to further these goals, it is the policy of the state to encourage,
11 wherever feasible and practicable, voluntary steps to protect the functioning of
12 wildlife corridors through various means, as applicable and to the extent feasible
13 and practicable, those means may include, but are not limited to:

14 (1) Acquisition or protection of wildlife corridors as open space through
15 conservation easements.

16 (2) Installing of wildlife-friendly or directional fencing.

17 (3) Siting of mitigation and conservation banks in areas that provide habitat
18 connectivity for affected fish and wildlife resources.

19 (4) Provision of roadway undercrossings, overpasses, oversized culverts, or
20 bridges to allow for fish passage and the movement of wildlife between habitat
21 areas.

22 (b) The fact that a project applicant does not take voluntary steps to protect the
23 functioning of a wildlife corridor prior to initiating the application process for a
24 project shall not be grounds for denying a permit or requiring additional mitigation
25 beyond what would be required to mitigate project impacts under other applicable
26 laws, including, but not limited to, the California Endangered Species Act
27 (Chapter 1.5 (commencing with Section 2050) of Division 3) and the California
28 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
29 Public Resources Code).

30 (c) The Legislature finds and declares that there are a number of existing efforts,
31 including, but not limited to, efforts involving working landscapes, that are already
32 working to achieve the policy described in subdivisions (a) and (b).

33 (d) Subdivisions (a) and (b) shall not be construed to create new regulatory
34 requirements or modify the requirements of paragraphs (2) and (5) of subdivision
35 (d) of Section 64580 or the California Environmental Quality Act (Division 13
36 (commencing with Section 21000) of the Public Resources Code).

37 **Comment.** Section 54600 continues former Fish and Game Code Section 1930.5(c)-(e)
38 without substantive change.

39 **§ 54605. Disclaimers**

40 54605. (a) This title does not require, mandate, or authorize, under state or
41 federal law, any state or local planning, zoning, or other land use action or
42 decision.

1 (b) This title does not alter any legal rights and privileges, under state or federal
2 law, of ownership or use of privately or publicly owned property.

3 (c) The Legislature finds and declares that the data sets and associated analytical
4 products required pursuant to this title are for inventory and planning purposes and
5 may not be suitable to support regulatory actions without additional specificity or
6 information.

7 (d) No authority or responsibility provided for in this title shall, of itself, change
8 or prevent the change of the use of any area identified pursuant to the Significant
9 Natural Areas Program.

10 **Comment.** Subdivisions (a) through (c) of Section 54605 continue former Fish and Game
11 Code Section 1932.5(c)-(e) without substantive change.

12 Subdivision (d) continues former Fish and Game Code Section 1933 without substantive
13 change.

14 **PART 2. HABITAT CONSERVATION AND ENHANCEMENT**
15 **PROGRAMS**

16 **TITLE 1. WILDLIFE CONSERVATION LAW**
17 **OF 1947**

18 **CHAPTER 1. GENERAL PROVISIONS**

19 **§ 54700. Short title**

20 54700. This title is known and may be cited as the Wildlife Conservation Law of
21 1947.

22 **Comment.** Section 54700 continues former Fish and Game Code Section 1300 without
23 substantive change.

24 **§ 54705. Definitions**

25 54705. For the purposes of this title, “board” means the Wildlife Conservation
26 Board.

27 **Comment.** Section 54705 is new. It is comparable to former Fish and Game Code Sections
28 1320 and 1361(a).

29 **§ 54710. Policy**

30 54710. The preservation, protection and restoration of wildlife within the state is
31 an inseparable part of providing adequate recreation for our people in the interest
32 of public welfare; and it is the policy of the state to acquire and restore to the
33 highest possible level, and maintain in a state of high productivity, those areas that
34 can be most successfully used to sustain wildlife and which will provide adequate
35 and suitable recreation. To carry out these purposes, a single and coordinated
36 program for the acquisition of lands and facilities suitable for recreational

1 purposes, and adaptable for conservation, propagation, and utilization of the fish
2 and game resources of the state, is established.

3 **Comment.** Section 54710 continues former Fish and Game Code Section 1301 without
4 substantive change.

5 CHAPTER 2. WILDLIFE CONSERVATION BOARD

6 Article 1. Administration

7 § 54750. Establishment and composition of board

8 54750. (a) There is in the department the Wildlife Conservation Board.

9 (b) The board consists of the president of the commission, the director, the
10 Director of Finance, and four public members appointed pursuant to subdivisions
11 (b) through (e), inclusive.

12 (c) The Speaker of the Assembly and the Senate Committee on Rules shall each
13 appoint a public member to serve on the board and the Governor shall appoint two
14 public members to serve on the board.

15 (d) The public members shall each serve a term of four years. If a vacancy
16 occurs during the term of a public member, the appointing authority shall appoint
17 a person to fill the vacancy for a term of four years.

18 (e) Each public member shall have demonstrated interest and expertise in land
19 acquisition for conservation purposes, including, but not limited to, any of the
20 following:

21 (1) Experience with activities that benefit disadvantaged communities identified
22 pursuant to Section 39711 of the Health and Safety Code.

23 (2) Experience with a land conservation nonprofit organization, a public agency
24 focused on land conservation, or public land management.

25 (3) Experience as a professional with expertise in one or more functions of the
26 board, including conservation easements or other interests in real estate designed
27 to further the mission of the board.

28 **Comment.** Section 54750 continues former Fish and Game Code Section 1320 without
29 substantive change.

30 § 54755. Board chair

31 54755. The board's chair shall be elected by the members of the board.

32 **Comment.** Section 54755 continues former Fish and Game Code Section 1321 without
33 substantive change.

34 § 54760. Travel expenses

35 54760. The members of the board shall receive their actual and necessary
36 traveling expenses, which shall be paid from the Wildlife Restoration Fund.

37 **Comment.** Section 54760 continues former Fish and Game Code Section 1322 without
38 substantive change.

1 **Comment.** Section 54805 continues former Fish and Game Code Section 1347 without
2 substantive change.

3 **§ 54810. Consideration of greenhouse gas emissions**

4 54810. The board, when it prioritizes the use of available funds for proposed
5 acquisitions, with regard to the priority of a proposal to acquire forestland, may
6 consider and take into account the potential of that proposed acquisition to
7 beneficially reduce or sequester greenhouse gas emissions. The board may use
8 policies, protocols, or other relevant information developed by the California
9 Climate Action Registry as a basis for determining a project’s potential to reduce
10 or sequester greenhouse gas emissions.

11 **Comment.** Section 54810 continues former Fish and Game Code Section 1356 without
12 substantive change.

13 **§ 54815. Acquisition of property rights**

14 54815. (a)(1) The board shall authorize the acquisition of real property, rights in
15 real property, water, or water rights as may be necessary to carry out the purposes
16 of this title.

17 (2) The board may authorize acquisition by the department, but the department
18 shall not acquire any property pursuant to this subdivision by eminent domain
19 proceedings except that property as may be necessary to provide access roads or
20 rights-of-way to areas to be used for fishing the coastal waters of the Pacific
21 Ocean, and then only if the board of supervisors of the affected county has agreed
22 by resolution to those proceedings for each parcel of land, and has further agreed
23 by resolution to maintain the road or right-of-way.

24 (3) The board may authorize acquisition by the State Public Works Board,
25 which may effect acquisitions pursuant to the Property Acquisition Law, Part 11
26 (commencing with Section 15850) of Division 3 of Title 2 of the Government
27 Code.

28 (b) For the purposes of this title and Title 12 (commencing with Section 57700),
29 the board may authorize the acquisition of interests in real property and water
30 rights by means of gifts, purchases, leases, easements, the transfer or exchange of
31 property for other property of like value, transfers of development rights or credits,
32 and purchases of development rights, conservation easements, and other interests.

33 (c) To further implement this title and Title 12 (commencing with Section
34 57700), the board may authorize the department to do any of the following:

35 (1) Accept federal grants and receive gifts, donations, subventions, rents,
36 royalties, and other financial support from public or private sources. Proceeds
37 received from any of these sources shall be deposited in the Wildlife Restoration
38 Fund.

39 (2) Notwithstanding any other provision of law, lease, sell, exchange, or
40 otherwise transfer any real property, interest in real property, or option acquired by
41 or held under the jurisdiction of the board or the department. Except as provided in

1 Section 54870, proceeds from transactions entered into pursuant to this paragraph
2 shall be deposited in the Wildlife Restoration Fund.

3 (3) Lease degraded potential wildlife habitat real property to nonprofit
4 organizations, local governmental agencies, or state and federal agencies if the
5 lessee agrees to restore the real property to its highest possible wildlife habitat
6 value and maintain the real property at that highest possible wildlife habitat value.
7 If feasible, during the period of lease, the board may require that the real property
8 be open to the public for compatible recreational opportunities. Proceeds from any
9 lease or rental and interest thereon shall be deposited in the Wildlife Restoration
10 Fund.

11 (4) Acquire former wildlife habitat real property, including riparian habitat real
12 property, restore and sell the real property, or any interest therein, to private
13 owners, local governmental agencies, or state departments and agencies, or
14 exchange the property for other real property, if a written and recorded agreement
15 is first secured to keep and maintain the real property as wildlife habitat in
16 perpetuity. The agreement shall contain a reversion if the real property sold or
17 exchanged is not maintained as wildlife habitat. The agreement containing the
18 reversion shall be set forth in any conveyance transferring any real property,
19 interest in real property, or option subject to this section. Proceeds from the sales
20 shall be deposited in the Wildlife Restoration Fund.

21 **Comment.** Section 54815 continues former Fish and Game Code Section 1348 without
22 substantive change.

23 **§ 54820. Acquisition of property for public access**

24 54820. The board may authorize the acquisition of any lands or rights in land
25 that may be necessary for the purpose of furnishing public access to lands or
26 waters open to the public for fishing, hunting and shooting. The board may
27 authorize that acquisition by the department.

28 **Comment.** Section 54820 continues former Fish and Game Code Section 1354 without
29 substantive change.

30 **§ 54825. Notice of intent to acquire property**

31 54825. Before the board authorizes the purchase of any land, or any interest
32 therein, the board shall notify all owners of record of adjacent parcels of land of
33 the intent of the board to purchase the land. The notice to the adjacent owners of
34 land and the public notice shall include an explanation of the proposed use of the
35 land by the department.

36 **Comment.** Section 54825 continues former Fish and Game Code Section 1348.1 without
37 substantive change.

38 **§ 54830. Purchase price of acquired property**

39 54830. When the board acquires real property, other than by eminent domain,
40 the purchase price for the real property shall not exceed the fair market value of

1 the property, as defined in Section 1263.320 of the Code of Civil Procedure. The
2 fair market value shall be set forth in an appraisal that is (a) prepared by a licensed
3 real estate appraiser, and (b) approved by the Department of General Services.

4 **Comment.** Section 54830 continues former Fish and Game Code Section 1348.2 without
5 substantive change.

6 **§ 54835. Condemnation of wildlife conservation easement**

7 54835. (a) No governmental entity may condemn any wildlife conservation
8 easement acquired by a state agency, except as provided in subdivision (b). As
9 used in this section, the following terms have the following meanings:

10 (1) “Public use” as used in Article 6 (commencing with Section 1240.510) and
11 Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of
12 the Code of Civil Procedure means privately owned lands managed for habitat in
13 public trust.

14 (2) “Wildlife conservation easement” means a recorded conservation easement,
15 as defined in Section 815.1 of the Civil Code, that exists or will exist for at least
16 10 years and that is acquired and held by a state agency and administered
17 primarily for the benefit of wildlife.

18 (b) Prior to the initiation by a governmental entity of condemnation proceedings
19 against a wildlife conservation easement acquired by a state agency, the
20 governmental entity shall give notice to the holder of the easement, provide an
21 opportunity for the holder of the easement to consult with the governmental
22 agency, provide the holder of the easement the opportunity to state its objections
23 to the condemnation, and provide a response to the objections. Article 6
24 (commencing with Section 1240.510) and Article 7 (commencing with Section
25 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure shall
26 apply to condemnation proceedings initiated by a governmental entity against a
27 wildlife conservation easement acquired by a state agency. In those proceedings,
28 the condemning governmental entity shall be required to prove by clear and
29 convincing evidence that its proposed use satisfies the requirements of Article 6
30 (commencing with Section 1240.510) or Article 7 (commencing with Section
31 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure.

32 **Comment.** Section 54835 continues former Fish and Game Code Section 1348.3(a)(1), (a)(3),
33 and (b) without substantive change.

34 **Note.** Existing Section 1348.3(a)(2) incorporates the definition of “wildlife” provided in
35 Section 89.5. That provision is not continued here, because the Commission is proposing to
36 generalize Section 89.5 so that its definition of “wildlife” applies to the entire code.

37 **§ 54840. Farm lands**

38 54840. No farm lands may be acquired under the provisions of this title by
39 proceedings in eminent domain except by specific authorization of the Legislature,
40 notwithstanding any provision of Section 54815. Nothing in this section shall

1 apply to any proceedings to acquire farm lands when the owner thereof has
2 consented to, or requested the institution of, the proceedings.

3 **Comment.** Section 54840 continues former Fish and Game Code Section 1349 without
4 substantive change.

5 **§ 54845. Receipt of grants, gifts, donations, and other financial support**

6 54845. The department, when authorized by the board, may apply for and accept
7 federal grants, and receive gifts, donations, and other financial support from public
8 or private sources to be used for fish and wildlife habitat enhancement, including
9 riparian habitat restoration projects on real property or waters for which the state
10 obtains an interest. Funds received from any of those sources shall be deposited in
11 the Wildlife Restoration Fund.

12 **Comment.** Section 54845 continues former Fish and Game Code Section 1350(b) without
13 substantive change.

14 **§ 54850. Award of grant or loan**

15 54850. (a) The board may award grants or loans to nonprofit organizations, local
16 governmental agencies, federal agencies, and state agencies for the purposes of
17 fish and wildlife habitat restoration, enhancement, management, protection and
18 improvement of riparian resources, and for development of compatible public
19 access facilities in the same manner and subject to the same terms and conditions
20 as prescribed in Section 31116 of the Public Resources Code.

21 (b) Proceeds from repayment of any loans and the interest thereon shall be
22 deposited in the Wildlife Restoration Fund.

23 **Comment.** Section 54850 continues former Fish and Game Code Section 1350(c) without
24 substantive change.

25 **§ 54855. Construction of facilities**

26 54855. (a) The department shall, when authorized by the board, construct in
27 accordance with law any facilities that are suitable for the purpose for which the
28 real property or rights in real property or water, or water rights were acquired.
29 Each completed project shall be managed and maintained by the department.

30 (b) The department, with the approval of the board, may enter into agreements
31 with any other department or agency of this state, any local agency, or nonprofit
32 organization, to provide for the construction, management, or maintenance of the
33 facilities authorized by the board, and the other department or agency of this state,
34 local agency, or nonprofit organization, and each of them may construct, manage,
35 or maintain those facilities pursuant to the agreement.

36 (c) Work performed by a local agency or nonprofit organization under those
37 agreements is exempt from Chapter 3 (commencing with Section 14250), of Part 5
38 of Division 3 of Title 2 of the Government Code. However, nothing in this section,
39 Section 54845, or Section 54850 shall be construed to exempt any work from Part
40 7 (commencing with Section 1720) of Division 2 of the Labor Code.

1 **Comment.** Section 54855 continues former Fish and Game Code Section 1350(a) without
2 substantive change.

3 📌 **Note:** Existing Section 1350(a) includes a reference to “Chapter 3 (commencing with Section
4 14250), of Part 5 of Division 3 of Title 2 of the Government Code.” The specified chapter does
5 not commence with Section 14250. It commences with Section 14200. The subject of that chapter
6 is state employee telecommuting, which seems inapt. **The Commission invites comment on
7 how to correct the apparently erroneous cross-reference.**

8 **§ 54860. Purchase of equipment**

9 54860. The board may purchase any boats, aircraft, or equipment that it deems
10 necessary for the use of the department for the improvement and protection of
11 marine fisheries.

12 **Comment.** Section 54860 continues former Fish and Game Code Section 1353 without
13 substantive change.

14 **§ 54865. Public access to recreational areas**

15 54865. Each recreational area shall be so managed and controlled that the public
16 shall have access to and use of the area for all recreational purposes.

17 **Comment.** Section 54865 continues former Fish and Game Code Section 1351 without
18 substantive change.

19 **§ 54870. Proceeds from sale or disposition of fish hatchery**

20 54870. The net proceeds of the sale or other disposition of real property used as
21 a fish hatchery that has been acquired by or is under the jurisdiction of the board
22 or the department, either in easement or in fee, shall be deposited in the Wildlife
23 Restoration Fund or the Fish and Game Preservation Fund, as determined by the
24 board, and shall be available for acquisition, enhancement, restoration, or
25 construction projects for the benefit of wildlife.

26 **Comment.** Section 54870 continues former Fish and Game Code Section 1355 without
27 substantive change.

28 **§ 54875. Wildlife Restoration Fund**

29 54875. (a) The money in the Wildlife Restoration Fund, as provided for by
30 Section 19632 of the Business and Professions Code, is available for expenditure
31 under any provision of this title.

32 (b) All federal moneys made available for projects authorized by the board shall
33 be deposited in the Wildlife Restoration Fund. Any unexpended balances of the
34 federal moneys remaining on or after June 30, 1979, in any other fund shall be
35 transferred to the Wildlife Restoration Fund.

36 (c) Any moneys received in the Wildlife Restoration Fund from leases
37 authorized pursuant to paragraph (2) or (3) of subdivision (c) of Section 54815
38 shall be expended, upon appropriation, by the department for the purposes of
39 managing, maintaining, restoring, or operating lands owned and managed by the
40 department.

1 **Comment.** Section 54875 continues former Fish and Game Code Section 1352 without
2 substantive change.

3 **Note.** Existing Section 1352(b) provides:

4 “All federal moneys made available for projects authorized by the board shall be deposited in the
5 Wildlife Restoration Fund. Any unexpended balances of the federal moneys remaining on or after
6 June 30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund.”

7 The second sentence of that subdivision required action in 1979. **The Commission invites**
8 **comment on whether it can be repealed as obsolete.**

9 **§ 54880. San Francisco Baylands Restoration Program**

10 54880. (a) The San Francisco Baylands Restoration Program Account is hereby
11 established within the Wildlife Restoration Fund, as provided for by Section
12 19632 of the Business and Professions Code, for the purpose of acquiring and
13 restoring wetlands and lands that may be enhanced to support wetlands in the San
14 Francisco Bay area in order to achieve the objectives of the Baylands Ecosystem
15 Habitat Goals Report (Goals Report).

16 (b) Funds in the account may be expended by the board to acquire any lands
17 identified in the Goals Report that are available for acquisition subject to the
18 following conditions:

19 (1) The purchase price shall not exceed the fair market value of the property, as
20 determined by an appraisal conducted pursuant to Section 54830. The appraisal
21 shall also consider and describe all the specific requirements and restrictions of
22 relevant state and federal laws, including, but not limited to, the McAteer-Petris
23 Act (Title 7.2 (commencing with Section 66600) of the Government Code),
24 related to the property value and development potential of lands considered for
25 acquisition in the shoreline band of the San Francisco Bay area.

26 (2) The board has determined any of the following:

27 (A) Funds are available to implement the recommendations and objectives of the
28 Goals Report for a significant portion of the property to be acquired by the board.

29 (B) Sufficient funding and authority exists for the long-term maintenance of all
30 levees and dikes and all other land-use management requirements necessary to
31 avoid environmental degradation for the property proposed to be acquired by the
32 board.

33 (C) The property to be acquired by the board has no unique long-term
34 maintenance requirements or has no land-use management requirements necessary
35 to avoid environmental degradation.

36 (3) If the board determines to acquire all or a portion of the Cargill property, a
37 matching federal appropriation for the acquisition of the Cargill property shall be
38 deposited into an account solely for the acquisition of the Cargill property or a
39 portion thereof.

40 (4) The board has consulted with the State Coastal Conservancy and determined
41 that the proposed acquisition is consistent with most of the goals of the San

1 Francisco Bay Area Conservancy Program, as described in Section 31162 of the
2 Public Resources Code.

3 (5) The acquisition of the property will not result in any liability to the state for
4 the cleanup of hazardous materials.

5 (c) “Cargill property,” for purposes of this section, means all property owned by
6 the Cargill Salt Division that Cargill proposes to sell to the state and federal
7 governments.

8 **Comment.** Section 54880 continues former Fish and Game Code Section 1352.5 without
9 substantive change.

10 **§ 54885. Cooperation with federal agencies**

11 54885. The board may act either independently or may cooperate with the
12 United States Fish and Wildlife Service, Department of Interior, or any other
13 federal agency in determining any of the questions referred to in this title, or in the
14 acquisition and construction of any of the projects mentioned in this title.

15 **Comment.** Section 54885 continues former Fish and Game Code Section 1375 without
16 substantive change.

17 **CHAPTER 3. OAK WOODLANDS CONSERVATION ACT**

18 **Article 1. General Provisions**

19 **§ 54900. Short title**

20 54900. This chapter shall be known, and may be cited, as the Oak Woodlands
21 Conservation Act.

22 **Comment.** Section 54900 continues former Fish and Game Code Section 1360 without
23 substantive change.

24 **§ 54905. Definitions**

25 54905. For purposes of this chapter, the following terms have the following
26 meanings:

27 (a) “Conservation easement” means a conservation easement, as defined in
28 Section 815.1 of the Civil Code.

29 (b) “Fund” means the Oak Woodlands Conservation Fund.

30 (c) “Land improvement” means restoration or enhancement of biologically
31 functional oak woodlands habitat.

32 (d) “Local government entity” means any city, county, city and county, district,
33 or other local government entity, if the entity is otherwise authorized to acquire
34 and hold title to real property.

35 (e) “Nonprofit organization” means a tax-exempt nonprofit organization that
36 meets the requirements of subdivision (a) of Section 815.3 of the Civil Code.

37 (f) “Oak” means any species in the genus *Quercus*.

1 (g) “Oak woodlands” means an oak stand with a greater than 10 percent canopy
2 cover or that may have historically supported greater than 10 percent canopy
3 cover.

4 (h) “Oak woodlands management plan” means a plan that provides protection
5 for oak woodlands over time and compensates private landowners for conserving
6 oak woodlands.

7 (i) “Special oak woodlands habitat elements” means multi- and single-layered
8 canopy, riparian zones, cavity trees, snags, and downed woody debris.

9 **Comment.** Section 54905 continues former Fish and Game Code Section 1361(b)-(j) without
10 substantive change. See Section 54705 (“board” defined for purposes of chapter).

11 **§ 54910. Legislative intent**

12 54910. It is the intent of the Legislature that this chapter accomplish all of the
13 following:

14 (a) Support and encourage voluntary, long-term private stewardship and
15 conservation of California’s oak woodlands by offering landowners financial
16 incentives to protect and promote biologically functional oak woodlands over
17 time.

18 (b) Provide incentives to protect and encourage farming and ranching operations
19 that are operated in a manner that protects and promotes healthy oak woodlands.

20 (c) Provide incentives for the protection of oak trees providing superior wildlife
21 values on private lands.

22 (d) Encourage local land use planning that is consistent with the preservation of
23 oak woodlands, particularly special oak woodlands habitat elements.

24 (e) Provide guidelines for spending the funds allocated for oak woodlands
25 pursuant to the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal
26 Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692
27 (commencing with Section 5096.300) of Division 5 of the Public Resources
28 Code)).

29 (f) Establish a fund for oak woodlands conservation, to which future
30 appropriations for oak woodlands protection may be made, and specify grant
31 making guidelines.

32 **Comment.** Section 54910 continues former Fish and Game Code Section 1362 without
33 substantive change.

34 **§ 54915. Authority to affect local policy or land use decisionmaking**

35 54915. Nothing in this chapter grants any new authority to the board or any
36 other agency, office, or department to affect local policy or land use
37 decisionmaking.

38 **Comment.** Section 54915 continues former Fish and Game Code Section 1372 without
39 substantive change.

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Article 2. Oak Woodlands Conservation Fund

§ 54925. Fund established

54925. The Oak Woodlands Conservation Fund is hereby created in the State Treasury. The fund shall be administered by the board. Moneys in the fund may be expended, upon appropriation by the Legislature, for the purposes of this chapter.

Comment. Section 54925 continues former Fish and Game Code Section 1363(a) without substantive change.

§ 54930. Deposits

54930. Money may be deposited into the Oak Woodlands Conservation Fund from gifts, donations, funds appropriated by the Legislature for the purposes of this chapter, or from federal grants or loans or other sources, and shall be used for the purpose of implementing this chapter, including administrative costs. Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code)), but not including funds dedicated as matching funds for the federal Forest Legacy Program, shall be deposited in the fund.

Comment. Section 54930 continues former Fish and Game Code Section 1363(b) without substantive change.

§ 54935. Minimum deposit requirement

54935. No money may be expended from the fund to adopt guidelines or to administer the fund until at least one million dollars (\$1,000,000) is deposited in the fund.

Comment. Section 54935 continues former Fish and Game Code Section 1370 without substantive change.

§ 54940. Use of funds

54940. (a) The purposes for which moneys in the fund may be used include all of the following:

(1) Grants for the purchase of oak woodlands conservation easements. Any entity authorized to hold a conservation easement under Section 815.3 of the Civil Code may hold a conservation easement pursuant to this chapter. The holder of the conservation easement shall ensure, on an annual basis, that the conservation easement conditions have been met for that year.

(2) Grants for land improvement.

(3) Cost-sharing incentive payments to private landowners who enter into long-term conservation agreements. An agreement shall include management practices that benefit oak woodlands and promote the economic sustainability of farming and ranching operations.

1 (4) Public education and outreach by local government entities, park and open-
2 space districts, resource conservation districts, and nonprofit organizations. The
3 public education and outreach shall identify and communicate the social,
4 economic, agricultural, and biological benefits of strategies to conserve oak
5 woodlands habitat values, including watershed protection benefits that reduce soil
6 erosion, increase streamflows, and increase water retention and sustainable
7 agricultural operations.

8 (5) Assistance to local government entities, park and open-space districts,
9 resource conservation districts, and nonprofit organizations for the development
10 and implementation of oak conservation elements in local general plans.

11 (6) Technical assistance consistent with the purpose of preserving oak
12 woodlands.

13 (b) Not more than 20 percent of all grants made by the board pursuant to this
14 chapter may be used for the purposes described in paragraphs (4), (5), and (6) of
15 subdivision (a). Not less than 80 percent of funds available for grants pursuant to
16 this chapter shall be expended for the purposes described in paragraphs (1), (2),
17 and (3) of subdivision (a).

18 (c) Moneys in the fund shall be available to local government entities, park and
19 open-space districts, resource conservation districts, private landowners, and
20 nonprofit organizations for the purposes set forth in subdivision (a).

21 **Comment.** Subdivisions (a) and (b) of Section 54940 continue former Fish and Game Code
22 Section 1363(d)-(e) without substantive change.

23 Subdivision (c) continues former Fish and Game Code Section 1364 without substantive
24 change.

25 **§ 54945. California Forest Legacy Program**

26 54945. To the extent consistent with the Safe Neighborhood Parks, Clean Water,
27 Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act
28 (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public
29 Resources Code)), the board may use money designated for the preservation and
30 restoration of oak woodlands in the Oak Woodlands Conservation Fund for
31 projects in conjunction with the California Forest Legacy Program (Division 10.5
32 (commencing with Sec. 12200) of the Public Resources Code)), but only for the
33 purposes specified in this chapter and only if the following requirements are met:

34 (a) The Department of Forestry and Fire Protection shall make an initial
35 recommendation to the board.

36 (b) The board may deny any initial recommendation to the Department of
37 Forestry and Fire Protection. Subsequently, if the department alters an initial
38 proposal, in a manner that the board determines to be significant, the board may
39 withdraw its initial approval of the recommendation at any time during the
40 process.

41 **Comment.** Section 54945 continues former Fish and Game Code Section 1363(c) without
42 substantive change.

1 **§ 54950. Memorandum of understanding with Department of Forestry and Fire Protection**

2 54950. On or before April 1, 2002, the board and the Department of Forestry
3 and Fire Protection shall develop a memorandum of understanding regarding the
4 protection of oak woodlands that does all of the following:

5 (a) If necessary, creates a specific process for working together to use money
6 from the fund in conjunction with the California Forest Legacy Program Act of
7 2000 (Division 10.5 (commencing with Section 12200) of the Public Resources
8 Code).

9 (b) Lists elements a county or city shall include in its oak woodlands
10 management plan. Items included in the plan shall assist a county or a city to
11 specify conservation priorities and prevent oak woodlands habitat fragmentation
12 while minimizing the cost and administrative burden associated with developing
13 the plan. The elements may include any or all of the following:

14 (1) Tree inventory mapping.

15 (2) Oak canopy retention standards.

16 (3) Oak habitat mitigation measures.

17 (4) A procedure to monitor the effectiveness of the plan and to modify the plan
18 as necessary.

19 (c) Designates an online repository for oak woodlands management plans that
20 will be easily accessible to the public and any other state agency involved in oak
21 woodlands conservation efforts.

22 (d) Discusses the relationship between oak woodlands conservation efforts
23 under this chapter and efforts by other state agencies to protect oak woodlands,
24 including efforts to combat sudden oak death, and outlines a plan, as necessary, for
25 coordinating with these agencies.

26 **Comment.** Section 54950 continues former Fish and Game Code Section 1367 without
27 substantive change.

28 **§ 54955. Expenditure pursuant to Public Resources Code Section 5096.350(a)(4)**

29 54955. Notwithstanding any other provision of law, this chapter governs the
30 expenditure of funds for the preservation of oak woodlands pursuant to paragraph
31 (4) of subdivision (a) of Section 5096.350 of the Public Resources Code.

32 **Comment.** Section 54955 continues former Fish and Game Code Section 1363(f) without
33 substantive change.

34 **§ 54960. Grant criteria**

35 54960. The board shall develop and adopt guidelines and criteria for awarding
36 grants that achieve the greatest lasting conservation of oak woodlands. The board
37 shall develop these guidelines in consultation with the Department of Forestry and
38 Fire Protection, the Department of Food and Agriculture, the University of
39 California's Integrated Hardwood Range Management Program, conservation
40 groups, and farming and ranching associations. As it applies to the award of grants
41 for the implementation of this chapter, the board criteria shall specify that

1 easement acquisitions that are the most cost-effective in comparison to the actual
2 resource value of the easement shall be given priority.

3 **Comment.** Section 54960 continues former Fish and Game Code Section 1365 without
4 substantive change.

5 **§ 54965. Qualification for grant**

6 54965. (a) To qualify for a grant pursuant to this chapter, the county or city in
7 which the grant money would be spent shall prepare, or demonstrate that it has
8 already prepared, an oak woodlands management plan that includes a description
9 of all native oak species located within the county's or city's jurisdiction.

10 (b) To qualify for a grant pursuant to this chapter, the board shall certify that any
11 proposed easement was not, and is not, required to satisfy a condition imposed
12 upon the landowner by any lease, permit, license, certificate, or other entitlement
13 for use issued by one or more public agencies, including, but not limited to, the
14 mitigation of significant effects on the environment of a project pursuant to an
15 approved environmental impact report or to mitigate a negative declaration
16 required pursuant to the California Environmental Quality Act (Division 13
17 (commencing with Section 21000)) of the Public Resources Code.

18 (c) To qualify for a grant under this chapter, the applicant shall demonstrate that
19 its proposal provides protection of oak woodlands that is more protective than the
20 applicable provisions of law in existence on the date of the proposal.

21 (d) A county or city may develop an oak woodlands management plan. A
22 nonprofit corporation, park and open-space district, resource conservation district,
23 or other local government entity may apply to the board for funds to develop an
24 oak woodlands management plan for a county or city, but the county or city shall
25 maintain ultimate authority to approve the oak woodlands management plan.

26 (e) The process for developing an initial oak woodlands management plan, and
27 the adoption of significant amendments to a plan, as determined by the county or
28 city, are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section
29 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

30 (f) A proposal by a local government entity, nonprofit corporation, park and
31 open-space district, private landowner, or resource conservation district for a grant
32 to be expended for the purposes of this chapter shall be certified by the county or
33 city as being consistent with the oak woodlands management plan of the county or
34 city. If the land covered by the proposal is in the jurisdiction of more than one
35 county or city, each county or city shall certify that the proposal is consistent with
36 the oak woodlands management plan of each county or city.

37 (g) If two or more entities seek grant funding from the board pursuant to this
38 chapter for the same jurisdiction, the county or city shall designate which entity
39 shall lead the efforts to manage oak woodlands habitat in the area.

40 **Comment.** Section 54965 continues former Fish and Game Code Section 1366 without
41 substantive change.

1 **§ 54970. Use of eminent domain**

2 54970. The board may not approve a grant to a local government entity, park
3 and open-space district, resource conservation district, or nonprofit organization if
4 the entity requesting the grant has acquired, or proposes to acquire, an oak
5 woodlands conservation easement through the use of eminent domain, unless the
6 owner of the affected lands requests the owner to do so.

7 **Comment.** Section 54970 continues former Fish and Game Code Section 1368 without
8 substantive change.

9 **§ 54975. Use of grant funds by city or county planning department**

10 54975. (a) A city or county planning department may utilize a grant awarded for
11 the purposes of this chapter to consult with a citizen advisory committee and
12 appropriate natural resource specialists in order to report publicly to the city
13 council or the board of supervisors on the status of the city’s or county’s oak
14 woodlands.

15 (b) Each city or county planning department that receives a grant for the
16 purposes of this chapter shall report to the city council or to the board of
17 supervisors of the county, as appropriate, on the use of those grant funds within
18 one year from the date the grant is received.

19 **Comment.** Section 54975 continues former Fish and Game Code Section 1369 without
20 substantive change.

21 **TITLE 2. HABITAT RESTORATION AND**
22 **ENHANCEMENT ACT**

23 **CHAPTER 1. GENERAL PROVISIONS**

24 **§ 55100. Short title**

25 55100. This title shall be known, and may be cited, as the Habitat Restoration
26 and Enhancement Act.

27 **Comment.** Section 55100 continues former Fish and Game Code Section 1650 without
28 substantive change.

29 **§ 55105. Definitions**

30 55105. As used in this title:

31 (a) “Fish passage guidelines” means those guidelines specified in the
32 department’s California Salmonid Stream Habitat Restoration Manual and the
33 National Marine Fisheries Service, Southwest Region, Guidelines for Salmonid
34 Passage at Stream Crossings, and subsequent amendments or updates to either
35 document.

36 (b) “Habitat restoration or enhancement project” means a project with the
37 primary purpose of improving fish and wildlife habitat. A habitat restoration or

1 enhancement project shall meet the eligibility requirements for the State Water
2 Resources Control Board’s Order for Clean Water Act Section 401 General Water
3 Quality Certification for Small Habitat Restoration Projects, or its current
4 equivalent at the time the project proponent submits a written request pursuant to
5 Article 1 (commencing with Section 55200) or Article 3 (commencing with
6 Section 55300) of Chapter 3. The order or current equivalent may include
7 programmatic waivers or waste discharge requirements for small habitat
8 restoration projects.

9 (c) “Project proponent” means a person, public agency, or nonprofit
10 organization seeking to implement a habitat restoration or enhancement project.

11 (d) “Species recovery plan” means a guidance document prepared by a
12 government agency that identifies recovery actions, based upon the best scientific
13 and commercial data available, necessary for the protection and recovery of listed
14 species.

15 **Comment.** Section 55105 continues former Fish and Game Code Section 1651 without
16 substantive change.

17 **§ 55110. Effect of title**

18 55110. This title shall not be construed as expanding the scope of projects
19 requiring a permit, agreement, license, or other approval issued by the department.

20 **Comment.** Section 55110 continues former Fish and Game Code Section 1654(b) without
21 substantive change.

22 **§ 55115. Report**

23 55115. (a) The department shall submit a report on the implementation of this
24 title to the Legislature no later than December 31, 2020, which shall include, but
25 not be limited to, the number, type, and geographical distribution of approved
26 projects, funding adequacy, and recommendations for changes and improvements
27 in the program.

28 (b) A report to be submitted pursuant to subdivision (a) shall be submitted in
29 compliance with Section 9795 of the Government Code.

30 **Comment.** Section 55115 continues former Fish and Game Code Section 1656 without
31 substantive change.

32 **§ 55120. Sunset**

33 55120. This title shall remain in effect only until January 1, 2022, and as of that
34 date is repealed, unless a later enacted statute, that is enacted before January 1,
35 2022, deletes or extends that date.

36 **Comment.** Section 55120 continues former Fish and Game Code Section 1657 without
37 substantive change.

1 CHAPTER 2. HABITAT RESTORATION AND ENHANCEMENT
2 ACCOUNT

3 **§ 55150. Creation**

4 55150. The Habitat Restoration and Enhancement Account is hereby created in
5 the Fish and Game Preservation Fund.

6 **Comment.** Section 55150 continues former Fish and Game Code Section 1655(a) without
7 substantive change.

8 **§ 55155. Receipt of funds**

9 55155. The department may enter into an agreement to accept funds from any
10 public agency, person, business entity, or organization to achieve the purposes of
11 this title. The department shall deposit any funds so received in the account. The
12 funds received shall supplement existing resources for department administration
13 and permitting of projects and programs included in this title.

14 **Comment.** Section 55155 continues former Fish and Game Code Section 1655(b) without
15 substantive change.

16 **§ 55160. Availability**

17 55160. Moneys in the account shall be available to the department, upon
18 appropriation by the Legislature, for the purposes of administering and
19 implementing this title.

20 **Comment.** Section 55160 continues former Fish and Game Code Section 1655(d) without
21 substantive change.

22 CHAPTER 3. PROJECT APPROVAL

23 Article 1. Project Not Certified by Water Board

24 **§ 55200. Request to approve project**

25 55200. A project proponent may submit a written request to approve a habitat
26 restoration or enhancement project to the director pursuant to this article if the
27 project has not received certification pursuant to the State Water Resources
28 Control Board's Order for Clean Water Act Section 401 General Water Quality
29 Certification for Small Habitat Restoration Projects, or its current equivalent at the
30 time the project proponent submits the written request.

31 **Comment.** Section 55200 continues the first sentence of former Fish and Game Code Section
32 1652(a) without substantive change.

33 **§ 55205. Content of request**

34 55205. A written request to approve a habitat restoration or enhancement project
35 pursuant to this article shall contain all of the following:

1 (a) The name, address, title, organization, telephone number, and email address
2 of the natural person or persons who will be the main point of contact for the
3 project proponent.

4 (b) A full description of the habitat restoration or enhancement project that
5 includes the designs and techniques to be used for the project, restoration or
6 enhancement methods, an estimate of temporary restoration- or enhancement-
7 related disturbance, project schedule, anticipated activities, and how the project is
8 expected to result in a net benefit to any affected habitat and species, consistent
9 with subdivision (d) of Section 55215.

10 (c) An assessment of the project area that provides a description of the existing
11 flora and fauna and the potential presence of sensitive species or habitat. The
12 assessment shall include preproject photographs of the project area that include a
13 descriptive title, date taken, the photographic monitoring point, and photographic
14 orientation.

15 (d) A geographic description of the project site including maps, land ownership
16 information, and other relevant location information.

17 (e) A description of the environmental protection measures incorporated into the
18 project design, so that no potentially significant adverse effects on the
19 environment, as defined in Section 15382 of Title 14 of the California Code of
20 Regulations, are likely to occur with application of the specified environmental
21 protection measures. Environmental protection measures may include, but are not
22 limited to, appropriate seasonal work limitations, measures to avoid and minimize
23 impacts to water quality and potentially present species protected by state and
24 federal law, and the use of qualified professionals for standard preconstruction
25 surveys where protected species are potentially present.

26 (f) Substantial evidence to support a conclusion that the project meets the
27 requirements set forth in this article. Substantial evidence shall include references
28 to relevant design criteria and environmental protection measures found in the
29 documents specified in subdivision (d) of Section 55215.

30 (g) A certifying statement that the project will comply with the California
31 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
32 Public Resources Code), which may include, but not be limited to, the
33 requirements of Section 15333 of Title 14 of the California Code of Regulations.

34 **Comment.** Section 55205 continues former Fish and Game Code Section 1652(b) without
35 substantive change.

36 **§ 55210. Application fee**

37 55210. The department shall assess an application fee for a project submitted to
38 the department pursuant to this article consistent with the fees adopted by the
39 department pursuant to Title 3 (commencing with Section 69700) of Part 4 of
40 Division 17, but the application fee shall not exceed the reasonable administrative
41 and implementation costs of the department relating to the project.

1 **Comment.** Section 55210 continues former Fish and Game Code Section 1655(c), as it relates
2 to this chapter, without substantive change.

3 **§ 55215. Approval**

4 55215. Notwithstanding any other law, within 60 days after receiving a written
5 request to approve a habitat restoration or enhancement project, the director shall
6 approve a habitat restoration or enhancement project if the director determines that
7 the written request includes all of the required information set forth in Section
8 55205, and the project meets all of the following requirements:

9 (a) The project purpose is voluntary habitat restoration and the project is not
10 required as mitigation.

11 (b) The project is not part of a regulatory permit for a nonhabitat restoration or
12 enhancement construction activity, a regulatory settlement, a regulatory
13 enforcement action, or a court order.

14 (c) The project meets the eligibility requirements of the State Water Resources
15 Control Board’s Order for Clean Water Act Section 401 General Water Quality
16 Certification for Small Habitat Restoration Projects, or its current equivalent at the
17 time the project proponent submits the written request, but has not received
18 certification pursuant to that order or its equivalent.

19 (d) The project is consistent with, or identified in, sources that describe best
20 available restoration and enhancement methodologies, including one or more of
21 the following:

22 (1) Federal- and state-listed species recovery plans or published protection
23 measures, or previously approved department agreements and permits issued for
24 voluntary habitat restoration or enhancement projects.

25 (2) Department and National Marine Fisheries Service fish screening criteria or
26 fish passage guidelines.

27 (3) The department’s California Salmonid Stream Habitat Restoration Manual.

28 (4) Guidance documents and practice manuals that describe best available
29 habitat restoration or enhancement methodologies that are utilized or approved by
30 the department.

31 (e) The project will not result in cumulative adverse environmental impacts that
32 are significant when viewed in connection with the effects of past, current, or
33 probable future projects.

34 **Comment.** Section 55215 continues former Fish and Game Code Section 1652(c) without
35 substantive change.

36 **§ 55220. Denial**

37 55220. If the director determines that the written request does not contain all of
38 the information required by Section 55205, or fails to meet the requirements set
39 forth in Section 55215, or both, the director shall deny the written request and
40 inform the project proponent of the reason or reasons for the denial.

41 **Comment.** Section 55220 continues former Fish and Game Code Section 1652(d) without
42 substantive change.

1 Certification for Small Habitat Restoration Projects, or its equivalent at the time
2 the project proponent submits the written request.

3 (b) A copy of the notice of applicability.

4 (c) A copy of the notice of intent provided to the State Water Resources Control
5 Board or a regional water quality control board.

6 (d) A description of species protection measures incorporated into the project
7 design, but not already included in the notice of intent, to avoid and minimize
8 impacts to potentially present species protected by state and federal law, such as
9 appropriate seasonal work limitations and the use of qualified professionals for
10 standard preconstruction surveys where protected species are potentially present.

11 (e) The fees required pursuant to Section 55310.

12 **Comment.** Section 55305 continues former Fish and Game Code Section 1653(b) without
13 substantive change.

14 **§ 55310. Application fee**

15 55310. The department shall assess an application fee for a project submitted to
16 the department pursuant to this article consistent with the fees adopted by the
17 department pursuant to Title 3 (commencing with Section 69700) of Part 4 of
18 Division 17, but the application fee shall not exceed the reasonable administrative
19 and implementation costs of the department relating to the project.

20 **Comment.** Section 55310 continues former Fish and Game Code Section 1655(c), as it relates
21 to this chapter, without substantive change.

22 **§ 55315. Publication of notice**

23 55315. Upon receipt of the notice specified in subdivision (a) of Section 55305,
24 the director shall immediately have published in the General Public Interest
25 Section of the California Regulatory Notice Register the receipt of that notice.

26 **Comment.** Section 55315 continues former Fish and Game Code Section 1653(c) without
27 substantive change.

28 **§ 55320. Determination of completeness**

29 55320. (a) Within 30 days after the director has received the notice of
30 applicability described in Section 55305, the director shall determine whether the
31 written request accompanying the notice of applicability is complete.

32 (b) If the director determines within that 30-day period, based upon substantial
33 evidence, that the written request is not complete, then the project may be
34 authorized under Article 1 (commencing with Section 55200).

35 (c) The director shall immediately publish the determination pursuant to
36 subdivision (a) in the General Public Interest Section of the California Regulatory
37 Notice Register.

38 **Comment.** Section 55320 continues former Fish and Game Code Section 1653(d)-(f) without
39 substantive change.

1 The project proponent may provide additional environmental protection measures,
2 design modifications, or other evidence that the project is consistent with Section
3 55215 or Section 55305, as applicable, and request that the notice of suspension be
4 lifted and approval granted.

5 **Comment.** Section 55360 continues former Fish and Game Code Section 1654(c)(2) without
6 substantive change.

7 **§ 55365. Final decision**

8 55365. The director shall revoke approval or lift the suspension of project
9 approval within 30 days after receiving the project proponent’s objection pursuant
10 to Section 55360.

11 **Comment.** Section 55365 continues former Fish and Game Code Section 1654(c)(3) without
12 substantive change.

13 **§ 55370. Liability**

14 55370. Pursuant to Section 818.4 of the Government Code, the department and
15 any other state agency exercising authority under this article shall not be liable
16 with regard to any determination or authorization made pursuant to this article.

17 **Comment.** Section 55370 continues former Fish and Game Code Section 1654(d) without
18 substantive change.

19 TITLE 3. FISH AND WILDLIFE HABITAT
20 ENHANCEMENT ACT OF 1984

21  **Note.** The Fish and Wildlife Habitat Enhancement Act (existing Sections 2600-2651) was
22 added by Proposition 19 (1984). The Commission has generally adopted a very deferential
23 approach to the recodification of provisions added by initiative. Consistent with that approach,
24 the Commission has made very minimal changes to the language of this part, mostly relating to
25 section numbering.

26 CHAPTER 1. GENERAL PROVISIONS

27 **§ 55500. Short title**

28 55500. This title shall be known and may be cited as the Fish and Wildlife
29 Habitat Enhancement Act of 1984.

30 **Comment.** Section 55500 continues former Fish and Game Code Section 2600 without
31 substantive change.

32 **§ 55505. Declaration of purpose**

33 55505. (a) The fundamental requirement for healthy, vigorous populations of
34 fish and wildlife is habitat. Without adequate habitat, efforts to conserve and
35 manage fish and wildlife resources will have limited success.

36 (b) Assuring adequate habitat, with the resulting increase in the abundance of
37 fish and wildlife, confers substantial benefits on the people of California through

1 the opportunities afforded for the use, enjoyment, and appreciation of fish and
2 wildlife resources, the perpetuation of species of fish and wildlife for their
3 intrinsic and ecological values, and the enhancement of economic activities based
4 on these resources.

5 (c) Accordingly, the purpose of this title is to provide the financial means to
6 correct the most severe deficiencies in fish and wildlife habitat currently found in
7 California through a program of acquisition, enhancement, and development of
8 habitat areas that are most in need of proper conservation and management.

9 **Comment.** Section 55505 continues former Fish and Game Code Section 2601 without
10 substantive change.

11 **§ 55510. Definitions**

12 55510. As used in this title, the following terms have the following meanings:

13 (a) “Acquisition” means the acquisition of any interest in real property.

14 (b) “Coastal zone” means the coastal zone as defined and mapped pursuant to
15 Section 30103 of the Public Resources Code.

16 (c) “Local public agency” means a city, county, city and county, regional park or
17 open-space district, recreation and park district, resource conservation district,
18 association of governments, or joint powers agency whose jurisdiction is wholly or
19 partially within the coastal zone or in the San Francisco Bay region.

20 **Comment.** Section 55510 continues former Fish and Game Code Section 2602 without
21 substantive change.

22 **CHAPTER 2. HABITAT ENHANCEMENT PROGRAM**

23 **§ 55525. Appropriation of funds**

24 55525. All money deposited in the Fish and Wildlife Habitat Enhancement Fund
25 shall be available for appropriation by the Legislature for the following purposes:

26 (a) Forty million dollars (\$40,000,000) for expenditure by the Wildlife
27 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
28 acquisition, enhancement, or development, or any combination thereof, of lands
29 located outside the coastal zone for the preservation of resources and the
30 management of wildlife and fisheries, in accordance with the following schedule:

31 (1) Thirty million dollars (\$30,000,000) for the acquisition, enhancement, or
32 development, or any combination thereof, of lands for habitat for wildfowl and
33 other wildlife benefitted by a marsh or aquatic environment.

34 (2) Ten million dollars (\$10,000,000) for the restoration of waterways for the
35 management of fisheries and the enhancement or development, or both, of habitat
36 for other wildlife.

37 (b) Five million dollars (\$5,000,000) for expenditure by the Wildlife
38 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
39 acquisition, enhancement, or development, or any combination thereof, of lands
40 for habitat for rare, endangered, and fully protected species.

1 (c) Thirty million dollars (\$30,000,000) for expenditure by the State Coastal
2 Conservancy for the acquisition, enhancement, or development, or any
3 combination thereof, of marshlands and associated and adjacent lands and the
4 development of associated facilities and for grants to local public agencies for
5 those purposes, in accordance with the following schedule:

6 (1) Twenty million dollars (\$20,000,000) for grants by the conservancy to local
7 public agencies in the coastal zone and in the San Francisco Bay region for the
8 acquisition, enhancement, or development, or any combination thereof, of
9 marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or
10 aquatic environment and the improvement of drainage into wetlands to control or
11 retard erosion and sedimentation, and biologically and hydrologically associated
12 upland habitat areas. Of the amount made available pursuant to this paragraph, not
13 less than five million dollars (\$5,000,000) shall be available for grants for projects
14 in the San Francisco Bay region.

15 (2) Ten million dollars (\$10,000,000) for expenditure by the conservancy for the
16 purposes authorized in this subdivision.

17 (d) Ten million dollars (\$10,000,000) for expenditure by the Wildlife
18 Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the
19 acquisition, enhancement, or development, or any combination thereof, inside the
20 coastal zone of marshlands and adjacent lands for habitat for wildlife benefitted by
21 a marsh or aquatic environment.

22 **Comment.** Section 55525 continues former Fish and Game Code Section 2620 without
23 substantive change.

24 **§ 55530. Administrative costs of Wildlife Conservation Board**

25 55530. An annual amount, not to exceed one hundred thousand dollars
26 (\$100,000), may be appropriated from the funds available pursuant to subdivisions
27 (a) and (d) of Section 55525 in the 1984–85 through 1989–90 fiscal years, in a
28 particular amount to be determined in each annual appropriation, to the Wildlife
29 Conservation Board for expenditure for costs incurred by the board in
30 administering this title, as provided in this section. The board shall augment, as
31 needed, any amount appropriated pursuant to this title with an appropriation from
32 any other funds available to it. This title is not intended, nor shall it be construed,
33 to authorize the Wildlife Conservation Board or the department to establish any
34 additional personnel positions.

35 **Comment.** Section 55530 continues former Fish and Game Code Section 2621 without
36 substantive change.

37 **§ 55535. Administrative costs of State Coastal Conservancy**

38 55535. An annual amount, not to exceed two hundred fifty thousand dollars
39 (\$250,000), may be appropriated from the funds available pursuant to subdivision
40 (c) of Section 55525 in the 1984–85 through 1989–90 fiscal years, in a particular
41 amount to be determined in each annual appropriation, to the State Coastal

1 Conservancy for expenditure for costs incurred by the conservancy in
2 administering this title.

3 **Comment.** Section 55535 continues former Fish and Game Code Section 2622 without
4 substantive change.

5 **§ 55540. Limitations**

6 55540. (a) None of the funds appropriated pursuant to this title may be
7 encumbered for any purpose described in Section 54860.

8 (b) Notwithstanding Sections 31105 and 31106 of the Public Resources Code,
9 the State Coastal Conservancy and the State Public Works Board may not make
10 any acquisition pursuant to the power of eminent domain with any funds
11 appropriated pursuant to this title.

12 **Comment.** Section 55540 continues former Fish and Game Code Section 2623 without
13 substantive change.

14 **§ 55545. Use of funds for specified lands**

15 55545. Funds available pursuant to subdivision (b) of Section 55525 may be
16 encumbered only for lands constituting habitat that is subject to destruction,
17 drastic modification, or severe curtailment of habitat values.

18 **Comment.** Section 55545 continues former Fish and Game Code Section 2624 without
19 substantive change.

20 **§ 55550. Limitations on acquisition of title**

21 55550. No acquisition shall be undertaken with funds appropriated pursuant to
22 Section 55525 and no grant of funds appropriated pursuant to subdivision (c) of
23 Section 55525 shall be encumbered until all practical alternatives to direct
24 purchase of the full fee title have been considered. The Wildlife Conservation
25 Board and the State Coastal Conservancy shall establish a procedure to assure
26 consideration of alternatives to direct purchase. These alternatives shall include,
27 but not be limited to, the following:

28 (a) Opportunities for obtaining the land through exchanges of other publicly
29 held lands.

30 (b) Tax considerations that may pertain to the contemplated transaction.

31 (c) Utilization of transfers of densities and density bonuses and other available
32 land use controls.

33 (d) Purchase of less than full fee title.

34 **Comment.** Section 55550 continues former Fish and Game Code Section 2625 without
35 substantive change.

36 **§ 55555. Further limitations on use of funds**

37 55555. (a) All restoration projects that involve the expenditure of funds
38 available pursuant to subdivision (c) of Section 55525 shall be reviewed in
39 accordance with Section 31208, 31208.5, 31258, or 31258.5 of the Public
40 Resources Code, as applicable.

1 (b) Funds available pursuant to subdivision (d) of Section 55525 shall be
2 encumbered in accordance with priorities of the California Coastal Commission.

3 (c) Of the total amount available pursuant to subdivision (d) of Section 55525,
4 not more than four million dollars (\$4,000,000) may be encumbered for any single
5 acquisition project.

6 **Comment.** Section 55555 continues former Fish and Game Code Section 2626 without
7 substantive change.

8 **§ 55560. Additional limitations on use of funds**

9 55560. (a) Funds granted pursuant to subdivision (c) of Section 55525 for any
10 purpose, other than acquisition, shall not be encumbered by the recipient until the
11 conservancy has entered into an agreement sufficient to protect the public interest
12 in any improvements constructed pursuant to this title with the entity that exercises
13 legal control of the real property on which the improvement is constructed.

14 (b) The conservancy shall not disburse any grant until the applicant, or any other
15 appropriate managing or operating entity, has entered into an agreement with the
16 conservancy or its designee, or both, sufficient to assure that the property
17 acquired, enhanced, or developed, and any improvements thereon, shall be
18 managed and operated for the purpose for which the grant was requested. No use
19 of the property that is incompatible with that purpose shall ever be permitted.

20 (c) The minimum amount for which an application for an individual project may
21 be made is fifteen thousand dollars (\$15,000).

22 (d) Every application for a grant shall comply with the California Environmental
23 Quality Act (Division 13 (commencing with Section 21000) of the Public
24 Resources Code).

25 (e) Notwithstanding Sections 31207 and 31257 of the Public Resources Code,
26 funds granted pursuant to subdivision (c) of Section 55525 may be encumbered
27 only for the acquisition, enhancement, or development, or any combination
28 thereof, and the costs incurred by the recipient in planning, preparation of
29 construction documents, fiscal management and accounting, and supervision of
30 construction in connection with the project for which the grant was made. All
31 expenditures made by a recipient of a grant shall be subject to being audited.

32 (f) Funds granted pursuant to subdivision (c) of Section 55525 shall be available
33 for encumbrance by the recipient for a period of three years after the date when the
34 grant became effective.

35 **Comment.** Section 55560 continues former Fish and Game Code Section 2627 without
36 substantive change.

37 **CHAPTER 3. FISCAL PROVISIONS**

38 **§ 55600. Issuance of bonds**

39 55600. Bonds in the total amount of eighty-five million dollars (\$85,000,000),
40 or so much thereof as is necessary, may be issued and sold to provide a fund to be

1 used for carrying out the purposes expressed in this title and to be used to
2 reimburse the General Obligation Bond Expense Revolving Fund pursuant to
3 Section 16724.5 of the Government Code. The bonds shall, when sold, be and
4 constitute a valid and binding obligation of the State of California, and the full
5 faith and credit of the State of California is hereby pledged for the punctual
6 payment of both principal and interest on the bonds as the principal and interest
7 become due and payable.

8 **Comment.** Section 55600 continues former Fish and Game Code Section 2640 without
9 substantive change.

10 **§ 55605. Collection of revenue to pay principle and interest on bonds**

11 55605. There shall be collected each year and in the same manner and at the
12 same time as other state revenue is collected, in addition to the ordinary revenues
13 of the state, the sum that is required to pay the principal and interest on the bonds
14 maturing each year, and it is hereby made the duty of all officers charged by law
15 with any duty in regard to the collection of the revenue to do and perform each and
16 every act that shall be necessary to collect that additional sum.

17 **Comment.** Section 55605 continues former Fish and Game Code Section 2641 without
18 substantive change.

19 **§ 55610. Appropriation from General Fund**

20 55610. There is hereby appropriated from the General Fund in the State
21 Treasury for the purpose of this title, an amount equal to the following:

22 (a) The sum, annually, that is necessary to pay the principal and interest on
23 bonds issued and sold pursuant to the provisions of this title, as principal and
24 interest become due and payable.

25 (b) The sum that is necessary to carry out the provisions of Section 55620,
26 which sum is appropriated without regard to fiscal years.

27 **Comment.** Section 55610 continues former Fish and Game Code Section 2642 without
28 substantive change.

29 **§ 55615. Fish and Wildlife Habitat Enhancement Fund**

30 55615. The proceeds of bonds issued and sold pursuant to this title shall be
31 deposited in the Fish and Wildlife Habitat Enhancement Fund, which is hereby
32 created. The money in the fund may be expended only for the purposes specified
33 in this title and only pursuant to appropriation by the Legislature in the manner
34 prescribed in this title.

35 **Comment.** Section 55615 continues former Fish and Game Code Section 2643 without
36 substantive change.

37 **§ 55620. Loan from General Fund**

38 55620. For the purposes of carrying out the provisions of this chapter, the
39 Director of Finance may, pursuant to appropriate authority in each annual Budget
40 Act, authorize the withdrawal from the General Fund of an amount or amounts not

1 to exceed the amount of the unsold bonds that have been authorized to be sold for
2 the purpose of carrying out this title. Any amounts withdrawn shall be deposited in
3 the fund. Any moneys made available under this section shall be returned to the
4 General Fund from moneys received from the sale of bonds for the purpose of
5 carrying out the provisions of this title. The withdrawals from the General Fund
6 shall be returned to the General Fund with interest at the rate that would otherwise
7 have been earned by those sums in the Pooled Money Investment Fund.

8 **Comment.** Section 55620 continues former Fish and Game Code Section 2644 without
9 substantive change.

10 **§ 55625. Special treatment of specified bond proceeds**

11 55625. Notwithstanding any other provision of this bond act, or of the State
12 General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of
13 Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells
14 bonds pursuant to this bond act that include a bond counsel opinion to the effect
15 that the interest on the bonds is excluded from gross income for federal tax
16 purposes under designated conditions, the Treasurer may maintain separate
17 accounts for the bond proceeds invested and the investment earnings on those
18 proceeds, and may use or direct the use of those proceeds or earnings to pay any
19 rebate, penalty, or other payment required under federal law, or take any other
20 action with respect to the investment and use of those bond proceeds, as may be
21 required or desirable under federal law in order to maintain the tax-exempt status
22 of those bonds and to obtain any other advantage under federal law on behalf of
23 the funds of this state.

24 **Comment.** Section 55625 continues former Fish and Game Code Section 2644.5 without
25 substantive change.

26 **§ 55630. Budget bill**

27 55630. (a) All proposed appropriations for the program shall be included in a
28 section in the Budget Bill for the 1984–85 fiscal year and each succeeding fiscal
29 year for consideration by the Legislature and shall bear the caption “Fish and
30 Wildlife Habitat Enhancement Program.” The section shall contain separate items
31 for each project, each class of projects, or each element of the program for which
32 an appropriation is made.

33 (b) All appropriations shall be subject to all limitations enacted in the Budget
34 Act and to all fiscal procedures prescribed by law with respect to the expenditure
35 of state funds unless expressly exempted from those laws by a statute enacted by
36 the Legislature. The section in the Budget Act shall contain proposed
37 appropriations only for the program elements and classes of projects contemplated
38 by this title, and no funds derived from the bonds authorized by this title may be
39 expended pursuant to an appropriation not contained in that section of the Budget
40 Act.

1 **Comment.** Section 55630 continues former Fish and Game Code Section 2645 without
2 substantive change.

3 **§ 55635. State General Obligation Bond Law**

4 55635. The bonds authorized by this title shall be prepared, executed, issued,
5 sold, paid, and redeemed as provided in the State General Obligation Bond Law
6 (Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the
7 Government Code), and all of the provisions of that law are applicable to the
8 bonds and to this title and are hereby incorporated in this title as though set forth
9 in full herein.

10 **Comment.** Section 55635 continues former Fish and Game Code Section 2646 without
11 substantive change.

12 **§ 55640. Wildlife Habitat Enhancement Program Finance Committee**

13 55640. Solely for the purpose of authorizing the issuance and sale, pursuant to
14 the State General Obligation Bond Law (Chapter 4 (commencing with Section
15 16720) of Part 1 of Division 4 of Title 2 of the Government Code), of the bonds
16 authorized by this title, the Wildlife Habitat Enhancement Program Finance
17 Committee is hereby created. The committee consists of the Controller, the
18 Director of Finance, and the Treasurer. For purposes of this title, this committee is
19 “the committee” as that term is used in the State General Obligation Bond Law,
20 and the Treasurer shall serve as chair of the committee.

21 **Comment.** Section 55640 continues former Fish and Game Code Section 2647 without
22 substantive change.

23 **§ 55645. Deposit of premiums and accrued interest**

24 55645. All money deposited in the fund that is derived from premium and
25 accrued interest on bonds sold shall be reserved in the fund and shall be available
26 for transfer to the General Fund as a credit to expenditures for bond interest.

27 **Comment.** Section 55645 continues former Fish and Game Code Section 2648 without
28 substantive change.

29 **§ 55650. Budget appropriation**

30 55650. Commencing with the Budget Bill for the 1995-96 fiscal year, the
31 balance remaining in the fund may be appropriated by the Legislature for
32 expenditure, without regard to the maximum amounts allocated to each element of
33 the program, for any or all elements of the program specified in Section 55525, or
34 any class or classes of projects within those elements that the Legislature deems to
35 be of the highest priority.

36 **Comment.** Section 55650 continues former Fish and Game Code Section 2649 without
37 substantive change.

1 **§ 55655. Proceeds of bonds not proceeds of taxes**

2 55655. The Legislature hereby finds and declares that, inasmuch as the proceeds
3 from the sale of bonds authorized by this title are not “proceeds of taxes” as that
4 term is used in Article XIII B of the California Constitution, the disbursement of
5 these proceeds is not subject to the limitations imposed by that article.

6 **Comment.** Section 55655 continues former Fish and Game Code Section 2650 without
7 substantive change.

8 **§ 55660. Severability**

9 55660. If any provision of this title or the application thereof to any person or
10 circumstances is held invalid, that invalidity shall not affect other provisions or
11 applications of the title that can be given effect without the invalid provision or
12 application, and to this end, the provisions of this title are severable.

13 **Comment.** Section 55660 continues former Fish and Game Code Section 2651 without
14 substantive change.

15 **TITLE 4. WILDLIFE AND NATURAL AREAS**
16 **CONSERVATION PROGRAM**

17 **Note.** The Wildlife and Natural Areas Conservation Program (existing Sections 2700-2729)
18 was added by Proposition 70 (1988). The Commission has generally adopted a very deferential
19 approach to the recodification of provisions added by initiative. Consistent with that approach,
20 the Commission has made very minimal changes to the language of this part, mostly relating to
21 section numbering.

22 **CHAPTER 1. GENERAL PROVISIONS**

23 **§ 55700. Short title**

24 55700. This title shall be known and may be cited as the Wildlife and Natural
25 Areas Conservation Act.

26 **Comment.** Section 55700 continues former Fish and Game Code Section 2700 without
27 substantive change.

28 **§ 55705. Declaration of purpose**

29 55705. (a) The fundamental requirement for healthy, vigorous populations of
30 fish and wildlife is habitat. Without adequate habitat, efforts to conserve and
31 manage fish and wildlife resources will have limited success. Further, California
32 contains the greatest diversity of wildlife and plant species of virtually any state in
33 the nation. This rich natural heritage enables Californians to enjoy a great variety
34 of recreational, aesthetic, ecological, and other uses and benefits of these
35 biological resources. The public interest is served only by ensuring that these
36 resources are preserved, protected, and propagated for this and future generations.

1 (b) Many of California’s wildlife, fish, and plant species and biological
2 communities are found nowhere else on earth. Without adequate protection and
3 management, rare native species and communities could easily become extinct. In
4 that event, the benefits they provide to the people of California, whether presently
5 realized or which remain to be discovered, will be lost forever, and California will
6 be significantly poorer as a result.

7 (c) The people of California have vested in the department the principal
8 responsibility for protecting, conserving, and perpetuating native fish, plants, and
9 wildlife, including endangered species and game animals, for their aesthetic,
10 intrinsic, ecological, educational, and economic values. To help accomplish this
11 goal, the people of California have further established a significant natural areas
12 program and a natural diversity database in the department, which is charged with
13 maintaining and perpetuating California’s most significant natural areas for
14 present and future generations. To ensure the perpetuation of areas containing
15 uncommon elements of natural diversity and to ensure the continued abundance of
16 habitat for more common species, especially examples of those that are presently
17 threatened with destruction, the purchase of land is often necessary.

18 (d) Accordingly, the purpose of this title is to provide the Wildlife Conservation
19 Board and the department the financial means to correct the most severe
20 deficiencies in wildlife habitat and in the statewide system of areas designated for
21 the preservation of California’s natural diversity through a program of acquisition,
22 enhancement, restoration, and protection of areas that are most in need of proper
23 conservation.

24 **Comment.** Section 55705 continues former Fish and Game Code Section 2701 without
25 substantive change.

26 **§ 55710. Definitions**

27 55710. As used in this title, the following terms have the following meanings:

28 (a) “Acquisition” means the acquiring of any interest in real property.

29 (b) “Fund” means the Wildlife and Natural Areas Conservation Fund created
30 pursuant to Section 55725.

31 (c) “Highly rare” means a worldwide rarity in which any species or natural
32 community occurs in 50 or fewer locations, irrespective of whether the species or
33 any species in the community is listed as threatened or endangered or was
34 previously listed as rare.

35 (d) “Natural community” means a distinct, identifiable, and recurring
36 association of plants and animals that are ecologically interrelated.

37 (e) “Species” means the fundamental biological unit of plant and animal
38 classification that comprises a subdivision of a genus, but for the purposes of this
39 title, “species” also includes the unit of a subspecies.

40 **Comment.** Section 55710 continues former Fish and Game Code Section 2702 without
41 substantive change.

1

CHAPTER 2. HABITAT CONSERVATION PROGRAM

2 **§ 55725. Deposits**

3 55725. Moneys available for the purposes of this title pursuant to Chapter 4
4 (commencing with Section 5930) of Division 5.8 of the Public Resources Code
5 shall be deposited in the Wildlife and Natural Areas Conservation Fund, which is
6 hereby created. Money deposited in the fund shall be available for appropriation
7 by the Legislature to the Wildlife Conservation Board, for expenditure pursuant to
8 the Wildlife Conservation Law of 1947, for the following programs:

9 (a) Forty-one million dollars (\$41,000,000) for the preservation of highly rare
10 examples of the state's natural diversity through the acquisition, enhancement,
11 restoration, or protection, or a combination thereof, of lands supporting
12 California's unique, fragile, threatened, or endangered plants, animals, and natural
13 communities.

14 (b) Six million dollars (\$6,000,000) for the acquisition, enhancement,
15 restoration, or protection, or a combination thereof, of critical habitat areas for
16 fish, game mammals, and game birds, including, but not limited to, the following
17 types:

18 (1) Winter deer ranges.

19 (2) Wild trout or steelhead nursery and spawning areas.

20 (3) Significant routes of migration for wildlife.

21 (4) Breeding, nesting, and forage areas for sage grouse and other upland game
22 birds.

23 For purposes of this subdivision, "enhancement" includes the construction or
24 development of facilities for furnishing public access to lands or waters open to
25 the public for fishing, hunting, or shooting.

26 (c) Three million dollars (\$3,000,000) for the acquisition, enhancement,
27 restoration, or protection, or any combination thereof, of lands providing habitat
28 for threatened, endangered, or fully protected species, such as the bald eagle, San
29 Joaquin kit fox, desert tortoise, bighorn sheep, peregrine falcon, and California
30 condor.

31 **Comment.** Section 55725 continues former Fish and Game Code Section 2720 without
32 substantive change.

33 **§ 55730. Expenditures**

34 55730. Funds available pursuant to subdivision (a) of Section 55725 shall be
35 expended to acquire, enhance, restore, or protect lands in California on which any
36 of the following naturally exists:

37 (a) A unique species or natural community, whose existence at a single location
38 in California is the only known occurrence in the world of that particular species
39 or natural community.

1 (b) A species that occurs in only 20 or fewer locations in the world, at least one
2 of which is in California.

3 (c) A natural community that occurs in only 50 or fewer locations in the world,
4 at least one of which is in California.

5 (d) An assemblage of three or more highly rare species or natural communities,
6 or any combination thereof, of which at least one of the species or natural
7 communities is found only in 20 or fewer locations in the world.

8 **Comment.** Section 55730 continues former Fish and Game Code Section 2721 without
9 substantive change.

10 **§ 55735. Priorities**

11 55735. (a) Whenever the application of the criteria specified in Section 55730
12 results in the identification of two or more parcels of land that are essentially
13 indistinguishable as to their quality, preference shall be given to the parcel on
14 which exists the species that is more threatened or more endangered.

15 (b) Whenever the application of the criteria specified in Section 55730 results in
16 the identification of two or more parcels of land that are essentially
17 indistinguishable as to their quality and the degree of threat to, or endangerment
18 of, the species existing on them, preference shall be given to the parcel on which
19 exists the best example of the species. As used in this subdivision, “best example”
20 means the parcel of land and the wildlife inhabiting it that, in balancing all the
21 factors present, represents, as determined by the board, the stronger combination
22 of all of the following: the better condition, higher quality, easier defensibility,
23 greater likelihood of long-term viability, and the lesser costs to be incurred by the
24 department in operating and maintaining the parcel.

25 **Comment.** Section 55735 continues former Fish and Game Code Section 2722 without
26 substantive change.

27 **§ 55740. Limitations on use of funds**

28 55740. (a) Of the total amount available pursuant to subdivision (a) of Section
29 55725, not more than five million dollars (\$5,000,000) may be encumbered for
30 any single acquisition project. In enacting this limitation, the people of California
31 recognize that there are a number of important projects meeting the criteria of this
32 title but whose acquisition cost would most likely exceed this limitation.
33 Therefore, in these instances any acquisition cost in excess of this limitation may
34 be met by a donation by the owner, donations of funds from private sources, or
35 other funds from state or nonstate sources.

36 (b) The qualification for or allocation of a grant or grants to a local agency under
37 Section 55725 shall not preclude eligibility for an additional allocation of grant
38 funds to the same local agency pursuant to Section 55725 of this code or Section
39 5907 of the Public Resources Code.

40 **Comment.** Section 55740 continues former Fish and Game Code Section 2723 without
41 substantive change.

1 **§ 55745. Priorities**

2 55745. (a) In choosing among two or more parcels of land to be acquired,
3 enhanced, restored, or protected with funds available pursuant to subdivision (b)
4 or (c) of Section 55725, preference shall be given to acquiring, enhancing,
5 restoring, or protecting the parcel that will result in the least cost to the department
6 for operating and maintaining the land.

7 (b) Funds available pursuant to subdivisions (b) and (c) of Section 55725 may
8 be encumbered only for lands that constitute habitat that is subject to destruction,
9 drastic modification, or significant curtailment of habitat values.

10 **Comment.** Section 55745 continues former Fish and Game Code Section 2724 without
11 substantive change.

12 **§ 55750. Limitation on use of funds**

13 55750. No funds available pursuant to this title shall be encumbered for any
14 lands that, due to their degraded character, will not sustain plants or wildlife or
15 will not afford protection to a natural community on a long-term basis.

16 **Comment.** Section 55750 continues former Fish and Game Code Section 2725 without
17 substantive change.

18 **§ 55755. Further limitation on use of funds**

19 55755. With respect to any lands that may be acquired, enhanced, restored, or
20 protected with funds under this title and that could also be eligible for funds under
21 Title 3 (commencing with Section 55500), funds under this title shall not be
22 encumbered for those lands until it is determined by the Wildlife Conservation
23 Board that funds are not likely to be available for those lands under Title 3
24 (commencing with Section 55500).

25 **Comment.** Section 55755 continues former Fish and Game Code Section 2726 without
26 substantive change.

27 **§ 55760. Additional limitation on use of funds**

28 55760. No funds available for appropriation under this title may be encumbered
29 for any purpose described in Section 54860.

30 **Comment.** Section 55760 continues former Fish and Game Code Section 2727 without
31 substantive change.

32 **§ 55765. Administrative costs of Wildlife Conservation Board**

33 55765. An annual amount, not to exceed three hundred fifty thousand dollars
34 (\$350,000) may be appropriated from the fund in the 1988–89 through 1998–99
35 fiscal years, in an amount to be determined in each annual appropriation, to the
36 Wildlife Conservation Board for expenditure for costs incurred by the board and
37 the department in administering this title, including, but not limited to,
38 preacquisition studies, planning, appraisals, surveys, and closing costs. The
39 Wildlife Conservation Board and the department may augment, as needed, any
40 amount thus appropriated with any funds appropriated to it from any other source.

1 **Comment.** Section 55765 continues former Fish and Game Code Section 2728 without
2 substantive change.

3 **§ 55770. Staffing**

4 55770. (a) For the purpose of administering this title, the Wildlife Conservation
5 Board and the department shall augment its existing staff, whenever possible, by
6 contracting for those services necessary for the administration of this title. Any
7 contract shall, however, be entered into only pursuant to Sections 19130 to 19132,
8 inclusive, of the Government Code and shall be only for the minimum period
9 necessary for completion of the particular project or projects for which the
10 contract was entered into.

11 (b) Due to the limited duration of the program authorized by this title, in the
12 event some services cannot be provided by contract, any personnel directly hired
13 by the Wildlife Conservation Board for the administration of this title shall be
14 hired, to the extent permitted by Article 2 (commencing with Section 19080) of
15 Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, as limited-
16 term appointments.

17 **Comment.** Section 55770 continues former Fish and Game Code Section 2729 without
18 substantive change.

19 **TITLE 5. CALIFORNIA WILDLIFE PROTECTION**
20 **ACT OF 1990**

21  **Note.** The California Wildlife Protection Act of 1990 (existing Sections 2780-2799.6) was
22 added by Proposition 117 (1990). The Commission has generally adopted a very deferential
23 approach to the recodification of provisions added by initiative. Consistent with that approach,
24 the Commission has made very minimal changes to the language of this part, mostly relating to
25 section numbering.

26 **CHAPTER 1. GENERAL PROVISIONS**

27 **§ 55800. Findings and declarations**

28 55800. The people of California find and declare all of the following:

29 (a) Protection, enhancement, and restoration of wildlife habitat and fisheries are
30 vital to maintaining the quality of life in California. As the state's human
31 population increases, there is an urgent need to protect the rapidly disappearing
32 wildlife habitats that support California's unique and varied wildlife resources.

33 (b) Much of the state's most important deer winter ranges have been destroyed
34 in the last 20 years.

35 (c) Critical winter ranges of migratory deer in the Sierra Nevada and Cascade
36 mountain ranges are increasingly subject to incompatible land uses. In some
37 counties, over 80 percent of the critical winter ranges fall on these lands. The

1 potential for incompatible land uses on these lands is a major threat to the survival
2 of many migratory deer herds.

3 (d) Deer, mountain lion, and other wildlife habitat within the Sierra Nevada,
4 Cascade, Coast Range (including the Santa Lucia Mountains in Monterey County
5 along the Central Coast), Siskiyou and Klamath Mountains; and the Santa Susana,
6 Simi Hills, Santa Monica, San Gabriel, San Bernardino, San Jacinto, Santa Ana
7 and other mountains and foothill areas within southern California, is disappearing
8 rapidly. Small and often isolated wildlife populations are forced to depend upon
9 these shrinking habitat areas within the heavily urbanizing areas of this state.
10 Corridors of natural habitat must be preserved to maintain the genetic integrity of
11 California’s wildlife.

12 (e) This title shall be implemented in the most expeditious manner. All state
13 officials shall implement this title to the fullest extent of their authority in order to
14 preserve, maintain, and enhance California’s diverse wildlife heritage and the
15 habitats upon which it depends.

16 **Comment.** Section 55800 continues former Fish and Game Code Section 2780 without
17 substantive change.

18 **§ 55805. Further findings and declarations**

19 55805. (a) The people of California find and declare that wildlife and fisheries
20 conservation is in the public interest and that it is necessary to keep certain lands
21 in open space and natural condition to protect significant environmental values of
22 wildlife and native plant habitat, riparian and wetland areas, native oak woodlands,
23 and other open-space lands, and to provide opportunities for the people of
24 California to appreciate and visit natural environments and enjoy California’s
25 unique and varied fish and wildlife resources.

26 (b) It is the intent of the people, in enacting this title, that additional funds are
27 needed to protect fish, wildlife, and native plant resources and that the Legislature
28 should provide those funds through bond acts and other appropriate sources.

29 **Comment.** Section 55805 continues former Fish and Game Code Section 2781 without
30 substantive change.

31 **CHAPTER 2. CALIFORNIA WILDLIFE PROTECTION**

32 **§ 55825. Definitions**

33 55825. The following definitions govern the construction of this title:

34 (a) “Acquisition” includes but is not limited to, gifts, purchases, leases,
35 easements, the exercise of eminent domain if expressly authorized, the transfer or
36 exchange of property for other property of like value, transfers of development
37 rights or credits, and purchases of development rights and other interests.

38 (b) “Board” means the Wildlife Conservation Board.

39 (c) “Fund” means the Habitat Conservation Fund created by Section 55830.

1 (d) “Local agency” means a city, county, city and county, or a district as defined
2 in subdivision (b) of Section 5902 of the Public Resources Code.

3 (e) “Riparian habitat” means lands that contain habitat that grows close to and
4 which depends upon soil moisture from a nearby freshwater source.

5 (f) “Southern California” means the Counties of Imperial, Los Angeles, Orange,
6 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

7 (g) “Wetlands” means lands that may be covered periodically or permanently
8 with shallow water and that include saltwater marshes, freshwater marshes, open
9 or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

10 **Comment.** Section 55825 continues former Fish and Game Code Section 2785 without
11 substantive change.

12 **§ 55830. Habitat Conservation Fund**

13 55830. Except as otherwise expressly provided in paragraph (3) of subdivision
14 (a) of Section 55835, the money in the Habitat Conservation Fund, which is
15 hereby created, shall be used for the following purposes:

16 (a) The acquisition of habitat, including native oak woodlands, necessary to
17 protect deer and mountain lions.

18 (b) The acquisition of habitat to protect rare, endangered, threatened, or fully
19 protected species.

20 (c) The acquisition of habitat to further implement the Habitat Conservation
21 Program pursuant to Chapter 2 (commencing with Section 55725) of Title 4,
22 excepting Section 55735 and subdivision (a) of Section 55740, and Sections 55745
23 and 55770.

24 (d) The acquisition, enhancement, or restoration of wetlands.

25 (e) The acquisition, restoration, or enhancement of aquatic habitat for spawning
26 and rearing of anadromous salmonids and trout resources.

27 (f) The acquisition, restoration, or enhancement of riparian habitat.

28 **Comment.** Section 55830 continues former Fish and Game Code Section 2786 without
29 substantive change.

30 **Note.** Existing Section 2786(c) contains an erroneous cross-reference to “Article 2
31 (commencing with Section 2721).” The reference is erroneous in two ways: (1) The referenced
32 article begins with Section 2720, not Section 2721. (2) The reference is incomplete. It should
33 continue with the words “of Chapter 7.5.” Proposed Section 55830 would correct those errors.
34 **The Commission invites comment on whether those corrections would cause any problems.**

35 **§ 55835. Continuous appropriations**

36 55835. Notwithstanding Section 13340 of the Government Code, the money in
37 the fund is continuously appropriated, without regard to fiscal years, as follows:

38 (a) To the Department of Parks and Recreation, four million five hundred
39 thousand dollars (\$4,500,000) annually for allocation as follows:

40 (1) One million five hundred thousand dollars (\$1,500,000) for projects that are
41 located in the Santa Lucia Mountain Range in Monterey County for expenditure

1 by the Department of Parks and Recreation and for grants to the Monterey
2 Peninsula Regional Park District.

3 (2) One million dollars (\$1,000,000) for acquisitions in, and adjacent to, units of
4 the state park system.

5 (3) Two million dollars (\$2,000,000) for 50 percent matching grants to local
6 agencies for projects meeting the purposes specified in Section 55830 and,
7 additionally, for the acquisition of wildlife corridors and urban trails, nature
8 interpretation programs, and other programs that bring urban residents into park
9 and wildlife areas. The grants made pursuant to this subdivision are subject to the
10 conditions of subdivision (d) of Section 5910, and Sections 5917 and 5919, of the
11 Public Resources Code, as nearly as may be practicable.

12 (b) To the State Coastal Conservancy, four million dollars (\$4,000,000)
13 annually.

14 (c) To the Santa Monica Mountains Conservancy, five million dollars
15 (\$5,000,000) annually for the next 10 fiscal years, commencing with the 1990–91
16 fiscal year. The money shall be used for the purposes specified in Section 55830
17 for wildlife habitat, and for related open-space projects, within the Santa Monica
18 Mountains Zone, the Rim of the Valley Corridor, and the Santa Clarita
19 Woodlands. Of the total amount appropriated pursuant to this subdivision, not less
20 than a total of ten million dollars (\$10,000,000) shall be spent within the Santa
21 Susana Mountains and the Simi Hills, and not less than a total of ten million
22 dollars (\$10,000,000) shall be spent within the Santa Clarita Woodlands. These
23 funds shall be expended in accordance with Division 23 (commencing with
24 Section 33000) of the Public Resources Code during the operative period of this
25 section as specified in subdivision (f) and in Section 55885. The Legislature may,
26 by statute, extend the period for expenditure of the funds provided by this
27 paragraph.

28 (d) To the California Tahoe Conservancy, five hundred thousand dollars
29 (\$500,000) annually.

30 (e) To the board, the balance of the fund.

31 (f) This section shall become operative on July 1, 1990, and, as of July 1, 2020,
32 is repealed, unless a later enacted statute, which becomes effective on or before
33 July 1, 2020, deletes or extends that date.

34 **Comment.** Section 55835 continues former Fish and Game Code Section 2787 without
35 substantive change.

36 **§ 55840. Continuous appropriations (contingent operation)**

37 55840. (a) Notwithstanding Section 13340 of the Government Code, the money
38 in the fund is continuously appropriated, without regard to fiscal years, to the
39 board.

40 (b) This section shall become operative only if, and on the date that, Section
41 55835 is repealed.

1 **Comment.** Section 55840 continues former Fish and Game Code Section 2788 without
2 substantive change.

3 **§ 55845. Priorities**

4 55845. In areas where habitats are or may become isolated or fragmented,
5 preference shall be given by the agencies expending money from the fund to
6 projects that will serve as corridors linking otherwise separated habitat so that the
7 genetic integrity of wildlife populations will be maintained.

8 **Comment.** Section 55845 continues former Fish and Game Code Section 2789 without
9 substantive change.

10 **§ 55850. Expenditure reporting**

11 55850. Each agency receiving money from the fund pursuant to Section 55835
12 shall report to the board on or before July 1 of each year the amount of money that
13 was expended and the purposes for which the money was expended. The board
14 shall prescribe the information in the agencies reports that it determines is
15 necessary to carry out the requirements of Section 55855.

16 **Comment.** Section 55850 continues former Fish and Game Code Section 2790 without
17 substantive change.

18 **§ 55855. Expenditure conditions**

19 55855. The board shall expend the money appropriated to it from the fund
20 subject to the following conditions:

21 (a) Not more than one and one-half (1¹/₂) percent shall be expended for
22 administration of this title.

23 (b) The board shall, to the extent practicable, expend the money in a manner and
24 for projects so that, within each 24-month period, approximately one-third of the
25 total expenditures of the money in the fund, including, until July 1, 2020, the
26 expenditures by the agencies receiving money from the fund pursuant to
27 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes
28 specified in subdivision (a) of Section 55830 and approximately two-thirds of the
29 total expenditures of the money in the fund, including, until July 1, 2020, the
30 expenditures by the agencies receiving money from the fund pursuant to
31 subdivisions (a) to (d), inclusive, of Section 55835, are expended for the purposes
32 specified in subdivisions (b) and (c) of Section 55830.

33 (c) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and
34 (c) of Section 55830, the board shall, to the extent practicable, expend the money
35 in the fund in a manner and for projects so that, within each 24-month period,
36 approximately six million dollars (\$6,000,000) of the money, including, until July
37 1, 2020, the expenditures by the agencies receiving money from the fund pursuant
38 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the
39 purposes specified in subdivision (d) of Section 55830.

40 (d) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and
41 (c) of Section 55830, the board shall, to the extent practicable, expend the money

1 in the fund in a manner and for projects so that, within each 24-month period,
2 approximately six million dollars (\$6,000,000) of the money, including, until July
3 1, 2020, the expenditures by the agencies receiving money from the fund pursuant
4 to subdivisions (a) to (d), inclusive, of Section 55835, are expended for the
5 purposes specified in subdivision (e) and (f) of Section 55830.

6 (e) To the extent practicable, the board shall expend the money appropriated to it
7 from the fund in a manner and for projects so that, within each 24-month period,
8 approximately one-half of the total expenditures of the money in the fund,
9 including, until July 1, 2020, the expenditures by the agencies receiving money
10 from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 55835, are
11 expended in northern California and approximately one-half in southern
12 California.

13 (f) Subject to the other requirements of this section, the board may allocate not
14 more than two million dollars (\$2,000,000) annually for the purposes of this title
15 to one or more state agencies created by the Legislature or the people that are
16 authorized by other provisions of law to expend funds for the purposes of this title.

17 **Comment.** Section 55855 continues former Fish and Game Code Section 2791 without
18 substantive change.

19 **§ 55860. Inability to make specified expenditures**

20 55860. If any agency designated in Section 55835 ceases to exist, or is otherwise
21 unable to expend the funds appropriated by Section 55835 to that agency for the
22 period specified, the board or its successor agency shall expend the same funds for
23 the same purpose.

24 **Comment.** Section 55860 continues former Fish and Game Code Section 2792 without
25 substantive change.

26 **§ 55865. Use of conservation corps**

27 55865. The board and any other state or local agency that expends any funds
28 appropriated from the fund on environmental enhancement, restoration, or
29 improvement projects shall utilize the services of the California Conservation
30 Corps and local community conservation corps to the extent practicable.

31 **Comment.** Section 55865 continues former Fish and Game Code Section 2793 without
32 substantive change.

33 **§ 55870. Management plan**

34 55870. In implementing this title, the state or local agency that manages lands
35 acquired with funds appropriated from the fund shall prepare, with full public
36 participation, a management plan for lands that have been acquired, which plan
37 shall reasonably reduce possible conflicts with neighboring land use and
38 landowners, including agriculturists. The plans shall comply with the California
39 Environmental Quality Act (Division 21 (commencing with Section 21000) of the
40 Public Resources Code).

1 **Comment.** Section 55870 continues former Fish and Game Code Section 2794 without
2 substantive change.

3 **§ 55875. Unallocated Account in the Cigarette and Tobacco Products Surtax Fund**

4 55875. (a) The Controller shall annually transfer 10 percent of the funds in the
5 Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the
6 Habitat Conservation Fund.

7 (b) No additional allocation of funds from that account shall be made by the
8 Legislature for purposes of this title or for any other natural resource or
9 environmental protection program.

10 **Comment.** Section 55875 continues former Fish and Game Code Section 2795 without
11 substantive change.

12 **§ 55880. Fund transfers**

13 55880. (a) The Controller shall annually transfer the sum of thirty million
14 dollars (\$30,000,000) from the General Fund to the Habitat Conservation Fund,
15 less any amount transferred to the Habitat Conservation Fund from, but not limited
16 to, the following accounts and funds:

17 (1) The Public Resources Account in the Cigarette and Tobacco Products Surtax
18 Fund to the extent authorized by the Tobacco Tax and Health Protection Act of
19 1988.

20 (2) The Unallocated Account in the Cigarette and Tobacco Products Surtax
21 Fund pursuant to subdivision (a) of Section 55875.

22 (3) The California Environmental License Plate Fund.

23 (4) The Endangered and Rare Fish, Wildlife, and Plant Species Conservation
24 and Enhancement Account in the Fish and Game Preservation Fund.

25 (5) Any other non-General Fund accounts and funds created by the Legislature
26 or the people for purposes that are consistent with the purposes of this act.

27 (6) Any bond funds that are authorized by the people after July 1, 1990, which
28 may be used for purposes that are identical to the purposes specified in Section
29 55830.

30 (7) The Wildlife Restoration Fund.

31 (b) Except for transfers from the Endangered and Rare Fish, Wildlife, and Plant
32 Species Conservation and Enhancement Account, transfers from the Fish and
33 Game Preservation Fund are not transfers for purposes of subdivision (a) and shall
34 not be made to the fund. Transfers of federal, local, or privately donated funds or
35 transfers from the State Coastal Conservancy Fund pursuant to Section 31011 of
36 the Public Resources Code to the fund are not transfers for purposes of subdivision
37 (a).

38 (c) This section does not limit the amount of funds that may be transferred to the
39 fund or that may be expended for fish and wildlife habitat protection either from
40 the fund or from any other sources.

1 (d) This section shall become operative on July 1, 1990, shall become
2 inoperative on June 30, 2020, and, as of January 1, 2021, is repealed, unless a later
3 enacted statute, which becomes effective before January 1, 2021, deletes or
4 extends the dates on which it becomes inoperative and is repealed.

5 **Comment.** Section 55880 continues former Fish and Game Code Section 2796 without
6 substantive change.

7 **§ 55885. Effect of specified provisions**

8 55885. (a) The people find it necessary to acquire, restore, and improve the
9 rapidly disappearing wildlife habitat of southern California in the quickest and
10 most efficient manner possible using existing governmental resources. Therefore,
11 notwithstanding Section 33216 of the Public Resources Code, Division 23
12 (commencing with Section 33000) of the Public Resources Code shall continue in
13 effect for the period that funds may be expended pursuant to subdivision (c) of
14 Section 55835.

15 This subdivision shall not become operative if, prior to June 6, 1990, Section
16 33216 of the Public Resources Code has been amended to extend the operative
17 effect of that Division 23 to at least July 1, 1995.

18 (b) If subdivision (a) of this section does not become operative, the controller
19 shall increase the annual transfer of funds pursuant to subdivision (c) of Section
20 55835 on a pro rata basis so that the total amount available to the Santa Monica
21 Mountains Conservancy for purposes of this title pursuant to that subdivision (c) is
22 fifty million dollars (\$50,000,000). Nothing in this section precludes the
23 Legislature from extending the time for expenditure of funds pursuant to
24 subdivision (c) of Section 55835.

25 **Comment.** Section 55885 continues former Fish and Game Code Section 2797 without
26 substantive change.

27 **Note.** The second paragraph of existing Section 2797(a) establishes an operation contingency
28 based on whether “prior to June 6, 1990, Section 33216 of the Public Resources Code has been
29 amended to extend the operative effect of that Division 23 to at least July 1, 1995.” That
30 contingency appears to have been satisfied. In 1990, Section 33216 was amended to extend the
31 specified sunset date to July 1, 1995. See 1990 Cal. Stat. ch. 216, § 95. Despite the apparent
32 obsolescence of the operation contingency provision, it has been continued in proposed Section
33 55885. This avoids any possibility of deleting substantive language that was added by citizen
34 initiative. Section 2797(b) also appears to be obsolete, but is retained for the same reason. **The**
35 **Commission invites comment on whether this approach would cause any problems.**

36 **§ 55890. Land acquisition law**

37 55890. Acquisitions of real property made pursuant to this title shall be done in
38 compliance with the land acquisition law as existing or as hereafter amended and
39 as it applies to the agencies designated in Section 55835, and in compliance with
40 subdivision (a) of Section 5929 of the Public Resources Code.

41 **Comment.** Section 55890 continues former Fish and Game Code Section 2798 without
42 substantive change.

1 **§ 55895. Application of CEQA**

2 55895. Every expenditure made pursuant to this title shall comply with the
3 California Environmental Quality Act (Division 13 (commencing with Section
4 21000) of the Public Resources Code).

5 **Comment.** Section 55895 continues former Fish and Game Code Section 2799 without
6 substantive change.

7 **§ 55900. Public access to acquired lands**

8 55900. Reasonable public access to lands acquired in fee with funds made
9 available pursuant to this title shall be provided except when that access may
10 interfere with habitat protection.

11 **Comment.** Section 55900 continues former Fish and Game Code Section 2799.5 without
12 substantive change.

13 **§ 55905. Reappropriation of transferred funds**

14 55905. Only those amounts of money that are transferred to the fund from the
15 General Fund pursuant to Section 55880 may be reappropriated for purposes of
16 this title by a two-thirds vote of the Legislature.

17 **Comment.** Section 55905 continues former Fish and Game Code Section 2799.6 without
18 substantive change.

19 **TITLE 6. NATIVE SPECIES CONSERVATION**
20 **AND ENHANCEMENT**

21 **CHAPTER 1. GENERAL PROVISIONS**

22 **§ 56000. Short title**

23 56000. This title shall be known and may be cited as the Native Species
24 Conservation and Enhancement Act.

25 **Comment.** Section 56000 continues former Fish and Game Code Section 1750 without
26 substantive change.

27 **§ 56005. Findings and declarations**

28 56005. The Legislature finds and declares all of the following:

29 (a) That it is the policy of this state:

30 (1) To maintain sufficient populations of all species of wildlife and native plants
31 and the habitat necessary to insure their continued existence at the optimum levels
32 possible to insure the policies stated in paragraphs (2), (3), and (4).

33 (2) To provide for the beneficial use and enjoyment of wildlife and native plants
34 by all citizens of the state.

35 (3) To perpetuate native plants and all species of wildlife for their intrinsic and
36 ecological values, as well as for their direct benefits to humans.

1 (4) To provide for aesthetic, educational, and nonappropriative uses of the
2 various wildlife and native plant species.

3 (b) That the conservation and enhancement of wildlife species that are not the
4 object of hunting and native plant species is in the general public interest and it is
5 appropriate that the cost of programs to achieve that conservation and
6 enhancement, including the biological and botanical research necessary thereto,
7 and the diffusion of the information resulting therefrom to the public, be borne to
8 the extent necessary by general public funds.

9 **Comment.** Section 56005 continues former Fish and Game Code Section 1755 without
10 substantive change.

11 **§ 56010. General policy**

12 56010. (a) The policy set forth in this title is in the public interest without regard
13 to the economic value or the lack of economic value of wildlife or native plants.

14 (b) It is the policy of the state to require the recreational users of the state's
15 wildlife resources to support the management of lands managed by the department
16 and the management of wildlife consistent with Section 3465.

17 **Comment.** Section 56010 continues former Fish and Game Code Section 1756 without
18 substantive change.

19 **CHAPTER 2. WILDLIFE AREAS**

20 **§ 56025. Comment by licensed hunters**

21 56025. (a) The department shall annually provide an opportunity for licensed
22 hunters to comment and make recommendations on the public hunting programs,
23 including anticipated habitat conditions in the hunting areas on Type A and Type
24 B Wildlife Areas, as defined under the commission's regulations, through public
25 meetings or other public outreach.

26 (b) In complying with this section, the department may hold regional meetings
27 on its hunting programs for several different wildlife areas.

28 **Comment.** Section 56025 continues former Fish and Game Code Section 1758 without
29 substantive change.

30 **§ 56030. Areas requiring wildlife area pass or license**

31 56030. (a) The director shall designate those particular areas of land managed by
32 the department at which possession of a valid annual wildlife pass or day use pass
33 shall be required.

34 (b) No designation shall be effective until a management plan for the area has
35 been presented at a public meeting and the plan has been approved by the director.

36 (c) No person shall enter the designated area unless that person possesses an
37 annual wildlife area pass or a day use pass issued pursuant to Section 56080, a
38 valid hunting license issued pursuant to Section 10210, a valid trapping license
39 issued pursuant to Section 11215, or a valid sport fishing license issued pursuant

1 to Section 13100, 13150, or Sections 13200 through 13215, inclusive, or that
2 person is a member of a tour by an organized youth or school group that has been
3 issued a day use pass.

4 (d) Notwithstanding subdivision (b), possession of a license or pass shall not be
5 required of any person who:

6 (1) Is passing through the area on a public right-of-way.

7 (2) Possesses authorization by the commission or the department to conduct
8 scientific or educational research.

9 (3) Is discharging duties in the course of employment, as specified by the
10 department.

11 (4) Possesses written authorization from the department to enter the area for a
12 specific purpose.

13 **Comment.** Section 56030 continues former Fish and Game Code Section 1764 without
14 substantive change.

15 **§ 56035. Violation for entry without pass or license**

16 56035. (a) Notwithstanding Section 4400, a violation of Section 56030 is an
17 infraction, not a misdemeanor, punishable by a fine of not less than one hundred
18 dollars (\$100) and not more than five hundred dollars (\$500). If a person
19 convicted of a violation of Section 56030 is granted probation, the court shall
20 impose as a condition of probation that the person pay at least the minimum fine
21 prescribed in this subdivision.

22 (b) If a person is convicted of a violation of Section 56030 and produces in court
23 a valid wildlife area pass, the court may reduce the fine imposed for the violation
24 of Section 56030 to fifty dollars (\$50).

25 **Comment.** Section 56035 continues former Fish and Game Code Section 12002.5 without
26 substantive change.

27 **Note.** Existing Section 12002.5 begins with the disclaimer, “Notwithstanding Section
28 12002....” The only provision of Section 12002 that appears to be relevant to the purpose of that
29 reference is Section 12002(a). Proposed Section 56035 would refer to the section that continues
30 Section 12002(a). **The Commission invites Comment on whether that revision would be**
31 **problematic.**

32 **CHAPTER 3. NATIVE SPECIES CONSERVATION AND**
33 **ENHANCEMENT ACCOUNT**

34 **§ 56050. Creation of account**

35 56050. The department shall maintain within the Fish and Game Preservation
36 Fund a Native Species Conservation and Enhancement Account, which is hereby
37 created, to permit separate accountability for the receipt and expenditure of
38 moneys derived through donation from persons or organizations for the support of
39 nongame and native plant species conservation and enhancement programs.

1 **Comment.** Section 56050 continues former Fish and Game Code Section 1760 without
2 substantive change.

3 **§ 56055. Deposit of funds**

4 56055. Whenever the department receives funds from persons or organizations
5 for the support of nongame and native plant species conservation and
6 enhancement programs, those funds shall be deposited in the Fish and Game
7 Preservation Fund and credited to the Native Species Conservation and
8 Enhancement Account.

9 **Comment.** Section 56055 continues former Fish and Game Code Section 1761 without
10 substantive change.

11 **§ 56060. Donor appreciation**

12 56060. (a) The department shall provide each person or organization making a
13 contribution of five dollars (\$5) or more for the support of nongame and native
14 plant species conservation and enhancement programs a suitably prepared
15 certificate, decal, medallion, or other object of public appreciation signifying the
16 interest of the person or organization in the conservation and enhancement of
17 native plant and wildlife species.

18 (b) The commission shall approve the form, nature, and content of any
19 certificate, decal, medallion or other object proposed for use by the department
20 pursuant to this section.

21 **Comment.** Section 56060 continues former Fish and Game Code Section 1762 without
22 substantive change.

23 **§ 56065. Encouraging donations**

24 56065. (a) The department may take all appropriate measures to encourage
25 donations by individuals, organizations, and public agencies to the Native Species
26 Conservation and Enhancement Account, including, but not limited to, public
27 information concerning the status of native plant and wildlife species threatened
28 by the activities of man.

29 (b) The cost to the department to carry out the provisions of this section may be
30 charged to the Native Species Conservation and Enhancement Account.

31 **Comment.** Section 56065 continues former Fish and Game Code Section 1763 without
32 substantive change.

33 **§ 56070. Deposit of fee revenue**

34 56070. (a) The revenues from fees and sales under this chapter and Section 3210
35 shall be deposited in the Native Species Conservation and Enhancement Account
36 in the Fish and Game Preservation Fund, and shall be available for appropriation
37 for expenditure in the 1988–89 and subsequent fiscal years in the following order
38 of priority:

39 (1) Repayment of any loan to the account from the Fish and Game Preservation
40 Fund. The amounts repaid annually shall be prorated to complete the repayment

1 with interest on or before July 1, 1993. Interest shall be calculated at the rate
2 earned by the Surplus Money Investment Fund from the date funds for the loan
3 were advanced to the date of repayment.

4 (2) The costs of ongoing wildlife management programs incurred at any lands
5 managed by the department alone or cooperatively with other governmental
6 agencies, irrespective of their designation pursuant to Section 56030, that are not
7 adequately funded under Section 58000 or 58010.

8 (3) The costs of natural history education and recreational programs and
9 improvements at areas designated pursuant to Section 56030.

10 (4) Augmentation of wildlife management programs and acquisition of
11 additional lands at areas designated pursuant to Section 56030.

12 (b) Revenues from fees and sales under this chapter and Section 3210 shall be
13 used to augment and not to replace money appropriated from existing funds
14 available to the department for the purposes specified in subdivision (a).

15 **Comment.** Section 56070 continues former Fish and Game Code Section 1767.5 without
16 substantive change.

17 **§ 56075. Legislative finding and declaration**

18 56075. The Legislature finds and declares that the revenues from fees and sales
19 under this chapter are related to the protection and propagation of fish and game
20 within the meaning of Section 9 of Article XVI of the California Constitution.

21 **Comment.** Section 56075 continues former Fish and Game Code Section 1768 without
22 substantive change.

23 **§ 56080. Wildlife area pass**

24 56080. (a) The department may issue an annual wildlife area pass or a day use
25 pass that authorizes the bearer to enter and use facilities and programs on the
26 department managed lands subject to Section 56030 for the period of a calendar
27 year or, if issued after the beginning of the year, for the remainder thereof.

28 (b) The fee for the annual wildlife area pass is ten dollars (\$10). The fee for the
29 day use pass is two dollars (\$2).

30 (c) The fees shall be adjusted in the calendar years following 1989 in accordance
31 with Section 3755.

32 (d) The following persons are exempt from the payment of fees under this
33 section for an annual wildlife area pass or a day use pass:

34 (1) A person under the age of 16 years.

35 (2) A tour by an organized youth or school group.

36 (e) Any person eligible for a reduced fee or free sportfishing license pursuant to
37 Section 13150 or Sections 13200 through 13215, inclusive, shall be issued an
38 annual wildlife area pass upon application therefor and under the same conditions
39 and for the same fee as provided in those sections.

40 (f) There shall be appropriated in the annual Budget Act from the General Fund,
41 for transfer to the Native Species Conservation and Enhancement Account, a sum

1 equal to two dollars (\$2) for each free annual wildlife area pass issued pursuant to
2 subdivision (e) during the preceding calendar year.

3 **Comment.** Section 56080 continues former Fish and Game Code Section 1765 without
4 substantive change.

5 **§ 56085. Native species stamp**

6 56085. The department may also offer for sale a native species stamp,
7 promotional materials, and nature study aids. The fee for a native species stamp is
8 seven dollars and fifty cents (\$7.50), as adjusted in the calendar years following
9 1989 in accordance with Section 3755.

10 **Comment.** Section 56085 continues former Fish and Game Code Section 1766 without
11 substantive change.

12 **§ 56090. Promotional activity**

13 56090. (a) The department may take all appropriate measures to encourage
14 persons to obtain annual wildlife area passes and day use passes issued pursuant to
15 Section 56080, and to promote the sale of native species stamps, promotional
16 materials, and nature study aids to provide revenue for the support of the
17 department.

18 (b) The measures may include, but are not limited to, the dissemination of public
19 information concerning the status of wildlife, fish, and plant species, conservation
20 activities of the department, and programs and facilities provided by the
21 department for the enjoyment of the lands managed by the department.

22 **Comment.** Section 56090 continues former Fish and Game Code Section 1769 without
23 substantive change.

24 CHAPTER 4. ENDANGERED AND RARE FISH, WILDLIFE, AND
25 PLANT SPECIES CONSERVATION AND ENHANCEMENT
26 ACCOUNT

27 **§ 56100. Creation of account**

28 56100. The department shall maintain within the Fish and Game Preservation
29 Fund an Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
30 Enhancement Account which is hereby created.

31 **Comment.** Section 56100 continues former Fish and Game Code Section 1770 without
32 substantive change.

33 **§ 56105. Deposit of funds**

34 56105. (a) Whenever the department receives funds from the Treasurer under
35 Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2
36 of the Revenue and Taxation Code for the support of this chapter, the funds shall
37 be deposited in the Fish and Game Preservation Fund and credited to the

1 Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
2 Enhancement Account.

3 (b) These funds are for the support of programs for endangered and rare animals
4 and native plant species as determined by the commission, related conservation
5 and enhancement programs, and programs for those species that may be
6 candidates for determination as endangered or rare under the criteria developed by
7 the commission.

8 (c) The administrative overhead assessment on that portion of funds deposited in
9 the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and
10 Enhancement Account expended through contracts shall not exceed 15 percent.

11 **Comment.** Section 56105 continues former Fish and Game Code Section 1771 without
12 substantive change.

13 **Note.** Existing Section 1771 refers to “Article 7 (commencing with Section 18520) of
14 Chapter 17 of Part 10 of Division 2.” There is no such article, chapter, or section. **The**
15 **Commission invites comment on how to correct this erroneous cross-reference.**

16 **§ 56110. Encouraging donations**

17 56110. (a) The department may take all appropriate measures to encourage
18 donations to this account through the tax return checkoff system provided for in
19 Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2
20 of the Revenue and Taxation Code.

21 (b) The department may also disseminate information to the public concerning
22 the status of endangered and rare species. The cost to the department to carry out
23 the provisions of this section may be charged to this account.

24 **Comment.** Section 56110 continues former Fish and Game Code Section 1772 without
25 substantive change.

26 **Note.** Existing Section 1772 refers to “Article 7 (commencing with Section 18520) of
27 Chapter 17 of Part 10 of Division 2.” There is no such article, chapter, or section. **The**
28 **Commission invites comment on how to correct this erroneous cross-reference.**

29 TITLE 7. SHARED HABITAT ALLIANCE FOR
30 RECREATIONAL ENHANCEMENT PROGRAM

31 CHAPTER 1. GENERAL PROVISIONS

32 **§ 56200. Legislative intent**

33 56200. (a) In establishing the Shared Habitat Alliance for Recreational
34 Enhancement (“SHARE”) program, it is the intent of the Legislature to encourage
35 private landowners to voluntarily make their land available to the public for
36 wildlife-dependent recreational activities.

1 (b) The Legislature further encourages private landowners to use any funds
2 received from the SHARE program for wildlife conservation purposes on their
3 property.

4 (c) The SHARE program shall be a collaborative effort by all participants to
5 facilitate wildlife-dependent recreational activities on private land at minimal
6 expense to the state.

7 (d) The Legislature declares that interested nongovernmental organizations are
8 the key to developing, planning, and implementing the SHARE program.

9 **Comment.** Section 56200 continues former Fish and Game Code Section 1570 without
10 substantive change.

11 **§ 56205. Definitions**

12 56205. For purposes of this title, the following definitions apply:

13 (a) “Agreement” includes, but is not limited to, a contract, license, easement,
14 memorandum of understanding, or lease.

15 (b) “Partnership” means a collaborative effort involving financial or in-kind
16 contributions by nongovernmental organizations, the department, and other
17 interested parties working in concert to achieve the goals of the program.

18 (c) “Private landowner” means an owner of any possessory interest in real
19 property that is suitable for use for wildlife-dependent recreational activities.

20 (d) “Program” means the SHARE program established under this title.

21 (e) “Wildlife-dependent recreational activities” means hunting, fishing, wildlife
22 observation, conservation education, and related outdoor activities through means
23 that are consistent with applicable law.

24 **Comment.** Section 56205 continues former Fish and Game Code Section 1571 without
25 substantive change.

26 **CHAPTER 2. PROGRAM ADMINISTRATION**

27 **§ 56225. Program established**

28 56225. There is hereby established the Shared Habitat Alliance for Recreational
29 Enhancement (SHARE) program.

30 **Comment.** Section 56225 continues the first sentence of former Fish and Game Code Section
31 1572(a) without substantive change.

32 **§ 56230. Implementation**

33 56230. The department, in partnership with nonprofit conservation groups and
34 other interested nongovernmental organizations that seek to increase and enhance
35 wildlife-dependent recreational opportunities, shall work cooperatively to
36 implement the program in order to facilitate public access to private lands in a
37 voluntary and incentive-based manner.

38 **Comment.** Section 56230 continues the second sentence of former Fish and Game Code
39 Section 1572(a) without substantive change.

1 **§ 56235. Priorities**

2 56235. In determining which lands may be included in the program, the
3 department shall give priority to those lands with the greatest wildlife habitat
4 value. To the extent possible, the department shall also include in the program
5 private lands that permit multiple wildlife-dependent recreational activities, in
6 order to take into consideration the participation of the general public in the
7 program.

8 **Comment.** Section 56235 continues former Fish and Game Code Section 1573(g) without
9 substantive change.

10 **§ 56240. Grants and agreements**

11 56240. The department may make grants to, or enter into agreements with,
12 nonprofit organizations, governmental entities, or any other entities for the use of
13 the funds described in Section 56255 when the department finds that the
14 agreements are necessary for carrying out the purposes of this title.

15 **Comment.** Section 56240 continues former Fish and Game Code Section 1572(d) without
16 substantive change.

17 **§ 56245. Landowner agreements**

18 56245. (a) The department may enter into a voluntary agreement with a private
19 landowner, including an agreement under which the private landowner is
20 compensated by the department for public use of the land, to provide public access
21 for wildlife-dependent recreational activities. Any financial compensation offered
22 to a private landowner pursuant to this subdivision shall not exceed thirty dollars
23 (\$30) per acre, or fifty dollars (\$50) per public participant per day, and shall be
24 commensurate with the quality of the wildlife-dependent recreational opportunities
25 that are to be provided on the property.

26 (b) The department also may enter into a voluntary agreement with a private
27 landowner to facilitate access to adjacent public lands or waters, upon approval of
28 the governmental entity that holds title to the land. This title does not authorize a
29 private landowner to exclude persons not participating in the SHARE program
30 from using public land for wildlife-dependent recreational activities.

31 (c) The department may enter into a voluntary agreement with a governmental
32 entity to provide wildlife-dependent recreational opportunities to the public on
33 public lands or waters.

34 **Comment.** Section 56245 continues former Fish and Game Code Section 1573(a) without
35 substantive change.

36 **§ 56250. Limitations on agreements**

37 56250. An agreement executed pursuant to the program shall not authorize the
38 take of nongame species by public participants in the program. An agreement may
39 not authorize a private landowner to transfer a hunting or fishing license, stamp, or
40 tag to another person, unless otherwise authorized by law.

1 **Comment.** Section 56250 continues former Fish and Game Code Section 1573(f) without
2 substantive change.

3 **§ 56255. Modification or cancellation of agreement**

4 56255. Either the department or a private landowner may, in writing, modify or
5 cancel an agreement executed under the program, at any time. Upon cancellation
6 or modification of the agreement by either party, the other party shall be
7 reimbursed for any lost revenues or expenses incurred pursuant to the terms of the
8 original agreement.

9 **Comment.** Section 56255 continues former Fish and Game Code Section 1573(c) without
10 substantive change.

11 **§ 56260. Landowner protections and remedies**

12 56260. In addition to any other protection or remedy under law, the protections
13 and remedies afforded to an owner of an estate or any other interest in real
14 property under Section 846 of the Civil Code shall apply to a private landowner,
15 nonprofit organization, or other entity participating in the program.

16 **Comment.** Section 56260 continues former Fish and Game Code Section 1573(d) without
17 substantive change.

18 **§ 56265. Waiver of liability**

19 56265. The department shall require every person who wants to use land that is
20 subject to an agreement pursuant to Section 56245, prior to using that land, to sign
21 a waiver that releases the department or any private group, nonprofit organization,
22 governmental entity, or other organization involved in administering the program,
23 and the private landowner, from liability for any injury or damage that arises from,
24 or is connected with that person's use of the land. Upon request, the department
25 shall provide a copy of the waiver to any of the parties to the waiver.

26 **Comment.** Section 56265 continues former Fish and Game Code Section 1573(e) without
27 substantive change.

28 **§ 56270. Regulations**

29 56270. The department shall adopt regulations for the management and control
30 of wildlife-dependent recreational activities on land that is subject to the program.

31 **Comment.** Section 56270 continues the first sentence of former Fish and Game Code Section
32 1572(b) without substantive change.

33 **§ 56275. Enforcement**

34 56275. (a) The department may revoke, for up to three years, the public access
35 privilege granted pursuant to this title, of any person who violates any provision of
36 this code or regulation adopted pursuant to this code while on any property that is
37 subject to an agreement under the program.

1 (b) The department shall enforce all applicable regulations established by the
2 commission or the department on property that is subject to an agreement executed
3 under the program.

4 **Comment.** Section 56275 continues former Fish and Game Code Section 1574 without
5 substantive change.

6 **§ 56280. Personal information of landowner**

7 56280. Notwithstanding any other provision of law, the department shall keep
8 confidential and not release to the public any personal identifying information
9 received from a private landowner participating in the program, unless the director
10 determines that release of that information is necessary for the administration of
11 the program.

12 **Comment.** Section 56280 continues former Fish and Game Code Section 1573(b) without
13 substantive change.

14 **§ 56285. Annual reports**

15 56285. The department shall report to the commission annually on the status of
16 the program and maintain data on the types of wildlife-dependent recreational
17 activities preferred by landowners and participants in the program.

18 **Comment.** Section 56285 continues the second sentence of former Fish and Game Code
19 Section 1572(b) without substantive change.

20 **§ 56290. Application of other law**

21 56290. The program is not subject to Part 2 (commencing with Section 10100)
22 of Division 2 of the Public Contract Code, or Article 6 (commencing with Section
23 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

24 **Comment.** Section 56290 continues former Fish and Game Code Section 1572(e) without
25 substantive change.

26 **CHAPTER 3. FINANCES**

27 **§ 56325. SHARE Account established**

28 56325. The SHARE Account is hereby established in the Fish and Game
29 Preservation Fund. Money deposited in the account from the sources cited in this
30 chapter shall only be used for the purposes set forth in this title.

31 **Comment.** Section 56325 continues former Fish and Game Code Section 1572(c)(1) without
32 substantive change.

33 **§ 56330. Funding**

34 56330. Consistent with existing law, the department may establish and impose
35 user fees, use existing hunting and fishing license stamp or tag fees from the Fish
36 and Game Preservation Fund, or apply for grants, federal funds, or other

1 contributions from other sources to fund the program. General Fund moneys shall
2 not be used for the program.

3 **Comment.** Section 56330 continues former Fish and Game Code Section 1572(c)(2) without
4 substantive change.

5 **§ 56335. Deposit and expenditure**

6 56335. (a) All funding generated pursuant to Section 56330 from grants, federal
7 funds, or other sources, where the person or entity providing the funds specifically
8 designates in writing prior to the time of transmittal of the funds to the department
9 that the funds are intended solely for the purposes of the program, and any user
10 fees assessed by the department specifically for the program, shall be deposited in
11 the SHARE Account in the Fish and Game Preservation Fund.

12 (b) The moneys in the SHARE account, upon appropriation by the Legislature,
13 shall be available for expenditure by the department solely for programs and
14 projects to benefit the program and for the direct costs and administrative
15 overhead incurred solely in carrying out the department's program activities.

16 (c) Funds may also be used for wildlife conservation purposes on lands subject
17 to an agreement under the program.

18 (d) Administrative overhead shall be limited to the reasonable costs associated
19 with the direct administration of the program.

20 (e) The department shall maintain internal accountability necessary to ensure
21 that all restrictions on the expenditure of these funds are met.

22 **Comment.** Section 56335 continues former Fish and Game Code Section 1572(c)(3) without
23 substantive change.

24 **§ 56340. Reimbursement of other persons and entities**

25 56340. The department may reimburse a nonprofit organization, a private
26 landowner, or other entity for its costs related to the implementation of the
27 program.

28 **Comment.** Section 56340 continues former Fish and Game Code Section 1572(f) without
29 substantive change.

30 TITLE 8. ENHANCEMENT AND MANAGEMENT
31 OF FISH AND WILDLIFE AND THEIR HABITAT
32 ON PRIVATE LANDS

33 CHAPTER 1. GENERAL PROVISIONS

34 **§ 56500. Policy**

35 56500. It is the policy of the state actively to ensure the improvement of wildlife
36 habitat on private land in order to encourage the propagation, utilization, and
37 conservation of fish and wildlife resources on those lands now and for the future in

1 cooperation with private landowners. The commission and the department may
2 develop a private wildlife habitat enhancement and management program for the
3 implementation of this title.

4 **Comment.** Section 56500 continues former Fish and Game Code Section 3400 without
5 substantive change.

6 **CHAPTER 2. ESTABLISHMENT AND REGULATION**

7 **§ 56525. License to operate wildlife habitat enhancement and management area**

8 56525. The commission may authorize the department to issue revocable,
9 nontransferable licenses for the operation of wildlife habitat enhancement and
10 management areas on any private lands it determines are suitable for habitat
11 enhancement, management, utilization, propagation, and conservation of fish and
12 wildlife resources of those lands.

13 **Comment.** Section 56525 continues the first sentence of former Fish and Game Code Section
14 3401(a) without substantive change.

15 **§ 56530. License application**

16 56530. (a) A license for a wildlife habitat enhancement and management area
17 may be issued to any landholder or combination of landholders upon approval by
18 the commission of an application submitted by the landholder. As used in this title,
19 “landholder” means any person who owns, leases, or has a possessory interest in
20 land.

21 (b) Each license application shall be accompanied by a nonrefundable fee in an
22 amount established by the commission which, in conjunction with the fees
23 collected pursuant to Section 56585, is calculated to meet the department’s actual
24 costs in administering all aspects of the habitat enhancement and management
25 program. The application shall be accompanied by a wildlife habitat enhancement
26 and management plan and any other information about the proposed wildlife
27 habitat enhancement and management area that may be required by the
28 commission.

29 (c) An application for a license may be submitted by any number of landholders
30 if all parcels to be included in the wildlife habitat enhancement and management
31 area are contiguous and, in combination, are of a size suitable for the management
32 of the species included in the wildlife habitat enhancement and management plan.
33 The landholders shall designate one landholder who shall represent them in all
34 dealings with the commission and the department. The designated landholder shall
35 be responsible for the operation of the wildlife habitat enhancement and
36 management area.

37 (d) A landholder who does not own the fee to the land may apply for a license
38 pursuant to this title only if the owner signs the application.

39 **Comment.** Section 56530 continues former Fish and Game Code Section 3402 without
40 substantive change.

1 **§ 56535. Plan and license**

2 56535. (a) Upon approval of the wildlife habitat enhancement and management
3 plan, the department shall issue a license, which shall be valid for five calendar
4 years, authorizing the taking of those species of fish, game birds, and game
5 mammals designated in the wildlife habitat enhancement and management plan,
6 pursuant to the plan and regulations of the commission for the operation of the
7 wildlife habitat enhancement and management area.

8 (b) Regulations adopted pursuant to this section may supersede any provision of
9 this code designated by number in the regulation, but shall do so only to the extent
10 specifically provided in the regulation.

11 **Comment.** Section 56535 continues former Fish and Game Code Section 3406(a) without
12 substantive change.

13 🔍 **Note.** Existing Section 3406(a) refers to “regulations adopted pursuant to this section.” That
14 reference to “this section” has been preserved in proposed Section 56535, even though Section
15 56535 would not continue the entirety of Section 3406. This appears to be appropriate, because
16 subdivision (a) of Section 3406 is the only part of that section that seems to authorize rulemaking.
17 **The Commission invites comment on whether the scope of the reference proposed in Section**
18 **56535 would cause any problems.**

19 **§ 56540. License revocation**

20 56540. After notice and a hearing, the commission may revoke the license for
21 any violation of any provision of this code or any regulations adopted pursuant
22 thereto or for any violation of the terms of the license.

23 **Comment.** Section 56540 continues former Fish and Game Code Section 3404(b) without
24 substantive change.

25 **§ 56545. Boundary posting**

26 56545. The commission shall require the landowners of a wildlife habitat
27 enhancement and management area to post all or part of its boundaries with public
28 land. The commission may require the owners of a wildlife habitat enhancement
29 and management area to post all or part of its boundaries with private land.

30 **Comment.** Section 56545 continues former Fish and Game Code Section 3403 without
31 substantive change.

32 **§ 56550. Review and reporting**

33 56550. (a) The activities conducted pursuant to each wildlife habitat
34 enhancement and management plan shall be reviewed annually by the department
35 and reviewed by the commission at a public hearing.

36 (b) Each licensee shall annually submit information to the department about past
37 activities and the activities intended to be conducted in the succeeding year. Any
38 change to the wildlife habitat enhancement and management plan or the
39 regulations applicable to the wildlife habitat enhancement and management area
40 shall be proposed to the commission by the department or the licensee at the
41 license review hearing.

1 (b) Any fish, bird, or mammal so identified may be possessed and transported at
2 any time during the period for which the tag or seal is valid.

3 (c) The fees for tags and seals shall be established by the commission in
4 amounts which, in conjunction with fees collected pursuant to Section 56530, are
5 calculated to meet the actual costs incurred by the department in administering all
6 aspects of the habitat enhancement and management program.

7 **Comment.** Section 56585 continues former Fish and Game Code Section 3407 without
8 substantive change.

9  **Note.** Existing Section 3407 refers to “Section 372 of Title 14 of the California Code of
10 Regulations.” There is no such regulation. **The Commission invites comment on how to correct
11 this erroneous reference.**

12 **§ 56590. Take of deer**

13 56590. During the first year of operation of a wildlife habitat enhancement and
14 management area under a wildlife habitat enhancement and management plan and,
15 thereafter, until the operator demonstrates habitat enhancement in the area
16 acceptable to the department, no person shall take, and the plan shall not authorize
17 the taking, of deer except during the general open season and consistent with the
18 bag and possession limits for the fish and game district or the zone in which the
19 wildlife habitat enhancement and management area is located.

20 **Comment.** Section 56590 continues former Fish and Game Code Section 3406(b) without
21 substantive change.

22 **§ 56595. Hunting during the rut**

23 56595. The commission shall authorize hunting during the rut only in a wildlife
24 habitat enhancement and management area when that hunting is consistent with
25 the management plans prepared for that area or herd and does not result in an
26 overall negative effect on the deer herd population in that area.

27 **Comment.** Section 56595 continues former Fish and Game Code Section 3401(b) without
28 substantive change.

29 TITLE 9. THE CALIFORNIA WATERFOWL
30 HABITAT PROGRAM

31 **§ 56700. Contract for conservation of waterfowl and habitat**

32 56700. (a) Subject to appropriation pursuant to Section 56740, the director may
33 enter into contracts with nonpublic entities that are owners of record, or with
34 lessees, who have the owners of record execute the contract, of land determined by
35 the director to be important for the conservation of waterfowl.

36 (b) The contract shall enforceably restrict the use of the land for the
37 conservation of waterfowl and their habitat consistent with Section 8 of Article
38 XIII of the California Constitution.

1 **Comment.** Section 56700 continues former Fish and Game Code Section 3460(a) without
2 substantive change.

3 **§ 56705. Contract term and contents**

4 56705. Each contract shall be for an initial term of 10 years and shall include all
5 of the following:

6 (a) The designation of the owner of record and any lessee, and the legal
7 description and the assessor's parcel number of the land subject to the contract.

8 (b) An agreement by the owner and any lessee to restore, enhance, and protect
9 the waterfowl habitat character of the described land and to carry out a waterfowl
10 habitat management plan developed with the department.

11 (c) Specification of the amount and date in each year that the payment is to be
12 made by the department to the owner or lessee, which shall be calculated at the
13 rate or rates that the director determines to be fair and reasonable in consideration
14 of the obligations undertaken by the owner or lessee.

15 (d) A requirement that the owner or lessee do either of the following:

16 (1) Refund to the state all payments received under the contract plus interest at
17 the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or
18 lessee's violation of the contract, or any extension thereof, if the director
19 determines that the violation warrants termination of the contract and the director
20 terminates the contract.

21 (2) Make refunds or accept payment adjustments that the director determines are
22 appropriate, not to exceed the total amount paid by the state to the owner or lessee
23 in the preceding calendar year plus interest at the legal rate, as specified in Section
24 3289 of the Civil Code, if the director determines that the violation by the owner
25 or lessee does not warrant termination of the contract.

26 (e) A requirement that the department reduce the amount of any payment to the
27 owner or lessee under subdivision (c) by an amount equal to the portion of any
28 payment under the Federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) that
29 the department determines to be in compensation for the same obligation
30 undertaken by the owner under the water bank program.

31 (f) A requirement that the department monitor compliance with the management
32 plan or contract with the United States Soil Conservation Service or other
33 appropriate agency, entity, or person to monitor compliance with the management
34 plan, and that the owner or lessee allows access for the monitoring.

35 (g) Any additional provisions that the director determines are desirable to
36 effectuate the purposes of the program or to facilitate its administration.

37 **Comment.** Section 56705 continues former Fish and Game Code Section 3461 without
38 substantive change.

39 **§ 56710. Recordation of contract**

40 56710. (a) Not later than 20 days after the director has entered into a contract
41 pursuant to this division, a copy of the contract particularly describing the subject

1 habitat as required by subdivision (a) of Section 56705 shall be recorded by the
2 department in the office of the county recorder in each county in which any
3 portion of the areas subject to the contract is located. The contract shall be indexed
4 by the recorder in the grantor-grantee index to the name of the owner of record as
5 grantor and to the department as grantee.

6 (b) Notwithstanding Section 27383 of the Government Code, the department
7 shall pay the fees for recording and indexing the contract, and the department shall
8 deduct the amount paid from the amounts due to the owner under the contract.

9 **Comment.** Section 56710 continues former Fish and Game Code Section 3462 without
10 substantive change.

11  **Note.** Existing Section 3462 refers to any contract entered into by the director pursuant to
12 “this division.” The division that contains Section 3462 addresses a broad range of subjects
13 relating to “Birds and Mammals.” Because of the breadth of that reference, the Commission
14 wonders if it is erroneously overbroad. In addition to the contracts authorized under the California
15 Waterfowl Habitat Program, the following provisions of the division authorize contracting:
16 Sections 3684, 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The Commission invites**
17 **comment on whether Section 3462 should apply to all of those sections, this title only, or**
18 **some other combination of sections?**

19 **§ 56715. Renewal of contract**

20 56715. (a) The contract shall be automatically renewed in the same manner as
21 contracts are renewed and extended, or noticed for nonrenewal, under the
22 Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of
23 Title 5 of the Government Code).

24 (b) Upon the request of the owner or lessee, the director shall reexamine the
25 payment rate for the contract at five-year intervals, considering the then current
26 management costs and, with the concurrence of the owner or lessee, make any
27 needed adjustments in rates for the remainder of the contract term.

28 **Comment.** Section 56715 continues former Fish and Game Code Section 3464 without
29 substantive change.

30 **§ 56720. Modification of terms**

31 56720. The director and the owner or lessee may mutually agree to modify the
32 terms and conditions of a contract under this division as the director may
33 determine to be desirable to carry out the purposes of, or to facilitate
34 administration of, the program.

35 **Comment.** Section 56720 continues former Fish and Game Code Section 3466 without
36 substantive change.

37  **Note.** Existing Section 3466 refers to any contract entered into by the director pursuant to
38 “this division.” The division that contains Section 3466 addresses a broad range of subjects
39 relating to “Birds and Mammals.” Because of the breadth of that reference, the Commission
40 wonders if it is erroneously overbroad. In addition to the contracts authorized under the California
41 Waterfowl Habitat Program, the following provisions of the division authorize contracting:
42 Sections 3684, 3686, 3702, 3704.5, 3802, 3851, 3853, 3953, 4154. **The Commission invites**

1 **comment on whether Section 3462 should apply to all of those sections, this title only, or**
2 **some other combination of sections?**

3 **§ 56725. Change in ownership**

4 56725. (a) If during the contract period the owner or lessee is divested of the use
5 of the waterfowl habitat subject to the contract, the owner or lessee shall notify the
6 department concurrent with that divestment. Any unearned payment shall
7 immediately be refunded by the owner or lessee to the department.

8 (b) If the owner or lessee divests himself or herself of the use of the area subject
9 to a contract by sale or otherwise, the person succeeding to that use is subject to all
10 of the terms and conditions of the contract.

11 **Comment.** Section 56725 continues former Fish and Game Code Section 3465 without
12 substantive change.

13 **§ 56730. Priorities**

14 56730. The director shall give priority to contracts that have the greatest
15 potential for restoring, enhancing, and protecting high quality waterfowl habitat,
16 especially that which is subject to destruction, drastic modification, or significant
17 curtailment of habitat values.

18 **Comment.** Section 56730 continues former Fish and Game Code Section 3460(b) without
19 substantive change.

20 **§ 56735. Application of Public Contract Code**

21 56735. Contracts entered into pursuant to Section 56700 are not subject to Part 2
22 (commencing with Section 10100) of Division 2 of the Public Contract Code.

23 **Comment.** Section 56735 continues former Fish and Game Code Section 3460(c) without
24 substantive change.

25 **§ 56740. California Waterfowl Habitat Preservation Account**

26 56740. (a) The California Waterfowl Habitat Preservation Account is hereby
27 created in the Fish and Game Preservation Fund, and the money in the account
28 shall be transferred to the Surplus Money Investment Fund for investment
29 pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Division 4
30 of Title 2 of the Government Code.

31 (b) The proceeds of the investment deposited in the account shall be available,
32 upon appropriation by the Legislature, for expenditure pursuant to this title.

33 (c) Not more than 7 percent of the money appropriated from the account for
34 expenditure in any fiscal year shall be expended in that fiscal year for
35 administrative costs of the department.

36 **Comment.** Section 56740 continues former Fish and Game Code Section 3467 without
37 substantive change.

1 TITLE 10. SALTON SEA RESTORATION

2 CHAPTER 1. GENERAL PROVISIONS

3 § 56800. Short title

4 56800. This title shall be known and may be cited as the Salton Sea Restoration
5 Act.

6 **Comment.** Section 56800 continues former Fish and Game Code Section 2930 without
7 substantive change.

8 § 56805. Legislative intent

9 56805. It is the intent of the Legislature that the State of California undertake the
10 restoration of the Salton Sea ecosystem and the permanent protection of the
11 wildlife dependent on that ecosystem.

12 **Comment.** Section 56805 continues former Fish and Game Code Section 2931(a) without
13 substantive change.

14 § 56810. Findings and declarations

15 56810. The Legislature finds and declares all of the following:

16 (a) The Salton Sea is California's largest inland water body with beneficial uses
17 that include fisheries and wildlife habitat and preservation of endangered species,
18 and is a repository for agricultural drainage.

19 (b) The Salton Sea ecosystem is a critical link on the international Pacific
20 Flyway and supports over 400 species of birds.

21 (c) The Salton Sea is threatened by increasing salinity and reduced inflows.
22 These changes increasingly threaten the unparalleled wildlife resources at the sea,
23 as well as air quality in the region.

24 (d) In cooperation with local governments, nonprofit organizations, private
25 businesses, and the public, the Salton Sea Authority can help protect wildlife
26 habitats and endangered species, improve water and air quality, and enhance
27 recreational opportunities in the region.

28 (e) In restoring the Salton Sea, it is the intent of the Legislature to do all of the
29 following:

30 (1) Protect and provide long-term conservation of fish and wildlife that are
31 dependent on the Salton Sea ecosystem.

32 (2) Restore the long-term stable aquatic and shoreline habitat for fish and
33 wildlife that depend on the Salton Sea.

34 (3) Mitigate air quality impacts from restoration projects using the best available
35 technology or best available control measures, as determined by the South Coast
36 Air Quality Management District and the Imperial County Air Pollution Control
37 District.

38 (4) Protect water quality.

39 (5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

1 (6) Preserve local tribal heritage and cultural values associated with the Salton
2 Sea.

3 (7) Minimize noxious odors and other water and air quality problems.

4 (8) Coordinate with local, state, and federal agencies that are responsible for air
5 quality, endangered species, and other environmental mitigation implementation
6 requirements of the Quantification Settlement Agreement.

7 (9) Enhance economic development opportunities that will provide sustainable
8 financial improvements benefiting the local environment and the economic quality
9 of life for communities around the Salton Sea.

10 **Comment.** Section 56810 continues former Fish and Game Code Section 2940 without
11 substantive change.

12 **§ 56815. Definitions**

13 56815. Unless the context requires otherwise, the definitions set forth in this
14 section govern the construction of this title.

15 (a) “Agency” means the Natural Resources Agency.

16 (b) “Habitat mosaics” means two or more proximate habitat types, such as
17 saltwater shoreline abutting riverine deltas and irrigated farmland.

18 (c) “Quantification Settlement Agreement” has the same meaning as defined in
19 subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.

20 (d) “Salton Sea Authority” or “authority” means the joint powers authority
21 comprised of the County of Imperial, the County of Riverside, the Imperial
22 Irrigation District, the Coachella Valley Water District, and the Torres Martinez
23 Desert Cahuilla Indian Tribe.

24 (e) “Secretary” means the Secretary of the Natural Resources Agency.

25 (f) “Vector management” means services that eliminate or reduce the risk of
26 illness caused by any organism transporting a pathogen.

27 **Comment.** Section 56815 generalizes former Fish and Game Code Section 2941 without
28 substantive change.

29 **Note.** Existing Section 2941 applies, by its terms, to Article 2 (commencing with Section
30 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56815 would
31 generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The**
32 **Commission invites comment on whether that change would cause any problems.**

33 **§ 56820. Effect of article**

34 56820. (a) Nothing in this title interferes with or prevents the exercise of
35 authority by a public agency to carry out its programs, projects, or responsibilities.

36 (b) Nothing in this title affects requirements imposed under any other provision
37 of law.

38 **Comment.** Section 56820 generalizes former Fish and Game Code Section 2945 without
39 substantive change.

40 **Note.** Existing Section 2945 applies, by its terms, to Article 2 (commencing with Section
41 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56820 would

1 generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The**
2 **Commission invites comment on whether that change would cause any problems.**

3 **§ 56825. Quantification Settlement Agreement**

4 56825. Nothing in this title shall alter any state responsibility under the
5 Quantification Settlement Agreement or the state's authority to carry out any
6 responsibility under the Quantification Settlement Agreement.

7 **Comment.** Section 56825 generalizes former Fish and Game Code Section 2942(a)(2) without
8 substantive change.

9  **Note.** Existing Section 2942 applies, by its terms, to Article 2 (commencing with Section
10 2940) of Chapter 13 of Division 3 of the Fish and Game Code. Proposed Section 56825 would
11 generalize the provision slightly, so that it also applies to Article 1 of Chapter 13. **The**
12 **Commission invites comment on whether that change would cause any problems.**

13 **CHAPTER 2. FINANCES**

14 **§ 56850. Creation and use of Salton Sea Restoration Fund**

15 56850. (a) There is hereby established the Salton Sea Restoration Fund, which
16 shall be administered by the director.

17 (b) Money deposited in the fund shall be expended, upon appropriation by the
18 Legislature, for the following purposes:

19 (1) Environmental and engineering studies related to the restoration of the
20 Salton Sea and the protection of fish and wildlife dependent on the sea.

21 (2) Implementation of conservation measures necessary to protect the fish and
22 wildlife species dependent on the Salton Sea, including adaptive management
23 measurements pursuant to Article 1 (commencing with Section 63300) of Chapter
24 6 of Title 3 of Division 17. These conservation measures shall be limited to the
25 Salton Sea and lower Colorado River ecosystems, including the Colorado River
26 Delta.

27 (3) Implementation of the preferred Salton Sea restoration alternative.

28 (4) Administrative, technical, and public outreach costs related to the
29 development and selection of the preferred Salton Sea restoration alternative.

30 **Comment.** Section 56850 continues former Fish and Game Code Section 2932 without
31 substantive change.

32 **§ 56855. Funds appropriated pursuant to Water Code § 79565**

33 56855. Of the funds appropriated pursuant to Section 79565 of the Water Code,
34 not less than eight million five hundred thousand dollars (\$8,500,000) shall be
35 made available for transfer or direct expenditure for acquisition, grants, or other
36 activities that directly restore the Salton Sea and its transboundary watersheds,
37 consistent with Section 56850.

38 **Comment.** Section 56855 continues former Fish and Game Code Section 2932.2 without
39 substantive change.

1 Chapter 6 of Title 3 of Division 17 and using the funds made available in
2 accordance with that section to be deposited in the Salton Sea Restoration Fund
3 and other funds made available by the Legislature and the federal government.

4 (b) The preferred alternative shall provide the maximum feasible attainment of
5 the following objectives:

6 (1) Restoration of long-term stable aquatic and shoreline habitat for the historic
7 levels and diversity of fish and wildlife that depend on the Salton Sea.

8 (2) Elimination of air quality impacts from the restoration projects.

9 (3) Protection of water quality.

10 **Comment.** Section 56900 continues former Fish and Game Code Section 2931(b)-(c) without
11 substantive change.

12 **§ 56905. Salton Sea Species Conservation Habitat Project**

13 56905. The department and the Department of Water Resources shall do all of
14 the following for the Salton Sea Species Conservation Habitat Project:

15 (a) Immediately make available relevant information relating to the factors that
16 influence the cost and size of the alternatives discussed in the environmental
17 impact report or environmental impact statement for the species habitat
18 conservation program.

19 (b) Release all available detail on a final project design immediately, or upon
20 final determination of a least environmentally damaging preferred alternative by
21 the United States Army Corps of Engineers. Details of a final project design shall
22 include location, configuration, size, and cost.

23 (c) Immediately make available project evaluation protocols that include the
24 following principles of adaptive management:

25 (1) Goals and objectives of the project.

26 (2) The project design and an operations plan.

27 (3) A monitoring plan that will include metrics that identify benefits to the
28 species.

29 (4) A performance evaluation based on species population identified through
30 monitoring.

31 (5) A decisionmaking framework to evaluate project performance and guide
32 operations and management changes.

33 **Comment.** Section 56905 continues former Fish and Game Code Section 2942(a)(3)(B)
34 without substantive change.

35 **§ 56910. Secretary responsibilities**

36 56910. The secretary, in consultation and coordination with the authority, shall
37 lead the Salton Sea restoration efforts that shall include all of the following:

38 (a) Early start habitat demonstration projects.

39 (b) Biological investigations relating to the restoration of the Salton Sea.

40 (c) Investigations of water quality, sedimentation, and inflows relating to the
41 restoration of the Salton Sea.

1 (d) Air quality investigations, in consultation and coordination with local and
2 regional air quality agencies, relating to the restoration of the Salton Sea.

3 (e) Geotechnical investigations relating to the restoration of the Salton Sea.

4 (f) Financial assistance grant programs to support restoration activities of local
5 stakeholders.

6 **Comment.** Section 56910 continues former Fish and Game Code Section 2942(a)(1) without
7 substantive change.

8 **§ 56915. Department of Water Resources restoration efforts**

9 56915. To the extent that funding is appropriated to the department for Salton
10 Sea restoration activities, the Department of Water Resources, in coordination and
11 under agreement with the department, may undertake restoration efforts identified
12 in Sections 56905 and 56910.

13 **Comment.** Section 56915 continues former Fish and Game Code Section 2942(a)(3)(A)
14 without substantive change.

15 **§ 56920. Department of Water Resources contracts**

16 56920. The Department of Water Resources may contract with water suppliers
17 to purchase and sell water made available pursuant to Section 1745.02 of the
18 Water Code to achieve the goals of this title.

19 **Comment.** Section 56920 continues former Fish and Game Code Section 2933 without
20 substantive change.

21 **§ 56925. Department of Water Resources design-build procurement authority**

22 56925. Notwithstanding any other law, the Department of Water Resources is
23 authorized to use design-build procurement authority for projects constructed at
24 the Salton Sea in accordance with Article 6 (commencing with Section 10187) of
25 Chapter 1 of Part 2 of Division 2 of the Public Contract Code.

26 **Comment.** Section 56925 continues former Fish and Game Code Section 2942(c) without
27 substantive change.

28 **§ 56930. Feasibility study**

29 56930. The authority may lead a feasibility study, in coordination and under
30 contract with the secretary, to do the following:

31 (a) Investigate access and utility agreements that may contribute to the future
32 funding of restoration activities at the Salton Sea.

33 (b) Analyze all feasible funding sources for restoration program components and
34 activities.

35 (c) Analyze economic development opportunities, including, but not limited to,
36 renewable energy, biofuels, mineral development, and algae production for the
37 purposes of identifying new revenue sources for the Salton Sea restoration efforts.

38 (d) Identify state procurement and royalty sharing opportunities.

39 (e) Review existing long-term plans for restoration of the Salton Sea and
40 recommend to the secretary changes to existing restoration plans. In any review

1 pursuant to this subparagraph, the authority shall consider the impacts of the
2 restoration plan on air quality, fish and wildlife habitat, water quality, and the
3 technical and financial feasibility of the restoration plan and shall consider the
4 impacts on other agencies responsible for air quality, endangered species, and
5 other environmental mitigation requirements for implementation of the
6 Quantification Settlement Agreement.

7 **Comment.** Section 56930 continues former Fish and Game Code Section 2942(b)(1) without
8 substantive change.

9 **§ 56935. Local, publicly derived input**

10 56935. For the purposes of considering local, publicly derived input concerning
11 habitat objectives and actions, types and levels of public access, and integration of
12 air quality management and habitat restoration, the secretary shall seek input from
13 the authority with regard to the following components of restoration of the Salton
14 Sea:

15 (a) Design opportunities and constraints, including the integration of the habitat,
16 public access, and air quality management objectives.

17 (b) Public access and recreational components.

18 (c) Opportunities for economic development.

19 (d) Habitat mosaics and location.

20 (e) Vector management and predator control.

21 (f) Feasible financial resources to fund all recommended restoration program
22 components.

23 **Comment.** Section 56935 continues former Fish and Game Code Section 2943 without
24 substantive change.

25 **§ 56940. Delay prohibited**

26 56940. No evaluation, study, review, or other activity pursuant to this chapter
27 shall delay the planning and implementation of ongoing and planned restoration or
28 mitigation projects, including, but not limited to, the Salton Sea Species
29 Conservation Habitat Project or other measures pursuant to existing state and
30 federal programs and agreements.

31 **Comment.** Section 56940 continues former Fish and Game Code Section 2942(b)(2) without
32 substantive change.

33 **§ 56945. Salton Sea ecosystem**

34 56945. For the purpose of the restoration plan, the Salton Sea ecosystem shall
35 include, but is not limited to, the Salton Sea, the agricultural lands surrounding the
36 Salton Sea, and the tributaries and drains within the Imperial and Coachella
37 Valleys that deliver water to the Salton Sea.

38 **Comment.** Section 56945 continues former Fish and Game Code Section 2931(d) without
39 substantive change.

1 TITLE 11. INLAND WETLANDS
2 CONSERVATION PROGRAM

3 CHAPTER 1. DEFINITIONS

4 § 57000. Application

5 57000. Unless the context otherwise requires, the definitions in this chapter
6 govern the construction of this title.

7 **Comment.** Section 57000 continues former Fish and Game Code Section 1400 without
8 substantive change.

9 § 57005. “Fund”

10 57005. “Fund” means the Inland Wetlands Conservation Fund, created in the
11 Wildlife Restoration Fund by Section 57635.

12 **Comment.** Section 57005 continues former Fish and Game Code Section 1401 without
13 substantive change.

14 § 57510. “Board”

15 57510. “Board” means the Wildlife Conservation Board created by Section
16 54750.

17 **Comment.** Section 57510 continues former Fish and Game Code Section 1402 without
18 substantive change.

19 § 57515. “Inland area”

20 57515. “Inland areas” means the entire area of California except lands under the
21 jurisdiction of the State Coastal Conservancy, lands within the Santa Monica
22 Mountains Zone, as defined in Section 33105 of the Public Resources Code, and
23 lands under the jurisdiction of the California Tahoe Conservancy Agency in the
24 Lake Tahoe region, as defined in Section 66905.5 of the Government Code.

25 **Comment.** Section 57515 continues former Fish and Game Code Section 1403 without
26 substantive change.

27 § 57520. “Program”

28 57520. “Program” means the Inland Wetlands Conservation Program, as
29 provided in this title.

30 **Comment.** Section 57520 continues former Fish and Game Code Section 1404 without
31 substantive change.

32 § 57525. “Nonprofit organization”

33 57525. “Nonprofit organization” means an organization described in subsection
34 (c) of Section 501 of the Internal Revenue Code of the United States (26 U.S.C.
35 501(c)).

1 **Comment.** Section 57525 continues former Fish and Game Code Section 1405 without
2 substantive change.

3 CHAPTER 2. THE INLAND WETLANDS CONSERVATION
4 PROGRAM

5 **§ 57550. Creation**

6 57550. The Inland Wetlands Conservation Program is hereby created in the
7 board.

8 **Comment.** Section 57550 continues former Fish and Game Code Section 1410 without
9 substantive change.

10 **§ 57555. Administration**

11 57555. The board shall administer the program.

12 **Comment.** Section 57555 continues the second sentence of former Fish and Game Code
13 Section 1411(a) without substantive change.

14 **§ 57560. Purpose and goal of program**

15 57560. The purpose and goal of the program is to carry out the programs of the
16 Central Valley Habitat Joint Venture.

17 **Comment.** Section 57560 continues former Fish and Game Code Section 1411(c) without
18 substantive change.

19 **§ 57565. Acquisition of interest in land**

20 57565. The board may acquire or accept the gift or dedication of fee title,
21 easements, leases, development rights, or other interests in lands in inland areas
22 necessary to carry out the purposes of this title.

23 **Comment.** Section 57565 continues former Fish and Game Code Section 1413 without
24 substantive change.

25 **§ 57570. Federal surplus land sales**

26 57570. The board shall coordinate its activities in the program with federal
27 surplus land sales in inland areas.

28 **Comment.** Section 57570 continues former Fish and Game Code Section 1414 without
29 substantive change.

30 **§ 57575. Land transactions**

31 57575. (a) Notwithstanding any other provision of law, the board may lease,
32 rent, sell, exchange, or otherwise transfer any land, interest in land, or option
33 acquired pursuant to this title for the purposes of carrying out the program.

34 (b) The proceeds from any lease, rental, sale, exchange, or transfer of land, or
35 any interest therein, or option thereon, shall be deposited in the fund.

36 **Comment.** Section 57575 continues former Fish and Game Code Section 1415 without
37 substantive change.

1 **§ 57580. Grants and loans**

2 57580. (a) The board may make grants or loans to nonprofit organizations, local
3 governmental agencies, and state departments and agencies for the purpose of
4 wetland and associated upland habitat acquisition, restoration, or enhancement in
5 the same manner and subject to the same provisions as prescribed in Section
6 31116 of the Public Resources Code.

7 (b) Proceeds from repayment of any loans and the interest thereon shall be
8 deposited in the fund.

9 **Comment.** Section 57580 continues former Fish and Game Code Section 1416 without
10 substantive change.

11 **§ 57585. Lease of nonwetlands habitat for restoration**

12 57585. (a) The board may lease nonwetlands habitat in need of restoration to
13 nonprofit organizations, local governmental agencies, and state departments and
14 agencies under agreements in which the lessee agrees to restore the wetlands to
15 their highest possible wetland value and maintain the wetlands at that highest
16 possible wetland value.

17 (b) Proceeds from any lease or rental and interest thereon shall be deposited in
18 the fund.

19 **Comment.** Section 57585 continues former Fish and Game Code Section 1417 without
20 substantive change.

21 **§ 57590. Sale of restored habitat**

22 57590. (a) The board may acquire former wetlands and associated upland
23 habitat, restore those areas, and sell the lands, or any interest therein, to private
24 owners, local governmental agencies, and state departments and agencies or
25 exchange them for other land, if an agreement is secured to keep and maintain the
26 lands as wetlands in perpetuity.

27 (b) The agreement shall contain a reversion if the lands sold or exchanged are
28 not maintained as wetlands.

29 (c) The agreement containing the reversion shall be set forth in any conveyance
30 transferring any land, interest in land, or option subject to this section.

31 (d) Proceeds from the sales or exchanges shall be deposited in the fund.

32 **Comment.** Section 57590 continues former Fish and Game Code Section 1418 without
33 substantive change.

34 **§ 57595. Grant and loan preferences**

35 57595. (a) In reviewing any grant or loan application, preference shall be given
36 to projects on wetlands that have a secure source of water or are adjacent to
37 existing wetlands that are protected by public ownership or conservation
38 easements, or both.

39 (b) The board shall give preference to wintering habitat in the central valley.

40 **Comment.** Section 57595 continues former Fish and Game Code Section 1420 without
41 substantive change.

1 **§ 57635. Use of funds**

2 57635. The money in the Inland Wetlands Conservation Fund shall be solely
3 used to carry out the Inland Wetlands Conservation Program, including the
4 administrative costs of the program.

5 **Comment.** Section 57635 continues the second sentence of former Fish and Game Code
6 Section 1430 without substantive change.

7 **§ 57640. Continuous appropriation**

8 57640. Notwithstanding Section 13340 of the Government Code, the money in
9 the fund is continuously appropriated to the board to carry out this title.

10 **Comment.** Section 57640 continues the second sentence of former Fish and Game Code
11 Section 1431 without substantive change.

12 **§ 57645. Funding**

13 57645. (a) The Inland Wetlands Conservation Program is the program
14 designated for use of the funds allocated pursuant to subdivision (f) of Section
15 55855, as enacted by the California Wildlife Protection Act of 1990.

16 (b) The board is the agency designated for receipt of the funds allocated
17 pursuant to subdivision (f) of Section 55855, as enacted by the California Wildlife
18 Protection Act of 1990.

19 **Comment.** Subdivision (a) of Section 57645 continues the first sentence of former Fish and
20 Game Code Section 1411(a) without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 1411(b).

22 **§ 57650. Acceptance of financial support**

23 57650. The board may apply for and accept federal grants and receive gifts,
24 donations, subventions, rent, royalties, and other financial support from public and
25 private sources for the purposes of the program.

26 **Comment.** Section 57650 continues former Fish and Game Code Section 1412 without
27 substantive change.

28 **§ 57655. Surplus funds**

29 57655. Any funds remaining after an eligible acquisition, restoration, or
30 enhancement of any project under Chapter 2 (commencing with Section 57550)
31 shall be returned to the board and shall be deposited in the fund.

32 **Comment.** Section 57655 continues former Fish and Game Code Section 1419 without
33 substantive change.

1 TITLE 12. CALIFORNIA RIPARIAN HABITAT
2 CONSERVATION PROGRAM

3 CHAPTER 1. GENERAL PROVISIONS

4 § 57700. Short title

5 57700. This title shall be known and may be cited as the California Riparian
6 Habitat Conservation Act.

7 **Comment.** Section 57700 continues former Fish and Game Code Section 1385 without
8 substantive change.

9 § 57705. Findings and declarations

10 57705. The Legislature finds and declares all of the following:

11 (a) California's rivers, wetlands, and waterways, and the fisheries and wildlife
12 habitat they provide, are valuable and finite resources that benefit the people of the
13 state and are threatened with deterioration or degeneration that may endanger the
14 natural beauty and productivity of these valuable resources.

15 (b) The public interest requires the coordinated protection of rivers and riparian
16 resources in order to maintain an equilibrium between the natural endowment of,
17 and manmade alterations to, California's river environment, and in order to
18 preserve the scenic beauty of these natural resources and the recreational and
19 economic benefits they provide.

20 (c) By virtue of the special conditions and circumstances of the natural ecology,
21 the increasing human populations and needs in the state, and the numerous
22 governmental agencies with an interest in coordinating activities that affect rivers
23 and riparian habitat resources, there is a need for a coordinated state rivers and
24 riparian habitat protection program.

25 **Comment.** Section 57705 continues former Fish and Game Code Section 1386 without
26 substantive change.

27 § 57710. Primary concern

28 57710. The preservation and enhancement of riparian habitat shall be a primary
29 concern of the board and the department, and of all state agencies whose activities
30 impact riparian habitat, including the Department of Conservation, the Department
31 of Parks and Recreation, the Department of Water Resources, the Department of
32 Forestry and Fire Protection, the State Coastal Conservancy, the California
33 Conservation Corps, the California Tahoe Conservancy, the Santa Monica
34 Mountains Conservancy, the California Coastal Commission, the San Francisco
35 Bay Conservation and Development Commission, and the State Lands
36 Commission.

37 **Comment.** Section 57710 continues former Fish and Game Code Section 1389 without
38 substantive change.

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CHAPTER 2. ADMINISTRATION

§ 57725. California Riparian Habitat Conservation Program

57725. (a) The board shall establish and administer, through the department, the California Riparian Habitat Conservation Program pursuant to this title and Title 1 (commencing with Section 54700).

(b) The purpose and goal of the program is to protect, preserve, and restore riparian habitats throughout the state by the acquisition of interests and rights in real property and waters to the extent deemed necessary to carry out the purposes of the program.

Comment. Section 57725 continues former Fish and Game Code Section 1387 without substantive change.

§ 57730. Activities

57730. The board, pursuant to this title, shall approve projects to acquire, preserve, restore, and enhance riparian habitat throughout the state, and coordinate its activities undertaken pursuant to this program with other resources protection activities of the board and other state agencies.

Comment. Section 57730 continues former Fish and Game Code Section 1388 without substantive change.

§ 57735. Department authority

57735. In order to accomplish the objectives of this title, the board may authorize the department to do all of the following:

(a) Acquire interests in real property and water rights through gift, purchase, lease, easement, and transfer or exchange of easements, development rights or credits, and other interests in real property.

(b) Coordinate its activities under the program with any governmental program for surplus real property sales in the state.

(c) Award grants and loans to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this program.

(d) For the purposes of this title, “nonprofit organization” means any private, nonprofit organization that qualifies for exempt status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, and has among its principal charitable purposes the preservation of real property for scientific, historic, educational, recreational, scenic or open-space values, the protection of the natural environment, or the preservation and enhancement of fisheries and wildlife or their habitat.

(e) Exercise any authority and comply with requirements contained in Sections 54815 and 54845 through 54855, inclusive, as appropriate, to preserve and enhance riparian habitat for purposes of this title.

Comment. Section 57735 continues former Fish and Game Code Section 1390 without substantive change.

1 **§ 58010. Description of funded projects and programs**

2 58010. The department shall post a brief description of projects or programs
3 funded by moneys received pursuant to the Federal Aid in Wildlife Restoration
4 Act on its Internet Web site. The description shall include information about the
5 budget of each project or program.

6 **Comment.** Section 58010 continues former Fish and Game Code Section 711.1(c) without
7 substantive change.

8 **§ 58015. Consultation with advisory committees**

9 58015. The department shall consult with any of the advisory committees
10 established pursuant to Sections 29540, 30565, and 31915 regarding all projects
11 funded by the Federal Aid in Wildlife Restoration Act that are relevant to the
12 committee or committees.

13 **Comment.** Section 58015 continues former Fish and Game Code Section 711.1(d) without
14 substantive change.

15 **Note.** Existing Section 711.1(d) refers to “advisory committees established pursuant to
16 Sections 3684, 3702.1, and 3953.” Proposed Section 58015 would narrow that reference to refer
17 only to the parts of those sections that authorize the establishment of advisory committees. **The**
18 **Commission invites Comment on whether that revision would cause any problems.**

19 **TITLE 2. FISH AND GAME MITIGATION AND**
20 **PROTECTION ACCOUNTS**

21 **§ 58050. Establishment of Accounts**

22 58050. There are hereby established, initially in the Special Deposit Fund,
23 continued in existence by Section 16370 of the Government Code, both of the
24 following accounts:

25 (a) The Fish and Game Mitigation and Protection Endowment Principal
26 Account. The department shall deposit in this account the endowment funds
27 received by the department pursuant to an agreement described in Section 58055
28 and all earnings generated thereon. The earnings shall be available to the
29 department, upon appropriation by the Legislature, to fund long-term
30 management, enhancement, monitoring, and enforcement activities on habitat
31 lands in a manner consistent with the terms of the underlying agreement.

32 (b) The Fish and Game Mitigation and Protection Expendable Funds Account.
33 The department shall deposit in this account moneys received pursuant to an
34 agreement described in Section 58055 that are not endowment funds and that are
35 designated for expenditure for the purposes described in subdivision (b) of that
36 section. Notwithstanding Section 13340 of the Government Code, the moneys in
37 the account established by this subdivision are hereby continuously appropriated
38 to the department for expenditure without regard to fiscal year, for the purposes
39 described in this title.

1 **Comment.** Section 58050 continues former Fish and Game Code Section 13014(a) without
2 substantive change.

3 **§ 58055. Deposits**

4 58055. (a) The department may deposit moneys into the accounts established
5 pursuant to Section 58050 that it receives pursuant to any of the following, if those
6 moneys are received for the purposes described in subdivision (b):

7 (1) Agreements or permits pursuant to the Natural Communities Conservation
8 Planning Act (Title 2 (commencing with Section 64500) of Part 2 of Division 17).

9 (2) Conservation bank agreements.

10 (3) Habitat conservation implementation agreements.

11 (4) Incidental take permits.

12 (5) Legal or other written settlements.

13 (6) Mitigation agreements.

14 (7) Streambed or lakebed alteration agreements.

15 (8) Trust agreements.

16 (b) The department may deposit the moneys received pursuant to an agreement
17 described in subdivision (a) in an account established by this title only if it
18 receives those moneys for at least one of the following purposes:

19 (1) Mitigating the adverse biological impacts of a specific project, activity, spill,
20 or release.

21 (2) Protecting, conserving, restoring, enhancing, managing, and maintaining
22 fish, wildlife, native plants, or their habitats.

23 **Comment.** Section 58055 continues former Fish and Game Code Section 13014(b) without
24 substantive change.

25 **§ 58060. Transfer to another account**

26 58060. (a) While the Fish and Game Mitigation and Protection Endowment
27 Principal Account and the Fish and Game Mitigation and Protection Expendable
28 Funds Account are initially established in the Special Deposit Fund within the
29 Pooled Money Investment Account, the Treasurer's office shall, at the
30 department's request, transfer these funds from the Pooled Money Investment
31 Account to another account within the State Treasury system to increase earnings
32 over time while providing adequate liquidity. If either or both of these accounts
33 are transferred from the Pooled Money Investment Account, assets in the
34 transferred account or accounts may be held and invested in any of the
35 investments identified in Section 16430 of the Government Code, except that the
36 maturity date of commercial paper may exceed the limits set forth in Section
37 16430 of the Government Code. These investments shall be made as determined
38 and directed by the department.

39 (b) To develop and maintain the investment strategy for these accounts, the
40 department may retain investment advisers deemed acceptable to the Treasurer.

41 **Comment.** Section 58060 continues former Fish and Game Code Section 13014(c)-(d) without
42 substantive change.

1 TITLE 3. HABITAT MAINTENANCE
2 ASSESSMENT DISTRICTS

3 § 58075. Short title

4 58075. This title shall be known and may be cited as the Habitat Maintenance
5 Funding Act.

6 **Comment.** Section 58075 continues former Fish and Game Code Section 2900 without
7 substantive change.

8 § 58080. Assessment districts

9 58080. (a) A local agency may establish an assessment district pursuant to
10 Article 3.1 (commencing with Section 50060) of Chapter 1 of Part 1 of Division 1
11 of Title 5 of the Government Code for the improvement or maintenance of natural
12 habitat, in a manner consistent with the policies and procedures of this code.
13 Funds generated pursuant to this title may not be allocated to implement a plan
14 without the approval of the owner of the land to be improved.

15 (b) A local agency may provide for the long-term maintenance of natural habitat
16 pursuant to Section 50060.5 of the Government Code only pursuant to a plan for
17 the conservation of natural habitat approved by the department.

18 **Comment.** Section 58080 continues former Fish and Game Code Section 2901 without
19 substantive change.

20 DIVISION 16. PROTECTED AND MANAGED AREAS

21 PART 1. REFUGES

22 TITLE 1. REFUGES GENERALLY

23 § 58500. Commission regulation of refuges

24 58500. The commission may:

25 (a) Authorize the department to issue, under any restrictions it deems best,
26 permits that authorize the person named therein to carry, use, and possess, within a
27 refuge, firearms, traps, or other contrivances for taking birds, mammals, fish,
28 amphibians, or reptiles.

29 (b) Except as provided in subdivision (c) of Section 59865, Sections 59705 and
30 59715, and subdivisions (a) and (b) of Section 59865, authorize the department to
31 issue permits that authorize the person named therein to take birds, mammals, fish,
32 amphibians, or reptiles within a refuge.

33 (c) Adopt regulations not in conflict with any law for the protection of birds,
34 mammals, fish, amphibians, reptiles, or marine life within a refuge.

35 **Comment.** Section 58500 continues former Fish and Game Code Section 10502(b)-(d) without
36 substantive change.

1 **§ 58505. Commission powers**

2 58505. For the purposes of propagating, feeding, and protecting birds,
3 mammals, fish, amphibians, and reptiles, the commission may do all of the
4 following:

5 (a) Accept, on behalf of the state, donations of an interest in land within a
6 refuge.

7 (b) Accept, on behalf of the state, from a person owning and in possession of
8 patented land, other than land covered and uncovered by the ordinary daily tide of
9 the Pacific Ocean, the right to preserve and protect all birds, mammals, fish,
10 amphibians, and reptiles on the patented land.

11 (c) Accept, on behalf of the state, donations of birds, mammals, fish,
12 amphibians, and reptiles, and of money given or appropriated. Those donations
13 shall be used for the purposes for which they are accepted, and, as nearly as may
14 be, for any purpose indicated by the donor.

15 **Comment.** Section 58505 continues former Fish and Game Code Section 10503(a)-(c) without
16 substantive change.

17 ☞ **Note.** Existing Section 10503(b) and (c) are not expressly limited to refuge-related activities.
18 **Should they be? Or are those provisions best understood as expressing general powers of**
19 **the commission?**

20 **§ 58515. Enforcement**

21 58515. The department and the district attorney, sheriff, and all peace officers of
22 the county in which any refuge or part thereof is situated, shall enforce all of the
23 provisions of this code relating to the refuge, and institute and assist in
24 prosecutions for violations thereof.

25 **Comment.** Section 58515 continues former Fish and Game Code Section 10508 without
26 substantive change.

27 **§ 58520. Take in refuge**

28 58520. No specification of an open season in any area authorizes the taking of a
29 bird, mammal, fish, amphibian, or reptile from a refuge within that area from
30 which the taking is prohibited by this code.

31 **Comment.** Section 58520 continues former Fish and Game Code Section 10510 without
32 substantive change.

33 **§ 58525. Application of provisions governing Fish and Wildlife District**

34 58525. Except as they may conflict with refuge provisions, the provisions of this
35 code relating to a particular fish and wildlife district shall apply to each refuge
36 lying wholly, or in major part, within the boundaries of the district.

37 **Comment.** Section 58525 continues former Fish and Game Code Section 10511 without
38 substantive change.

1 **§ 58530. Flight restrictions**

2 58530. (a) It is unlawful to fly any aircraft, including any airplane or helicopter,
3 less than 3,000 feet above water or land over the Sespe Condor Sanctuary, and less
4 than 1,000 feet above water or land over the Año Nuevo State Reserve, the
5 Farallon Islands Game Refuge, the Point Lobos State Reserve, the California Sea
6 Otter Game Refuge, and Anacapa, San Miguel, Santa Barbara, and San Nicolas
7 Islands, except for rescue operations, in case of any emergency, or for scientific or
8 filmmaking purposes under a permit issued by the department after a review of
9 potential biological impacts.

10 (b) This section does not apply to the landing of any aircraft, including any
11 airplane or helicopter, on Anacapa, San Miguel, Santa Barbara, San Nicolas, and
12 Farallon Islands for administrative or operational purposes of the National Park
13 Service, the United States Navy, or the United States Coast Guard.

14 **Comment.** Section 58530 continues former Fish and Game Code Section 10501.5 without
15 substantive change.

16 **TITLE 2. FISH REFUGES**

17 **CHAPTER 1. FISH REFUGES GENERALLY**

18 **§ 58550. Prohibitions**

19 58550. (a) Except under a permit or specific authorization, it is unlawful to take
20 or possess a fish or amphibian in a fish refuge, or to use or have in possession in
21 that refuge a contrivance designed to be used for catching fish.

22 (b) The punishment for a violation of this section is a fine of not more than two
23 thousand dollars (\$2,000), imprisonment in a county jail for not more than one
24 year, or both the fine and imprisonment.

25 **Comment.** Subdivision (a) of Section 58550 continues the part of former Fish and Game Code
26 Section 10500(c) without substantive change.

27 Subdivision (b) continues former Fish and Game Code Section 12002(b)(6) without
28 substantive change.

29 **§ 58555. Commission control of fish**

30 58555. The commission may exercise control over all fish in a fish refuge.

31 **Comment.** Section 58555 continues the part of former Fish and Game Code Section 10502(a)
32 that applies to a fish refuge, without substantive change.

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CHAPTER 2. SPECIFIC FISH REFUGES

Article 1. General Provisions

§ 58600. Described areas

58600. The areas described in this chapter are fish and game refuges.

Comment. Section 58600 is new. It is comparable to former Fish and Game Code Section 10770.

Article 2. Pacific Grove Marine Gardens Fish Refuge

§ 58625. Description

58625. The following constitutes the Pacific Grove Marine Gardens Fish Refuge:

All that area within the following boundaries as they existed April 1, 1963, not within the Hopkins Marine Life Refuge: Beginning at the point of intersection of the southeasterly corporate limit line of the City of Pacific Grove prolonged, and the line of mean high tide of the Bay of Monterey; thence northwesterly along said line of mean high tide to Point Pinos and continuing around said point in a westerly direction and continuing southwesterly along said line of mean high tide to the intersection with the southwesterly corporate limit line prolonged of said city; thence N. 70° 45' 00" W. along said southwesterly corporate limit line prolonged to a point in the Pacific Ocean where the depth of water in said ocean is sixty (60) feet measured from the level of mean low tide; thence northwesterly along the line in said ocean which line is at a constant depth of sixty (60) feet measured from the level of mean low tide to Point Pinos and continuing around said point in an easterly direction and continuing southeasterly along the line in said bay which line is at a constant depth of sixty (60) feet measured from the level of mean low tide, to the intersection with the southeasterly corporate limit line of said city prolonged; thence S. 58° 57' 45" W. along said southeasterly corporate limit line prolonged, to the point of beginning.

Comment. Section 58625 continues former Fish and Game Code Section 10801 without substantive change.

§ 58630. Take of fish within refuge

58630. (a) In the Pacific Grove Marine Gardens Fish Refuge, fish, other than mollusks and crustaceans, may be taken under the authority of a sport fishing license as authorized by this code.

(b) Notwithstanding any other provision of this section, holders of scientific collectors' permits issued by the commission, or students working under their direction, may take marine life for scientific purposes in this refuge.

1 (c) In this refuge, sardines, mackerel, anchovies, squid and herring may be taken
2 by ring net, lampara net or bait net as authorized by this code.

3 **Comment.** Section 58630 continues former Fish and Game Code Section 10660 without
4 substantive change.

5 TITLE 3. GAME REFUGES

6 CHAPTER 1. GAME REFUGES GENERALLY

7 **§ 58700. Prohibitions**

8 58700. (a) Except under a permit or specific authorization, it is unlawful to do
9 any of the following:

10 (1) To take or possess a bird or mammal in a game refuge.

11 (2) To use or have in possession in a game refuge, a firearm, BB device as
12 defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or a trap or
13 other contrivance designed to be, or capable of being, used to take birds or
14 mammals, or to discharge a firearm or BB device or to release an arrow or
15 crossbow bolt into a game refuge.

16 (b) The punishment for a violation of this section is a fine of not more than two
17 thousand dollars (\$2,000), imprisonment in a county jail for not more than one
18 year, or both the fine and imprisonment.

19 **Comment.** Subdivision (a) of Section 58700 continues former Fish and Game Code Section
20 10500(a)-(b) without substantive change.

21 Subdivision (b) continues former Fish and Game Code Section 12002(b)(6) without
22 substantive change.

23 **§ 58705. Take from navigable waters**

24 58705. Nothing in this title shall be construed as prohibiting or preventing a
25 person from taking a bird, mammal, fish, amphibian, or reptile from or on
26 navigable water in a game refuge.

27 **Comment.** Section 58705 continues former Fish and Game Code Section 10513 without
28 substantive change.

29 **§ 58710. Commission control of mammals and birds**

30 58710. The commission may exercise control over all mammals and birds in a
31 game refuge.

32 **Comment.** Section 58710 continues the part of former Fish and Game Code Section 10502(a)
33 that applies to a game refuge without substantive change.

34 **§ 58715. Acquisition of land for game refuge**

35 58715. (a) For the purposes of propagating, feeding, and protecting birds,
36 mammals, fish, amphibians, and reptiles, the commission may acquire, by
37 purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and

1 administer land, or land and nonmarine water, or land and nonmarine water rights,
2 suitable for state game farms or game refuges.

3 (b) Any property acquired for game refuges shall be acquired in the name of the
4 state, and shall, at all times, be subject to any regulations that may be prescribed
5 from time to time by the commission for the occupation, use, operation,
6 protection, and administration of game refuges.

7 (c) The department shall do all things necessary to secure a valid title in the state
8 to property acquired for a game refuge, but no payment shall be made for the
9 property until the title is satisfactory to the Attorney General and is vested in the
10 state. The acquisition of the property by the state is not prohibited by reason of
11 rights of way, easements, or reservations, which, from their nature, in the opinion
12 of the department, will in no manner interfere with the use of the property for the
13 purpose for which it is acquired.

14 **Comment.** Subdivision (a) of Section 58715 continues former Fish and Game Code Section
15 10503(d) without substantive change.

16 Subdivision (b) continues former Fish and Game Code Section 10504 without substantive
17 change.

18 Subdivision (c) continues former Fish and Game Code Section 10505 without substantive
19 change.

20 **§ 58720. Possession of weapon in game refuge**

21 58720. (a) Nothing in this code prohibits the possession of firearms, BB devices
22 as defined in Section 16250 of the Penal Code, crossbows and bolts, or bows and
23 arrows by persons when traveling through a game refuge when the firearms are
24 taken apart or encased and unloaded and the bows are unstrung or stored
25 separately from any arrow or bolt.

26 (b) When the traveling is done on a route other than a public highway or other
27 public thoroughfare or right of way, notice shall be given to the department at least
28 24 hours before that traveling. The notice shall give the name and address of the
29 person intending to travel through the refuge, the name of the refuge, the
30 approximate route, and the approximate time when that person intends to travel
31 through the refuge.

32 **Comment.** Section 58720 continues former Fish and Game Code Section 10506 without
33 substantive change.

34 **§ 58725. Possession of bird or mammal in game refuge**

35 58725. It is lawful for a person who has given the notice provided for in Section
36 58720 to transport a bird or mammal through a game refuge, if lawfully taken
37 outside the refuge, and if the bird or mammal is carried openly and during the time
38 between one hour before sunrise and one hour after sunset.

39 **Comment.** Section 58725 continues former Fish and Game Code Section 10507 without
40 substantive change.

1 **§ 58730. Posted notices**

2 58730. The department shall cause to be prepared suitable notices to be posted
3 under its direction on each game refuge, containing a warning to all persons to
4 refrain for the period named therein from violations of the provisions of this title
5 relating to game refuges.

6 **Comment.** Section 58730 continues former Fish and Game Code Section 10512 without
7 substantive change.

8 **§ 58735. Management and control**

9 58735. All game refuges shall, for all purposes of protecting birds, mammals,
10 fish, amphibians, or reptiles thereon, be under the control and management of the
11 department, and the officers and employees of the department, all game wardens,
12 and law enforcement officers may at all times enter in and upon game refuges in
13 the performance of their duties.

14 **Comment.** Section 58735 continues former Fish and Game Code Section 10514 without
15 substantive change.

16 **§ 58740. Education and outreach**

17 58740. (a) The department shall undertake appropriate education and outreach
18 regarding the current location of existing game refuges, agency contacts for
19 statutory notices in Sections 58720 and 58725, and the potential closure of all state
20 game refuges, except the California Sea Otter Game Refuge and the Farallon
21 Islands Game Refuge. The department shall provide an opportunity for public
22 comment concerning the potential elimination of game refuges. The department
23 shall provide information about game refuge boundaries, including, but not limited
24 to, maps available both on the department’s Internet Web site and in hardcopy
25 format. The department shall also provide Internet Web site contact information
26 for the public to contact the department in accordance with state law. The
27 department may conduct regional workshops as it determines to be necessary to
28 provide public information about the proposed elimination of game refuges.

29 (b) The department, on or before January 1, 2011, shall prepare and submit to
30 the Legislature a description of the public education and outreach effort
31 undertaken pursuant to subdivision (a), and a summary of any information
32 provided by the public that is relevant to the potential closure of all state game
33 refuges except the California Sea Otter Game Refuge and the Farallon Islands
34 Game Refuge.

35 **Comment.** Section 58740 continues former Fish and Game Code Section 10844 without
36 substantive change.

37 **Note.** Existing Section 10844 requires the submission of a report by January 1, 2011. **Can**
38 **that provision be discontinued as obsolete?**

1 CHAPTER 2. SPECIFIC GAME REFUGES

2 Article 1. General Provisions

3 § 58800. Described areas

4 58800. (a) The areas described in this chapter are game refuges.

5 (b) An existing reference to a “Fish and Game District” that is a game refuge
6 shall be construed to refer to the “Game Refuge” that continues the former district.

7 **Comment.** Subdivision (a) of Section 58800 continues former Fish and Game Code Section
8 10820 without substantive change.

9 Subdivision (b) is new.

10 **Notes. (1)** In existing law, most of the described game refuges are referred to as “Fish and
11 Game Districts.” That is the same term that is used to name the districts that subdivide the state
12 for the purposes of administration and special regulation. See existing Sections 11000-11039.
13 This dual use of the term “Fish and Game Districts” is potentially confusing.

14 To complicate matters further, the term “fish and game refuge” is specially defined as being
15 both a fish refuge and a game refuge. Use of the term “*Fish and Game District*” to refer only to
16 *game* refuges is another potential source of confusion.

17 To avoid this confusion, this draft does not use the term “Fish and Game District” to refer to
18 the game refuges described below. Instead, they are referred to as “Game Refuges.”

19 That change should be unproblematic. The Commission found only one statute and no
20 regulations that use the term “Fish and Game District” to refer to game refuges. See existing
21 Section 10662. That section can easily be revised to use the naming convention established in this
22 draft.

23 As a final check against confusion, proposed Section 58800(b) expressly provides that an
24 existing reference to a “Fish and Game District” that constitutes a game refuge should be
25 construed as a reference to the “Game Refuge” that continues the referenced **district**.

26 **The Commission invites comment on whether any of the changes noted above would be
27 problematic.**

28 **(2)** If it would be beneficial to give the game refuges descriptive names, rather than the bare
29 alphanumeric designators that they currently have, now would be a convenient time to do so. **The
30 Commission invites comment on that point.**

31 Article 2. Game Refuge 1C

32 § 58825. Description

33 58825. The following constitutes Game Refuge 1C: All that area within the
34 County of Modoc within the following boundaries:

35 Beginning at the boundary of the Modoc National Forest on the east side of Sec.
36 28, T. 42 N., R. 14 E., where Parker Creek crosses the national forest boundary
37 and following thence Parker Creek and the South Fork of Parker Creek to the
38 summit of the Warner Mountains; thence southerly along the summit of the
39 Warner Mountains to the headwaters of Mill Creek; thence following course of
40 Mill Creek to Mill Creek Ranger Station and Mill Creek stock corrals in
41 approximately Sec. 15, T. 40 N., R. 15 E. (unsurveyed); thence along road from
42 Mill Creek Ranger Station and stock corrals running north of Cantrell’s sawmill to

1 Bowman Ranch, thence along same road to the Modoc National Forest boundary
2 on the center line of Sec. 33, T. 41 N., R. 14 E.; thence north along said national
3 forest boundary to Parker Creek, the point of beginning.

4 **Comment.** Section 58825 continues former Fish and Game Code Section 10821 without
5 substantive change. The refuge described in this section was formerly known as “Fish and Game
6 District 1C.”

7 **Article 3. Game Refuge 1F**

8 **§ 58850. Description**

9 58850. The following constitutes Game Refuge 1F: All that area within the
10 County of Lassen within the following boundaries:

11 Beginning at the fork of the Puls Camp Road and the Poison Lake-Harvey
12 Valley Road near the quarter section corner between Secs. 33 and 34, T. 33 N., R.
13 8 E.; thence northerly following the westerly side of said road by Dixie Springs
14 and Puls Camp in Sec. 33, T. 34 N., R. 8 E., to Shroder Lake in Sec. 19, T. 34 N.,
15 R. 8 E.; thence southwesterly about one mile to the junction of said Puls Camp
16 Road and the Little Valley Road in Sec. 24, T. 34 N., R. 7 E.; thence northwesterly
17 following the southerly side of said Little Valley Road to its junction with the
18 Blacks Lake Road; thence westerly following the southerly side of said Blacks
19 Lake Road to the Eldridge place in Sec. 13, T. 34 N., R. 6 E.; thence southerly
20 following the easterly side of said road to Jelly Camp in Sec. 25, T. 34 N., R. 6 E.;
21 thence southeasterly following the easterly side of the Susanville-Pittville Road to
22 junction of the Poison Lake-Harvey Valley Road; thence easterly following the
23 northerly side of said Poison Lake-Harvey Valley Road to the point of beginning.

24 **Comment.** Section 58850 continues former Fish and Game Code Section 10822 without
25 substantive change. The refuge described in this section was formerly known as “Fish and Game
26 District 1F.”

27 **Article 4. Game Refuge 1G**

28 **§ 58875. Description**

29 58875. The following constitutes Game Refuge 1G: All that area within the
30 County of Tehama within the following boundaries:

31 Beginning at a point where Deer Creek crosses the west township line of T. 25
32 N., R. 2 E.; thence north along said township line and along the west township line
33 of T. 26 N., R. 2 E. to its intersection with Boatgunwale Creek; thence down
34 Boatgunwale Creek to Mill Creek; thence up Mill Creek to the Ponderosa Truck
35 Trail; thence following the Ponderosa Truck Trail to its intersection with South
36 Antelope Creek; thence up South Antelope Creek to mouth of the North Fork of
37 South Antelope Creek; thence up the North Fork to its source; thence following
38 Manzanita Cut Trail to the South Fork of Rock Gulch Creek; thence down Rock
39 Gulch Creek to its intersection with the Old Butte Meadows-Round Valley Trail;

1 thence following the Old Butte Meadows-Round Valley Trail to its intersection
2 with the Deer Creek Highway, thence down the Deer Creek Highway to its
3 westerly crossing of Deer Creek, thence down Deer Creek to point of beginning.

4 **Comment.** Section 58875 continues former Fish and Game Code Section 10823 without
5 substantive change. The refuge described in this section was formerly known as “Fish and Game
6 District 1G.”

7 **Article 5. Game Refuge 1H**

8 **§ 58900. Description**

9 58900. The following constitutes Game Refuge 1H: All that area within the
10 County of Plumas within the following boundaries:

11 Beginning at a point on the Western Pacific Railway known as Quincy Junction;
12 thence following northerly the westerly side of the Old Road to Taylorsville;
13 thence westerly along the southerly side of the County Road 207 to its intersection
14 with the Western Pacific Railway from Crescent Mills to Keddie; thence
15 southwesterly and southerly along these tracks to Keddie; thence southerly and
16 southeasterly along main Western Pacific tracks from Keddie to Quincy Junction
17 to the point of beginning.

18 **Comment.** Section 58900 continues former Fish and Game Code Section 10824 without
19 substantive change. The refuge described in this section was formerly known as “Fish and Game
20 District 1H.”

21 **Article 6. Game Refuge 1I**

22 **§ 58925. Description**

23 58925. The following constitutes Game Refuge 1I: All that area within the
24 County of Placer within the following boundaries:

25 Beginning at a point in Sec. 17, T. 14 N., R. 14 E., M.D.M., where the French
26 House-Big Meadows Road intersects the South Fork of Long Canyon Creek;
27 thence following southwesterly along said road to its intersection with the French
28 Meadows-Georgetown Road near the section line between Secs. 22 and 23, T. 14
29 N., R. 13 E., thence southwesterly along the French Meadows-Georgetown Road
30 where it intersects an unnamed tributary to the North Fork of Long Canyon Creek
31 near the section line between Secs. 22 and 27, T. 14 N., R. 13 E.; thence
32 northwesterly along said tributary to French House Site (near the center of Sec. 22,
33 T. 14 N., R. 13 E.); thence northwesterly along the French House-Red Star Mine
34 Jeep Road in Secs. 22 and 15, T. 14 N., R. 13 E., to its intersection with the
35 Middle Fork of the American River, in Sec. 15, T. 14 N., R. 13 E.; thence
36 northeasterly along the Middle Fork of the American River, to its intersection with
37 the southern boundary of Sec. 35, T. 15 N., R. 13 E., thence due north on a line
38 through the center of Sec. 35 to an intersection with the summit of Red Star Ridge
39 in Sec. 26, T. 15 N., R. 13 E. (this being the divide between Duncan Creek and the

1 Middle Fork of the American River); thence northeasterly following the summit of
2 Red Star Ridge to a point in Sec. 4, T. 15 N., R. 14 E. where said ridge intersects
3 the main Foresthill Divide between the North Fork of the American River and the
4 Middle Fork of the American River; thence easterly along the summit of said
5 divide to Needle Peak; thence southerly following the summit of the divide to Mt.
6 Mildred; thence southwesterly following the summit of the divide between Gray
7 Horse Creek and the Middle Fork of the American River to its intersection with
8 the Big Meadows-Gray Horse Valley Trail (near the middle of Sec. 5, T. 14 N., R.
9 14 E.); thence following said trail to the South Fork of Long Canyon Creek (near
10 the middle of Sec. 9, T. 14 N., R. 14 E.); thence southwesterly down the South
11 Fork Long Canyon Creek to the point of beginning.

12 **Comment.** Section 58925 continues former Fish and Game Code Section 10825 without
13 substantive change. The refuge described in this section was formerly known as “Fish and Game
14 District 11.”

15 Article 7. Game Refuge 1J

16 § 58950. Description

17 58950. The following constitutes Game Refuge 1J: All that area within the
18 County of Amador within the following boundaries:

19 Beginning at a point between Secs. 13 and 18, T. 8 N., R. 14 and 15 E., where
20 the Carson Pass Highway (State Sign Route 88) enters Sec. 18, T. 8 N., R. 15 E.;
21 thence northeasterly along the south side of State Highway 88 right of way to the
22 Bear River Road in Section 12, T. 8 N., R. 15 E.; thence southeasterly along the
23 westerly side of said road to the junction of the Ham’s Spring and Cole Creek
24 Roads in Section 20, T. 8 N., R. 16 E.; thence southeasterly along the westerly
25 side of the Cole Creek Road to its termination at the P. G. & E. penstock in
26 Section 33, T. 8 N., R. 16 E.; thence southerly along the westerly side of said
27 penstock to its intersection with the Mokelumne River; thence down the north
28 bank of the Mokelumne River in a southwesterly direction to the intersection of
29 range line between T. 7 N., R. 14 and 15 E.; thence north along range line between
30 T. 8 N., R. 14 and 15 E., to the intersection of State Sign Route 88 to the place of
31 beginning.

32 **Comment.** Section 58950 continues former Fish and Game Code Section 10826 without
33 substantive change. The refuge described in this section was formerly known as “Fish and Game
34 District 1J.”

35 Article 8. Game Refuge 1N

36 § 58975. Description

37 58975. The following constitutes Game Refuge 1N: All that area within the
38 Counties of Siskiyou and Modoc within the following boundaries:

1 Beginning at the junction of the Lava Ranger Station Road and the Egg Lake-
2 Quaking Asp Road, thence following westerly and northerly the northerly and
3 easterly side of said Lava Ranger Station Road to its junction with the Medicine
4 Lake-Quaking Asp Road near the northwest corner of Sec. 18, T. 42 N., R. 5 E.,
5 thence easterly and southerly following the southerly and westerly side of the
6 Medicine Lake-Quaking Asp-Egg Lake Road to the point of beginning.

7 **Comment.** Section 58975 continues former Fish and Game Code Section 10827 without
8 substantive change. The refuge described in this section was formerly known as “Fish and Game
9 District 1N.”

10 Article 9. Game Refuge 1P

11 **§ 59000. Description**

12 59000. The following constitutes Game Refuge 1P: All that area within the
13 County of Plumas, within the following boundaries:

14 Beginning at the junction of the Milford-Beckwourth Road and the Last Chance-
15 Doyle Road, thence following the easterly side of said Milford-Beckwourth Road
16 to its junction with the Dixie Valley-Frenchman’s Cove Road; thence following
17 the easterly side of the Dixie Valley-Frenchman’s Cove Road to its junction with
18 the Little Last Chance Road; thence following the westerly side of the Little Last
19 Chance Road to its junction with the Last Chance-Doyle Road; thence following
20 the westerly side of the Last Chance-Doyle Road to the place of beginning.

21 **Comment.** Section 59000 continues former Fish and Game Code Section 10828 without
22 substantive change. The refuge described in this section was formerly known as “Fish and Game
23 District 1P.”

24 Article 10. Game Refuge 1R

25 **§ 59025. Description**

26 59025. The following constitutes Game Refuge 1R: All that area within the
27 County of Tuolumne within the following boundaries:

28 Beginning at the junction of the North Fork of the Stanislaus River and the
29 Middle Fork of the Stanislaus River; thence easterly following the northerly bank
30 of said Middle Fork of the Stanislaus River to the mouth of the Shu-fly Creek,
31 approximately in Sec. 9, T. 5 N., R. 18 E.; thence northerly following the westerly
32 bank of said creek to its junction with Whit’s Basin Creek; thence westerly
33 following the southerly and westerly bank of said Whit’s Basin Creek to its
34 junction with the Sands Meadow Trail in Sec. 36, T. 6 N., R. 17 E.; thence
35 northwesterly following said Sands Meadow Trail to its junction with the
36 Government Truck Trail in Sec. 23, T. 6 N., R. 17 E.; thence westerly following
37 said Truck Trail to Liberty Hill; thence following said Government Truck Trail
38 westerly and southerly to its junction with the Boards Crossing-Beaver Creek
39 Camp Road; thence northerly following said Boards Crossing-Beaver Creek Camp

1 Road to Boards Crossing on the North Fork of the Stanislaus River; thence
2 downstream following the easterly bank of said North Fork of the Stanislaus River
3 to the point of beginning.

4 **Comment.** Section 59025 continues former Fish and Game Code Section 10829 without
5 substantive change. The refuge described in this section was formerly known as “Fish and Game
6 District 1R.”

7 Article 11. Game Refuge 1S

8 **§ 59050. Description**

9 59050. The following constitutes Game Refuge 1S: All that area lying within the
10 County of Lassen within the following boundaries:

11 Beginning at the old Haydenhill Post Office in the approximate center of Sec.
12 36, T. 37 N., R. 9 E.; thence following westerly along the old Juniper Road
13 through Windmill Flat to the junction of the Summit Spring Road near Meyers
14 Spring; thence south through Lost Valley along the Lost Valley-Dixie Valley
15 Road to the junction of the Dixie Valley-Grasshopper Road; thence east to the
16 junction of the old Haydenhill-Slate Creek Road located approximately in Sec. 24,
17 T. 35 N., R. 9 E.; thence north along the Haydenhill-Slate Creek Road to the place
18 of beginning.

19 **Comment.** Section 59050 continues former Fish and Game Code Section 10830 without
20 substantive change. The refuge described in this section was formerly known as “Fish and Game
21 District 1S.”

22 Article 12. Game Refuge 1V

23 **§ 59075. Description**

24 59075. The following constitutes Game Refuge 1V: all that area within the
25 County of Plumas within the following boundaries:

26 Beginning at the intersection of U. S. Alternate 40 Highway and U. S. Forest
27 Service Road 24N12; thence following northerly the easterly side of U. S. Forest
28 Service Road 24N12 to its intersection with U. S. Forest Service Road 24N10;
29 thence easterly following the southerly side of U. S. Forest Service Road 24N10 to
30 its intersection with U. S. Forest Service Road 24N07 (Relocated); thence easterly
31 following the southerly side of U. S. Forest Service Road 24N07 (Relocated) to its
32 intersection with U. S. Forest Service Road 25N08; thence southerly on the
33 westerly side of U. S. Forest Service Road 25N08 to its intersection with U. S.
34 Alternate 40 Highway; thence westerly along the northerly side of U. S. Alternate
35 40 Highway to the point of beginning.

36 **Comment.** Section 59075 continues former Fish and Game Code Section 10831 without
37 substantive change. The refuge described in this section was formerly known as “Fish and Game
38 District 1V.”

1 Article 13. Game Refuge 2A

2 § 59100. Description

3 59100. The following constitutes Game Refuge 2A: All that area within the
4 Counties of Mendocino, Lake, and Glenn within the following boundaries:

5 Beginning at the summit of Hull Mountain in Mendocino County, in the
6 southwest corner of Sec. 2, T. 19 N., R. 10 W.; thence in a northeasterly direction
7 down Hull Creek (sometimes known as Red Rock Creek) to its junction with Sand
8 Creek; thence southeasterly down Sand Creek to its junction with Corbin Creek,
9 thence in an easterly direction up Corbin Creek to Sec. 36, T. 20 N., R. 8 W.;
10 thence in a southerly direction up a ravine to the Pacific Crest Road (24N02) on
11 the summit of the Coast Range Mountains in Sec. 12, T. 19 N., R. 8 W.; thence
12 southwesterly along the Pacific Crest Road (24N02) to Low Gap, where the
13 Bloody Rock trail crosses the summit in Sec. 27, T. 19 N., R. 8 W.; thence in a
14 westerly direction down the Bloody Rock trail and Cold Creek to South Eel River
15 in Sec. 26, T. 19 N., R. 9 W.; thence down the river to the mouth of a ravine in the
16 SE ¹/₄ of Sec. 27, T. 19 N., R. 9 W.; thence in a northwesterly direction up the
17 ravine through Secs. 27 and 28 to the summit of Boardman Ridge; thence in a
18 northwesterly direction up Boardman Ridge to the summit of Hull Mountain to the
19 point of beginning.

20 **Comment.** Section 59100 continues former Fish and Game Code Section 10832 without
21 substantive change. The refuge described in this section was formerly known as “Fish and Game
22 District 2A.”

23 Article 14. Game Refuge 3F

24 § 59125. Description

25 59125. The following constitutes Game Refuge 3F: All that area within the
26 County of Contra Costa described as follows:

27 All of Secs. 29, 30, 31 and 32, T. 1 N., R. 1 E.; all of Secs. 5, 6, 7 and 8, T. 1 S.,
28 R. 1 E.; all of Secs. 25, 26, 35 and 36 of T. 1 N., R. 1 W.; all of Secs. 1, 2, 11 and
29 12 of T. 1 S., R. 1 W.

30 **Comment.** Section 59125 continues former Fish and Game Code Section 10835 without
31 substantive change. The refuge described in this section was formerly known as “Fish and Game
32 District 3F.”

33 Article 15. Game Refuge 3G

34 § 59150. Description

35 59150. The following constitutes Game Refuge 3G:

36 All those lands of the Leland Stanford Junior University within the Counties of
37 San Mateo and Santa Clara, and consisting of lots numbers 1 to 33, inclusive; that
38 portion of lots 35 and 42 lying outside of the town limits of the town of Mayfield;

1 lots 36, 43, 46 to 75, inclusive; 80 to 86, inclusive; 89 to 98, inclusive, as shown
2 on the map entitled “map of the lands of the Leland Stanford Junior University at
3 or near the site of the university in the Counties of Santa Clara and San Mateo, by
4 A. T. and F. A. Herrmann of Herrmann Bros.,” dated November, 1908, recorded
5 in the Office of the County Recorder of the County of Santa Clara.

6 **Comment.** Section 59150 continues former Fish and Game Code Section 10836 without
7 substantive change. The refuge described in this section was formerly known as “Fish and Game
8 District 3G.”

9 Article 16. Game Refuge 4D

10 **§ 59175. Description**

11 59175. The following constitutes Game Refuge 4D: All that area within the
12 County of Riverside described as follows:

13 Beginning at the intersection of State Highway 74 and Highway 111 in Section
14 20, T. 5 S., R. 6 E., S.B.B. & M.;

15 Thence northwesterly on State Highway 111 to its intersection with the south
16 bank of the Palm Canyon wash and the east boundary of Section 25, T. 4 S., R. 4
17 E., S.B.B. & M.;

18 Thence southwesterly and southerly along east bank of Palm Canyon wash
19 through said Section 25, Sections 36 and 35, T. 4 S., R. 4 E., S.B.B. & M. and
20 Sections 2, 11, 14, 23, 25 and 36, T. 5 S., R. 4 E., S.B.B. & M.;

21 Thence continuing along the east bank of said Palm Canyon wash through
22 Sections 1, 12, 13, T. 6 S., R. 4 E., and continuing through Sections 18, 19, 30 and
23 31, T. 6 S., R. 5 E., to a point of intersection with Omstott Creek;

24 Thence along the north bank Omstott Creek through Section 31, T. 6 S., R. 5 E.,
25 and continuing through Sections 5, 4, 9, 10, T. 7 S., R. 5 E., to the north line of
26 said State Highway 74;

27 Thence easterly along north line of said Highway 74 to a point of intersection
28 with the north line Section 12, T. 7 S., R. 5 E.;

29 Thence east along north line of said Section 12 to the northeast corner of said
30 Section 12;

31 Thence south along the easterly boundary of Sections 12, 13, 24, 25 and 36, T. 7
32 S., R. 5 E.; and the easterly boundary of Section 1, T. 8 S., R. 5 E., to the point of
33 intersection with the southwesterly corner of Section 31, T. 7 S., R. 6 E.;

34 Thence east and along the southerly boundary of said Section 31 and Sections
35 32, 33, 34 and 35, to the southeast corner of Section 36, T. 7 S., R. 6 E.;

36 Thence north along the easterly boundary of Sections 36, 25, 24, 13 and 12 to
37 the northeast corner of Section 1, T. 7 S., R. 6 E.;

38 Thence west along the north line of said Section 1 to the southeast corner of
39 Section 36, T. 6 S., R. 6 E.;

40 Thence north along the east line of said Section 36, Sections 25, 24 and 13 to the
41 southwest corner of Section 7, T. 6 S., R. 7 E.;

1 Thence east along the south line of said Section 7 to the southeast corner
2 thereof;

3 Thence north along the east line of said Section 7 and Section 6 of said T. 6 S.,
4 R. 7 E., to the northeast corner of said Section 6;

5 Thence west along the north line of said Section 6 of said T. 6 S., R. 7 E. to
6 Marshall Street;

7 Thence north along Marshall Street and on the $\frac{1}{4}$ Section line of Sections 31 and
8 30, T. 5 S., R. 7 E. to Highway 111;

9 Thence westerly along Highway 111 to the point of beginning.

10 **Comment.** Section 59175 continues former Fish and Game Code Section 10837 without
11 substantive change. The refuge described in this section was formerly known as “Fish and Game
12 District 4D.”

13 **§ 59180. Firearm prohibition**

14 59180. (a) Notwithstanding any other provision in this code, it shall be unlawful
15 for any person to fire a firearm, but it shall not be unlawful to possess a firearm in
16 the following areas: All of T. 5 S., R. 5 E., except Sections 1, 2, 11, 12, and 13, of
17 Game Refuge 4D.

18 (b) In Game Refuge 4D the lawful occupant of privately owned lands or the
19 employees of those occupants may possess firearms without a permit.

20 **Comment.** Subdivision (a) of Section 59180 continues former Fish and Game Code Section
21 10662 without substantive change.

22 Subdivision (b) continues former Fish and Game Code Section 10663 without substantive
23 change.

24 Article 17. Game Refuge 4G

25 **§ 59200. Description**

26 59200. The following constitutes Game Refuge 4G:

27 Beginning at the northeast corner of T. 4 S., R. 3 E., S. B. B. & M.;

28 Thence on section lines, west one mile, north one mile, west two miles, north
29 one mile and west three miles to the northwest corner of Sec. 30, T. 3. S., R. 3 E.,
30 S. B. B. & M.;

31 Thence south on the range line between R. 2 and 3 E., about $7\frac{3}{4}$ miles to the
32 crest of the divide forming the northwesterly boundary of Strawberry Creek
33 watershed;

34 Thence southwesterly along said divide to a point on the northerly boundary of
35 Sec. 28 in T. 5 S., R. 2 E., S. B. B. & M.;

36 Thence southwesterly in a straight line to the junction of Strawberry Creek and
37 the south fork of the San Jacinto River;

38 Thence southeasterly and northeasterly along the crest of the divide between the
39 waters of Dry Creek, a tributary of Strawberry Creek, and the waters of the south
40 fork of the San Jacinto River and its tributaries to the northeasterly side of the
41 right of way of the Pines to Palms Highway;

1 Thence southeasterly along the said northeasterly side of the right of way of the
2 Pines to Palms Highway to the right bank of Hurkey Creek;

3 Thence northerly along the right bank of Hurkey Creek through Secs. 9 and 4 in
4 T. 6 S., R. 3 E., and through Secs. 33, 28, 21, the southeast quarter of Sec. 16, the
5 west one-half of Sec. 15, the east half of Sec. 10 and the northwest quarter of Sec.
6 11 to the crest of the divide between the waters of Hurkey Creek and Murray
7 Canyon;

8 Thence southeasterly along the crest of the divide between the waters flowing
9 west into the San Jacinto River and the waters flowing east into Coachella Valley
10 to a point on the south boundary of Sec. 24 in T. 5 S., R. 3 E., S. B. B. & M.;

11 Thence east on said south line of Sec. 24 to the southeast corner thereof. Thence
12 north on the range line to the point of beginning.

13 **Comment.** Section 59200 continues former Fish and Game Code Section 10838 without
14 substantive change. The refuge described in this section was formerly known as “Fish and Game
15 District 4G.”

16 Article 18. California Sea Otter Game Refuge

17 § 59225. Description

18 59225. The California Sea Otter Game Refuge consists of and includes the
19 following:

20 All that portion of Monterey and San Luis Obispo Counties between Carmel
21 River on the north and Santa Rosa Creek on the south, lying west of the Monterey-
22 Cambria Pines Highway, also known as California Highway No. 1.

23 **Comment.** Section 59225 continues former Fish and Game Code Section 10840 without
24 substantive change.

25 § 59230. Privately owned land

26 59230. In the California Sea Otter Game Refuge, the lawful occupant of
27 privately owned land, or the employees of a lawful occupant, may possess
28 firearms and traps and may take on the privately owned land any nonprotected
29 bird or mammal, and no permit is required for that taking.

30 **Comment.** Section 59230 continues former Fish and Game Code Section 10659 without
31 substantive change.

32 Article 19. Farallon Islands Game Refuge

33 § 59250. Description

34 59250. The following constitutes the Farallon Islands Game Refuge: the
35 Southeast Farallons, including Maintop Island, Middle Farallon, the North
36 Farallons, Noonday Rock, and the waters lying around each island within one
37 nautical mile from the coastline of each island.

38 **Comment.** Section 59250 continues the first paragraph of former Fish and Game Code Section
39 10843 without substantive change.

1 § 59255. Regulated activity

2 59255. (a) Section 58705 shall have no application in the Farrallon Islands
3 Game Refuge. Fishermen, however, may not take any seal or sea lion while in this
4 refuge, notwithstanding the provisions of Section 32500.

5 (b) Notwithstanding the provisions of Section 58700, persons on commercial
6 vessels may possess unloaded firearms when traveling through the navigable
7 waters of this refuge.

8 **Comment.** Section 59255 continues the second paragraph of former Fish and Game Code
9 Section 10843 without substantive change.

10  **Note.** Existing Section 10843 refers to Section 4500.5, a provision that was repealed in 1975.
11 See 1975 Cal. stat. ch. 786. That apparently obsolete reference is not continued in proposed
12 Section 59255. **The Commission invites comment on whether that revision would cause any**
13 **problem.**

14 Article 20. Johnsville Game Refuge

15 § 59275. Description

16 59275. The following constitutes the Johnsville Game Refuge: All that area
17 within the County of Plumas within the following boundaries:

18 Beginning at the North $\frac{1}{4}$ corner of Section 24, T. 22 N., R. 11 E., M. D. M.;
19 thence North 89° 39' 25" East 334.93 feet; thence South 0° 08' 47" East 418.08
20 feet; thence South 89° 48' 44" West 167.37 feet; thence South 0° 09' 33" East
21 668.15 feet; thence South 89° 59' 48" West 496.21 feet; thence South 0° 09' 15"
22 East 83.34 feet; thence South 89° 58' 24" West 164.51 feet; thence South 0° 08'
23 41" East 83.31 feet; thence South 89° 59' 14" West 82.26 feet; thence South 0°
24 08' 24" East 83.29 feet; thence North 89° 59' 55" West 82.26 feet; thence South
25 0° 03' 55" East 83.09 feet; thence North 89° 51' 34" West 82.43 feet; thence
26 South 0° 03' 58" East 83.05 feet; thence North 89° 50' 14" West 82.42 feet;
27 thence South 0° 03' 30" East 331.95 feet; thence North 89° 46' 07" West 329.53
28 feet; thence North 0° 03' 37" West 331.59 feet; thence South 89° 49' 39" East
29 164.68 feet; thence North 0° 04' 08" West 165.91 feet; thence North 0° 04' 47"
30 West 498.64 feet; thence South 89° 57' 00" West 164.57 feet; thence North 0° 04'
31 11" West 184.90 feet; thence North 69° 21' 49" East 175.25 feet; thence North 0°
32 05' 22" West 584.25 feet; thence North 89° 43' 00" East 985.90 feet to the point
33 of beginning.

34 **Comment.** Section 59275 continues former Fish and Game Code Section 10842 without
35 substantive change. The refuge described in this section was formerly known as "Fish and Game
36 District 1K."

37 § 59280. Firearms and other devices

38 59280. (a) Notwithstanding any provision of law to the contrary, in the
39 Johnsville Game Refuge it shall be unlawful for any person to discharge a firearm
40 or other device capable of killing or injuring any animal.

1 (b) However, it shall not be unlawful for the lawful occupants of privately
2 owned lands or the employees of those occupants to possess firearms or other
3 devices capable of killing or injuring an animal without a permit.

4 **Comment.** Section 59280 continues the first paragraph of former Fish and Game Code Section
5 10665 without substantive change.

6 **§ 59285. Possession**

7 59285. Birds and animals lawfully taken and possessed outside of the
8 boundaries of the Johnsville Game Refuge may be possessed within the refuge.

9 **Comment.** Section 59285 continues the second paragraph of former Fish and Game Code
10 Section 10665 without substantive change.

11 **Article 21. Mount Tamalpais Game Refuge**

12 **§ 59300. Description**

13 59300. The following constitutes the Mount Tamalpais Game Refuge: All that
14 area within the County of Marin within the following boundaries:

15 Beginning at the intersection of the easterly shore of inner Bolinas Bay with the
16 northwesterly boundary line extended, of the Stinson ranch conveyed to A. H.
17 Stinson et al., by decree of distribution dated the 28th of July, 1911; thence
18 northwesterly along the said northwesterly boundary line to the southwesterly
19 boundary line of the lands of the Marin municipal water district on the crest of
20 Bolinas Ridge; thence northeasterly, northwesterly, and easterly along the westerly
21 and northerly boundary line of the watershed lands of the said water district to its
22 intersection with the southwesterly corner of the Rancho Canada de Herrera;
23 thence north 14 degrees west along the westerly line of said Rancho Canada de
24 Herrera to the southwesterly corner of the Bothin real estate property; thence in an
25 easterly direction along the southerly line of the said Bothin property to its
26 intersection with the westerly boundary line of the town of Fairfax; thence in a
27 general southerly direction along the westerly boundary of the said town of Fairfax
28 to its intersection with the southerly boundary line of the said Rancho Canada de
29 Herrera; thence northerly 83 degrees 15 minutes east along said southerly line
30 3,200 feet, more or less, to its intersection with the southeasterly line of the county
31 road leading from Fairfax to Bolinas; thence northerly along said road and along
32 the Fairfax-Bolinas County Road to a point in the southerly line of the right of
33 way of the Northwestern Pacific Railroad Company near Fairfax station; thence
34 along the said last-mentioned line in a southerly direction following the westerly
35 line of said railroad right of way to its intersection with the southerly line of the
36 road or highway immediately south of Alto station; thence following the southerly
37 side of said Alto-Belvedere Road and state highway easterly to its intersection
38 with the northwesterly line of the Town of Belvedere; thence following the
39 northwesterly line of the Town of Belvedere southwesterly to its extreme westerly
40 corner; thence in a direct line to the extreme northerly corner of the Town of

1 Sausalito; thence southwesterly along the northwesterly line of the Town of
2 Sausalito to its intersection with the Northwestern Pacific Railroad; thence
3 following the westerly line of the right of way of the Northwestern Pacific railroad
4 to Manzanita Station; thence southwesterly in a direct line to the Mill Valley State
5 Highway; thence westerly along the said highway to its intersection with
6 Tennessee Avenue; thence following the southerly and easterly line of Tennessee
7 Avenue, westerly and southerly, to the corner common to ranches E, F, and A, as
8 said ranches are delineated on the Tamalpais Land and Water Company’s map No.
9 3; thence southwesterly along the southeasterly boundary lines of ranches E, L,
10 and K, as shown on the said last-mentioned map, to the shore of the Pacific Ocean;
11 thence northwesterly along the shore of the Pacific Ocean and across the easterly
12 end of the Bolinas sandspit, and along the easterly shore of inner Bolinas Bay, to
13 the point of beginning, excepting from the area of said Mount Tamalpais Game
14 Refuge all lands lying within incorporated areas.

15 **Comment.** Section 59300 continues former Fish and Game Code Section 10833 without
16 substantive change. The refuge described in this section was formerly known as “Fish and Game
17 District 2B.”

18 **§ 59305. Take by private land owner**

19 59305. In Mt. Tamalpais Game Refuge, the lawful occupant of privately owned
20 land, or the employees of that occupant, may take on those lands, predatory, or
21 destructive birds and mammals that are not protected or fostered by any of the
22 laws of this state, and are not required to obtain permits for that taking.

23 **Comment.** Section 59305 continues former Fish and Game Code Section 10650 without
24 substantive change.

25 **§ 59310. Firearm use by high school militia**

26 59310. In the Mt. Tamalpais Game Refuge firearms may be possessed and used
27 by members of any high school militia while on the grounds of the high school at
28 which time they may be enrolled.

29 **Comment.** Section 59310 continues former Fish and Game Code Section 10651 without
30 substantive change.

31 **§ 59315. Special rules on take**

32 59315. (a) In the Mt. Tamalpais Game Refuge, no threatened, endangered, or
33 fully-protected birds or mammals may be taken under any permit issued by the
34 department.

35 (b) Except for wild pigs, it is unlawful to take any bird or mammal under a
36 permit issued by the department unless the person possessing the permit is
37 accompanied by a member of the commission, a deputy of the department, or a
38 sheriff or deputy sheriff of Marin County.

39 **Comment.** Section 59315 continues former Fish and Game Code Section 10652 without
40 substantive change.

1 Article 22. Preston School of Industry Game Refuge

2 § 59350. Description

3 59350. The Preston School of Industry Game Refuge consists of and includes
4 the following:

5 The Preston School of Industry Reservoir, which is situated on land occupied by
6 the Preston School of Industry, Ione, Amador County.

7 **Comment.** Section 59350 continues former Fish and Game Code Section 10841 without
8 substantive change.

9 TITLE 4. FISH AND GAME REFUGES

10 CHAPTER 1. FISH AND GAME REFUGES GENERALLY

11 § 59400. Fish and game refuge is both a fish refuge and game refuge

12 59400. Any refuge designated as a “fish and game refuge” shall be considered,
13 for the purposes of this part, as both a game refuge and a fish refuge.

14 **Comment.** Section 59400 continues former Fish and Game Code Section 10509 without
15 substantive change.

16 CHAPTER 2. SPECIFIC FISH AND GAME REFUGES

17 Article 1. General Provisions

18 § 59425. Described areas

19 59425. The areas described in this chapter are fish and game refuges.

20 **Comment.** Section 59425 continues former Fish and Game Code Section 10770 without
21 substantive change.

22 Article 2. San Francisco Fish and Game Refuge

23 § 59450. Description

24 59450. The following constitutes and shall be designated the San Francisco Fish
25 and Game Refuge: All that area within the County of San Mateo, within the
26 following boundaries:

27 Beginning at a point on the westerly side of the Skyline Boulevard where said
28 line crosses the fence line between the properties of the San Francisco Water
29 Department and the Jersey farm, thence following southerly the westerly line of
30 the Skyline Boulevard to the northerly line of the property of the Panama Realty
31 Company, thence following in a generally southerly direction the easterly line of
32 the property of the San Francisco Water Department to the center of the Canada
33 Road, thence due west to the westerly line of said Canada Road, thence southerly

1 along the westerly line of said road to the southerly line of the property of the San
2 Francisco Water Department, thence westerly following the southerly line of the
3 San Francisco Water Department to the Skyline Boulevard, thence northerly
4 following the easterly line of the Skyline Boulevard to its intersection with the
5 easterly line of the Carry E. Bridge property, thence following northerly the
6 easterly line of the said Carry E. Bridge property to its intersection with the
7 easterly line of the Skyline Boulevard, thence northerly following the easterly line
8 of the said Skyline Boulevard to the Half Moon Bay Road, thence crossing the
9 said Skyline Boulevard and said Half Moon Bay Road to the westerly line of the
10 property of the San Francisco Water Department on the northerly side of said Half
11 Moon Bay Road, thence following the westerly line of the San Francisco Water
12 Department in a generally northwesterly direction to the point of beginning.

13 **Comment.** Section 59450 continues former Fish and Game Code Section 10771 without
14 substantive change.

15 **§ 59455. Transport of animals**

16 59455. In the San Francisco Fish and Game Refuge, birds, mammals, fish,
17 amphibians, and reptiles legally possessed may be carried openly by persons
18 traveling through the refuge on public roads, between one-half hour before sunrise
19 and one-half hour after sunset.

20 **Comment.** Section 59455 continues former Fish and Game Code Section 10653 without
21 substantive change.

22 **Note.** Existing Section 10653 refers to the “San Francisco Game Refuge.” There is no game
23 refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which, by
24 law, is treated as both a fish refuge and game refuge). It seems probable that Section 10653 was
25 intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59455, the
26 provision is revised and located accordingly. **The Commission invites comment on whether**
27 **that would cause any problems.**

28 **§ 59460. Use of land for water supply purposes**

29 59460. Nothing in this part prevents the full use of the land included in the San
30 Francisco Fish and Game Refuge for water supply purposes, nor prohibits any
31 authorized employee of the San Francisco water department from carrying out any
32 reasonable measures that may be necessary for the protection of the water supply
33 or the prevention of pollution of the streams or reservoirs.

34 **Comment.** Section 59460 continues former Fish and Game Code Section 10654 without
35 substantive

36 **Note.** Existing Section 10654 refers to the “San Francisco Game Refuge.” There is no game
37 refuge with that name. However, there is a “San Francisco Fish and Game Refuge” (which, by
38 law, is treated as both a fish refuge and game refuge). It seems probable that Section 10654 was
39 intended to apply to the San Francisco Fish and Game Refuge. In proposed Section 59460, the
40 provision is revised and located accordingly. **The Commission invites comment on whether**
41 **that would cause any problems.**

1 TITLE 5. WATERFOWL REFUGES

2 CHAPTER 1. WATERFOWL REFUGES GENERALLY

3 § 59500. Prohibition

4 59500. (a) Except under a permit or specific authorization, it is unlawful to take
5 or possess a bird, discharge a firearm or BB device, or release an arrow or
6 crossbow bolt, within or into a waterfowl refuge.

7 (b) The punishment for a violation of this section is a fine of not more than two
8 thousand dollars (\$2,000), imprisonment in a county jail for not more than one
9 year, or both the fine and imprisonment.

10 **Comment.** Subdivision (a) of Section 59500 continues former Fish and Game Code Section
11 10500(d) without substantive change.

12 Subdivision (b) continues former Fish and Game Code Section 12002(b)(6) without
13 substantive change.

14 CHAPTER 2. SPECIFIC WATERFOWL REFUGES

15 Article 1. General Provisions

16 § 59525. Described areas

17 59525. The areas described in this chapter are waterfowl refuges.

18 **Comment.** Section 59525 continues former Fish and Game Code Section 10860 without
19 substantive change.

20 Article 2. San Leandro Waterfowl Refuge

21 § 59550. Description

22 59550. The following constitutes a waterfowl refuge and shall be designated the
23 San Leandro Waterfowl Refuge: All the area within the County of Alameda,
24 within the following boundaries:

25 Beginning at the Bay Farm Island Bridge, in Alameda, thence in a southerly
26 direction, following the levee on westerly side of San Leandro Bay to the
27 Hagenburger Road, thence in a northeasterly direction along said Hagenburger
28 Road to a point where the Pacific Gas and Electric tower line crosses said
29 Hagenburger Road, thence following said Pacific Gas and Electric tower line to
30 the Pacific Gas and Electric substation at the foot of Fiftieth Avenue in Oakland,
31 thence in a westerly direction along the high tide line of San Leandro Bay to the
32 point of beginning.

33 **Comment.** Section 59550 continues former Fish and Game Code Section 10861 without
34 substantive change.

1

TITLE 6. MARINE LIFE REFUGES

2

CHAPTER 1. MARINE LIFE REFUGES GENERALLY

3

§ 59600. Prohibition

4

59600. (a) Except under a permit or specific authorization, it is unlawful to take or possess an invertebrate or specimen of marine plant life in a marine life refuge.

6

(b) The punishment for a violation of this section is a fine of not more than two thousand dollars (\$2,000), imprisonment in a county jail for not more than one year, or both the fine and imprisonment.

9

Comment. Subdivision (a) of Section 59600 continues former Fish and Game Code Section 10500(f) without substantive change.

10

11

Subdivision (b) continues former Fish and Game Code Section 12002(b)(6) without substantive change.

12

13

CHAPTER 2. SPECIFIC MARINE LIFE REFUGES

14

Article 1. General Provisions

15

§ 59625. Described areas

16

59625. The areas described in this chapter are marine life refuges.

17

Comment. Section 59625 continues former Fish and Game Code Section 10900 without substantive change.

18

19

Article 2. Bodega Marine Life Refuge

20

§ 59650. Description

21

59650. The following constitutes a marine life refuge and shall be designated the Bodega Marine Life Refuge:

22

23

That portion of District 2590 consisting of that certain parcel of land bounded by the line of Mean High Tide of the Pacific Ocean lying between the northern boundary extended northwesterly and the southern boundary extended southwesterly of the lands of the Regents of the University of California according to the final order of condemnation in Case No. 47,617 in the Superior Court of the State of California in and for the County of Sonoma, recorded in Book 1930, at pages 656 and 659, inclusive, Official Records, Sonoma County, California, and extending into and including the state waters of the State of California for a distance of a thousand feet into the Pacific Ocean from the line of Mean High Tide.

32

33

Comment. Section 59650 continues former Fish and Game Code Section 10903 without substantive change.

34

1 **§ 59655. Director**

2 59655. (a) The director may appoint the Director of the Bodega Marine Life
3 Refuge.

4 (b) The Director of the Bodega Marine Life Refuge may authorize any person to
5 enter the Bodega Marine Life Refuge for the purpose of taking fish, invertebrates,
6 or marine plants for scientific study and to take or possess fish, invertebrates, or
7 marine plants for scientific study.

8 (c) The Director of the Bodega Marine Life Refuge may authorize any person to
9 anchor a vessel in the Bodega Marine Life Refuge for the purpose of scientific
10 study.

11 **Comment.** Section 59655 continues former Fish and Game Code Section 10502.7 without
12 substantive change.

13 **§ 59670. Prohibitions**

14 59670. (a) Except as expressly provided in this part, it is unlawful to enter the
15 Bodega Marine Life Refuge for the purpose of taking or possessing any fish,
16 marine invertebrate, or marine plant, or to take or possess any fish, marine
17 invertebrate, or marine plant in the Bodega Marine Life Refuge.

18 (b) Except as permitted by federal law or emergency caused by hazardous
19 weather, it is unlawful to anchor or moor a vessel in the Bodega Marine Life
20 Refuge without authorization by the Director of the Bodega Marine Life Refuge
21 pursuant to Section 59655.

22 (c) This section does not prohibit or restrict navigation in the Bodega Marine
23 Life Refuge pursuant to federal law.

24 **Comment.** Section 59670 continues former Fish and Game Code Section 10656 without
25 substantive change.

26 **§ 59675. University of California**

27 59675. In the Bodega Marine Life Refuge, licensees of the Regents of the
28 University of California and all officers, employees, and students of that university
29 may take, for scientific purposes, any invertebrate or specimen of marine plant life
30 without a permit from the department.

31 **Comment.** Section 59675 continues former Fish and Game Code Section 10661 without
32 substantive change.

33 Article 3. Catalina Marine Science Center Marine Life Refuge

34 **§ 59700. Description**

35 59700. The following constitutes a marine life refuge and shall be designated the
36 Catalina Marine Science Center Marine Life Refuge:

37 All that area bounded on the south and southeast by the mean high tide line and
38 by the present seaward boundary of the lease to tide and submerged lands now
39 held by the University of Southern California from the State Lands Commission

1 (No. 3692.1 Public Resources Code Series) and extending from a point on the
2 mean high tide line at 33° 26′ 39″ North Latitude 118° 29′ 19″ West Longitude,
3 thence to 33° 26′ 50″ North Latitude 118° 29′ 08″ West Longitude, thence to 33°
4 26′ 57.5″ North Latitude 118° 28′ 33.5″ West Longitude, thence to 33° 26′ 55″
5 North Latitude 118° 28′ 32″ West Longitude, and thence to a point on the mean
6 high tide line at 33° 26′ 53.5″ North Latitude 118° 28′ 35″ West Longitude.

7 **Comment.** Section 59700 continues former Fish and Game Code Section 10932 without
8 substantive change.

9 **§ 59705. Director**

10 59705. (a) The director may appoint the Director of the Catalina Marine Science
11 Center Marine Life Refuge.

12 (b) The Director of the Catalina Marine Science Center Marine Life Refuge may
13 authorize any person to enter the Catalina Marine Science Center Marine Life
14 Refuge for the purpose of taking fish or marine plants under the conditions that the
15 department determines necessary for the protection and propagation of fish and
16 wildlife and related scientific purposes in that refuge.

17 (c) The Director of the Catalina Marine Science Center Marine Life Refuge,
18 upon recommendation of the Director of the Catalina Marine Science Center, may
19 authorize any person involved in oceanographic and scientific research in and
20 around Santa Catalina Island to anchor or moor a vessel in the Catalina Marine
21 Science Center Marine Life Refuge.

22 **Comment.** Section 59705 continues former Fish and Game Code Section 10502.8 without
23 substantive change.

24 **§ 59710. Prohibitions**

25 59710. (a) Except as expressly provided in this part, it is unlawful to enter the
26 Catalina Marine Science Center Marine Life Refuge for the purpose of taking or
27 possessing any fish or marine plants or to take or possess any fish or marine plants
28 in the Catalina Marine Science Center Marine Life Refuge.

29 (b) Except as permitted by federal law or emergency caused by hazardous
30 weather, it is unlawful to anchor or moor a vessel in the Catalina Marine Science
31 Center Marine Life Refuge without authorization by the Director of the Catalina
32 Marine Science Center Marine Life Refuge pursuant to Section 59705.

33 (c) Section 59715 and this section do not prohibit or restrict navigation in the
34 Catalina Marine Science Center Marine Life Refuge pursuant to federal law.

35 **Comment.** Section 59710 continues former Fish and Game Code Section 10655.5 without
36 substantive change.

37 **§ 59715. Exceptions to prohibitions**

38 59715. (a) A person involved in oceanographic and scientific research in and
39 around Santa Catalina Island may be authorized by the Director of the Catalina

1 Marine Science Center Marine Life Refuge to enter the Catalina Marine Science
2 Center Marine Life Refuge and to anchor or moor a vessel therein.

3 (b) The Director of the Catalina Marine Science Center Marine Life Refuge, or
4 any person that the Director of the Catalina Marine Science Center Marine Life
5 Refuge has authorized under Section 59705, may take, for scientific purposes, any
6 fish or specimen of marine plant life under the conditions prescribed by the
7 department under Section 59705.

8 **Comment.** Section 59715 continues former Fish and Game Code Section 10655 without
9 substantive change.

10 Article 4. City of Encinitas Marine Life Refuge

11 **§ 59750. Description**

12 59750. The land and ocean waters within the following boundaries constitute the
13 City of Encinitas Marine Life Refuge:

14 All those submerged lands lying between the mean high tide line in the City of
15 Encinitas, County of San Diego, State of California, and a line which is 600 feet
16 westerly of and parallel and concentric with that mean high tide line and lying
17 southerly of the westerly prolongation of the northerly right-of-way line of “D”
18 Street as shown on Map No. 148, in the City of Encinitas, County of San Diego,
19 State of California, filed in the office of the County Recorder of San Diego
20 County, and lying northerly of the following described line:

21 Beginning at the southeasterly corner of Lot N in Block 3 of Resubdivision of
22 Sea Cliff Villa, in the City of Encinitas, County of San Diego, State of California,
23 filed in the San Diego County Recorder’s office, December 10, 1914; thence
24 southwesterly along the southwesterly prolongation of the southeasterly line of
25 said Lot N, South 36°36’30” west, to a point on that line which is 600 feet
26 westerly of and parallel and concentric with the mean high tide line.

27 **Comment.** Section 59750 continues former Fish and Game Code Section 10913 without
28 substantive change.

29 Article 5. Dana Point Marine Life Refuge

30 **§ 59775. Description**

31 59775. The following constitutes a marine life refuge and shall be designated as
32 the Dana Point Marine Life Refuge:

33 That portion of District 2625 consisting of land and ocean waters bounded by a
34 line commencing at Station 70 of the mean high tide line as shown on Document
35 Number 25208 recorded in Book 7651, page 69 of Official Records on file in the
36 Office of County Recorder of Orange County; thence along the mean high tide
37 line westerly and northerly 3500 feet more or less to intersection with a line which
38 is 2440 feet south of and parallel to the north line of Fractional Section 21, R. 8
39 W., T. 8 S., S.B.M.’; thence west 1200 feet; thence southerly and easterly 1200

1 feet from and parallel to the shore line to an intersection with a line which bears S
2 40° 00′ E. from said Station 70; thence N 40° 00′ W. 1200 feet more or less to the
3 point of beginning.

4 **Comment.** Section 59775 continues former Fish and Game Code Section 10907 without
5 substantive change.

6 **§ 59780. Director**

7 59780. (a) The director may appoint a Director of the Dana Point Marine Life
8 Refuge.

9 (b) Except as otherwise provided in this section, no state funds, including, but
10 not limited to, the Fish and Game Preservation Fund, shall be used to pay the
11 compensation or expenses of the Director of the Dana Point Marine Life Refuge.
12 A city, county, or special district may use any funds, including state funds
13 appropriated to the city, county, or special district, to pay the compensation and
14 expenses of the director and a public postsecondary educational institution may
15 use private or state funds to pay the compensation and expenses of the director.

16 (c) The Director of the Dana Point Marine Life Refuge may issue a permit
17 authorizing any person to enter the Dana Point Marine Life Refuge for the purpose
18 of taking fish or marine plants under the conditions that the department determines
19 to be necessary for the protection and propagation of fish and wildlife and related
20 scientific purposes in that refuge.

21 (d) The Director of the Dana Point Marine Life Refuge shall erect and maintain
22 signs identifying the boundaries of the Dana Point Marine Life Refuge. The signs
23 shall contain notification regarding the permit requirements of the refuge. The
24 signs shall specify that an access permit shall be obtained from the Director of the
25 Dana Point Marine Life Refuge and a scientific collector's permit from the
26 department in order to take any fish or specimen of marine plant life.

27 **Comment.** Section 59780 continues former Fish and Game Code Section 10502.6 without
28 substantive change.

29 **§ 59785. Take**

30 59785. (a) In the Dana Point Marine Life Refuge below the intertidal zone, the
31 following fish, mollusks, and crustaceans may be taken under the authority of a
32 sportfishing license as authorized by this code: abalone (subject to the moratorium
33 imposed under Section 45800), lobster, rockfish (Scorpaenidae), greenling, ling
34 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
35 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
36 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
37 California halibut, sole, turbot, and sanddab.

38 (b) All other fish and forms of aquatic life are protected and may not be taken
39 without a written permit from the department.

40 (c) Fin fish shall be taken only by hook and line or by spearfishing gear.

1 **Comment.** Section 59785 continues former Fish and Game Code Section 10667(a) without
2 substantive change.

3 **§ 59790. Entry prohibition**

4 59790. Except as expressly provided in this article, it is unlawful to enter the
5 intertidal zone in the Dana Point Marine Life Refuge for the purpose of taking or
6 possessing, or to take or possess, any species of fish, plant, or invertebrate, or part
7 thereof, to use or have in possession any contrivance designed to be used for
8 catching fish, to disturb any native plant, fish, wildlife, aquatic organism, or to
9 take or disturb any natural geological feature.

10 **Comment.** Section 59790 generalizes the first sentence of former Fish and Game Code Section
11 10667(b) without substantive change.

12  **Note.** Existing Section 10667(b) refers to “this section.” Proposed Section 59790 would
13 broaden that provision to refer to “this article.” This would include Section 10502.6 within the
14 scope of the reference. **The Commission invites comment on whether that change would**
15 **cause any problem.**

16 **§ 59795. Exceptions to prohibitions**

17 59795. (a) Section 59790 does not prohibit persons from entering the intertidal
18 zone for the purpose of entertainment, recreation, and education while having a
19 minimum impact on the intertidal environment and the living organisms therein.
20 For this purpose, minimum impact includes foot traffic, general observation of
21 organisms in their environment with immediate replacement of any unattached
22 organisms to their natural location after temporary lifting for examination, and
23 photography. Minimum impact does not include removal of attached organisms
24 from their environment, gathering of fishing bait, littering, collecting rocks and
25 shells, or turning rocks or other acts destructive to the environment.

26 (b) Notwithstanding Sections 59785 and 59790, the Director of the Dana Point
27 Marine Life Refuge, or any person, who has a scientific collector’s permit from
28 the department, to whom the Director of the Dana Point Marine Life Refuge has
29 issued a permit pursuant to Section 59780, may take, for scientific purposes, any
30 fish or specimen of marine plant life under the conditions prescribed by the
31 department pursuant to Section 59780.

32 (c) This article does not prohibit the entry of state and local law enforcement
33 officers, fire suppression agencies, and employees of the department in the
34 performance of their official duties.

35 (d) This article does not prohibit or restrict navigation in the Dana Point Marine
36 Life Refuge pursuant to federal law.

37 **Comment.** Subdivision (a) of Section 59795 continues the second through fourth sentences of
38 former Fish and Game Code Section 10667(b) without substantive change.

39 Subdivision (b) continues former Fish and Game Code Section 10667(d).

40 Subdivision (c) continues the first sentence of former Fish and Game Code Section 10667(e).

41 Subdivision (d) continues the second sentence of former Fish and Game Code Section
42 10667(e).

1 **Note.** Existing Section 10667(e) refers twice to “this section.” Proposed Section 59795(c) and
2 (d) would broaden that language to refer to “this article.” This would include Section 10502.6
3 within the scope of the references. **The Commission invites comment on whether that change**
4 **would cause any problem.**

5 **§ 59800. “Intertidal zone” defined**

6 59800. For the purposes of this article, “intertidal zone” means the area of the
7 refuge between the mean lower low-water mark and the mean high-tide line
8 described in Section 59775.

9 **Comment.** Section 59800 continues former Fish and Game Code Section 10667(c) without
10 substantive change.

11 **Article 6. Doheny Beach Marine Life Refuge**

12 **§ 59825. Description**

13 59825. The following constitutes a marine life refuge and shall be designated as
14 the Doheny Beach Marine Life Refuge:

15 All that area lying 600 feet seaward of and below the mean high tide line of the
16 Pacific Ocean between the prolongation of the line common to Blocks A and B of
17 Tract No. 797, Capistrano Beach #3, in the County of Orange, State of California,
18 as per map recorded in Book 25, pages 10 to 15, inclusive, of Miscellaneous Maps
19 in the office of the County Recorder of such county, such line also being the
20 prolongation of the easterly line of Doheny State Beach, a unit of the State Park
21 System acquired by deed dated April 29, 1957, from the Union Oil Company of
22 California, recorded on October 9, 1957, in Book 4063 of Official Records at page
23 88, Orange County, California, and the east breakwater of the Dana Point Harbor,
24 a project of the Orange County Harbor District, a political subdivision of the State
25 of California.

26 **Comment.** Section 59825 continues former Fish and Game Code Section 10908 without
27 substantive change.

28 **§ 59830. Take of fish in refuge**

29 59830. (a) In the Doheny Beach Marine Life Refuge, the following fish,
30 mollusks, and crustaceans may be taken under the authority of a sportfishing
31 license as authorized by this code: abalone, lobster, rockfish (Scorpaenidae),
32 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted
33 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,
34 opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead,
35 bonito, California halibut, sole, turbot, and sanddab.

36 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

37 (c) All other fish and forms of aquatic life are protected and may not be taken
38 without a written permit from the department.

39 **Comment.** Section 59830 continues former Fish and Game Code Section 10664, as it relates to
40 the Doheny Beach Marine Refuge without substantive change.

1 Article 7. Hopkins Marine Life Refuge

2 **§ 59850. Description**

3 59850. That portion of District 2610 consisting of the land and ocean waters
4 within the following boundaries constitutes a marine life refuge and shall be
5 designated the Hopkins Marine Life Refuge:

6 Beginning at the point of intersection of the southeasterly corporate limit line of
7 the City of Pacific Grove prolonged, and the line of highest tide of the Bay of
8 Monterey; thence northwesterly along said line of highest tide to the intersection
9 with the northerly extension of the west side of Third Street in said city; thence
10 northerly to a point in said bay where the depth of water is 60 feet measured from
11 the level of mean low tide; thence southeasterly along the line in said bay which
12 line is at a constant depth of 60 feet measured from the level of mean low tide to
13 the intersection with the southeasterly corporate limit line of said city prolonged;
14 thence S. 58° 57' 45" W. along said southeasterly corporate limit line prolonged
15 to the point of beginning.

16 **Comment.** Section 59850 continues former Fish and Game Code Section 10901 without
17 substantive change.

18 **§ 59855. Director**

19 59855. The director may appoint the Director of the Hopkins Marine Life
20 Refuge.

21 **Comment.** Section 59855 continues the first sentence of former Fish and Game Code Section
22 10502.5 without substantive change.

23 **§ 59860. Special prohibition**

24 59860. Except as expressly provided in this part, it is unlawful to enter the
25 Hopkins Marine Life Refuge for the purpose of taking or possessing any fish or
26 marine plants or to take or possess any fish or marine plants in the Hopkins
27 Marine Life Refuge.

28 **Comment.** Section 59860 continues the first sentence of former Fish and Game Code Section
29 10657.5 without substantive change.

30 **§ 59865. Exceptions to prohibition**

31 59865. (a) A person may be permitted by the Director of the Hopkins Marine
32 Life Refuge to enter the Hopkins Marine Life Refuge under a permit.

33 (b) The Director of the Hopkins Marine Life Refuge, or any person to whom the
34 Director of the Hopkins Marine Life Refuge has issued a permit under subdivision
35 (c) of Section 59865, may take, for scientific purposes, any fish or specimen of
36 marine plant life under the conditions prescribed by the department under
37 subdivision (c) of Section 59865.

38 (c) The Director of the Hopkins Marine Life Refuge may issue a permit to any
39 person under which the person may enter the Hopkins Marine Life Refuge for the

1 purpose of taking fish or marine plants under the conditions that the department
2 determines necessary for the protection and propagation of fish and wildlife and
3 related scientific purposes in that refuge.

4 (d) This section and Section 59860 do not prohibit or restrict navigation in the
5 Hopkins Marine Life Refuge pursuant to federal law.

6 **Comment.** Subdivisions (a) and (b) of Section 59865 continues former Fish and Game Code
7 Section 10657 without substantive change.

8 Subdivision (c) continues the second sentence of former Fish and Game Code Section 10502.5
9 without substantive change.

10 Subdivision (d) continues the second sentence of former Fish and Game Code Section 10657.5
11 without substantive change.

12 Article 8. Irvine Coast Marine Life Refuge

13 § 59900. Description

14 59900. The following constitutes a marine life refuge and shall be designated as
15 the Irvine Coast Marine Life Refuge:

16 That portion of California state tide and submerged lands adjoining the Newport
17 Beach Marine Life Refuge as described in Section 59975 and bounded by a line
18 beginning at the intersection of the southwesterly extension of lot 141, Tract No.
19 3357 as shown on a map recorded in Book 107, Page 1 of Miscellaneous Maps on
20 file in the office of the County Recorder, Orange County and the Line of Ordinary
21 High Tide; thence, southeasterly along the Line of Ordinary High Tide
22 approximately 20,000 feet to its intersection with the southwesterly extension of
23 the northwesterly boundary line of the City of Laguna Beach; thence,
24 southwesterly along such southwesterly extension 600 feet; thence, northwesterly
25 along a line parallel to and 600 feet southwesterly of the Line of Ordinary High
26 Tide to the southwesterly extension of said lot 141; thence, northeasterly 600 feet
27 along such southwesterly extension to the point of beginning.

28 **Comment.** Section 59900 continues former Fish and Game Code Section 10912 without
29 substantive change.

30 § 59905. Take of fish in refuge

31 59905. (a) In the Irvine Coast Marine Life Refuge, the following fish, mollusks,
32 and crustaceans may be taken under the authority of a sportfishing license as
33 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling
34 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
35 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
36 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
37 California halibut, sole, turbot, and sanddab.

38 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

39 (c) All other fish and forms of aquatic life are protected and may not be taken
40 without a written permit from the department.

1 monkeyface eel, rock eel, white croaker, halibut, cabezon (*Scorpaenichthys*
2 *marmoratus*), kelp greenling (*Hexagrammos decagrammus*), and smelt (*Osmeridae*
3 and *Antherinidae*).

4 (b) No fish listed in subdivision (a) that has fins may be taken except by hook
5 and line or by spearfishing.

6 (c) All other fish and forms of aquatic life are protected and may not be taken
7 without a written permit from the department.

8 **Comment.** Section 59930 continues former Fish and Game Code Section 10666 without
9 substantive change.

10 Article 10. Laguna Beach Marine Life Refuge

11 § 59950. Description

12 59950. The following constitutes a marine life refuge and shall be designated as
13 the Laguna Beach Marine Life Refuge:

14 That portion of District 2625 consisting of that certain parcel of land bounded by
15 a line commencing at the mean high tide of the Pacific Ocean lying on the
16 northern boundary of the City of Laguna Beach and running for a distance of 600
17 feet into the Pacific Ocean along that boundary, and thence generally
18 southeastward and generally parallel to the shoreline at a distance of
19 approximately 600 feet to the northern boundary of the South Laguna Beach
20 Marine Life Refuge, and thence generally northeastward for a distance of
21 approximately 700 feet to the mean high tide, and thence generally northwestward
22 along the line of mean high tide to the point of beginning.

23 **Comment.** Section 59950 continues former Fish and Game Code Section 10904 without
24 substantive change.

25 § 59955. Take of fish in refuge

26 59955. (a) In the Laguna Beach Marine Life Refuge, the following fish,
27 mollusks, and crustaceans may be taken under the authority of a sportfishing
28 license as authorized by this code: abalone, lobster, rockfish (*Scorpaenidae*),
29 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted
30 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,
31 opaleye, halfmoon, surfperch (*Embiotocidae*), blacksmith, barracuda, sheephead,
32 bonito, California halibut, sole, turbot, and sanddab.

33 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

34 (c) All other fish and forms of aquatic life are protected and may not be taken
35 without a written permit from the department.

36 **Comment.** Section 59955 continues former Fish and Game Code Section 10664, as it relates to
37 the Laguna Beach Marine Refuge without substantive change.

1 Article 11. Newport Beach Marine Life Refuge

2 **§ 59975. Description**

3 59975. The following constitutes a marine life refuge and shall be designated as
4 the Newport Beach Marine Life Refuge:

5 That portion of District 2625 consisting of that certain parcel of land bounded by
6 the line of Mean High Tide of the Pacific Ocean between the eastern boundary of
7 the City of Newport Beach and Poppy Avenue in the City of Newport Beach, and
8 extending into and including the state waters of the State of California for a
9 distance of two hundred feet into the Pacific Ocean from the line of Mean High
10 Tide.

11 **Comment.** Section 59975 continues former Fish and Game Code Section 10905 without
12 substantive change.

13 **§ 59980. Take of fish in refuge**

14 59980. (a) In the Newport Beach Marine Life Refuge, the following fish,
15 mollusks, and crustaceans may be taken under the authority of a sportfishing
16 license as authorized by this code: abalone, lobster, rockfish (*Scorpaenidae*),
17 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted
18 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,
19 opaleye, halfmoon, surfperch (*Embiotocidae*), blacksmith, barracuda, sheephead,
20 bonito, California halibut, sole, turbot, and sanddab.

21 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

22 (c) All other fish and forms of aquatic life are protected and may not be taken
23 without a written permit from the department.

24 **Comment.** Section 59980 continues former Fish and Game Code Section 10664, as it relates to
25 the Newport Beach Marine Refuge without substantive change.

26 Article 12. Niguel Marine Life Refuge

27 **§ 60000. Description**

28 60000. The following constitutes a marine life refuge and shall be designated as
29 the Niguel Marine Life Refuge: That portion of California state tide and
30 submerged lands bounded by a line commencing at a point which is the
31 intersection of the line of mean high tide and a line which is 2,440 feet south of
32 and parallel to the north line of Fractional Section 21, R.8W., T.8S., S.B.M., such
33 point also being on the north boundary of the Dana Point Marine Life Refuge,
34 thence along the mean high tide line northerly and westerly 12,000 feet more or
35 less to its intersection with the westerly prolongation of the most northerly
36 boundary line of lot 101 of “Three Arches Palisades No. 1” as shown on a map
37 filed in book 3, page 3, Records of Surveys in the Office of the County Recorder,
38 Orange County; thence, S. 89° 54′ W. 1,200 feet from such point of intersection
39 along the westerly prolongation of such northerly boundary line; thence, south and

1 west, and east parallel to and 1,200 feet from the line of mean high tide to a point
2 on the north line of Dana Point Marine Life Refuge and also being 1,200 feet west
3 of the point of beginning; thence, east 1,200 feet along the northerly boundary of
4 Dana Point Marine Life Refuge to the point of beginning.

5 **Comment.** Section 60000 continues former Fish and Game Code Section 10911 without
6 substantive change.

7 **§ 60005. Take of fish in refuge**

8 60005. (a) In the Niguel Marine Life Refuge, the following fish, mollusks, and
9 crustaceans may be taken under the authority of a sportfishing license as
10 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling
11 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
12 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
13 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
14 California halibut, sole, turbot, and sanddab.

15 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

16 (c) All other fish and forms of aquatic life are protected and may not be taken
17 without a written permit from the department.

18 **Comment.** Section 60005 continues former Fish and Game Code Section 10664, as it relates to
19 the Niguel Marine Refuge without substantive change.

20 **Article 13. Point Fermin Marine Life Refuge**

21 **§ 60025. Description**

22 60025. The following constitutes a marine life refuge and shall be designated as
23 the Point Fermin Marine Life Refuge:

24 That portion of District 2625 consisting of land and ocean waters bounded by
25 the line of mean high tide of the Pacific Ocean extending into and including the
26 state waters of the State of California for a distance of 600 feet below low-tide
27 mark, in the San Pedro area of the City of Los Angeles in an area generally
28 parallel to the shoreline lying between the easterly extension of 40th Street,
29 westerly to the southerly extension of Gaffey Street at Point Fermin.

30 **Comment.** Section 60025 continues former Fish and Game Code Section 10910 without
31 substantive change.

32 **§ 60030. Take of fish in refuge**

33 60030. (a) In the Point Fermin Marine Life Refuge, the following fish, mollusks,
34 and crustaceans may be taken under the authority of a sportfishing license as
35 authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling
36 cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass,
37 barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye,
38 halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito,
39 California halibut, sole, turbot, and sanddab.

- 1 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.
2 (c) All other fish and forms of aquatic life are protected and may not be taken
3 without a written permit from the department.
4 **Comment.** Section 60030 continues former Fish and Game Code Section 10664, as it relates to
5 the Point Fermin Marine Refuge without substantive change.

6 Article 14. San Diego Marine Life Refuge

7 **§ 60050. Description**

8 60050. The following constitutes a marine life refuge and shall be designated the
9 San Diego Marine Life Refuge:

10 That portion of District 2625 consisting of that certain strip of land lying
11 between the westerly edge of Pueblo Lot No. 1298 of the pueblo lands of the City
12 of San Diego, according to the official map of said pueblo lands as made by James
13 Pascoe, and filed in the Office of the County Recorder of said County of San
14 Diego, and the lowest tide line opposite to and west of said pueblo lot, which said
15 strip of land is bounded on the north by the northerly boundary line of said pueblo
16 lot extended westerly and on the south by the southerly boundary line of said
17 pueblo lot extended westerly; together with the state waters of the State of
18 California adjacent thereto, being those state waters which lie between said
19 extended northerly and southerly boundaries of said pueblo lot and extend
20 westerly from said lowest low tide line for a distance of 1,000 feet.

21 **Comment.** Section 60050 continues former Fish and Game Code Section 10902 without
22 substantive change.

23 **§ 60055. University of California**

24 60055. In the San Diego Marine Life Refuge, licensees of the Regents of the
25 University of California and all officers, employees, and students of such
26 university may take, for scientific purposes, any invertebrate or specimen of
27 marine plant life without a permit from the department.

28 **Comment.** Section 60055 continues former Fish and Game Code Section 10658 without
29 substantive change.

30 Article 15. South Laguna Beach Marine Life Refuge

31 **§ 60075. Description**

32 60075. The following constitutes a marine life refuge and shall be designated as
33 the South Laguna Beach Marine Life Refuge:

34 That portion of District 2625 consisting of land and ocean waters bounded by a
35 line commencing at the intersection of the line of mean high tide of the Pacific
36 Ocean and a line which bears South 48° 50' 00" West from the most westerly
37 point of Lot 75 of Tract No. 702, as that tract is shown on a map recorded in Book
38 21, pages 1 to 3, Miscellaneous Maps, on file in the Office of the County Recorder

1 of Orange County; thence running South 48° 50' 00" West approximately 600 feet
2 to the minus 20 foot mean lower low water contour; thence southeasterly and
3 generally parallel to the shoreline to the northerly boundary of the Niguel Marine
4 Life Refuge; thence North 35° 57' 06" East to the line of mean high tide of the
5 Pacific Ocean; thence northwesterly along the line of mean high tide of the Pacific
6 Ocean to the point of beginning.

7 **Comment.** Section 60075 continues former Fish and Game Code Section 10906 without
8 substantive change.

9 **§ 60080. Take of fish in refuge**

10 60080. (a) In the South Laguna Beach Marine Life Refuge, the following fish,
11 mollusks, and crustaceans may be taken under the authority of a sportfishing
12 license as authorized by this code: abalone, lobster, rockfish (Scorpaenidae),
13 greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted
14 sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass,
15 opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead,
16 bonito, California halibut, sole, turbot, and sanddab.

17 (b) Fin fish shall be taken only by hook and line or by spearfishing gear.

18 (c) All other fish and forms of aquatic life are protected and may not be taken
19 without a written permit from the department.

20 **Comment.** Section 60080 continues former Fish and Game Code Section 10664, as it relates to
21 the South Laguna Beach Marine Refuge without substantive change.

22 **TITLE 7. QUAIL REFUGES**

23 **CHAPTER 1. QUAIL REFUGES GENERALLY**

24 **§ 60200. Prohibition**

25 60200. (a) Except under a permit or specific authorization, it is unlawful to take
26 or possess a quail in a quail refuge.

27 (b) The punishment for a violation of this section is a fine of not more than two
28 thousand dollars (\$2,000), imprisonment in a county jail for not more than one
29 year, or both the fine and imprisonment.

30 **Comment.** Subdivision (a) of Section 60200 continues former Fish and Game Code Section
31 10500(e) without substantive change.

32 Subdivision (b) continues former Fish and Game Code Section 12002(b)(6) without
33 substantive change.

1

CHAPTER 2. SPECIFIC QUAIL REFUGES

2

Article 1. General Provisions

3

§ 60225. Described areas

4

60225. The areas described in this chapter are quail refuges.

5

Comment. Section 60225 continues former Fish and Game Code Section 10880 without substantive change.

6

7

Article 2. Bolinas Quail Refuge

8

§ 60250. Description

9

60250. The following constitutes a quail refuge and shall be designated the Bolinas Quail Refuge: All that area within the County of Marin, within the following boundaries:

10

11

Beginning at a point on the southeasterly line of the lands of Ludwig B. Freudenthal, as the same is described in Book 158 of official records on page 261, of Marin County records, and at a point which is 20 feet above mean high tide of the Pacific Ocean, and running thence northeasterly and northwesterly along the southeasterly line of said Ludwig B. Freudenthal tract to a point on the southerly line of the “Mesa Road,” thence northeasterly and along the southerly line of Mesa Road to the westerly line of the road leading from the Town of Bolinas to Sausalito, thence southeasterly and along the southerly line of the county road leading through the Town of Bolinas to the landing wharf at the entrance of Bolinas Bay, and 20 feet above mean high tide, thence southwesterly, westerly and northwesterly along a line which is 20 feet above mean high tide to the point of beginning.

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Comment. Section 60250 continues former Fish and Game Code Section 10881 without substantive change.

26

TITLE 8. CLAM REFUGES

27

CHAPTER 1. CLAM REFUGES GENERALLY

28

§ 60300. Prohibition

29

60300. (a) Except under a permit or specific authorization, it is unlawful to take or possess a clam or an instrument or apparatus capable of being used to dig clams in a clam refuge.

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(b) The punishment for a violation of this section is a fine of not more than two thousand dollars (\$2,000), imprisonment in a county jail for not more than one year, or both the fine and imprisonment.

33

34

1 protection while falling far short of its potential to protect and conserve living
2 marine life and habitat.

3 (b) California’s extraordinary marine biological diversity is a vital asset to the
4 state and nation. The diversity of species and ecosystems found in the state’s
5 ocean waters is important to public health and well-being, ecological health, and
6 ocean-dependent industry.

7 (c) Coastal development, water pollution, and other human activities threaten the
8 health of marine habitat and the biological diversity found in California’s ocean
9 waters. New technologies and demands have encouraged the expansion of fishing
10 and other activities to formerly inaccessible marine areas that once recharged
11 nearby fisheries. As a result, ecosystems throughout the state’s ocean waters are
12 being altered, often at a rapid rate.

13 (d) Fish and other sea life are a sustainable resource, and fishing is an important
14 community asset. MPAs and sound fishery management are complementary
15 components of a comprehensive effort to sustain marine habitats and fisheries.

16 (e) Understanding of the impacts of human activities and the processes required
17 to sustain the abundance and diversity of marine life is limited. The designation of
18 certain areas as sea life reserves can help expand our knowledge by providing
19 baseline information and improving our understanding of ecosystems where
20 minimal disturbance occurs.

21 (f) Marine life reserves are an essential element of an MPA system because they
22 protect habitat and ecosystems, conserve biological diversity, provide a sanctuary
23 for fish and other sea life, enhance recreational and educational opportunities,
24 provide a reference point against which scientists can measure changes elsewhere
25 in the marine environment, and may help rebuild depleted fisheries.

26 (g) Despite the demonstrated value of marine life reserves, only 14 of the
27 220,000 square miles of combined state and federal ocean water off California, or
28 six-thousandths of 1 percent, are set aside as genuine no take areas.

29 (h) For all of the above reasons, it is necessary to modify the existing collection
30 of MPAs to ensure that they are designed and managed according to clear,
31 conservation-based goals and guidelines that take full advantage of the multiple
32 benefits that can be derived from the establishment of marine life reserves.

33 **Comment.** Section 60405 continues former Fish and Game Code Section 2851 without
34 substantive change.

35 **§ 60410. Definitions**

36 60410. The following definitions govern the construction of this part:

37 (a) “Adaptive management,” with regard to marine protected areas, means a
38 management policy that seeks to improve management of biological resources,
39 particularly in areas of scientific uncertainty, by viewing program actions as tools
40 for learning. Actions shall be designed so that, even if they fail, they will provide
41 useful information for future actions, and monitoring and evaluation shall be

1 emphasized so that the interaction of different elements within marine systems
2 may be better understood.

3 (b) “Biogeographical regions” refers to the following oceanic or near shore
4 areas, seaward from the mean high tide line or the mouth of coastal rivers, with
5 distinctive biological characteristics, unless the team establishes an alternative set
6 of boundaries:

7 (1) The area extending south from Point Conception.

8 (2) The area between Point Conception and Point Arena.

9 (3) The area extending north from Point Arena.

10 (c) “Marine protected area” or “MPA” means a named, discrete geographic
11 marine or estuarine area seaward of the mean high tide line or the mouth of a
12 coastal river, including any area of intertidal or subtidal terrain, together with its
13 overlying water and associated flora and fauna that has been designated by law,
14 administrative action, or voter initiative to protect or conserve marine life and
15 habitat. An MPA includes marine life reserves and other areas that allow for
16 specified commercial and recreational activities, including fishing for certain
17 species but not others, fishing with certain practices but not others, and kelp
18 harvesting, provided that these activities are consistent with the objectives of the
19 area and the goals and guidelines of this part. MPAs are primarily intended to
20 protect or conserve marine life and habitat, and are therefore a subset of marine
21 managed areas (MMAs), which are broader groups of named, discrete geographic
22 areas along the coast that protect, conserve, or otherwise manage a variety of
23 resources and uses, including living marine resources, cultural and historical
24 resources, and recreational opportunities.

25 (d) “Marine life reserve,” for the purposes of this part, means a marine protected
26 area in which all extractive activities, including the taking of marine species, and,
27 at the discretion of the commission and within the authority of the commission,
28 other activities that upset the natural ecological functions of the area, are
29 prohibited. While, to the extent feasible, the area shall be open to the public for
30 managed enjoyment and study, the area shall be maintained to the extent
31 practicable in an undisturbed and unpolluted state.

32 (e) “Team” means the master plan team convened pursuant to subdivision (b) of
33 Section 2855.

34 **Comment.** Subdivisions (a) through (d) of Section 60410 continue former Fish and Game
35 Code Section 2852 without substantive change.

36 Subdivision (e) is new.

37 **§ 60415. Ocean Protection Council authority**

38 60415. Notwithstanding any other law and consistent with the authority granted
39 under Section 60450, commencing on July 1, 2013, the Ocean Protection Council
40 shall assume responsibility for the direction of policy of marine protected areas
41 (MPAs).

1 **Comment.** Section 60415 continues former Fish and Game Code Section 2850.5 without
2 substantive change.

3 **§ 60420. Consultation with United States Navy**

4 60420. The department shall confer as necessary with the United States Navy
5 regarding issues related to its activities.

6 **Comment.** Section 60420 continues former Fish and Game Code Section 2863 without
7 substantive change.

8 **TITLE 2. PROTECTIONS**

9 **§ 60450. Take of fish in MPA or marine life reserve**

10 60450. (a) The commission may regulate commercial and recreational fishing
11 and any other taking of marine species in MPAs.

12 (b) Notwithstanding any other provision of this code, the taking of a marine
13 species in a marine life reserve is prohibited for any purpose, including
14 recreational and commercial fishing, except that the commission may authorize
15 the taking of a marine species for scientific purposes, consistent with the purposes
16 of this part, under a scientific collecting permit issued by the department.

17 **Comment.** Section 60450 continues former Fish and Game Code Section 2860 without
18 substantive change.

19 **§ 60455. Impact analysis**

20 60455. The department, in evaluating proposed projects with potential adverse
21 impacts on marine life and habitat in MPAs, shall highlight those impacts in its
22 analysis and comments related to the project and shall recommend measures to
23 avoid or fully mitigate any impacts that are inconsistent with the goals and
24 guidelines of this part or the objectives of the MPA.

25 **Comment.** Section 60455 continues former Fish and Game Code Section 2862 without
26 substantive change.

27 **TITLE 3. MARINE LIFE PROTECTION**
28 **PROGRAM**

29 **§ 60475. Marine Life Protection Program**

30 60475. (a) The Legislature finds and declares that there is a need to reexamine
31 and redesign California's MPA system to increase its coherence and its
32 effectiveness at protecting the state's marine life, habitat, and ecosystems.

33 (b) To improve the design and management of that system, the commission,
34 pursuant to Section 60520, shall adopt a Marine Life Protection Program, which
35 shall have all of the following goals:

36 (1) To protect the natural diversity and abundance of marine life, and the
37 structure, function, and integrity of marine ecosystems.

1 (2) To help sustain, conserve, and protect marine life populations, including
2 those of economic value, and rebuild those that are depleted.

3 (3) To improve recreational, educational, and study opportunities provided by
4 marine ecosystems that are subject to minimal human disturbance, and to manage
5 these uses in a manner consistent with protecting biodiversity.

6 (4) To protect marine natural heritage, including protection of representative and
7 unique marine life habitats in California waters for their intrinsic value.

8 (5) To ensure that California’s MPAs have clearly defined objectives, effective
9 management measures, and adequate enforcement, and are based on sound
10 scientific guidelines.

11 (6) To ensure that the state’s MPAs are designed and managed, to the extent
12 possible, as a network.

13 **Comment.** Section 60475 continues former Fish and Game Code Section 2853(a)-(b) without
14 substantive change.

15 **§ 60480. Program elements**

16 60480. The Marine Life Protection Program may include areas with various
17 levels of protection, and shall include all of the following elements:

18 (a) An improved marine life reserve component consistent with the guidelines in
19 subdivision (c) of Section 60525.

20 (b) Specific identified objectives, and management and enforcement measures,
21 for all MPAs in the system.

22 (c) Provisions for monitoring, research, and evaluation at selected sites to
23 facilitate adaptive management of MPAs and ensure that the system meets the
24 goals stated in this part.

25 (d) Provisions for educating the public about MPAs, and for administering and
26 enforcing MPAs in a manner that encourages public participation.

27 (e) A process for the establishment, modification, or abolishment of existing
28 MPAs or new MPAs established pursuant to this program, that involves interested
29 parties, consistent with paragraph (7) of subdivision (b) of Section 12100, and that
30 facilitates the designation of MPAs consistent with the master plan adopted
31 pursuant to Section 60500.

32 **Comment.** Section 60480 continues former Fish and Game Code Section 2853(c) without
33 substantive change.

34 **TITLE 4. MASTER PLAN**

35 **§ 60500. Master plan**

36 60500. (a) The commission shall adopt a master plan that guides the adoption
37 and implementation of the Marine Life Protection Program adopted pursuant to
38 Title 3 (commencing with Section 60475) and decisions regarding the siting of
39 new MPAs and major modifications of existing MPAs. The plan shall be based on
40 the best readily available science.

1 (b)(1) The department shall prepare, or by contract shall cause to be prepared, a
2 master plan in accordance with this subdivision. In order to take full advantage of
3 scientific expertise on MPAs, the department shall convene a master plan team to
4 advise and assist in the preparation of the master plan, or hire a contractor with
5 relevant expertise to assist in convening the team.

6 (2) The team members convened pursuant to this subdivision shall have
7 expertise in marine life protection and shall be knowledgeable about the use of
8 protected areas as a marine ecosystem management tool. The members shall also
9 be familiar with underwater ecosystems found in California waters, with the
10 biology and habitat requirements of major species groups in the state’s marine
11 waters, and with water quality and related issues.

12 (3) The team shall be composed of the following individuals:

13 (A) Staff from the department, the Department of Parks and Recreation, and the
14 State Water Resources Control Board, to be designated by each of those
15 departments.

16 (B) Five to seven members who shall be scientists, one of whom may have
17 expertise in the economics and culture of California coastal communities.

18 (C) One member, appointed from a list prepared by Sea Grant marine advisers,
19 who shall have direct expertise with ocean habitat and sea life in California marine
20 waters.

21 (4) The master plan shall be prepared with the advice, assistance, and
22 involvement of participants in the various fisheries and their representatives,
23 marine conservationists, marine scientists, and other interested persons. In
24 preparing the master plan, the department shall confer, to the extent feasible, with
25 the commission, the Pacific Fishery Management Council, the National Marine
26 Fisheries Service, the United States Navy, the United States Geological Survey’s
27 national biological survey, staff from national marine sanctuaries off California,
28 Sea Grant researchers, marine advisers, and national parks personnel.

29 (5) The department may engage other experts to contribute to the master plan,
30 including scientists, geographic information system (GIS) experts, and commercial
31 and recreational fishermen, divers, and other individuals knowledgeable about the
32 state’s underwater ecosystems, the history of fishing effort or MPA management,
33 or other relevant subjects.

34 (c) The department and team, in carrying out this part, shall take into account
35 relevant information from local communities, and shall solicit comments and
36 advice for the master plan from interested parties on issues including, but not
37 necessarily limited to, each of the following:

38 (1) Practical information on the marine environment and the relevant history of
39 fishing and other resources use, areas where fishing is currently prohibited, and
40 water pollution in the state’s coastal waters.

41 (2) Socioeconomic and environmental impacts of various alternatives.

42 (3) Design of monitoring and evaluation activities.

1 (4) Methods to encourage public participation in the stewardship of the state’s
2 MPAs.

3 **Comment.** Section 60500 continues former Fish and Game Code Section 2855 without
4 substantive change.

5 **§ 60505. Content of master plan**

6 60505. (a) The department and team shall use the best readily available
7 scientific information in preparing the master plan adopted pursuant to Section
8 60500, and shall organize the location-specific contents, where feasible, by
9 biogeographical region. In preparing the plan, the department and team shall use
10 and build upon the findings of the Sea Grant survey of protected areas in
11 California waters, which is entitled “California’s Marine Protected Areas,” the
12 report of the State Interagency Marine Managed Areas Workgroup, the
13 Department of Parks and Recreation’s planning information and documents
14 regarding existing and potential underwater parks and reserves, maps and other
15 information from the department’s marine nearshore ecosystem mapping project,
16 and other relevant planning and scientific materials.

17 (b) The master plan shall include all of the following components:

18 (1) Recommendations for the extent and types of habitat that should be
19 represented in the MPA system and in marine life reserves. Habitat types
20 described on maps shall include, to the extent possible using existing information,
21 rocky reefs, intertidal zones, sandy or soft ocean bottoms, underwater pinnacles,
22 sea mounts, kelp forests, submarine canyons, and seagrass beds.

23 (2) An identification of select species or groups of species likely to benefit from
24 MPAs, and the extent of their marine habitat, with special attention to marine
25 breeding and spawning grounds, and available information on oceanographic
26 features, including current patterns, upwelling zones, and other factors that
27 significantly affect the distribution of those fish or shellfish and their larvae.

28 (3) Recommendations to augment or modify the guidelines in subdivision (c) of
29 Section 60525, if necessary to ensure that the guidelines reflect the most up-to-
30 date science, including, for example, recommendations regarding the minimum
31 size of individual marine life reserves needed to accomplish the various goals set
32 forth in Sections 60475 and 60480.

33 (4) Recommended alternative networks of MPAs, including marine life reserves
34 in each biogeographical region that are capable of achieving the goals in Sections
35 60475 and 60480 and designed according to the guidelines in subdivision (c) of
36 Section 2857.

37 (5) A simplified classification system, which shall be consistent with the goals
38 of Sections 60475 and 60480 and the guidelines in subdivision (c) of Section
39 60525, and which may include protections for specific habitats or species, if no
40 system that meets these specifications has already been developed.

1 (6) Recommendations for a preferred siting alternative for a network of MPAs
2 that is consistent with the goals in Sections 60475 and 60480 and the guidelines in
3 subdivision (c) of Section 60525.

4 (7) An analysis of the state’s current MPAs, based on the preferred siting
5 alternative, and recommendations as to whether any specific MPAs should be
6 consolidated, expanded, abolished, reclassified, or managed differently so that,
7 taken as a group, the MPAs best achieve the goals of Sections 60475 and 60480
8 and conform to the guidelines in subdivision (c) of Section 60525.

9 (8) Recommendations for monitoring, research, and evaluation in selected areas
10 of the preferred alternative, including existing and long-established MPAs, to
11 assist in adaptive management of the MPA network, taking into account existing
12 and planned research and evaluation efforts.

13 (9) Recommendations for management and enforcement measures for the
14 preferred alternative that apply systemwide or to specific types of sites and that
15 would achieve the goals of this part.

16 (10) Recommendations for improving the effectiveness of enforcement
17 practices, including, to the extent practicable, the increased use of advanced
18 technology surveillance systems.

19 (11) Recommendations for funding sources to ensure all MPA management
20 activities are carried out and the Marine Life Protection Program is implemented.

21 (c) The team shall, as necessary, identify and define additional appropriate
22 components of the master plan as soon as possible after enactment of this section.

23 **Comment.** Section 60505 continues former Fish and Game Code Section 2856 without
24 substantive change.

25 **§ 60510. Workgroup actions**

26 60510. The workgroup shall, after appropriate consultation with members of the
27 public, determine future actions for implementing the recommendations of its final
28 report.

29 **Comment.** Section 60510 continues former Fish and Game Code Section 2854 without
30 substantive change.

31  **Note.** Existing Section 2854 uses the term “workgroup” without any prior use of the term in
32 nearby provisions. Consequently, it’s meaning is not clear. Does the provision refer to the “State
33 Interagency Marine Managed Areas Workgroup” that is mentioned in Section 2856?

34 **The Commission invites Comment on how to clarify the meaning of Section 2854.**

35 **§ 60515. Peer review**

36 60515. The department shall establish a process for external peer review of the
37 scientific basis for the master plan prepared pursuant to Section 60500. The peer
38 review process may be based, to the extent practicable, on the peer review process
39 described in Section 12205.

40 **Comment.** Section 60515 continues former Fish and Game Code Section 2858 without
41 substantive change.

1 § 60520. Adoption of master plan

2 60520. (a) On or before January 1, 2005, the department shall submit to the
3 commission a draft of the master plan prepared pursuant to this part.

4 (b) On or before April 1, 2005, after public review, not less than three public
5 meetings, and appropriate modifications of the draft plan, the department shall
6 submit a proposed final master plan to the commission.

7 (c) On or before December 1, 2005, the commission shall adopt a final master
8 plan and a Marine Life Protection Program with regulations based on the plan and
9 shall implement the program, to the extent funds are available. The commission's
10 adoption of the plan and a program based on the plan shall not trigger an
11 additional review under the California Environmental Quality Act (Division 13
12 commencing with Section 21000) of the Public Resources Code).

13 (d) The commission shall hold at least two public hearings on the master plan
14 and the Marine Life Protection Program prior to adopting the plan and program.
15 The commission may adopt the plan and the program immediately following the
16 second public hearing or at any duly noticed subsequent meeting.

17 (e) Upon the commission's adoption of the program, the commission shall
18 submit the master plan and program description, including marine life reserve and
19 other MPA designations, to the Joint Committee on Fisheries and Aquaculture for
20 review and comment.

21 (f) Upon receipt of the plan, the joint committee shall have 60 days to review the
22 plan and to submit written recommendations to the commission regarding the plan
23 and program. The joint committee shall only submit a recommendation to the
24 commission if a majority of the members agree to that recommendation. The
25 commission shall consider all recommendations submitted by the joint committee,
26 and may amend the program to incorporate the recommendations. If the
27 commission does not incorporate any recommendations submitted by the joint
28 committee, the commission shall set forth, in writing, its reasons for not
29 incorporating that recommendation.

30 **Comment.** Section 60520 continues former Fish and Game Code Section 2859 without
31 substantive change.

32 **Note.** Existing Section 2859 sets deadlines for the preparation and adoption of a master plan
33 that are more than 10 years in the past. **The Commission invites comment on whether any part**
34 **of Section 2859 should be repealed as obsolete.**

35 § 60525. MPA siting

36 60525. (a) On or before July 1, 2001, the department shall convene, in each
37 biogeographical region and to the extent practicable near major working harbors,
38 siting workshops, composed of interested parties, to review the alternatives for
39 MPA networks and to provide advice on a preferred siting alternative. The
40 department and team shall develop a preferred siting alternative that incorporates
41 information and views provided by people who live in the area and other
42 interested parties, including economic information, to the extent possible while

1 maintaining consistency with the goals of Sections 60475 and 60480 and
2 guidelines in subdivision (c) of this section.

3 (b) The preferred alternative may include MPAs that will achieve either or both
4 of the following objectives:

5 (1) Protection of habitat by prohibiting potentially damaging fishing practices or
6 other activities that upset the natural ecological functions of the area.

7 (2) Enhancement of a particular species or group of species, by prohibiting or
8 restricting fishing for that species or group within the MPA boundary.

9 (c) The preferred siting alternative shall include MPA networks with an
10 improved marine life reserve component, and shall be designed according to each
11 of the following guidelines:

12 (1) Each MPA shall have identified goals and objectives. Individual MPAs may
13 serve varied primary purposes while collectively achieving the overall goals and
14 guidelines of this part.

15 (2) Marine life reserves in each bioregion shall encompass a representative
16 variety of marine habitat types and communities, across a range of depths and
17 environmental conditions.

18 (3) Similar types of marine habitats and communities shall be replicated, to the
19 extent possible, in more than one marine life reserve in each biogeographical
20 region.

21 (4) Marine life reserves shall be designed, to the extent practicable, to ensure
22 that activities that upset the natural ecological functions of the area are avoided.

23 (5) The MPA network and individual MPAs shall be of adequate size, number,
24 type of protection, and location to ensure that each MPA meets its objectives and
25 that the network as a whole meets the goals and guidelines of this part.

26 (d) The department and team, in developing the preferred siting alternative, shall
27 take into account the existence and location of commercial kelp beds.

28 (e) The department and team may provide recommendations for phasing in the
29 new MPAs in the preferred siting alternative.

30 **Comment.** Section 60525 continues former Fish and Game Code Section 2857 without
31 substantive change.

32 **Note.** Existing Section 2857(a) sets a deadline for certain actions that is more than 15 years in
33 the past. **The Commission invites comment on whether any part of Section 2857 should be**
34 **repealed as obsolete.**

35 **§ 60530. Petitions of interested persons**

36 60530. The commission shall, annually until the master plan is adopted and
37 thereafter at least every three years, receive, consider, and promptly act upon
38 petitions from any interested party, to add, delete, or modify MPAs, favoring those
39 petitions that are compatible with the goals and guidelines of this part.

40 **Comment.** Section 60530 continues former Fish and Game Code Section 2861(a) without
41 substantive change.

1 **§ 60535. Other authority**

2 60535. (a) Nothing in this part restricts any existing authority of the department
3 or the commission to make changes to improve the management or design of
4 existing MPAs or designate new MPAs prior to the completion of the master plan.

5 (b) The commission may abbreviate the master plan process to account for
6 equivalent activities that have taken place before enactment of this part, providing
7 that those activities are consistent with this part.

8 **Comment.** Section 60535 continues former Fish and Game Code Section 2861(b) without
9 substantive change.

10 **PART 3. MARINE MANAGED AREAS**

11 **§ 60550. Designation, deletion, or modification of marine recreational management areas**

12 60550. (a) The commission may designate, delete, or modify state marine
13 recreational management areas established by the commission for hunting
14 purposes, state marine reserves, and state marine conservation areas, as delineated
15 in subdivision (a) of Section 36725 of the Public Resources Code.

16 (b) The commission shall consult with, and secure concurrence from, the State
17 Park and Recreation Commission prior to modifying or deleting marine reserves
18 and marine conservation areas designated by the State Park and Recreation
19 Commission. The commission shall not delete or modify state marine recreational
20 management areas designated by the State Park and Recreation Commission.

21 **Comment.** Section 60550 continues former Fish and Game Code Section 1590 without
22 substantive change.

23 **§ 60555. Marine Managed Areas Improvement Act**

24 60555. (a) The Marine Managed Areas Improvement Act (Chapter 7
25 (commencing with Section 36600) of Division 27 of the Public Resources Code)
26 establishes a uniform classification system for state marine managed areas and is
27 incorporated herein by reference. Any proposals for marine protected areas made
28 after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to
29 Section 36750 of the Public Resources Code, all marine protected areas in
30 existence and not reclassified in accordance with the Marine Life Protection Act
31 (Part 2 (commencing with Section 60400)) on January 1, 2002, shall be
32 reclassified by the State Interagency Coordinating Committee established pursuant
33 to Section 36800 of the Public Resources Code into one of the following
34 classifications:

- 35 (1) State marine reserve.
- 36 (2) State marine park.
- 37 (3) State marine conservation area.

38 (b) State marine recreational management areas established by the commission
39 for hunting purposes, state marine reserves, and state marine conservation areas
40 shall be designated, deleted, or modified by the commission pursuant to that act.

1 The restrictions and allowable uses applicable to those areas are as set forth in that
2 act.

3 **Comment.** Section 60555 continues former Fish and Game Code Section 1591 without
4 substantive change.

5 PART 4. WILDLIFE MANAGEMENT AREAS, GAME FARMS, AND
6 PUBLIC SHOOTING GROUNDS

7 TITLE 1. GENERAL PROVISIONS

8 **§ 60600. Department powers**

9 60600. For the purposes of propagating, feeding and protecting birds, mammals,
10 and fish, and establishing wildlife management areas or public shooting grounds
11 the department, with the approval of the commission, may do all of the following:

12 (a) Accept, on behalf of the state, donations of birds, mammals, and fish, and of
13 money given or appropriated. Those donations shall be used for the purposes for
14 which they are accepted, and, as nearly as may be, for any purpose indicated by
15 the donor.

16 (b) Acquire, by purchase, lease, rental or otherwise, and occupy, develop,
17 maintain, use and administer, land, or land and nonmarine water, or land and
18 nonmarine water rights, suitable for state game farms, wildlife management areas,
19 or public shooting grounds.

20 **Comment.** Section 60600 continues former Fish and Game Code Section 1525 without
21 substantive change.

22 **§ 60605. State ownership and regulation**

23 60605. Any property acquired for wildlife management areas or public shooting
24 grounds shall be acquired in the name of the state, and shall, at all times, be
25 subject to any rules and regulations that may be prescribed from time to time by
26 the commission for the occupation, use, operation, protection, and administration
27 of the property as wildlife management areas or public shooting grounds.

28 **Comment.** Section 60605 continues former Fish and Game Code Section 1526 without
29 substantive change.

30 **§ 60610. Acquired property**

31 60610. (a) The department shall do all things necessary to secure a valid title in
32 the state to the property acquired for wildlife management areas or public shooting
33 grounds but no payment shall be made therefor until the title is satisfactory to the
34 Attorney General, and is vested in the state.

35 (b) The acquisition of the property by the state is not prohibited by reason of
36 rights of way, easements, or reservations that, from their nature, in the opinion of
37 the department, will in no manner interfere with the use of the property for the
38 purpose for which it is acquired.

1 **Comment.** Section 60660 continues the third sentence of former Fish and Game Code Section
2 1528 without substantive change.

3 **§ 60665. Fees for use privileges**

4 60665. Except as provided in Section 56080, and to defray the costs associated
5 with multiple use, the commission may determine and fix the amount of, and the
6 department shall collect, fees for any use privileges. However, tours by organized
7 youth and school groups are exempt from the payment of those fees.

8 **Comment.** Section 60665 continues the fourth and fifth sentences of former Fish and Game
9 Code Section 1528 without substantive change.

10 **§ 60670. Shooting permits**

11 60670. Only persons holding valid hunting licenses may apply for or obtain
12 shooting permits for public shooting grounds, state marine (estuarine) recreational
13 management areas, or wildlife management areas.

14 **Comment.** Section 60670 continues the sixth sentence of former Fish and Game Code Section
15 1528 without substantive change.

16 **§ 60675. Output of state game farm**

17 60675. The output of any state game farm shall be distributed on public lands or
18 where the department determines that the output will receive adequate protection
19 and be most likely to thrive and multiply.

20 **Comment.** Section 60675 continues former Fish and Game Code Section 1529 without
21 substantive change.

22 **§ 60680. Payments to offset local taxes and assessments**

23 60680. (a) When income is derived directly from real property acquired and
24 operated by the state as a wildlife management area, and regardless of whether
25 income is derived from property acquired after October 1, 1949, the department
26 may pay annually to the county in which the property is located an amount equal
27 to the county taxes levied upon the property at the time title to the property was
28 transferred to the state. The department may also pay the assessments levied upon
29 the property by any irrigation, drainage, or reclamation district.

30 (b) Any delinquent penalties or interest applicable to any of those assessments
31 made before September 9, 1953, are hereby canceled and shall be waived.

32 (c) Payments provided by this section shall only be made from funds that are
33 appropriated to the department for the purposes of this section.

34 (d) Any payment made under this section shall be made on or before December
35 10 of each year, with the exception of newly acquired property for which
36 payments shall be made pursuant to subdivision (e).

37 (e) Any payments made for the purposes of this section shall be made within one
38 year of the date title to the property was transferred to the state, or within 90 days
39 from the date of designation as a wildlife management area, whichever occurs
40 first, prorated for the balance of the year from the date of designation as a wildlife

1 management area to the 30th day of June following the date of designation as a
2 wildlife management area, and, thereafter, payments shall be made on or before
3 December 10 of each year.

4 (f) Notwithstanding any other law, payments provided under this section shall
5 not be allocated to a school district, a community college district, or a county
6 superintendent of schools.

7 **Comment.** Section 60680 continues former Fish and Game Code Section 1504(a)-(c), (e)-(g)
8 without substantive change.

9 **§ 60685. Mosquitos**

10 60685. (a) For purposes of this section, the following definitions apply:

11 (1) “Managed wetland habitat” means artificially irrigated and intensively
12 managed wetland habitat administered primarily for the benefit of waterfowl and
13 other wetland-dependent species.

14 (2) “Best management practices” means management strategies jointly
15 developed by the department, the State Department of Public Health, and
16 mosquito abatement and vector control districts, in consultation with the Central
17 Valley Habitat Joint Venture, for the ecological control of mosquitoes on managed
18 wetland habitat.

19 (3) “Mosquito abatement and vector control district” has the same meaning as
20 “district,” as that term is defined in subdivision (f) of Section 2002 of the Health
21 and Safety Code.

22 (b) A mosquito abatement and vector control district whose district boundaries
23 include one or more wildlife management areas or a mosquito abatement and
24 vector control district in which vectors and vectorborne diseases from a wildlife
25 management area may enter the district shall periodically, or at least semiannually,
26 notify the department of those areas that are of concern due to the potential for
27 high mosquito populations that may incur associated mosquito control costs.

28 (c)(1) To reduce mosquito production at those wildlife management areas
29 described in subdivision (b), the department shall consult with local mosquito
30 abatement and vector control districts to identify those areas within wildlife
31 management areas having the highest need for additional mosquito reduction
32 through the implementation of best management practices.

33 (2) If the wetland occupies land outside the jurisdictional boundaries of a
34 mosquito abatement and vector control district, the department may consult with
35 the State Department of Public Health to determine which best management
36 practices can be implemented in the absence of an organized local mosquito
37 control program.

38 (d) This section does not affect existing authority of a mosquito abatement and
39 vector control district under Section 2040 of the Health and Safety Code.

40 **Comment.** Section 60685 continues former Fish and Game Code Section 1506 without
41 substantive change, except that Section 1506(a)(3) is continued in Section 810.

1 **Note.** Existing Section 1506(b)(3) provides: “‘Mosquito abatement and vector control
2 district’ has the same meaning as set forth in subdivision (f) of Section 2002 of the Health and
3 Safety Code.” Health and Safety Code Section 2002(f) does not define the term “mosquito
4 abatement and vector control district.” Instead, it defines the term “district” to mean: “any
5 mosquito abatement and vector control district created pursuant to this chapter or any of its
6 statutory predecessors.” Proposed Section 60685(a)(3) has been revised to more accurately reflect
7 the effect of Health and Safety Code Section 2002(f). **The Commission invites comment on
8 whether that revision would cause any problems.**

9 **PART 5. WILDLIFE AREAS, RANGES, AND RESERVES**

10 **§ 60700. Exchange or sale of property within specified areas**

11 60700. (a) The department may, with the approval of the commission and the
12 Department of General Services, take any of the following actions with regard to
13 the areas listed in subdivision (d):

14 (1) Exchange any property lying within the boundaries of a listed area for
15 property that is within or contiguous to that area.

16 (2) Sell any property within the boundaries of a listed area and use the proceeds
17 to acquire property that is within or contiguous to that area.

18 (b) No exchange or sale of property authorized in subdivision (a) shall
19 materially reduce the total area of any area listed in subdivision (d).

20 (c) A copy of each deed of conveyance executed and delivered by the
21 department, and of each deed conveying lands to the state, pursuant to this section
22 shall be delivered to the State Lands Commission.

23 (d) The provisions of this section apply to all of the following areas:

24 (1) The Doyle Deer Winter Range, located in Lassen County.

25 (2) The Tehama Deer Winter Range, located in Tehama County.

26 (3) The Honey Lake Waterfowl Management Area, located in Lassen County.

27 (4) The Imperial Waterfowl Management Area, located in Imperial County.

28 (5) The Mendota Waterfowl Management Area, located in Fresno County.

29 (6) The San Jacinto Wildlife Area, located in Riverside County.

30 (7) The Lakes Earl/Talawa Wildlife Area, located in Del Norte County.

31 (8) The Santa Rosa Mountains Bighorn Sheep Reserve, located in Riverside
32 County.

33 (9) The Camp Cady Wildlife Area, located in San Bernardino County.

34 (10) The Butte Valley Wildlife Area, located in Siskiyou County.

35 (11) The Ash Creek Wildlife Area, located in Lassen and Modoc Counties.

36 (12) The Moss Landing Wildlife Area, located in Monterey County.

37 **Comment.** Section 60700 restates former Fish and Game Code Section 1500 without
38 substantive change.

39 **Note.** Proposed Section 60700(a)-(c) would restate the first paragraph of existing Section
40 1500 to improve its clarity, without changing its substantive effect. The existing provision reads
41 as follows:

1 “The department may, with the approval of the commission and the Department of General
2 Services, exchange any portion of the property lying within the boundaries of any area or range
3 referred to in this section for any property within or contiguous to such area or range or may sell
4 any portion of the property within such boundaries and with the proceeds thereof acquire any
5 property within or contiguous to such area or range; provided, that no exchange or sale of
6 property authorized in this section shall materially reduce the total area of any range or area
7 referred to in this section. A copy of each deed of conveyance executed and delivered by the
8 department, and of each deed conveying lands to the state, pursuant to this section shall be
9 delivered to the State Lands Commission.”

10 **The Commission invites comment on whether that restatement would cause any problems.**

11 **§ 60705. Mineral rights**

12 60705. (a) The following rules govern an exchange or sale of property pursuant
13 to Section 60700:

14 (1) If a parcel contains 15 acres or less, the director shall except and reserve to
15 the state all mineral deposits below a depth of 500 feet, without surface rights of
16 entry.

17 (2) If a parcel contains more than 15 acres, the director shall except and reserve
18 to the state all mineral deposits together with the right to prospect for, mine, and
19 remove the deposits. The rights to prospect for, mine, and remove shall be limited
20 to those areas of the property conveyed that the director, after consultation with
21 the State Lands Commission, determines to be reasonably necessary for the
22 removal of the resources and deposits.

23 (b) For the purposes of this section, the mineral deposits reserved to the state are
24 those described in Section 6407 of the Public Resources Code.

25 **Comment.** Section 60705 restates former Fish and Game Code Section 1500.5 without
26 substantive change.

27 **Note.** Proposed Section 60705 would restate existing Section 1500.5 to improve its clarity,
28 without changing its substantive effect. The existing provision reads as follows:

29 “With respect to exchanging or selling any property pursuant to Section 1500, the director, with
30 respect to any parcel containing 15 acres or less, shall except and reserve to the state all mineral
31 deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet,
32 without surface rights of entry. As to any parcel containing more than 15 acres, the director shall
33 except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public
34 Resources Code, together with the right to prospect for, mine, and remove the deposits.”

35 **The Commission invites comment on whether that restatement would cause any problems.**

36 **§ 60710. Apiculture in wildlife area**

37 60710. (a) The department shall do both of the following:

38 (1) Consider authorizing apiculture on department-managed wildlife areas,
39 where deemed appropriate by the department.

40 (2) Determine, when developing or amending its land management plans, the
41 following:

1 (A) If the department-managed wildlife areas, or any portion of the those areas,
2 are suitable for apiculture and whether apiculture is consistent with the
3 management goals and objectives for those areas on a temporary, seasonal, or
4 long-term basis.

5 (B) If the administration of apiculture on department-managed wildlife areas,
6 where deemed appropriate by the department, is meeting the management goals
7 and objectives for those areas.

8 (C) The appropriate fee and lease rent to be assessed for conducting apiculture
9 on department-managed wildlife areas. The amount of the fee shall be sufficient to
10 recover, but not exceed, all reasonable administrative and implementation costs of
11 the department. The lease rent shall take into account whether the lease is a
12 nonexclusive use of the land.

13 (b) The department, in implementing this section, may consult with apiculture
14 experts, including, but not limited to, the Department of Food and Agriculture, the
15 University of California, other academic or professional experts, and interested
16 stakeholders, when considering authorizing apiculture on department-managed
17 wildlife areas consistent with the respective management goals and objectives for
18 those areas.

19 (c) Moneys collected for conducting apiculture on department-managed wildlife
20 areas pursuant to subparagraph (C) of paragraph (2) of subdivision (a) shall be
21 deposited by the department into the Wildlife Restoration Fund and, upon
22 appropriation by the Legislature, be used to support the management,
23 maintenance, restoration, and operation of department-managed wildlife areas.

24 (d) The department may authorize the temporary placement of beehives on
25 department-managed wildlife areas through simple lease or permit agreements
26 specifying appropriate conditions. These agreements are not subject to competitive
27 bidding requirements.

28 (e) The department may continue any authorization for apiculture on
29 department-managed areas that it granted before January 1, 2015, without taking
30 further action.

31 **Comment.** Section 60710 continues former Fish and Game Code Section 1745.2 without
32 substantive change.

33 **§ 60715. Lower Sherman Island**

34 60715. (a) The department, upon request of the leaseholder, shall extend any
35 existing lease for a recreational homesite on Lower Sherman Island to the holder
36 of any lease of lands under the control of the department, under the following
37 conditions:

38 (1) The existing lease is between the department and an individual person,
39 partnership, or any affiliated group of two or more persons.

40 (2) Subject to subdivision (e), the lease may be extended for the natural life of
41 the person who is the leaseholder on January 1, 1991. With respect to any lease to

1 an affiliated group or an association of persons, the lease shall expire upon the
2 death of the last individual who is a leaseholder on January 1, 1991.

3 (3) The lease, or any interest therein, may not be transferred, bequeathed,
4 hypothecated, encumbered, sublet, assigned, sold, alienated, exchanged, or
5 otherwise changed to the benefit of another party. The leaseholder shall annually
6 certify to the department that he or she has not transferred, bequeathed,
7 hypothecated, encumbered, sublet, assigned, sold, alienated, or exchanged the
8 lease for consideration or by gift, or otherwise.

9 (4) If a lease is violated or breached by the leaseholder at any time during the
10 life of the leaseholder, the lease may be terminated by the department within 30
11 days of the receipt by the department of actual or constructive notice of the breach.

12 (b) All leases entered into pursuant to this section shall include the following:

13 (1) A requirement for public access to navigable waters adjacent to the lease
14 properties.

15 (2) A provision prohibiting the introduction and cultivation of exotic plant
16 species and requiring existing exotic plant species to be removed according to a
17 plan developed by the department.

18 (3) A provision establishing the right of the department and county employees to
19 inspect the property for the purposes of monitoring and enforcing the conditions of
20 the lease.

21 (4) A provision requiring the lessee, within 60 days after the lease is extended,
22 and annually thereafter, to provide the department with proof that (A) the lessee
23 will remove the buildings and all ancillary structures and facilities necessary to
24 return the area to a natural condition, or (B) the lessee has made arrangements for
25 the removal of the buildings and all ancillary structures and facilities necessary to
26 return the area to a natural condition, upon termination of the lease.

27 (c) The department shall develop a plan for the removal of nonnative plants
28 from the island. The plan shall include, at a minimum, the following:

29 (1) The type and location of nonnative plants.

30 (2) The relative threat that these plants pose to the natural environment of the
31 island.

32 (3) A time schedule for the leaseholders to remove the nonnative plants within
33 200 yards of the leaseholders' structures.

34 (d) Proceeds from the leases of lands under the control of the department on
35 Lower Sherman Island shall be deposited in the Fish and Game Preservation Fund
36 and used for the purpose of enforcing and monitoring those lease terms and
37 managing the Lower Sherman Island Wildlife area.

38 (e) The department shall, on or before July 31, 1991, and annually thereafter,
39 review all leases of land subject to subdivision (a) under the control of the
40 department and, as soon as possible, charge the fair market rate on those leases of
41 land.

42 **Comment.** Section 60715 continues former Fish and Game Code Section 1526.4 without
43 substantive change.

1 **§ 60720. Fish and wildlife enhancement facilities**

2 60720. If the Department of Parks and Recreation contracts with the federal
3 government pursuant to Public Law 89-161 for the administration of recreation
4 development or fish and wildlife enhancement facilities, as authorized by Section
5 5006.6 of the Public Resources Code, the Department of Fish and Wildlife is
6 authorized to operate, maintain, and replace those facilities designated as fish and
7 wildlife enhancement facilities and to assume all costs of that operation,
8 maintenance, and replacement, subject to appropriation of funds by the
9 Legislature.

10 **Comment.** Section 60720 continues former Fish and Game Code Section 1014 without
11 substantive change.

12 **PART 6. ECOLOGICAL RESERVES**

13 **TITLE 1. ECOLOGICAL RESERVES**

14 **GENERALLY**

15 **§ 60750. Legislative declaration**

16 60750. The Legislature hereby declares that the policy of the state is to protect
17 threatened or endangered native plants, wildlife, or aquatic organisms or
18 specialized habitat types, both terrestrial and nonmarine aquatic, or large
19 heterogeneous natural gene pools for the future use of mankind through the
20 establishment of ecological reserves.

21 **Comment.** Section 60750 continues the first sentence of former Fish and Game Code Section
22 1580 without substantive change.

23 **§ 60755. “Ecological reserve” defined**

24 60755. As used in this part, “ecological reserve” means land or land and water
25 areas that are designated as an ecological reserve by the commission pursuant to
26 Section 60760 and that are to be preserved in a natural condition, or which are to
27 be provided some level of protection as determined by the commission, for the
28 benefit of the general public to observe native flora and fauna and for scientific
29 study or research.

30 **Comment.** Section 60755 continues former Fish and Game Code Section 1584 without
31 substantive change.

32 **§ 60760. Acquisition of property**

33 60760. (a) For the purpose of establishing ecological reserves, the department,
34 with the approval of the commission, may obtain, accept on behalf of the state,
35 acquire, or control, by purchase, lease, easement, gift, rental, memorandum of
36 understanding, or otherwise, and occupy, develop, maintain, use, and administer
37 land, or land and nonmarine water, or land and nonmarine water rights, suitable
38 for the purpose of establishing ecological reserves.

1 (b) Any property obtained, accepted, acquired, or controlled by the department
2 pursuant to this part may be designated by the commission as an ecological
3 reserve.

4 **Comment.** Section 60760 continues the second and third sentences of former Fish and Game
5 Code Section 1580 without substantive change.

6 **§ 60765. Regulation of ecological reserves**

7 60765. The commission may adopt regulations for the occupation, utilization,
8 operation, protection, enhancement, maintenance, and administration of ecological
9 reserves.

10 **Comment.** Section 60765 continues the fourth sentence of former Fish and Game Code
11 Section 1580 without substantive change.

12 **§ 60770. Ownership and regulation of property**

13 60770. Any property acquired in fee for ecological reserves shall be acquired in
14 the name of the state, and shall, at all times, be subject to any rules and regulations
15 that may be prescribed from time to time by the commission for the occupation,
16 use, operation, protection, and administration of the property as ecological
17 reserves.

18 **Comment.** Section 60770 continues former Fish and Game Code Section 1581 without
19 substantive change.

20 **§ 60775. Valid title to acquired property**

21 60775. The department shall do all things necessary to secure a valid title in the
22 state to the property acquired in fee for ecological reserves but no payment shall
23 be made therefor until the title is vested in and satisfactory to the state. No such
24 land will be acquired by eminent domain.

25 **Comment.** Section 60775 continues former Fish and Game Code Section 1582 without
26 substantive change.

27 **§ 60780. Prohibited entry**

28 60780. Except in accordance with the regulations of the commission it is
29 unlawful to enter upon any ecological reserves established under the provisions of
30 this part, or to take therein any bird or the nest or eggs thereof, or any mammal,
31 fish, mollusk, crustacean, amphibian, reptile or any other form of plant or animal
32 life.

33 **Comment.** Section 60780 continues former Fish and Game Code Section 1583 without
34 substantive change.

35 **§ 60785. Facilities and programs**

36 60785. (a) Notwithstanding Section 60750, which sets forth the primary
37 purposes of ecological reserves, the department may construct facilities and
38 conduct programs in ecological reserves it selects to provide natural history

1 education and recreation if those facilities and programs are compatible with the
2 protection of the biological resources of the reserve.

3 (b) As provided in Sections 56030 and 56080, the department may control
4 access, use, and collect fees for selected ecological reserves.

5 **Comment.** Section 60785 continues former Fish and Game Code Section 1585 without
6 substantive change.

7 **§ 60790. Ecological reserves not wildlife management areas**

8 60790. The ecological reserves shall not be classified as wildlife management
9 areas pursuant to Section 60680 and shall be exempt from Section 60680.

10 **Comment.** Section 60790 continues the fifth sentence of former Fish and Game Code Section
11 1580 without substantive change.

12 **TITLE 2. SPECIFIC ECOLOGICAL RESERVES**

13 **§ 60850. Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund**

14 60850. (a) The Upper Newport Bay Ecological Reserve Maintenance and
15 Preservation Fund is hereby created in the State Treasury.

16 (b) Notwithstanding Section 13340 of the Government Code, the money in the
17 fund is continuously appropriated, without regard to fiscal years, to the department
18 for purposes related to the maintenance and preservation of the Upper Newport
19 Bay Ecological Reserve.

20 **Comment.** Section 60850 continues former Fish and Game Code Section 1586 without
21 substantive change.

22 **§ 60855. Magnesia Spring Ecological Reserve**

23 60855. (a) The Mirage Trail within the Magnesia Spring Ecological Reserve
24 shall be open nine months of the year during the months of May to January,
25 inclusive, and closed for three months during the months of February to April,
26 inclusive, to recreational hiking if the commission determines that all of the
27 following conditions are met:

28 (1) Local public agencies or other nonstate entities will assume complete
29 financial responsibility for the following as determined to be necessary by the
30 commission:

31 (A) Fencing to dissuade hikers from traversing beyond the trail and into
32 sensitive Peninsular bighorn sheep habitat.

33 (B) Signage and educational materials to educate hikers about Peninsular
34 bighorn sheep.

35 (2) A single entity has been designated to fulfill the financial arrangements and
36 other terms and conditions determined by the commission to be necessary
37 pursuant to paragraph (1).

38 (3) The entity designated pursuant to paragraph (2) has committed to expend at
39 least one hundred thousand dollars (\$100,000) by January 1, 2018, to monitor the

1 Peninsular bighorn sheep, consistent with the Coachella Valley Multiple Species
2 Habitat Conservation Plan.

3 (b) This section shall remain in effect only until January 1, 2018, and as of that
4 date is repealed, unless a later enacted statute, that is enacted before January 1,
5 2018, deletes or extends that date.

6 **Comment.** Section 60855 continues former Fish and Game Code Section 1587 without
7 substantive change.

8 PART 7. PROTECTED SPAWNING AREAS

9 § 60900. Protected spawning areas

10 60900. (a) The department may manage, control, and protect the portions of the
11 following spawning areas that occupy state-owned lands, to the extent necessary to
12 protect fishlife in these areas:

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

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

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

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

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

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

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

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

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

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

27 (11) The South Fork Eel River.

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

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

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

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

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

35 (17) The Van Duzen River, from Yager Creek to the falls 1½ miles above
36 Bloody Run Creek.

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

38 (19) The Middle Fork Eel River.

39 (20) The Mattole River.

40 (21) The Noyo River.

41 (22) The Big River, Mendocino County.

1 (23) The Gualala River.

2 (24) The Garcia River, Mendocino County.

3 (b) In the event of a conflict between an action of the department pursuant to
4 this section and the action of another department or agency of the state or another
5 public agency, the action of the Department of Fish and Wildlife taken pursuant to
6 this section shall prevail, except in the event of conflict with the following actions:

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

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

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

16 (c) The director shall disapprove a stream alteration of a prime salmon or
17 steelhead spawning area on land of which ownership has not been legally
18 determined, when in the director's opinion the alteration would prove deleterious
19 to fishlife.

20 **Comment.** Section 60900 continues former Fish and Game Code Section 1505 without
21 substantive change.

22 PART 8. WILDERNESS AREAS

23 § 60950. Vehicle prohibition

24 60950. It is unlawful for any person other than a legally constituted peace officer
25 or officer or employee of the Forest Service of the United States Department of
26 Agriculture, the department, or of the Department of Forestry and Fire Protection,
27 or county fish and game wardens or their duly authorized representatives, to travel
28 by motor boat, automobile, motorcycle, or other type of motorized vehicle, or,
29 except for emergencies and for rescue and aerial search for rescue purposes, to
30 land an airplane, helicopter, or similar equipment, within the boundaries of a
31 primitive, wilderness, or wild area closed to the above modes of travel as
32 established by a duly authorized officer of the Forest Service of the United States
33 Department of Agriculture and recorded in the office of the Regional Headquarters
34 of the Pacific-Southwest Region of the Forest Service of the United States
35 Department of Agriculture and with the department.

36 **Comment.** Section 60950 continues former Fish and Game Code Section 10740 without
37 substantive change.

38 § 60955. Exception to vehicle prohibition

39 60955. (a) Except as provided in subdivision (b), nothing in this part prohibits
40 access to a road or trail, in an area described in Section 60950, by a person who is

1 accessing the road or trail in order to reach land that the person lawfully possesses.
2 A person who may lawfully access a road or trail pursuant to this subdivision may
3 authorize another person to do the same.

4 (b) Notwithstanding subdivision (a), none of the motorized vehicles or aircraft
5 mentioned in Section 60950 may be used by any person as a means of gaining
6 access to the wilderness areas for the purpose of hunting or fishing. Nor shall
7 anyone who lawfully enters a wilderness area with a motorized vehicle or aircraft
8 fish or hunt while within that area after having entered with a motorized vehicle or
9 aircraft.

10 **Comment.** Section 60955 restates former Fish and Game Code Section 10741 without
11 substantive change.

12 **Note.** Proposed Section 60955 would restate Existing Section 10741 to improve its clarity,
13 without changing its substantive effect. The existing provision reads as follows:

14 “ Nothing in this article shall be construed as prohibiting access over any road or trail in any such
15 area to any land to which any person is entitled to possession by such person or any person
16 authorized by him to use such road or trail as a means of access to the land; provided, that none of
17 the motorized vehicles or aircraft mentioned in Section 10740 shall be used by any person as a
18 means of gaining access to the wilderness areas for the purpose of hunting or fishing. Nor shall
19 anyone having a lawful right to enter a wilderness area with a motorized vehicle or aircraft fish or
20 hunt while within the area after having entered the area with a motorized vehicle or aircraft.”

21 **The Commission invites comment on whether the proposed restatement would cause any**
22 **problems.**

23 DIVISION 17. ACTIVITIES THAT AFFECT WILDLIFE

24 PART 1. CALIFORNIA ENDANGERED SPECIES ACT

25 TITLE 1. GENERAL PROVISIONS

26 CHAPTER 1. SHORT TITLE AND LEGISLATIVE FINDINGS

27 **§ 62000. Short title**

28 62000. This part shall be known and may be cited as the California Endangered
29 Species Act.

30 **Comment.** Section 62000 continues former Fish and Game Code Section 2050 without
31 substantive change.

32 **§ 62005. Need for conservation**

33 62005. The Legislature hereby finds and declares all of the following:

34 (a) Certain species of fish, wildlife, and plants have been rendered extinct as a
35 consequence of human activities, untempered by adequate concern and
36 conservation.

1 (b) Other species of fish, wildlife, and plants are in danger of, or threatened
2 with, extinction because their habitats are threatened with destruction, adverse
3 modification, or severe curtailment, or because of overexploitation, disease,
4 predation, or other factors.

5 (c) These species of fish, wildlife, and plants are of ecological, educational,
6 historical, recreational, esthetic, economic, and scientific value to the people of
7 this state, and the conservation, protection, and enhancement of these species and
8 their habitat is of statewide concern.

9 **Comment.** Section 62005 continues former Fish and Game Code Section 2051 without
10 substantive change.

11 **§ 62010. General policy**

12 62010. The Legislature further finds and declares that it is the policy of the state
13 to conserve, protect, restore, and enhance any endangered species or any
14 threatened species and its habitat and that it is the intent of the Legislature,
15 consistent with conserving the species, to acquire lands for habitat for these
16 species.

17 **Comment.** Section 62010 continues former Fish and Game Code Section 2052 without
18 substantive change.

19 **§ 62015. Scope of required mitigation**

20 62015. The Legislature further finds and declares that if any provision of this
21 part requires a person to provide mitigation measures or alternatives to address a
22 particular impact on a candidate species, threatened species, or endangered
23 species, the measures or alternatives required shall be roughly proportional in
24 extent to any impact on those species that is caused by that person. Where various
25 measures or alternatives are available to meet this obligation, the measures or
26 alternatives required shall maintain the person's objectives to the greatest extent
27 possible consistent with this section. All required measures or alternatives shall be
28 capable of successful implementation. This section governs the full extent of
29 mitigation measures or alternatives that may be imposed on a person pursuant to
30 this part. This section shall not affect the state's obligations set forth in Section
31 62010.

32 **Comment.** Section 62015 continues former Fish and Game Code Section 2052.1 without
33 substantive change.

34 **§ 62020. Project approval and alternatives**

35 62020. (a) The Legislature further finds and declares that it is the policy of the
36 state that state agencies should not approve projects as proposed that would
37 jeopardize the continued existence of any endangered species or threatened species
38 or result in the destruction or adverse modification of habitat essential to the
39 continued existence of those species, if there are reasonable and prudent

1 alternatives available consistent with conserving the species or its habitat that
2 would prevent jeopardy.

3 (b) Furthermore, it is the policy of this state and the intent of the Legislature that
4 reasonable and prudent alternatives shall be developed by the department, together
5 with the project proponent and the state lead agency, consistent with conserving
6 the species, while at the same time maintaining the project purpose to the greatest
7 extent possible.

8 **Comment.** Section 62020 continues former Fish and Game Code Section 2053 without
9 substantive change.

10 **§ 62025. Mitigation and enhancement in lieu of infeasible alternatives**

11 62025. The Legislature further finds and declares that, in the event specific
12 economic, social, or other conditions make alternatives infeasible, individual
13 projects may be approved if appropriate mitigation and enhancement measures are
14 provided.

15 **Comment.** Section 62025 continues former Fish and Game Code Section 2054 without
16 substantive change.

17 **§ 62030. Duty of state entities**

18 62030. The Legislature further finds and declares that it is the policy of this state
19 that all state agencies, boards, and commissions shall seek to conserve endangered
20 species and threatened species and shall utilize their authority in furtherance of the
21 purposes of this part.

22 **Comment.** Section 62030 continues former Fish and Game Code Section 2055 without
23 substantive change.

24 **§ 62035. Cooperation of landowners**

25 62035. The Legislature further finds and declares that the cooperation of the
26 owners of land that is identified as habitat for endangered species and threatened
27 species is essential for the conservation of those species and that it is the policy of
28 this state to foster and encourage that cooperation in furtherance of the purposes of
29 this part. Therefore, a landowner of property on which an endangered, threatened,
30 or candidate species lives shall not be liable for civil damages for injury to
31 employees of, or persons under contract with, the department if the injury occurs
32 while those persons are conducting survey, management, or recovery efforts with
33 respect to those species.

34 **Comment.** Section 62035 continues former Fish and Game Code Section 2056 without
35 substantive change.

36 **CHAPTER 2. DEFINITIONS**

37 **§ 62100. Application**

38 62100. The definitions in this chapter govern the construction of this part.

1 **Comment.** Section 62100 continues former Fish and Game Code Section 2060 without
2 substantive change.

3 **§ 62105. Candidate species**

4 62105. “Candidate species” means a native species or subspecies of a bird,
5 mammal, fish, amphibian, reptile, or plant that the commission has formally
6 noticed as being under review by the department for addition to either the list of
7 endangered species or the list of threatened species, or a species for which the
8 commission has published a notice of proposed regulation to add the species to
9 either list.

10 **Comment.** Section 62105 continues former Fish and Game Code Section 2068 without
11 substantive change.

12 **§ 62110. Conserve, conserving, and conservation**

13 62110. “Conserve,” “conserving,” and “conservation” mean to use, and the use
14 of, all methods and procedures that are necessary to bring any endangered species
15 or threatened species to the point at which the measures provided pursuant to this
16 part are no longer necessary. These methods and procedures include, but are not
17 limited to, all activities associated with scientific resources management, such as
18 research, census, law enforcement, habitat acquisition, restoration and
19 maintenance, propagation, live trapping, and transplantation, and, in the
20 extraordinary case where population pressures within a given ecosystem cannot be
21 otherwise relieved, may include regulated taking.

22 **Comment.** Section 62110 continues former Fish and Game Code Section 2061 without
23 substantive change.

24 **§ 62115. Endangered species**

25 62115. (a) “Endangered species” means a native species or subspecies of a bird,
26 mammal, fish, amphibian, reptile, or plant that is in serious danger of becoming
27 extinct throughout all, or a significant portion, of its range due to one or more
28 causes, including loss of habitat, change in habitat, overexploitation, predation,
29 competition, or disease.

30 (b) Any species determined by the commission as “endangered” on or before
31 January 1, 1985, is an “endangered species.”

32 **Comment.** Section 62115 continues former Fish and Game Code Section 2062 without
33 substantive change.

34 **§ 62120. Feasible**

35 62120. “Feasible” means feasible as defined in Section 21061.1 of the Public
36 Resources Code.

37 **Comment.** Section 62120 continues former Fish and Game Code Section 2063 without
38 substantive change.

1 **§ 62125. Project**

2 62125. “Project” means project as defined in Section 21065 of the Public
3 Resources Code.

4 **Comment.** Section 62125 continues former Fish and Game Code Section 2064 without
5 substantive change.

6 **§ 62130. State lead agency**

7 62130. “State lead agency” means the state agency, board, or commission that is
8 a lead agency under the California Environmental Quality Act (Division 13
9 (commencing with Sec. 21000) of the Public Resources Code).

10 **Comment.** Section 62130 continues former Fish and Game Code Section 2065 without
11 substantive change.

12 **§ 62135. Threatened species**

13 62135. (a) “Threatened species” means a native species or subspecies of a bird,
14 mammal, fish, amphibian, reptile, or plant that, although not presently threatened
15 with extinction, is likely to become an endangered species in the foreseeable
16 future in the absence of the special protection and management efforts required by
17 this part.

18 (b) Any animal determined by the commission as “rare” on or before January 1,
19 1985, is a “threatened species.”

20 **Comment.** Section 62135 continues former Fish and Game Code Section 2067 without
21 substantive change.

22 **TITLE 2. LISTING OF ENDANGERED AND**
23 **THREATENED SPECIES**

24 **CHAPTER 1. GENERAL PROVISIONS**

25 **§ 62200. Establishment and maintenance of lists**

26 62200. (a) The commission shall establish a list of endangered species and a list
27 of threatened species.

28 (b) The commission shall add or remove species from either list if it finds, upon
29 the receipt of sufficient scientific information pursuant to this title, that the action
30 is warranted.

31 **Comment.** Section 62200 continues former Fish and Game Code Section 2070 without
32 substantive change.

33 **§ 62205. Criteria**

34 62205. The department shall recommend, and the commission shall adopt,
35 criteria for determining if a species is endangered or threatened.

36 **Comment.** Section 62205 continues former Fish and Game Code Section 2071.5 without
37 substantive change.

1 (c) The petition shall also include information regarding the kind of habitat
2 necessary for species survival, a detailed distribution map, and any other factors
3 that the petitioner deems relevant.

4 **Comment.** Section 62260 continues former Fish and Game Code Section 2072.3 without
5 substantive change.

6 **§ 62265. Referral of petition to department**

7 62265. Within 10 days of the receipt of a petition from an interested person
8 under Section 62260, the commission shall refer the petition to the department.

9 **Comment.** Section 62265 continues former Fish and Game Code Section 2073 without
10 substantive change.

11 **§ 62270. Publication of notice of petition**

12 62270. (a) The commission shall publish a notice in the California Regulatory
13 Notice Register of the receipt of a petition prepared pursuant to Section 62260 by
14 the department, or by an interested party and referred to the department, pursuant
15 to Section 62265, or the commencement of an evaluation, to add a species to,
16 remove a species from, or change the status of a species on, the list of endangered
17 species or the list of threatened species pursuant to Section 62275.

18 (b) At a minimum, the notice shall include all of the following:

19 (1) The scientific and common name of the species.

20 (2) Habitat type, if that information is available in the petition.

21 (3) The location where interested persons can submit information to the
22 department relating to the petitioned species.

23 (c) The commission shall notify interested persons pursuant to Section 62210,
24 by mail, of the notices prepared pursuant to subdivision (a), and shall mail a copy
25 of the notice to those persons.

26 **Comment.** Section 62270 continues former Fish and Game Code Section 2073.3 without
27 substantive change.

28 **§ 62275. Department-initiated petition**

29 62275. (a) The department may, in the absence of a petition from an interested
30 party, recommend to the commission that it add a species to, or remove a species
31 from, either the list of endangered species or the list of threatened species.

32 (b) If it makes a recommendation under this section, the department shall
33 include the information specified in Section 62260.

34 (c) A department recommendation under this section shall be considered by the
35 commission as a petition with a departmental recommendation to accept and
36 consider as described in subdivision (b) of Section 62280, and is subject to
37 Sections 62350 to 62525, inclusive.

38 **Comment.** Section 62275 continues former Fish and Game Code Section 2072.7 without
39 substantive change.

1 **§ 62280. Department evaluation and recommendation**

2 62280. (a) Within 90 days of receipt of a petition, the department shall evaluate
3 the petition on its face and in relation to other relevant information the department
4 possesses or receives, and submit to the commission its written evaluation report
5 with one of the following recommendations to the commission:

6 (1) Based upon the information contained in the petition, there is not sufficient
7 information to indicate that the petitioned action may be warranted, and the
8 petition should be rejected.

9 (2) Based upon the information contained in the petition, there is sufficient
10 information to indicate that the petitioned action may be warranted, and the
11 petition should be accepted and considered.

12 (b) Upon the request of the director, the commission may grant the department
13 an extension of time, not to exceed 30 days, to allow the department additional
14 time to further analyze and evaluate the petition and complete its evaluation
15 report.

16 (c) The department's evaluation report shall include copies of, or a list of, all
17 information submitted to the department pursuant to subdivision (a) of Section
18 62285 during its evaluation of the petition. If copies are not included, the report
19 shall state where the listed information is available for review.

20 **Comment.** Section 62280 continues former Fish and Game Code Section 2073.5 without
21 substantive change.

22 **§ 62285. Public input during evaluation**

23 62285. (a) A person may submit information to the department relating to the
24 petitioned species during the evaluation of the petition pursuant to Section 62280.
25 The information shall relate to the matters identified in Section 62260.

26 (b) Within 10 days after receiving information pursuant to subdivision (a), the
27 department shall notify the petitioner regarding its content.

28 **Comment.** Section 62285 continues former Fish and Game Code Section 2073.4 without
29 substantive change.

30 **§ 62290. Amendment of petition**

31 62290. (a) A petitioner may amend a petition at any time prior to the beginning
32 of the meeting held by the commission pursuant to Section 62350.

33 (b) If the commission determines that an amendment is substantive, the
34 commission shall resubmit the petition to the department for review pursuant to
35 Section 62280, publish notice of the amendment pursuant to Section 62270, and
36 renote or continue any hearing scheduled pursuant to Section 62350 in order to
37 provide adequate opportunity for public comment.

38 **Comment.** Section 62290 continues former Fish and Game Code Section 2073.7 without
39 substantive change.

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Article 2. Public Hearing and Meeting

§ 62350. Scheduling

62350. The commission shall schedule a petition for consideration at its next available meeting, but not sooner than 30 days after receipt of the petition and public release of the evaluation report, and distribute its pending agenda to interested persons pursuant to Section 62210. The commission also shall make the petition, evaluation report, and other materials received available for review.

Comment. Section 62350 continues former Fish and Game Code Section 2074 without substantive change.

§ 62355. Public hearing

62355. At the meeting scheduled pursuant to Section 62350, the commission shall hold a public hearing on the petition and shall receive information, written or otherwise, and oral testimony.

Comment. Section 62355 continues the first sentence of former Fish and Game Code Section 2074.2(a) without substantive change.

§ 62360. Closure of public hearing and record

62360. (a) After the conclusion of oral testimony from the commission and department staff, the petitioner, or any other persons, the commission may close the public hearing and administrative record for the commission’s decision pursuant to this section.

(b) After the commission closes the public hearing, the administrative record for the commission’s decision is closed and it shall not be reopened except as provided in Section 62365.

(c) Once the public hearing is closed, no person shall submit further information to the commission for consideration on that petition and the commission shall not accept any further information for consideration on that petition except as provided in Section 62365.

Comment. Subdivision (a) of Section 62360 continues the second sentence of former Fish and Game Code Section 2074.2(a) without substantive change.

Subdivisions (b) and (c) continue former Fish and Game Code Section 2074.2(b) without substantive change.

§ 62365. Reopening administrative record

62365. The administrative record for the commission’s decision pursuant to Section 62360 shall not be reopened once the commission closes the public hearing unless one of the following occurs prior to the commission’s decision:

(a) There is a change in state or federal law or regulation that has a direct and significant impact on the commission’s determination as to whether the petition provides sufficient information to indicate that the petitioned action may be warranted.

1 (b) The commission determines that it requires further information to evaluate
2 whether the petition provides sufficient information to indicate that the petitioned
3 action may be warranted. If the commission makes that determination during its
4 deliberation, the commission may request, on the record at the scheduled meeting
5 or at a continued meeting, further information on any issue relevant to making its
6 determination as to whether the petition provides sufficient information to indicate
7 that the petitioned action may be warranted. Any request by the commission
8 pursuant to this subdivision shall specify a date by which the information must be
9 submitted to the commission and shall serve to reopen the administrative record
10 for the limited purpose of receiving further information relating to the issues
11 specified by the commission in the request. Commission and department staff, the
12 petitioner, or any other person may submit information in response to a request
13 pursuant to this subdivision. If the commission reopens the record pursuant to this
14 section, it shall provide an opportunity for public comment on the submitted
15 information prior to the issuance of its decision.

16 **Comment.** Section 62365 continues former Fish and Game Code Section 2074.2(c) without
17 substantive change.

18 **§ 62370. Continuation of meeting**

19 62370. (a) In its discretion, the commission may continue a meeting on a
20 petition to a later date, which shall be no later than 90 days after the meeting
21 scheduled pursuant to Section 62350, and subject to applicable notice and agenda
22 requirements.

23 (b) If the public hearing has not yet closed, the meeting shall be continued for
24 further public hearing and then deliberations.

25 (c) If the public hearing has been closed, the meeting will be continued for the
26 purpose of deliberation, without further public hearing. In this case, a person shall
27 not submit, and the commission shall not receive, further information relating to
28 the petition except as provided in Section 62365.

29 **Comment.** Section 62370 continues former Fish and Game Code Section 2074.2(d) without
30 substantive change.

31 **Note.** Proposed Section 62370 would restate existing Section 2074.2(d) to improve its clarity,
32 without changing its substantive effect. The existing provision reads as follows:

33 “In its discretion, the commission may either close the public hearing and continue the meeting
34 on the petition for the purpose of deliberation or continue both the public hearing and the meeting
35 on the petition to a subsequent date, which shall be no later than 90 days after the meeting
36 scheduled pursuant to Section 2074, and subject to applicable notice and agenda requirements.

37 If the commission closes the public hearing but continues the meeting for the purpose of
38 deliberation, a person shall not submit, and the commission shall not receive, further information
39 relating to the petition except as provided in subdivision (c).”

40 **The Commission invites comment on whether that restatement would cause any problems.**

1 **Comment.** Section 62400 restates the first sentence of former Fish and Game Code Section
2 2074.6 without substantive change.

3  **Note.** The first clause of proposed Section 62400 was added to clarify the application of the
4 provision. **The Commission invites comment on whether that addition would cause any**
5 **problems.**

6 **§ 62405. Timing**

7 62405. (a) Within 12 months of the date of publication of a notice of acceptance
8 of a petition for consideration pursuant to paragraph (2) of subdivision (a) of
9 Section 62375, the department shall produce and make publicly available on the
10 department's Internet Web site a final written report.

11 (b) The revised report shall be posted on the department's Internet Web site for a
12 minimum of 30 days for public review prior to the hearing scheduled pursuant to
13 Section 62450.

14 (c) The commission may grant an extension of up to six months if the director
15 determines an extension is necessary to complete independent peer review of the
16 report, and to provide a minimum of 30 days for public review of the peer
17 reviewed report prior to the public hearing specified in Section 62450.

18 **Comment.** Subdivision (a) of Section 62405 continues the first part of the second sentence of
19 former Fish and Game Code Section 2074.6 without substantive change.

20 Subdivision (b) continues the fourth sentence of former Fish and Game Code Section 2074.6
21 without substantive change.

22 Subdivision (c) continues the fifth sentence of former Fish and Game Code Section 2074.6
23 without substantive change.

24 **§ 62410. Draft status review report**

25 62410. Prior to releasing a final written report, the department shall have a draft
26 status review report prepared and independently peer reviewed. Upon receiving
27 the peer reviewers' input, the department shall evaluate and respond in writing to
28 the independent peer review and shall amend the draft status review report as
29 appropriate.

30 **Comment.** Section 62410 continues the third sentence of former Fish and Game Code Section
31 2074.6 without substantive change.

32 **§ 62415. Final report**

33 62415. The final report, which shall be based on the best scientific information
34 available to the department, shall indicate whether the petitioned action is
35 warranted, make a preliminary identification of the habitat that may be essential to
36 the continued existence of the species, recommend management activities, and
37 make other recommendations for recovery of the species.

38 **Comment.** Section 62415 restates the second part of the second sentence of former Fish and
39 Game Code Section 2074.6 without substantive change.

1 § 62420. Scope of inquiry

2 62420. This title does not impose any duty or obligation for, or otherwise
3 require, the commission or the department to undertake independent studies or
4 other assessments of any species when reviewing a petition and its attendant
5 documents and comments. However, the department shall seek independent
6 scientific peer review of the department’s draft status review report. The director
7 may approve an extension of time for completion of the status report if necessary
8 for the purposes of obtaining independent peer review pursuant to this article.

9 **Comment.** Section 62420 continues former Fish and Game Code Section 2074.8 without
10 substantive change.

11 **Notes.** (1) The second sentence of existing Section 2074.8 requires that the department’s
12 “status report” be peer reviewed. Presumably, this refers to the “draft status review report”
13 required by existing Section 2074.6 (proposed Section 62410). If so, that language is redundant,
14 as Section 2074.6 already requires that the draft status review report be peer reviewed. **The**
15 **Commission invites comment on whether that language can be deleted without causing**
16 **problems.**

17 (2) The second sentence of existing Section 2074.8 provides that the *director* may extend the
18 time for completion of the “status report.” Presumably, this refers to the *final* report required by
19 existing Section 2074.6 (proposed Section 62405), because there is no deadline specified for
20 completion of the *draft* status review report. That rule seems to be at odds with the last sentence
21 of existing Section 2074.6 (proposed Section 62405(c)), which authorizes the *Commission* to
22 grant an extension to the deadline for completion of the final report. **The Commission invites**
23 **comment on whether both the director and the Commission are authorized to extend the**
24 **time for completion of the final report.**

25 Article 4. Commission Decision

26 § 62450. Meeting

27 62450. The commission shall schedule the petition for final consideration at its
28 next available meeting after receipt of the departmental report provided pursuant
29 to Section 62405 and shall distribute the pending agenda for that meeting pursuant
30 to Section 62210. The commission shall make the department’s report, or copies
31 thereof, which was provided, pursuant to Section 62405, available for review upon
32 request.

33 **Comment.** Section 62450 continues former Fish and Game Code Section 2075 without
34 substantive change.

35 § 62455. Public hearing

36 62455. At the meeting scheduled pursuant to Section 62450, the commission
37 shall hold a public hearing on the petition and shall receive information, written or
38 otherwise, and oral testimony.

39 **Comment.** Section 62455 continues the first sentence of former Fish and Game Code Section
40 2075.5(a) without substantive change.

1 **§ 62460. Closure of public hearing and record**

2 62460. (a) After the conclusion of oral testimony from the commission and
3 department staff, the petitioner, or any other persons, the commission may close
4 the public hearing and the administrative record for the commission’s decision
5 pursuant to this section.

6 (b) After the commission closes the public hearing, the administrative record for
7 the commission’s decision is closed and it shall not be reopened except as
8 provided in Section 62465.

9 (c) Once the public hearing is closed, a person shall not submit further
10 information to the commission for consideration on that petition and the
11 commission shall not accept any further information for consideration on that
12 petition except as provided in Section 62465.

13 **Comment.** Subdivision (a) of Section 62460 continues the second sentence of former Fish and
14 Game Code Section 2075.5(a) without substantive change.

15 Subdivisions (b) and (c) continue former Fish and Game Code Section 2075.5(b) without
16 substantive change.

17 **§ 62465. Reopening administrative record**

18 62465. The administrative record for the commission’s decision pursuant to
19 Section 62475 shall not be reopened once the commission closes the public
20 hearing unless one of the following occurs prior to the commission’s decision:

21 (a) There is a change in state or federal law or regulation that has a direct and
22 significant impact on the commission’s determination as to whether the petitioned
23 action is warranted.

24 (b) The commission determines that it requires further information to evaluate
25 whether the petitioned action is warranted. If the commission makes that
26 determination during its deliberation, the commission may request, on the record
27 at the scheduled meeting or at a continued meeting, further information on any
28 issue relevant to making its determination as to whether the petitioned action is
29 warranted. Any request by the commission pursuant to this subdivision shall
30 specify a date by which the information must be submitted to the commission and
31 shall serve to reopen the administrative record for the limited purpose of receiving
32 further information relating to the issues specified by the commission in the
33 request. Commission and department staff, the petitioner, or any other person may
34 submit information in response to a request pursuant to this subdivision.

35 **Comment.** Section 62465 continues former Fish and Game Code Section 2075.5(c) without
36 substantive change.

37 **§ 62470. Continuation of meeting**

38 62470. (a) In its discretion, the commission may continue a meeting on a
39 petition to a later date, which shall be no later than 90 days after the meeting
40 scheduled pursuant to Section 62450, and subject to applicable notice and agenda
41 requirements.

1 (b) If the public hearing has not yet closed, the meeting shall be continued for
2 further public hearing and then deliberations.

3 (c) If the public hearing has been closed, the meeting will be continued for the
4 purpose of deliberation, without further public hearing. In this case, a person shall
5 not submit, and the commission shall not receive, further information relating to
6 the petition except as provided in Section 62465.

7 **Comment.** Section 62470 continues former Fish and Game Code Section 2075.5(d) without
8 substantive change.

9  **Note.** Proposed Section 62470 would restate existing Section 2075.5(d) to improve its
10 clarity, without changing its substantive effect. The existing provision reads as follows:

11 “The commission, in its discretion, may either close the public hearing and continue the
12 meeting on the petition for the purpose of deliberation or continue both the public hearing and the
13 meeting on the petition to a subsequent date which is no later than 90 days after the meeting
14 scheduled pursuant to Section 2075, and subject to applicable notice and agenda requirements. If
15 the commission closes the public hearing but continues the meeting for the purpose of
16 deliberation, a person shall not submit, and the commission shall not receive, further information
17 relating to the petition except as provided in subdivision (c).”

18 **The Commission invites comment on whether that restatement would cause any problems.**

19 **§ 62475. Commission findings**

20 62475. At the meeting scheduled pursuant to Section 62450, or at a continued
21 meeting scheduled pursuant to Section 62470, the commission shall make one of
22 the following findings:

23 (a) The petitioned action is not warranted, in which case the finding shall be
24 entered in the public records of the commission and the petitioned species shall be
25 removed from the list of candidate species maintained pursuant to Section 62375.

26 (b) The petitioned action is warranted, in which case the commission shall
27 publish a notice of that finding and a notice of proposed rulemaking pursuant to
28 Section 11346.4 of the Government Code, to add the species to, or remove the
29 species from, the list of endangered species or the list of threatened species.
30 Further proceedings of the commission on the petitioned action shall be made in
31 accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of
32 Division 3 of Title 2 of the Government Code.

33 **Comment.** Section 62475 continues former Fish and Game Code Section 2075.5(e) without
34 substantive change.

35 **§ 62480. Writ of mandate**

36 62480. A finding made pursuant to Section 62475 is subject to judicial review
37 under Section 1094.5 of the Code of Civil Procedure.

38 **Comment.** Section 62480 continues former Fish and Game Code Section 2076 without
39 substantive change.

40  **Note.** Existing Section 2076 provides for mandamus review of “any finding pursuant to this
41 section.” That reference to “this section” appears to be an error, as Section 2076 does not provide

1 for any findings. The Commission believes that Section 2076 was intended to refer to the
2 preceding provision, Section 2075.5. That would make sense, as Section 2075.5(e) provides for a
3 final commission decision on whether to list a species as endangered or threatened. Proposed
4 Section 62480 has been revised to refer to proposed Section 62475, which would continue
5 existing Section 2075.5(e). **The Commission invites comment on whether that revision**
6 **correctly captures the intended meaning of Section 2076.**

7 **§ 62485. Emergency regulation**

8 62485. (a) Notwithstanding Sections 62250 to 62475, inclusive, the commission
9 may adopt a regulation that adds a species to the list of endangered species or to
10 the list of threatened species as an emergency regulation pursuant to Section 1250
11 if the commission finds that there is any emergency posing a significant threat to
12 the continued existence of the species.

13 (b) The commission shall notify affected or interested persons of the adoption of
14 the emergency regulation pursuant to the methods described in Section 62380.

15 **Comment.** Section 62485 continues former Fish and Game Code Section 2076.5 without
16 substantive change.

17 Article 5. Ongoing Review

18 **§ 62500. Five-year review of listed species**

19 62500. (a) The department shall review species listed as an endangered species
20 or as a threatened species every five years to determine if the conditions that led to
21 the original listing are still present.

22 (b) The review shall be conducted based on information that is consistent with
23 the information specified in Section 62260 and that is the best scientific
24 information available to the department.

25 (c) The review shall include a review of the identification of the habitat that may
26 be essential to the continued existence of the species and the department's
27 recommendations for management activities and other recommendations for
28 recovery of the species.

29 (d) The department shall notify any person who has notified the commission, in
30 writing with their address, of their interest, and the department may notify any
31 other person.

32 **Comment.** Section 62500 continues former Fish and Game Code Section 2077(a) without
33 substantive change.

34 **§ 62505. Five-year review of species listed by both Commission and US Department of**
35 **Interior**

36 62505. Review of species that are listed by both the commission and the United
37 States Department of Interior will be conducted in conjunction with the five-year
38 review process of the United States Department of Interior.

39 **Comment.** Section 62505 continues former Fish and Game Code Section 2077(b) without
40 substantive change.

1 **§ 62510. Timing of initial five-year review**

2 62510. (a) Initial review of those species listed by the commission before
3 January 1, 1982, that are not listed by the federal government shall be undertaken
4 and completed by July 1, 1987.

5 (b) Initial review of those species listed by the commission after January 1,
6 1982, that are not listed by the federal government shall be undertaken and
7 completed within five years of the date the species was originally listed by the
8 commission.

9 **Comment.** Section 62510 continues former Fish and Game Code Section 2077(c) without
10 substantive change.

11 **§ 62515. Written report of five-year review results**

12 62515. (a) The department shall report in writing to the commission the results
13 of its five-year review for each listed species.

14 (b) The commission shall treat any report of the department under this section
15 that contains a recommendation to add a species to, or remove a species from, the
16 list of endangered species or the list of threatened species as a department
17 recommendation submitted pursuant to Section 62275.

18 **Comment.** Section 62515 continues former Fish and Game Code Section 2077(e) without
19 substantive change.

20 **§ 62520. Discretionary review**

21 62520. Notwithstanding any other provision of this article, the commission or
22 the department may review a species at any time based upon a petition or upon
23 other data available to the department and the commission.

24 **Comment.** Section 62520 continues former Fish and Game Code Section 2077(d) without
25 substantive change.

26 **§ 62525. Triennial report**

27 62525. (a) The department shall, by January 30 of every third year, beginning
28 January 30, 1986, prepare a report summarizing the status of all state listed
29 endangered, threatened, and candidate species, and shall post the report on the
30 commission's Internet Web site.

31 (b) The report shall include, but not be limited to, a listing of those species
32 designated as endangered, threatened, and candidate species, a discussion of the
33 current status of endangered, threatened, or candidate species, and the timeframes
34 for the review of listed species pursuant to this title.

35 **Comment.** Section 62525 continues former Fish and Game Code Section 2079 without
36 substantive change.

1 TITLE 3. TAKE, IMPORTATION,
2 EXPORTATION, OR SALE

3 CHAPTER 1. PROHIBITION

4 § 62600. Take, possession, purchase, or sale

5 62600. No person shall import into this state, export out of this state, or take,
6 possess, purchase, or sell within this state, any species, or any part or product
7 thereof, that the commission determines to be an endangered species or a
8 threatened species, or attempt any of those acts, except as otherwise provided in
9 this part, the Native Plant Protection Act (Title 1 (commencing with Section
10 53800) of Part 3 of Division 14), or the California Desert Native Plants Act
11 (Division 23 (commencing with Section 80001) of the Food and Agricultural
12 Code).

13 **Comment.** Section 62600 continues former Fish and Game Code Section 2080 without
14 substantive change.

15 § 62605. Candidate species

16 62605. The provisions of this title shall apply to any species designated as a
17 candidate species under Section 62375 if notice has been given pursuant to Section
18 62380.

19 **Comment.** Section 62605 continues former Fish and Game Code Section 2085 without
20 substantive change.

21 CHAPTER 2. GENERAL EXCEPTIONS

22 § 62650. Take for scientific, educational, or management purposes

23 62650. The department may authorize acts that are otherwise prohibited
24 pursuant to Section 62600, through permits or memorandums of understanding,
25 the department may authorize individuals, public agencies, universities, zoological
26 gardens, and scientific or educational institutions, to import, export, take, or
27 possess any endangered species, threatened species, or candidate species for
28 scientific, educational, or management purposes.

29 **Comment.** Section 62650 continues former Fish and Game Code Section 2081(a) without
30 substantive change.

31 § 62655. Take of fish authorized by specified provisions

32 62655. This part does not apply to the taking of fish otherwise authorized
33 pursuant to Part 6 (commencing with Section 14200) of Division 6 or pursuant to
34 the provisions described in Sections 37805 and 45005.

35 **Comment.** Section 62655 continues the first clause of former Fish and Game Code Section
36 2083 without substantive change.

1 **§ 62665. Take of fish authorized by Commission**

2 62665. The commission may authorize, subject to terms and conditions it
3 prescribes, the taking of any candidate species, or the taking of any fish by hook
4 and line for sport that is listed as an endangered, threatened, or candidate species.

5 **Comment.** Section 62665 continues former Fish and Game Code Section 2084 without
6 substantive change.

7 **§ 62670. Take authorized by department**

8 62670. (a) Nothing in this part or in any other provision of law prohibits the
9 taking or the incidental taking of any endangered, threatened, or candidate species
10 if the taking was authorized by the department through a permit or memorandum
11 of understanding, or in a natural communities conservation plan, habitat
12 conservation plan, habitat management plan, or other plan or agreement approved
13 by or entered into by the department, or in an amendment to a permit,
14 memorandum of understanding, plan, or agreement and all of the following
15 conditions are met:

16 (1) The application process commenced on or before April 10, 1997.

17 (2) The department approved the permit, memorandum of understanding, plan,
18 agreement, or amendment thereto within either of the following timeframes:

19 (A) On or before April 10, 1997.

20 (B) Between April 10, 1997, and January 1, 1998, and the department also
21 certifies that the permit, memorandum of understanding, plan, agreement, or
22 amendment thereto meets the substantive criteria of subdivision (a) of Section
23 62700.

24 (b) The permits, memoranda of understanding, plan, agreements, and
25 amendments thereto described in this section are deemed to be in full force and
26 effect, as of the date approved or entered into by the parties insofar as they
27 authorize the take of species.

28 (c) This section does not apply to the “Emergency Management Measures
29 Permit” issued by the department on March 15, 1995.

30 **Comment.** Section 62670 continues former Fish and Game Code Section 2081.1 without
31 substantive change.

32 **§ 62675. Sale of organism by person who possessed it before it was listed**

33 62675. This part does not prohibit the sale of any endangered species or
34 threatened species, or any part or product thereof, when the owner can
35 demonstrate that the species, or part or product thereof, was in the person’s
36 possession before the date upon which the commission listed the species as an
37 endangered species or threatened species or as an endangered animal or rare
38 animal prior to January 1, 1985, and shall not prohibit the sale of that part or
39 product by an individual not normally engaged in that sale if it was originally
40 possessed by the seller for the seller’s own use and so used by that seller.
41 However, it shall be unlawful to sell any species, or part or product thereof, if that

1 sale would have been unlawful prior to the date upon which the commission added
2 the species to the listing of endangered species or threatened species or to the
3 listing of endangered animals or rare animals prior to January 1, 1985.

4 **Comment.** Section 62675 continues former Fish and Game Code Section 2082 without
5 substantive change.

6 **§ 62680. Possession of animal possessed before it was listed**

7 62680. This part does not apply to the possession of individual animals that were
8 lawfully possessed before the commission listed the species as an endangered
9 species or as a threatened species or as an endangered animal or rare animal prior
10 to January 1, 1985.

11 **Comment.** Section 62680 continues the second clause of former Fish and Game Code Section
12 2083 without substantive change.

13 **CHAPTER 3. INCIDENTAL TAKE**

14 **§ 62700. Incidental take**

15 62700. (a) The department may authorize acts that are otherwise prohibited
16 pursuant to Section 62600, by a permit for the take of endangered species,
17 threatened species, and candidate species if all of the following conditions are met:

18 (1) The take is incidental to an otherwise lawful activity.

19 (2) The impacts of the authorized take shall be minimized and fully mitigated.
20 The measures required to meet this obligation shall be roughly proportional in
21 extent to the impact of the authorized taking on the species. Where various
22 measures are available to meet this obligation, the measures required shall
23 maintain the applicant's objectives to the greatest extent possible. All required
24 measures shall be capable of successful implementation. For purposes of this
25 section only, impacts of taking include all impacts on the species that result from
26 any act that would cause the proposed taking.

27 (3) The permit is consistent with any regulations adopted pursuant to former
28 Fish and Game Code Sections 2112 and 2114, as added by Chapter 974 of the
29 Statutes of 1996.

30 (4) The applicant shall ensure adequate funding to implement the measures
31 required by paragraph (2), and for monitoring compliance with, and effectiveness
32 of, those measures.

33 (b) No permit may be issued pursuant to subdivision (a) if issuance of the permit
34 would jeopardize the continued existence of the species. The department shall
35 make this determination based on the best scientific and other information that is
36 reasonably available, and shall include consideration of the species' capability to
37 survive and reproduce, and any adverse impacts of the taking on those abilities in
38 light of (1) known population trends; (2) known threats to the species; and (3)
39 reasonably foreseeable impacts on the species from other related projects and
40 activities.

1 (c) The department shall adopt regulations to aid in the implementation of
2 subdivision (a) and the requirements of Division 13 (commencing with Section
3 21000) of the Public Resources Code, with respect to authorization of take. The
4 department may seek certification pursuant to Section 21080.5 of the Public
5 Resources Code to implement subdivision (a).

6 **Comment.** Section 62700 continues former Fish and Game Code Section 2081(b)-(d) without
7 substantive change.

8 **Note.** Existing Section 2081(b)(3) refers to “regulations adopted pursuant to Sections 2112
9 and 2114.” Both of the referenced sections appear to have been repealed by the operation of
10 former Section 2115.5. Proposed Section 62700(a)(3) would continue the effect of the cross-
11 reference, by referring to the “former” provisions. **The Commission invites comment on
12 whether that is the correct way to address the reference to the repealed provisions.**

13 **§ 62705. Incidental take authorized by federal entity**

14 62705. (a) Notwithstanding any other provision of this part, Title 1
15 (commencing with Section 53800) of, or Title 2 (commencing with Section
16 53900) of Part 3 of Division 14, but subject to subdivision (c), if any person
17 obtains from the Secretary of the Interior or the Secretary of Commerce an
18 incidental take statement pursuant to Section 1536 of Title 16 of the United States
19 Code or an incidental take permit pursuant to Section 1539 of Title 16 of the
20 United States Code that authorizes the taking of an endangered species or a
21 threatened species that is listed pursuant to Section 1533 of Title 16 of the United
22 States Code and that is an endangered species, threatened species, or a candidate
23 species pursuant to this part, no further authorization or approval is necessary
24 under this part for that person to take that endangered species, threatened species,
25 or candidate species identified in, and in accordance with, the incidental take
26 statement or incidental take permit, if that person does both of the following:

27 (1) Notifies the director in writing that the person has received an incidental take
28 statement or an incidental take permit issued pursuant to the federal Endangered
29 Species Act of 1973 (16 U.S.C.A. Sec. 1531 et seq.).

30 (2) Includes in the notice to the director a copy of the incidental take statement
31 or incidental take permit.

32 (b) Upon receipt of the notice specified in paragraph (1) of subdivision (a), the
33 director shall immediately have published in the General Public Interest Section of
34 the California Regulatory Notice Register the receipt of that notice.

35 (c) Within 30 days after the director has received the notice described in
36 subdivision (a) that an incidental take statement or an incidental take permit has
37 been issued pursuant to the federal Endangered Species Act of 1973, the director
38 shall determine whether the incidental take statement or incidental take permit is
39 consistent with this part. If the director determines within that 30-day period,
40 based upon substantial evidence, that the incidental take statement or incidental
41 take permit is not consistent with this part, then the taking of that species may only
42 be authorized pursuant to this part.

1 (d) The director shall immediately publish the determination pursuant to
2 subdivision (c) in the General Public Interest Section of the California Regulatory
3 Notice Register.

4 (e) Unless deleted or extended by a later enacted statute that is chaptered before
5 the date this section is repealed, this section shall remain in effect only until, and is
6 repealed on, the effective date of an amendment to Section 1536 or Section 1539
7 of Title 16 of the United States Code that alters the requirements for issuing an
8 incidental take statement or an incidental take permit, as applicable.

9 **Comment.** Section 62705 continues former Fish and Game Code Section 2080.1 without
10 substantive change.

11 CHAPTER 4. RENEWABLE ENERGY

12 Article 1. Definitions

13 § 63000. Application

14 63000. The definitions in this article govern the construction of this chapter.

15 **Comment.** Section 63000 generalizes the introductory clause of former Fish and Game Code
16 Section 2069(a) without substantive change.

17 § 63005. Desert Renewable Energy Conservation Plan

18 63005. “Desert Renewable Energy Conservation Plan” means the completed
19 conservation plan in the Mojave and Colorado Desert regions adopted pursuant to
20 the Natural Community Conservation Planning Act (Part 2 (commencing with
21 Section 64500)), and covers the geographical area described in the Draft Planning
22 Agreement, as amended by, and among, the department, Energy Commission,
23 United States Bureau of Land Management, and United States Fish and Wildlife
24 Service for the Desert Renewable Energy Conservation Plan.

25 **Comment.** Section 63005 continues former Fish and Game Code Section 2069(a)(1) without
26 substantive change.

27 § 63010. Eligible project

28 63010. “Eligible project” means a solar thermal powerplant, photovoltaic
29 powerplant, wind powerplant, or geothermal powerplant meeting the requirements
30 of subdivision (a) or (b) of Section 63050 or meeting the definition of a “covered
31 activity” in the final Desert Renewable Energy Conservation Plan, as approved by
32 the department.

33 **Comment.** Section 63010 continues former Fish and Game Code Section 2099(a)(1) and part
34 of the first sentence of Section 2099.5(a) without substantive change.

35 § 63015. Energy Commission

36 63015. “Energy Commission” means the State Energy Resources Conservation
37 and Development Commission.

1 (2) The mitigation action is included in an interim mitigation strategy for
2 projects that meet the requirement of Section 63050.

3 (b) An interim mitigation strategy pursuant to paragraph (2) of subdivision (a)
4 shall be developed by the department, in consultation with the Energy
5 Commission and, to the extent practicable, the United States Fish and Wildlife
6 Service and the United States Bureau of Land Management, and shall include all
7 of the following:

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

12 (A) Contribute to the conservation of each candidate species, threatened species,
13 or endangered species for which a permit is issued.

14 (B) Adopt a regional planning perspective that provides a foundation for, or that
15 will complement, any conservation strategy to be developed for the Desert
16 Renewable Energy Conservation Plan.

17 (C) Implement mitigation actions within a reasonable period of time relative to
18 the impact to the affected candidate species, threatened species, or endangered
19 species, including, where feasible, advance mitigation. For purposes of this clause,
20 “advance mitigation” means mitigation implemented before, and in anticipation
21 of, future impacts to natural resources.

22 (D) Include a description of the species that would be benefited by each
23 mitigation action and how it would be benefited.

24 (E) A cost estimate for each action, whether on public or private land, using total
25 cost accounting, including, as applicable, land acquisition costs, conservation
26 easement costs, monitoring costs, transaction costs, restoration costs, the amount
27 of a perpetual endowment account for land management or easement stewardship
28 costs by the department or other management entity, and administrative costs.

29 **Comment.** Section 63055 continues former Fish and Game Code Section 2069(c) without
30 substantive change.

31 **§ 63065. Interim mitigation strategy**

32 63065. (a) An interim mitigation strategy shall be based on best available
33 science and shall be reviewed by the Desert Renewable Energy Conservation Plan
34 independent science advisers.

35 (b) The department shall seek and consider comments from the Desert
36 Renewable Energy Conservation Plan independent science advisers in the design
37 and location of each mitigation action implemented pursuant to this article. If the
38 department elects to not incorporate comments of the independent science advisers
39 into mitigation actions, the department shall explain the reasons for that decision
40 in writing.

1 (c) The interim mitigation strategy shall be completed by the department no later
2 than 60 days following the operative date of the act that added former Fish and
3 Game Code Section 2069.

4 **Comment.** Section 63065 continues former Fish and Game Code Section 2069(d)-(e) without
5 substantive change.

6 **§ 63070. Effect on specified requirements**

7 63070. This article does not modify the requirements of Section 62700,
8 including the requirement to avoid and minimize impacts, where feasible, or the
9 requirements of Division 13 (commencing with Section 21000) of, or Chapter 6
10 (commencing with Section 25500) of Division 15 of, the Public Resources Code,
11 or affect the existing authority of the department to authorize mitigation actions to
12 comply with this part.

13 **Comment.** Section 63070 continues former Fish and Game Code Section 2069(f)(1) without
14 substantive change.

15 **§ 63075. Limitations on specified applicants**

16 63075. (a) With respect to an applicant described in subdivision (c), the sole
17 effect of a mitigation action described in Section 63055, and paid for through the
18 deposit of fees as described in Article 3 (commencing with Section 63100), is to
19 relieve the applicant of the obligation to directly take actions that are taken instead
20 by the department or its contractor or designee pursuant to Section 63050 to meet
21 the applicant's obligations with respect to mitigating the powerplant's impacts to
22 species and habitat.

23 (b) The mitigation action and deposit of fees shall not relieve the applicant of
24 any other obligation. Nor shall it relieve the Energy Commission or the lead
25 agency of any existing requirements to analyze, avoid, minimize, or mitigate
26 impacts to species and habitat, or make specified findings under Division 13
27 (commencing with Section 21000) of, or Chapter 6 (commencing with Section
28 25500) of Division 15 of, the Public Resources Code.

29 (c) This section applies to the following entities and applicants:

30 (1) With respect to the Energy Commission, an applicant seeking certification
31 for a solar thermal or geothermal powerplant pursuant to Chapter 6 (commencing
32 with Section 25500) of Division 15 of the Public Resources Code.

33 (2) With respect to a lead agency, as defined in Section 21067 of the Public
34 Resources Code, in the case of an applicant seeking approval of a renewable
35 energy powerplant not subject to the Energy Commission's jurisdiction.

36 **Comment.** Section 63075 restates former Fish and Game Code Section 2069(f)(2) without
37 substantive change.

38 **Note.** Proposed Section 63075 would restate existing Section 2069(f)(2) to improve its
39 clarity, without changing its substantive effect. The existing provision reads as follows:

1 “With respect to the Energy Commission, in the case of an applicant seeking certification for a
2 solar thermal or geothermal powerplant pursuant to Chapter 6 (commencing with Section 25500)
3 of Division 15 of the Public Resources Code, or a lead agency, as defined in Section 21067 of the
4 Public Resources Code, in the case of an applicant seeking approval of a renewable energy
5 powerplant not subject to the Energy Commission’s jurisdiction, the sole effect of a mitigation
6 action described in subdivision (c), and paid for through the deposit of fees as described in
7 Section 2099, is to relieve an applicant of the obligation to directly take actions that are taken
8 instead by the department or its contractor or designee pursuant to subdivision (b) to meet the
9 applicant’s obligations with respect to mitigating the powerplant’s impacts to species and habitat.
10 The mitigation action and deposit of fees shall not relieve the applicant of any other obligation, or
11 the Energy Commission or the lead agency of any of its existing requirements of Division 13
12 (commencing with Section 21000) of, or the requirements of Chapter 6 (commencing with
13 Section 25500) of Division 15 of, the Public Resources Code to analyze, avoid, minimize, or
14 mitigate impacts to species and habitat, or make the findings required by those statutes.”

15 **The Commission invites comment on whether that restatement would cause any problems.**

16 **§ 63080. Incorporation of mitigation actions into Desert Renewable Energy Conservation**
17 **Plan**

18 63080. The mitigation actions implemented pursuant to this article shall be
19 incorporated into the Desert Renewable Energy Conservation Plan upon the
20 finalization of the plan, to the extent the mitigation actions are consistent with the
21 plan’s conservation strategy.

22 **Comment.** Section 63080 continues former Fish and Game Code Section 2069(g) without
23 substantive change.

24 **Article 3. Implementation**

25 **§ 63100. Funding**

26 63100. (a) The Renewable Energy Resources Development Fee Trust Fund is
27 hereby established in the State Treasury.

28 (b) Upon direction by the department, the Controller shall create any accounts or
29 subaccounts within the fund that the department determines are necessary or
30 convenient to facilitate management of the fund.

31 (c) The department shall collect a fee from the owner or developer of an eligible
32 project that elects to use mitigation actions developed and approved by the
33 department pursuant to Article 2 (commencing with Section 63050), and all
34 moneys received for purposes of mitigation actions pursuant to Article 2
35 (commencing with Section 63050) shall be deposited in the fund and shall be held
36 in trust and be expended solely for the purposes of, and in conformity with, that
37 article, applicable permit or certification requirements for eligible projects, and
38 any contractual agreement between the Energy Commission or department and the
39 owner or developer of an eligible project.

40 (d) The fund shall serve, and be managed, as an optional, voluntary method for
41 developers or owners of eligible projects to deposit fees to complete mitigation
42 actions meeting the conditions of Section 63055 and for the purpose of meeting

1 the requirements of this part or the requirements of Chapter 6 (commencing with
2 Section 25500) of Division 15 of the Public Resources Code by funding mitigation
3 actions implemented by the department or third parties in a contractual
4 relationship with the department. Notwithstanding Section 13340 of the
5 Government Code, the money in the fund is hereby continuously appropriated to
6 the department, without regard to fiscal years, for the purposes enumerated in this
7 article and Article 2 (commencing with Section 63050). An expenditure shall not
8 be made from the fund except as authorized by the department.

9 (e) A developer or owner of an eligible project that elects to use mitigation
10 actions developed and authorized by the department pursuant to Article 2
11 (commencing with Section 63050) shall remit fees to the department for deposit
12 into the fund for those mitigation actions in an amount that reflects the
13 determination by the Energy Commission, with respect to a solar thermal or
14 geothermal powerplant subject to its jurisdiction, or the department, with respect
15 to a renewable energy powerplant not subject to the Energy Commission's
16 jurisdiction, of the costs attributable to the mitigation actions that meet the
17 standards of this part. The amount of fees to be paid by a developer or owner of an
18 eligible project to meet the standards of this part shall be calculated on a per acre
19 basis, using total cost accounting, and shall include, as applicable, land acquisition
20 or conservation easement costs, monitoring costs, restoration costs, transaction
21 costs, the amount of a perpetual endowment account for land management or
22 easement stewardship costs by the department or other management entity, and
23 administrative costs and funds sufficient to repay any expenditure of state funds
24 made pursuant to subdivision (f). To ensure the funds deposited pursuant to this
25 article are sufficient to meet the standards of this part, the project developer or
26 owner, in addition to payment of those funds, shall provide security, in a form and
27 amount, not to exceed 5 percent of the amount of the funds, excluding any portion
28 of the funds to be used for a perpetual endowment, to be determined by the Energy
29 Commission, with respect to a solar thermal or geothermal powerplant subject to
30 its jurisdiction, or to be determined by the department, with respect to a renewable
31 energy powerplant not subject to the Energy Commission's jurisdiction.

32 (f) The sum of ten million dollars (\$10,000,000) previously transferred, as a
33 loan, from the Renewable Resource Trust Fund to the fund shall be repaid from
34 the fund to the Renewable Resource Trust Fund no later than December 31, 2013.
35 The department shall use these funds, pursuant to paragraph (1) of subdivision (a)
36 of Section 63055, to purchase mitigation lands or conservation easements, and to
37 cover related restoration, monitoring, and transaction costs incurred in advance of
38 the receipt of fees pursuant to paragraph (5) and to cover the department's
39 administrative costs for the program.

40 (g) The department may contract with, or award grants to, third parties to
41 implement mitigation actions in conformity with Article 2 (commencing with
42 Section 63050) and this article.

1 **Comment.** Section 63100 continues former Fish and Game Code Section 2099(b) without
2 substantive change.

3 **§ 63105. Monitoring use of funds**

4 63105. (a) The department shall monitor the implementation of the mitigation
5 actions and the progress of the construction of the eligible projects.

6 (b) The department shall report all deposits, and the source of those deposits, on
7 its Internet Web site. The department shall also report all expenditures from the
8 fund on its Internet Web site and identify the mitigation activities or programs that
9 each expenditure funded and its relationship to the permitted project.

10 (c) The Energy Commission, with respect to a solar thermal or geothermal
11 powerplant subject to its jurisdiction, and the department, with respect to a
12 renewable energy powerplant not subject to the Energy Commission's jurisdiction,
13 shall ensure that moneys paid pursuant to this article are used only for purposes of
14 satisfying the standards of subdivision (b) of Section 62700.

15 (d) Where moneys are used to fund mitigation actions, including the acquisition
16 of lands or conservation easements, or the restoration of lands, that use shall be in
17 addition to, and not duplicative of, mitigation obtained through any other means.

18 **Comment.** Section 63105 continues former Fish and Game Code Section 2099(c) without
19 substantive change.

20 **§ 63110. Limitation on use of interim mitigation strategy**

21 63110. (a) The department and the Energy Commission shall not allow any use
22 of the interim mitigation strategy subsequent to a determination by the department
23 that the time and extent of mitigation actions are not being implemented in rough
24 proportion to the impacts of those projects.

25 (b) The department shall reinstitute the use of the interim mitigation strategy
26 when the department determines the rough proportionality between mitigation
27 actions and impacts of eligible projects has been reestablished by the completion
28 of additional mitigation actions.

29 **Comment.** Section 63110 continues former Fish and Game Code Section 2099(d) without
30 substantive change.

31 **§ 63115. Permit application fee**

32 63115. (a) The department shall collect a permit application fee from the owner
33 or developer of an eligible project to support its permitting of eligible projects
34 pursuant to this part. The owner or developer of a proposed eligible project shall
35 pay a one-time permit application fee of seventy-five thousand dollars (\$75,000)
36 to the department.

37 (b) The department shall collect the permit application fee, at the time the owner
38 or developer submits its permit application or, for eligible projects for which an
39 application has already been submitted, within 30 days of March 22, 2010. The
40 department shall utilize the permit application fee to pay for all or a portion of the
41 department's cost of processing incidental take permit applications pursuant to

1 subdivision (a) of Section 62700 and Section 62705. If the permit application fee
2 is insufficient to complete permitting work due to the complexity of a project or
3 timeline delays, the department may collect an additional fee from the owner or
4 developer to pay for its actual costs, not to exceed an additional seventy-five
5 thousand dollars (\$75,000).

6 (c) For an eligible project seeking site certification, pursuant to Chapter 6
7 (commencing with Section 25500) of Division 15 of the Public Resources Code,
8 by the Energy Commission, the owner or developer shall pay the permit
9 application fee directly to the department. The permit application fee paid to the
10 department shall fund the department's participation in the Energy Commission's
11 site certification process as the state's trustee for natural resources. The permit
12 application fee shall be in addition to any application fees collected directly by the
13 Energy Commission. The permit application fee shall be due and payable within
14 30 days of March 22, 2010.

15 (d) Permit application fees paid pursuant to this part shall be deposited in the
16 Fish and Game Preservation Fund and shall be eligible for expenditure by the
17 department pursuant to subdivision (a) of Section 62700 and Section 62705.

18 (e) The sum of one million six hundred fifty thousand dollars (\$1,650,000) is
19 hereby appropriated to the department from the Fish and Game Preservation Fund
20 for the purposes of this section. These funds shall be available for expenditure
21 through June 30, 2011.

22 (f) If an owner or developer withdraws a project within 30 days after paying the
23 permit application fee, the department shall refund any unused portion of the fee to
24 the owner or developer.

25 **Comment.** Together with Section 63010, Section 63115 continues former Fish and Game
26 Code Section 2099.5 without substantive change.

27 **Notes.** (1) Existing Section 2099.5 twice refers to "the operative date of this section." In
28 proposed Section 63115, that phrase has been replaced with the apparent effective date of the
29 section (as reported on the Legislative Counsel's website), March 22, 2010. **The Commission**
30 **invites comment on whether that is a proper substitution or, alternatively, whether the**
31 **provisions that include that reference are obsolete and can be deleted.**

32 (2) Existing Section 2099.5(c) refers to "Chapter 6 (commencing with Section 25500) of
33 Division 1 of the Public Resources Code." That appears to be an error. Section 25500 is part of
34 Division 15 of the Public Resources Code, not Division 1. Proposed Section 63115 corrects the
35 error. **The Commission invites comment on whether that revision would cause any**
36 **problems.**

37 **Note.** Existing Section 2099.20 appears to be obsolete. It provides an application procedure
38 to implement a provision that was repealed by its own terms on January 1, 2016, former Section
39 2099.10. For that reason, Section 2099.20 is not continued in this draft. **The Commission invites**
40 **comment on whether that would cause any problems.**

41 **Note.** Existing Section 2100 appears to be obsolete. It governs the composition of an advisory
42 commission that appears to be defunct. For that reason, Section 2100 is not continued in this
43 draft. **The Commission invites comment on whether that would cause any problems.**

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CHAPTER 5. SURFACE MINING

§ 63200. Application of chapter

63200. This chapter applies to an ongoing surface mining operation that meets all of the following criteria:

(a) It has been issued a permit pursuant to Section 2770 of the Public Resources Code by the lead agency, as defined in Section 2728 of the Public Resources Code.

(b) It is in compliance with the permit with regard to matters relating to plants.

(c) It is in compliance with any memorandum of understanding with the department for any of the purposes specified in Section 62700.

Comment. Section 63200 restates the introductory clause of former Fish and Game Code Section 2081.5 without substantive change.

§ 63205. Limitation on criminal liability

63205. The surface mining operator is not liable for criminal prosecution pursuant to this code for any take of a threatened or endangered plant species that is incidental to the surface mining operation.

Comment. Section 63205 continues former Fish and Game Code Section 2081.5(a) without substantive change.

§ 63210. Newly listed or discovered plant species

63210. (a) If a plant species that exists on the private property of the surface mining operator is added to the list of threatened species or endangered species pursuant to this part after the date that the operator was issued the permit, or if a plant species on the list of threatened species or endangered species adopted pursuant to this part is newly discovered on the private property of the operator after that date, the department shall notify the operator by mail within 14 days of the addition to the list or knowledge of the new discovery by the department.

(b) Within 30 days from the date of the notification, the department shall meet with the operator to discuss an interim and permanent plan for the protection of the newly added or newly discovered plant species.

(c) Within 60 days of the initial meeting with the operator, the department shall issue reasonable and feasible interim management measures required to protect the newly added or newly discovered plant species that take into account the economic impact on the surface mining operation.

(d) The department shall work with the operator to develop and finalize a reasonable memorandum of understanding for one of the purposes specified in Section 62700 for the protection of the newly added or newly discovered plant species as expeditiously as possible.

(e) Both the interim management measures and the final memorandum of understanding shall, to the extent feasible, avoid interference with ongoing surface mining operations.

1 (f) The department shall send a copy of the final memorandum of understanding
2 to the lead agency that issued the permit to the operator for the lead agency’s
3 information.

4 (g) The surface mining operator shall pay a fee to the department in the amount
5 the department determines is necessary to pay the department’s actual costs
6 incurred in preparing interim management measures and developing and finalizing
7 a memorandum of understanding for the protection of the newly added or newly
8 discovered plant species. The fees shall be deposited in the Endangered and Rare
9 Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the
10 Fish and Game Preservation Fund and, notwithstanding Section 13340 of the
11 Government Code, are continuously appropriated to the department for purposes
12 of implementing this chapter.

13 **Comment.** Section 63210 continues former Fish and Game Code Section 2081.5(b)-(c)
14 without substantive change.

15 **CHAPTER 6. SPECIFIC EXCEPTIONS**

16 **Article 1. Quantification Settlement Agreement**

17 **§ 63300. Take from specified effects of implementation of agreement**

18 63300. Notwithstanding Title 5 (commencing with Section 30200) of Part 3 of
19 Division 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, and
20 Sections 38200, 52200, and 53000, and contingent upon the fulfillment of the
21 conditions listed in Section 63305, the department may authorize, under this part
22 or Title 1 (commencing with Section 64500) of Part 2, the take of species resulting
23 from impacts attributable to the implementation of the Quantification Settlement
24 Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the
25 Statutes of 2002, on all of the following:

26 (a) The salinity, elevation, shoreline habitat, or water quality of the Salton Sea.

27 (b) The quantity and quality of water flowing in the All American Canal, the
28 Coachella Canal, the Imperial Valley and Coachella Valley drains, the New and
29 Alamo Rivers, the Coachella Valley Stormwater Channel, and the habitat
30 sustained by those flows.

31 (c) Agricultural lands in the Imperial Valley.

32 (d) The quantity and quality of water flowing in the Colorado River, the habitat
33 sustained by those flows, and the collection of that water for delivery to authorized
34 users.

35 **Comment.** Section 63300 restates former Fish and Game Code Section 2081.7(a) without
36 substantive change.

37 **§ 63305. Application of Section 63300**

38 63305. Section 63300 only applies if all of the following conditions are fulfilled:

1 (a) The Quantification Settlement Agreement is executed by the appropriate
2 parties on or before October 12, 2003.

3 (b) The department has determined that the appropriate agreements have been
4 executed to address environmental impacts at the Salton Sea that include
5 enforceable commitments requiring all of the following:

6 (1) Imperial Irrigation District to transfer 800,000 acre-feet of conserved water,
7 by conservation methods selected by the Imperial Irrigation District, to the
8 Department of Water Resources on a mutually agreed-upon schedule in exchange
9 for payment of one hundred seventy-five dollars (\$175) per acre-foot. The price
10 shall be adjusted for inflation on an annual basis.

11 (2) Imperial Irrigation District to transfer up to 800,000 additional acre-feet of
12 conserved water, by conservation methods selected by the Imperial Irrigation
13 District, to the Department of Water Resources during the first 15 years of the
14 Quantification Settlement Agreement on the schedule established for the
15 mitigation water that was previously to be transferred to the San Diego Water
16 Authority, or on a mutually agreed-upon schedule, at no cost for the water in
17 addition to the payment for the water from the mitigation fund described in
18 paragraph (1) of subdivision (b) of Section 3 of Chapter 613 of the Statutes of
19 2003.

20 (3) As a condition to acquisition of the water described in paragraph (1), the
21 Department of Water Resources shall be responsible for any environmental
22 impacts, including Salton Sea salinity, related to use or transfer of that water. As a
23 condition to acquisition of the water described in paragraph (2), the Department of
24 Water Resources shall be responsible for environmental impacts related to Salton
25 Sea salinity that are related to the use or transfer of that water.

26 (4) The Metropolitan Water District of Southern California (MWD) to purchase
27 up to 1.6 million acre-feet of the water provided in accordance with paragraphs (1)
28 and (2) from the Department of Water Resources at a price of not less than two
29 hundred fifty dollars (\$250) per acre-foot on a mutually agreed-upon schedule.
30 The price shall be adjusted for inflation on an annual basis. The Department of
31 Water Resources shall deposit all proceeds from the sale of water pursuant to this
32 paragraph, after deducting costs and reasonable administrative expenses, into the
33 Salton Sea Restoration Fund established in Section 56850.

34 (5) The Metropolitan Water District of Southern California to pay not less than
35 twenty dollars (\$20) per acre-foot for all special surplus water received by MWD
36 as a result of reinstatement of access to that water under the Interim Surplus
37 Guidelines by the United States Department of Interior subtracting any water
38 delivered to Arizona as a result of a shortage. The money shall be paid into the
39 Salton Sea Restoration Fund. The price shall be adjusted for inflation on an annual
40 basis. Metropolitan Water District of Southern California shall receive a credit
41 against future mitigation obligations under the Lower Colorado River Multi-
42 Species Conservation Plan for any funds provided under this paragraph to the
43 extent that those funds are spent on projects that contribute to the conservation or

1 mitigation for species identified in the Lower Colorado River Multi-Species
2 Conservation Plan and that are consistent with the preferred alternative for Salton
3 Sea restoration.

4 (6) Coachella Valley Water District, Imperial Irrigation District, and San Diego
5 County Water Authority to pay a total of thirty million dollars (\$30,000,000) to
6 the Salton Sea Restoration Fund as provided in paragraph (2) of subdivision (b) of
7 Section 3 of Chapter 613 of the Statutes of 2003.

8 (c) The requirements of subdivision (a) and (b) of Section 62700 are satisfied as
9 to the species for which take is authorized.

10 (d) The take authorization provides for the development and implementation, in
11 cooperation with federal and state agencies, of an adaptive management process
12 for monitoring the effectiveness of, and adjusting as necessary, the measures to
13 minimize and fully mitigate the impacts of the authorized take. The adjusted
14 measures are subject to Section 62015.

15 (e) The take authorization provides for the development and implementation in
16 cooperation with state and federal agencies of an adaptive management process
17 that substantially contributes to the long-term conservation of the species for
18 which take is authorized. Preparation of the adaptive management program and
19 implementation of the program is the responsibility of the department. The
20 department's obligation to prepare and implement the adaptive management
21 program is conditioned upon the availability of funds pursuant to the Water
22 Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, if it is
23 approved by the voters at the statewide general election to be held November 5,
24 2002 (Proposition 50), or other funds that may be appropriated by the Legislature
25 or approved by the voters for that purpose. The failure to appropriate funds does
26 not relieve the applicant of the obligations of subdivisions (c) and (d). However,
27 the applicant shall not be required to fund any program pursuant to this
28 subdivision.

29 (f) The requirements of subdivision (c) may be satisfied if the take is authorized
30 under this title.

31 **Comment.** Section 63305 restates former Fish and Game Code Section 2081.7(b)-(d) without
32 substantive change.

33 **Note.** Existing Section 2081.7(d)(4) (proposed Section 63305(f)) refers to “Chapter 10
34 (commencing with Section 2080).” The reference to “Chapter 10” appears to be erroneous.
35 Section 2080 is the first section of Article 3 of Chapter 1.5 (which would be continued as Title 3
36 of Part 1). Proposed Section 63305(f) corrects the error. **The Commission invites comment on
37 whether the proposed correction would cause any problem.**

38 **§ 63310. Restoration study**

39 63310. (a) The Secretary of the Resources Agency, in consultation with the
40 department, the Department of Water Resources, the Salton Sea Authority,
41 appropriate air quality districts, and the Salton Sea Advisory Committee, shall
42 undertake a restoration study to determine a preferred alternative for the

1 restoration of the Salton Sea ecosystem and the protection of wildlife dependent
2 on that ecosystem.

3 (b) The Secretary of the Resources Agency shall extend an invitation to the
4 United States Geological Survey Salton Sea Science Office to also participate in
5 the restoration study, and the office may participate if it accepts the invitation.

6 (c) The restoration study shall be conducted pursuant to a process with deadlines
7 for release of the report and programmatic environmental documents established
8 by the secretary, in consultation with the department, the Department of Water
9 Resources, the Salton Sea Authority, and the Salton Sea Advisory Committee, and
10 the United States Geological Survey Salton Sea Science Office, if it is a
11 participant. The secretary shall use all available authority to enter into a
12 memorandum of understanding (MOU) with the Secretary of the Interior, as
13 provided in Section 101(b)(1)(B)(i) of the Salton Sea Reclamation Act of 1998
14 (P.L. 105-372) for the purpose of obtaining federal participation in the restoration
15 of the Salton Sea.

16 (d) The restoration study shall establish all of the following:

17 (1) An evaluation of alternatives for the restoration of the Salton Sea that
18 includes consideration of strategies for salinity control, habitation creation and
19 restoration, and different shoreline elevations and surface area configurations. The
20 alternatives shall consider the range of possible inflow conditions. The evaluation
21 established pursuant to this paragraph shall also include suggested criteria for
22 selecting and evaluating alternatives consistent with Title 10 (commencing with
23 Section 56800) of Part 2 of Division 15, including, but not limited to, at least one
24 most cost-effective, technically feasible, alternative.

25 (2) An evaluation of the magnitude and practicability of costs of construction,
26 operation, and maintenance of each alternative evaluated.

27 (3) A recommended plan for the use or transfer of water provided by paragraph
28 (2) of subdivision (b) of Section 63305. No water may be transferred pursuant to
29 that subdivision unless the secretary finds that transfer is consistent with the
30 preferred alternative for Salton Sea restoration.

31 (4) The selection of a preferred alternative consistent with Section 56900,
32 including a proposed funding plan to implement the preferred alternative. The
33 proposed funding plan shall include a determination of the moneys that are, or
34 may be, available to construct and operate the preferred project, including, but not
35 limited to, all of the following moneys:

36 (A) Moneys in the Salton Sea Restoration Fund established by Section 56850.

37 (B) State water and environmental bond moneys.

38 (C) Federal authorizations and appropriations.

39 (D) Moneys available through a Salton Sea Infrastructure Financing District
40 established pursuant to Section 53395.9 of the Government Code and local
41 assessments by the Salton Sea Authority or its member agencies.

42 (E) Moneys derived from user or other fees.

1 (e) The study identifying the preferred alternative shall be submitted to the
2 Legislature on or before December 31, 2006.

3 **Comment.** Section 63310 continues former Fish and Game Code Section 2081.7(e)(1)-(3)
4 without substantive change.

5 **Note.** The Commission invites comment on whether proposed Section 63310(e) can be
6 omitted as obsolete.

7 **§ 63315. Advisory committee**

8 63315. The Secretary of the Resources Agency shall establish an advisory
9 committee for purposes of Section 63310 as follows:

10 (a) The advisory committee shall be selected to provide balanced representation
11 of the following interests:

- 12 (1) Agriculture.
- 13 (2) Local governments.
- 14 (3) Conservation groups.
- 15 (4) Tribal governments.
- 16 (5) Recreational users.
- 17 (6) Water agencies.
- 18 (7) Air pollution control districts.
- 19 (8) Geothermal energy development.

20 (b) Appropriate federal agency representatives may be asked to serve in an ex
21 officio capacity.

22 (c) The Resources Agency shall consult with the advisory committee throughout
23 all stages of the alternative selection process.

24 (d) The advisory committee shall meet no fewer than six times annually.

25 (e) The secretary shall appoint a vice chair of the advisory committee from the
26 committee membership. The vice chair shall work with the secretary to develop
27 advisory committee agendas and to schedule meetings of the committee. The
28 secretary and vice chair shall appoint an agenda subcommittee to assist in the
29 preparation of advisory committee agendas.

30 (f) The advisory committee shall submit to the Resources Agency
31 recommendations to assist the agency in preparation of its restoration plan. The
32 Resources Agency shall develop a schedule for the completion of these
33 recommendations to ensure that these recommendations will be considered by the
34 agency in a timely and meaningful manner as the restoration plan is developed.
35 These recommendations may include, but are not limited to:

- 36 (1) The specific goals and objectives of the restoration plan.
- 37 (2) The range of alternative restoration actions that must be developed and
38 analyzed.
- 39 (3) The no action alternative.
- 40 (4) The criteria for determining economic and technical feasibility of the
41 alternatives.

- 1 (5) The range of options for funding the restoration plan.
2 (6) The selection of a preferred alternative for a restoration plan.
3 (g) The Resources Agency shall periodically provide an update to the advisory
4 committee of the current work plan and schedule for the development of the
5 restoration plan.

6 **Comment.** Section 63315 continues former Fish and Game Code Section 2081.7(e)(4) without
7 substantive change.

8 **§ 63320. No exemption from other laws**

9 63320. This article shall not be construed to exempt from any other provision of
10 law the Quantification Settlement Agreement and the Agreement for Transfer of
11 Conserved Water by and between the Imperial Irrigation District and the San
12 Diego County Water Authority, dated April 29, 1998.

13 **Comment.** Section 63320 continues former Fish and Game Code Section 2081.7(f) without
14 substantive change.

15 **§ 63325. Related assessment by Resources Agency**

16 63325. (a) The Resources Agency shall undertake the necessary activities to
17 assess the protection of recreational opportunities, including, but not limited to,
18 hunting, fishing, boating, and birdwatching, and the creation of opportunities for
19 improved local economic conditions, surrounding the Salton Sea.

20 (b) The Resources Agency shall not undertake any of those activities if the
21 agency determines they would constitute a project purpose for environmental
22 documentation that is prepared pursuant to Sections 63300 to 63320, inclusive.

23 **Comment.** Section 63325 continues former Fish and Game Code Section 2081.8 without
24 substantive change.

25 **Article 2. Chinook Salmon**

26 **§ 63350. Findings and declarations**

27 63350. The Legislature finds and declares the following:

28 (a) The historic settlement approved by Congress in the San Joaquin River
29 Restoration Settlement Act (Part I of Subtitle A of Title X of Public Law 111-11)
30 directs the federal government to reintroduce spring run Chinook salmon to the
31 San Joaquin River. In approving the settlement and the new statutory provisions
32 governing the reintroduction of California central valley spring run Chinook
33 salmon, Congress found that the implementation of the settlement, to resolve 18
34 years of contentious litigation regarding restoration of the San Joaquin River and
35 the reintroduction of the salmon, was a unique and unprecedented circumstance.
36 The settlement also provides that nothing in the settlement diminishes the statutory
37 or regulatory protections under the federal Endangered Species Act of 1973 (16
38 U.S.C. Sec. 1531 et seq.) nor does it establish a precedent with respect to any other
39 application of the federal act.

1 (b) Central valley spring run Chinook salmon have been listed since 1999 as a
2 threatened species under this part and were still listed as of January 1, 2011.

3 (c) Restoring spring run Chinook salmon to the San Joaquin River is intended to
4 further the conservation and recovery of the species.

5 (d) Consistent with the unique and historic circumstances that led to the
6 settlement, nothing in this article is intended to create any precedent as to future
7 application of this part, nor does this article otherwise modify other existing
8 statutes or legal obligations.

9 **Comment.** Section 63350 continues former Fish and Game Code Section 2080.2 without
10 substantive change.

11 **§ 63355. Enhancement of survival permit**

12 63355. (a) Notwithstanding any other provision of this part, if any person
13 obtains from the Secretary of Commerce an enhancement of survival permit
14 pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 1539
15 of Title 16 of the United States Code that authorizes the taking of spring run
16 Chinook salmon (*Oncorhynchus tshawytscha*) in order to establish or maintain an
17 experimental population in the San Joaquin River pursuant to subsection (j) of that
18 section and the San Joaquin River Restoration Settlement Act (Part I of Subtitle A
19 of Title X of Public Law 111-11), no further authorization or approval is necessary
20 under this part for that person to take that species as identified in, and in
21 accordance with, the enhancement of survival permit, if all of the following
22 requirements are met:

23 (1) That person shall notify the director in writing that the person has received
24 an enhancement of survival permit and include in the notification a copy of the
25 permit.

26 (2) Upon receipt of the notice specified in paragraph (1), the director shall
27 immediately have the notice published in the General Public Interest Section of the
28 California Regulatory Notice Register.

29 (3) Within 30 days after the director has received the notice specified in
30 paragraph (1), the director shall determine whether the enhancement of survival
31 permit will further the conservation of the species. As used in this paragraph,
32 “conservation” has the same meaning as defined in Section 62110.

33 (4) The director shall immediately have the determination pursuant to paragraph
34 (3) published in the General Public Interest Section of the California Regulatory
35 Notice Register.

36 (b) The timing and extent of a take authorization under this section shall be
37 limited to the terms in the federal enhancement of survival permit and shall expire
38 upon the expiration of the federal permit.

39 (c) This section shall remain in effect only until the effective date of an
40 amendment to Section 1539 of Title 16 of the United States Code that alters the
41 requirements for issuing an enhancement of survival permit, as applicable, and as

1 of that date is repealed, unless a later enacted statute, that is chaptered before the
2 date this section is repealed, deletes or extends that date.

3 **Comment.** Section 63355 continues former Fish and Game Code Section 2080.3 without
4 substantive change.

5  **Note.** Existing Section 2080.3(a)(2) refers to “paragraph (1) of subdivision (c).” That
6 reference is erroneous, as subdivision (c) is not divided into paragraphs. In context, it appears that
7 the reference should have been to Section 2080.3(a)(1). That change has been made in proposed
8 Section 63355. **The Commission invites comment on whether the change would cause any**
9 **problems.**

10 **§ 63360. Experimental population**

11 63360. (a) If a population of spring run Chinook salmon in the San Joaquin
12 River is designated as an experimental population under subsection (j) of Section
13 1539 of Title 16 of the United States Code, no further authorization or approval is
14 necessary under this part for any person to incidentally take members of that
15 experimental population, if all of the following requirements are met:

16 (1) The Secretary of Commerce has published regulations in the Federal
17 Register specifying management restrictions, protective measures, prohibitions,
18 and exceptions to the prohibitions for the designated experimental population of
19 spring run Chinook salmon in the San Joaquin River.

20 (2) The director has determined, in writing, that the management restrictions,
21 protective measures, prohibitions and exceptions to prohibitions contained in the
22 regulations specified in paragraph (1) meet the requirements in subdivision (b).

23 (3) The action or activity that results in incidental take of the designated
24 experimental population is authorized by the regulations published in the Federal
25 Register.

26 (b) The director shall issue the determination described in paragraph (2) of
27 subdivision (a), if the director finds that the federal regulations described in
28 paragraph (1) of subdivision (a) meet all of the following criteria:

29 (1) The federal regulations will further the conservation of the spring run
30 Chinook salmon. As used in this paragraph, “conservation” has the same meaning
31 as defined in Section 62110.

32 (2) The federal regulations contain all reasonably feasible measures to avoid and
33 minimize the impacts of any taking allowed by the regulation.

34 (3) The federal regulations will not jeopardize the continued existence or
35 recovery of spring run Chinook salmon, and will not jeopardize the restoration of
36 spring run Chinook salmon in the San Joaquin River.

37 (c) If the director determines that the federal regulations described in paragraph
38 (1) of subdivision (a) are not consistent with this part, or if the action or activity
39 that results in incidental take is not authorized in those federal regulations, then the
40 incidental take of members of the designated experimental population may only be
41 authorized pursuant to this part.

1 (d) The director shall publish the determination, pursuant to paragraph (2) of
2 subdivision (a), and subdivision (b), in the General Public Interest Section of the
3 California Regulatory Notice Register.

4 **Comment.** Section 63360 continues former Fish and Game Code Section 2080.4 without
5 substantive change.

6 Article 3. Rough Sculpin

7 **§ 63400. Spring Creek Bridge**

8 63400. (a) The department may authorize, under this part, the take of the rough
9 sculpin (*Cottus asperimus*) resulting from impacts attributable to replacing the
10 Spring Creek Bridge in the County of Shasta, if all of the following conditions are
11 satisfied:

12 (1) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
13 for the take of the rough sculpin.

14 (2) The department ensures that all further measures necessary to satisfy the
15 conservation standard of subdivision (d) of Section 64515 are incorporated into
16 the project.

17 (3) The take authorization provides for the development and implementation, in
18 cooperation with federal and state agencies, of a monitoring program and an
19 adaptive management process until the department determines that any impacts
20 resulting from the replacement of the Spring Creek Bridge have been fully
21 mitigated.

22 (b) This section shall not be construed to exempt the project described in
23 subdivision (a) from any other law.

24 **Comment.** Section 63400 continues former Fish and Game Code Section 2081.4 without
25 substantive change.

26 Article 4. Threespine Stickleback

27 **§ 63450. Bouquet Creek**

28 63450. (a) The department may authorize, under this part, the take of the
29 unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) resulting
30 from impacts attributable to the habitat restoration project to restore, maintain, and
31 improve riparian habitat on public lands in the geographic area defined in
32 paragraph (1) and projects to restore the flow capacity to Bouquet Creek in
33 Bouquet Canyon on public lands, undertaken by the Los Angeles County
34 Department of Public Works, the Los Angeles Department of Water and Power,
35 and the United States Department of Agriculture, Forest Service, if all of the
36 following conditions are satisfied:

37 (1) The take authorization is limited to the portion of Bouquet Creek located
38 from a position normal to mile marker 8.3 on Bouquet Canyon Road to a position
39 normal to mile marker 16.3 on Bouquet Canyon Road, inclusive.

1 (2) The department has determined that the appropriate agreements have been
2 executed to address environmental impacts at the Bouquet Canyon area, including,
3 but not limited to, Bouquet Creek.

4 (3) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
5 for the take of the unarmored threespine stickleback.

6 (4) The department ensures that all further measures necessary to satisfy the
7 conservation standard of subdivision (d) of Section 64515 are incorporated into
8 the projects.

9 (5) A biologist will be on duty whenever an activity is conducted that may affect
10 the unarmored threespine stickleback.

11 (6) The take authorization provides for the development and implementation, in
12 cooperation with federal and state agencies, of a monitoring program and an
13 adaptive management process that satisfy the conservation standard of subdivision
14 (d) of Section 64515 for monitoring the effectiveness of, and adjusting, as
15 necessary, the measures to minimize and fully mitigate the impacts of the
16 authorized take.

17 (7) The take authorization provides for the development and implementation, in
18 cooperation with state and federal agencies, of an adaptive management process
19 that substantially contributes to the long-term conservation of the unarmored
20 threespine stickleback.

21 (b) This section shall not be construed to exempt the projects described in
22 subdivision (a) from any other law.

23 (c) This section shall not be construed to affect the contractual obligations of the
24 Los Angeles Department of Water and Power to provide water from Bouquet
25 Reservoir.

26 **Comment.** Section 63450 continues former Fish and Game Code Section 2081.6 without
27 substantive change.

28 **§ 63455. Metropolitan Water District of Southern California water supply facility**

29 63455. (a) The department may authorize, under this part, the incidental take of
30 unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) attributable
31 to the periodic dewatering, inspection, maintenance, modification, or repair,
32 including emergency repair, of the Metropolitan Water District of Southern
33 California's Foothill Feeder water supply facility from Castaic Dam to the Joseph
34 Jensen Treatment Plant in the County of Los Angeles, contingent upon the
35 fulfillment of the following conditions:

36 (1) The department determines that the requirements of subdivisions (a) and (b)
37 of Section 62700 are satisfied for the take of the unarmored threespine stickleback.

38 (2) The department ensures that all further measures necessary to satisfy the
39 conservation standard of subdivision (d) of Section 64515 are incorporated into
40 the project.

41 (3) The take authorization provides for the development and implementation, in
42 cooperation with the department, of an adaptive management plan for monitoring

1 the effectiveness of, and adjusting as necessary, the measures to minimize and
2 fully mitigate the impacts of the authorized take and to satisfy the conservation
3 standard of subdivision (d) of Section 64515.

4 (4) A biologist who has substantial relevant experience evaluating impacts to
5 inland fisheries is on duty whenever an activity is conducted that may affect the
6 unarmored threespine stickleback.

7 (5) The Metropolitan Water District of Southern California consults with the
8 department to consider feasible measures to avoid and minimize incidental take of
9 unarmored threespine stickleback. For purposes of this paragraph, “feasible” has
10 the same meaning as defined in Section 15364 of Title 14 of the California Code
11 of Regulations.

12 (b) The take authorization shall cover any incidental take of unarmored
13 threespine stickleback attributable to the periodic dewatering, inspection,
14 maintenance, modification, or repair, including emergency repair, of the Foothill
15 Feeder that may occur in the following locations:

16 (1) Within the Santa Clara River, from the Bouquet Canyon Road Bridge to a
17 point located 4,000 feet downstream of where Commerce Center Drive, as of
18 January 1, 2016, dead-ends adjacent to the Santa Clara River.

19 (2) From the confluence with the Santa Clara River upstream to the following
20 locations:

21 (A) In Charlie Canyon to a point 1,000 feet upstream of the Foothill Feeder
22 facility dewatering structure.

23 (B) In San Francisquito Creek to the Copper Hill Drive bridge.

24 (C) In Placerita Creek to the Hacienda Lane crossing.

25 (D) In Bouquet Creek to the Newhall Ranch Road Bridge.

26 (c) The take authorization shall also cover any incidental take of unarmored
27 threespine stickleback that may occur in the course of implementing mitigation or
28 conservation actions required in the permit issued pursuant to subdivision (a) as
29 may be modified through an adaptive management plan adopted pursuant to
30 paragraph (3) of subdivision (a).

31 (d) The permit issued pursuant to subdivision (a) shall include conditions that
32 cover biological and scientific considerations including, but not limited to, criteria
33 for the handling of stranded fish and their relocation into suitable habitat, the
34 dewatering of the Foothill Feeder, and the reasonable and feasible mimicking of
35 streamflows. The permit conditions shall be in compliance with the project
36 description, mitigation measures, and release plan set forth in the certified
37 environmental impact report known as the “Foothill Feeder Repair and Future
38 Inspections Project Environmental Impact Report, January 2005, State
39 Clearinghouse Number 2005071082.” The permit conditions are subject to
40 amendment when required by the adaptive management plan or when modified by
41 a subsequent final environmental document pursuant to the California
42 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
43 Public Resources Code).

1 (e) This section shall not be construed to exempt from any other law the periodic
2 dewatering, inspection, maintenance, modification, or repair of the Foothill
3 Feeder.

4 (f) If the Metropolitan Water District of Southern California receives a permit
5 under this section, the permit shall require the district to report to the department
6 within six months after every dewatering of the Foothill Feeder. The report shall
7 address compliance with the permit conditions and the effectiveness of the
8 adaptive management plan in contributing to the conservation of the unarmored
9 threespine stickleback. The Metropolitan Water District of Southern California
10 shall ensure that each report is made available to the public.

11 (g) As used in this section, “modification” does not include alterations to expand
12 the maximum physical capacity of the Foothill Feeder to deliver water.

13 **Comment.** Section 63455 continues former Fish and Game Code Section 2081.10 without
14 substantive change.

15 Article 5. Limestone Salamander

16 § 63500. Ferguson Slide Permanent Restoration Project

17 63500. (a) Notwithstanding Section 52200, the department may authorize, under
18 this part, the incidental take of limestone salamander (*Hydromantes brunus*)
19 resulting from impacts attributable to the Department of Transportation’s
20 implementation of the Ferguson Slide Permanent Restoration Project on State
21 Route 140 from 8 miles east of Briceburg to 7.6 miles west of El Portal in
22 Mariposa County, contingent upon the fulfillment of the following conditions:

23 (1) The Department of Transportation begins construction of the Ferguson Slide
24 Permanent Restoration Project on or before January 1, 2016.

25 (2) The department has determined that the Department of Transportation will
26 adopt appropriate avoidance and mitigation measures to protect the limestone
27 salamander through enforceable commitments that, at a minimum, include the
28 following:

29 (A) A construction work window that prevents initial ground-disturbing
30 construction activities from occurring on the southern slope during the
31 salamander’s active season of December to March, inclusive.

32 (B) Environmentally sensitive area fencing in the form of five-foot orange
33 plastic mesh, as well as salamander protection exclusionary fencing in the form of
34 24-inch sheet metal, will be erected if construction-related activities will occur
35 adjacent to limestone salamander habitat during their active season.

36 (C) A biological monitor will be onsite during active building to inspect the
37 worksite and all exclusionary fencing.

38 (D) All ground-disturbing activities within 100 feet will cease if a limestone
39 salamander is detected in an active construction site until the animal can be safely
40 removed from the area according to an agreed-upon salvage plan.

1 (3) The requirements of subdivisions (a) and (b) of Section 62700 are satisfied
2 for the take of the limestone salamander.

3 (4) The department ensures that all further measures necessary to satisfy the
4 conservation standard of subdivision (d) of Section 64515 are incorporated into
5 the project.

6 (5) The take authorization provides for the development and implementation, in
7 cooperation with the department, of an adaptive management process for
8 monitoring the effectiveness of, and adjusting as necessary, the measures to
9 minimize and fully mitigate the impacts of the authorized take. The adjusted
10 measures are subject to Section 62015.

11 (6) The failure to appropriate funds does not relieve the applicant of the
12 obligations of paragraphs (1) and (2).

13 (7) Any observations of the species in the worksite and any accidental injury or
14 mortality from vehicle strikes or other means will be reported to the department
15 immediately and the onsite biological monitor will notify the resident engineer
16 who will halt the work immediately.

17 (b) This section shall not be construed to exempt the Ferguson Slide Permanent
18 Restoration Project on State Route 140 from 8 miles east of Briceburg to 7.6 miles
19 west of El Portal in Mariposa County from any other law.

20 **Comment.** Section 63500 continues former Fish and Game Code Section 2081.9 without
21 substantive change.

22 CHAPTER 7. PERMIT APPLICATION FEE

23 § 63600. Definitions

24 63600. For the purposes of this chapter, the following terms have the following
25 meanings:

26 (a) “Permit” means any authorization issued by the department pursuant to this
27 title to take a species listed by this part as candidate, threatened, or endangered.

28 (b) “Permittee” includes any individual, firm, association, organization,
29 partnership, business, trust, corporation, limited liability company, district, city,
30 county, city and county, town, federal agency, and the state who applies for or
31 who has received a permit pursuant to this title.

32 (c) “Project” has the same meaning as defined in Section 21065 of the Public
33 Resources Code.

34 (d) “Project cost” means the total direct and indirect project expenses that
35 include, but are not limited to, labor, equipment, permanent materials and supplies,
36 subcontracts, permits and licenses, overhead, and miscellaneous costs.

37 (e) “Voluntary habitat restoration project” means a project that meets both of the
38 following requirements:

1 (1) The project’s primary purpose is voluntary habitat restoration and the project
2 may have other environmental benefits, and the project is not required as
3 mitigation due to a regulatory action.

4 (2) The project is not part of a regulatory settlement, a regulatory enforcement
5 action, or a court order.

6 **Comment.** Section 63600 continues former Fish and Game Code Section 2081.2(a) without
7 substantive change.

8 **§ 63605. Collection and use of fee**

9 63605. (a) The department shall collect a permit application fee for processing a
10 permit application submitted pursuant to this title at the time the permit application
11 is submitted to the department.

12 (b) Notwithstanding Section 64100, upon appropriation to the department from
13 the Endangered Species Permitting Account, the department shall use the permit
14 application fee to pay for all or a portion of the department’s cost of processing
15 permit applications, permit development, and compliance monitoring pursuant to
16 this title.

17 (c) This section does not apply to any of the following:

18 (1) Activities or costs associated with the review of projects, inspection and
19 oversight of projects, and permits necessary to conduct timber operations, as
20 defined in Section 4527 of the Public Resources Code, in accordance with Article
21 9.5 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the
22 Public Resources Code.

23 (2) Permits or memoranda of understanding authorized by Section 62650.

24 (3) Permits for voluntary habitat restoration projects.

25 **Comment.** Section 63605 continues former Fish and Game Code Section 2081.2(b) without
26 substantive change.

27 **§ 63610. Timing**

28 63610. (a) For an application submitted to the department pursuant to this title
29 on or after September 13, 2016, the department shall collect the permit application
30 fee at the time the permit application is submitted. The department shall not deem
31 the application complete until it has collected the permit application fee. A permit
32 application submitted or deemed complete prior to the effective date of this article
33 shall not be subject to fees established pursuant to this article.

34 (b) If a permit or amendment application is withdrawn within 30 days after
35 paying the permit or amendment application fee, the department shall refund any
36 unused portion of the fee to the permittee.

37 (c) If a permit or amendment application is withdrawn after 30 days of paying
38 the permit or amendment application fee, the department shall not refund any
39 portion of the fee to the permittee.

40 **Comment.** Section 63610 continues former Fish and Game Code Section 2081.2(e) without
41 substantive change.

Note. Existing Section 2081.2(e)(1) refers to “the effective date of this section.” According to the Legislative Counsel’s website, the section became effective on September 13, 2016. Proposed Section 63610 replaces the reference to the effective date of the section with that date. **The Commission invites comment on whether that change would cause any problems.**

§ 63615. Fee amounts

63615. The department shall assess the permit application fee as follows, subject to Sections 63620, 63630, and 63640:

(a) For a project, regardless of estimated project cost, that is subject only to Section 62705, 63355, or 63360, the department shall assess either of the following amounts:

(1) Seven thousand five hundred dollars (\$7,500).

(2) Six thousand dollars (\$6,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this title.

(b) For a project where the estimated project cost is less than one hundred thousand dollars (\$100,000), the department shall assess either of the following amounts:

(1) Seven thousand five hundred dollars (\$7,500).

(2) Six thousand dollars (\$6,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this title.

(c) For a project where the estimated project cost is one hundred thousand dollars (\$100,000) or more but less than five hundred thousand dollars (\$500,000), the department shall assess either of the following amounts:

(1) Fifteen thousand dollars (\$15,000).

(2) Twelve thousand dollars (\$12,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this title.

(d) For a project where the estimated project cost is five hundred thousand dollars (\$500,000) or more, the department shall assess either of the following amounts:

(1) Thirty thousand dollars (\$30,000).

(2) Twenty-four thousand dollars (\$24,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this title.

(e) The department shall collect a fee of seven thousand five hundred dollars (\$7,500) for processing permit amendments that the department has determined are minor as defined in regulation or fifteen thousand dollars (\$15,000) for processing permit amendments that the department has determined are major as defined in regulation.

Comment. Section 63615 continues former Fish and Game Code Section 2081.2(c) without substantive change.

1 **§ 63620. Adjustment of fee amount**

2 63620. The department shall adjust the fees in this article pursuant to Section
3 3755.

4 **Comment.** Section 63620 continues former Fish and Game Code Section 2081.2(f)(1) without
5 substantive change.

6 **§ 63625. Additional fee to cover costs**

7 63625. (a) If the permit or amendment application fee paid pursuant to Section
8 63615 is determined by the department to be insufficient to complete permitting
9 work due to the complexity of a project or the potential effects of a project, the
10 department shall collect an additional fee of up to ten thousand dollars (\$10,000)
11 from the permittee to pay for its estimated costs. Upon its determination, the
12 department shall notify the permittee of the reasons why an additional fee is
13 necessary and the estimated amount of the additional fee.

14 (b) The additional fee collected pursuant to subdivision (a) shall not exceed an
15 amount that, when added to the fee paid pursuant to Section 63615, equals thirty-
16 five thousand dollars (\$35,000). The department shall collect the additional fee
17 before a final decision on the application by the department.

18 **Comment.** Section 63625 continues former Fish and Game Code Section 2081.2(d) without
19 substantive change.

20 **§ 63630. Periodic review of fee amount**

21 63630. The department, at least every five years, shall analyze application fees
22 pursuant to Section 3755 to ensure the appropriate fee amounts are charged.

23 **Comment.** Section 63630 continues former Fish and Game Code Section 2081.2(f)(3) without
24 substantive change.

25 **§ 63635. Endangered Species Permitting Account**

26 63635. Fees paid to the department pursuant to this article shall be deposited in
27 the Endangered Species Permitting Account, which is hereby established in the
28 Fish and Game Preservation Fund. Notwithstanding Section 64100, funds in the
29 account shall be available to the department, upon appropriation by the
30 Legislature, for the purposes of administering and implementing this part, except
31 that fee moneys collected pursuant to this article shall only be used for the
32 purposes of this title.

33 **Comment.** Section 63635 continues former Fish and Game Code Section 2081.2(g) without
34 substantive change.

35 **§ 63640. Article XIII B of the California Constitution**

36 63640. The Legislature finds that all revenues generated under this article and
37 used for the purposes for which they were imposed are not subject to Article XIII
38 B of the California Constitution.

39 **Comment.** Section 63640 continues former Fish and Game Code Section 2081.2(f)(2) without
40 substantive change.

1 TITLE 4. AGRICULTURE

2 CHAPTER 1. GENERAL PROVISIONS

3 § 63700. Accidental take in the course of lawful agricultural activities

4 63700. (a) Accidental take of candidate, threatened, or endangered species
5 resulting from an act that occurs on a farm or a ranch in the course of otherwise
6 lawful routine and ongoing agricultural activities is not prohibited by this part.

7 (b) For purposes of this section, “accidental” means unintended or unforeseen.

8 (c) This section shall remain in effect only until January 1, 2020, and as of that
9 date is repealed, unless a later enacted statute, that is enacted before January 1,
10 2020, deletes or extends that date.

11 Comment. Section 63700 continues former Fish and Game Code Section 2087 without
12 substantive change.

13 § 63705. Routine and ongoing agricultural activities

14 63705. Routine and ongoing agricultural activities shall be defined by the
15 department by regulation and shall not include the conversion of agricultural land
16 to a nonagricultural use.

17 Comment. Section 63705 continues former Fish and Game Code Section 2089 without
18 substantive change.

19 § 63710. Application to take of fish species

20 63710. This title does not authorize the take of fish species. “Fish species” as
21 used in this section means a member of the class Osteichthyes.

22 Comment. Section 63710 continues the first part of former Fish and Game Code Section 2088
23 without substantive change.

24 § 63715. Application to timber harvesting

25 63715. This title does not apply to timber harvesting governed by the State
26 Board of Forestry.

27 Comment. Section 63715 continues the second part of former Fish and Game Code Section
28 2088 without substantive change.

29 § 63720. Nonregulatory guidelines

30 63720. The department may adopt nonregulatory guidelines to clarify how the
31 provisions of this part may be used in connection with voluntary local programs
32 for routine and ongoing agricultural activities adopted pursuant to this title.

33 Comment. Section 63720 continues the part of former Fish and Game Code Section
34 2089.22(b) that applies to ongoing agricultural activities, without substantive change.

1

CHAPTER 2. VOLUNTARY PROGRAM

2 **§ 63750. Authorization of voluntary programs**

3 63750. (a) The department, in cooperation with the Department of Food and
4 Agriculture, agricultural commissioners, extension agents, farmers, ranchers, and
5 other agricultural experts, shall adopt regulations that authorize locally designed
6 voluntary programs for routine and ongoing agricultural activities on farms or
7 ranches that encourage habitat for candidate, threatened, and endangered species,
8 and wildlife generally.

9 (b) Agricultural commissioners, extension agents, farmers, ranchers, or other
10 agricultural experts, in cooperation with conservation groups, may propose those
11 programs to the department.

12 (c) The department shall propose regulations for those programs not later than
13 July 1, 1998.

14 **Comment.** Section 63750 continues former Fish and Game Code Section 2086(a) without
15 substantive change.

16 **Note.** The Commission invites comment on whether proposed Section 63750(c) can be
17 omitted as obsolete.

18 **§ 63755. Program requirements**

19 63755. Programs authorized under Section 63750 shall do all of the following:

20 (a) Include management practices that will, to the maximum extent practicable,
21 avoid and minimize take of candidate, endangered, and threatened species, while
22 encouraging the enhancement of habitat.

23 (b) Be supported by the best available scientific information for both agricultural
24 and conservation practices.

25 (c) Be consistent with the policies and goals of this part.

26 (d) Be designed to provide sufficient flexibility to maximize participation and to
27 gain the maximum wildlife benefits without compromising the economics of
28 agricultural operations.

29 (e) Include terms and conditions to allow farmers or ranchers to cease
30 participation in a program without penalty. The terms and conditions shall include
31 reasonable measures to minimize take during withdrawal from the program.

32 **Comment.** Section 63755 continues former Fish and Game Code Section 2086(b) without
33 substantive change.

34 **§ 63760. Take occurring while management practices followed**

35 63760. Any taking of candidate, threatened, or endangered species incidental to
36 routine and ongoing agricultural activities that occurs while the management
37 practices specified by subdivision (a) of Section 63755 are followed, is not
38 prohibited by this part.

1 **Comment.** Section 63760 continues former Fish and Game Code Section 2086(c) without
2 substantive change.

3 **§ 63765. Renewal of programs**

4 63765. The department shall automatically renew the authorization for these
5 voluntary programs every five years, unless the Legislature amends or repeals this
6 chapter in which case the program shall be revised to conform to this chapter.

7 **Comment.** Section 63765 continues former Fish and Game Code Section 2086(d)(1) without
8 substantive change.

9 **§ 63770. Report on program effects**

10 63770. (a) Commencing in 2000, and every five years thereafter, the department
11 shall post a report regarding the effect of the programs on its Internet Web site.
12 The department shall consult with the Department of Food and Agriculture in
13 evaluating the programs and preparing the report.

14 (b) The report shall address factors such as the temporary and permanent
15 acreage benefiting from the programs, include an estimate of the amount of land
16 upon which routine and ongoing agricultural activities are conducted, provide
17 examples of farmer and rancher cooperation, and include recommendations to
18 improve the voluntary participation by farmers and ranchers.

19 **Comment.** Section 63770 continues former Fish and Game Code Section 2086(d)(2) without
20 substantive change.

21 **§ 63775. Nonrenewal or modification of program**

22 63775. If the authorization for these programs is not renewed or is modified
23 under Section 63765, persons participating in the program shall be allowed to
24 cease participating in the program in accordance with the terms and conditions
25 specified in subdivision (e) of Section 63755, without penalty.

26 **Comment.** Section 63775 continues former Fish and Game Code Section 2086(e) without
27 substantive change.

28 **§ 63780. Educational outreach by nonprofit entity**

29 63780. (a) The department may approve an application submitted by an
30 agricultural-based nonprofit organization or other entity registered as a California
31 nonprofit organization to initiate and undertake public education and outreach
32 activities that promote the achievement of the objectives of this part.

33 (b) An application submitted pursuant to this section shall include the following:

34 (1) The name and contact information of the participating organization.

35 (2) A brief description of the planned outreach activities.

36 (3) An end date for the outreach activities.

37 (c) The department may require a participating organization to submit, for
38 approval by the department, educational materials and outreach materials that are
39 disseminated to the public in furtherance of this section.

1 (d) A participating organization shall file an annual report with the department
2 before the end of each calendar year during the time period specified in the
3 application. The report shall include, but is not limited to, the following:

4 (1) Complete information on the activities conducted by the participating
5 organization in the prior year, including a description of all means of
6 communicating to the public and agricultural community, including personal
7 visits, electronic communications, organized meetings, or other means.

8 (2) A compilation of responses from the public and members of the agricultural
9 community that will assist the participating organization and the department to
10 modify or improve public education and outreach activities on an ongoing basis.

11 (3) An assessment of the existing knowledge within the agricultural community
12 of programs and prohibitions under this part and a review of outreach activities
13 that could be used to adapt and improve future outreach efforts.

14 (4) Information on a farm or ranch that has expressed interest in participating in
15 a voluntary program pursuant to this chapter or the safe harbor agreement program
16 contained in Title 5 (commencing with Section 63900). This provision does not
17 require the annual report to include the identification to the department of an
18 individual, farm, or ranch.

19 **Comment.** Section 63780 continues former Fish and Game Code Section 2086(f) without
20 substantive change.

21 TITLE 5. CALIFORNIA STATE SAFE HARBOR
22 AGREEMENT PROGRAM ACT

23 CHAPTER 1. GENERAL PROVISIONS

24 § 63900. Short title

25 63900. This title shall be known and may be cited as the California State Safe
26 Harbor Agreement Program Act.

27 **Comment.** Section 63900 continues former Fish and Game Code Section 2089.2(a) without
28 substantive change.

29 § 63905. Findings

30 63905. The Legislature finds that a key to the goals set forth in this title of
31 conserving, protecting, restoring, and enhancing endangered, threatened, and
32 candidate species, is their habitat. A significant portion of the state's current and
33 potential habitat for these species exists on property owned by private citizens,
34 municipalities, tribes, and other nonfederal entities. Conservation efforts on these
35 lands and waters are critical to help these declining species. Using a collaborative
36 stewardship approach to these lands and waters will help ensure the success of
37 these efforts.

1 **Comment.** Section 63905 continues former Fish and Game Code Section 2089.2(b) without
2 substantive change.

3 **§ 63910. Definitions**

4 63910. As used in this title, the following definitions apply:

5 (a) “Agreement” means a state safe harbor agreement approved by the
6 department pursuant to this title. “Agreement” includes an agreement with an
7 individual landowner and a programmatic agreement.

8 (b) “Baseline conditions” means the existing estimated population size, the
9 extent and quality of habitat, or both population size and the extent and quality of
10 habitat, for the species on the land to be enrolled in the agreement that sustain
11 seasonal or permanent use by the covered species. Baseline conditions shall be
12 determined by the department, in consultation with the applicant, and shall be
13 based on the best available science and objective scientific methodologies. For
14 purposes of establishing baseline conditions, a qualified person that is not
15 employed by the department may conduct habitat surveys, if that person has
16 appropriate species expertise and has been approved by the department.

17 (c) “Department” means the Department of Fish and Wildlife, acting through its
18 director or his or her designee.

19 (d) “Landowner” means any person or nonstate or federal entity or entities that
20 lawfully hold any interest in land or water to which they are committing to
21 implement the requirements of this title.

22 (e) “Management actions” means activities on the enrolled land or water that are
23 reasonably expected by the department to provide a net benefit to the species or
24 their habitat, or both.

25 (f) “Monitoring program” means a program established or approved by the
26 department in accordance with subdivision (f) of Section 63950.

27 (g) “Net conservation benefit” means the cumulative benefits of the
28 management activities identified in the agreement that provide for an increase in a
29 species’ population or the enhancement, restoration, or maintenance of covered
30 species’ suitable habitats within the enrolled property. Net conservation benefit
31 shall take into account the length of the agreement, any offsetting adverse effects
32 attributable to the incidental taking allowed by the agreement, and other mutually
33 agreed upon factors. Net conservation benefits shall be sufficient to contribute
34 either directly or indirectly to the recovery of the covered species. These benefits
35 include, but are not limited to, reducing fragmentation and increasing the
36 connectivity of habitats, maintaining or increasing populations, enhancing and
37 restoring habitats, and buffering protected areas.

38 (h) “Programmatic agreement” means a state safe harbor agreement issued to a
39 governmental or nongovernmental program administrator. The program
40 administrator for a programmatic agreement shall work with landowners and the
41 department to implement the agreement. The program administrator and the

1 department shall be responsible for ensuring compliance with the terms of the
2 agreement.

3 (i) “Qualified person” means a person with species expertise who has been
4 approved by the department.

5 (j) “Return to baseline” means, at the termination of an agreement, activities
6 undertaken by the landowner to return the species population or extent or quality
7 of habitat to baseline, excluding catastrophic events such as floods, unplanned
8 fires, or earthquakes, and other factors mutually agreed upon prior to permit
9 issuance and that are beyond the control of the landowner.

10 **Comment.** Section 63910 continues former Fish and Game Code Section 2089.4 without
11 substantive change.

12 **§ 63915. Purpose and effect**

13 63915. (a) The purpose of this title is to establish a program that will encourage
14 landowners to manage their lands voluntarily to benefit endangered, threatened, or
15 candidate species and not be subject to additional regulatory restrictions as a result
16 of their conservation efforts.

17 (b) This title does not relieve landowners of any legal obligation with respect to
18 endangered, threatened, or candidate species existing on their land. The program
19 established by this title is designed to increase species populations, create new
20 habitats, and enhance existing habitats. Although this increase may be temporary
21 or long-term, California state safe harbor agreements shall not reduce the existing
22 populations of species present at the time the baseline is established by the
23 department.

24 **Comment.** Section 63915 continues former Fish and Game Code Section 2089.2(c)-(d)
25 without substantive change.

26 **§ 63920. Regulations**

27 63920. The department may promulgate regulations to implement this title.

28 **Comment.** Section 63920 continues former Fish and Game Code Section 2089.25 without
29 substantive change.

30 **§ 63925. List of qualified persons and program administrators**

31 63925. The department, for informational purposes, shall maintain a list of
32 qualified persons who have worked with the department on an approved
33 agreement, and persons, entities, and organizations serving as program
34 administrators for approved agreements.

35 **Comment.** Section 63925 continues former Fish and Game Code Section 2089.24 without
36 substantive change.

37 **§ 63930. Federal safe harbor agreement**

38 63930. (a) If a federal safe harbor agreement has been approved pursuant to
39 applicable provisions of federal law and the federal safe harbor agreement
40 contains species that are endangered, threatened, or are candidate species pursuant

1 to this part, no further authorization or approval is necessary under this title for
2 any person authorized by that agreement to take the species identified in and in
3 accordance with the federal Safe Harbor Agreement, if that person and the
4 department follow all of the procedures specified in Section 62705, except that the
5 determination of consistency shall be made by the department based only on the
6 issuance criteria contained in this title.

7 **Comment.** Section 63930 continues former Fish and Game Code Section 2089.22(a) without
8 substantive change.

9 **§ 63935. Sunset date**

10 63935. This title shall remain in effect only until January 1, 2020, and as of that
11 date is repealed, unless a later enacted statute, that is enacted before January 1,
12 2020, deletes or extends that date.

13 **Comment.** Section 63935 continues former Fish and Game Code Section 2089.26 without
14 substantive change.

15 **CHAPTER 2. SAFE HARBOR AGREEMENT**

16 **Article 1. Permissible take**

17 **§ 63950. Department authorization of otherwise prohibited take**

18 63950. In addition to the other provisions of this title, the department may
19 authorize acts that are otherwise prohibited pursuant to Section 62600 through an
20 agreement, including a programmatic agreement, if all the following conditions
21 are met:

22 (a) The department receives a complete application containing all of the
23 information described in Section 64000.

24 (b) The take is incidental to an otherwise lawful activity.

25 (c) The department finds that the implementation of the agreement is reasonably
26 expected to provide a net conservation benefit to the species listed in the
27 application. This finding shall be based, at a minimum, upon the determination
28 that the agreement is of sufficient duration and has appropriate assurances to
29 realize these benefits.

30 (d) The take authorized by the agreement will not jeopardize the continued
31 existence of the species. This determination shall be made based on the provisions
32 of subdivision (b) of Section 62700.

33 (e) The department finds that the landowner has agreed, to the maximum extent
34 practicable, to avoid or minimize any incidental take authorized in the agreement,
35 including returning to baseline.

36 (f) The department has established or approved a monitoring program, based
37 upon objective scientific methodologies, to provide information for the department
38 to evaluate the effectiveness and efficiency of the agreement program, including
39 whether the net conservation benefits set forth in the agreement are being achieved

1 and whether the participating landowner is implementing the provisions of the
2 agreement.

3 (g) The department has determined that sufficient funding is ensured, for it or its
4 contractors or agents, to determine baseline conditions on the property, and that
5 there is sufficient funding for the landowner to carry out management actions and
6 for monitoring for the duration of the agreement.

7 (h) Implementation of the agreement will not be in conflict with any existing
8 department-approved conservation or recovery programs for the species covered
9 by the agreement.

10 **Comment.** Section 63950 continues former Fish and Game Code Section 2089.6 without
11 substantive change.

12 **§ 63955. Owens pupfish**

13 63955. The department may authorize the taking of the Owens pupfish in the
14 Owens River watershed if the take is authorized under an agreement pursuant to
15 this title.

16 **Comment.** Section 63955 continues former Fish and Game Code Section 2089.7 without
17 substantive change.

18 **Article 2. Agreement**

19 **§ 64000. Information to be submitted by landowner**

20 64000. The landowner shall submit all of the following:

21 (a) A detailed map depicting the land proposed to be enrolled in the agreement.

22 (b) The common and scientific names of the species for which the landowner
23 requests incidental take authorization.

24 (c) A detailed description of the landowner's current land and water use and
25 management practices that affect the covered species, and the habitat of the
26 covered species, for which the landowner requests incidental take authorization.

27 (d) A detailed description of the landowner's future land and water use and
28 management practices that may affect the covered species, and the habitat of the
29 covered species, for which the landowner requests incidental take authorization.
30 This description shall be used only for informational and planning purposes.

31 (e) The proposed duration of the agreement that is sufficient to provide a net
32 conservation benefit to the species covered in the permit and an explanation of the
33 basis for this conclusion.

34 (f) A detailed description of the proposed management actions and the
35 timeframe for implementing them.

36 (g) A description of the possible incidental take that may be caused by the
37 management actions and of the anticipated species populations and habitat
38 changes over the duration of the permit.

39 (h) A detailed description of the proposed monitoring program.

1 (i) Any other information that the department may reasonably require in order to
2 evaluate the application.

3 **Comment.** Section 64000 continues former Fish and Game Code Section 2089.8 without
4 substantive change.

5 **§ 64005. Treatment of proprietary information**

6 64005. (a) As used in this section, “proprietary information” means information
7 that is all of the following:

8 (1) Related to an agricultural operation or land that is a part of an agricultural
9 operation.

10 (2) A trade secret, or commercial or financial information, that is privileged or
11 confidential, and is identified as such by the person providing the information to
12 the department.

13 (3) Not required to be disclosed under any other provision of law or any
14 regulation affecting the land or the agricultural operation on the land.

15 (b) Proprietary information received by the department pursuant to Section
16 64000 is not public information, and the department shall not release or disclose
17 the proprietary information to any person, including any federal, state, or local
18 governmental agency, outside of the department.

19 (c) Notwithstanding subdivision (b), the department may release or disclose
20 proprietary information received pursuant to Section 64000 to the following
21 entities under the following circumstances:

22 (1) Any person or federal, state, or local governmental agency, to enforce this
23 title.

24 (2) Any person or federal, state, or local governmental agency working in
25 cooperation with the department to provide technical or financial assistance for the
26 purposes of implementing the program established by this title.

27 (3) Any entity, to the extent that the owner, operator, or producer has consented
28 to the release or disclosure.

29 (4) The general public, if the information has been transformed into a statistical
30 or aggregate form without identifying any individual owner, operator, or producer,
31 or the specific location from which the information was gathered.

32 **Comment.** Section 64005 continues former Fish and Game Code Section 2089.9 without
33 substantive change.

34 **§ 64010. Department access to land or water proposed for enrollment**

35 64010. (a) Neither this section nor Section 64045 provide the public a right of
36 entry onto the enrolled land or water. The landowner shall provide the department,
37 its contractors, or agents with access to the land or water proposed to be enrolled
38 in the agreement to develop the agreement, determine the baseline conditions,
39 monitor the effectiveness of management actions, or safely remove or salvage
40 species proposed to be taken.

1 (b) The department shall provide notice to the landowner at least seven days
2 before accessing the land or water for the purposes of subdivision (a). The notice
3 shall identify each person selected by the department, its contractors, or agents to
4 access the land or water.

5 (c) Notwithstanding subdivision (a), during the seven-day notice period, a
6 landowner may object, in writing, to a person selected to access the land or water.
7 If a landowner objects, another person shall be selected by the department, its
8 contractors, or agents, and notification shall be provided to the landowner pursuant
9 to subdivision (b). However, if a landowner objects to a selection on two
10 successive occasions, the landowner shall be deemed to consent to access to the
11 land or water by a person selected by the department, its contractors, or agents.
12 Failure by a landowner to object to the selection within the seven-day notice
13 period shall be deemed consent to access the land or water by a person selected by
14 the department, its contractors, or agents.

15 **Comment.** Section 64010 continues former Fish and Game Code Section 2089.20(a)-(c)
16 without substantive change.

17 **§ 64015. Alteration or modification of enrolled property**

18 64015. If an agreement has been approved and the department finds that the
19 agreement is being properly implemented, the department shall allow the
20 landowner to alter or modify the enrolled property, even if that alteration or
21 modification will result in the incidental take of a listed species, to the extent that
22 the alteration or modification returns the species to baseline conditions.

23 **Comment.** Section 64015 continues former Fish and Game Code Section 2089.10 without
24 substantive change.

25 **§ 64020. Advance notice of specified matters**

26 64020. Unless the department determines that it is inappropriate to do so based
27 on the nature of the management actions being proposed, the species listed in the
28 permit, or other factors, the agreement shall require that the landowner provide the
29 department with at least 60 days' advance notice of any of the following:

- 30 (a) Any incidental take that is anticipated to occur under the agreement.
- 31 (b) The landowner's plan to return to baseline at the end of the agreement.
- 32 (c) Any plan to transfer or alienate the landowner's interest in the land or water.

33 **Comment.** Section 64020 continues former Fish and Game Code Section 2089.12(a) without
34 substantive change.

35 **§ 64025. Department access to land after receiving notice**

36 64025. (a) If the department receives any notice described in Section 64020, the
37 landowner shall provide the department, its contractors, or agents with access to
38 the land or water for purposes of safely removing or salvaging the species.

39 (b) The department shall provide notice to the landowner at least seven days
40 prior to accessing the land or water for the purposes of subdivision (a). The notice

1 shall identify each person selected by the department, its contractors, or agents to
2 access the land or water.

3 (c) Notwithstanding subdivision (a), during the seven-day notice period, a
4 landowner may object, in writing, to a person selected to access the land or water.
5 If a landowner objects, another person shall be selected by the department, its
6 contractors, or agents, and notification shall be provided to the landowner pursuant
7 to subdivision (b). However, if a landowner objects to a selection on two
8 successive occasions, the landowner shall be deemed to consent to access to the
9 land or water by a person selected by the department, its contractors, or agents.
10 Failure by a landowner to object to the selection within the seven-day notice
11 period shall be deemed consent to access the land or water by a person selected by
12 the department, its contractors, or agents.

13 (d) If the landowner objects to a person selected to access the land or water
14 pursuant to subdivision (c), the 60-day notice period described in Section 64020
15 shall be tolled for the period between the landowner's objection to a person
16 selected for access to the land or water and the landowner's consent to a person
17 selected for access to the land or water.

18 **Comment.** Section 64025 continues former Fish and Game Code Section 2089.12(b) without
19 substantive change.

20 **§ 64030. Conveyance of enrolled land or water**

21 64030. If a landowner seeks to sell, transfer, or otherwise alienate the land or
22 water enrolled in the agreement during the term of the agreement, the person or
23 entity assuming that interest in the property shall (a) assume the existing
24 landowner's duties under the agreement, (b) enter into a new agreement with the
25 department, or (c) withdraw from an existing agreement under the terms provided
26 in the agreement, as approved by the department.

27 **Comment.** Section 64030 continues former Fish and Game Code Section 2089.16 without
28 substantive change.

29 **§ 64035. Agreement amendment**

30 64035. An agreement may be amended with the mutual consent of the
31 landowner and the department.

32 **Comment.** Section 64035 continues former Fish and Game Code Section 2089.14 without
33 substantive change.

34 **§ 64040. Suspension or revocation of agreement**

35 64040. The suspension and revocation of the agreement shall be governed by
36 suspension and revocation regulations adopted by the department.

37 **Comment.** Section 64040 continues former Fish and Game Code Section 2089.18 without
38 substantive change.

1 **§ 64045. Liability**

2 64045. (a) Nothing in this section or Section 64010 creates a duty of care or a
3 ground of liability for injury to person or property.

4 (b) Notwithstanding any other law, the landowner is not required to do either of
5 the following:

6 (1) Maintain enrolled land or water, or land or water proposed to be enrolled in
7 an agreement, in a condition that is safe for access, entry, or use by the
8 department, its contractors, or agents for purposes of providing access pursuant to
9 subdivision (a) of Section 64010.

10 (2) Provide to the department, its contractors, or agents, any warning of a
11 hazardous condition, use, structure, or activity on enrolled land or water, or land or
12 water proposed to be enrolled in an agreement, for purposes of providing access
13 pursuant to subdivision (a) of Section 64010.

14 (c) Notwithstanding any other law, the landowner shall not be liable for any
15 injury, and does not owe a duty of care, to the department, its contractors, or
16 agents resulting from any act or omission described in paragraph (1) or (2) of
17 subdivision (b).

18 (d) The provision of access to land pursuant to subdivision (a) of Section 64010
19 shall not be construed as any of the following:

20 (1) An assurance that the land or water is safe.

21 (2) A grant to the person accessing the land or water of a legal status for which
22 the landowner would owe a duty of care.

23 (3) An assumption of responsibility or liability for any injury to a person or
24 property caused by any act of the person to whom access to the land or water is
25 provided.

26 (e) Notwithstanding subdivisions (b), (c), and (d), this section shall not be
27 construed to limit a landowner's liability for an injury under either of the
28 following circumstances:

29 (1) Willful or malicious failure to guard or warn against a dangerous condition,
30 use, structure, or activity on the land or water.

31 (2) Express invitation to a person by the landowner to access the land or water,
32 in a manner that is beyond the access required to be provided pursuant to
33 subdivision (a) of Section 64010.

34 **Comment.** Section 64045 continues former Fish and Game Code Section 2089.20(d)-(e)
35 without substantive change.

36 **§ 64050. Neighboring landowner**

37 64050. (a) A landowner that owns land that abuts a property enrolled in a state
38 safe harbor agreement shall not be required, for purposes of an incidental take
39 permit, to undertake the management activities set forth in the state safe harbor
40 agreement, if all of the following conditions are met:

41 (1) The neighboring landowner allows the department to determine baseline
42 conditions on the property.

1 (2) The neighboring landowner agrees to maintain the baseline conditions for
2 the duration specified in the safe harbor agreement.

3 (3) The department determines that allowing the neighboring landowner to
4 receive an incidental take permit for the abutting property does not undermine the
5 net conservation benefit determination made by the department in the approval of
6 the safe harbor agreement.

7 (4) The take authorized by the department will not jeopardize the continued
8 existence of the species. This determination shall be made in accordance with
9 subdivision (b) of Section 62700.

10 (b) Unless the department determines that it is inappropriate to do so based on
11 the species listed in the permit, or any other factors, the neighboring landowner
12 shall provide the department with at least 60 days' advance notice of any of the
13 following:

14 (1) Any incidental take that is anticipated to occur under the permit.

15 (2) The neighboring landowner's plan to return to baseline conditions.

16 (3) Any plan to transfer or alienate the neighboring landowner's interest in the
17 land or water.

18 (c) If the department receives any notice described in subdivision (b), the
19 neighboring landowner shall provide the department, its contractors, or agents
20 with access to the land or water for purposes of safely removing or salvaging the
21 species.

22 (d) The department shall provide notice to the neighboring landowner at least
23 seven days before accessing the land or water for the purposes of subdivision (c).
24 The notice shall identify each person selected by the department, its contractors, or
25 agents to access the land or water.

26 (e) Notwithstanding subdivision (d), during the seven-day notice period, the
27 neighboring landowner may object, in writing, to a person selected to access the
28 land or water. If the neighboring landowner objects, another person shall be
29 selected by the department, its contractors, or agents, and notification shall be
30 provided to the neighboring landowner pursuant to subdivision (d). However, if
31 the neighboring landowner objects to a selection on two successive occasions, the
32 neighboring landowner shall be deemed to consent to access to the land or water
33 by a person selected by the department, its contractors, or agents. Failure by the
34 neighboring landowner to object to the selection within the seven-day notice
35 period shall be deemed consent to access the land or water by the person selected
36 by the department, its contractors, or agents.

37 **Comment.** Section 64050 continues former Fish and Game Code Section 2089.23 without
38 substantive change.

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TITLE 6. FUNDING

§ 64100. Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account

64100. The department shall pay the costs of administration of this part from the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

Comment. Section 64100 continues former Fish and Game Code Section 2098 without substantive change.

TITLE 7. ENFORCEMENT

§ 64150. Penalty for violation of part

64150. Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of any provision of this part is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

Comment. Section 64150 continues former Fish and Game Code Section 12008(a) without substantive change.

§ 64155. Penalty for violation of specified provisions

64155. (a) Notwithstanding Section 4400 or 64150, the punishment for any violation of Section 62600 or 62605 is a fine of not less than twenty-five thousand dollars (\$25,000) or more than fifty thousand dollars (\$50,000) for each violation or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

Comment. Section 64155 continues former Fish and Game Code Section 12008.1(a) without substantive change.

Note. Existing Section 12008.1 begins with the disclaimer, “Notwithstanding Section 12002....” The only provision of Section 12002 that appears to be relevant to the purpose of that reference is Section 12002(a). Proposed Section 64155 would refer to the section that continues Section 12002(a). **The Commission invites Comment on whether that revision would be problematic.**

§ 64160. Deposit of fines and forfeitures

64160. Notwithstanding any other law, the moneys collected from any fine or forfeiture imposed or collected for violating this part shall be deposited as follows:

(a) One-half in the Endangered Species Permitting Account established pursuant to Section 63635.

(b) One-half in the county treasury of the county in which the violation occurred. The board of supervisors shall first use revenues pursuant to this section to reimburse the costs incurred by the district attorney or city attorney in

1 investigating and prosecuting the violation. Any excess revenues may be expended
2 in accordance with Section 67525.

3 **Comment.** Section 64160 continues former Fish and Game Code Section 12008.1(b) without
4 substantive change.

5 **PART 2. PLANNING AND MITIGATION**

6 **TITLE 1. GENERAL PROVISIONS**

7 **§ 64400. Planning and environmental compliance division**

8 64400. (a) The department shall establish an internal division with the primary
9 purpose of performing comprehensive planning and environmental compliance
10 services with priority given to projects involving the building of eligible
11 renewable energy resources.

12 (b) The internal division shall ensure the timely completion of plans pursuant to
13 the Natural Community Conservation Planning Act (Title 2 (commencing with
14 Section 64500)).

15 (c) For purposes of this section, “eligible renewable energy resources” has the
16 same meaning as in the California Renewables Portfolio Standard Program
17 (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division
18 1 of the Public Utilities Code).

19 **Comment.** Section 64400 continues former Fish and Game Code Section 705 without
20 substantive change.

21 **TITLE 2. NATURAL COMMUNITY**
22 **CONSERVATION PLANNING ACT**

23 **CHAPTER 1. GENERAL PROVISIONS**

24 **§ 64500. Short title**

25 64500. This title shall be known, and may be cited, as the Natural Community
26 Conservation Planning Act.

27 **Comment.** Section 64500 continues former Fish and Game Code Section 2800 without
28 substantive change.

29 **§ 64505. Findings and declarations**

30 64505. The Legislature finds and declares all of the following:

31 (a) The continuing population growth in California will result in increasing
32 demands for dwindling natural resources and result in the continuing decline of the
33 state’s wildlife.

1 (b) There is a need for broad-based planning to provide for effective protection
2 and conservation of the state’s wildlife heritage while continuing to allow
3 appropriate development and growth.

4 (c) Natural community conservation planning is an effective tool in protecting
5 California’s natural diversity while reducing conflicts between protection of the
6 state’s wildlife heritage and reasonable use of natural resources for economic
7 development.

8 (d) Natural community conservation planning promotes coordination and
9 cooperation among public agencies, landowners, and other private interests,
10 provides a mechanism by which landowners and development proponents can
11 effectively address cumulative impact concerns, promotes conservation of
12 unfragmented habitat areas, promotes multispecies and multihabitat management
13 and conservation, provides one option for identifying and ensuring appropriate
14 mitigation that is roughly proportional to impacts on fish and wildlife, and
15 promotes the conservation of broad-based natural communities and species
16 diversity.

17 (e) Natural community conservation planning can provide for efficient use and
18 protection of natural and economic resources while promoting greater sensitivity
19 to important elements of the state’s critical natural diversity.

20 (f) Natural community conservation planning is a voluntary and effective
21 planning process that can facilitate early coordination to protect the interests of the
22 state, the federal government, and local public agencies, landowners, and other
23 private parties.

24 (g) Natural community conservation planning is a mechanism that can provide
25 an early planning framework for proposed development projects within the
26 planning area in order to avoid, minimize, and compensate for project impacts to
27 wildlife.

28 (h) Natural community conservation planning is consistent with, and will
29 support, the fish and wildlife management activities of the department in its role as
30 the trustee for fish and wildlife within the state.

31 (i) The purpose of natural community conservation planning is to sustain and
32 restore those species and their habitat identified by the department that are
33 necessary to maintain the continued viability of those biological communities
34 impacted by human changes to the landscape.

35 (j) Natural community conservation planning is a cooperative process that often
36 involves local, state, and federal agencies and the public, including landowners
37 within the plan area. The process should encourage the active participation and
38 support of landowners and others in the conservation and stewardship of natural
39 resources in the plan area during plan development using appropriate measures,
40 including incentives.

41 **Comment.** Section 64505 continues former Fish and Game Code Section 2801 without
42 substantive change.

1 **§ 64510. Further findings and declarations**

2 64510. The Legislature further finds and declares that it is the policy of the state
3 to conserve, protect, restore, and enhance natural communities. It is the intent of
4 the Legislature to acquire a fee or less than fee interest in lands consistent with
5 approved natural community conservation plans and to provide assistance with the
6 implementation of those plans.

7 **Comment.** Section 64510 continues former Fish and Game Code Section 2802 without
8 substantive change.

9 **§ 64515. Definitions**

10 64515. The definitions in this section govern the construction of this title:

11 (a) “Adaptive management” means to use the results of new information
12 gathered through the monitoring program of the plan and from other sources to
13 adjust management strategies and practices to assist in providing for the
14 conservation of covered species.

15 (b) “Candidate species” has the same meaning as defined in Section 62105.

16 (c) “Changed circumstances” are reasonably foreseeable circumstances that
17 could affect a covered species or geographic area covered by the plan.

18 (d) “Conserve,” “conserving,” and “conservation” mean to use, and the use of,
19 methods and procedures within the plan area that are necessary to bring any
20 covered species to the point at which the measures provided pursuant to Part 1
21 (commencing with Section 62000) are not necessary, and for covered species that
22 are not listed pursuant to Part 1 (commencing with Section 62000), to maintain or
23 enhance the condition of a species so that listing pursuant to Part 1 (commencing
24 with Section 62000) will not become necessary.

25 (e) “Covered species” means those species, both listed pursuant to Part 1
26 (commencing with Section 62000) and nonlisted, conserved and managed under
27 an approved natural community conservation plan and that may be authorized for
28 take. Notwithstanding Title 5 (commencing with Section 30200) of Part 3 of
29 Division 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, and
30 Sections 38200, 52200, 53000, fully protected species may be covered species
31 pursuant to this subdivision, and taking of fully protected species may be
32 authorized pursuant to Section 64605 for any fully protected species conserved
33 and managed as a covered species under an approved natural community
34 conservation plan.

35 (f) “Department assurance” means the department’s commitment pursuant to
36 Section 64610.

37 (g) “Monitoring program” means a program within an approved natural
38 community conservation plan that provides periodic evaluations of monitoring
39 results to assess the adequacy of the mitigation and conservation strategies or
40 activities and to provide information to direct the adaptive management program.
41 The monitoring program shall, to the extent practicable, also be used to meet the

1 monitoring requirements of Section 21081.6 of the Public Resources Code. A
2 monitoring program includes all of the following:

3 (1) Surveys to determine the status of biological resources addressed by the
4 plan, including covered species.

5 (2) Periodic accountings and assessment of authorized take.

6 (3) Progress reports on all of the following matters:

7 (A) Establishment of habitat reserves or other measures that provide equivalent
8 conservation of covered species and providing funding where applicable.

9 (B) Compliance with the plan and the implementation agreement by the wildlife
10 agencies, local governments, and landowners who have responsibilities under the
11 plan.

12 (C) Measurements to determine if mitigation and conservation measures are
13 being implemented roughly proportional in time and extent to the impact on
14 habitat or covered species authorized under the plan.

15 (D) Evaluation of the effectiveness of the plan in meeting the conservation
16 objectives of the plan.

17 (E) Maps of land use changes in the plan area that may affect habitat values or
18 covered species.

19 (4) A schedule for conducting monitoring activities.

20 (h) “Natural community conservation plan” or “plan” means the plan prepared
21 pursuant to a planning agreement entered into in accordance with Section 64555.
22 The plan shall identify and provide for those measures necessary to conserve and
23 manage natural biological diversity within the plan area while allowing compatible
24 and appropriate economic development, growth, and other human uses.

25 (i) “Person” has the same meaning as defined in subdivision (i) of Section 9100.

26 (j) (1) “Plan participant,” prior to approval of a natural community conservation
27 plan and execution of an implementation agreement, means a signatory to the
28 planning agreement.

29 (2) Upon approval of a natural community conservation plan and execution of
30 an implementation agreement, “plan participant” means the permittees and any
31 local agency that is a signatory to the implementing agreement.

32 (k) “Unforeseen circumstances” means changes affecting one or more species,
33 habitat, natural community, or the geographic area covered by a conservation plan
34 that could not reasonably have been anticipated at the time of plan development,
35 and that result in a substantial adverse change in the status of one or more covered
36 species.

37 (l) “Wildlife” has the same meaning as defined in Section 800.

38 (m) “Wildlife agencies” means the department and one or both of the following:

39 (1) United States Fish and Wildlife Service.

40 (2) National Marine Fisheries Service.

41 **Comment.** Section 64515 continues former Fish and Game Code Section 2805 without
42 substantive change.

1 limited to, those species listed pursuant to Title 2 (commencing with Section
2 62200) of Part 1.

3 **Comment.** Section 64555 continues the first sentence of former Fish and Game Code Section
4 2810(a) without substantive change.

5 **§ 64560. Agreement requirements**

6 64560. A planning agreement entered into pursuant to Section 64555 shall meet
7 all of the following conditions:

8 (a) The agreement shall be binding upon the department, other participating
9 federal, state, and local agencies, and participating private landowners.

10 (b) The agreement shall define the geographic scope of the conservation
11 planning area.

12 (c) The agreement shall identify a preliminary list of those natural communities,
13 and the endangered, threatened, candidate, or other species known, or reasonably
14 expected to be found, in those communities, that are intended to be the initial
15 focus of the plan.

16 (d) The agreement shall identify preliminary conservation objectives for the
17 planning area.

18 (e) The agreement shall establish a process for the inclusion of independent
19 scientific input to assist the department and plan participants, and to do all of the
20 following:

21 (1) Recommend scientifically sound conservation strategies for species and
22 natural communities proposed to be covered by the plan.

23 (2) Recommend a set of reserve design principles that addresses the needs of
24 species, landscapes, ecosystems, and ecological processes in the planning area
25 proposed to be addressed by the plan.

26 (3) Recommend management principles and conservation goals that can be used
27 in developing a framework for the monitoring and adaptive management
28 component of the plan.

29 (4) Identify data gaps and uncertainties so that risk factors can be evaluated.

30 (f) The agreement shall require coordination with federal wildlife agencies with
31 respect to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

32 (g) The agreement shall encourage concurrent planning for wetlands and waters
33 of the United States.

34 (h) The agreement shall establish an interim process during plan development
35 for project review wherein discretionary projects within the plan area subject to
36 Division 13 (commencing with Section 21000) of the Public Resources Code that
37 potentially conflict with the preliminary conservation objectives in the planning
38 agreement are reviewed by the department prior to, or as soon as possible after the
39 project application is deemed complete pursuant to Section 65943 of the
40 Government Code and the department recommends mitigation measures or project
41 alternatives that would help achieve the preliminary conservation objectives. As
42 part of this process, information developed pursuant to subdivision (e) of Section

1 64560 shall be taken into consideration by the department and plan participants.
2 Any take of candidate, threatened, or endangered species that occurs during this
3 interim period shall be included in the analysis of take to be authorized under an
4 approved plan. Nothing in this subdivision is intended to authorize take of
5 candidate, protected, or endangered species.

6 (i) The agreement shall establish a process for public participation throughout
7 the plan development and review pursuant to Section 64570.

8 (j) The agreement shall include a provision specifying the amount of
9 compensation, if any, payable to the department pursuant to Section 64530.

10 **Comment.** Subdivisions (a) through (i) of Section 64560 continues former Fish and Game
11 Code Section 2810(b) without substantive change.

12 Subdivision (j) continues the second sentence of former Fish and Game Code Section 2810(a)
13 without substantive change.

14 **§ 64565. Implementation agreement**

15 64565. A natural community conservation plan approved pursuant to Section
16 64580 shall include an implementation agreement that contains all of the
17 following:

18 (a) Provisions defining species coverage, including any conditions of coverage.

19 (b) Provisions for establishing the long-term protection of any habitat reserve or
20 other measures that provide equivalent conservation of covered species.

21 (c) Specific terms and conditions, which, if violated, would result in the
22 suspension or revocation of the permit, in whole or in part. The department shall
23 include a provision requiring notification to the plan participant of a specified
24 period of time to cure any default prior to suspension or revocation of the permit
25 in whole or in part. These terms and conditions shall address, but are not limited
26 to, provisions specifying the actions the department shall take under all of the
27 following circumstances:

28 (1) If the plan participant fails to provide adequate funding.

29 (2) If the plan participant fails to maintain the rough proportionality between
30 impacts on habitat or covered species and conservation measures.

31 (3) If the plan participant adopts, amends, or approves any plan or project
32 without the concurrence of the wildlife agencies that is inconsistent with the
33 objectives and requirements of the approved plan.

34 (4) If the level of take exceeds that authorized by the permit.

35 (d) Provisions specifying procedures for amendment of the plan and the
36 implementation agreement.

37 (e) Provisions ensuring implementation of the monitoring program and adaptive
38 management program.

39 (f) Provisions for oversight of plan implementation for purposes of assessing
40 mitigation performance, funding, and habitat protection measures.

41 (g) Provisions for periodic reporting to the wildlife agencies and the public for
42 purposes of information and evaluation of plan progress.

1 (h) Mechanisms to ensure adequate funding to carry out the conservation actions
2 identified in the plan.

3 (i) Provisions to ensure that implementation of mitigation and conservation
4 measures on a plan basis is roughly proportional in time and extent to the impact
5 on habitat or covered species authorized under the plan. These provisions shall
6 identify the conservation measures, including assembly of reserves where
7 appropriate and implementation of monitoring and management activities, that
8 will be maintained or carried out in rough proportion to the impact on habitat or
9 covered species and the measurements that will be used to determine if this is
10 occurring.

11 **Comment.** Section 64565 continues former Fish and Game Code Section 2820(b) without
12 substantive change.

13 **§ 64570. Public participation in plan development and review**

14 64570. The department shall establish, in cooperation with the parties to the
15 planning agreement, a process for public participation throughout plan
16 development and review to ensure that interested persons, including landowners,
17 have an adequate opportunity to provide input to lead agencies, state and federal
18 wildlife agencies, and others involved in preparing the plan. The public
19 participation objectives of this section may be achieved through public working
20 groups or advisory committees, established early in the process. This process shall
21 include all of the following:

22 (a) A requirement that draft documents associated with a natural community
23 conservation plan that are being considered for adoption by the plan lead agency
24 shall be available for public review and comment for at least 60 days prior to the
25 adoption of that draft document. Preliminary public review documents shall be
26 made available by the plan lead agency at least 10 working days prior to any
27 public hearing addressing these documents. The review period specified in this
28 subdivision may run concurrently with the review period provided for any
29 document required by the California Environmental Quality Act (Division 13
30 (commencing with Section 21000) of the Public Resources Code) that is
31 associated with the natural community conservation plan. This subdivision shall
32 not be construed to limit the discretion of a public agency to revise any draft
33 documents at a public hearing.

34 (b) A requirement to make available in a reasonable and timely manner all draft
35 plans, memoranda of understanding, maps, conservation guidelines, species
36 coverage lists, and other planning documents associated with a natural community
37 conservation plan that are subject to public review.

38 (c) A requirement that all public hearings held during plan preparation or review
39 for approval are complementary to, or integrated with, those hearings otherwise
40 provided by law.

41 (d) An outreach program to provide access to information for persons interested
42 in the plan, including landowners, with an emphasis on obtaining input from a

1 balanced variety of affected public and private interests, including state and local
2 governments, county agricultural commissioners, agricultural organizations,
3 landowners, conservation organizations, and the general public.

4 **Comment.** Section 64570 continues former Fish and Game Code Section 2815 without
5 substantive change.

6 **§ 64575. Public review prior to approval**

7 64575. Prior to department approval of the planning agreement, the public shall
8 have 21 calendar days to review and comment on the proposed planning
9 agreement.

10 **Comment.** Section 64575 continues former Fish and Game Code Section 2810(d) without
11 substantive change.

12 **§ 64580. Plan approval**

13 64580. The department shall approve a natural community conservation plan for
14 implementation after making the following findings, based upon substantial
15 evidence in the record:

16 (a) The plan has been developed consistent with the process identified in the
17 planning agreement entered into pursuant to Section 64555.

18 (b) The plan integrates adaptive management strategies that are periodically
19 evaluated and modified based on the information from the monitoring program
20 and other sources, which will assist in providing for the conservation of covered
21 species and ecosystems within the plan area.

22 (c) The plan provides for the protection of habitat, natural communities, and
23 species diversity on a landscape or ecosystem level through the creation and long-
24 term management of habitat reserves or other measures that provide equivalent
25 conservation of covered species appropriate for land, aquatic, and marine habitats
26 within the plan area.

27 (d) The development of reserve systems and conservation measures in the plan
28 area provides, as needed for the conservation of species, all of the following:

29 (1) Conserving, restoring, and managing representative natural and seminatural
30 landscapes to maintain the ecological integrity of large habitat blocks, ecosystem
31 function, and biological diversity.

32 (2) Establishing one or more reserves or other measures that provide equivalent
33 conservation of covered species within the plan area and linkages between them
34 and adjacent habitat areas outside of the plan area.

35 (3) Protecting and maintaining habitat areas that are large enough to support
36 sustainable populations of covered species.

37 (4) Incorporating a range of environmental gradients (such as slope, elevation,
38 aspect, and coastal or inland characteristics) and high habitat diversity to provide
39 for shifting species distributions due to changed circumstances.

1 (5) Sustaining the effective movement and interchange of organisms between
2 habitat areas in a manner that maintains the ecological integrity of the habitat areas
3 within the plan area.

4 (e) The plan identifies activities, and any restrictions on those activities, allowed
5 within reserve areas that are compatible with the conservation of species, habitats,
6 natural communities, and their associated ecological functions.

7 (f) The plan contains specific conservation measures that meet the biological
8 needs of covered species and that are based upon the best available scientific
9 information regarding the status of covered species and the impacts of permitted
10 activities on those species.

11 (g) The plan contains a monitoring program.

12 (h) The plan contains an adaptive management program.

13 (i) The plan includes the estimated timeframe and process by which the reserves
14 or other conservation measures are to be implemented, including obligations of
15 landowners and plan signatories and consequences of the failure to acquire lands
16 in a timely manner.

17 (j) The plan contains provisions that ensure adequate funding to carry out the
18 conservation actions identified in the plan.

19 **Comment.** Section 64580 continues former Fish and Game Code Section 2820(a) without
20 substantive change.

21 **§ 64585. Approval of agreement not a “project”**

22 64585. The approval of a planning agreement is not a project pursuant to
23 Division 13 (commencing with Section 21000) of the Public Resources Code.

24 **Comment.** Section 64585 continues former Fish and Game Code Section 2810(c) without
25 substantive change.

26 **CHAPTER 3. IMPLEMENTATION**

27 **§ 64600. Department actions**

28 64600. Concurrent with the approval by the department of a final natural
29 community conservation plan, the department shall do both of the following:

30 (a) Establish a list of species that are authorized for take pursuant to Section
31 64605 and the department shall make specific findings to support coverage
32 pursuant to Sections 64565 and 64580. For purposes of determining whether a
33 species should receive coverage under a plan, the department shall use, in addition
34 to the standards required for the adoption of a plan, one or more of the following
35 criteria:

36 (1) Coverage is warranted based upon regional or landscape level consideration,
37 such as healthy population levels, widespread distribution throughout the plan
38 area, and life history characteristics that respond to habitat-scale conservation and
39 management actions.

1 (2) Coverage is warranted based on regional or landscape level considerations
2 with site specific conservation and management requirements that are clearly
3 identified in the plan for species that are generally well-distributed, but that have
4 core habitats that must be conserved.

5 (3) Coverage is warranted based upon site specific considerations and the
6 identification of specific conservation and management conditions for species
7 within a narrowly defined habitat or limited geographic area within the plan area.

8 (b) Find that the mitigation measures specified in the plan and imposed by the
9 plan participants are consistent with subdivision (d) of Section 64505.

10 **Comment.** Section 64600 continues former Fish and Game Code Section 2821 without
11 substantive change.

12 **Note.** Existing Section 2821 requires the department to “make specific findings to support
13 coverage pursuant to Section 2820.” Section 2820 is a long section that addresses many aspects of
14 the approval and implementation of a natural community conservation plan. In proposed Section
15 64600(a), the reference is revised to refer to the provisions that seem most relevant to the purpose
16 of the reference: proposed Sections 64565 and 64580. **The Commission invites comment on
17 whether that change would cause any problems.**

18 **§ 64605. Authorized take**

19 64605. At the time of plan approval, the department may authorize by permit the
20 taking of any covered species, including species designated as fully protected
21 species pursuant to Title 5 (commencing with Section 30200) of Part 3 of Division
22 8, Title 4 (commencing with Section 32700) of Part 3 of Division 9, or Sections
23 38200, 52200, and 53000, whose conservation and management is provided for in
24 a natural community conservation plan approved by the department.

25 **Comment.** Section 64605 continues former Fish and Game Code Section 2835 without
26 substantive change.

27 **§ 64610. Assurances**

28 64610. The department may provide assurances for plan participants
29 commensurate with long-term conservation assurances and associated
30 implementation measures pursuant to the approved plan.

31 (a) When providing assurances pursuant to this section, the department’s
32 determination of the level of assurances and the time limits specified in the
33 implementation agreement for assurances may be based on localized conditions
34 and shall consider all of the following:

35 (1) The level of knowledge of the status of the covered species and natural
36 communities.

37 (2) The adequacy of analysis of the impact of take on covered species.

38 (3) The use of the best available science to make assessments about the impacts
39 of take, the reliability of mitigation strategies, and the appropriateness of
40 monitoring techniques.

1 (4) The appropriateness of the size and duration of the plan with respect to
2 quality and amount of data.

3 (5) The sufficiency of mechanisms for long-term funding of all components of
4 the plan and contingencies.

5 (6) The degree of coordination and accessibility of centralized data for analysis
6 and evaluation of the effectiveness of the plan.

7 (7) The degree to which a thorough range of foreseeable circumstances are
8 considered and provided for under the adaptive management program.

9 (8) The size and duration of the plan.

10 (b) If there are unforeseen circumstances, additional land, water, or financial
11 compensation or additional restrictions on the use of land, water, or other natural
12 resources shall not be required without the consent of plan participants for a period
13 of time specified in the implementation agreement, unless the department
14 determines that the plan is not being implemented consistent with the substantive
15 terms of the implementation agreement.

16 **Comment.** Section 64610 continues former Fish and Game Code Section 2820(f) without
17 substantive change.

18 **§ 64615. No effect on application of CEQA**

19 64615. Nothing in this title exempts a project proposed in a natural community
20 conservation planning area from Division 13 (commencing with Section 21000) of
21 the Public Resources Code or otherwise alters or affects the applicability of that
22 division.

23 **Comment.** Section 64615 continues former Fish and Game Code Section 2826 without
24 substantive change.

25 **§ 64620. CEQA analysis**

26 64620. To the extent provided pursuant to Division 13 (commencing with
27 Section 21000) of the Public Resources Code and any guidelines adopted pursuant
28 thereto, if the impacts on one or more covered species and its habitat are analyzed
29 and mitigated pursuant to a program environmental impact report for a plan
30 adopted pursuant to this title, a plan participant that is a lead agency or a
31 responsible agency under that division shall incorporate in the review of any
32 subsequent project in the plan area the feasible mitigation measures and
33 alternatives related to the biological impacts on covered species and their habitat
34 developed in the program environmental impact report.

35 **Comment.** Section 64620 continues former Fish and Game Code Section 2820(e) without
36 substantive change.

37 **§ 64625. Data and reports available for public review**

38 64625. Any data and reports associated with the monitoring program required by
39 Sections 64565 and 64580 shall be available for public review. The entity
40 managing the plan shall also conduct public workshops on an annual basis to

1 provide information and evaluate progress toward attaining the conservation
2 objectives of the plan.

3 **Comment.** Section 64625 continues former Fish and Game Code Section 2820(d) without
4 substantive change.

5 **§ 64630. Use of conservation corps**

6 64630. To the extent practicable, implementation of natural community
7 conservation plans shall use the services of either the California Conservation
8 Corps or local community conservation corps.

9 **Comment.** Section 64630 continues former Fish and Game Code Section 2827 without
10 substantive change.

11 **§ 64635. Injunctive relief**

12 64635. The department may seek injunctive relief against any plan participant,
13 person, or entity to enforce this title.

14 **Comment.** Section 64635 continues former Fish and Game Code Section 2822 without
15 substantive change.

16 **§ 64640. Suspension of take or revocation of permit**

17 64640. The department shall suspend or revoke any permit, in whole or in part,
18 issued for the take of a species subject to Section 64605 if the continued take of
19 the species would result in jeopardizing the continued existence of the species.

20 **Comment.** Section 64640 continues former Fish and Game Code Section 2823 without
21 substantive change.

22 **§ 64645. Breach of proportionality between take and conservation**

23 64645. If a plan participant does not maintain the proportionality between take
24 and conservation measures specified in the implementation agreement and does
25 not either cure the default within 45 days or enter into an agreement with the
26 department within 45 days to expeditiously cure the default, the department shall
27 suspend or revoke the permit, in whole or in part.

28 **Comment.** Section 64645 continues former Fish and Game Code Section 2820(c) without
29 substantive change.

30 **§ 64650. Local government authority to acquire land or water**

31 64650. Nothing in this title prohibits a local government from exercising any
32 power or authority granted to it pursuant to state law to acquire land or water to
33 implement a plan.

34 **Comment.** Section 64650 continues former Fish and Game Code Section 2828 without
35 substantive change.

1 **§ 64655. Effect on take in specified circumstances**

2 64655. Nothing in this title prohibits the taking or the incidental take of any
3 identified species if the taking is authorized by the department pursuant to any of
4 the following:

5 (a) A natural community conservation plan or amended plan approved by the
6 department prior to January 1, 2002. Any permits, plans, implementation
7 agreements, and amendments to those permits, plans, or implementation
8 agreements described in this section are deemed to be in full force and effect as of
9 the date approved or entered into by the parties insofar as they authorize the take
10 of identified species pursuant to an approved natural community conservation plan
11 and shall be governed solely by former Chapter 10 (commencing with Section
12 2800) of Division 3 of the Fish and Game Code as it read on December 31, 2001.

13 (b) Any natural community conservation plan, or subarea plan, approved, or
14 amended on or after January 1, 2002, for which a planning or enrollment
15 agreement meets any of the following criteria, which shall be solely governed in
16 accordance with former Chapter 10 (commencing with Section 2800) of Division
17 3 of the Fish and Game Code as it read on December 31, 2001:

18 (1) The natural community conservation plan was entered into between the
19 department and plan participants prior to January 1, 2001, and is carried out
20 pursuant to Rule 4(d) for the California Gnatcatcher (Federal Register Volume 58,
21 December 10, 1993), including the southern subregion of Orange County.

22 (2) The natural community conservation plan was prepared pursuant to the
23 planning agreement for the San Diego Multiple Species Conservation Plan.

24 (3) The natural community conservation plan was prepared pursuant to the
25 planning agreement for the San Diego Multiple Habitat Conservation Plan.

26 (c) Any programmatic natural community conservation plan approved by the
27 department on or before January 1, 2002.

28 (d) Any natural community conservation plan developed pursuant to a planning
29 or enrollment agreement executed on or before January 1, 2001, and for which the
30 department finds that the plan has been developed using a public participation and
31 scientific analysis process substantially in conformance with the intent of
32 subdivision (e) of Section 64560 and Section 64570.

33 (e) Any natural community conservation plan developed pursuant to a planning
34 agreement executed on or before January 1, 2002, and which the department finds
35 is in substantial compliance with Sections 64565, 64580, 64610, 64620, 64625,
36 64645.

37 (f) (1) Any natural community conservation plan or subarea plan initiated on or
38 before January 1, 2000, or amendments thereto, by Sweetwater Authority, Helix
39 Water District, Padre Dam Municipal Water District, Santa Fe Irrigation District,
40 or the San Diego County Water Authority, which the department determines is
41 consistent with the approved San Diego Multiple Habitat Conservation Program or
42 the San Diego Multiple Species Conservation Program, is exempt from Sections
43 64555, 64560, 64575, and 64585, and subdivision (a) of Section 64580, except as

1 provided in paragraph (2), if the department finds that the plan has been developed
2 and is otherwise in conformance with this title.

3 (2) The public water agencies identified in this subdivision and the department
4 shall include independent scientific input as described in paragraphs (1) to (4),
5 inclusive, of subdivision (e) of Section 64560 into the proposed plans in a manner
6 that focuses on the covered species that are proposed for take authorization and
7 that are not otherwise covered in the San Diego Multiple Species Conservation
8 Program or the San Diego Multiple Habitat Conservation Program.

9 (3) The scientific input required by paragraph (2) shall be based on the best and
10 most current scientific data generally available, and shall assure that
11 documentation for coverage of all species is equal or greater than the San Diego
12 Multiple Habitat Conservation Program.

13 **Comment.** Section 64655 continues former Fish and Game Code Section 2830 without
14 substantive change.

15 **Notes.** (1) Existing Section 2830(e) refers to a “natural community conservation plan
16 developed pursuant to a planning agreement executed on or before January 1, 2002, and which
17 the department finds is in substantial compliance with Section 2820.” It is not certain which parts
18 of Section 2820 are relevant to the purpose of that reference. Out of caution, proposed Section
19 64655(e) refers to every provision of the proposed law that would continue part of existing
20 Section 2820. **The Commission invites comment on whether that approach is overbroad and,
21 if so, which provisions can be dropped from the reference.**

22 (2) Existing Section 2830(f)(1) provides that certain entities are “exempt from Section 2810.”
23 It is not certain which parts of Section 2810 are relevant to the purpose of that reference. Out of
24 caution, proposed Section 64655(f)(1) refers to every provision of the proposed law that would
25 continue part of existing Section 2810. **The Commission invites comment on whether that
26 approach is overbroad and, if so, which provisions can be dropped from the reference.**

27 **§ 64660. San Diego dedication of open space**

28 64660. (a) Notwithstanding any other provision of law, lands designated as of
29 January 1, 2013, as open-space lands in a document entitled “Declaration of the
30 Dedication of Land” approved by a resolution of the San Diego City Council in
31 the same manner in which the city council processes approval of dedicated open
32 space, reserving to the city council the authority to grant easements for utility
33 purposes in, under, and across dedicated property, if those easements and facilities
34 to be located thereon do not significantly interfere with the park and recreational
35 use of the property, and filed with the Office of the City Clerk for the City of San
36 Diego, and, if required, at the Office of the County of San Diego
37 Assessor/Recorder/County Clerk, are dedicated land under the City Charter of the
38 City of San Diego.

39 (b) Upon filing of that document in accordance with subdivision (a), the Office
40 of the City Clerk for the City of San Diego, and, if applicable, the Office of the
41 County of San Diego Assessor/Recorder/County Clerk shall make the document
42 available for inspection by the public upon request.

43 **Comment.** Section 64660 continues former Fish and Game Code Section 2831 without
44 substantive change.

1 **Note.** Existing Section 2831 does not have any obvious connection to Natural Community
2 Conservation Planning. **The Commission invites comment on whether this section would be**
3 **better located elsewhere (and if so, where).**

4 TITLE 3. ADVANCE MITIGATION AND
5 REGIONAL CONSERVATION INVESTMENT
6 STRATEGIES

7 CHAPTER 1. GENERAL PROVISIONS

8 Article 1. Legislative Findings and Intent

9 § 64700. Findings and declarations

10 64700. (a) The Legislature finds and declares that it would be beneficial to
11 identify species and habitat conservation initiatives at a regional scale, including
12 actions to address the impacts of climate change and other wildlife stressors, in
13 order to guide voluntary investments in conservation, and compensatory
14 mitigation for impacts to ecological resources, including impacts to threatened and
15 endangered species, other sensitive species, natural communities, ecological
16 processes, and wildlife corridors.

17 (b) The purpose of this title is to promote the voluntary conservation of natural
18 resources, including biodiversity and ecological processes, and to enhance
19 resiliency to climate change and other threats. In order to further this goal, it is the
20 policy of the state to encourage voluntary mechanisms to conserve biological and
21 other ecological resources and to identify conservation actions, including actions
22 to promote resiliency to the impacts of climate change and other stressors to
23 species and habitat.

24 (c) It is further the policy of the state to encourage voluntary mechanisms to
25 identify and implement advance mitigation actions that do all of the following:

26 (1) Can be used to compensate for project impacts, including, but not limited to,
27 infrastructure and renewable energy projects, more efficiently.

28 (2) Are effective ecologically.

29 (3) Will help to conserve regionally important biological and other ecological
30 resources.

31 (d) In enacting this title, it is the intent of the Legislature to promote science-
32 based conservation, including actions to promote resiliency to the impacts of
33 climate change and other stressors. It is further the intent of the Legislature to
34 create nonregulatory mechanisms to guide investments in conservation,
35 infrastructure, and compensatory mitigation for impacts to natural resources,
36 including impacts to threatened and endangered species, other sensitive species,
37 natural communities, ecological processes, and connectivity.

1 (e) In enacting this title, it is not the intent of the Legislature to regulate the use
2 of land, establish land use designations, or to affect, limit, or restrict the land use
3 authority of any public agency.

4 (f) Further, in enacting this title, it is not the intent of the Legislature that an
5 approved regional conservation investment strategy would be binding on
6 independent public agency action within the strategy’s geographic scope.

7 **Comment.** Section 64700 continues former Fish and Game Code Section 1850 without
8 substantive change.

9 **§ 64705. Legislative intent**

10 64705. It is the intent of this title to establish requirements that provide
11 sufficient flexibility to develop each regional conservation investment strategy
12 based on the best available information regarding the strategy area.

13 **Comment.** Section 64705 continues former Fish and Game Code Section 1854(b) without
14 substantive change.

15 **Article 2. Definitions**

16 **§ 64710. Application**

17 64710. The definitions in this article govern this title.

18 **Comment.** Section 64710 restates the introductory clause of former Fish and Game Code
19 Section 1851 without substantive change.

20 **§ 64715. Administrative draft natural community conservation plan**

21 64715. “Administrative draft natural community conservation plan” means a
22 substantially complete draft of a natural community conservation plan that is
23 released after January 1, 2016, to the general public, plan participants, and the
24 department.

25 **Comment.** Section 64715 continues former Fish and Game Code Section 1851(a) without
26 substantive change.

27 **§ 64720. Areas of conservation emphasis**

28 64720. “Areas of Conservation Emphasis” means the biodiversity analysis
29 completed by the department in 2010, or the latest update of that analysis.

30 **Comment.** Section 64720 continues former Fish and Game Code Section 1851(b) without
31 substantive change.

32 **§ 64725. Compensatory mitigation**

33 64725. “Compensatory mitigation” means actions taken to fulfill, in whole or in
34 part, mitigation requirements under state or federal law or a court mandate.

35 **Comment.** Section 64725 continues former Fish and Game Code Section 1851(c) without
36 substantive change.

1 **§ 64730. Conservation action**

2 64730. “Conservation action” means an action to preserve or to restore
3 ecological resources, including habitat, natural communities, ecological processes,
4 and wildlife corridors, to protect those resources permanently, and to provide for
5 their perpetual management, so as to help to achieve one or more biological goals
6 and objectives for one or more focal species. Conservation actions may include,
7 but are not limited to, actions to offset impacts to focal species.

8 **Comment.** Section 64730 continues former Fish and Game Code Section 1851(d) without
9 substantive change.

10 **§ 64735. Conservation easement**

11 64735. “Conservation easement” means a perpetual conservation easement that
12 complies with Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of
13 Division 2 of the Civil Code.

14 **Comment.** Section 64735 continues former Fish and Game Code Section 1851(e) without
15 substantive change.

16 **§ 64740. Focal species**

17 64740. “Focal species” means sensitive species within a regional conservation
18 investment strategy area that are analyzed in the strategy and will benefit from
19 conservation actions and habitat enhancement actions set forth in the strategy.

20 **Comment.** Section 64740 continues former Fish and Game Code Section 1851(f) without
21 substantive change.

22 **§ 64745. Habitat enhancement action**

23 64745. “Habitat enhancement action” means an action to improve the quality of
24 wildlife habitat, or to address risks or stressors to wildlife, that has long-term
25 durability but does not involve land acquisition or the permanent protection of
26 habitat, such as improving in-stream flows to benefit fish species, enhancing
27 habitat connectivity, or invasive species control or eradication.

28 **Comment.** Section 64745 continues former Fish and Game Code Section 1851(g) without
29 substantive change.

30 **§ 64750. Performance-based milestones**

31 64750. “Performance-based milestones” means specifically identified steps in
32 the implementation of a conservation action or habitat enhancement action, such
33 as site protection, initiating implementation, completing implementation, or
34 achieving performance standards.

35 **Comment.** Section 64750 continues former Fish and Game Code Section 1851(h) without
36 substantive change.

1 **§ 64755. Performance standards**

2 64755. “Performance standards” means observable or measurable physical or
3 biological attributes that are used to determine if a conservation action or habitat
4 enhancement action has met its objectives.

5 **Comment.** Section 64755 continues former Fish and Game Code Section 1851(i) without
6 substantive change.

7 **§ 64760. Permanently protect**

8 64760. “Permanently protect” means doing both of the following acts:

9 (a) Recording a conservation easement, in a form approved in advance in
10 writing by the department, or establishing perpetual protection of land in a manner
11 consistent with draft or approved natural community conservation plans within the
12 area of the applicable regional conservation investment strategy and approved in
13 advance in writing by the department, that prevents development, prohibits
14 inconsistent uses, and ensures that habitat for focal species is maintained.

15 (b) Providing secure, perpetual funding for management of the land, monitoring,
16 and legal enforcement.

17 **Comment.** Section 64760 continues former Fish and Game Code Section 1851(j) without
18 substantive change.

19 **§ 64765. Regional conservation assessment**

20 64765. “Regional conservation assessment” means information and analyses
21 that document the important species, ecosystems, ecosystem processes, protected
22 areas, and linkages within an ecoregion to provide the appropriate context for
23 nonbinding, voluntary conservation strategies and actions. Those assessments
24 include information for the identification of areas with greatest probability for
25 long-term ecosystem conservation success incorporating cobenefits of ecosystem
26 services, such as carbon, water, and agricultural lands. A regional conservation
27 assessment may be used to provide context at an ecoregional or subcoregional
28 scale to assist with the development of a regional conservation investment
29 strategy.

30 **Comment.** Section 64765 continues the first three sentences of former Fish and Game Code
31 Section 1851(k) without substantive change.

32 **§ 64770. Regional conservation investment strategy**

33 64770. “Regional conservation investment strategy” means information and
34 analyses prepared pursuant to this title to inform nonbinding and voluntary
35 conservation actions and habitat enhancement actions that would advance the
36 conservation of focal species, habitat, and other natural resources and to provide
37 nonbinding voluntary guidance for the identification of wildlife and habitat
38 conservation priorities, investments in ecological resource conservation, or
39 identification of locations for compensatory mitigation for impacts to species and
40 natural resources.

1 **Comment.** Section 64810 continues former Fish and Game Code Section 1861 without
2 substantive change.

3 **§ 64815. Report to Legislature**

4 64815. (a) The department shall submit a report to the Legislature on or before
5 January 1, 2020, regarding the implementation of this title.

6 (b) The report required to be submitted pursuant to subdivision (a) shall be
7 submitted in compliance with Section 9795 of the Government Code.

8 **Comment.** Section 64815 continues former Fish and Game Code Section 1859 without
9 substantive change.

10 **§ 64820. Effect on specified statutes**

11 64820. Nothing in this title supersedes, limits, or otherwise modifies the
12 Sacramento-San Joaquin Delta Reform Act of 2009 (Division 35 (commencing
13 with Section 85000) of the Water Code) or Division 22.3 (commencing with
14 Section 32300) of the Public Resources Code.

15 **Comment.** Section 64820 continues former Fish and Game Code Section 1860 without
16 substantive change.

17 CHAPTER 2. REGIONAL CONSERVATION ASSESSMENT

18 **§ 64850. Voluntary**

19 64850. A regional conservation assessment is nonbinding, voluntary, and does
20 not create, modify, or impose regulatory requirements or standards, regulate the
21 use of land, establish land use designations, or affect the land use authority of, or
22 the exercise of discretion by, any public agency. The preparation and use of a
23 regional conservation assessment is voluntary.

24 **Comment.** Section 64850 continues the fourth and fifth sentences of former Fish and Game
25 Code Section 1851(k) without substantive change.

26 **§ 64855. Proposal and approval**

27 64855. (a) A regional conservation assessment may be proposed by the
28 department or any other public agency.

29 (b) A regional conservation assessment may be proposed by the department or
30 any other public agency.

31 (c) The department may approve a regional conservation assessment only for the
32 purposes of a regional conservation investment strategy pursuant to this title.

33 (d) A regional conservation assessment is not required for department approval
34 of a regional conservation investment strategy.

35 **Comment.** Section 64855 continues former Fish and Game Code Section 1853(a) without
36 substantive change.

1 § 64860. Requirements

2 64860. A regional conservation assessment shall do all of the following:

3 (a) Identify and summarize relevant regional pressures and stressors, including
4 climate change vulnerability, conservation areas and habitat connectivity values,
5 included in all of the following:

6 (1) Conservation plans, such as the State Wildlife Action Plan and approved
7 natural community conservation plans.

8 (2) Analyses designed to identify areas of high biological diversity, such as the
9 Areas of Conservation Emphasis.

10 (3) Analyses designed to identify areas for habitat connectivity.

11 (b) Identify the best available scientific information and analyses, including
12 geospatial information regarding the distribution of species and natural
13 communities.

14 (c) Use spatial analysis to identify ecological relationships between existing
15 protected areas and conservation areas.

16 (d) Use standard or prevalent vegetation classifications and standard ecoregional
17 classifications for terrestrial and aquatic data to enable and promote consistency
18 among regional conservation assessments throughout California.

19 (e) Compile input and summary data in a consistent format that could be
20 uploaded for interactive use in an Internet Web portal and that would allow
21 stakeholders to generate queries of regional conservation values within the
22 strategy area.

23 (f) Be consistent with administrative draft natural community conservation
24 plans, approved natural community conservation plans, and regional habitat
25 conservation plans, and approved recovery plans within the ecoregion or
26 subecoregion included in the assessment.

27 (g) Consider existing major water, transportation, and transmission
28 infrastructure facilities in the assessment area and account for reasonably
29 foreseeable development of major infrastructure facilities, including, but not
30 limited to, renewable energy and housing.

31 (h) Include provisions ensuring that the strategy will be in compliance with all
32 applicable state and local requirements and does not preempt the authority of local
33 agencies to implement infrastructure and urban development in local general
34 plans.

35 (i) Include provisions ensuring that the assessment is consistent with and
36 complements any approved natural community conservation plan or regional
37 federal habitat conservation plan that overlaps with the assessment area.

38 (j) Include an explanation of whether, and to what extent, the assessment is
39 consistent with any previously approved assessment or amended assessment, state
40 or federal recovery plan, or other state or federal approved conservation strategy
41 that overlaps with the assessment area.

42 **Comment.** Section 64860 continues former Fish and Game Code Section 1853(c) without
43 substantive change.

1 CHAPTER 3. REGIONAL CONSERVATION INVESTMENT
2 STRATEGY

3 Article 1. Regional Conservation Investment Strategy Generally

4 **§ 64900. Purpose**

5 64900. The purpose of a regional conservation investment strategy shall be to
6 inform science-based nonbinding and voluntary conservation actions and habitat
7 enhancement actions that would advance the conservation of focal species,
8 including the ecological processes, natural communities, and habitat connectivity
9 upon which those focal species depend, and to provide nonbinding voluntary
10 guidance for one or more of the following:

11 (a) Identification of wildlife and habitat conservation priorities, including
12 actions to address the impacts of climate change and other wildlife stressors.

13 (b) Investments in resource conservation.

14 (c) Infrastructure.

15 (d) Identification of areas for compensatory mitigation for impacts to species
16 and natural resources.

17 **Comment.** Section 64900 continues former Fish and Game Code Section 1852(b) without
18 substantive change.

19 **§ 64905. Voluntary**

20 64905. Regional conservation investment strategies are intended to provide
21 scientific information for the consideration of public agencies, are voluntary, and
22 do not create, modify, or impose regulatory requirements or standards, regulate the
23 use of land, establish land use designations, or affect the land use authority of or
24 exercise of discretion by, any public agency. The preparation and use of regional
25 conservation investment strategies for this guidance is voluntary.

26 **Comment.** Section 64905 continues the second and third sentences of former Fish and Game
27 Code Section 1851(l) without substantive change.

28 **§ 64910. Content**

29 64910. A regional conservation investment strategy shall include all of the
30 following:

31 (a) An explanation of the conservation purpose of and need for the strategy.

32 (b) The geographic area of the strategy and rationale for the selection of the
33 area, together with a description of the surrounding ecoregions and any adjacent
34 protected habitat areas or linkages that provide relevant context for the
35 development of the strategy.

36 (c) The focal species included in, and their current known or estimated status
37 within, the strategy.

1 (d) Important resource conservation elements within the strategy area, including,
2 but not limited to, important ecological resources and processes, natural
3 communities, habitat, habitat connectivity, and existing protected areas, and an
4 explanation of the criteria, data, and methods used to identify those important
5 conservation elements.

6 (e) A summary of historic, current, and projected future stressors and pressures
7 in the strategy area, including climate change vulnerability, on the focal species,
8 habitat, and other natural resources, as identified in the best available scientific
9 information, including, but not limited to, the State Wildlife Action Plan.

10 (f) Consideration of major water, transportation and transmission infrastructure
11 facilities, urban development areas, and city, county, and city and county general
12 plan designations that accounts for reasonably foreseeable development of major
13 infrastructure facilities, including, but not limited to, renewable energy and
14 housing in the strategy area.

15 (g) Provisions ensuring that the strategy will be in compliance with all
16 applicable state and local requirements and does not preempt the authority of local
17 agencies to implement infrastructure and urban development in local general
18 plans.

19 (h) Conservation goals and measurable objectives for the focal species and
20 important conservation elements identified in the strategy that address or respond
21 to the identified stressors and pressures on focal species.

22 (i) Conservation actions, including a description of the general amounts and
23 types of habitat that, if preserved or restored and permanently protected, could
24 achieve the conservation goals and objectives, and a description of how the
25 conservation actions and habitat enhancement actions were prioritized and
26 selected in relation to the conservation goals and objectives.

27 (j) Provisions ensuring that the strategy is consistent with and complements any
28 administrative draft natural community conservation plan, approved natural
29 community conservation plan, or federal habitat conservation plan that overlaps
30 with the strategy area.

31 (k) An explanation of whether and to what extent the strategy is consistent with
32 any previously approved strategy or amended strategy, state or federal recovery
33 plan, or other state or federal approved conservation strategy that overlaps with the
34 strategy area.

35 (l) A summary of mitigation banks and conservation banks approved by the
36 department or the United States Fish and Wildlife Service that are located within
37 the strategy area or whose service area overlaps with the strategy area.

38 (m) A description of how the strategy's conservation goals and objectives
39 provide for adaptation opportunities against the effects of climate change for the
40 strategy's focal species.

41 (n) Incorporation and reliance on, and citation of, the best available scientific
42 information regarding the strategy area and the surrounding ecoregion, including a
43 brief description of gaps in relevant scientific information, and use of standard or

1 prevalent vegetation classifications and standard ecoregional classifications for
2 terrestrial and aquatic data to enable and promote consistency among regional
3 conservation investment strategies throughout California.

4 **Comment.** Section 64910 continues former Fish and Game Code Section 1852(c) without
5 substantive change.

6 **§ 64915. Considerations**

7 64915. In addition to considering the potential to advance the conservation of
8 focal species, regional conservation investment strategies shall consider all of the
9 following:

10 (a) The conservation benefits of preserving working lands for agricultural uses.

11 (b) Reasonably foreseeable development of infrastructure facilities.

12 (c) Reasonably foreseeable projects in the strategy area, including, but not
13 limited to, housing.

14 (d) Reasonably foreseeable development for the production of renewable
15 energy.

16 (e) Draft natural community conservation plans within the area of the applicable
17 regional conservation investment strategy.

18 **Comment.** Section 64915 continues former Fish and Game Code Section 1852(e) without
19 substantive change.

20 **§ 64920. Incorporation of regional conservation assessment**

21 64920. If a regional conservation assessment that encompasses the area of a
22 proposed regional conservation investment strategy has already been approved by
23 the department, the strategy shall explain how and to what extent it has
24 incorporated the assessment information and analysis.

25 **Comment.** Section 64920 continues former Fish and Game Code Section 1853(b) without
26 substantive change.

27 **§ 64925. Format**

28 64925. A regional conservation investment strategy shall compile input and
29 summary priority data in a consistent format that could be uploaded for interactive
30 use in an Internet Web portal and that would allow stakeholders to generate
31 queries of regional conservation values within the strategy area.

32 **Comment.** Section 64925 continues former Fish and Game Code Section 1852(d) without
33 substantive change.

34 **§ 64930. Consistent metrics.**

35 64930. The department shall require the use of consistent metrics that
36 incorporate both the area and quality of habitat and other natural resources in
37 relation to a regional conservation investment strategy's conservation objectives to
38 measure the net change resulting from the implementation of conservation actions
39 and habitat enhancement actions.

1 comment for a period of at least 30 days and shall notify any public agency,
2 organization, or individual who has filed a written request to the department for
3 notices regarding draft regional conservation strategies.

4 **Comment.** Section 64965 continues former Fish and Game Code Section 1854(c)(2) without
5 substantive change.

6 **§ 64970. Public meeting and comment**

7 64970. (a) A public agency proposing a strategy or amended strategy shall hold
8 a public meeting to allow interested persons and entities to receive information
9 about the draft regional conservation investment strategy or amended strategy
10 early in the process of preparing it and to have an adequate opportunity to provide
11 written and oral comments. The public meeting shall be held at a location within
12 or near the strategy area.

13 (b) In a draft regional conservation investment strategy or amended strategy
14 submitted to the department for approval, the public agency shall include
15 responses to written public comments submitted during the public comment
16 period.

17 (c) If preparation of a regional conservation investment strategy was initiated
18 before January 1, 2017, and a public meeting regarding the strategy or amended
19 strategy that is consistent with the requirements of this article was held before
20 January 1, 2017, an additional public meeting shall not be required.

21 (d) If preparation of a regional conservation investment strategy was initiated
22 before January 1, 2017, and a public meeting regarding the strategy was not held
23 before January 1, 2017, the public meeting required under this article may be held
24 after January 1, 2017, if it is held at least 30 days before the strategy is submitted
25 to the department for approval.

26 **Comment.** Section 64970 continues former Fish and Game Code Section 1854(c)(3) without
27 substantive change.

28 **§ 64975. Notice of meeting**

29 64975. At least 30 days before holding a public meeting to distribute
30 information about the development of a draft regional conservation investment
31 strategy or amended strategy, a public agency proposing a strategy shall provide
32 notice of a regional conservation investment strategy or amended strategy public
33 meeting as follows:

34 (a) On the public agency's Internet Web site and any relevant LISTSERV.

35 (b) To each city, county, and city and county within or adjacent to the regional
36 conservation investment strategy area.

37 (c) To the implementing entity for each natural community conservation plan or
38 federal regional habitat conservation plan that overlaps with the strategy area.

39 (d) To each public agency, organization, or individual who has filed a written
40 request for the notice, including any agency, organization, or individual who has

1 filed a written request to the department for notices of all regional conservation
2 investment strategy public meetings.

3 **Comment.** Section 64975 continues former Fish and Game Code Section 1854(c)(4) without
4 substantive change.

5 **§ 64980. Notice of final draft**

6 64980. At least 60 days before submitting a final regional conservation
7 investment strategy or amended strategy to the department for approval, the public
8 agency proposing the investment strategy or amended strategy shall notify the
9 board of supervisors and the city councils in each county within the geographical
10 scope of the strategy and provide the board of supervisors and the city councils
11 with an opportunity to submit written comments for a period of at least 30 days.

12 **Comment.** Section 64980 continues former Fish and Game Code Section 1854(c)(5) without
13 substantive change.

14 **§ 64985. Department review of final draft**

15 64985. After a final regional conservation investment strategy or amended
16 strategy is submitted to the department for approval, the department shall have 30
17 days within which to approve the final regional conservation investment strategy
18 or amended strategy or to explain in writing to the public agency submitting the
19 strategy or amended strategy what is needed to approve the strategy or amended
20 strategy.

21 **Comment.** Section 64985 continues former Fish and Game Code Section 1854(c)(6) without
22 substantive change.

23 **§ 64990. Limitation on department rejection**

24 64990. The department shall not reject biologically appropriate and adequate
25 compensatory mitigation proposed by a project proponent on the basis that the
26 compensatory mitigation is not a conservation action or habitat enhancement
27 identified in a regional conservation investment strategy.

28 **Comment.** Section 64990 continues former Fish and Game Code Section 1855(e) without
29 substantive change.

30 **§ 64995. Internet publication**

31 64995. The department shall make all approved regional conservation
32 investment strategies, including all updates to scientific information and analyses
33 used in a regional conservation investment strategy and any amendments to the
34 strategy available on its Internet Web site.

35 **Comment.** Section 64995 continues former Fish and Game Code Section 1854(d) without
36 substantive change.

37 **§ 65000. Duration**

38 65000. (a) The department may prepare or approve a regional conservation
39 investment strategy, or approve an amended strategy, for an initial period of up to

1 10 years after finding that the strategy meets the requirements of Article 1
2 (commencing with Section 64900).

3 (b) The department may extend the duration of an approved or amended regional
4 conservation investment strategy for additional periods of up to 10 years after
5 updating the strategy for new scientific information and finding that the strategy
6 continues to meet the requirements of Article 1 (commencing with Section 64900).

7 (c) For purposes of this article, an amended strategy means a complete regional
8 conservation investment strategy prepared by a public agency to amend
9 substantially and to replace an approved strategy submitted by the public agency.

10 **Comment.** Section 65000 continues former Fish and Game Code Section 1854(a) without
11 substantive change.

12 Article 3. Effect

13 § 65050. Effect on public agencies

14 65050. (a) Regional conservation investment strategies shall not affect the
15 authority or discretion of any public agency and shall not be binding upon public
16 agencies other than parties to a mitigation credit agreement.

17 (b) Nothing in this title increases or decreases the authority or jurisdiction of the
18 department regarding any land use, species, habitat, area, resource, plan, process,
19 or corridor.

20 (c) Regional conservation investment strategies are intended to provide
21 scientific information for the consideration of public agencies.

22 (d) Nothing in this title or any other provision of law requires any public agency,
23 other than a public agency that is party to a mitigation credit agreement, to adopt,
24 implement, or otherwise adhere to a regional conservation investment strategy or a
25 regional conservation assessment.

26 **Comment.** Section 65050 continues former Fish and Game Code Section 1855(a) without
27 substantive change.

28 § 65055. Effect on other processes

29 65055. The approval or existence of a regional conservation investment strategy,
30 mitigation credit agreement, or credit pursuant to this title does not do any of the
31 following:

32 (a) Modify in any way the standards for issuance of incidental take permits or
33 consistency determinations pursuant to Section 62700 or 62705, issuance of take
34 authorizations pursuant to Section 64605, the issuance of lake or streambed
35 alteration agreements pursuant to Section 69750, or any other provision of this
36 code or regulations adopted pursuant to this code.

37 (b) Modify in any way the standards under the California Environmental Quality
38 Act (Division 13 (commencing with Section 21000) of the Public Resources
39 Code), or in any way limit a lead agency's or responsible agency's discretion, in
40 connection with any determination of whether a proposed project may or may not

1 result in significant environmental effects or in any way establish a presumption in
2 connection with any determination of whether a proposed project may or may not
3 result in significant environmental effects or whether a proposed project’s impacts
4 would be mitigated.

5 (c) Prohibit or authorize any project or project impacts.

6 (d) Create a presumption or guarantee that any proposed project will be
7 approved or permitted, or that any proposed impact will be authorized, by any
8 state or local agency.

9 (e) Create a presumption that any proposed project will be disapproved or
10 prohibited, or that any proposed impact will be prohibited, by any state or local
11 agency.

12 (f) Alter or affect, or create additional requirements for, the general plan of the
13 city, county, or city and county, in which it is located.

14 (g) Constitute any of the following, for the purposes of the California
15 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
16 Public Resources Code):

17 (1) A plan, policy, or regulation adopted for the purpose of avoiding or
18 mitigating an environmental effect.

19 (2) A local policy or ordinance protecting biological resources.

20 (3) An adopted local, regional, or state habitat conservation plan.

21 **Comment.** Section 65055 continues former Fish and Game Code Section 1855(b) without
22 substantive change.

23 **Note.** Existing Section 1855(b) refers to “the issuance of lake or streambed alteration
24 agreements pursuant to Section 1602....” In proposed Section 65055, the reference to Section
25 1602 has been narrowed to refer to subdivision (a) of that section, the part of the section that
26 authorizes the issuance of such agreements (proposed Section 69750). **The Commission invites
27 comment on whether that revision would cause a problem.**

28 **§ 65060. Effect on project proponent**

29 65060. (a) Nothing in this title shall require a project proponent seeking to
30 provide compensatory mitigation pursuant to Section 62700, 62705, or 64605, or
31 the California Environmental Quality Act (Division 13 (commencing with Section
32 21000) of the Public Resources Code) to take any of the following actions:

33 (1) Undertake conservation actions or habitat enhancement actions identified in
34 a regional conservation investment strategy.

35 (2) Implement, contribute to, fund, or otherwise comply with the actions
36 described in a regional conservation investment strategy.

37 (3) Enter into a mitigation credit agreement.

38 (4) Use or purchase mitigation credits established pursuant to this title to satisfy
39 the compensatory mitigation requirements.

40 (b) Nothing in this chapter shall prevent a project proponent from proposing
41 mitigation consistent with one or more strategies approved pursuant to this title.

1 **Comment.** Section 65060 continues former Fish and Game Code Section 1855(c) without
2 substantive change.

3 **Notes. (1)** Existing Section 1855(c) (proposed Section 65060(b)) provides that “nothing in
4 this section shall prevent a project proponent from proposing mitigation consistent with one or
5 more strategies approved pursuant to this chapter.” It is not clear which provisions of “this
6 section” (i.e., Section 1855) are intended to be covered by that disclaimer. In proposed Section
7 65060, the disclaimer is revised to refer to “this chapter” (which would continue Section 1855(a)-
8 (c)). **The Commission invites comment on whether the scope of that reference should be
9 broadened or narrowed.**

10 **(2)** Existing Section 1855(c) refers to “a project proponent seeking to provide compensatory
11 mitigation pursuant to Section 1602” and other specified sections. There is no language in Section
12 1602 that clearly authorizes or requires “compensatory mitigation.” The section does authorize
13 the imposition of “measures” to protect an adversely affected fish or wildlife resource, but it is
14 not clear that those are understood to be “compensatory mitigation.” As a tentative measure, the
15 reference to Section 1602 has not been continued in proposed Section 65060. **The Commission
16 invites comment on whether the reference to Section 1602 should be included and, if so,
17 which portion of Section 1602 is relevant to the reference.**

18 CHAPTER 4. MITIGATION CREDITS

19 § 65100. Creation

20 65100. (a) A conservation action or habitat enhancement action that measurably
21 advances the conservation objectives of an approved regional conservation
22 investment strategy may be used to create mitigation credits that can be used to
23 compensate for impacts to focal species and other species, habitat, and other
24 natural resources, as provided in this chapter.

25 (b) The requirements of this chapter apply only to the creation of mitigation
26 credits under mitigation credit agreements pursuant to this chapter and do not
27 establish requirements for other forms of compensatory mitigation.

28 **Comment.** Section 65100 continues former Fish and Game Code Section 1856(a) without
29 substantive change.

30 § 65105. Requirements

31 65105. For a conservation action or habitat enhancement action identified in a
32 regional conservation investment strategy to be used to create mitigation credits
33 pursuant to this chapter, the regional conservation investment strategy shall
34 include, in addition to the requirements of Article 1 (commencing with Section
35 64900) of Chapter 3, all of the following:

36 (a) An adaptive management and monitoring strategy for conserved habitat and
37 other conserved natural resources.

38 (b) A process for updating the scientific information used in the strategy, and for
39 tracking the progress of, and evaluating the effectiveness of, conservation actions
40 and habitat enhancement actions identified in the strategy, in offsetting identified
41 threats to focal species and in achieving the strategy’s biological goals and
42 objectives, at least once every 10 years, until all mitigation credits are used.

1 (c) Identification of a public or private entity that will be responsible for the
2 updates and evaluation required pursuant to subdivision (b).

3 **Comment.** Section 65105 continues former Fish and Game Code Section 1856(b) without
4 substantive change.

5 **§ 65110. Use of mitigation credits**

6 65110. A mitigation credit created in accordance with this chapter may be used
7 to fulfill, in whole or in part, compensatory mitigation requirements established
8 under any state or federal environmental law, as determined by the applicable
9 local, state, or federal regulatory agency, including, but not limited to, the
10 following:

11 (a) To compensate for take or other adverse impacts of activities authorized
12 pursuant to Part 1 (commencing with Section 62000) within the regional
13 conservation investment strategy area.

14 (b) To reduce adverse impacts to fish or wildlife resources, or both, from
15 activities authorized pursuant to Title 3 (commencing with Section 69700) of Part
16 4 within the regional conservation investment strategy area to less than substantial.

17 (c) To mitigate significant effects on the environment within the regional
18 conservation investment strategy area pursuant to the California Environmental
19 Quality Act (Division 13 (commencing with Section 21000) of the Public
20 Resources Code) and Guidelines for Implementation of the California
21 Environmental Quality Act (Chapter 3 (commencing with Section 15000) of
22 Division 6 of Title 14 of the California Code of Regulations).

23 **Comment.** Section 65110 continues former Fish and Game Code Section 1856(c) without
24 substantive change.

25 **§ 65115. Long-term durability of enhancement action**

26 65115. (a) The department shall ensure the long-term durability of a habitat
27 enhancement action.

28 (b) If a habitat enhancement action is used to create one or more mitigation
29 credits pursuant to this chapter, the habitat enhancement action shall remain in
30 effect at least until the site of the environmental impact is returned to preimpact
31 ecological conditions.

32 **Comment.** Section 65115 continues former Fish and Game Code Section 1856(d) without
33 substantive change.

34 **§ 65120. Mitigation credit agreement**

35 65120. (a) To create mitigation credits pursuant to this chapter, a person or
36 entity, including a state or local agency, shall enter into a mitigation credit
37 agreement with the department.

38 (b) The mitigation credit agreement shall identify the type and number of
39 mitigation credits proposed to be created and the terms and conditions under
40 which the mitigation credits may be used.

1 (c) Mitigation credits shall not be created on a site that has already been
2 permanently protected and has been used, or is currently in use, to fulfill
3 compensatory mitigation requirements for one or more projects.

4 (d) The person or entity may create and use, sell, or otherwise transfer the
5 mitigation credits upon department approval that the credits have been created in
6 accordance with the agreement.

7 **Comment.** Section 65120 continues former Fish and Game Code Section 1856(e) without
8 substantive change.

9 **§ 65125. Creation process**

10 65125. (a) To enter into a mitigation credit agreement with the department, a
11 person or entity shall submit a draft mitigation credit agreement to the department
12 for its review, revision, and approval or disapproval.

13 (b) Within five days of deeming a draft agreement complete, the department
14 shall publish notice of the availability of the draft agreement by filing its notice
15 with the Governor’s Office of Planning and Research and the city and county
16 clerks of each county in which the agreement is applicable in part or in whole and
17 shall make the draft agreement available to the public on its Internet Web site, and
18 to any public agency, organization, or individual who has filed a written request to
19 the department for notices regarding agreements, for review and comment for a
20 period of at least 45 days.

21 (c) Following the notice period required by subdivision (b), the department shall
22 respond to written comments submitted during the public comment period and
23 may approve the agreement, approve it with revisions, or disapprove it.

24 (d) The department may enter into a mitigation credit agreement if it determines
25 that the mitigation credit agreement does all of the following:

26 (1) Provides contact information for, and establishes the qualifications of, the
27 person or entity entering into the agreement, the entity that will manage the site of
28 the conservation action or habitat enhancement action, and any contractors or
29 consultants.

30 (2) Fully describes the proposed conservation actions or habitat enhancement
31 actions and explains how, and to what extent, they will measurably advance
32 conservation objectives of the regional conservation investment strategy that have
33 not yet been achieved.

34 (3) Identifies the location of the conservation actions or habitat enhancement
35 actions, including a location map, address, and size of the site where the proposed
36 conservation action or habitat enhancement action will be implemented.

37 (4) Provides color aerial and ground-level photographs that reflect current
38 conditions on the site and surrounding properties.

39 (5) Explains how the mitigation credits will be created, including, but not
40 limited to, information regarding proposed ownership arrangements, long-term
41 management strategy, and any phases of implementation.

1 (6) Identifies mitigation banks and conservation banks approved by the
2 department as a mitigation alternative and explains how available mitigation
3 credits at those banks will be purchased or used in combination with the mitigation
4 credits created under the mitigation credit agreement or, if those available
5 mitigation credits will not be purchased or used, why they will not be purchased or
6 used.

7 (7) Includes a natural resources evaluation that documents biotic and abiotic
8 baseline conditions, including past, current, and adjacent land uses, vegetation
9 types, species information, topography, hydrology, and soil types.

10 (8) Identifies public lands and permanently protected lands in the vicinity of the
11 conservation actions or habitat enhancement actions.

12 (9) Fully describes the proposed type and quantity of mitigation credits and the
13 supporting rationale. Mitigation credits created pursuant to this chapter shall
14 directly correlate to the focal species and other species, habitat, and other natural
15 resources protected by the conservation actions or habitat enhancement actions.

16 (10) Identifies metrics or indicators by which the proposed conservation action
17 or habitat enhancement action's contribution to achieving the strategy's
18 conservation goals and objectives can feasibly be measured with existing
19 technology. The net ecological gain from the implementation of conservation
20 actions and habitat enhancement actions that include habitat restoration shall be
21 reported using consistent metrics that measure the increment of gain in the area
22 and quality of habitat or other natural resource values compared to baseline
23 conditions described in the regional conservation investment strategy, and
24 measures the increment of gain in relation to the regional conservation investment
25 strategy's conservation objectives.

26 (11) Describes the proposed landownership of the site or sites of the
27 conservation actions or habitat enhancement actions.

28 (12) Includes a template conservation easement, or other instrument providing
29 for perpetual protection of land in a manner consistent with approved natural
30 community conservation plans within the area of the applicable regional
31 conservation investment strategy, for the sites of any conservation action and an
32 explanation of how the long-term durability of the sites of any habitat
33 enhancement actions will be ensured.

34 (13) Ensures that the implementation of the conservation action or habitat
35 enhancement action will be adequately funded and that long-term protection and
36 management of the site will be funded in accordance with Chapter 4.6
37 (commencing with Section 65965) of Division 1 of Title 7 of the Government
38 Code or, if a state agency proposed to enter into a mitigation credit agreement,
39 other comparable funding mechanism approved by the department in accordance
40 with an adopted statewide policy regarding funding for long-term management
41 and operations of mitigation sites.

42 (14) Includes a template monitoring and long-term adaptive management plan.

1 (15) Explains the terms and conditions under which the proposed mitigation
2 credits may be sold or otherwise transferred and how the proposed mitigation
3 credits will be accounted for, including the specific methods proposed for
4 reporting and maintaining a record of credit creation, release, and use, sale, or
5 transfer.

6 (16) Includes enforcement provisions.

7 (17) Ensures that, for each site on which the conservation actions or habitat
8 enhancement actions will be implemented, information consistent with, pursuant
9 to this title, the information required for a mitigation bank in subdivision (c) of
10 Section 65455 and subdivisions (b) to (h), inclusive, of Section 65505 shall be
11 prepared and submitted to the department for review for adequacy and approval
12 prior to implementation.

13 (18) Includes a proposed credit ledger and credit release schedule that meets the
14 requirements of Section 65135.

15 **Comment.** Section 65125 continues former Fish and Game Code Section 1856(f) without
16 substantive change.

17 **§ 65130. Project that quantifiably exceeds compensatory mitigation requirements**

18 65130. (a) Mitigation credit agreements may be used to establish the terms and
19 conditions under which mitigation credits can be created by projects that improve
20 wildlife habitat, or that address stressors to wildlife, to an extent that quantifiably
21 exceeds compensatory mitigation requirements established by the department for
22 those projects pursuant to Title 3 (commencing with Section 69700) of Part 4 or
23 Part 1 (commencing with Section 62000).

24 (b) Those projects may include, but are not limited to:

25 (1) The construction of setback levees that result in the creation of more
26 floodplain or riparian habitat than is required to compensate for construction
27 impacts.

28 (2) The construction of transportation facility improvements that remove
29 barriers to fish or wildlife movement and thereby improve the quality of habitat or
30 address stressors to wildlife to a greater extent than is required to compensate for
31 construction impacts.

32 (c) For those projects, the project proponent may submit a draft mitigation credit
33 agreement that proposes the terms and conditions under which mitigation credits
34 may be created and used by or in conjunction with those projects to the department
35 for its review, revision, and approval. The submission may occur concurrently
36 with, or after, an application submitted pursuant to Part 1 (commencing with
37 Section 62000) or a notice submitted pursuant to Title 3 (commencing with
38 Section 69700) of Part 4 or may occur after the application or notice is submitted.
39 Where a draft mitigation agreement is submitted concurrently with the application
40 or notice, the department shall review the draft mitigation credit agreement
41 concurrently with its review of the application or notice and shall, to the maximum

1 extent practicable, complete its review of both the notice or application and the
2 draft agreement concurrently.

3 (d) Mitigation credit agreements submitted to the department pursuant to this
4 section may comply with the requirements of Section 65135 with a credit release
5 schedule related to construction of the project that will improve wildlife habitat, or
6 will address stressors to wildlife, to an extent that exceeds compensatory
7 mitigation requirements quantifiably. For those projects, construction of the
8 project may be a performance-based milestone required by subdivision (b) of
9 Section 65135.

10 **Comment.** Section 65130 continues former Fish and Game Code Section 1856(h) without
11 substantive change.

12 **§ 65135. Release of mitigation credits**

13 65135. (a) The release of mitigation credits for use, sale, or transfer under a
14 mitigation credit agreement shall require the department's approval in accordance
15 with this section.

16 (b) The release of mitigation credits shall be tied to performance-based
17 milestones and achievement of ecological performance standards. The credit
18 release schedule for each mitigation credit agreement shall reserve a substantial
19 share of the total credits for release after those ecological performance standards
20 are fully achieved.

21 (c) Performance-based milestones shall include, but are not be limited to, the
22 following:

23 (1) Recording a conservation easement consistent with approved natural
24 community conservation plans within the area of the applicable regional
25 conservation investment strategy on the site of a conservation action, or putting
26 into place measures that ensure the long-term durability of a habitat enhancement
27 action in accordance with Section 65115.

28 (2) Completing construction of a habitat restoration action.

29 (3) Achieving temporal ecological performance standards for habitat restoration,
30 such as standards established for one year, three years, or five years following the
31 initiation of habitat restoration.

32 (4) Fully achieving ecological performance standards.

33 (5) The terms of the credit release schedule shall be specified in the mitigation
34 credit agreement. When conservation actions and habitat enhancement actions are
35 implemented and meet the performance-based milestones specified in the credit
36 release schedule, credits shall be created in accordance with the credit release
37 schedule. If a conservation action or habitat enhancement action does not meet
38 performance-based milestones, the department may suspend the release of credits,
39 reduce the number of credits, or otherwise modify the credit release schedule
40 accordingly.

41 (d) In order for mitigation credits to be released, the person or entity that has
42 entered into a mitigation credit agreement shall demonstrate to the department that

1 the appropriate performance-based milestones for credit release have been met.
2 The department shall determine whether the milestones have been met and the
3 credits may be released.

4 **Comment.** Section 65135 continues former Fish and Game Code Section 1856(g) without
5 substantive change.

6 **§ 65140. Effect on conservation bank or mitigation bank**

7 65140. Nothing in this title is intended to limit or impose additional conditions
8 on the creation or sale of mitigation credits by a conservation bank or mitigation
9 bank approved by the department pursuant to Title 3 (commencing with Section
10 65300).

11 **Comment.** Section 65140 continues former Fish and Game Code Section 1856(i) without
12 substantive change.

13 **§ 65145. Application to natural community conservation plan**

14 65145. (a) The creation of mitigation credits pursuant to this chapter from a
15 conservation action or habitat enhancement action implemented within the plan
16 area of an approved natural community conservation plan shall not duplicate or
17 replace mitigation requirements set forth in the natural community conservation
18 plan and shall require the advance written approval of the plan's implementing
19 entity.

20 (b) Mitigation credits created pursuant to this chapter may be used for covered
21 activities under an approved natural community conservation plan only in
22 accordance with the requirements of the plan.

23 (c) Individuals and entities eligible for coverage as a participating special entity
24 under an approved natural community conservation plan may use mitigation
25 credits created pursuant to this chapter only if the plan's implementing entity
26 declines to extend coverage to the covered activity proposed by the eligible
27 individual or entity.

28 **Comment.** Section 65145 continues former Fish and Game Code Section 1856(j) without
29 substantive change.

30 **§ 65150. Application to Delta water conveyance facilities**

31 65150. Mitigation credits provided by this title shall not be utilized to fund or
32 offset the costs of the design, construction, or mitigation of new Delta water
33 conveyance facilities.

34 **Comment.** Section 65150 continues former Fish and Game Code Section 1855(d) without
35 substantive change.

36 **§ 65155. Internet publication**

37 65155. The department shall make project mitigation credit and release
38 information, including the demonstration submitted pursuant to subdivision (d) of
39 Section 65135, publicly available on the department's Internet Web site.

1 **Comment.** Section 65155 continues former Fish and Game Code Section 1856(k) without
2 substantive change.

3 **TITLE 4. CONSERVATION BANK AND**
4 **MITIGATION BANK APPLICATIONS AND FEES**

5 **CHAPTER 1. GENERAL PROVISIONS**

6 **Article 1. Findings and Declarations**

7 **§ 65300. Findings and declarations**

8 65300. The Legislature finds and declares as follows:

9 (a) Mitigation banks and conservation banks provide for the conservation of
10 important habitats and habitat linkages, take advantage of economies of scale that
11 are often not available to individualized mitigation projects, and simplify the state
12 regulatory compliance process while achieving conservation goals.

13 (b) The department authorizes the establishment of private and public
14 conservation and mitigation banks that can provide viable consolidated mitigation
15 for adverse impacts caused by projects. Banks sell habitat or species credits to
16 project proponents having mitigation responsibilities that require compensation for
17 impacts to wetlands, threatened or endangered species, and other sensitive
18 resources. The state policy on conservation banks was established in 1995 by the
19 Natural Resources Agency and the California Environmental Protection Agency.

20 (c) In 2011, the department and other state and federal agencies, including the
21 United States Fish and Wildlife Service, the National Marine Fisheries Service,
22 the United States Army Corps of Engineers, and the United States Environmental
23 Protection Agency, renewed a memorandum of understanding for the purpose of
24 jointly establishing a framework for developing and using combined or
25 coordinated approaches to mitigation and conservation banking in the state. The
26 memorandum of understanding includes provisions for the development and
27 continuous improvement of standardized banking program documents and
28 guidance. Existing standardized documents identified in the memorandum of
29 understanding include bank enabling instruments, conservation easements, long-
30 term management plans, and bank proposal review checklists, among others.

31 (d) The department has properly excluded from being eligible as mitigation and
32 conservation banks those lands that are not suitable to become banks, for reasons
33 that include that the lands do not support significant biological resources or are not
34 biologically viable, are subject to potentially inconsistent uses, encumbrances, or
35 requirements, or would not meet requirements of permits or authorizations that
36 require mitigation.

37 (e) Greater transparency is desired to ensure that mitigation requirements of
38 regulatory programs, permits, and authorizations are fully met when employing

1 conservation and mitigation banks, and that the monitoring of banks to ensure
2 long-term conservation of species and habitats is scientifically valid.

3 (f) The private and public mitigation and conservation banks and the private and
4 public entities to which bank credits are sold should fully fund the administrative
5 and regulatory costs of the department in providing banking program services,
6 administration and oversight.

7 (g) The department has found that the establishment and use of conservation and
8 mitigation banks may result in added ecological benefits and reduced
9 administrative costs over the more traditional forms of smaller, single-purpose
10 mitigation projects.

11 (h) It is the intent of the Legislature that banking and all other forms of
12 mitigation for wildlife species comply with regulatory requirements, are based on
13 the best available scientific information, can be implemented successfully, and
14 have adequate funding to achieve mitigation measures and be monitored for
15 compliance and effectiveness. The Legislature recognizes that mitigation and
16 conservation banking is important to the state because banks provide regulatory
17 efficiencies, environmental benefits, and economic advantages. Properly
18 developed and monitored banks have demonstrated their value and efficacy and
19 are important tools in mitigating impacts to resources and in conserving a wide
20 range of habitat lands.

21 **Comment.** Section 65300 continues former Fish and Game Code Section 1797 without
22 substantive change.

23 Article 2. Definitions

24 § 65305. Application

25 65305. The definitions in this article govern this title.

26 **Comment.** Section 65305 restates the introductory clause of former Fish and Game Code
27 Section 1797.5 without substantive change.

28 § 65310. Bank

29 65310. “Bank” means a conservation bank, mitigation bank, or conservation and
30 mitigation bank.

31 **Comment.** Section 65310 continues former Fish and Game Code Section 1797.5(a) without
32 substantive change.

33 § 65315. Bank enabling instrument

34 65315. “Bank enabling instrument” means a written agreement with the
35 department regarding the establishment, use, operation, and maintenance of the
36 bank.

37 **Comment.** Section 65315 continues former Fish and Game Code Section 1797.5(b) without
38 substantive change.

1 **§ 65320. Bank sponsor**

2 65320. “Bank sponsor” means the person or entity responsible for establishing
3 and operating a bank.

4 **Comment.** Section 65320 continues former Fish and Game Code Section 1797.5(c) without
5 substantive change.

6 **§ 65325. Conservation bank**

7 65325. “Conservation bank” means a publicly or privately owned and operated
8 site that is to be conserved and managed in accordance with a written agreement
9 with the department that includes provisions for the issuance of credits, on which
10 important habitat, including habitat for threatened, endangered, or other special
11 status species, exists, has been, or will be created to do any of the following:

12 (a) Compensate for take or other adverse impacts of activities authorized
13 pursuant to Part 1 (commencing with Section 62000).

14 (b) Reduce adverse impacts to fish or wildlife resources from activities,
15 authorized pursuant to Title 3 (commencing with Section 69700) of Part 4, to less
16 than substantial.

17 (3) Mitigate significant effects on the environment pursuant to the California
18 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
19 Public Resources Code) and Guidelines for Implementation of the California
20 Environmental Quality Act (Chapter 3 (commencing with Section 15000) of
21 Division 6 of Title 14 of the California Code of Regulations).

22 (d) Establish mitigation in advance of any impacts or effects.

23 (e) To the extent feasible and practicable, protect habitat connectivity for fish
24 and wildlife resources for purposes of this article.

25 **Comment.** Section 65325 continues former Fish and Game Code Section 1797.5(d) without
26 substantive change.

27 **§ 65330. Conservation easement**

28 65330. “Conservation easement” means a perpetual conservation easement, as
29 defined by Section 815.1 of the Civil Code, covering the real property that
30 comprises the bank site.

31 **Comment.** Section 65330 continues former Fish and Game Code Section 1797.5(e) without
32 substantive change.

33 **§ 65335. Mitigation bank**

34 65335. “Mitigation bank” means either of the following:

35 (a) A bank site or mitigation bank site as defined by Section 65855.

36 (b) Any publicly or privately owned and operated site, other than those defined
37 by Section 65855, on which wetlands exist, have been, or will be created, and that
38 is to be conserved and managed in accordance with a written agreement with the
39 department for any of the purposes described in subdivisions (a) to (d), inclusive,
40 of Section 65325.

1 proposed concept and notify the person who submitted the draft prospectus of
2 potential issues identified by the department.

3 **Comment.** Section 65450 continues former Fish and Game Code Section 1798(a) without
4 substantive change.

5 **§ 65455. Submission**

6 65455. (a) Any person seeking to establish a bank with the department shall
7 submit a bank prospectus to the department together with a prospectus review fee
8 of ten thousand dollars (\$10,000) to fund the reasonable cost of the department's
9 review services.

10 (b) If a draft prospectus and the review fee have been submitted pursuant to
11 Section 65450, then the review fee for the bank prospectus shall be eight thousand
12 five hundred dollars (\$8,500) so as not to exceed a total fee of ten thousand dollars
13 (\$10,000).

14 (c) The bank prospectus shall contain at least all of the following information:

15 (1) The proposed bank name.

16 (2) Contact information, including, but not limited to, the bank sponsor, property
17 owner, and any consultants.

18 (3) A general location map, address, and the size of the proposed bank in acres.

19 (4) A 7.5-minute United States Geological Survey map showing proposed
20 boundaries of the bank.

21 (5) Color aerial photographs that reflect current conditions on the site of the
22 proposed bank and surrounding properties.

23 (6) Description of how the bank will be established and operated, including, but
24 not limited to, proposed ownership arrangements, long-term management strategy,
25 and any phases.

26 (7) Qualifications of bank sponsor.

27 (8) Preliminary natural resources surveys that document biotic and abiotic
28 baseline conditions, including past, current, and adjacent land uses, vegetation
29 types, species information, topography, hydrology, and soil types.

30 (9) Map of proposed bank service areas.

31 (10) Map depicting other conserved lands in the vicinity of the proposed bank.

32 (11) Description of bank objectives that includes how the proposed bank would
33 contribute to connectivity and ecosystem function.

34 (12) A current preliminary report covering the site of the proposed bank that
35 identifies the owner of the fee simple title and shows all liens, easements, and
36 other encumbrances and depicts all relevant property lines, easements, dedications,
37 and other features.

38 (13) A declaration of whether or not the proposed bank site has been or is being
39 used as mitigation, is designated or dedicated for park or open space use, or
40 designated for purposes that may be inconsistent with habitat preservation.

41 (14) Details of any public funding received for acquisition or restoration of, or
42 other purposes related to, the proposed bank site.

1 **Comment.** Section 65455 continues former Fish and Game Code Section 1798(b) without
2 substantive change.

3 **§ 65460. Review**

4 65460. (a) No later than 30 calendar days after the department receives a bank
5 prospectus and the prospectus review fee, the department shall determine whether
6 or not the prospectus is complete and provide written notice of its determination to
7 the person who submitted the prospectus.

8 (b) If a prospectus is not complete, it may be made complete and resubmitted.

9 (c) If the department determines that the prospectus is complete, then within 90
10 calendar days of that determination, the department shall determine whether or not
11 the prospectus is acceptable and notify the person who submitted the prospectus of
12 the determination.

13 (d) The department may request clarifying information during the prospectus
14 review process.

15 **Comment.** Section 65460 continues former Fish and Game Code Section 1798(c)-(d) without
16 substantive change.

17 **§ 65465. Decision**

18 65465. (a) If the department determines that a bank prospectus is acceptable
19 then a bank agreement package may be submitted in accordance with Article 2
20 (commencing with Section 65500).

21 (b) If the department determines that a bank prospectus is not acceptable the
22 department shall state the reasons for the determination. The prospectus may be
23 resubmitted in accordance with Section 65450 if further consideration is desired.
24 Any resubmittal must be accompanied by payment of a new prospectus review
25 fee.

26 **Comment.** Section 65465 continues former Fish and Game Code Section 1798(e) without
27 substantive change.

28 **Note.** Existing Section 1798(e)(2) (proposed Section 65465(b)) provides that, on disapproval
29 of a bank prospectus, the applicant can resubmit for further consideration “in accordance with
30 subdivision (a).” That reference seems odd. Section 1798(a) establishes an *optional* procedure for
31 submission of a *draft* prospectus, for advisory review. By contrast, Section 1798(b) provides the
32 procedure for submission of a *final* bank prospectus, for determinative review. It is not clear why
33 Section 1798(e)(2) would require submission of a draft prospectus, rather than a revised version
34 of a final prospectus. **The Commission invites comment on whether the reference to Section**
35 **1798(a) is erroneous.**

36 **§ 65470. Guidelines**

37 65470. The department may adopt and amend guidelines and criteria for the
38 purposes of this article pursuant to Section 65680.

39 **Comment.** Section 65470 continues former Fish and Game Code Section 1798(f) without
40 substantive change.

Article 2. Bank Agreement Package

§ 65500. Submission

65500. (a) If the department determines that a bank prospectus is acceptable pursuant to Article 1 (commencing with Section 65450), the person seeking to establish the bank may submit a bank agreement package to the department.

(b) Pursuant to Section 65685, the department may adopt and amend guidelines and criteria for the bank agreement package, including, but not limited to, recommended standard forms for bank enabling instruments or long-term management plan and conservation easements.

Comment. Section 65500 continues former Fish and Game Code Section 1798.5(a)(1) without substantive change.

Note. Existing Section 1798.5(a)(1) (proposed Section 65500(b)) provides that the department may adopt guidelines and criteria for a bank package agreement “pursuant to subdivision (b) of Section 1799.1.” That reference appears to be incorrect. Section 1799.1(b) has no obvious connection to the purpose of the cross-reference. It specifies a rule for the deposit of certain fees. However, Section 1799.1(c) does address the adoption of guidelines and criteria. In proposed Section 65500(b), the cross-reference has been changed to refer to the provision that continues Section 1799.1(c) (proposed Section 65685). **The Commission invites comment on whether that change would cause any problems.**

§ 65505. Content

65505. The bank agreement package shall be consistent with the prospectus and contain at least all of the following information:

(a) The draft bank enabling instrument and all exhibits.

(b) Drafts of the interim management plan, long-term management plan, bank closure plan, and, if applicable, a development or construction plan for the bank.

(c) A draft conservation easement, or if potential state ownership is contemplated by the department, a draft grant deed.

(d) A map and written description of the proposed bank service area.

(e) A proposed credit ledger and credit release schedule for the bank.

(f) A property analysis record or other comparable economic analysis of the funding necessary to support bank maintenance activities, such as monitoring and reporting, in perpetuity.

(g) Estimates of financial assurances and proposed forms of security. Proposed forms of security may be either cash or a letter of credit.

(h) A phase I environmental site assessment of the site of the proposed bank dated not more than six months prior to the date the bank agreement package is submitted to the department. This assessment shall be performed in accordance with the American Society of Testing and Materials Standard E1527-05 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process” or any successive ASTM standard active at the time of the assessment.

1 **Comment.** Section 65505 continues former Fish and Game Code Section 1798.5(a)(2) without
2 substantive change.

3 **§ 65510. Fee**

4 65510. The department shall collect a fee of twenty-five thousand dollars
5 (\$25,000) per bank agreement package to fund the cost of the department’s review
6 services. The fee shall be collected at the time the bank agreement package is
7 submitted to the department.

8 **Comment.** Section 65510 continues former Fish and Game Code Section 1798.5(b) without
9 substantive change.

10 **§ 65515. Review**

11 65515. (a) Within 30 calendar days following the department’s receipt of a bank
12 agreement package and fee pursuant to Section 65500, the department shall
13 determine whether or not the package is complete and give written notice of the
14 determination to the person who submitted the package.

15 (b) If the department determines that the bank agreement package is not
16 complete, it may be made complete and resubmitted.

17 (c) If the department determines that the bank agreement package is complete,
18 within 90 calendar days of that determination, the department shall determine
19 whether or not it is acceptable and notify the person who submitted the package of
20 the determination. If the department determines that the bank agreement package
21 is not acceptable, the department shall state the reasons.

22 (d) The department may request clarifying information during the bank
23 agreement review process.

24 **Comment.** Section 65515 continues former Fish and Game Code Section 1798.5(c)-(d)
25 without substantive change.

26 **§ 65520. Request for supplemental information**

27 65520. (a) If the department needs supplemental information during its review
28 of the bank agreement package in order to fully evaluate the proposed bank, the
29 regional manager or departmental equivalent, or a higher level department
30 employee, shall provide the person seeking to establish the bank a written request
31 for the needed information.

32 (b) Upon the department’s receipt of the requested information, a new 90-day
33 period shall begin during which the department shall determine acceptability
34 pursuant to subdivision (c) of Section 65515.

35 (c) If the department does not receive the requested information within 60
36 calendar days of the department’s request, the bank agreement package will be
37 deemed unacceptable.

38 **Comment.** Section 65520 continues former Fish and Game Code Section 1798.5(e) without
39 substantive change.

1 any documents proposed to be amended or that would be affected by the proposed
2 amendment.

3 (b) The department may adopt and amend guidelines and criteria for the bank
4 amendment package pursuant to Section 65685.

5 **Comment.** Section 65550 continues former Fish and Game Code Section 1798.6(a) without
6 substantive change.

7 **Note.** Existing Section 1798.6(a) (proposed Section 65550(b)) provides that the department
8 may adopt guidelines and criteria for a bank amendment package “pursuant to subdivision (b) of
9 Section 1799.1.” That reference appears to be incorrect. Section 1799.1(b) has no obvious
10 connection to the purpose of the cross-reference. It specifies a rule for the deposit of certain fees.
11 However, Section 1799.1(c) does address the adoption of guidelines and criteria. In proposed
12 Section 65550(b), the cross-reference has been changed to refer to the provision that continues
13 Section 1799.1(c) (proposed Section 65685). **The Commission invites comment on whether**
14 **that change would cause any problems.**

15 **§ 65555. Review**

16 65555. (a) Within 30 calendar days following its receipt of a draft bank
17 amendment package and any fee required by Sections 65560 and 65565, the
18 department shall determine whether or not the package is complete and give
19 written notice of that determination to the person who submitted the package.

20 (b) If the department determines that the bank amendment package is complete,
21 then within 90 calendar days of that determination, the department shall determine
22 whether or not the package is acceptable and notify the person who submitted the
23 package of that determination.

24 (c) If the bank amendment package is determined not to be acceptable, the
25 determination shall state the reasons.

26 (d) The department may request clarifying information during the bank
27 amendment review process.

28 **Comment.** Section 65555 continues the first four sentences of former Fish and Game Code
29 Section 1798.6(b) without substantive change.

30 **§ 65560. Fee amount**

31 65560. (a) The department shall collect a fee of either seven thousand five
32 hundred dollars (\$7,500) or twenty-five thousand dollars (\$25,000) per bank
33 amendment package to fund the reasonable cost of the department’s review
34 services.

35 (b) The fee of seven thousand five hundred dollars (\$7,500) is intended to cover
36 the reasonable cost of the department’s services in reviewing simple amendments,
37 such as a change in bank name, ownership change, address change, or proposed
38 decrease in the number of credits proposed.

39 (c) The fee of twenty-five thousand dollars (\$25,000) is intended to cover the
40 reasonable cost of the department’s services in reviewing all other amendments,
41 including, but not limited to, requests for increase change in service area, or
42 increase in the number of credits.

1 (d) A regional manager or department equivalent, or a higher level department
2 representative employee, shall determine which of the two fees is appropriate and
3 shall provide notification of that determination to the person who submitted the
4 request for bank amendment package pursuant to subdivisions (b) through (d),
5 inclusive, of Section 65565.

6 **Comment.** Section 65560 continues former Fish and Game Code Section 1798.6(c)(1) without
7 substantive change.

8 **§ 65565. Payment of fee**

9 65565. (a) An initial fee of seven thousand five hundred dollars (\$7,500) shall
10 be submitted to the department with the bank amendment package.

11 (b) Within 30 calendar days following the department's receipt of a bank
12 amendment package and the initial fee, pursuant to subdivision (a), the department
13 shall determine whether or not the package is complete and give written notice of
14 the determination to the person who submitted it and, if applicable, notice pursuant
15 to Section 65560 that the person shall remit an additional fee of seventeen
16 thousand five hundred dollars (\$17,500).

17 (c) If noticed by the department, the additional fee of seventeen thousand five
18 hundred dollars (\$17,500) shall be submitted to the department within 30 days of
19 the notice.

20 (d) If the additional fee is not received by this date, the review timelines in this
21 article shall be suspended until the fee is received by the department.

22 **Comment.** Section 65565 continues former Fish and Game Code Section 1798.6(c)(2)-(3)
23 without substantive change.

24 **§ 65570. Decision**

25 65570. (a) If the department determines that the bank amendment package is not
26 complete, the package may be made complete and resubmitted.

27 (b) If the department determines that the bank amendment package is complete,
28 then within 90 calendar days of that determination and the receipt of the additional
29 fee pursuant to subdivisions (b) through (d), inclusive, of Section 65565, if
30 applicable, the department shall determine whether or not the bank amendment
31 package is acceptable and notify the person who submitted the package of the
32 determination.

33 (c) If the department determines that the bank amendment package is not
34 acceptable the determination shall state the reasons.

35 (d) The department may request clarifying information during the bank
36 amendment review process.

37 **Comment.** Section 65570 continues former Fish and Game Code Section 1798.6(c)(4) & (d)
38 without substantive change.

1 **§ 65575. Request for supplemental information**

2 65575. (a) If the department needs supplemental information during its review
3 of the bank amendment package in order to fully evaluate the proposed
4 amendment, the regional manager or department equivalent, or a higher level
5 department employee, shall provide the person seeking to amend the bank, in
6 writing, a written request for the needed information.

7 (b) Upon the department's receipt of the requested information, a new 90-day
8 period shall begin during which the department will determine acceptability
9 pursuant to subdivisions (a) and (b) of Section 65570.

10 (c) If the department does not receive the requested information within 60
11 calendar days of the department's request, the bank amendment package shall be
12 deemed unacceptable.

13 **Comment.** Section 65575 continues former Fish and Game Code Section 1798.6(e) without
14 substantive change.

15 **§ 65580. Changes proposed by applicant during review**

16 65580. (a) If the person seeking to amend the bank proposes changes to the bank
17 amendment package that have not been solicited by the department during its the
18 department's 90-day review period, including, but not limited to, parties, number
19 or type of credits, bank size, number or type of species, credit release schedule,
20 service area, design change, or other changes as identified by the department to
21 require additional review time, the department, acting through the regional
22 manager or department equivalent, or a higher level department employee, shall
23 assess a one-time fee of ten thousand dollars (\$10,000) to cover the reasonable
24 cost of the department's services in reviewing the changes.

25 (b) A new 90-day review period shall begin upon receipt of the proposed
26 changes and the fee, during which the department shall determine acceptability
27 pursuant to subdivisions (a) and (b) of Section 65570.

28 **Comment.** Section 65580 continues former Fish and Game Code Section 1798.6(f) without
29 substantive change.

30 **§ 65585. Extension of time**

31 65585. The department may extend the 90-day period for reviewing the bank
32 amendment package by an additional 60 days if the department determines that 90
33 days is insufficient time to complete its review of a bank amendment package for
34 reasons that may include, but are not limited to, the size, location, or complexity of
35 the bank or bank amendment documents, that the package includes a development
36 plan, or that there are substantial variations from recommended standard forms.

37 **Comment.** Section 65585 continues the fifth sentence of former Fish and Game Code Section
38 1798.6(b) without substantive change.

39 **Note:** Existing Section 1798.6(b) (proposed Section 65585) seems to substantially duplicate
40 Section 1798.6(g) (proposed Section 65590). **The Commission invites comment on whether**
41 **one of those provisions can be deleted as redundant.**

1 (c) The available information shall include, but is not limited to, the total
2 number of each type of bank credit, the types of credits sold or obligated, the
3 number of credits sold or obligated, the number of credits applied, the balance of
4 each type of credit remaining, the status of the species and habitat at the bank,
5 links to the bank’s long-term management plans, and links to the complete annual
6 monitoring reports required by departmental policy.

7 (d) Information contained in the database created pursuant to former Title 2
8 (commencing with Section 64700) on January 1, 2011, shall be incorporated into
9 the database established pursuant to subdivision (a).

10 **Comment.** Section 65660 continues former Fish and Game Code Section 1799(c) without
11 substantive change.

12 **§ 65665. Annual report**

13 65665. (a) By January 1, 2014, and annually thereafter, the department shall
14 provide a report to the Legislature.

15 (b) The report shall include the following information based on data from the
16 previous calendar year:

17 (1) Number of new bank applications, prospectuses, bank agreement packages,
18 and amendments received.

19 (2) Number of bank applications approved, rejected because not complete,
20 rejected because not acceptable, and withdrawn.

21 (3) Name of new or existing bank, geographic location, number of acres,
22 number of credits approved for each habitat type or species, and number of credits
23 sold.

24 (4) An accounting of fees collected pursuant to this title.

25 (5) A statement of whether or not the timelines for bank review in this title were
26 met.

27 (6) Other information determined by the department to be relevant in assessing
28 the effectiveness of the department’s mitigation and conservation banking
29 program.

30 **Comment.** Section 65665 continues former Fish and Game Code Section 1799(d) without
31 substantive change.

32 **§ 65670. Implementation and compliance fees**

33 65670. (a) The department shall collect fees to pay for all or a portion of the
34 department’s bank implementation and compliance costs.

35 (b) The department shall collect a total payment of sixty thousand (\$60,000) per
36 bank, apportioned by an amount that equals the ratio of the number of credits
37 released to the total number of credits in the bank, and shall be identified in the
38 bank enabling instrument.

39 (c) Payments shall be due following each credit release no later than the due date
40 for the submission of the bank’s annual report. The payments shall be submitted

1 following each credit release and no later than the time of the submission of the
2 bank's annual report.

3 (d) The department may require the bank to cease selling credits and may stop
4 credit releases until these fees are paid in full.

5 (e) The department shall assess a penalty of 10 percent of the amount of fees due
6 if there is a failure to remit the amount payable when due.

7 **Comment.** Section 65670 continues former Fish and Game Code Section 1799(e) without
8 substantive change.

9 **§ 65675. Fee adjustment**

10 65675. The department shall annually adjust the fees in this title pursuant to
11 Section 3755.

12 **Comment.** Section 65675 continues former Fish and Game Code Section 1799.1(a) without
13 substantive change.

14 **§ 65680. Deposit of fees**

15 65680. Moneys received pursuant to this title shall be deposited in a separate
16 dedicated account within the Fish and Game Preservation Fund and expended for
17 the purposes of this title.

18 **Comment.** Section 65680 continues former Fish and Game Code Section 1799.1(b) without
19 substantive change.

20 **§ 65685. Guidelines**

21 65685. (a) The department shall adopt and amend guidelines and criteria to
22 implement this title.

23 (b) The department shall develop these guidelines and criteria in coordination
24 with interested parties, including, but not limited to, bank sponsors, conservation
25 organizations, and federal and state bank approving agencies. The guidelines shall
26 incorporate all relevant documents and program guidance, including, but not
27 limited to, the 2011 Memorandum of Understanding approved by the United
28 States Fish and Wildlife Service, the United States Army Corps of Engineers, and
29 the United States Environmental Protection Agency, for the purpose of jointly
30 establishing a framework for developing and using combined or coordinated
31 approaches to mitigation and conservation banking in California. Chapter 3.5
32 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
33 Government Code shall not apply to the development, adoption, or amendment, of
34 guidelines or criteria pursuant to this section. The guidelines and criteria shall be
35 posted on the department's Internet Web site.

36 **Comment.** Section 65685 continues former Fish and Game Code Section 1799.1(c) without
37 substantive change.

38 **§ 65690. Reimbursement of costs**

39 65690. The costs of a conservation and mitigation banking program, including,
40 but not limited to, costs incurred by the department during its guideline adoption

1 and review, approval, establishment, monitoring, and oversight of banks, shall be
2 reimbursed from revenues of conservation and mitigation bank application fees
3 imposed pursuant to this title.

4 **Comment.** Section 65690 continues former Fish and Game Code Section 1799.1(d) without
5 substantive change.

6 **Note.** Existing Section 1799.1(d) refers to fees imposed pursuant to Sections 1798.5, 1798.6,
7 and 1799. Proposed Section 65690 simplifies this reference, referring instead to fees imposed
8 pursuant to “this title.” **The Commission does not believe that this would result in any**
9 **substantive change, but invites comment on that point.**

10 TITLE 5. SACRAMENTO-SAN JOAQUIN
11 VALLEY WETLANDS MITIGATION BANK ACT
12 OF 1993

13 CHAPTER 1. GENERAL PROVISIONS

14 Article 1. Short Title

15 § 65800. Short title

16 65800. This title shall be known and may be cited as the Sacramento-San
17 Joaquin Valley Wetlands Mitigation Bank Act of 1993.

18 **Comment.** Section 65800 continues former Fish and Game Code Section 1775 without
19 substantive change.

20 Article 2. Findings, Declarations, and Intent

21 § 65805. Findings and declarations

22 65805. The Legislature finds and declares the following:

23 (a) Wetlands are an important natural resource of the Sacramento-San Joaquin
24 Valley because they provide significant habitat for migratory waterfowl of the
25 Pacific flyway, for endangered species, and for many other resident wildlife and
26 fish populations. Wetlands provide additional public benefits, including water
27 quality improvement, flood protection, stream bank stabilization, recreation, and
28 scientific research.

29 (b) Active and voluntary involvement by private landowners is necessary for the
30 long-term availability and productivity of wetlands in the Sacramento-San Joaquin
31 Valley.

32 (c) Large wetland preserves in the Sacramento-San Joaquin Valley, under
33 certain circumstances, can provide an environmentally preferable alternative to a
34 number of small, isolated wetland preserves of the same type surrounded by urban
35 development.

1 (d) It is the policy of the state with respect to the Sacramento-San Joaquin
2 Valley:

3 (1) To provide for the protection, preservation, restoration, enhancement, and
4 expansion of the wetland habitat in the Sacramento-San Joaquin Valley.

5 (2) To promote the protection, preservation, restoration, enhancement, and
6 expansion of the Sacramento-San Joaquin Valley wetlands in concert with other
7 federal, state, and local programs, and interested parties.

8 (3) To improve cooperative efforts among private, nonprofit, and public entities
9 for the management and protection of wetlands.

10 (4) To assure that no net loss of either wetland acreage or habitat values results
11 from activities pursuant to this title in the Sacramento-San Joaquin Valley that
12 otherwise comply with state and federal law.

13 (5) To encourage and maintain a predictable, efficient, and timely regulatory
14 framework for environmentally acceptable development.

15 (6) To assure that the construction or maintenance of wetland mitigation banks
16 in the Sacramento-San Joaquin Valley does not reduce any local tax base, does not
17 create any uncompensated increased requirement for local services, and does not
18 create conditions that have the potential to adversely affect the public health.

19 (7) To provide an alternative for accomplishing offsite mitigation in the
20 Sacramento-San Joaquin Valley when offsite mitigation is required under a fill
21 permit issued pursuant to Section 404 of the federal Clean Water Act (33 U.S.C.
22 Sec. 1344 et seq.).

23 (e) This title constitutes a nonexclusive alternative to other lawful methods of
24 mitigating project impacts upon wetlands and maintaining and increasing wetlands
25 acreage and habitat values generally. Specifically, this title is not intended to, and
26 shall not be interpreted to:

27 (1) Condone or encourage the removal, loss, or degradation of wetlands.

28 (2) Condone or encourage the removal, loss, or degradation of habitat for any
29 rare, threatened, or endangered species.

30 (3) Abrogate any other local, state, or federal law or policy relating to wetlands,
31 nor prohibit any city or county from prohibiting the removal, filling, or other
32 destruction of particular wetlands.

33 (4) Establish maximum or minimum standards or any other requirements for
34 wetland fill or mitigation, except for mitigation banks established pursuant to this
35 title.

36 (5) Have legal or necessary precedential application to any other area of the
37 state, or to other lands, resources, situations, or circumstances.

38 (6) Preclude other forms of mitigation banking, including private or for-profit
39 programs, within the Sacramento-San Joaquin Valley.

40 (7) Be the exclusive method of providing compensation by permittees for the
41 loss of wetlands within the Sacramento-San Joaquin Valley.

42 **Comment.** Section 65805 continues former Fish and Game Code Section 1776 without
43 substantive change.

1 **Comment.** Section 65860 continues former Fish and Game Code Section 1777.5 without
2 substantive change.

3 **§ 65865. Operator**

4 65865. “Operator” means the department, or a public or private person or entity
5 approved by the department, to administer a wetlands mitigation bank site.

6 **Comment.** Section 65865 continues former Fish and Game Code Section 1778 without
7 substantive change.

8 **§ 65870. Permittee**

9 65870. “Permittee” means a public or private person or entity that meets all of
10 the following conditions:

11 (a) Has received a permit pursuant to Section 404 of the federal Clean Water Act
12 (33 U.S.C. Sec. 1344 et seq.) for the removal or filling of wetlands, subject to a
13 condition that allows the permittee to compensate for the wetland loss through
14 participation in a wetland mitigation bank pursuant to this title.

15 (b) Proposes to compensate for the loss of the wetlands through participation in
16 a wetlands mitigation bank pursuant to this title.

17 (c) Proposes the discharge at a site within a qualifying urban area and not more
18 than 40 miles from a bank site with sufficient acreage of the same types of
19 wetlands that will provide suitable replacement habitat for the values that may be
20 lost from the conversion of the existing wetlands.

21 **Comment.** Section 65870 continues former Fish and Game Code Section 1778.5 without
22 substantive change.

23 **§ 65875. Qualifying urban area**

24 65875. “Qualifying urban area” means any of the following when they occur
25 within the Sacramento-San Joaquin Valley:

26 (a) A geographical area having a population of 50,000 or more inhabitants
27 within the jurisdiction of a city, or a town, as defined by Sections 20 and 21 of the
28 Government Code.

29 (b) A portion of any geographical area within a town, as defined in Section 21 of
30 the Government Code, which has a population density equal to, or exceeding,
31 1,500 persons per square mile and which has a population of 50,000 or more
32 inhabitants.

33 (c) A geographical area having a population density equal to, or exceeding,
34 1,500 persons per square mile, and an adjacent city, as defined in Section 20 of the
35 Government Code, where the combined population of the geographical area and
36 the city equals 50,000 or more inhabitants.

37 (d) A geographical area within the sphere of influence of a city or community
38 services district for which the projected population of the adopted general plan
39 equals 10,000 or more inhabitants.

40 **Comment.** Section 65875 continues former Fish and Game Code Section 1779 without
41 substantive change.

1 **§ 65880. Sacramento-San Joaquin Valley**

2 65880. “Sacramento-San Joaquin Valley” means the central valley region, as
3 defined in subdivision (g) of Section 13200 of the Water Code.

4 **Comment.** Section 65880 continues former Fish and Game Code Section 1779.5 without
5 substantive change.

6 **CHAPTER 2. WETLANDS MITIGATION BANKS**

7 **§ 65950. Standards and criteria**

8 65950. (a) The department, in cooperation with those agencies specified in
9 65970, shall adopt regulations that establish standards and criteria for the bank site
10 qualification process, for the evaluation of wetland habitat acreage and values
11 created at the bank sites, and for the operation and evaluation of bank sites, and
12 any other regulations that are necessary to implement this title.

13 (b) These criteria shall require, at a minimum, that the newly created wetland
14 provide the hydrologic, vegetative, and wildlife characteristics, including the food
15 web components, of a naturally occurring wetland system that is equal to the site
16 being mitigated.

17 (c) With respect to bank site standards and operator qualifications, the
18 department shall consider, at a minimum, all of the following criteria:

19 (1) A requirement that the bank site have a reliable, adequate, and available
20 water supply necessary to provide wetland values. For wetlands dependent only on
21 rainfall, rainfall satisfies this requirement.

22 (2) The relative ease or difficulty of converting uplands into wetlands at the
23 bank site.

24 (3) The anticipated maintenance necessary to sustain the recreated and created
25 wetlands at the bank site.

26 (4) The proximity of the bank site to other established preserves or natural
27 features historically associated with abundant wildlife values.

28 (5) The proximity of the bank site to urban or populated areas that could reduce
29 the bank site’s long-term biological values.

30 (6) The demonstrated ability of the bank site operator to create, administer,
31 maintain, and protect the bank site in perpetuity in its enhanced state, including
32 financial, technical, and management ability.

33 (7) The relative abundance or scarcity of the wetland type to be created at the
34 bank site.

35 **Comment.** Section 65950 continues former Fish and Game Code Section 1784(a)-(b) without
36 substantive change.

37 **§ 65955. Ricelands**

38 65955. (a) A bank site or mitigation bank site may include any lands on which
39 rice is grown as long as those lands are managed as ricelands with the required

1 enhanced wetland values if they otherwise qualify under this title and either of the
2 following conditions exist:

3 (1) The lands are lands on which rice was grown after January 1, 1996. For
4 purposes of this paragraph, to qualify as new wetland values, rice shall not have
5 been grown on the lands for 10 years before the application is submitted pursuant
6 to Section 65960.

7 (2) The lands are lands on which rice was grown before January 1, 1996. These
8 lands shall qualify only if there is an increase in wetland habitat value that is equal
9 to the site being mitigated. For purposes of this paragraph, a wetland value shall
10 only be provided for lands on which rice was grown that are proposed for wetlands
11 mitigation for the period when that land is flooded between the harvesting of rice
12 and the planting of the next crop. This paragraph shall apply only to lands that
13 were not flooded after harvest between January 1, 1982, and January 1, 1992.

14 (b) Any mitigation site established pursuant to subdivision (a) may be replaced
15 by a new site of an equal wetland value.

16 (c) This section and Section 65950 shall not be construed to permit waters used
17 to flood rice fields in order to create wetlands mitigation to be credited as
18 beneficial to wildlife under federal law.

19 **Comment.** Section 65955 continues former Fish and Game Code Section 1784(c)-(e) without
20 substantive change.

21 **§ 65960. Application**

22 65960. If any person desires to establish a wetlands mitigation bank site under
23 this title, the person shall apply to the department for a determination that the bank
24 site and the operator qualify under the criteria established by the department
25 pursuant to this title.

26 **Comment.** Section 65960 continues the first sentence of former Fish and Game Code Section
27 1785 without substantive change.

28 **§ 65965. Determination is “project”**

29 65965. A determination that a bank site qualifies under this title is a project for
30 purposes of Section 21065 of the Public Resources Code.

31 **Comment.** Section 65965 continues the second sentence of former Fish and Game Code
32 Section 1785 without substantive change.

33 **§ 65970. Memorandum of understanding requirement**

34 65970. (a) Before any wetlands are created on the bank site qualified pursuant to
35 Section 65960, the department shall coordinate and shall be a signatory to a
36 memorandum of understanding with the operator.

37 (b) The United States Environmental Protection Agency, the United States
38 Army Corps of Engineers, the Fish and Wildlife Service of the United States
39 Department of the Interior, the Central Valley Regional Water Quality Control
40 Board, and the State Department of Health Services or its designee, or any of

1 them, may be signatories by indicating to the department their interest in
2 participating within 90 days of being notified by the department of the
3 department’s intent to initiate the procedures described in this section and Section
4 69575.

5 (c) Any county located in whole or in part in the Sacramento-San Joaquin
6 Valley may, by ordinance, require that it be a signatory to any memorandum of
7 understanding for a bank site to be established within its boundary.

8 **Comment.** Section 65970 continues former Fish and Game Code Section 1786(a) without
9 substantive change.

10 **§ 65975. Content of memorandum of understanding**

11 65975. The memorandum of understanding shall include, but is not limited to,
12 all of the following items:

13 (a) Identification of the mitigation bank site, including the legal property
14 description, acreage, types, and location of existing wetlands within the
15 boundaries of the bank site.

16 (b) An agreement, by each of the governmental agencies in Section 65970, that
17 all new, successfully created wetland acreage shall qualify to be credited against
18 the approved removal or fill of wetlands located in the qualifying urban area and
19 within 40 miles of the bank site and is consistent with the procedures set out in this
20 title.

21 (c) An agreement by the operator to do both of the following:

22 (1) Maintain all wetland habitat within the bank in optimum condition in
23 perpetuity, barring an unforeseen natural catastrophe that precludes the viability of
24 wetlands.

25 (2) Establish a trust or bond in favor of the department that provides sufficient
26 funds to ensure administration, protection, operation, and maintenance in
27 perpetuity of the wetland habitat acreage and values at the mitigation bank site if
28 the operator defaults in performing the duties required pursuant to paragraph (1).

29 (d) In the case of privately owned bank sites, identification of the circumstances
30 that would constitute a major breach of the agreement and that would result in
31 either the replacement of the operator, or the passing of title from the owner to the
32 state, or both, including identification of procedures for adequate notice and
33 opportunity for the operator to be heard and to correct any breach.

34 **Comment.** Section 65975 continues former Fish and Game Code Section 1786(b) without
35 substantive change.

36 **§ 65980. Payment to county**

37 65980. (a) If the bank site owner is a public entity, that entity shall pay annually
38 to the county in which the property is located an amount equal to the county taxes
39 levied on the property at the time title to the bank site is transferred to that entity.
40 The public entity shall also pay the assessments levied upon the property by any
41 irrigation, drainage, or reclamation district.

1 (b) Payments under this section shall be made on or before December 10 of each
2 year, except for newly acquired bank sites, for which payments shall be made
3 pursuant to subdivision (c).

4 (c) Payments for newly acquired bank sites shall be made within one year of the
5 date title to the property was transferred to the state, prorated for the balance of the
6 year from the date title was transferred to the 30th day of June following the date
7 title was transferred, and, thereafter, payments shall be made on or before
8 December 10 of each year.

9 **Comment.** Section 65980 continues former Fish and Game Code Section 1787 without
10 substantive change.

11 **CHAPTER 3. WETLANDS**

12 **§ 66050. Creation of wetland or vernal pool**

13 66050. (a) Upon the successful creation of any wetlands of at least 20 acres, or
14 in the case of vernal pools, upon successful creation of vernal pools on a site at
15 least 20 acres in size, the operator may request a determination by the department
16 of the number of acres in the mitigation bank site, and the relative habitat value
17 thereof, that qualify for credit against prospective wetland loss in the qualifying
18 urban area.

19 (b) In determining the amount of mitigation bank credit, no credit shall be
20 provided for habitat values or acreage that was in existence prior to the
21 establishment of the bank.

22 **Comment.** Section 66050 continues former Fish and Game Code Section 1790 without
23 substantive change.

24 **§ 66055. Determination and classification of wetlands**

25 66055. (a) Upon receipt of a request pursuant to Section 66050, the department
26 shall determine the number of acres that are wetlands in the bank site based on the
27 criteria established pursuant to Sections 65950 and 69555, and the department
28 shall classify those wetlands according to established biological criteria.

29 (b) The classifications shall include, but are not limited to, the following wetland
30 types:

- 31 (1) Perennial freshwater marsh.
- 32 (2) Perennial brackish marsh.
- 33 (3) Seasonal freshwater marsh.
- 34 (4) Wet meadow.
- 35 (5) Vernal pool.
- 36 (6) Riparian woodland.
- 37 (7) Riparian scrub.

38 **Comment.** Section 66055 continues former Fish and Game Code Section 1791 without
39 substantive change.

1 **Comment.** Section 66200 continues former Fish and Game Code Section 711.4(a)-(b) without
2 substantive change.

3 **§ 66205. CEQA filing fee**

4 66205. (a) All project applicants and public agencies subject to the California
5 Environmental Quality Act shall pay a filing fee for each proposed project, as
6 specified in Section 66215.

7 (b) Filing fees shall be paid at the time and in the amount specified in Section
8 66215.

9 (c) Notwithstanding Sections 21080.5 and 21081 of the Public Resources Code,
10 a project shall not be operative, vested, or final, and local government permits for
11 the project shall not be valid, until the filing fees required pursuant to this article
12 are paid.

13 **Comment.** Section 66205 continues former Fish and Game Code Section 711.4(c)(1) & (3)
14 without substantive change.

15 **§ 66210. Exceptions to CEQA filing fee**

16 66210. Notwithstanding subdivision (a) of Section 66205, a filing fee shall not
17 be paid pursuant to this article if any of the following conditions exist:

18 (a) The project has no effect on fish and wildlife.

19 (b) The project is being undertaken by the department.

20 (c) The project costs are payable by the department from any of the following
21 sources that are held by the department:

22 (1) The Public Resources Account in the Cigarette and Tobacco Products Surtax
23 Fund.

24 (2) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

25 (3) The Habitat Conservation Fund.

26 (4) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

27 (5) The Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game
28 Preservation Fund.

29 **(6) Striped bass stamp funds collected pursuant to Section 7360.**

30 (7) The California Ocean Resource Enhancement Account.

31 (d) The project is implemented by the department through a contract with either
32 a nonprofit entity or a local government agency.

33 **Comment.** Section 66210 continues former Fish and Game Code Section 711.4(c)(2) without
34 substantive change.

35 **Note.** Existing Section 711.4(c)(2) refers to “striped bass stamp funds collected pursuant to
36 Section 7360.” Section 7360 was repealed in 2010. See 2009 Cal. Stat. ch. 381. The reference is
37 continued in bold in proposed Section 66210(c)(6). **The Commission invites comment on how**
38 **to correct the erroneous reference.** Should it be repealed as obsolete? Replaced with a reference
39 to the “former” section?

40 **§ 66215. Fee amount**

41 66215. The fees shall be in the following amounts:

1 (a) For a project that is statutorily or categorically exempt from the California
2 Environmental Quality Act, including those certified regulatory programs that
3 incorporate statutory and categorical exemptions, a filing fee shall not be paid.

4 (b) For a project for which a negative declaration is prepared pursuant to
5 subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is
6 one thousand eight hundred dollars (\$1,800). A local agency collecting the filing
7 fee shall remit the fee to the county clerk at the time of filing a notice of
8 determination pursuant to Section 21152 of the Public Resources Code. A state
9 agency collecting the filing fee shall remit the fee to the Office of Planning and
10 Research at the time of filing a notice of determination pursuant to Section 21108
11 of the Public Resources Code.

12 (c) For a project with an environmental impact report prepared pursuant to the
13 California Environmental Quality Act, the filing fee is two thousand five hundred
14 dollars (\$2,500). A local agency collecting the filing fee shall remit the fee to the
15 county clerk at the time of filing a notice of determination pursuant to Section
16 21152 of the Public Resources Code. A state agency collecting the filing fee shall
17 remit the fee to the Office of Planning and Research at the time of filing a notice
18 of determination pursuant to Section 21108 of the Public Resources Code.

19 (d) For a project that is subject to a certified regulatory program pursuant to
20 Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty
21 dollars (\$850). The filing fee shall be paid to the department before the filing of
22 the notice of determination pursuant to Section 21080.5 of the Public Resources
23 Code.

24 **Comment.** Section 66215 continues former Fish and Game Code Section 711.4(d) without
25 substantive change.

26 **§ 66220. County clerk**

27 66220. (a) The county clerk may charge a documentary handling fee of fifty
28 dollars (\$50) per filing in addition to the filing fee specified in Section 66215.

29 (b) The county clerk of each county and the Office of Planning and Research
30 shall maintain a record, both electronic and in paper, of all environmental
31 documents received. The record shall include, for each environmental document
32 received, the name of each applicant or lead agency, the document filing number,
33 the project name as approved by the lead agency, and the filing date. The record
34 shall be made available for examination or audit by authorized personnel of the
35 department during normal business hours.

36 **Comment.** Section 66220 continues former Fish and Game Code Section 711.4(e)(1) without
37 substantive change.

38 **§ 66225. Remittance of fee**

39 66225. (a) The filing fee imposed and collected pursuant to Section 66215 shall
40 be remitted monthly to the department within 30 days after the end of each month.
41 The remittance shall be accompanied with the information required pursuant to

1 Section 66220. The amount of fees due shall be reported on forms prescribed and
2 provided by the department.

3 (b) The department shall assess a penalty of 10 percent of the amount of fees
4 due for a failure to remit the amount payable when due. The department may
5 pursue collection of delinquent fees through the Controller’s office pursuant to
6 Section 12419.5 of the Government Code.

7 **Comment.** Section 66225 continues former Fish and Game Code Section 711.4(e)(2)-(3)
8 without substantive change.

9 **§ 66230. Nonpayment**

10 66230. (a) Notwithstanding Section 4400, failure to pay the fee under Section
11 66215 is not a misdemeanor.

12 (b) All unpaid fees are a statutory assessment subject to collection under
13 procedures as provided in the Revenue and Taxation Code.

14 **Comment.** Section 66230 continues former Fish and Game Code Section 711.4(f) without
15 substantive change.

16 **Note.** Existing Section 711.4(f) begins with the disclaimer, “Notwithstanding Section
17 12000...” The only provision of Section 12000 that appears to be relevant to the purpose of that
18 reference is Section 12000(a). Proposed Section 66230 would refer to the section that continues
19 Section 12000(a). **The Commission invites Comment on whether that revision would be**
20 **problematic.**

21 **§ 66235. Number of fees per project**

22 66235. Only one filing fee shall be paid for each project unless the project is
23 tiered or phased, or separate environmental documents are required.

24 **Comment.** Section 66235 continues former Fish and Game Code Section 711.4(g) without
25 substantive change.

26 **§ 66240. Effect on specified department duties**

27 66240. This article does not preclude or modify the duty of the department to
28 recommend, require, permit, or engage in mitigation activities pursuant to the
29 California Environmental Quality Act.

30 **Comment.** Section 66240 continues former Fish and Game Code Section 711.4(h) without
31 substantive change.

32 **§ 66245. Coastal Commission permit process**

33 66245. The permit process of the California Coastal Commission, as certified by
34 the Secretary of the Resources Agency, is exempt from the payment of the filing
35 fees prescribed by subdivision (d) of Section 66215 insofar as the permits are
36 issued under any of the following regulations:

37 (a) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5
38 of Title 14 of the California Code of Regulations.

39 (b) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing
40 with Section 13211), Subchapter 3.5 (commencing with Section 13214),

1 Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing
2 with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter
3 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section
4 13255.0) of Section 66215 14 of the California Code of Regulations.

5 **Comment.** Section 66245 continues former Fish and Game Code Section 711.4(i) without
6 substantive change.

7 **Note.** Existing Section 711.4(i) refers to “Subchapter 3 (commencing with Section 13213).”
8 That appears to be an error. Subchapter 3 begins with Section 13211, not Section 13213.
9 Proposed Section 66245 corrects that error. **The Commission invites comment on whether the**
10 **change would cause any problems.**

11 **§ 66250. Federal agencies**

12 66250. (a) The fish and wildlife resources are held in trust for the people of the
13 state by and through the department.

14 (b) Insofar as state wildlife trust resources exist and depend upon federal
15 proprietary lands or federal land and water adjacent to or affecting state trust
16 resources, all persons engaging in projects or activities under federal license,
17 contract, or permit, to the extent permitted by federal law, shall be governed by
18 this article and shall pay project filing fees unless the payment of state filing and
19 permit fees is explicitly preempted by the authority of the federal agency
20 permitting the use or modification of state trust resources.

21 (c) Insofar as state wildlife trust resources exist and depend upon federal
22 proprietary lands or federal lands and waters adjacent to or affecting state trust
23 resources, all federal agencies acting in their proprietary capacity, to the extent
24 permitted by federal law, shall be governed by this article and Sections 10005 and
25 21089 of the Public Resources Code, unless the payment of state filing and permit
26 fees is explicitly preempted by the authority of a particular federal agency.

27 (d) If a court of competent jurisdiction finds that any provision of this section or
28 the application thereof to any federal agency, person, or circumstances is held
29 invalid, that invalidity shall not affect other provisions or applications of the
30 section which can be given effect without the invalid provision or application, and
31 to this end the provisions of this section are severable.

32 **Comment.** Section 66250 continues former Fish and Game Code Section 711.7 without
33 substantive change.

34 **Note.** To the extent permitted by federal law, existing Section 711.7 provides for the
35 application of “this article” to “all persons engaging in projects or activities under federal license,
36 contract, or permit” and to “all federal agencies acting in their proprietary capacity.” The
37 language of the section strongly suggests that its purpose is to require such persons and agencies
38 to pay state filing and permit fees.

39 Technically, the reference to “this article” has broader application than that. Section 711.7 is
40 included in an article that contains numerous provisions addressing different topics. However,
41 with the exception of Section 711.4, none of those provisions appear to be relevant to the matters
42 addressed by Section 711.7. For that reason, Section 711.7 has been located within an article
43 containing Section 711.4; the references to “this article” have not been changed. Consequently,

1 those references would only encompass Section 711.4. **The Commission believes that this**
2 **would preserve the meaning of the references, without substantive change, but invites**
3 **public comment on that point.**

4 PART 3. POLLUTION

5 TITLE 1. WATER POLLUTION

6 CHAPTER 1. PROHIBITIONS

7 Article 1. Contaminants

8 **§ 66500. Prohibition**

9 66500. Except as provided in Section 66505, it is unlawful to deposit in, permit
10 to pass into, or place where it can pass into the waters of this state any of the
11 following:

12 (a) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or
13 residuary product of petroleum, or carbonaceous material or substance.

14 (b) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery,
15 chemical works, mill, or factory of any kind.

16 (c) Any sawdust, shavings, slabs, or edgings.

17 (d) Any factory refuse, lime, or slag.

18 (e) Any cocculus indicus.

19 (f) Any substance or material deleterious to fish, plant life, mammals, or bird
20 life.

21 **Comment.** Section 66500 continues former Fish and Game Code Section 5650(a) without
22 substantive change.

23 **§ 66505. Exception**

24 66505. This article does not apply to a discharge or a release that is expressly
25 authorized pursuant to, and in compliance with, the terms and conditions of a
26 waste discharge requirement pursuant to Section 13263 of the Water Code or a
27 waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code
28 issued by the State Water Resources Control Board or a regional water quality
29 control board after a public hearing, or that is expressly authorized pursuant to,
30 and in compliance with, the terms and conditions of a federal permit for which the
31 State Water Resources Control Board or a regional water quality control board
32 has, after a public hearing, issued a water quality certification pursuant to Section
33 13160 of the Water Code. This article does not confer additional authority on the
34 State Water Resources Control Board, a regional water quality control board, or
35 any other entity.

36 **Comment.** Section 66505 continues former Fish and Game Code Section 5650(b) without
37 substantive change.

1 (c) This section does not apply to a refuse disposal site that is authorized by the
2 appropriate local agency having jurisdiction or to the depositing of those materials
3 in a container from which the materials are routinely removed to a legal point of
4 disposal.

5 (d) This section shall be enforced by all law enforcement officers of this state.

6 **Comment.** Section 66525 continues former Fish and Game Code Section 5652 without
7 substantive change.

8 CHAPTER 2. ENFORCEMENT

9 Article 1. Civil Action

10 § 66550. Civil penalty for water pollution

11 66550. (a) A person who violates Article 1 (commencing with Section 66500) of
12 Chapter 1 is subject to a civil penalty of not more than twenty-five thousand
13 dollars (\$25,000) for each violation.

14 (b) The civil penalty imposed for each separate violation pursuant to this article
15 is separate, and in addition to, any other civil penalty imposed for a separate
16 violation pursuant to this article or any other provision of law, except as provided
17 in Section 66565.

18 (c) In determining the amount of a civil penalty imposed pursuant to this article,
19 the court shall take into consideration all relevant circumstances, including, but
20 not limited to, the nature, circumstance, extent, and gravity of the violation. In
21 making this determination, the court shall consider the degree of toxicity and
22 volume of the discharge, the extent of harm caused by the violation, whether the
23 effects of the violation may be reversed or mitigated, and with respect to the
24 defendant, the ability to pay, the effect of any civil penalty on the ability to
25 continue in business, any voluntary cleanup efforts undertaken, any prior history
26 of violations, the gravity of the behavior, the economic benefit, if any, resulting
27 from the violation, and any other matters the court determines justice may require.

28 **Comment.** Section 66550 continues former Fish and Game Code Section 5650.1(a)-(c)
29 without substantive change.

30 § 66555. Additional penalty based on volume of discharge

31 66555. Except as provided in Section 66565, in addition to any other penalty
32 provided by law, a person who violates Article 1 (commencing with Section
33 66500) of Chapter 1 is subject to a civil penalty of not more than ten dollars (\$10)
34 for each gallon or pound of material discharged. The total amount of the civil
35 penalty shall be reduced for every gallon or pound of the illegally discharged
36 material that is recovered and properly disposed of by the responsible party.

37 **Comment.** Section 66555 continues former Fish and Game Code Section 5650.1(i) without
38 substantive change.

1 **§ 66565. Limitation on application of civil penalty**

2 66565. A person shall not be subject to a civil penalty imposed under this article
3 and to a civil penalty imposed pursuant to Article 9 (commencing with Section
4 8670.57) of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the
5 same act or failure to act.

6 **Comment.** Section 66565 continues former Fish and Game Code Section 5650.1(j) without
7 substantive change.

8 **§ 66570. Apportionment of penalty**

9 66570. All civil penalties collected pursuant to this article shall not be
10 considered fines or forfeitures as defined in Section 3610 and shall be apportioned
11 in the following manner:

12 (a) Fifty percent shall be distributed to the county treasurer of the county in
13 which the action is prosecuted. Amounts paid to the county treasurer shall be
14 deposited in the county fish and wildlife propagation fund established pursuant to
15 Section 3900.

16 (b) Fifty percent shall be distributed to the department for deposit in the Fish and
17 Game Preservation Fund. These funds may be expended to cover the costs of legal
18 actions or for any other law enforcement purpose consistent with Section 9 of
19 Article XVI of the California Constitution.

20 **Comment.** Section 66570 continues former Fish and Game Code Section 5650.1(h) without
21 substantive change.

22 **§ 66575. Civil action**

23 66575. (a) Every civil action brought under this article shall be brought by the
24 Attorney General upon complaint by the department, or by the district attorney or
25 city attorney in the name of the people of the State of California, and any actions
26 relating to the same violation may be joined or consolidated.

27 (b) In a civil action brought pursuant to this article in which a temporary
28 restraining order, preliminary injunction, or permanent injunction is sought, it is
29 not necessary to allege or prove at any stage of the proceeding that irreparable
30 damage will occur if the temporary restraining order, preliminary injunction, or
31 permanent injunction is not issued, or that the remedy at law is inadequate.

32 (c) After the party seeking the injunction has met its burden of proof, the court
33 shall determine whether to issue a temporary restraining order, preliminary
34 injunction, or permanent injunction without requiring the defendant to prove that it
35 will suffer grave or irreparable harm. The court shall make the determination
36 whether to issue a temporary restraining order, preliminary injunction, or
37 permanent injunction by taking into consideration, among other things, the nature,
38 circumstance, extent, and gravity of the violation, the quantity and characteristics
39 of the substance or material involved, the extent of environmental harm caused by
40 the violation, measures taken by the defendant to remedy the violation, the relative

1 likelihood that the material or substance involved may pass into waters of the
2 state, and the harm likely to be caused to the defendant.

3 (d) The court, to the maximum extent possible, shall tailor a temporary
4 restraining order, preliminary injunction, or permanent injunction narrowly to
5 address the violation in a manner that will otherwise allow the defendant to
6 continue business operations in a lawful manner.

7 **Comment.** Section 66575 continues former Fish and Game Code Section 5650.1(d)-(g)
8 without substantive change.

9  **Note.** Existing Section 5650.1 authorizes the imposition of a civil penalty, in a civil action,
10 for a violation of existing Section 5650 (proposed Section 66500). Existing Section 5650.1(e)
11 provides special rules for injunctive relief in a civil action brought pursuant to “this chapter.”
12 Given that Section 5650.1 appears to address only a violation of Section 5650, the reference to
13 “this chapter” appears to be erroneously overbroad. In proposed Section 66575, the reference has
14 been narrowed to “this article.” **The Commission invites comment on whether that revision**
15 **would cause any problems.**

16 Article 2. Criminal Enforcement

17 § 66600. Base penalty

18 66600. The punishment for a violation of subdivisions (a) or (b) of Section
19 66500 is a fine of not more than two thousand dollars (\$2,000), imprisonment in a
20 county jail for not more than one year, or both the fine and imprisonment

21 **Comment.** Section 66600 continues former Fish and Game Code Section 12002(b)(4) without
22 substantive change.

23 § 66605. Additional penalty

24 66605. (a) In addition to the penalty provided in Section 66600, any person
25 convicted of a violation of Section 66500 is subject to an additional fine of all of
26 the following:

27 (1) Not more than ten dollars (\$10) for each gallon or pound of material
28 discharged. The amount of the fine shall be reduced for every gallon or pound of
29 the illegally discharged material that is recovered and properly disposed of by the
30 responsible party.

31 (2) An amount equal to the reasonable costs incurred by the state or local agency
32 for cleanup and abatement and to fully mitigate all actual damages to fish, plant,
33 bird, or animal life and habitat.

34 (3) Where the state or local agency is required to undertake cleanup or remedial
35 action because the responsible person refuses or is unable to fully clean up the
36 discharge, an amount equal to the reasonable costs incurred by the state or local
37 agency, in addition to the amount of funds, if any, expended by the responsible
38 person, in cleaning up the illegally discharged material or abating its effects, or
39 both cleaning up and abating those effects.

1 (b) Notwithstanding the jurisdiction of the department over illegal discharges
2 and pollution as provided in Article 1 (commencing with Section 66500) of
3 Chapter 1, the fines specified in this section do not apply to discharges in
4 compliance with a national pollution discharge elimination system permit or a
5 state or regional board waste discharge permit.

6 **Comment.** Section 66605 continues former Fish and Game Code Section 12011 without
7 substantive change.

8 CHAPTER 3. CLEAN-UP

9 **§ 66700. Continuing pollution**

10 66700. Whenever it is determined by the department that a continuing and
11 chronic condition of pollution exists, the department shall report that condition to
12 the appropriate regional water quality control board, and shall cooperate with the
13 board in obtaining correction or abatement in accordance with any laws
14 administered by the board for the control of practices for sewage and industrial
15 waste disposal.

16 **Comment.** Section 66700 continues former Fish and Game Code Section 5651 without
17 substantive change.

18 **§ 66705. Responsible party obligations**

19 66705. (a) It is the intent of the Legislature that expeditious cleanup is the
20 primary interest of the people of the State of California in order to protect the
21 people and the environment of the state.

22 (b) In addition to any other penalty, anyone responsible for polluting,
23 contaminating, or obstructing waters of this state, or depositing or discharging
24 materials threatening to pollute, contaminate, or obstruct waters of this state, to the
25 detriment of fish, plant, bird, or animal life in those waters, shall be required to
26 remove any substance placed in the waters, or to remove any material threatening
27 to pollute, contaminate, or obstruct waters of this state, which can be removed,
28 that caused the prohibited condition, or to pay the costs of the removal by the
29 department.

30 (c) Prior to taking any action committing the use of state funds pursuant to this
31 section or Section 66710, the department shall first make a reasonable effort to
32 have the person responsible, when that person is known and readily available,
33 remove, or agree to pay for the removal of, the substance causing the prohibited
34 condition, if the responsible person acts expeditiously and does not cause the
35 prohibited condition to be prolonged to the detriment of fish, plant, animal, or bird
36 life in the affected waters. When the responsible party is unknown or is not
37 providing adequate and timely cleanup, the emergency reserve account of the
38 Toxic Substances Control Account in the General Fund shall be used to provide
39 funding for the cleanup pursuant to Section 25354 of the Health and Safety Code.
40 When those or other funds are not available, moneys in the Fish and Wildlife

1 Pollution Account shall be available, in accordance with Section 67510, for
2 funding the cleanup expenses.

3 **Comment.** Section 66705 continues former Fish and Game Code Section 12015 without
4 substantive change.

5 **§ 66710. Department clean-up of petroleum products**

6 66710. (a) In addition to the responsibilities imposed pursuant to Section 66700,
7 the department may clean up or abate, or cause to be cleaned up or abated, the
8 effects of any petroleum or petroleum product deposited or discharged in the
9 waters of this state or deposited or discharged in any location onshore or offshore
10 where the petroleum or petroleum product is likely to enter the waters of this state,
11 order any person responsible for the deposit or discharge to clean up the petroleum
12 or petroleum product or abate the effects of the deposit or discharge, and recover
13 any costs incurred as a result of the cleanup or abatement from the responsible
14 party.

15 (b) An order shall not be issued pursuant to this section for the cleanup or
16 abatement of petroleum products in any sump, pond, pit, or lagoon used in
17 conjunction with crude oil production that is in compliance with all applicable
18 state and federal laws and regulations.

19 (c) The department may issue an order pursuant to this section only if there is an
20 imminent and substantial endangerment to human health or the environment and
21 the order shall remain in effect only until any cleanup and abatement order is
22 issued pursuant to Section 13304 of the Water Code. A regional water quality
23 control board shall incorporate the department's order into the cleanup and
24 abatement order issued pursuant to Section 13304 of the Water Code, unless the
25 department's order is inconsistent with any more stringent requirement established
26 in the cleanup and abatement order. Any action taken in compliance with the
27 department's order is not a violation of any subsequent regional water quality
28 control board cleanup and abatement order issued pursuant to Section 13304 of the
29 Water Code.

30 (d) The Administrator of the Office of Spill Prevention and Response has the
31 primary authority to serve as a state incident commander and direct removal,
32 abatement, response, containment, and cleanup efforts with regard to all aspects of
33 any placement of petroleum or a petroleum product in the waters of the state,
34 except as otherwise provided by law. This authority may be delegated.

35 (e) For purposes of this section, the following definitions apply:

36 (1) "Petroleum product" means oil of any kind or form, including, but not
37 limited to, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredged
38 spoil. "Petroleum product" does not include any pesticide that has been applied for
39 agricultural, commercial, or industrial purposes or that has been applied in
40 accordance with a cooperative agreement authorized by Section 116180 of the
41 Health and Safety Code, that has not been discharged accidentally or for purposes

1 of disposal, and the application of which was in compliance with all applicable
2 state and federal laws and regulations.

3 (2) “State incident commander” means a person with the overall authority for
4 managing and conducting incident operations during an oil spill response, who
5 shall manage an incident consistent with the standardized emergency management
6 system required by Section 8607 of the Government Code. Incident management
7 generally includes the development of objectives, strategies, and tactics, ordering
8 and release of resources, and coordinating with other appropriate response
9 agencies to ensure that all appropriate resources are properly utilized and that this
10 coordinating function is performed in a manner designed to minimize risk to other
11 persons and to the environment.

12 **Comment.** Section 66710 continues former Fish and Game Code Section 5655 without
13 substantive change.

14 **§ 66715. Civil liability for damages and clean-up costs**

15 66715. (a) In addition to any other provision of law, any person who discharges
16 or deposits any substance or material deleterious to fish, plant, bird, or animal life
17 or their habitat into, or which threatens to enter, the waters of this state is liable
18 civilly to the department for all actual damages to fish, plant, bird, or animal life or
19 their habitat and, in addition, for the reasonable costs incurred in cleaning up the
20 deleterious substance or material or abating its effects, or both.

21 (b) For the purposes of this section, “deleterious substance or material” does not
22 include substances or materials otherwise expressly permitted or authorized to be
23 deposited or discharged into waters of the state by law.

24 **Comment.** Section 66715 continues former Fish and Game Code Section 12016 without
25 substantive change.

26 **CHAPTER 4. FISHING CLOSURE**

27 **§ 66800. Closure**

28 66800. (a) Notwithstanding Section 11500 and except as provided in Section
29 66820, within 24 hours of a spill or discharge, the director shall close to the take of
30 fish and shellfish all affected waters where fishing, including all commercial,
31 recreational, and nonlicensed subsistence fishing, may take place, or where
32 aquaculture operations are taking place.

33 (b) For the purposes of subdivision (a), the following terms have the specified
34 meanings:

35 (1) “Affected waters” means all waters in the vicinity of the spill or discharge or
36 where the spilled or discharged material has spread, or is likely to spread.

37 (2) “Discharge” and “spill” have the meanings provided in Section 8670.3 of the
38 Government Code.

39 (c) In determining where a spill or discharge is likely to spread, the director shall
40 consult with the Administrator of the Office of Spill Prevention and Response.

1 (d) At the time of closure, the department shall make all reasonable efforts to
2 notify the public of the closure, including notification to commercial and
3 recreational fishing organizations, and posting of warnings on public piers and
4 other locations where subsistence fishing is known to occur. The department shall
5 coordinate, when possible, with local and regional agencies and organizations to
6 expedite public notification.

7 (e) Closure pursuant to this section is not required if, within 24 hours of
8 notification of a spill or discharge, the Office of Environmental Health Hazard
9 Assessment finds that a public health threat does not or is unlikely to exist.

10 **Comment.** Subdivisions (a) and (b) of Section 66800 restate the first sentence of former Fish
11 and Game Code Section 5654(a)(1) without substantive change.

12 Subdivisions (c) and (d) continue the remaining sentences of former Fish and Game Code
13 Section 5654(a)(1) without substantive change.

14 Subdivision (e) continues former Fish and Game Code Section 5654(a)(2) without substantive
15 change.

16 **Note.** Proposed Section 66800(a)-(b) would restate the first sentence of existing Section
17 5654(a)(1) to improve its clarity, without changing its substantive effect. The existing provision
18 reads as follows:

19 “Notwithstanding Section 5523 and except as provided in paragraph (2), the director, within 24
20 hours of notification of a spill or discharge, as those terms are defined in Section 8670.3 of the
21 Government Code, where any fishing, including all commercial, recreational, and nonlicensed
22 subsistence fishing, may take place, or where aquaculture operations are taking place, shall close
23 to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the
24 spilled or discharged material has spread, or is likely to spread.”

25 **The Commission invites comment on whether that restatement would cause any problems.**

26 **§ 66805. Assessment of closure**

27 66805. Within 48 hours of notification of a spill or discharge subject to Section
28 66800, the director, in consultation with the Office of Environmental Health
29 Hazard Assessment, shall make an assessment and determine all of the following:

30 (a) The danger posed to the public from fishing in the area where the spill or
31 discharge occurred or spread, and the danger of consuming fish taken in the area
32 where the spill or discharge occurred or spread.

33 (b) Whether the areas closed for the take of fish or shellfish should be expanded
34 to prevent any potential take or consumption of any fish or shellfish that may have
35 been contaminated by the spill or discharge.

36 (c) The likely period for maintaining a closure on the take of fish and shellfish in
37 order to prevent any possible contaminated fish or shellfish from being taken or
38 consumed or other threats to human health.

39 **Comment.** Section 66805 continues former Fish and Game Code Section 5654(b) without
40 substantive change.

1 **§ 66810. Immediate reopening**

2 66810. If the director finds in his or her assessment pursuant to Section 66805
3 that there is no significant risk to the public or to the fisheries, the director may
4 immediately reopen the closed area and waive the testing requirements of Sections
5 66820 and 66830.

6 **Comment.** Section 66810 continues former Fish and Game Code Section 5654(d) without
7 substantive change.

8 ☞ **Note.** Existing Section 5654(d) refers to the “testing requirements” of Section 5654(e) and
9 (f). Section 5654(f) (proposed Section 66830) does not appear to impose any testing
10 requirements. **The Commission invites comment on whether the cross-reference to that**
11 **provision can be deleted as erroneous.**

12 **§ 66820. Expedited testing**

13 66820. Except under the conditions specified in Section 66810, after complying
14 with Sections 66800 and 66805, the director, in consultation with the Office of
15 Environmental Health Hazard Assessment, but in no event more than seven days
16 from the notification of the spill or discharge, shall order expedited tests of fish
17 and shellfish that would have been open for take for commercial, recreational, or
18 subsistence purposes in the closed area if not for the closure, to determine the
19 levels of contamination, if any, and whether the fish or shellfish is safe for human
20 consumption.

21 **Comment.** Section 66820 continues former Fish and Game Code Section 5654(e) without
22 substantive change.

23 **§ 66825. Assessment of fish aboard vessel in closed area**

24 66825. Within 48 hours after receiving notification of a spill or discharge
25 subject to Section 66800, or as soon as is feasible, the director, in consultation
26 with the Office of Environmental Health Hazard Assessment, shall assess and
27 determine the potential danger from consuming fish that have been contained in a
28 recirculating seawater tank onboard a vessel that may become contaminated by the
29 vessel’s movement through an area where the spill or discharge occurred or
30 spread.

31 **Comment.** Section 66825 continues former Fish and Game Code Section 5654(c) without
32 substantive change.

33 **§ 66830. Action in response to OEHHA assessment**

34 66830. (a) Within 24 hours of receiving a notification from the Office of
35 Environmental Health Hazard Assessment that no threat to human health exists
36 from the spill or discharge or that no contaminant from the spill or discharge is
37 present that could contaminate fish or shellfish, the director shall reopen the areas
38 closed pursuant to this chapter. The director may maintain a closure in any
39 remaining portion of the closed area where the Office of Environmental Health

1 Hazard Assessment finds contamination from the spill or discharge persists that
2 may adversely affect human health.

3 (b) The director, in consultation with the commission, may also maintain a
4 closure in any remaining portion of the closed area where commercial fishing or
5 aquaculture occurs and where the department determines, pursuant to this
6 subdivision, that contamination from the spill or discharge persists that may cause
7 the waste of commercial fish or shellfish as regulated by Section 21610.

8 **Comment.** Section 66830 continues former Fish and Game Code Section 5654(f) without
9 substantive change.

10 **§ 66835. Consultation with affected groups**

11 66835. (a) To the extent feasible, the director shall consult with representatives
12 of commercial and recreational fishing associations and subsistence fishing
13 communities regarding the extent and duration of a closure, testing protocols, and
14 findings.

15 (b) If a spill or discharge occurs within the lands governed by a Native
16 American tribe or affects waters flowing through tribal lands, or tribal fisheries,
17 the director shall consult with the affected tribal governments.

18 **Comment.** Section 66835 continues former Fish and Game Code Section 5654(g) without
19 substantive change.

20 **§ 66840. Reimbursement of costs**

21 66840. The director shall seek full reimbursement from the responsible party or
22 parties for the spill or discharge for all reasonable costs incurred by the department
23 in carrying out this chapter, including, but not limited to, all testing.

24 **Comment.** Section 66840 continues former Fish and Game Code Section 5654(h) without
25 substantive change.

26 TITLE 2. CALIFORNIA MARINE RESOURCES
27 LEGACY ACT

28 CHAPTER 1. GENERAL PROVISIONS

29 Article 1. Preliminary Provisions

30 **§ 67000. Short title**

31 67000. This act shall be known, and may be cited, as the California Marine
32 Resources Legacy Act.

33 **Comment.** Section 67000 continues former Fish and Game Code Section 6600 without
34 substantive change.

1 **§ 67005. Findings and declarations**

2 67005. The Legislature finds and declares all of the following:

3 (a) California’s extraordinary marine biological diversity is a vital asset to the
4 state and nation. The diversity of species and ecosystems found in the ocean
5 waters off the state is important to public health and well-being, ecological health,
6 and ocean-dependent economic activities.

7 (b) Although the state maintains various programs to protect, restore, and
8 enhance California’s marine resources, the effect of these programs is limited by
9 inadequate and unstable funding.

10 (c) There is an existing permitting process for decommissioning and fully
11 removing offshore oil platforms or production facilities. Owners and operators are
12 currently responsible for the full cost of decommissioning and remediating those
13 facilities.

14 (d) According to the United States Department of the Interior, the 23 oil and gas
15 platforms in federal waters off the California coast are expected to reach the end of
16 their useful production lifetimes and be decommissioned between 2015 and 2030.

17 (e) The California Ocean Science Trust in its June 2010 study, titled “Evaluating
18 Alternatives for Decommissioning California’s Offshore Oil and Gas Platforms: A
19 Technical Analysis to Inform State Policy,” analyzed a number of
20 decommissioning alternatives to full rig removal and determined that the most
21 likely alternative is to remove the upper portion of the rig and leave the remainder
22 of the structure in place.

23 (f) The California Ocean Science Trust report and other studies indicate that the
24 partial removal option can result in a net benefit to the marine environment and
25 substantial cost savings compared to full removal of an oil platform or production
26 facility.

27 (g) Provided that partial removal of an oil rig would result in a net benefit to the
28 marine environment compared to full removal, it is in the interest of the state that a
29 portion of the cost savings that result from partial removal should be shared with
30 the citizens of this state to protect and enhance the state’s marine resources.

31 (h) It is also in the interest of the state that any program to allow partial removal
32 of oil platforms meet all of the following criteria:

33 (1) Partial removal shall result in a net benefit to the marine environment
34 compared to full removal.

35 (2) The determination of whether partial removal would result in a net benefit to
36 the marine environment should be made only after scientific study and evaluation.

37 (3) Because the location and depth of an oil platform, as well as other ecological
38 factors, create a unique environment, each oil platform shall be subject to
39 scientific study and evaluation before partial removal is allowed.

40 (4) The costs of the scientific study and evaluation should be borne by the
41 applicant.

42 **Comment.** Section 67005 continues former Fish and Game Code Section 6601 without
43 substantive change.

1 **§ 67010. Definitions**

2 67010. For purposes of this title, the following terms have the following
3 meanings:

4 (a) “Applicant” means the owner or operator of an offshore oil structure in state
5 or federal waters or another party responsible for decommissioning an offshore oil
6 structure in state or federal waters who applies pursuant to this title to carry out
7 partial removal of the structure.

8 (b) “Commission” means the State Lands Commission.

9 (c) “Conservancy” means the State Coastal Conservancy.

10 (d) “Cost savings” means the difference between the estimated cost to the
11 applicant of complete removal of an oil platform as required by state and federal
12 leases and the estimated costs to the applicant of partial removal of the oil
13 platform pursuant to this title.

14 (e) “Council” means the Ocean Protection Council.

15 (f) “Endowment” means the California Endowment for Marine Preservation
16 established in Division 37 (commencing with Section 71500) of the Public
17 Resources Code.

18 (g) “Exclusive economic zone (EEZ)” means the zone as measured from the
19 mean high tide line seaward to 200 nautical miles, as set forth in Presidential
20 Proclamation 5030 of March 10, 1983, in which the United States proclaimed
21 jurisdiction over the resources of the ocean within 200 miles of the coastline.

22 (h) “National Fishing Enhancement Act of 1984” means Title II of Public Law
23 98-623.

24 (i) “Offshore oil structure” means platforms, piers, and artificial islands located
25 seaward of mean lower low water, used for oil and gas exploration, development,
26 production, processing, or storage.

27 (j) “Oil” means any kind of petroleum, liquid hydrocarbons, natural gas, or
28 petroleum products or any fraction or residues therefrom.

29 (k) “Open coastal marine resources” means those marine resources that use open
30 coastal waters as their habitat.

31 (l) “Open coastal waters” means the area composed of the submerged lands of
32 the state that are below the mean lower low water, extending seaward to the
33 boundaries of the exclusive economic zone.

34 (m) “Partial removal” means an alternative to full removal of an offshore oil
35 structure, in compliance with all requirements of this title.

36 (n) “State waters” means waters within the seaward boundary of the state as
37 identified in Section 2 of Article III of the California Constitution.

38 **Comment.** Section 67010 continues former Fish and Game Code Section 6602 without
39 substantive change.

1 **§ 67065. Proposal for partial removal is a project**

2 67065. (a) A proposed project to partially remove an offshore oil structure
3 pursuant to this title is a project as defined in subdivision (c) of Section 21065 of
4 the Public Resources Code and is therefore subject to the California
5 Environmental Quality Act (Division 13 (commencing with Section 21000) of the
6 Public Resources Code) and shall be reviewed pursuant to the time limits
7 established in Section 21100.2 of the Public Resources Code.

8 (b) The Natural Resources Agency shall serve as the lead agency for the
9 environmental review of any project proposed pursuant to this title.

10 **Comment.** Section 67065 continues former Fish and Game Code Section 6604 without
11 substantive change.

12 **§ 67070. No limitation on liability**

13 67070. Nothing in this title shall be construed to do any of the following:

14 (a) Relieve the applicant or prior owner or operator of an offshore oil structure
15 from any continuing liability under any of the following, if the liability is
16 associated with seepage or release of oil from an offshore oil structure that was
17 decommissioned pursuant to an order of, or any action taken by, and in accordance
18 with, any applicable rule or regulation of, any federal or state agency:

19 (1) Any state statute or regulation regarding liability for the spilling of oil.

20 (2) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701 et seq.).

21 (3) Any other provision of law.

22 (b) Establish any new liability on the part of the state.

23 (c) Require any agency with jurisdiction to approve the partial removal of an
24 offshore oil structure.

25 (d) Promote, encourage, or facilitate offshore oil exploration, development, and
26 production within California’s open coastal waters.

27 (e) Require the United States Department of the Interior or the commission to
28 modify, amend, or alter an existing oil and gas lease to approve partial removal of
29 an offshore oil structure.

30 (f) Alter any existing law or applicable rule or regulation of any federal or state
31 agency that establishes liability for damages arising with respect to artificial reefs
32 or reef materials, including, but not limited to, components of decommissioned oil
33 structures.

34 (g) Alter any existing law or policy that protects natural reefs.

35 (h) Approve any particular method of abandonment.

36 **Comment.** Section 67070 continues former Fish and Game Code Section 6605(b) without
37 substantive change.

38 **§ 67075. Partial removal is not mitigation**

39 67075. Any partial removal of an offshore oil structure pursuant to this title shall
40 not be used or counted as mitigation for any environmental impacts or natural
41 resource damages.

1 **Comment.** Section 67075 continues former Fish and Game Code Section 6605(c) without
2 substantive change.

3 **§ 67080. Regulation**

4 67080. The department may adopt regulations to implement this title.

5 **Comment.** Section 67080 continues former Fish and Game Code Section 6603(f) without
6 substantive change.

7 CHAPTER 2. PARTIAL REMOVAL OF OFFSHORE OIL
8 STRUCTURES

9 Article 1. Application

10 **§ 67100. Application generally**

11 67100. (a) An owner or operator, or other party responsible for
12 decommissioning, of an offshore oil structure may apply to the department for
13 approval to partially remove the structure pursuant to the requirements of this title.

14 (b) The department shall design and make available to potential applicants an
15 application process that will facilitate review of the application by the department
16 in a timely manner, consistent with Section 67065.

17 (c) Upon receipt of an application pursuant to this section, the department shall
18 transmit a copy of the application to the council, the commission, and the
19 endowment, which shall constitute notice to these agencies.

20 **Comment.** Section 67100 continues former Fish and Game Code Section 6610 without
21 substantive change.

22 **§ 67105. Application content**

23 67105. (a) The application for partial removal shall include, at a minimum, all of
24 the following:

25 (1) The applicant's plan and schedule for partial removal of the offshore oil
26 structure, including removal of any portion of the structure as appropriate to
27 maintain navigational safety.

28 (2) A determination of the estimated cost of partial removal and the estimated
29 cost of full removal.

30 (3) A determination of the environmental impacts and benefits to the marine
31 environment from partial removal and full removal of the structure.

32 (4) Identification of all permits, leases, and approvals required by any
33 governmental agency, including a permit issued by the United States Army Corps
34 of Engineers if required for offshore oil structures, and a lease issued by the
35 commission if the proposed project involves state tidelands and submerged lands,
36 and a proposed schedule for the applicant or the state to receive those permits,
37 leases, and approvals.

1 (b) The department may require the applicant to submit a management plan for
2 the structure following partial removal, including maintenance in a manner
3 consistent with navigational safety, enforcement, and monitoring.

4 (c) The information submitted pursuant to subdivisions (a) and (b) shall be used
5 by the department for advisory purposes only. Final determinations regarding the
6 partial removal and management of the offshore oil structure, net benefit to the
7 marine environment from partial removal, and cost savings from partial removal
8 shall be made solely by the department, council, and commission, as specified in
9 this title, based on their independent review and judgment.

10 **Comment.** Section 67105 continues former Fish and Game Code Section 6611 without
11 substantive change.

12 **§ 67110. Application completeness**

13 67110. Upon receipt of an application to partially remove an offshore oil
14 structure pursuant to this title, the department shall determine whether the
15 application is complete and includes all information needed by the department.

16 **Comment.** Section 67110 continues former Fish and Game Code Section 6612(a) without
17 substantive change.

18 **§ 67115. Financial assurances**

19 67115. (a) Upon a determination that the application is complete, the applicant
20 shall provide surety bonds executed by an admitted surety insurer, irrevocable
21 letters of credit, trust funds, or other forms of financial assurances, determined by
22 the department to be available and adequate, to ensure that the applicant will
23 provide sufficient funds to the department, council, commission, and conservancy
24 to carry out all required activities pursuant to this chapter, including all of the
25 following:

26 (1) Environmental review of the proposed project pursuant to Section 67065.

27 (2) A determination of net environmental benefit pursuant to Article 2
28 (commencing with Section 67150).

29 (3) A determination of cost savings pursuant to Article 3 (commencing with
30 Section 67200).

31 (4) Preparation of a management plan for the structure pursuant to Section
32 67250.

33 (5) Implementation of the management plan and ongoing maintenance of the
34 structure after the department takes title pursuant to Section 67275.

35 (6) Development of an advisory spending plan pursuant to Section 67280.

36 (7) Other activities undertaken to meet the requirements of this chapter,
37 including the costs of reviewing applications for completeness, and reviewing,
38 approving, and permitting the proposed project, which includes the costs of
39 determining whether the project meets the requirements of all applicable laws and
40 regulations and the costs of environmental assessment and review.

1 (b) The department shall consult with the council, commission, and conservancy
2 in determining appropriate funding for activities to be carried out by those
3 agencies.

4 (c) The funds provided pursuant to Section 67110 shall not be considered in the
5 calculation of cost savings pursuant to Article 3 (commencing with Section 67200)
6 or the apportionment of cost savings pursuant to Section 67265.

7 **Comment.** Section 67115 continues former Fish and Game Code Section 6612(b) without
8 substantive change.

9 **§ 67120. Startup costs**

10 67120. (a) The first person to file an application on and after January 1, 2011, to
11 partially remove an offshore oil structure pursuant to this title, shall pay, in
12 addition to all costs identified under Section 67115, the startup costs incurred by
13 the department or the commission to implement this title, including the costs to
14 develop and adopt regulations pursuant to this title.

15 (b) This payment of startup costs shall be reimbursed by the department as
16 provided in paragraph (3) of subdivision (c) of Section 67265.

17 **Comment.** Section 67120 continues former Fish and Game Code Section 6612(c) without
18 substantive change.

19 **§ 67125. Environmental review**

20 67125. As soon as feasible after reaching the agreement pursuant to Section
21 67115, the lead agency shall begin the environmental review of the proposed
22 project as required pursuant to Section 67065.

23 **Comment.** Section 67125 continues former Fish and Game Code Section 6612(d) without
24 substantive change.

25 **Article 2. Determination of Net Benefit**

26 **§ 67150. Council determination of net benefit**

27 67150. The council shall determine whether the partial removal of an offshore
28 oil structure pursuant to this title provides a net benefit to the marine environment
29 compared to the full removal of the structure.

30 **Comment.** Section 67150 continues former Fish and Game Code Section 6613(a) without
31 substantive change.

32 **§ 67155. Establishment of criteria**

33 67155. As a necessary prerequisite to determining net environmental benefit as
34 required in Section 67150, the council shall, upon receipt of its initial application
35 from the department pursuant to Section 67100, establish appropriate criteria for
36 evaluating the net environmental benefit of full removal and partial removal of
37 offshore oil structures.

1 (a) The criteria shall include, but are not limited to, the depth of the partially
2 removed structure in relation to its value as habitat and the location of the
3 structure, including its proximity to other reefs, both natural and artificial.

4 (b) The criteria shall not include any consideration of the funds to be generated
5 by the partial removal of the structure.

6 (c) In determining the criteria, the council shall consult with appropriate entities,
7 including, but not limited to, the department, the commission, the California
8 Coastal Commission, and the California Ocean Science Trust.

9 (d) The council shall establish the criteria in time to use them in making its
10 initial determination of net environmental benefit pursuant to this article.

11 **Comment.** Section 67155 continues former Fish and Game Code Section 6613(b) without
12 substantive change.

13 **§ 67160. Making the determination**

14 67160. (a) Upon certification of environmental documents pursuant to the
15 California Environmental Quality Act, the council shall, based on the criteria
16 developed pursuant to Section 67155 and other relevant information, determine
17 whether partial removal of the structure would provide a net benefit to the marine
18 environment compared to full removal of the structure.

19 (b) In making the determination, the council shall, at a minimum, take into
20 account the following:

21 (1) The contribution of the proposed structure to protection and productivity of
22 fish and other marine life.

23 (2) Any adverse impacts to biological resources or water quality, or any other
24 marine environmental impacts, from the full removal of the facility that would be
25 avoided by partial removal as proposed in the application.

26 (3) Any adverse impacts to biological resources or water quality, or any other
27 marine environmental impacts, from partial removal of the structure as proposed
28 in the application.

29 (4) Any benefits to the marine environment that would result from the full
30 removal of the structure or from partial removal as proposed in the application.

31 (5) Any identified management requirements and restrictions of the partially
32 removed structure, including, but not limited to, restrictions on fishing or other
33 activities at the site.

34 **Comment.** Section 67160 continues former Fish and Game Code Section 6613(c) without
35 substantive change.

36 **§ 67165. Specified benefits excluded from determination**

37 67165. Benefits resulting from the contribution of cost savings to the
38 endowment shall not be considered in the determination of net environmental
39 benefit.

40 **Comment.** Section 67165 continues former Fish and Game Code Section 6613(d) without
41 substantive change.

1 67150) are maintained or enhanced. Consistent with state and federal law,
2 management measures may include a buffer zone in which fishing or removal of
3 marine life is restricted or prohibited.

4 (b) Provide an opportunity for public comment on the application pursuant to the
5 California Environmental Quality Act.

6 (c) Hold a public hearing in the county nearest to the location of the offshore oil
7 structure that is the subject of the application.

8 **Comment.** Section 67250 continues former Fish and Game Code Section 6615 without
9 substantive change.

10 **§ 67255. Standards for granting conditional approval**

11 67255. The department may grant conditional approval of an application for
12 partial removal of an offshore oil structure only if all of the following criteria are
13 satisfied:

14 (a) The partial removal of the offshore oil structure and the planning,
15 development, maintenance, and operation of the structure would be consistent with
16 all applicable state, federal, and international laws, including, but not limited to,
17 all of the following:

18 (1) The federal Magnuson-Stevens Fishery Conservation and Management Act
19 (16 U.S.C. Sec. 1801 et seq.).

20 (2) The federal National Fishing Enhancement Act of 1984 (33 U.S.C. Sec. 2101
21 et seq.).

22 (3) The federal Coastal Zone Management Act (16 U.S.C. Sec. 1451 et seq.).

23 (4) The California Coastal Management Program.

24 (5) The Marine Life Management Act (Title 3 (commencing with Section
25 12100) of Part 4 of Division 6).

26 (6) The Marine Life Protection Act (Part 2 (commencing with Section 60400) of
27 Division 16).

28 (7) State and federal water quality laws.

29 (8) Navigational safety laws.

30 (b) The partial removal of the offshore oil structure provides a net benefit to the
31 marine environment compared to full removal of the structure, as determined
32 pursuant to Article 2 (commencing with Section 67150).

33 (c) The cost savings that would result from the conversion of the offshore oil
34 platform or production facility have been determined pursuant to Article 3
35 (commencing with Section 67200).

36 (d) The applicant has provided sufficient funds consistent with Section 67115.

37 (e) The department and the applicant have entered into a contractual agreement
38 whereby the applicant will provide sufficient funds for overall management of the
39 structure by the department, including, but not limited to, ongoing management,
40 operations, maintenance, monitoring, and enforcement as these relate to the
41 structure.

1 (f) The department has entered into an indemnification agreement with the
2 applicant that indemnifies the state and the department, to the extent permitted by
3 law, against any and all liability that may result, including, but not limited to,
4 active negligence, and including defending the state and the department against
5 any claims against the state for any actions the state undertakes pursuant to this
6 chapter. The agreement may be in the form of an insurance policy, cash
7 settlement, or other mechanism as determined by the department. In adopting
8 indemnification requirements for the agreement, the department shall ensure that
9 the state can defend itself against any liability claims against the state for any
10 actions the state undertakes pursuant to this chapter and pay any resulting
11 judgments. The department shall consult with and, as necessary, use the resources
12 of the office of the Attorney General in preparing and entering into the
13 indemnification agreement.

14 (g) The applicant has applied for and received all required permits, leases, and
15 approvals issued by any governmental agency, including, but not limited to, a
16 lease issued by the commission if the proposed project involves state tidelands and
17 submerged lands. For structures located in federal waters, all of the following
18 requirements shall be met:

19 (1) The department and the owner or operator of the structure reach an
20 agreement providing for the department to take title to the platform or facility as
21 provided in Section 67275.

22 (2) The department acquires the permit issued by the United States Army Corps
23 of Engineers.

24 (3) The partial removal of the structure is approved by the Bureau of Ocean
25 Energy Management, Regulation and Enforcement of the United States
26 Department of the Interior.

27 **Comment.** Section 67255 continues former Fish and Game Code Section 6616 without
28 substantive change.

29 **§ 67260. Conditional approval**

30 67260. Upon a finding that all the requirements of Sections 67250 and 67255
31 have been met, the department shall grant conditional approval to an application
32 for partial removal of an offshore oil structure.

33 **Comment.** Section 67260 continues former Fish and Game Code Section 6617 without
34 substantive change.

35 **§ 67265. Apportionment of cost savings**

36 67265. (a) The cost savings from the partial removal of an offshore oil structure,
37 as determined pursuant to Article 3 (commencing with Section 67200), shall be
38 apportioned and transmitted as described in this section.

39 (b) Upon receipt of conditional approval pursuant to Section 67260, the owner
40 or operator of the structure shall apportion and directly transmit a portion of the
41 total amount of the cost savings to the entities in subdivision (c) as follows:

1 (1) Fifty-five percent, if transmitted before January 1, 2017.

2 (2) Sixty-five percent, if transmitted on or after January 1, 2017, and before
3 January 1, 2023.

4 (3) Eighty percent, if transmitted on or after January 1, 2023.

5 (c) Of the total amount of the cost savings to be transmitted pursuant to
6 subdivision (b), the applicant shall directly transmit the following amounts to the
7 following entities:

8 (1) Eighty-five percent shall be deposited into the California Endowment for
9 Marine Preservation established pursuant to Division 37 (commencing with
10 Section 71500) of the Public Resources Code.

11 (2) Ten percent shall be deposited into the General Fund.

12 (3) Two percent shall be deposited into the Fish and Game Preservation Fund
13 for expenditure, upon appropriation by the Legislature, by the department to pay
14 any costs imposed by this title that are not otherwise provided for pursuant to
15 Section 67115 and subdivision (e) of Section 67255. Any moneys remaining in the
16 Fish and Game Preservation Fund, after providing for these costs, shall be used,
17 upon appropriation by the Legislature, first to reimburse the payment of the startup
18 costs described in Section 67120, and thereafter to conserve, protect, restore, and
19 enhance the coastal and marine resources of the state consistent with the mission
20 of the department.

21 (4) Two percent shall be deposited into the Coastal Act Services Fund,
22 established pursuant to Section 30620.1 of the Public Resources Code, and shall
23 be allocated to support state agency work involving research, planning, and
24 regulatory review associated with the application and enforcement of coastal
25 management policies in state and federal waters pursuant to state and federal
26 quasi-judicial authority over offshore oil and gas development.

27 (5) One percent shall be deposited with the board of supervisors of the county
28 immediately adjacent to the location of the facility prior to its decommissioning.
29 The amount paid to the county shall be managed pursuant to paragraph (1) of
30 subdivision (d) of Section 6817 of the Public Resources Code.

31 **Comment.** Section 67265 continues former Fish and Game Code Section 6618 without
32 substantive change.

33 **§ 67270. Final approval**

34 67270. Upon a determination by the department that the full amount of cost
35 savings has been transmitted pursuant to Section 67265, the department shall grant
36 final approval of the application for partial removal of an offshore oil structure.

37 **Comment.** Section 67270 continues former Fish and Game Code Section 6619 without
38 substantive change.

39 **§ 67275. Requirements for state to take title**

40 67275. The department shall not take title to a decommissioned offshore oil
41 structure in open coastal waters or take responsibility for management of the

1 structure pursuant to this chapter until decommissioning and partial removal of the
2 structure have been completed and both of the following requirements are met:

3 (a) The partial removal of the structure has been granted final approval by the
4 department.

5 (b) The state is indemnified, as required in subdivision (f) of Section 67255,
6 from any liability that may result from approving the partial removal of an
7 offshore oil structure or any liability that may result from the ownership of the
8 structure.

9 **Comment.** Section 67275 continues former Fish and Game Code Section 6620 without
10 substantive change.

11 **§ 67280. Advisory spending plan**

12 67280. Upon the department’s final approval of the first application for partial
13 removal of an offshore oil structure pursuant to Section 67270, the conservancy
14 shall create an advisory spending plan for cost savings deposited in the
15 endowment, to provide the Board of Directors of the California Endowment for
16 Marine Preservation with guidance on spending those funds. The conservancy
17 shall update the spending plan no less than once every five years, except the
18 conservancy shall also update the spending plan when each additional application
19 for partial removal is approved. The conservancy shall submit a copy of the
20 spending plan and all updates to the plan to the Legislature, in accordance with
21 Section 9795 of the Government Code, and to the Board of Directors of the
22 California Endowment for Marine Preservation.

23 **Comment.** Section 67280 continues former Fish and Game Code Section 6621 without
24 substantive change.

25 **TITLE 3. OIL SUMPS**

26 **§ 67400. Definition of “oil sump”**

27 67400. For the purposes of this title, “oil sump” has the meaning provided in
28 Section 3780 of the Public Resources Code.

29 **Comment.** Section 67400 continues part of the first sentence of former Fish and Game Code
30 Section 1016(a) and (b) without substantive change.

31 **§ 67405. Hazard to wildlife**

32 67405. (a) Whenever the department determines that an oil sump is hazardous to
33 wildlife, but does not constitute an immediate and grave danger to wildlife, the
34 department shall forthwith notify the State Oil and Gas Supervisor of that
35 condition in order that the State Oil and Gas Supervisor may take action pursuant
36 to Section 3783 of the Public Resources Code to have that condition cleaned up or
37 abated.

38 (b) The department in making that notification shall specify the hazardous
39 conditions.

1 Pollution Cleanup and Abatement Account on January 1, 1996, shall be
2 transferred to the Fish and Wildlife Pollution Account.

3 (c) The following subaccounts are created within the Fish and Wildlife Pollution
4 Account:

5 (1) The Oil Pollution Administration Subaccount.

6 (2) The Oil Pollution Response and Restoration Subaccount.

7 (3) The Hazardous Materials Administration Subaccount.

8 (4) The Hazardous Materials Response and Restoration Subaccount.

9 **Comment.** Section 67500 continues former Fish and Game Code Section 13010 without
10 substantive change.

11 **§ 67505. Deposit of specified funds**

12 67505. (a) The state portion of any recovery or settlement of money damages
13 received pursuant to any citation or charges brought under the following sections
14 by the people by or through any state or local public entity shall be deposited in
15 the following subaccounts:

16 (1) Administrative and judicially imposed fines, penalties, or punitive damages
17 resulting from either civil or criminal action or administrative civil liability for
18 violations of the oil and petroleum product control and discharge provisions of this
19 code, including, but not limited to, Sections 8450, 66605, and 66715, Title 6
20 (commencing with Section 9300) of Part 1 of Division 6, and Title 1 (commencing
21 with Section 66500) and shall be deposited in the Oil Pollution Administration
22 Subaccount or the Oil Pollution Response and Restoration Subaccount as
23 determined by administrative or judicial settlement, or as provided by law.

24 (2) Administrative and judicially imposed fines, penalties, or punitive damages
25 resulting from either criminal or administrative civil liability for violations of
26 hazardous materials and other pollution laws including, but not limited to,
27 Sections 8450, 11500, and 66715, and Title 6 (commencing with Section 9300) of
28 Part 1 of Division 6, shall be deposited in the Hazardous Materials Administration
29 Subaccount or the Hazardous Materials Response and Restoration Subaccount as
30 determined by administrative or judicial settlement or as provided by law.

31 (b) Notwithstanding Section 3600, any recovery or settlement of money
32 received pursuant to the following sections shall be deposited in the Fish and
33 Wildlife Pollution Account:

34 (1) Title 1 (commencing with Section 66500) of Part 3 of Division 17.

35 (2) Section 66705 or 66715.

36 (3) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors
37 and Navigation Code.

38 (4) Section 13442 of the Water Code.

39 (5) Proceeds or recoveries from pollution and abatement actions.

40 (c) Any recovery or settlement of money damages, including, but not limited to,
41 civil penalties arising out of any civil action filed and maintained by the Attorney
42 General in the enforcement of Title 1 (commencing with Section 66500) shall be

1 deposited in the Fish and Wildlife Pollution Account in the Fish and Game
2 Preservation Fund.

3 **Comment.** Subdivision (a) of Section 67505 continues former Fish and Game Code Section
4 13011 without substantive change.

5 Subdivision (b) continues former Fish and Game Code Section 12017(a)(2)-(6) without
6 substantive change.

7 Subdivision (c) continues former Fish and Game Code Section 5656 without substantive
8 change.

9 **Notes.** (1) Existing Section 13011(a) contains an erroneous cross-reference to “Chapter 2
10 (commencing with Section 5600) of Part 1 of Division 6.” There is no Section 5600 in existing
11 law. In proposed Section 67505(a)(1), the reference is revised to refer to the relevant pollution-
12 related provisions of the referenced chapter (i.e., proposed “Title 1 (commencing with Section
13 66500)”). **The Commission invites comment on whether that revision would cause any
14 problems.**

15 (2) Existing Section 13011(b) refers to “Part 1 (commencing with Section 5500) of Division
16 6.” That part is a miscellaneous collection of provisions, only one of which appears to be relevant
17 to the purpose of the reference (existing Section 5523). In proposed Section 67505, the reference
18 is narrowed to refer to the provision that would continue Section 5523 (proposed Section 11500).
19 **The Commission invites comment on whether that revision would cause any problems.**

20 (3) Existing Section 12017(a) refers to Section 13001. In proposed Section 67505(b), that
21 reference is narrowed to refer to the part of Section 13001(a) that appears to be relevant to the
22 purpose of the reference. **The Commission invites comment on whether that revision would
23 cause any problems.**

24 **§ 67510. Continuous appropriation**

25 67510. Moneys in the Fish and Wildlife Pollution Account are continuously
26 appropriated to the department, except as provided in Section 67530.

27 **Comment.** Section 67510 continues former Fish and Game Code Section 12017(b) without
28 substantive change.

29 **§ 67515. Expenditures**

30 67515. (a) Funds in the account shall be expended for the following purposes:

31 (1) Abatement, cleanup, and removal of pollutants from the environment.

32 (2) Response coordination, planning, and program management.

33 (3) Resource injury determination.

34 (4) Resource damage assessment.

35 (5) Economic valuation of resources.

36 (6) Restoration or rehabilitation at sites damaged by pollution.

37 (b) Notwithstanding subdivision (a), funds in the account in excess of one
38 million dollars (\$1,000,000) as of July 1 of each year may also be expended for
39 the preservation of California plants, wildlife, and fisheries.

40 (c) Funds in the account may be expended for cleanup and abatement if a
41 reasonable effort has been made to have the responsible party pay cleanup and
42 abatement costs and funds are not available for disbursement from the emergency
43 reserve account of the Toxic Substances Control Account in the General Fund
44 pursuant to Section 25354 of the Health and Safety Code.

1 (d) The department may use funds in the account to pay the costs of consultant
2 contracts for resource injury determination or damage assessment during
3 hazardous material or oil spill emergencies. These contracts are not subject to Part
4 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

5 **Comment.** Section 67515 continues former Fish and Game Code Section 12017(c)-(f) without
6 substantive change.

7 **§ 67520. Maximum funds on deposit**

8 67520. (a) Funds on deposit in the subaccounts shall not exceed the amounts
9 prescribed below, adjusted in accordance with Section 2212 of the Revenue and
10 Taxation Code to equal 1995 dollars:

11 (1) The Oil Pollution Administration Subaccount shall not exceed five million
12 dollars (\$5,000,000).

13 (2) The Oil Pollution Response and Restoration Subaccount shall not exceed ten
14 million dollars (\$10,000,000).

15 (3) The Hazardous Materials Administration Subaccount shall not exceed five
16 million dollars (\$5,000,000).

17 (4) The Hazardous Material Response and Restoration Subaccount shall not
18 exceed ten million dollars (\$10,000,000).

19 (b) All funds in the Fish and Wildlife Pollution Account in excess of the
20 amounts listed above, on June 30 of each fiscal year, shall be used by the
21 department in succeeding fiscal years for projects that preserve California plants,
22 wildlife, and fisheries.

23 **Comment.** Section 67520 continues former Fish and Game Code Section 13012 without
24 substantive change.

25 **§ 67525. Prudent reserve**

26 67525. (a) Appropriations from either the Oil Pollution Administration
27 Subaccount or the Hazardous Materials Administration Subaccount shall not
28 exceed one third of the maximum fund level established under Section 67520 in
29 order to maintain a prudent reserve for future appropriations.

30 (b) If the director or his or her designee expends funds from the prudent reserve
31 established pursuant to subdivision (a) for activities authorized under subdivision
32 (b) of Section 67530, the director or the director's designee shall ensure that there
33 are adequate funds remaining in those subaccounts to carry out their purposes.
34 Expenditures from the prudent reserve shall be repaid in part, or in full, from any
35 funds received pursuant to subdivision (a) of Section 67505 until those reserves
36 are fully reimbursed.

37 (c) The director or his or her designee, shall recover from the spiller, responsible
38 party, or, in the absence of those responsible parties, from a particular pollution
39 abatement or remediation account, all expenditures paid pursuant to subdivisions
40 (b) and (d) of Section 67530, and all costs incurred by the department arising from
41 the administration and enforcement of applicable pollution laws. The director or

1 his or her designee may request, and a district attorney, city attorney, or other
2 prosecuting agency, as part of a prosecution or negotiation, may allege a claim for,
3 these costs and expenditures and shall deposit any recoveries into the fund from
4 which they were expended.

5 (d) The director or his or her designee shall ensure that there are adequate funds
6 in the accounts and subaccounts specified in this section to carry out their
7 purposes.

8 **Comment.** Section 67525 continues former Fish and Game Code Section 13013 without
9 substantive change.

10 **Note.** Existing Section 13013(c) refers to “expenditures paid from the accounts established
11 pursuant to subdivisions (b) and (d) of Section 13230.” That reference is confusing. While
12 Section 13230(b) and (d) do authorize expenditures, they do not establish any accounts. In
13 proposed Section 67525, the language has been revised to eliminate any reference to the
14 establishment of accounts. **The Commission invites comment on whether that revision would
15 cause any problems.**

16 **§ 67530. Expenditures from specified subaccounts**

17 67530. (a) Funds deposited in the Oil Pollution Administration Subaccount
18 created pursuant to paragraph (1) of subdivision (c) of Section 67500 shall, upon
19 appropriation by the Legislature, only be expended by the director, his or her
20 deputy, or designee, for the costs of administering the pollution response,
21 abatement, and habitat restoration activities not otherwise authorized by the
22 Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

23 (b) Notwithstanding Section 13340 of the Government Code, funds deposited in
24 the Oil Pollution Response and Restoration Subaccount created pursuant to
25 paragraph (2) of subdivision (c) of Section 67500 are continuously appropriated to
26 the department for expenditure by the director, his or her deputy, or designee,
27 without regard to fiscal years for response and restoration activity related to oil
28 spills not otherwise authorized by the Lempert-Keene-Seastrand Oil Spill
29 Prevention and Response Act.

30 (c) Funds deposited in the Hazardous Materials Administration Subaccount
31 created pursuant to paragraph (3) of subdivision (c) of Section 67500 shall, upon
32 appropriation by the Legislature, only be expended by the director, his or her
33 deputy, or designee, for the reasonable cost of administering the hazardous
34 materials response and restoration activities of the department.

35 (1) These activities shall include the cross training and staffing of existing
36 department and interagency personnel necessary to achieve efficiency in the use of
37 existing funds and resources in response to hazardous materials and restoration
38 activities of the department.

39 (2) The department may appoint and contract with technical experts to assist in
40 the response and remediation of toxic material discharges.

41 (d) Notwithstanding Section 13340 of the Government Code, funds deposited in
42 the Hazardous Materials Response and Restoration Subaccount are continuously

1 appropriated to the director, his or her deputy, or designee, for expenditure without
2 regard to fiscal years for the response and abatement of hazardous materials that
3 are spilled or discharged on the lands and in the waters of the state, and for the
4 protection, preservation, and restoration of fish and wildlife impacted by
5 discharges of hazardous materials into the environment of the state. No funds
6 appropriated from this subaccount shall be expended to establish personnel
7 positions nor shall any personnel positions be created with contract funds from this
8 subaccount.

9 **Comment.** Section 67530 continues former Fish and Game Code Section 13230 without
10 substantive change.

11 **§ 67535. Cost accounting system**

12 67535. Consistent with Section 3525, the department shall maintain a cost
13 accounting system that accounts for the costs of each activity or program engaged
14 in pursuant to Section 67530 using funds from the subaccounts listed in that
15 section.

16 **Comment.** Section 67535 continues former Fish and Game Code Section 13231 without
17 substantive change.

18 **PART 4. WATER DIVERSION, OBSTRUCTION, AND ALTERATION**

19 **TITLE 1. DAMS, CONDUITS, AND SCREENS**

20 **CHAPTER 1. GENERAL PROVISIONS**

21 **Article 1. Definitions**

22 **§ 68000. Definitions**

23 68000. As used in this title:

24 (a) “Dam” includes all artificial obstructions.

25 (b) “Conduit” includes pipe, millrace, ditch, flume, siphon, tunnel, canal, and
26 any other conduit or diversion used for the purpose of taking or receiving water
27 from any river, creek, stream, or lake.

28 (c) “Owner” includes the United States (except that for the purpose of Sections
29 68105, 68405, and 68650, “owner” does not include the United States as to any
30 dam in the condition the dam existed on September 15, 1945), the State, a person,
31 political subdivision, or district (other than a fish and game district) owning,
32 controlling or operating a dam or pipe.

33 (d) “United States” means the United States of America, and in relation to any
34 particular matter includes the officers, agents, employees, agencies, or
35 instrumentalities authorized to act in relation thereto.

1 **Comment.** Section 68000 continues former Fish and Game Code Section 5900 without
2 substantive change.

3 **Note.** Existing Section 5900 (c) provides that, in specified sections, the term “owner” does
4 not include the United States. One of the specified sections, existing Section 5933, does not use
5 the term “owner.” The reference to Section 5933 has not been continued in proposed Section
6 68000. **The Commission invites comment on whether that revision would cause any**
7 **problems.**

8 Article 2. Application of Chapter to United States

9 **§ 68050. Legislative intent**

10 68050. (a) In including the United States within the scope of this title the
11 Legislature declares that it understands that the law and policy of the United States
12 with respect to the development of water resources, the reclamation of land from
13 flood and overflow, and in all other respects is to comply with state laws
14 respecting water.

15 (b) The provisions of this title provide a procedure for the United States to
16 comply with the provisions and policy of state law respecting its subject matter.

17 **Comment.** Section 68050 continues former Fish and Game Code Section 5902 without
18 substantive change.

19 **§ 68055. Application to construct or enlarge dam**

20 68055. The United States shall file with the commission pursuant to this title a
21 separate application for each dam it proposes to construct or enlarge if an owner
22 other than the United States would be required to file an application pursuant to
23 Division 3 of the Water Code in order to construct or enlarge the same dam. The
24 application shall be on forms provided by the department.

25 **Comment.** Section 68055 continues former Fish and Game Code Section 5903 without
26 substantive change.

27 **§ 68060. Application content**

28 68060. (a) The application of the United States shall give the following
29 information:

30 (1) The name and address of the owner.

31 (2) The location, type, size, and height of the proposed dam and appurtenant
32 works.

33 (3) The storage capacity of the reservoir.

34 (4) Such other pertinent information as the commission requires.

35 (5) As accurately as may be readily obtained, the area of the drainage basin,
36 rainfall, and stream flow records and flood flow records and estimates.

37 (6) The purpose for which the impounded or diverted water is to be used.

38 (7) Such other appropriate information as may be necessary in a given instance.

1 (b) If the physical conditions involved and the size of the dam render the above
2 requirements unnecessary as to drainage areas, rainfall, stream flow, and flood
3 flow, the commission may waive the requirements.

4 **Comment.** Section 68060 continues former Fish and Game Code Section 5904 without
5 substantive change.

6 CHAPTER 2. PROHIBITED OBSTRUCTIONS

7 Article 1. General Prohibition

8 **§ 68100. Obstruction generally**

9 68100. (a) No person shall cause or having caused, permit to exist any log jam,
10 debris accumulation or other artificial barrier in any stream in this state, which
11 prevents the passing of fish up and down stream or which the Commission
12 determines to be deleterious to fish.

13 (b) The Commission determination is subject to court review.

14 (c) This section does not apply to a dam for the storage or diversion of water, a
15 public bridge and the approaches thereto, a groin, jetty, seawall, breakwater,
16 bulkhead, wharf, or pier, that is permitted by law, or debris from mining
17 operations,

18 **Comment.** Section 68100 restates former Fish and Game Code Section 5948 without
19 substantive change.

20  **Note.** Proposed Section 68100 would restate existing Section 5948 to improve its clarity,
21 without changing its substantive effect. The existing provision reads as follows:

22 “No person shall cause or having caused, permit to exist any log jam or debris accumulation or
23 any other artificial barrier, except a dam for the storage or diversion of water, public bridges and
24 approaches thereto, groins, jetties, seawalls, breakwaters, bulkheads, wharves and piers permitted
25 by law, and debris from mining operations, in any stream in this State, which will prevent the
26 passing of fish up and down stream or which is deleterious to fish as determined by the
27 commission, subject to review by the courts.”

28 **The Commission invites comment on whether that restatement would cause any problems.**

29 Article 2. Prohibition in Specified Districts

30 **§ 68105. Obstruction in specified districts**

31 68105. Except as otherwise provided in this code, it is unlawful to construct or
32 maintain in any stream in Districts 2505, 2510, 2515, 2525, 2530, 2535, 2540,
33 2545, 2550, 2555, 2560, 2565, 2595, 2600, 2605, 2660, and 2665, any device or
34 contrivance that prevents, impedes, or tends to prevent or impede, the passing of
35 fish up and down stream.

36 **Comment.** Section 68105 continues former Fish and Game Code Section 5901 without
37 substantive change.

1 **Note.** Existing Section 5901 refers to District 1 7/8 and District 2 3/4. Neither of those
2 districts exist in the current code. The references to them are omitted from proposed Section
3 68104. **The Commission invites comment on whether that revision would cause any**
4 **problems.**

5 **§ 68110. Civil penalty**

6 68110. (a) In addition to any penalties imposed by any other law, a person found
7 to have violated Section 68105 shall be liable for a civil penalty of not more than
8 eight thousand dollars (\$8,000) for each violation.

9 (b) Each day that a violation of Section 68105 occurs or continues without a
10 good faith effort by the person to cure the violation after receiving notice from the
11 department shall constitute a separate violation.

12 **Comment.** Section 68110 continues former Fish and Game Code Section 12025.1(a) without
13 substantive change.

14 **§ 68115. Civil penalties are not fines or forfeitures**

15 68115. All civil penalties imposed or collected by a court for a separate violation
16 pursuant to this article shall not be considered to be fines or forfeitures, as
17 described in Section 3610.

18 **Comment.** Section 68115 continues the first parts of former Fish and Game Code Section
19 12025.1(b) & (c) without substantive change.

20 **§ 68120. Apportionment of civil penalty for violation connected to cultivation of controlled**
21 **substance**

22 68120. All civil penalties imposed or collected by a court for a separate violation
23 pursuant to this article, in connection with the production or cultivation of a
24 controlled substance, shall be apportioned in the manner described in Section
25 4720.

26 **Comment.** Section 68120 continues the second part of former Fish and Game Code Section
27 12025.1(b) without substantive change.

28 **§ 68125. Apportionment of civil penalty for violation unconnected to cultivation of**
29 **controlled substance**

30 68125. All civil penalties imposed or collected by a court for a separate violation
31 pursuant to this article, not in connection with the production or cultivation of a
32 controlled substance, shall be apportioned in the following manner:

33 (a) Thirty percent shall be distributed to the county in which the violation was
34 committed pursuant to Section 13003. The county board of supervisors shall first
35 use any revenues from those penalties to reimburse the costs incurred by the
36 district attorney or city attorney in investigating and prosecuting the violation.

37 (b) (1) Thirty percent shall be distributed to the investigating agency to be used
38 to reimburse the cost of any investigation directly related to the violations
39 described in this article.

1 (2) If the department receives reimbursement pursuant to this subdivision for
2 activities funded pursuant to subdivision (f) of Section 4629.6 of the Public
3 Resources Code, the reimbursement funds shall be deposited into the Timber
4 Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public
5 Resources Code, if there is an unpaid balance for a loan authorized by subdivision
6 (f) of Section 4629.6 of the Public Resources Code.

7 (c) Forty percent shall be deposited into the Fish and Game Preservation Fund.

8 **Comment.** Section 68125 continues the second part of former Fish and Game Code Section
9 12025.1(c) without substantive change.

10 **§ 68130. Administrative penalty**

11 68130. (a) Civil penalties authorized pursuant to Section 68110 may be imposed
12 administratively by the department according to the procedures described in
13 paragraphs (1) through (4), inclusive, of subdivision (a) of Section 4725.

14 (b) The department shall adopt emergency regulations to implement this section
15 in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing
16 with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
17 The adoption of these regulations shall be deemed to be an emergency and
18 necessary for the immediate preservation of the public peace, health and safety, or
19 general welfare.

20 **Comment.** Section 68130 continues former Fish and Game Code Section 12025.1(d) without
21 substantive change.

22 **§ 68135. Administrative penalties are not fines or forfeitures**

23 68135. All administrative penalties imposed or collected by the department for a
24 separate violation pursuant to this article shall not be considered to be fines or
25 forfeitures, as described in Section 3610.

26 **Comment.** Section 68135 continues the first parts of former Fish and Game Code Section
27 12025.1(e) & (f) without substantive change.

28 **§ 68140. Apportionment of administrative penalty for violation connected to cultivation of**
29 **controlled substance**

30 68140. All administrative penalties imposed or collected by the department for a
31 separate violation pursuant to this article, in connection with the production or
32 cultivation of a controlled substance, shall be deposited according the provisions
33 of subdivisions (b) and (c) of Section 4725.

34 **Comment.** Section 68140 continues the second part of former Fish and Game Code Section
35 12025.1(e) without substantive change.

36 **§ 68145. Apportionment of administrative penalty for violation unconnected to cultivation**
37 **of controlled substance**

38 68145. (a) All administrative penalties imposed or collected by the department
39 for a separate violation pursuant to this article, not in connection with the
40 production or cultivation of a controlled substance, shall be deposited into the

1 Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the
2 Public Resources Code, to repay any unpaid balance of a loan authorized by
3 subdivision (f) of Section 4629.6 of the Public Resources Code.

4 (b) Any remaining funds from administrative penalties collected pursuant to this
5 section shall be apportioned in the following manner:

6 (1) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

7 (2) Fifty percent shall be deposited into the Timber Regulation and Forest
8 Restoration Fund for grants authorized pursuant to subdivision (h) of Section
9 4629.6 of the Public Resources Code.

10 **Comment.** Section 68145 continues the second part of former Fish and Game Code Section
11 12025.1(f) without substantive change.

12 **§ 68150. Definition of “controlled substance”**

13 68150. For purposes of this article, “controlled substance” has the same meaning
14 as defined in Section 11007 of the Health and Safety Code.

15 **Comment.** Section 68150 continues former Fish and Game Code Section 12025.1(g) without
16 substantive change.

17 **CHAPTER 3. FISHWAYS**

18 **Article 1. General Prohibitions and Obligations**

19 **§ 68300. Damage or obstruction**

20 68300. It is unlawful to willfully destroy, injure, or obstruct any fishway.

21 **Comment.** Section 68300 continues former Fish and Game Code Section 5936 without
22 substantive change.

23 **§ 68305. Maintenance**

24 68305. The owner of any dam upon which a fishway has been provided shall
25 keep the fishway in repair and open and free from obstructions to the passage of
26 fish at all times.

27 **Comment.** Section 68305 continues former Fish and Game Code Section 5935 without
28 substantive change.

29 **§ 68310. Water flow**

30 68310. (a) The owner of any dam shall allow sufficient water at all times to pass
31 through a fishway, or in the absence of a fishway, allow sufficient water to pass
32 over, around or through the dam, to keep in good condition any fish that may be
33 planted or exist below the dam.

34 (b) During the minimum flow of water in any river or stream, permission may
35 be granted by the department to the owner of any dam to allow sufficient water to
36 pass through a culvert, waste gate, or over or around the dam, to keep in good
37 condition any fish that may be planted or exist below the dam, when, in the

1 judgment of the department, it is impracticable or detrimental to the owner to pass
2 the water through the fishway.

3 **Comment.** Section 68310 continues former Fish and Game Code Section 5937 without
4 substantive change.

5 **§ 68315. Fishing in impounded waters**

6 68315. (a) The owner of a dam shall accord to the public for the purpose of
7 fishing, the right of access to the waters impounded by the dam during the open
8 season for the taking of fish in the stream or river, subject to the regulations of the
9 commission.

10 (b) Subdivision (a) does not apply to any impoundment of water by a dam that is
11 wholly located on privately owned land that is primarily agricultural or residential
12 in nature if the impounded waters are from a stream or river that is not naturally
13 frequented by fish and if the dam does not prevent the free passage of fish over or
14 around the dam. The Legislature finds and declares that this subdivision is
15 intended to be declaratory of existing law.

16 **Comment.** Section 68315 continues former Fish and Game Code Section 5943 without
17 substantive change.

18 **§ 68320. Liability limitation**

19 68320. The owner of a dam is not liable in damages to any person exercising the
20 right to fish, who suffers any injury through coming in contact with, or tampering
21 with, any of the property of the owner of the dam.

22 **Comment.** Section 68320 continues former Fish and Game Code Section 5944 without
23 substantive change.

24 **Article 2. Requirements for Existing Dams**

25 **§ 68400. Department examination of dams**

26 68400. The department shall, from time to time, examine all dams in all rivers
27 and streams in this State naturally frequented by fish.

28 **Comment.** Section 68400 continues former Fish and Game Code Section 5930 without
29 substantive change.

30 **§ 68405. Required fishway**

31 68405. (a) If, in the opinion of the commission, there is not free passage for fish
32 over or around any dam, the department shall cause plans to be furnished for a
33 suitable fishway, and order in writing the owner of the dam to provide the dam,
34 within a specified time, with a durable and efficient fishway, of such form and
35 capacity and in such location as shall be determined by the department.

36 (b) The fishway shall be completed by the owner of the dam to the satisfaction
37 of the department within the time specified.

38 **Comment.** Section 68405 continues former Fish and Game Code Section 5931 without
39 substantive change.

1 **§ 68410. Additional structures**

2 68410. When all of the provisions of this chapter have been complied with, if in
3 the opinion of the commission changed conditions make additional structures
4 desirable for the free passage of fish, the department may make any additional
5 structures and may expend any sums of money that it deems necessary for the
6 additional construction, including the cost of insurance against any liability that
7 the department may incur in connection with those structures.

8 **Comment.** Section 68410 continues former Fish and Game Code Section 5932 without
9 substantive change.

10 Article 3. Requirements for New and Enlarged Dams

11 **§ 68500. Application to build or enlarge dam**

12 68500. Whenever an application for approval of plans and specifications for a
13 new dam in any stream in this state, or for the enlargement of any dam in any
14 stream in this state, is filed with the Department of Water Resources, pursuant to
15 Part 1 (commencing with Section 6000) of Division 3 of the Water Code, a copy
16 of the application shall be filed by the applicant with the commission.

17 **Comment.** Section 68500 continues the first sentence of former Fish and Game Code Section
18 5933 without substantive change.

19 **§ 68505. Initial determination of necessity**

20 68505. If the commission deems that the construction of a fishway over the dam
21 is necessary for the preservation and protection of fish, and that construction and
22 operation of a fishway is practicable, it shall set a date for a hearing to be held
23 within 90 days after filing of the application with the commission.

24 **Comment.** Section 68505 continues the second sentence of former Fish and Game Code
25 Section 5933 without substantive change.

26 **§ 68510. Hearing**

27 68510. At the hearing provided pursuant to Section 68505 the applicant shall be
28 entitled to introduce evidence to show that construction of the fishway is not
29 necessary or is not practicable, taking into consideration the height of the dam and
30 the amount of water available.

31 **Comment.** Section 68510 continues the third sentence of former Fish and Game Code Section
32 5933 without substantive change.

33 **§ 68515. Deposition of witnesses in hearing**

34 68515. The commission or any party may, in any hearing, cause the deposition
35 of witnesses to be taken in the manner prescribed by law for depositions in civil
36 actions in the superior courts of this state under Title 4 (commencing with Section
37 2016.010) of Part 4 of the Code of Civil Procedure.

38 **Comment.** Section 68515 continues former Fish and Game Code Section 5934 without
39 substantive change.

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Article 5. Alternatives

§ 68650. Hatchery in lieu of fishway

68650. (a) Whenever in the opinion of the commission it is impracticable, because of the height of any dam, or other conditions, to construct a fishway over or around the dam, the commission may, in lieu of the fishway, order the owner of the dam completely to equip, within a specified time, on a site to be selected by the department, a hatchery, together with dwellings for help, traps for the taking of fish, and all other equipment necessary to operate a hatchery station, according to plans and specifications furnished by the department.

(b) After the hatchery has been constructed, the department shall operate it without further expense to the owner of the dam except as provided in Sections 68660 and 68665.

Comment. Section 68650 continues former Fish and Game Code Section 5938 without substantive change.

§ 68655. Hatchery size and location

68655. (a) The hatchery, traps, and other equipment necessary to operate a hatchery station shall not be of a size greater than necessary to supply the stream or river with a reasonable number of fish.

(b) The owner of the dam shall permit the department to locate the hatchery, dwellings, traps, and other equipment upon any of the land of the owner of the dam upon a site or sites to be mutually agreed upon by the department and the owner of the dam.

Comment. Section 68655 continues former Fish and Game Code Section 5939 without substantive change.

§ 68660. Provision of electricity to hatchery

68660. If the owner of the dam generates electricity at the place of the dam, the owner shall furnish sufficient light, without charge, for the use of the hatchery.

Comment. Section 68660 continues former Fish and Game Code Section 5940 without substantive change.

§ 68665. Use of water to operate hatchery

68665. The owner shall permit the use of water, without charge, to operate the hatchery.

Comment. Section 68665 continues former Fish and Game Code Section 5941 without substantive change.

§ 68670. Fish planting in lieu of fishway or hatchery

68670. The commission may, in lieu of a fishway, hatchery, dwelling, traps or other equipment necessary to operate a hatchery station, order the owner of the dam to plant, under the supervision of the department, the young of any fish that

1 naturally frequent the waters of the stream or river, at such times, in such places,
2 and in such numbers as the commission may order.

3 **Comment.** Section 68670 continues former Fish and Game Code Section 5942 without
4 substantive change.

5 **§ 68675. Sale of fish to be planted**

6 68675. The department may sell, at cost, to the owner of a dam, young fish
7 ordered to be planted.

8 **Comment.** Section 68675 continues former Fish and Game Code Section 5945 without
9 substantive change.

10 CHAPTER 4. CONDUITS AND SCREENS: DIVERSIONS OVER 250
11 CUBIC FEET PER SECOND

12 Article 1. General provisions

13 **§ 68800. Application of title**

14 68800. (a) This chapter shall apply only to a conduit that meets one or both of
15 the following criteria:

16 (1) The conduit is described in Section 68920.

17 (2) The conduit has a maximum flow capacity over 250 cubic feet per second of
18 water.

19 (b) In classifying conduits it is recognized that those involving the passage of
20 water through power devices and those of large size tend to destroy fish in a
21 greater degree than conduits of smaller size or different type.

22 (c) If this section is for any reason held to be unconstitutional, that decision shall
23 not affect the validity of the remainder of this chapter.

24 (d) The Legislature hereby declares that the persons owning conduits referred to
25 in this section are subject to the provisions of this chapter.

26 **Comment.** Section 68800 restates former Fish and Game Code Section 5980 without
27 substantive change.

28 **Note.** Existing Section 5980 provides that “this article” only applies to “conduits described in
29 Section 5987, and conduits with a maximum flow capacity over 250 cubic feet per second of
30 water.” The Commission has two questions about this provision:

31 (1) Section 5987 (proposed Section 68920) does not seem to describe a kind of conduit. That
32 provision is a special cost-reimbursement rule applicable to persons involved in energy
33 production and transmission. **What is the meaning of the reference to Section 5987?**

34 (2) It appears that the provision governs a conduit that meets *either* of the stated criteria. This
35 can be inferred from the first sentence of existing Section 6020 (proposed Section 69000), which
36 appears to govern conduits that are *not* governed by Section 5980 (“This article shall apply only
37 to conduits with a maximum flow capacity of 250 cubic feet per second or less of water, other
38 than those conduits described in Section 5987.”). Proposed Section 68800(a) has been restated to
39 make its meaning clearer. **The Commission invites comment on whether that revision would
40 cause any problems.**

1 Article 2. Screen Requirements

2 § 68850. General requirement

3 68850. (a) The department shall examine all conduits. If, in the opinion of the
4 department, a screen is necessary to prevent fish from passing into a conduit, the
5 department shall order the owner of the conduit to install a screen.

6 (b) Except as provided in Sections 68920, 68865 and 68870, one-half of the
7 expense of constructing or installing a screen shall be paid by the owner of a
8 conduit and one-half by the department.

9 **Comment.** Subdivision (a) of Section 68850 restates the first sentence of former Fish and
10 Game Code Section 5981 without substantive change.

11 Subdivision (b) continues the second sentence of former Fish and Game Code Section 5981
12 without substantive change.

13  **Note.** Proposed Section 68850(a) would restate the first sentence of existing Section 5981 to
14 improve its clarity, without changing its substantive effect. The existing provision reads as
15 follows:

16 “The department shall examine all conduits; and order the owner of a conduit to install, and it is
17 the duty of such an owner to install, a screen on the conduit when, in the opinion of the
18 department, a screen is necessary to prevent fish from passing into the conduit.”

19 The language stating the owner’s duty to comply with a department order is omitted as redundant.
20 Existing Section 5990 (proposed Section 68860) expressly states an owner’s duty to comply with
21 a department order to install a screen. **The Commission invites comment on whether the**
22 **proposed restatement would cause any problems.**

23 § 68855. Content of order

24 68855. An order to install a screen shall be in writing, and shall specify the type,
25 size, mesh, material and location of the screen, the time within which the screen
26 shall be installed, and an estimate of the expense of installing the screen.

27 **Comment.** Section 68855 continues former Fish and Game Code Section 5982 without
28 substantive change.

29 § 68860. Duty to install and maintain screen

30 68860. It is unlawful for the owner of a conduit to refuse, fail, or neglect to
31 install a screen in compliance with an order from the department or to permit the
32 screen to be removed or taken out of place, except for repairs or cleaning while
33 water is running in the conduit.

34 **Comment.** Section 68860 continues former Fish and Game Code Section 5990 without
35 substantive change.

36 § 68865. Acceptance

37 68865. (a) When a screen has been installed, the owner may, by written notice
38 within 90 days after the installation, request the department to inspect the screen
39 for the purpose of accepting it.

1 (b) It is then the duty of the department to inspect the screen, and if it has been
2 installed in accordance with the order and plans and specifications agreed upon by
3 the department and the owner as provided in Section 68925 or approved by the
4 Department of Water Resources the department shall accept and approve the
5 screen in writing.

6 (c) If, upon inspection it appears that the screen has not been constructed and
7 installed in accordance with plans and specifications, the department shall, within
8 60 days after the inspection, notify the owner of any deviation from the order.

9 (d) The deviation may be remedied within 90 days, and a further inspection
10 requested.

11 **Comment.** Section 68865 continues former Fish and Game Code Section 5988 without
12 substantive change.

13 **§ 68870. Inefficient screen**

14 68870. After acceptance, if the screen fails to function in an efficient manner, no
15 changes in conditions affecting its operation having occurred subsequent to the
16 acceptance of the screen:

17 (a) The owner shall not be required to install a new screen.

18 (b) The department may install another screen at the sole cost and expense of the
19 department of a type, size, mesh, and at a location agreed upon by the department
20 and the owner, or approved by the Department of Water Resources, as provided in
21 Section 68925.

22 **Comment.** Section 68870 continues former Fish and Game Code Section 5989 without
23 substantive change.

24 **§ 68875. Department election to install screen**

25 68875. (a) In lieu of ordering the owner to install a screen, the department may,
26 at its option, elect to construct and install the screen itself, in which event the type,
27 size, mesh, and location of the screen and the time within which it shall be
28 installed shall be determined as provided by Section 68925.

29 (b) When the department elects to construct and install a screen, one-half of the
30 cost of construction and installation shall be paid by the owner.

31 (c) The department may pay the entire cost of the construction and installation
32 of a screen from the Fish and Game Preservation Fund, in which case it shall,
33 upon completion of the screen, notify the owner of the amount of one-half of the
34 cost, and the owner shall, within 30 days thereafter, remit that amount to the
35 department.

36 **Comment.** Section 68875 continues former Fish and Game Code Section 5991 without
37 substantive change.

1 Article 3. Costs

2 **§ 68900. Department contribution**

3 68900. When an order is made to install a screen, the department shall pay the
4 owner of the conduit upon whom the order is served one-half of the estimated
5 expense of the construction or installation of the screen.

6 **Comment.** Section 68900 continues former Fish and Game Code Section 5983 without
7 substantive change.

8 **§ 68905. Additional contribution**

9 68905. If the expense of constructing or installing a screen exceeds the
10 estimated expense the department shall, upon written notification by the owner of
11 the conduit, inspect the screen, and pay to the owner one-half of the amount
12 estimated to be necessary to complete the construction or installation of the screen.

13 **Comment.** Section 68905 continues former Fish and Game Code Section 5984 without
14 substantive change.

15 **§ 68910. Return of surplus contribution**

16 68910. The owner of the conduit shall, within 10 days after completing the
17 installation of the screen, return to the department any surplus money advanced by
18 the department pursuant to this chapter.

19 **Comment.** Section 68910 continues former Fish and Game Code Section 5985 without
20 substantive change.

21 **§ 68915. Source of funds**

22 68915. All money paid by the department to the owner of a conduit pursuant to
23 this chapter shall be paid out of the Fish and Game Preservation Fund.

24 **Comment.** Section 68915 continues former Fish and Game Code Section 5986 without
25 substantive change.

26 **§ 68920. Contribution exception**

27 68920. (a) The department shall not pay one-half of the expense of the
28 construction and installation of any screen as provided in Sections 68850, 68900,
29 and 68905 to any person engaged in producing, generating, transmitting,
30 delivering, or furnishing electricity for light, heat or power.

31 (b) If this section is for any reason held to be unconstitutional, the decision shall
32 not affect the validity of Section 68850, 68900 or 68905, and the Legislature
33 hereby declares that the persons mentioned in this section shall be subject to the
34 provisions of Sections 68850, 68900 and 68905.

35 **Comment.** Section 68920 continues former Fish and Game Code Section 5987 without
36 substantive change.

1 **§ 68925. Screen standards**

2 68925. (a) Any screen installed under any of the provisions of this chapter shall
3 be reasonably adequate to prevent fish from passing into the conduit and not
4 unnecessarily impede the flow of water or prevent the owner from diverting the
5 amount of water the owner is legally entitled to divert.

6 (b) The type, size, mesh, and location of the screen and the time within which it
7 shall be installed shall be mutually agreed upon by the department and the owner
8 of the conduit. In the event the department and the owner of the conduit cannot
9 agree upon the type, size, mesh, and location of the screen and the time within
10 which it shall be installed, those matters shall be submitted for determination to
11 the Department of Water Resources whose decision thereon shall be final and
12 conclusive.

13 (c) If the owner and the department fail to agree upon the type, size, mesh,
14 location, and time of installation of the screen within 60 days from the first
15 submission of proposed plans and specifications by the department to the owner,
16 either the department or the owner may submit those matters, in writing to the
17 Department of Water Resources for final and conclusive decision, and it shall,
18 within 60 days from that reference, render its decision in writing determining
19 those matters.

20 (d) The department shall maintain and keep the screen in repair, and shall
21 quarterly notify the owner in writing of the cost thereof, and the owner shall
22 within 30 days thereafter remit to the department an amount equal to one-half of
23 the cost.

24 (e) The owner shall operate and keep free from debris any screen installed, and
25 shall quarterly notify the department in writing of the cost thereof, and the
26 department shall within 30 days thereafter remit to the owner an amount equal to
27 one-half of the cost.

28 **Comment.** Section 68925 continues former Fish and Game Code Section 5992 without
29 substantive change.

30 **§ 68930. Cost agreement**

31 68930. Before the installation of any screen under the provisions of this chapter,
32 the department and the owner shall enter into an agreement defining the method of
33 determining the cost of maintenance, repairs, operation, and keeping the screen
34 free of debris, which agreement shall provide that in the event either the
35 department or the owner objects to the cost the matter shall be referred to the
36 Director of General Services for a final and conclusive decision.

37 **Comment.** Section 68930 continues former Fish and Game Code Section 5993 without
38 substantive change.

1 CHAPTER 5. CONDUITS AND SCREENS: DIVERSIONS OF 250
2 CUBIC FEET PER SECOND OR LESS

3 Article 1. General Provisions

4 **§ 69000. Application of title**

5 69000. (a) This chapter shall apply only to conduits with a maximum flow
6 capacity of 250 cubic feet per second or less of water, other than those conduits
7 described in Section 68920.

8 (b) If this section is for any reason held to be unconstitutional, that decision shall
9 not affect the validity of Chapter 4 (commencing with Section 68800) and the
10 Legislature hereby declares that the persons owning conduits referred to in this
11 section shall be subject to the provisions of Chapter 4 (commencing with Section
12 68800).

13 **Comment.** Section 69000 continues former Fish and Game Code Section 6020 without
14 substantive change.

15 **Note.** Existing Section 6020 refers to a conduit “described in Section 5987.” As explained in
16 the Note following proposed Section 68800, Section 5987 does not describe a kind of conduit.
17 **What is the meaning of the reference to Section 5987?**

18 Article 2. Screen or Bypass Requirements

19 **§ 69050. General requirement**

20 69050. (a) The department shall examine new or existing conduits, and may
21 install, maintain, repair, and replace fish screens, bypasses, or other devices to
22 prevent the passage of fish through a conduit, when in the opinion of the
23 department the screen or device is practical and necessary.

24 (b) The owner of a conduit shall grant to the department the right of access to
25 the conduit for the installation and maintenance of the screen, and shall provide
26 the department with an easement for a site for the installation of the screen or
27 device deemed suitable by the department.

28 (c) The owner shall supply sufficient water for a bypass to carry fish stopped by
29 the screen or device back to the channel from which they were diverted, and an
30 easement for the bypass channel, but the easement shall not require the acquisition
31 or leasing of additional lands by the owner.

32 (d) No water for a bypass shall be required if the channel from which the water
33 is diverted is dry or incapable of supporting fish life below the point of diversion.

34 **Comment.** Section 69050 continues former Fish and Game Code Section 6021 without
35 substantive change.

1 **§ 69055. Screen standards**

2 69055. Any screen installed under this chapter shall meet both of the following
3 requirements:

4 (a) The screen shall be reasonably adequate to prevent fish from passing into the
5 conduit.

6 (b) The screen will not unnecessarily impede the flow of water or prevent the
7 owner from diverting the amount of water the owner is legally entitled to divert.

8 **Comment.** Section 69055 restates former Fish and Game Code Section 6026 without
9 substantive change.

10 **§ 69060. Sufficient water for bypass**

11 69060. Sufficient water for a bypass shall not exceed the following:

12 (a) Diversions under three cubic feet per second capacity shall not be required to
13 bypass more than 18 gallons per minute.

14 (b) Diversions of three cubic feet per second or more, but under 10 cubic feet
15 per second, shall not be required to bypass more than 30 gallons per minute.

16 (c) Diversions of 10 cubic feet per second or more, but under 20 cubic feet per
17 second, shall not be required to bypass more than 40 gallons per minute.

18 (d) Diversions of 20 cubic feet per second or over shall not be required to bypass
19 more than one-half of 1 percent of the capacity of the diversion.

20 (e) Diversions built by the Government of the United States and requiring
21 bypasses longer than one-quarter mile shall bypass an amount of water necessary
22 to return fish to the permanent channel satisfactorily.

23 **Comment.** Section 69060 continues former Fish and Game Code Section 6022 without
24 substantive change.

25 **§ 69065. Written notice and agreement**

26 69065. (a) The department shall serve written notice upon each owner of its
27 intention to install a fish screen.

28 (b) The notice shall describe the location of the screen, the access required, and
29 the amount of water required for the bypass. The location of the screen may be
30 described by the distance downstream from the intake or by another method.

31 (c) The notice shall be served upon the owner in duplicate.

32 (d) Once signed by the owner, the notice shall serve as an agreement to the
33 installation of the screen or device, according to the terms set out in the notice

34 (e) The signed agreement shall require the owner to render any assistance, other
35 than mechanical repair or replacement of parts, necessary to keep the screen or
36 device in satisfactory operating condition. The hiring of additional labor shall not
37 be required for that assistance.

38 **Comment.** Section 69065 restates former Fish and Game Code Section 6023 without
39 substantive change.

40 **Note.** Proposed Section 69065 would restate existing Section 6023 to improve its clarity,
41 without changing its substantive effect. The existing provision reads as follows:

1 “The department shall serve written notice upon each owner of its intention to install a fish
2 screen, and shall describe therein the distance downstream from the intake or in other manner the
3 location of the screen, the access required, and the amount of water required for the bypass. The
4 notice shall be served upon the owner in duplicate, and in such form that the original copy upon
5 signature by the owner shall serve as an agreement to the installation of the screen or device
6 under the terms therein, and shall require the owner to render such assistance, other than
7 mechanical repair or replacement of parts, necessary to keep the screen or device in satisfactory
8 operating condition. The hiring of additional labor shall not be required for such assistance.”

9 **The Commission invites comment on whether that restatement would cause any problems.**

10 **§ 69070. Disagreement**

11 69070. (a) If the owner fails to sign and return the agreement granting the
12 department the necessary rights for the installation of the screen or device within
13 60 days after its service on the owner, the department may install the screen as
14 though the agreement had been signed unless a decision of the Department of
15 Water Resources is requested.

16 (b) In the event the department and the owner of the conduit cannot agree upon
17 the type, size, mesh, or location of the screen or device, the amount of water
18 required for a bypass, or the time within which the screen or device shall be
19 installed, the matter shall be submitted for determination to the Department of
20 Water Resources, whose decision on those matters shall be final and conclusive.

21 (c) The Department of Water Resources shall render its decision within 60 days
22 after either the department or the owner has submitted the matter in writing and
23 requested a decision.

24 **Comment.** Section 69070 continues former Fish and Game Code Section 6024 without
25 substantive change.

26 **§ 69075. Duty to maintain screen or bypass**

27 69075. It is unlawful for the owner of a conduit to do either of the following:

28 (a) Cause or permit a screen to be removed or taken out of place, except for
29 repairs or cleaning, while water is running in the conduit.

30 (b) Operate the conduit with the bypass closed when the screen is operating as
31 provided in this chapter.

32 **Comment.** Section 69075 continues former Fish and Game Code Section 6025 without
33 substantive change.

34 **§ 69080. Temporary removal or closure**

35 69080. This chapter does not prevent the department from removing or
36 permitting an owner to remove a screen or close a bypass during any part of the
37 year when the department finds that the action will not endanger fish life.

38 **Comment.** Section 69080 continues former Fish and Game Code Section 6027 without
39 substantive change.

1 § 69085. Source of funds

2 69085. All money paid by the department to the owner of a conduit pursuant to
3 this chapter shall be paid out of the Fish and Game Preservation Fund.

4 **Comment.** Section 69085 continues former Fish and Game Code Section 6028 without
5 substantive change.

6 CHAPTER 6. SPECIFIC AREAS

7 Article 1. Isabella Dam

8 § 69200. Isabella Dam

9 69200. (a) The director shall use the department's resources, to the fullest extent
10 feasible, to coordinate with the federal government to promote the preservation of
11 species, including species listed as endangered species or threatened species under
12 the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the
13 California Endangered Species Act, Part 1 (commencing with Section 62000) of
14 Division 17, and their habitats within the locale of Isabella Dam and Reservoir in
15 Kern County in order to facilitate the continued operation of those facilities for
16 flood control and water conservation storage as authorized by Congress and as
17 provided in an agreement, dated October 23, 1964, among the United States and
18 various local public agencies.

19 (b) Nothing in this section is intended to amend, modify, or alter in any manner
20 the intent of the California Endangered Species Act.

21 **Comment.** Section 69200 continues former Fish and Game Code Section 1018 without
22 substantive change.

23 Article 2. Klamath River Fish and Wildlife District (Division 2670)

24 § 69250. Prohibition

25 69250. (a) Every person, firm, corporation, or company that constructs or
26 maintains any dam or other artificial obstruction in any of the waters of Fish and
27 Wildlife District 2670 is guilty of a misdemeanor.

28 (b) The penalty for a violation of this section is a fine of not less than one
29 thousand dollars (\$1,000), imprisonment in county jail for not less than 100 days,
30 or both that fine and imprisonment.

31 (c) Any dam or other artificial obstruction constructed, placed, or maintained in
32 any of the waters of Fish and Wildlife District 2670 is a public nuisance.

33 **Comment.** Section 69250 restates the fourth paragraph of former Fish and Game Code Section
34 11036 without substantive change.

35  **Note.** Proposed Section 69250 would restate the fourth paragraph of existing Section 11036
36 to improve its expression, without changing its substantive effect. The existing provision reads as
37 follows:

1 “Every person, firm, corporation or company who constructs or maintains any dam or other
2 artificial obstruction in any of the waters of said Klamath River Fish and Game District is guilty
3 of a misdemeanor and upon conviction must be fined not less than one thousand dollars (\$1,000)
4 or be imprisoned in the county jail of the county in which the conviction shall be had, not less
5 than 100 days, or by both such fine and imprisonment, and any artificial obstruction constructed,
6 placed or maintained in said district is hereby declared to be a public nuisance.”

7 **The Commission invites comment on whether that restatement would cause any problems.**

8 TITLE 2. DIVERSION OF WATER FROM
9 STREAMS

10 CHAPTER 1. DIVERSION DELETERIOUS TO SALMON OR
11 STEELHEAD

12 **§ 69500. Diversion deleterious to salmon or steelhead**

13 69500. (a) Notwithstanding any provision of Chapter 4 (commencing with
14 Section 68800) of, and Chapter 5 (commencing with Section 69000) of Title 1, on
15 or after January 1, 1972, any new diversion of water from any stream having
16 populations of salmon and steelhead that is determined by the department to be
17 deleterious to salmon and steelhead shall be screened by the owner.

18 (b) The construction, operation, or maintenance costs of any screen required
19 pursuant to this chapter shall be borne by the owner of the diversion.

20 **Comment.** Section 69500 continues former Fish and Game Code Section 6100(a) without
21 substantive change.

22 **§ 69505. Notice of determination**

23 69505. (a) If the department has determined that a diversion is deleterious to
24 salmon and steelhead pursuant to Section 69500, it shall provide written notice of
25 its determination to the owner.

26 (b) The department shall notify the owner that it shall make onsite investigation
27 and shall make any other investigation before it shall propose any measures
28 necessary to protect fishlife.

29 (c) Within 30 days of providing notice under this section, or within a time
30 determined by mutual written agreement, the department shall submit to the owner
31 its proposals as to measures necessary to protect the salmon and steelhead.

32 **Comment.** Section 69505 restates former Fish and Game Code Section 6100(b) without
33 substantive change.

34  **Note.** Proposed Section 69505 would restate existing Section 6100(b) to improve its clarity.
35 The restatement would also make explicit a point that is only implicit in existing law: the
36 department must provide written notice to a property owner before taking action under Section
37 6100. The existing provision reads as follows:

1 “The department within 30 days of providing written notice to the owner that the department has
2 determined that the diversion is deleterious to salmon and steelhead pursuant to subdivision (a),
3 or within the time determined by mutual written agreement, shall submit to the owner its
4 proposals as to measures necessary to protect the salmon and steelhead. The department shall
5 notify the owner that it shall make onsite investigation and shall make any other investigation
6 before it shall propose any measures necessary to protect fishlife.”

7 **The Commission invites comment on whether that restatement would cause any problems.**

8 **§ 69510. Provision of information to owner**

9 69510. The department, or any agency of the state, shall provide the owner of
10 the diversion any available information that is required by the owner in order to
11 comply with the provisions of this chapter.

12 **Comment.** Section 69510 continues former Fish and Game Code Section 6100(c) without
13 substantive change.

14 **§ 69515. Department approval requirement**

15 69515. The diversion shall not commence until the department has determined
16 that measures necessary to protect fishlife have been incorporated into the plans
17 and construction of the diversion.

18 **Comment.** Section 69515 continues former Fish and Game Code Section 6100(d) without
19 substantive change.

20 **CHAPTER 2. ENFORCEMENT OF WATER CODE PROVISIONS**

21 **§ 69550. Violations deleterious to fish and wildlife**

22 69550. (a) The director or his or her designee may issue a complaint to any
23 person or entity in accordance with Section 1055 of the Water Code alleging a
24 violation for which liability may be imposed under Section 1052 or 1847 of the
25 Water Code that harms fish and wildlife resources.

26 (b) The complaint is subject to the substantive and procedural requirements set
27 forth in Section 1055 of the Water Code, and the department shall be designated a
28 party to any proceeding before the State Water Resources Control Board regarding
29 a complaint filed pursuant to this section.

30 **Comment.** Section 69550 continues former Fish and Game Code Section 12025.2 without
31 substantive change.

1 TITLE 3. FISH AND WILDLIFE PROTECTION
2 AND CONSERVATION

3 CHAPTER 1. GENERAL PROVISIONS

4 § 69700. Findings and declarations

5 69700. The Legislature finds and declares that the protection and conservation
6 of the fish and wildlife resources of this state are of utmost public interest. Fish
7 and wildlife are the property of the people and provide a major contribution to the
8 economy of the state, as well as providing a significant part of the people’s food
9 supply; therefore their conservation is a proper responsibility of the state. This title
10 is enacted to provide conservation for these resources.

11 **Comment.** Section 69700 continues former Fish and Game Code Section 1600 without
12 substantive change.

13 § 69705. Definitions

14 69705. The following definitions apply to this title:

15 (a) “Agreement” means a lake or streambed alteration agreement.

16 (b) “Day” means calendar day.

17 (c) “Emergency” has the same definition as in Section 21060.3 of the Public
18 Resources Code.

19 (d) “Entity” means any person, state or local governmental agency, or public
20 utility that is subject to this title.

21 **Comment.** Section 69705 continues former Fish and Game Code Section 1601 without
22 substantive change.

23 § 69710. Violation of chapter

24 69710. It is unlawful for any entity to violate this title.

25 **Comment.** Section 69710 continues former Fish and Game Code Section 1602(e) without
26 substantive change.

27 § 69715. Extension of time

28 69715. Any time period prescribed in this title may be extended by mutual
29 agreement.

30 **Comment.** Section 69715 continues former Fish and Game Code Section 1607 without
31 substantive change.

32 § 69720. Agreements governed by former law

33 69720. (a) Any agreement or any memorandum of understanding executed by
34 the department pursuant to this title prior to January 1, 2004, shall be subject to,
35 and shall be governed by, the provisions of this title that were in existence prior to
36 that date.

1 (b) This section does not apply to subdivision (b) of Section 70155, requiring an
2 entity to provide a copy or other satisfactory evidence of an agreement attained
3 prior to January 1, 1977, upon the request of the department.

4 **Comment.** Section 69720 continues former Fish and Game Code Section 1616 without
5 substantive change.

6 CHAPTER 2. PROHIBITION AND AGREEMENTS

7 Article 1. General Prohibition

8 **§ 69750. General prohibition and exception**

9 69750. An entity shall not substantially divert or obstruct the natural flow of, or
10 substantially change or use any material from the bed, channel, or bank of, any
11 river, stream, or lake, or deposit or dispose of debris, waste, or other material
12 containing crumbled, flaked, or ground pavement where it may pass into any river,
13 stream, or lake, unless all of the following occur:

14 (a) The department receives written notification regarding the activity in the
15 manner prescribed by the department. The notification shall include, but is not
16 limited to, all of the following:

17 (1) A detailed description of the project's location and a map.

18 (2) The name, if any, of the river, stream, or lake affected.

19 (3) A detailed project description, including, but not limited to, construction
20 plans and drawings, if applicable.

21 (4) A copy of any document prepared pursuant to Division 13 (commencing
22 with Section 21000) of the Public Resources Code.

23 (5) A copy of any other applicable local, state, or federal permit or agreement
24 already issued.

25 (6) Any other information required by the department.

26 (b) The department determines the notification is complete in accordance with
27 Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the
28 Government Code, irrespective of whether the activity constitutes a development
29 project for the purposes of that chapter.

30 (c) The entity pays the applicable fees, pursuant to Section 69780.

31 (d) One of the following occurs:

32 (1) (A) The department informs the entity, in writing, that the activity will not
33 substantially adversely affect an existing fish or wildlife resource, and that the
34 entity may commence the activity without an agreement, if the entity conducts the
35 activity as described in the notification, including any measures in the notification
36 that are intended to protect fish and wildlife resources.

37 (B) Each region of the department shall log the notifications of activities where
38 no agreement is required. The log shall list the date the notification was received
39 by the department, a brief description of the proposed activity, and the location of

1 the activity. Each item shall remain on the log for one year. Upon written request
2 by any person, a regional office shall send the log to that person monthly for one
3 year. A request made pursuant to this clause may be renewed annually.

4 (2) The department determines that the activity may substantially adversely
5 affect an existing fish or wildlife resource and issues a final agreement to the
6 entity that includes reasonable measures necessary to protect the resource, and the
7 entity conducts the activity in accordance with the agreement.

8 (3) A panel of arbitrators issues a final agreement to the entity in accordance
9 with Article 4 (commencing with Section 70050), and the entity conducts the
10 activity in accordance with the agreement.

11 (4) The department does not issue a draft agreement to the entity within 60 days
12 from the date notification is complete, and the entity conducts the activity as
13 described in the notification, including any measures in the notification that are
14 intended to protect fish and wildlife resources.

15 **Comment.** Section 69750 continues former Fish and Game Code Section 1602(a) without
16 substantive change.

17 Article 2. Agreement Process

18 § 69775. Information provided to entity submitting notification

19 69775. The department shall provide any entity that submits a notification
20 pursuant to Section 69750 with all of the following information:

21 (a) The time period for review of the notification.

22 (b) An explanation of the entity’s right to object to any measures proposed by
23 the department.

24 (c) The time period within which objections may be made in writing to the
25 department.

26 (d) The time period within which the department is required to respond, in
27 writing, to the entity’s objections.

28 (e) An explanation of the right of the entity to arbitrate any measures in a draft
29 agreement.

30 (f) The procedures and statutory timelines for arbitration, including, but not
31 limited to, information about the payment requirements for arbitrator fees.

32 (g) The current schedule of fees to obtain an agreement.

33 **Comment.** Section 69775 continues former Fish and Game Code Section 1608 without
34 substantive change.

35 **Note.** Existing Section 1608 refers to the submission of “notification pursuant to Section
36 1602.” Proposed Section 69775 narrows that reference to refer only to existing Section 1608(a)
37 (proposed Section 69750), the part of Section 1608 that authorizes the submission of notice. **The**
38 **Commission invites Comment on whether that revision would cause any problems.**

1 **§ 69780. Fees**

2 69780. (a) The department may establish a graduated schedule of fees to be
3 charged to any entity subject to this title.

4 (b) The fees charged shall be established in an amount necessary to pay the total
5 costs incurred by the department in administering and enforcing this title,
6 including, but not limited to, preparing and submitting agreements and conducting
7 inspections.

8 (c) (1) The fee schedule established pursuant to subdivision (a) shall not include
9 a fee that exceeds five thousand dollars (\$5,000) for any single project.

10 (2) The fee limitation described in paragraph (1) does not apply to any project
11 included in any agreement issued pursuant to Section 69875.

12 (d) The department shall annually adjust the fees pursuant to Section 3755.

13 (e) Fees received pursuant to this section shall be deposited in the Fish and
14 Game Preservation Fund.

15 **Comment.** Section 69780 continues former Fish and Game Code Section 1609 without
16 substantive change.

17 **§ 69785. Fee payment prior to processing notification**

18 69785. Notwithstanding Section 69750, the department is not required to
19 determine whether a notification is complete or otherwise process the notification
20 until the department has received the applicable fees.

21 **Comment.** Section 69785 continues former Fish and Game Code Section 1602(c) without
22 substantive change.

23 **§ 69790. Suspension of process**

24 69790. (a) If, after receiving a notification, but before the department executes a
25 final agreement, the department informs the entity, in writing, that the activity
26 described in the notification, or any activity or conduct by the entity directly
27 related thereto, violates any provision of this code or the regulations that
28 implement the code, the department may suspend processing the notification, and
29 paragraph (4) of subdivision (d) of Section 69750 and the timelines specified in
30 Sections 69795, 69805, and 69810 do not apply.

31 (b) This section ceases to apply if any of the following occurs:

32 (1) The department determines that the violation has been remedied.

33 (2) Legal action to prosecute the violation is not filed within the applicable
34 statute of limitations.

35 (3) Legal action to prosecute the violation has been terminated.

36 **Comment.** Section 69790 continues former Fish and Game Code Section 1613 without
37 substantive change.

1 **§ 69795. Draft agreement**

2 69795. (a) After the notification is complete, the department shall determine
3 whether the activity may substantially adversely affect an existing fish and
4 wildlife resource.

5 (b) If the department determines that the activity may have that effect, the
6 department shall provide a draft agreement to the entity within 60 days after the
7 notification is complete.

8 (c) The draft agreement shall describe the fish and wildlife resources that the
9 department has determined the activity may substantially adversely affect and
10 include measures to protect those resources.

11 (d) The department’s description of the affected resources shall be specific and
12 detailed, and the department shall make available, upon request, the information
13 upon which its determination of substantial adverse effect is based.

14 **Comment.** Section 69795 continues the first four sentences of former Fish and Game Code
15 Section 1603(a) without substantive change.

16 **§ 69800. Prohibited conditions**

17 69800. The department shall not condition the issuance of an agreement on the
18 receipt of another local, state, or federal permit.

19 **Comment.** Section 69800 continues former Fish and Game Code Section 1606 without
20 substantive change.

21 **§ 69805. Response to draft agreement**

22 69805. (a) Within 30 days of the date of receipt of the draft agreement, the entity
23 shall notify the department whether the measures to protect fish and wildlife
24 resources in that draft agreement are acceptable.

25 (b) If the department’s measures are not acceptable, the entity shall so notify the
26 department in writing and specify the measures that are not acceptable.

27 (c) Upon written request, the department shall meet with the entity within 14
28 days of the date the department receives the request for the purpose of resolving
29 any disagreement regarding those measures.

30 **Comment.** Section 69805 continues the fifth through seventh sentences of former Fish and
31 Game Code Section 1603(a) without substantive change.

32 **§ 69810. Failure to respond to draft agreement**

33 69810. If the entity fails to respond, in writing, within 90 days of receiving the
34 draft agreement, the department may withdraw that agreement, and require the
35 entity to resubmit a notification to the department before commencing the activity.

36 **Comment.** Section 69810 continues the eighth sentence of former Fish and Game Code
37 Section 1603(a) without substantive change.

38 **§ 69815. Work required by court order, administrative order, or notice**

39 69815. If the entity is required to perform work subject to this title pursuant to a
40 court or administrative order or notice, the entity shall include the measures

1 proposed by the department to protect fish and wildlife resources in the agreement.
2 Those measures are not subject to arbitration.

3 **Comment.** Section 69815 continues former Fish and Game Code Section 1614 without
4 substantive change.

5 Article 3. Duration and Extension

6 § 69850. Default maximum term

7 69850. (a) Except as otherwise provided in this article, the term of an agreement
8 shall not exceed five years.

9 (b) Notwithstanding subdivision (a), after the agreement expires, the entity shall
10 remain responsible for implementing any mitigation or other measures specified in
11 the agreement to protect fish and wildlife resources.

12 **Comment.** Section 69850 continues former Fish and Game Code Section 1605(a) without
13 substantive change.

14 § 69855. Extension of agreement

15 69855. (a) Any entity may request one extension of a previously-approved
16 agreement, if the entity requests the extension prior to the expiration of its original
17 term.

18 (b) The department shall grant the extension unless it determines that the
19 agreement requires modification because the measures contained in the agreement
20 no longer protect the fish and wildlife resources that the activity may substantially
21 adversely affect. In the event the department makes that determination, the
22 department shall propose measures intended to protect those resources.

23 (c) If the entity disagrees with the department's determination that the
24 agreement requires modification to protect fish and wildlife resources or with the
25 measures proposed by the department, the disagreement shall be resolved pursuant
26 to the procedures described in Article 4 (commencing with Section 70050).

27 **Comment.** Section 69855 continues former Fish and Game Code Section 1605(b)-(c) without
28 substantive change.

29 § 69860. Maximum extension

30 69860. The department may not extend an agreement for more than five years.

31 **Comment.** Section 69860 continues former Fish and Game Code Section 1605(d) without
32 substantive change.

33 § 69865. Continuation pending resolution of extension request

34 69865. (a) An original agreement shall remain in effect until the department
35 grants the extension request, or new measures are imposed to protect fish and
36 wildlife resources by agreement or through the arbitration process.

37 (b) Notwithstanding subdivision (a), an original agreement may not remain in
38 effect for more than one year after its expiration date.

1 **Comment.** Section 69865 continues former Fish and Game Code Section 1605(e) without
2 substantive change.

3 **§ 69870. Failure to submit timely extension request**

4 69870. If the entity fails to submit a request to extend an agreement prior to its
5 expiration, the entity shall submit a new notification before commencing or
6 continuing the activity covered by the agreement.

7 **Comment.** Section 69870 continues former Fish and Game Code Section 1605(f) without
8 substantive change.

9 **§ 69875. Long-term agreements**

10 69875. (a) Notwithstanding subdivision (a) of Section 69850, the department
11 may issue an agreement, that otherwise meets the requirements of this title, for a
12 term longer than five years if the following conditions are satisfied:

13 (1) The information the entity provides to the department in its notification
14 meets the requirements of subdivision (a) of Section 69750.

15 (2) The entity agrees to provide a status report to the department every four
16 years. The status report shall be delivered to the department no later than 90 days
17 prior to the end of each four-year period, and shall include all of the following
18 information:

19 (A) A copy of the original agreement.

20 (B) The status of the activity covered by the agreement.

21 (C) An evaluation of the success or failure of the measures in the agreement to
22 protect the fish and wildlife resources that the activity may substantially adversely
23 affect.

24 (D) A discussion of any factors that could increase the predicted adverse impacts
25 on fish and wildlife resources, and a description of the resources that may be
26 adversely affected.

27 (b) The department shall review the four-year status report, and conduct an
28 onsite inspection to confirm that the entity is in compliance with the agreement
29 and that the measures in the agreement continue to protect the fish and wildlife
30 resources.

31 (c) If the department determines that the measures in the agreement no longer
32 protect the fish and wildlife resources that are being substantially adversely
33 affected by the activity, the department, in consultation with the entity, and within
34 45 days of receipt of the report, shall impose one or more new measures to protect
35 the fish and wildlife resources affected by the activity.

36 (d) If requested to do so by the entity, the department shall make available the
37 information upon which it determined the agreement no longer protects the
38 affected fish and wildlife resources.

39 (e) If the entity disagrees with one or more of the new measures, within seven
40 days of receiving the new measures, it shall notify the department, in writing, of
41 the disagreement.

1 (f) The entity and the department shall consult regarding the disagreement. The
2 consultation shall be completed within seven days after the department receives
3 the entity’s notice of disagreement.

4 (g) If the department and entity fail to reach agreement, the entity may request,
5 in writing, the appointment of a panel of arbitrators to resolve the disagreement.
6 The panel of arbitrators shall be appointed within 14 days of the completed
7 consultation. The panel of arbitrators shall issue a decision within 14 days of the
8 date it is established. All other provisions of Article 4 (commencing with Section
9 70050) regarding the panel shall apply to any arbitration panel established in
10 accordance with this section.

11 (h) If the entity fails to provide timely status reports as required by this section,
12 the department may suspend or revoke the agreement.

13 (i) The agreement shall authorize department employees to conduct onsite
14 inspections relevant to the agreement, upon reasonable notice. Nothing in this
15 article limits the authority of department employees to inspect private or public
16 sites.

17 (j) Except as provided in subdivisions (b) through (h), inclusive, paragraph (4)
18 of subdivision (d) of Section 69750 and the time periods to process agreements
19 specified in this title do not apply to agreements issued pursuant to this article.

20 **Comment.** Section 69875 continues former Fish and Game Code Section 1605(g) without
21 substantive change.

22 **§ 69880. Long-term agreement log**

23 69880. (a) Each region of the department shall log the notifications of activities
24 for which a long-term agreement is being considered pursuant to Section 69875.

25 (b) The log shall list the date the notification was received by the department, a
26 brief description of the proposed activity, and the location of the activity.

27 (c) Each item shall remain on the log for one year.

28 (d) Upon written request by any person, a regional office shall send the log to
29 that person monthly for one year. A request made pursuant to this section may be
30 renewed annually.

31 **Comment.** Section 69880 continues former Fish and Game Code Section 1605(h) without
32 substantive change.

33  **Note.** Existing Section 1605(h) erroneously refers to “this paragraph.” That error is corrected
34 in proposed Section 69880(d) (by referring to “this section”). **The Commission invites comment**
35 **on whether that revision would cause any problems.**

36 **§ 69885. Suspension or revocation of agreement**

37 69885. (a) The department may suspend or revoke an agreement at any time if it
38 determines that an entity is not in compliance with the terms of the agreement or
39 fails to provide timely status reports as required by Section 69875.

40 (b) The department shall adopt regulations establishing the procedure for
41 suspension or revocation of an agreement. The procedure shall require the

1 department to provide to the entity a written notice that explains the basis for a
2 suspension or revocation, and to provide the entity with an opportunity to correct
3 any deficiency before the department suspends or revokes the agreement.

4 **Comment.** Section 69885 continues former Fish and Game Code Section 1612 without
5 substantive change.

6 Article 4. Arbitration Panel

7 § 70050. Appointment of panel

8 70050. (a) If mutual agreement is not reached at any meeting held pursuant to
9 Section 69805, the entity may request, in writing, the appointment of a panel of
10 arbitrators to resolve the disagreement.

11 (b) A panel of arbitrators shall be appointed within 14 days of receipt of the
12 written request.

13 **Comment.** Section 70050 continues the first and second sentences of former Fish and Game
14 Code Section 1603(b) without substantive change.

15 § 70055. Composition of panel

16 70055. (a) The panel of arbitrators shall be comprised of three persons, as
17 follows: one representative selected by the department; one representative selected
18 by the affected entity; and a third person mutually agreed upon by the department
19 and the entity, who shall serve as the panel chair.

20 (b) If the department and the entity cannot agree on the third person within that
21 14-day period, the third person shall be appointed in the manner provided by
22 Section 1281.6 of the Code of Civil Procedure.

23 (c) The third person shall have scientific expertise relevant to the fish and
24 wildlife resources that may be substantially adversely affected by the activity
25 proposed by the entity and to the measures proposed by the department to protect
26 those resources.

27 **Comment.** Section 70055 continues the third through fifth sentences of former Fish and Game
28 Code Section 1603(b) without substantive change.

29 § 70060. Authority of panel

30 70060. The authority of the panel of arbitrators is limited to resolving
31 disagreements regarding the measures specified in Sections 69795, 69805, 69855,
32 and 69875, and, in the case of an extension, whether or not the agreement needs to
33 be modified to protect fish and wildlife resources.

34 **Comment.** Section 70060 continues the sixth sentence of former Fish and Game Code Section
35 1603(b) without substantive change.

36 § 70065. Decision

37 70065. (a) Any decision by the panel of arbitrators shall be issued within 14
38 days from the date the panel was established.

1 (b) The decision shall be binding on the department and the affected entity.

2 (c) The decision shall be based on the best scientific information reasonably
3 available at the time of the arbitration

4 (d) Except for a decision to extend an agreement without modification, the
5 decision shall be made in the form of a final agreement. The final agreement
6 issued by the panel shall also include, without modification, all measures that were
7 not subject to arbitration.

8 **Comment.** Section 70065 restates the seventh and eighth sentences of former Fish and Game
9 Code Section 1603(b) without substantive change.

10 **§ 70070. Expenses**

11 70070. Each party shall pay the expenses of their selected representative and pay
12 one-half the expenses of the third person.

13 **Comment.** Section 70070 continues the ninth sentence of former Fish and Game Code Section
14 1603(b) without substantive change.

15 **§ 70075. Court review**

16 70075. Any party affected by a decision made by an arbitration panel pursuant
17 to this title may petition a court of competent jurisdiction for confirmation,
18 correction, or vacation of the decision in accordance with Chapter 4 (commencing
19 with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

20 **Comment.** Section 70075 continues former Fish and Game Code Section 1604 without
21 substantive change.

22 **Article 5. Exceptions and Special Rules for Specific Activities**

23 **§ 70150. Emergency exception**

24 70150. (a) Except as provided in subdivision (b), this title does not apply to any
25 of the following:

26 (1) Immediate emergency work necessary to protect life or property.

27 (2) Immediate emergency repairs to public service facilities necessary to
28 maintain service as a result of a disaster in an area in which a state of emergency
29 has been proclaimed by the Governor pursuant to Chapter 7 (commencing with
30 Section 8550) of Division 1 of Title 2 of the Government Code.

31 (3) Emergency projects undertaken, carried out, or approved by a state or local
32 governmental agency to maintain, repair, or restore an existing highway, as
33 defined in Section 360 of the Vehicle Code, within the existing right-of-way of the
34 highway, that has been damaged as a result of fire, flood, storm, earthquake, land
35 subsidence, gradual earth movement, or landslide, within one year of the damage.
36 Work needed in the vicinity above and below a highway may be conducted
37 outside of the existing right-of-way if it is needed to stop ongoing or recurring
38 mudslides, landslides, or erosion that pose an immediate threat to the highway, or
39 to restore those roadways damaged by mudslides, landslides, or erosion to their

1 predamage condition and functionality. This paragraph does not exempt from this
2 title any project undertaken, carried out, or approved by a state or local
3 governmental agency to expand or widen a highway damaged by fire, flood,
4 storm, earthquake, land subsidence, gradual earth movement, or landslide. The
5 exception provided in this paragraph does not apply to a highway designated as an
6 official state scenic highway pursuant to Section 262 of the Streets and Highways
7 Code.

8 (b) The entity performing the emergency work described in subdivision (a) shall
9 notify the department of the work, in writing, within 14 days of beginning the
10 work. Any work described in the emergency notification that does not meet the
11 criteria for the emergency work described in subdivision (a) is a violation of this
12 title if the entity did not first notify the department in accordance with Section
13 69750 or 70160.

14 **Comment.** Section 70150 continues former Fish and Game Code Section 1610 without
15 substantive change.

16 **§ 70155. Water supply, drainage, flood control, water treatment**

17 70155. (a) If an activity involves the routine maintenance and operation of water
18 supply, drainage, flood control, or waste treatment and disposal facilities, notice to
19 and agreement with the department shall not be required after the initial
20 notification and agreement, unless the department determines either of the
21 following:

22 (1) The work described in the agreement has substantially changed.

23 (2) Conditions affecting fish and wildlife resources have substantially changed,
24 and those resources are adversely affected by the activity conducted under the
25 agreement.

26 (b) This section applies only if notice to, and agreement with, the department
27 was attained prior to January 1, 1977, and the department has been provided a
28 copy of the agreement or other proof of the existence of the agreement that
29 satisfies the department, if requested.

30 **Comment.** Section 70155 continues former Fish and Game Code Section 1602(b) without
31 substantive change.

32 **§ 70160. Timber harvest plan as notification**

33 70160. (a) An entity that submits a timber harvesting plan in accordance with
34 Section 4581 of the Public Resources Code or directly to the department is
35 deemed to have given the notification required by Section 69750, as long as the
36 following information is included in the plan:

37 (1) The volume, type, and equipment to be used in removing or displacing any
38 one or combination of soil, sand, gravel, or boulders.

39 (2) The volume of water, intended use, and equipment to be used in any water
40 diversion or impoundment, if applicable.

41 (3) The equipment to be used in road or bridge construction.

1 (4) The type and density of vegetation to be affected and an estimate of the area
2 involved.

3 (5) A diagram or sketch of the location of the operation that clearly indicates the
4 stream or other water and access from a named public road. Locked gates shall be
5 indicated and the compass direction shall be shown.

6 (6) A description of the period of time in which operations will be carried out.

7 (b) Notwithstanding subdivision (a), the department is not required to determine
8 whether the notification is complete or otherwise process the notification until the
9 timber harvesting plan and the proper notification fee have both been received by
10 the department.

11 (c) Nothing in this section requires the department to issue an agreement fewer
12 than 60 days from the date the notification is complete.

13 (d) The date on which the term of an agreement issued pursuant to this section
14 begins shall be the date timber operations first commence, unless the agreement
15 specifies a later beginning date.

16 **Comment.** Section 70160 continues former Fish and Game Code Section 1611 without
17 substantive change.

18 **§ 70165. Licensed cannabis cultivation**

19 70165. (a) Notwithstanding Section 69750, an entity shall not be required to
20 obtain an agreement with the department pursuant to this title for activities
21 authorized by a license or renewed license for cannabis cultivation issued by the
22 Department of Food and Agriculture for the term of the license or renewed license
23 if all of the following occur:

24 (1) The entity submits all of the following to the department:

25 (A) The written notification described in subdivision (a) of Section 69750.

26 (B) A copy of the license or renewed license for cannabis cultivation issued by
27 the Department of Food and Agriculture that includes the requirements specified
28 in subdivisions (d), (e), and (f) of Section 19332.2 of the Business and Professions
29 Code.

30 (C) The fee specified in subdivision (c) of Section 69750.

31 (2) The department determines in its sole discretion that compliance with the
32 requirements specified in subdivisions (d), (e), and (f) of Section 19332.2 of the
33 Business and Professions Code that are included in the license will adequately
34 protect existing fish and wildlife resources that may be substantially adversely
35 affected by the cultivation without the need for additional measures that the
36 department would include in a draft streambed alteration agreement in accordance
37 with Section 69795.

38 (3) The department notifies the entity in writing that the exemption applies to
39 the cultivation authorized by the license or renewed license.

40 (b) The department shall notify the entity in writing whether the exemption in
41 subdivision (a) applies to the cultivation authorized by the license or renewed

1 license within 60 days from the date that the notification is complete and the fee
2 has been paid.

3 (c) If an entity receives an exemption pursuant to this section and fails to comply
4 with any of the requirements described in subdivision (d), (e), or (f) of Section
5 19332.2 of the Business and Professions Code that are included in the license, the
6 failure shall constitute a violation of Section 69750, and the department shall
7 notify the Department of Food and Agriculture of any enforcement action taken.

8 **Comment.** Section 70165 continues former Fish and Game Code Section 1602(d) without
9 substantive change.

10 **Notes.** (1) Existing Section 1602(d) refers to a “draft streambed alteration agreement in
11 accordance with Section 1602.” Proposed Section 70165 would narrow that cross-reference to the
12 part of Section 1602 that appears to be relevant to the purpose of the reference (i.e., proposed
13 Section 69795). **The Commission invites comment on whether that revision would cause any
14 problems.**

15 (2) Existing Section 1602(d)(3) refers to “a violation under this section.” Proposed Section
16 70165(c) would narrow that cross-reference to the part of Section 1602 that appears to be relevant
17 to the purpose of the reference (i.e., proposed Section 69795). **The Commission invites
18 comment on whether that revision would cause any problems.**

19 **§ 70170. Area agreement regarding cannabis cultivation**

20 70170. (a) The department may adopt regulations establishing the requirements
21 and procedure for the issuance of a general agreement in a geographic area for a
22 category or categories of activities related to cannabis cultivation.

23 (b) A general agreement adopted by the department subsequent to adoption of
24 regulations under this section shall be in lieu of an individual agreement described
25 in paragraph (2) of subdivision (d) of Section 69750.

26 (c) Paragraph (4) of subdivision (d) of Section 69750 and all other time periods
27 to process agreements specified in this title do not apply to the issuance of a
28 general agreement adopted by the department pursuant to this section.

29 (d) The general agreement issued by the department pursuant to this section is a
30 final agreement and is not subject to Article 4 (commencing with Section 70050)
31 or Sections 69795, 69805, 69810, and 70075.

32 (e) The department shall charge a fee for a general agreement adopted by the
33 department under this section in accordance with Section 69780.

34 (f) Regulations adopted pursuant to this section, and any amendment thereto,
35 shall not be subject to Division 13 (commencing with Section 21000) of the Public
36 Resources Code.

37 **Comment.** Section 70170 continues former Fish and Game Code Section 1617 without
38 substantive change.

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CHAPTER 3. ENFORCEMENT

Article 1. Civil Action

§ 70250. Civil penalty

70250. (a) An entity that violates this title is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed pursuant to subdivision (a) is separate from, and in addition to, any other civil penalty imposed pursuant to this section or any other provision of the law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider the degree of toxicity and volume of the discharge, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and, with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines that justice may require.

Comment. Section 70250 continues former Fish and Game Code Section 1615(a)-(c) without substantive change.

§ 70255. Civil action

70255. (a) Every civil action brought under Section 70250 shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(b) In any civil action brought pursuant to this title in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

(1) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued.

(2) That the remedy at law is inadequate.

(c) The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this title without the allegations and without the proof specified in subdivision (b).

Comment. Section 70255 continues former Fish and Game Code Section 1615(d)-(e) without substantive change.

PART 5. MINING

TITLE 1. VACUUM OR SUCTION DREDGING

CHAPTER 1. GENERAL PROVISIONS

§ 71000. Definitions

71000. (a) For purposes of this section and Section 71200, “river, stream, or lake” means the body of water at the current water level at the time of the dredging.

(b) For purposes of Sections 71050, 71070, 71200, and 71270, “person” does not include a partnership, corporation, or other type of association.

(c) For purposes of this title, the use of vacuum or suction dredge equipment, also known as suction dredging, is the use of a mechanized or motorized system for removing or assisting in the removal of, or the processing of, material from the bed, bank, or channel of a river, stream, or lake in order to recover minerals.

Comment. Subdivision (a) of Section 71000 continues former Fish and Game Code Section 5653.5 without substantive change.

Subdivision (b) continues former Fish and Game Code Section 5653.8 without substantive change.

Subdivision (c) continues the first sentence of former Fish and Game Code Section 5653(g) without substantive change.

Note. Existing Section 5653(g) defines the terms “vacuum or suction dredge equipment” and “suction dredging” for the purposes of Sections 5653 and 5653.1. In proposed Section 71000(c), the application of the definition is broadened to apply to the entire title. This appears to be appropriate because (1) vacuum and suction dredging is the subject of the title, and (2) Sections 5653 and 5653.1 are the only sections in the title that use the defined terms. **The Commission invites comment on whether this revision would cause any problems.**

§ 71005. Exception for recreational mining

71005. This title does not apply to, prohibit, or otherwise restrict nonmotorized recreational mining activities, including panning for gold.

Comment. Section 71005 continues the second sentence of former Fish and Game Code Section 5653(g) without substantive change.

Note. Existing Section 5653(g) establishes an exception to the application of Sections 5653 and 5653.1. In proposed Section 71005, that rule is stated as an exception to the entire title that contains Sections 5653 and 5653.1. **The Commission believes that this revision would be nonsubstantive, but invites comment on whether it would cause any problems.**

§ 71010. Regulations

71010. The department shall adopt regulations to carry out Chapter 2 (commencing with Section 71050) and Chapter 3 (commencing with Section 71200) and subdivision (a) of Section 71000. The regulations shall be adopted in

1 accordance with the requirements of Division 13 (commencing with Section
2 21000) of the Public Resources Code and Chapter 3.5 (commencing with Section
3 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

4 **Comment.** Section 71010 continues former Fish and Game Code Section 5653.9 without
5 substantive change.

6 CHAPTER 2. PROHIBITIONS AND REQUIREMENTS

7 § 71050. General prohibition

8 71050. The use of vacuum or suction dredge equipment by a person in a river,
9 stream, or lake of this state is prohibited, except as authorized under a permit
10 issued to that person by the department in compliance with the regulations adopted
11 pursuant to Section 71010.

12 **Comment.** Section 71050 continues the first sentence of former Fish and Game Code Section
13 5653(a) without substantive change.

14 § 71055. Geographic limitations

15 71055. Under the regulations adopted pursuant to Section 71010, the department
16 shall designate waters or areas wherein vacuum or suction dredge equipment may
17 be used pursuant to a permit, waters or areas closed to the use of that equipment,
18 the maximum size of the vacuum or suction dredge equipment that may be used,
19 and the time of year when the equipment may be used.

20 **Comment.** Section 71055 continues the first sentence of former Fish and Game Code Section
21 5653(c) without substantive change.

22 § 71060. Unanticipated water level change

23 71060. In the event of an unanticipated water level change, when necessary to
24 protect fish and wildlife resources, the department may close areas that were
25 otherwise opened for dredging and for which permits were issued pursuant to
26 Section 71205.

27 **Comment.** Section 71060 continues former Fish and Game Code Section 5653.7 without
28 substantive change.

29 **Note.** Existing Section 5653.7 refers to a permit issued “pursuant to Section 5653.” Proposed
30 Section 71060 would narrow that cross-reference to the part of Section 5653 that appears to be
31 relevant to the purpose of the reference (i.e., proposed Section 71205). **The Commission invites**
32 **comment on whether that revision would cause any problems.**

33 § 71065. Unlawful possession of equipment

34 71065. It is unlawful to possess a vacuum or suction dredge in areas, or in or
35 within 100 yards of waters, that are closed to the use of vacuum or suction
36 dredges.

37 **Comment.** Section 71065 continues former Fish and Game Code Section 5653(e) without
38 substantive change.

1 § 71070. Unpermitted use a misdemeanor

2 71070. If a person uses vacuum or suction dredge equipment other than as
3 authorized by a permit issued by the department consistent with regulations
4 adopted pursuant to Section 71010, that person is guilty of a misdemeanor.

5 **Comment.** Section 71070 continues the third sentence of former Fish and Game Code Section
6 5653(c) without substantive change.

7 **Note.** Existing Section 5653(c) refers to “regulations implementing this section.” Proposed
8 Section 71070 would revise the reference to refer to “regulations adopted pursuant to Section
9 71010.” This would parallel the scope of the regulations incorporated in existing Section 5653(a)
10 (proposed Section 71050), the provision that establishes the underlying prohibition at issue in
11 Section 5653(c). **The Commission believes that this would be a rational harmonization of the**
12 **two provisions, but invites comment on whether it would cause any problems.**

13 § 71075. Equipment inspection

14 71075. Any person required to possess a permit pursuant to Section 71050 shall
15 present his or her dredging equipment for inspection upon request of a state or
16 county fish and game warden.

17 **Comment.** Section 71075 continues former Fish and Game Code Section 5653.3 without
18 substantive change.

19 **Note.** Existing Section 5653.7 refers to a “person required to possess a permit pursuant to
20 Section 5653.” Proposed Section 71075 would narrow that cross-reference to the part of Section
21 5653 that appears to be relevant to the purpose of the reference (i.e., proposed Section 71050).
22 **The Commission invites comment on whether that revision would cause any problems.**

23 CHAPTER 3. PERMITS

24 Article 1. Application and Issuance

25 § 71200. Permit application

26 71200. (a) Before a person uses vacuum or suction dredge equipment in a river,
27 stream, or lake of this state, that person shall submit an application to the
28 department for a permit to use the vacuum or suction dredge equipment,
29 specifying the type and size of equipment to be used and other information as the
30 department may require pursuant to regulations adopted by the department to
31 implement this section.

32 (b) The department shall not issue a permit for the use of vacuum or suction
33 dredge equipment until the permit application is deemed complete. A complete
34 permit application shall include any other permit required by the department and
35 one of the following, as applicable:

36 (1) A copy of waste discharge requirements or a waiver of waste discharge
37 requirements issued by the State Water Resources Control Board or a regional
38 water quality control board in accordance with Division 7 (commencing with
39 Section 13000) of the Water Code.

1 (2) A copy of a certification issued by the State Water Resources Control Board
2 or a regional water quality control board and a permit issued by the United States
3 Army Corps of Engineers in accordance with Sections 401 and 404 of the Federal
4 Water Pollution Control Act (33 U.S.C. Secs. 1341 and 1344, respectively) to use
5 vacuum or suction dredge equipment.

6 (3) If the State Water Resources Control Board or the appropriate regional water
7 quality control board determines that waste discharge requirements, a waiver of
8 waste discharge requirements, or a certification in accordance with Section 1341
9 of Title 33 of the United States Code is not necessary for the applicant to use of
10 vacuum or suction dredge equipment, a letter stating this determination signed by
11 the Executive Director of the State Water Resources Control Board, the executive
12 officer of the appropriate regional water quality control board, or their designee.

13 **Comment.** Subdivision (a) of Section 71200 continues the second sentence of former Fish and
14 Game Code Section 5653(a) without substantive change.

15 Subdivision (b) continues former Fish and Game Code Section 5653(b) without substantive
16 change.

17 **§ 71205. Issuance of permit**

18 71205. If the department determines, pursuant to the regulations adopted
19 pursuant to Section 71010, that the use of vacuum or suction dredge equipment
20 does not cause any significant effects to fish and wildlife, it shall issue a permit to
21 the applicant.

22 **Comment.** Section 71205 continues the second sentence of former Fish and Game Code
23 Section 5653(c) without substantive change.

24 **§ 71255. Permit fees**

25 71255. (a) Except as provided in subdivision (c), the department shall issue a
26 permit upon the payment, in the case of a resident, of a base fee of twenty-five
27 dollars (\$25), as adjusted under Section 3755, when an onsite investigation of the
28 project size is not deemed necessary by the department, and a base fee of one
29 hundred thirty dollars (\$130), as adjusted under Section 3755, when the
30 department deems that an onsite investigation is necessary.

31 (b) Except as provided in subdivision (c), in the case of a nonresident, the base
32 fee shall be one hundred dollars (\$100), as adjusted under Section 3755, when an
33 onsite investigation is not deemed necessary, and a base fee of two hundred twenty
34 dollars (\$220), as adjusted under Section 3755, when an onsite investigation is
35 deemed necessary.

36 (c) The department may adjust the base fees for a permit described in this
37 section to an amount sufficient to cover all reasonable costs of the department in
38 regulating suction dredging activities.

39 **Comment.** Section 71255 continues former Fish and Game Code Section 5653(d) without
40 substantive change.

1 (4) The new regulations described in paragraph (2) fully mitigate all identified
2 significant environmental impacts.

3 (5) A fee structure is in place that will fully cover all costs to the department
4 related to the administration of the program.

5 (c)(1) To facilitate its compliance with subdivision (b), the department shall
6 consult with other agencies as it determines to be necessary, including, but not
7 limited to, the State Water Resources Control Board, the State Department of
8 Public Health, and the Native American Heritage Commission, and, on or before
9 April 1, 2013, shall prepare and submit to the Legislature a report with
10 recommendations on statutory changes or authorizations that, in the determination
11 of the department, are necessary to develop the suction dredge regulations required
12 by paragraph (2) of subdivision (b), including, but not limited to,
13 recommendations relating to the mitigation of all identified significant
14 environmental impacts and a fee structure that will fully cover all program costs.

15 (2) The requirement for submitting a report imposed under this subdivision is
16 inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government
17 Code.

18 (3) The report submitted to the Legislature pursuant to this subdivision shall be
19 submitted in accordance with Section 9795 of the Government Code.

20 (d) The Legislature finds and declares that this section, as added during the
21 2009-10 Regular Session, applies solely to vacuum and suction dredging activities
22 conducted for instream mining purposes. This section does not expand or provide
23 new authority for the department to close or regulate suction dredging conducted
24 for regular maintenance of energy or water supply management infrastructure,
25 flood control, or navigational purposes governed by other state or federal law.

26 (e) This section does not prohibit or restrict nonmotorized recreational mining
27 activities, including panning for gold.

28 **Comment.** Section 71280 continues former Fish and Game Code Section 5653.1 without
29 substantive change.

30 **Notes.** (1) If the regulation review required by Section 5653.1(b) has been completed, that
31 provision may be obsolete. **The Commission invites input on that issue.**

32 (2) Existing Section 5653.1(c) requires the preparation of a report by April 1, 2013. By its
33 terms, that requirement became inoperative on January 1, 2017. **The Commission invites**
34 **comment on whether that provision should be omitted as obsolete.**

35 TITLE 2. MINING MITIGATION PLANS

36 § 71500. Submission of plan

37 71500. (a) A mine operator shall prepare a mitigation plan that shall be
38 submitted to the department for approval.

39 (b) For ongoing mining operations, the mitigation plan shall, alone or in
40 conjunction with regulations adopted by the commission, result in an overall
41 reduction in take of avian or mammal species.

1 **Comment.** Subdivision (a) of Section 71500 continues the first sentence of former Fish and
2 Game Code Sections 3005(b)(3) and 3800(b)(3) without substantive change.

3 Subdivision (b) continues the substance of the second sentence of former Fish and Game Code
4 Sections 3005(b)(3) and 3800(b)(3) with one exception: the reference to regulations adopted by
5 the commission was not present in former Section 3005(b)(3).

6 **Note.** Proposed Section 71500(b) combines and harmonizes the second sentence of existing
7 Sections 3005(b)(3) and 3800(b)(3). In doing so, it includes language that is present in Section
8 3800 but is not present in Section 3005. That language is shown in italics below:

9 “For ongoing mining operations, the mitigation plan shall, *alone or in conjunction with*
10 *regulations adopted by the commission*, result in an overall reduction in take of avian or mammal
11 species.”

12 The Commission sees no policy reason that otherwise applicable commission regulations should
13 be taken into account in Section 3800 but disregarded in Section 3005. It seems unlikely that such
14 a distinction was intended. Thus, the proposed harmonization would likely be a clarification of
15 existing law and practice. **The Commission invites public comment on whether the proposed**
16 **revision would cause any problems.**

17 **§ 71505. Plan is site-specific**

18 71505. The mitigation plan shall be prepared on a site-specific basis and may
19 provide for offsite mitigation measures designed to reduce avian mortality.

20 **Comment.** Section 71505 continues the fourth sentence of former Fish and Game Code
21 Sections 3005(b)(3) and 3800(b)(3) without substantive change.

22 **§ 71510. Criteria for approval**

23 71510. (a) Mitigation plans relating to mining operations approved by the
24 department shall, among other criteria, require avoidance of take, where feasible,
25 and include reasonable and practicable methods of mitigating the unavoidable take
26 of birds and mammals.

27 (b) When approving mitigation plans, the department shall consider the use of
28 the best available technology on a site-specific basis.

29 (c) Mitigation plans relating to mining operations approved by the department
30 shall include provisions that address circumstances where mining operations
31 contribute to bird deaths, including ponding of process solutions on heap leach
32 pads and exposure of process solution channels, solution ponds, and tailing ponds.

33 **Comment.** Section 71510 continues former Fish and Game Code Sections 3005(b)(1)-(2) and
34 3800(b)(1)-(2) without substantive change.

35 **§ 71515. Public review and comment**

36 71515. The department shall provide an opportunity for public review and
37 comment on each mitigation plan during the department’s approval process.

38 **Comment.** Section 71515 continues the third sentence of former Fish and Game Code Sections
39 3005(b)(3) and 3800(b)(3) without substantive change.

1 **§ 71520. Monthly reports**

2 71520. The mine operator shall submit monthly monitoring reports on avian
3 mortality to the department to aid in evaluating the effectiveness of onsite
4 mitigation measures.

5 **Comment.** Section 71520 continues the fifth sentence of former Fish and Game Code Sections
6 3005(b)(3) and 3800(b)(3) without substantive change.

7 **§ 71525. Monitoring and evaluation**

8 71525. The department shall monitor and evaluate implementation of the
9 mitigation plan by the mine operator and require modification of the plan or other
10 remedial actions to be taken if the overall reduction in take of avian or mammal
11 species required pursuant to Section 71500 is not being achieved.

12 **Comment.** Section 71525 continues former Fish and Game Code Sections 3005(b)(4) and
13 3800(c) without substantive change.

14 **§ 71530. Reimbursement of department costs**

15 71530. The mining operator shall reimburse the department for its direct costs to
16 provide appropriate notice of the mitigation plan to affected local government
17 entities and other affected parties. The mine operator shall provide the department
18 a limited number of copies, as determined by the department, of the mitigation
19 plan for public review.

20 **Comment.** Section 71530 continues former Fish and Game Code Sections 3005(b)(5) and
21 3800(b)(4) without substantive change.

22 **TITLE 3. MINING IN SPECIFIC AREAS**

23 **CHAPTER 1. TRINITY AND KLAMATH RIVER FISH AND**
24 **WILDLIFE DISTRICT (DISTRICT 2675)**

25 **Article 1. General Provisions**

26 **§ 71700. No affect on other laws**

27 71700. Article 2 (commencing with Section 71750) does not affect any other
28 laws applying to the territory included in District 2675 that relate to birds,
29 mammals, and fish.

30 **Comment.** Section 71700 continues former Fish and Game Code Section 5801 without
31 substantive change.

32 **§ 71705. No limitation of authority of specified entities**

33 71705. No provision of this chapter is a limitation on the authority of the State
34 Water Resources Control Board or any California Regional Water Quality Control
35 Board to adopt and enforce additional discharge requirements or prohibitions.

1 therefrom, does not or will not pass into the waters of Fish and Wildlife District
2 2675, between those dates

3 (c) Any person, firm, or corporation engaged in hydraulic mining shall have the
4 right until the fifteenth day of July to use water for the purpose of cleaning up.

5 **Comment.** Section 71760 continues former Fish and Game Code Section 5800(c) without
6 substantive change.

7 **Note.** The last sentence of existing Section 5800(c) (proposed Section 71760(c)) provides that
8 specified entities may “use water for the purpose of cleaning up.” This is ambiguous as to the
9 source of the water at issue and the nature of the clean-up. **The Commission invites public
10 comment on whether and how the provision should be revised to make its meaning clearer.**

11 **§ 71765. Public nuisance**

12 71765. (a) Any structure or contrivance that is used to violate this article is a
13 public nuisance.

14 (b) Any person, firm, or corporation that maintains or permits a structure or
15 contrivance used in violating this article is guilty of maintaining a public nuisance

16 (c) It is the duty of the district attorney of the county where the violation occurs
17 or the acts creating the public nuisance occur, to bring an action to abate that
18 nuisance.

19 **Comment.** Section 71765 restates former Fish and Game Code Section 5800(d) without
20 substantive change.

21 **Note.** Proposed Section 71765 would restate existing Section 5800(d) to improve its clarity,
22 without changing its substantive effect. The existing provision reads as follows:

23 “Any structure or contrivance which causes or contributes, in whole or in part, to the condition,
24 the causing of which is in this section prohibited, is a public nuisance, and any person, firm, or
25 corporation maintaining or permitting it is guilty of maintaining a public nuisance, and it is the
26 duty of the district attorney of the county where the condition occurs or the acts creating the
27 public nuisance occur, to bring action to abate such nuisance.”

28 The most significant change made in the restatement is to recast references to “conditions” that
29 violate existing Section 5800, to instead refer simply to violations of that section. This seems
30 significantly clearer, because Section 5800 prohibits acts, not the “causing of conditions” (e.g.,
31 the section prohibits mining generally, depositing mining waste in waters, and hydraulic mining).

32 **The Commission invites comment on whether that restatement would cause any
33 problems.**

1 **§ 72205. Watershed enforcement program**

2 72205. In order to address unlawful water diversions and other violations of the
3 Fish and Game Code associated with cannabis cultivation, the department shall
4 establish the watershed enforcement program to facilitate the investigation,
5 enforcement, and prosecution of these offenses.

6 **Comment.** Section 72205 continues former Fish and Game Code Section 12029(b) without
7 substantive change.

8 **§ 72210. Multiagency task force**

9 72210. The department, in coordination with the State Water Resources Control
10 Board and the Department of Food and Agriculture, shall establish a permanent
11 multiagency task force to address the environmental impacts of cannabis
12 cultivation. The multiagency task force, to the extent feasible and subject to
13 available resources, shall expand its enforcement efforts on a statewide level to
14 ensure the reduction of adverse impacts of cannabis cultivation on fish and
15 wildlife and their habitats throughout the state.

16 **Comment.** Section 72210 continues former Fish and Game Code Section 12029(c) without
17 substantive change.

18 **§ 72215. Regulations**

19 72215. (a) In order to facilitate the remediation and permitting of cannabis
20 cultivation sites, the department may adopt regulations to enhance the fees on any
21 entity subject to Section 69750 for cannabis cultivation sites that require
22 remediation.

23 (b) The fee schedule established pursuant to this section shall not exceed the fee
24 limits in Section 69780.

25 **Comment.** Section 72215 continues former Fish and Game Code Section 12029(d) without
26 substantive change.

27 **TITLE 2. ACTIVITIES THAT AFFECT**
28 **WATERING PLACES**

29 **§ 72500. Prohibition of activities that affect watering places**

30 72500. (a) For the preservation, protection and restoration of mountain sheep
31 and other birds and mammals in arid regions of the state, the commission, in
32 cooperation with the agency authorized to manage the land, may prohibit any
33 activity, including but not limited to camping, in the vicinity of waterholes,
34 springs, seeps, and other watering places which are on public lands.

35 (b) The department may enter into agreements with other state and federal
36 agencies controlling public lands for the purpose of posting those areas.

37 **Comment.** Section 72500 continues former Fish and Game Code Section 308.5 without
38 substantive change.

1 TITLE 3. AIRPORTS

2 CHAPTER 1. MANAGEMENT OF WILDLIFE AT PUBLIC USE

3 AIRPORTS

4 **§ 72800. Statement of policy**

5 72800. It is the policy of the state to actively encourage the safe and biologically
6 sound management of wildlife resources on California’s public use airports as
7 regulated by the Federal Aviation Administration (FAA) and its agents. The
8 Legislature recognizes that public use airports serving in the United States are
9 operated according to regulations and policies promulgated by the FAA and
10 federal law that protect the health, safety, and welfare of the public in compliance
11 with applicable FAA regulations, standards, policies, and guidance, wildlife
12 hazard management plans, and associated permits.

13 **Comment.** Section 72800 continues former Fish and Game Code Section 3470 without
14 substantive change.

15 **§ 72805. Recognition of federal requirements**

16 72805. (a) The Legislature recognizes that, in a public use airport’s ongoing
17 efforts to protect the health, safety, and welfare of the traveling public in
18 compliance with Federal Aviation Administration (FAA) regulations, and
19 specifically Section 337 of Part 139 of Title 14 of the Code of Federal
20 Regulations, it is necessary to perform limited and authorized wildlife hazing,
21 harassment, and depredation.

22 (b) The Legislature further recognizes that FAA certificated public use airports
23 and their wildlife hazard management staff must harass, haze, or perform removal
24 of species to protect the health, safety, and welfare of the public when authorized
25 by a current, valid federal fish and wildlife depredation permit.

26 **Comment.** Section 72805 continues former Fish and Game Code Section 3471 without
27 substantive change.

28 **§ 72810. Federal actions not a violation of this code**

29 72810. The taking of birds by a public use airport certificated by the Federal
30 Aviation Administration to operate in California that has obtained, and is in
31 compliance with, a federal depredation permit that authorizes, under specified
32 conditions, the lawful taking of birds, does not violate any provision of this code
33 or regulations adopted pursuant to this code if the taking is in compliance with the
34 federal depredation permit for the purposes specified in Section 72815 and all of
35 the following conditions are met:

36 (a) The taking occurs on lands owned or leased by the airport.

37 (b) The taking does not occur on lands owned or leased by the airport that are
38 reserved for habitat mitigation or conservation purposes of the species being taken,

1 including lands in a habitat conservation plan, or a natural communities
2 conservation plan.

3 (c) There is no taking of a fully protected, candidate, threatened, or endangered
4 species.

5 **Comment.** Section 72810 continues former Fish and Game Code Section 3472 without
6 substantive change.

7 **§ 72815. Limitation of authorized take**

8 72815. Take is authorized pursuant to this chapter only to relieve or prevent
9 injurious situations affecting public safety and shall only be performed as part of
10 an integrated wildlife management program that emphasizes nonlethal
11 management techniques.

12 **Comment.** Section 72815 continues former Fish and Game Code Section 3472.1 without
13 substantive change.

14 **§ 72820. Monitoring of authority and compliance**

15 72820. A public use airport certificated by the Federal Aviation Administration
16 shall provide to the department any federal depredation permit and all federal
17 reports required pursuant to any federal depredation permit or wildlife hazard
18 management plan, or both, and shall also provide reasonable access to the
19 department for purposes of ensuring compliance with this chapter.

20 **Comment.** Section 72820 continues the first sentence of former Fish and Game Code Section
21 3472.2 without substantive change.

22 **§ 72825. Reimbursement of costs**

23 72825. The department shall seek reimbursement from the public use airport for
24 any reasonable costs associated with activities resulting from any violations of this
25 chapter.

26 **Comment.** Section 72825 continues the second sentence of former Fish and Game Code
27 Section 3472.2 without substantive change.

DISPOSITION OF FORMER LAW

The table below shows the relationship between each provision of the existing Fish and Game Code and the corresponding provision of the proposed law (if any).

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1	1(a)	61	590
2	200	62	595
3, 1st sent.	10(a)	64	85
3, 2nd sent.	25	67	620
4	30	68	645
5	40	70	660
6	45	73	35(f)-(g)
7	50, 1st sent.	75	680
8	55	79	80
9	60	80	95
9.2	725	81	695
10	65	82	700
11	70	83	735
12	3500(b)	86	755
13	75	88	760
13.5	205	89	655
14	215	89.1	740
15	220	89.1	790
16	210	89.5	800
17	225	90	not cont'd
18	230	90.1	not cont'd
19	635	90.5	265
22	245	90.7	340
24	260	91	350
27	270	93	365
29	275	94	410
30, 1st cl.	305	96	525
30, 2nd cl.	310	96.5	540
32	315	97	600
33	320	97.5	605
35, 1st cl.	325	98	610
35, 2nd cl.	795	98.2	615
37	335	98.5 (“population”)	625
39	345	98.5 (“stock”)	745
41	355	99	670
43	360	99.5	750
45	380	101	900
46	475	101.5	905
48	480	102	910
51	485	103	915
54	505	104	935
54.5	520	105	925
55	550	106	930
56	565	107	940
57	580	108	1200
60	585	110	920

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
200(a), (b)(1), (b)(2), 1st sent., (c).....	1000	392.....	5005
200(b)(2), 2nd sent.....	720	393.....	5010
200(b)(2), 3rd sent.....	705	395.....	30100
201.....	1005	396.....	30105(a)-(b)
203.....	1010	398, 1st cl.....	30105(c)
203.1.....	1020	398, 2nd cl.....	not cont'd
205.....	1015	399.....	1250
219.....	1025	400.....	4800
250.....	1100	401.....	4805
255.....	1105	450.....	34500
260.....	1110	451.....	34530(e)
265.....	1115	452.....	34505
270.....	1120	453.....	34510(a)
275.....	1125	454.....	34510(b)
301.....	1205	455.....	34510(c)
302.....	33400(a)	456, 1st sent.....	34515(a)
303.....	33400(b)	456, 2nd sent.....	not cont'd
306.....	8700	456, 3rd sent.....	34515(b)
307.....	8705	457.....	34520
308.....	8720	458.....	34525
308.5.....	72500	459.....	34525
309(a).....	1300	460.....	34530(a)-(d)
309(b).....	1305	500(a)-(c), (d), 1st sent.....	9360
310.....	41000	500(d), 2nd sent.....	9310(b)
312.....	9150	700.....	1500
313.....	44350	701.....	1515
314.....	8710(a)	701.3.....	1520
315.....	8710(b)	701.5.....	1915(a)-(b)
315.3.....	8715	702.....	1505
316.....	39805	702.1.....	4315
316.5.....	41010	703(a).....	1510
317.....	10310	703(b).....	72000
325.....	10500(a)(1)-(3)	703.3.....	2410
326.....	10505(a)	703.5.....	2400
327.....	10510	704.....	1525
328, 1st sent.....	10505(b)	705.....	64400
328, 2nd sent.....	10515	706.....	1530
329.....	10500(a)(4)	707.....	1605(a)
330.....	10500(b)	709 (antelope).....	32965(a)
331(a).....	33000	709 (bighorn sheep).....	35820(a)
331(b), 1st-3rd sent.....	32955	709 (deer).....	34245(a)
331(b), 4th sent.....	32960(b)	709 (elk).....	34870(a)
331(c), (d).....	32950	710.....	3450
332(a).....	34950	710.5.....	3455
332(b).....	34850	710.7.....	3460
332(c).....	34860	711.....	3465
332(d), (e).....	34855	711.1(a).....	58000
355, 1st-2nd para.....	29210	711.1(b).....	58005
355, 3rd para.....	29220	711.1(c).....	58010
356, 1st para.....	29200	711.1(d).....	58015
356, 2nd para.....	29215	711.2(a).....	640
357.....	29225	711.2(b).....	1605(b)
375.....	5100	711.2(b).....	1915(c)
390.....	5000	711.2(b).....	9100(i)
391.....	5050	711.4(a)-(b).....	66200

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
711.4(c)(1), (3)	66205	858(a)	1615
711.4(c)(2)	66210	858(b)	4120
711.4(d)	66215	859	3660
711.4(e)(1)	66220	860	3670
711.4(e)(2)-(3)	66225	875	4200
711.4(f)	66230	876	4210
711.4(g)	66235	877	4205
711.4(h)	66240	878	4215
711.4(i)	66245	879	4220
711.7	66250	880	4225
712	3470	881	4230
713	3755	882	4235
714	9100(a)-(h)	1000	1745
715	1910	1000.6	40955
716	5200	1001	1700
716.1	5205	1002	9200
716.2	5210	1002.5	9205
716.3(a)	5305	1003	9210
716.3(b)	5310	1004	1705
716.3(c)	5315	1005	1750
716.3(d)	5320	1005.5	1755
716.3(e)	5325	1006	1715
716.3(f)	5330	1007	1710
716.3(g)	5335	1008	1720
716.3(h)	5340	1009	2105
716.3(i)	5345	1010	2110
716.3, intro.	5300	1011	2200
716.3(j)	5350	1012	2205
716.3(k)	5355	1013	2210
716.3(l)	5360	1014	60720
716.3(m)	5365	1015	1725
716.3(n)	5370	1016(a), def. in 1st sent.	67400
716.3(o)	5375	1016(a), except def. in 1st sent.	67405
716.3(p)	5380	1016(b), def. in 1st sent.	67400
716.3(q)	5385	1016(b), except def. in 1st sent.	67410
716.3(r)	5390	1016(c)	67415
716.3(s)	5395	1016(d)	67420
716.3(t)	5400	1017	1740
716.4	5450	1018	69200
716.5	5500	1019	2100
716.6	5550	1020	2405
716.7	5600	1021	49850
716.8	5650	1050(a)	2905
716.9	5700	1050(b)	2805
717	5750	1050(c)	2910
717.1	5800	1050(d)	3000
717.2	5805	1050(e)	3750
850	1600	1050(f)	3005
851	4100	1050.1	2815
853	4110	1050.3	2925
854	4115	1050.5	3010
855	4305	1050.6	2915
856	4105	1050.8	3665
856.5	4320	1051	2810
857	1610	1052	3050

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1052.5	2820	1205	25325
1053.1(a)	2930	1206	25330
1053.1(b)	not cont'd	1210	25135
1053.5	10205	1225	3650
1054(a)	2300	1226(a)	3655
1054(b)	2920	1226(b)	1900
1054(c)	2300	1227	1905
1054(c)	2920	1300	54700
1054.2	8300(a)	1301	54710
1054.5	2900	1320	54750
1054.8	2940	1321	54755
1055.1(a)-(b)	3200	1322	54760
1055.1(c), 1st sent.	3250(a)	1323	54765
1055.1(c), 2nd sent.	3250(c)	1324	54770
1055.1(c), 3rd-4th sent.	3250(b)	1345	54800(a)-(c)
1055.1(d)-(f)	3350	1346	54800(d)
1055.1(g)	3205	1347	54805
1055.1(h)	not cont'd	1348	54815
1055.3	3210	1348.1	54825
1055.6(a)	3255(a)	1348.2	54830
1055.6(b)	3255(b)	1348.3(a)(1), (a)(3), (b)	54835
1055.6(c)	3355	1348.3(a)(2)	not cont'd
1055.6(d)	3255(c)	1349	54840
1055.6(e)	not cont'd	1350(a)	54855
1056	3370	1350(b)	54845
1057	3365	1350(c)	54850
1058	3375	1351	54865
1059	3360(a)-(b)	1352	54875
1061(a)-(e)	2935	1352.5	54880
1061(f)	not cont'd	1353	54860
1065	3260	1354	54820
1068	50655	1355	54870
1069	23200	1356	54810
1110	15200	1360	54900
1120	25100	1361(a)	not cont'd
1121	25105	1361(b)-(j)	54905
1122	25110	1362	54910
1122.5	25130	1363(a)	54925
1123	25405	1363(b)	54930
1123.5	25855	1363(c)	54945
1124	11505	1363(d)-(e)	54940(a)-(b)
1125	25420	1363(f)	54955
1126	25115	1364	54940(c)
1150	25120	1365	54960
1170	25200	1366	54965
1171	25205	1367	54950
1172	25210	1368	54970
1173	25215	1369	54975
1174	25220	1370	54935
1175	25225	1372	54915
1200	25300	1375	54885
1201	25305	1385	57700
1202	25310	1386	57705
1203	25315	1387	57725
1204	25320	1388	57730

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1389	57710	1572(a), 2nd sent.....	56230
1390	57735	1572(b), 1st sent.....	56270
1391	57740	1572(b), 2nd sent.....	56285
1400	57000	1572(c)(1).....	56325
1401	57005	1572(c)(2).....	56330
1402	57510	1572(c)(3).....	56335
1403	57515	1572(d).....	56240
1404	57520	1572(e).....	56290
1405	57525	1572(f).....	56340
1410	57550	1573(a).....	56245
1411(a), 1st sent.....	57645(a)	1573(b).....	56280
1411(a), 2nd sent.	57555	1573(c).....	56255
1411(b).....	57645(b)	1573(d).....	56260
1411(c).....	57560	1573(e).....	56265
1412	57650	1573(f).....	56250
1413	57565	1573(g).....	56235
1414	57570	1574.....	56275
1415	57575	1575.....	10700
1416	57580	1580, 1st sent.....	60750
1417	57585	1580, 2nd-3rd sent.....	60760
1418	57590	1580, 4th sent.....	60765
1419	57655	1580, 5th sent.....	60790
1420	57595	1581.....	60770
1421	57600	1582.....	60775
1422	57605	1583.....	60780
1430, 1st sent.....	57625	1584.....	60755
1430, 2nd sent.....	57635	1585.....	60785
1431, 1st sent.....	57630	1586.....	60850
1431, 2nd sent.....	57640	1587.....	60855
1500	60700	1590.....	60550
1500.5	60705	1591.....	60555
1501	54550	1600.....	69700
1501.5	54555	1601.....	69705
1502	1730	1602(a).....	69750
1503	34535	1602(b).....	70155
1504(a)-(c), (e)-(g).....	60680	1602(c).....	69785
1504(d).....	810	1602(d).....	70165
1505	60900	1602(e).....	69710
1506(a)(3).....	810	1603(a), 1st-4th sent.....	69795
1506(except (a)(3)).....	60685	1603(a), 5th-7th sent.....	69805
1525	60600	1603(a), 8th sent.....	69810
1526	60605	1603(b), 1st-2nd sent.....	70050
1526.4	60715	1603(b), 3rd-5th sent.....	70055
1527	60610	1603(b), 6th sent.....	70060
1528, 1st sent.....	60650	1603(b), 7th, 8th sent.....	70065
1528, 2nd sent.....	60655	1603(b), 9th sent.....	70070
1528, 3rd sent.....	60660	1604.....	70075
1528, 4th-5th sent.....	60665	1605(a).....	69850
1528, 6th sent.....	60670	1605(b)-(c).....	69855
1529	60675	1605(d).....	69860
1530, 1st para.....	60625	1605(e).....	69865
1530, 2nd para.....	60630	1605(f).....	69870
1570	56200	1605(g).....	69875
1571	56205	1605(h).....	69880
1572(a), 1st sent.....	56225	1606.....	69800

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1607	69715	1745(b)(2)	2010
1608	69775	1745(c), (d)	2015
1609	69780	1745(e)-(g)	2020
1610	70150	1745(h)	2025
1611	70160	1745(i)	2035
1612	69885	1745(j)	2030
1613	69790	1745.1	2040
1614	69815	1745.2	60710
1615(a)-(c)	70250	1750	56000
1615(d)-(e)	70255	1755	56005
1615(f)	70260	1756	56010
1616	69720	1758	56025
1617	70170	1760	56050
1650	55100	1761	56055
1651	55105	1762	56060
1652(a)	55200	1763	56065
1652(b)	55205	1764	56030
1652(c)	55215	1765	56080
1652(d)	55220	1766	56085
1652(e)	55225	1767.5	56070
1652(f)	55230	1768	56075
1653(a)	55300	1769	56090
1653(b)	55305	1770	56100
1653(c)	55315	1771	56105
1653(d)-(f)	55320	1772	56110
1653(g)	55325	1775	65800
1654(a)	55350	1776	65805
1654(b)	55110	1776.5	65810
1654(c)(1)	55355	1777	65850
1654(c)(2)	55360	1777.2	65855
1654(c)(3)	55365	1777.5	65860
1654(d)	55370	1778	65865
1655(a)	55150	1778.5	65870
1655(b)	55155	1779	65875
1655(c)	55210	1779.5	65880
1655(c)	55310	1780	65815
1655(d)	55160	1781	65820
1656	55115	1784(a)-(b)	65950
1657	55120	1784(c)-(e)	65955
1700	54525	1785, 1st sent.	65960
1725	11700	1785, 2nd sent.	65965
1726	11705	1786(a)	65970
1726.1	11710	1786(b)	65975
1726.4	11715	1787	65980
1726.5	11720	1790	66050
1727	11725	1791	66055
1728	11730	1792	66060
1729	11735	1792.5	66065
1730	11740	1793	66100
1740	38900	1794	66105
1741	38905	1795	66110
1742	38910	1796	66115
1743	38915	1797	65300
1745(a)	2000	1797.5(a)	65310
1745(b)(1)	2005	1797.5(b)	65315

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1797.5(c).....	65320	1851(k), 1st-3rd sent.	64765
1797.5(d).....	65325	1851(k), 4th-5th sent.	64850
1797.5(e).....	65330	1851(l), 1st sent.	64770
1797.5(f).....	65335	1851(l), 2nd-3rd sent.	64905
1797.5(g).....	65340	1851(m).....	64775
1797.5(h).....	65345	1851(n).....	64780
1797.5, intro. cl.	65305	1852(a).....	64935
1798(a).....	65450	1852(b).....	64900
1798(b).....	65455	1852(c).....	64910
1798(c)-(d).....	65460	1852(d).....	64925
1798(e).....	65465	1852(e).....	64915
1798(f).....	65470	1853(a).....	64855
1798.5(a)(1).....	65500	1853(b).....	64920
1798.5(a)(2).....	65505	1853(c).....	64860
1798.5(b).....	65510	1854(a).....	65000
1798.5(c)-(d).....	65515	1854(b).....	64705
1798.5(e).....	65520	1854(c)(1).....	64960
1798.5(f).....	65525	1854(c)(2).....	64965
1798.5(g).....	65530	1854(c)(3).....	64970
1798.5(h).....	65535	1854(c)(4).....	64975
1798.6(a).....	65550	1854(c)(5).....	64980
1798.6(b), 1st-4th sent.	65555	1854(c)(6).....	64985
1798.6(b), 5th sent.	65585	1854(d).....	64995
1798.6(c)(1).....	65560	1854(e).....	64930
1798.6(c)(2)-(3).....	65565	1855(a).....	65050
1798.6(c)(4), (d).....	65570	1855(b).....	65055
1798.6(e).....	65575	1855(c).....	65060
1798.6(f).....	65580	1855(d).....	65150
1798.6(g).....	65590	1855(e).....	64990
1798.6(h).....	65600	1856(a).....	65100
1798.7.....	65400	1856(b).....	65105
1799(a).....	65650	1856(c).....	65110
1799(b).....	65655	1856(d).....	65115
1799(c).....	65660	1856(e).....	65120
1799(d).....	65665	1856(f).....	65125
1799(e).....	65670	1856(g).....	65135
1799.1(a).....	65675	1856(h).....	65130
1799.1(b).....	65680	1856(i).....	65140
1799.1(c).....	65685	1856(j).....	65145
1799.1(d).....	65690	1856(k).....	65155
1800.....	54500	1857.....	64805
1801.....	54505	1858.....	64800
1802.....	54510	1859.....	64815
1850.....	64700	1860.....	64820
1851(a).....	64715	1861.....	64810
1851(b).....	64720	1900.....	53800
1851(c).....	64725	1901, 2nd sent.	557
1851(d).....	64730	1901, except 2nd sent.	53805
1851(e).....	64735	1904, 1st sent.	53810
1851(f).....	64740	1904, 2nd sent.	53815
1851(g).....	64745	1905.....	53850(a)
1851(h).....	64750	1906.....	53850(b)
1851(i).....	64755	1907.....	53825
1851, intro. cl.	64710	1908.....	53820
1851(j).....	64760	1909.....	53830

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
1910, 1st sent.	53835	2022(h)	28680
1910, 2nd sent.	53840	2022(j)	28685
1911	53845	2050	62000
1912	53855(a)	2051	62005
1913(a)	53855(b)	2052	62010
1913(b)	53855(c)	2052.1	62015
1913(c)	53855(d)	2053	62020
1925, 1st sent.	53900	2054	62025
1925, 2nd-3rd sent.	53910	2055	62030
1926	53905	2056	62035
1930	54575	2060	62100
1930.5(a)-(b)	54580	2061	62110
1930.5(c)-(e)	54600	2062	62115
1930.5(f)(1)	478	2063	62120
1930.5(f)(2)	805	2064	62125
1931	54595(a)	2065	62130
1932	54585	2067	62135
1932.5(a)-(b)	54595(b)-(d)	2068	62105
1932.5(c)-(e)	54605(a)-(c)	2069(a), intro. cl.	63000
1933	54605(d)	2069(a)(1)	63005
1940	54590	2069(a)(2)	63015
2000	8000	2069(b)	63050
2000.5	8005	2069(c)	63055
2001	8015	2069(d)-(e)	63065
2002	8010	2069(f)(1)	63070
2003	8115	2069(f)(2)	63075
2003.5	57775	2069(g)	63080
2003.6	57780	2070	62200
2004	8120	2071	62250
2005	8125	2071.5	62205
2006	9715	2072	62255
2007	9560	2072.3	62260
2009(a), (c)-(f)	8130(a)-(b), (d)-(e)	2072.7	62275
2009(b)	8130(c)	2073	62265
2010	9555	2073.3	62270
2011	9735	2073.4	62285
2011.5	9725	2073.5	62280
2012	8305	2073.7	62290
2013	90	2074	62350
2014(a)-(e), (g)	8450(a)-(f), (h)	2074.2(a), 1st sent.	62355
2014(f)	8450(g)	2074.2(a), 2nd sent.	62360(a)
2015	28600	2074.2(b)	62360(b)-(c)
2016	9580	2074.2(c)	62365
2018	8135	2074.2(d)	62370
2019	9730	2074.2(e)-(f)	62375
2020	4405	2074.4	62380
2021	42610(a)-(d)	2074.6, 1st sent.	62400
2021.5(a)	42610(e)-(f)	2074.6, 2nd sent., 1st part	62405(a)
2021.5(b)	42615	2074.6, 2nd sent., 2nd part	62415
2022(a)	28650	2074.6, 3rd sent.	62410
2022(b)-(c)	28655	2074.6, 4th sent.	62405(b)
2022(d)	28660	2074.6, 5th sent.	62405(c)
2022(e)	28665	2074.8	62420
2022(f), (i)	28670	2075	62450
2022(g)	28675	2075.5(a), 1st sent.	62455

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2075.5(a), 2nd sent.	62460(a)	2086(f)	63780
2075.5(b)	62460(b)-(c)	2087	63700
2075.5(c)	62465	2088, 1st part	63710
2075.5(d)	62470	2088, 2nd part	63715
2075.5(e)	62475	2089	63705
2076	62480	2089.10	64015
2076.5	62485	2089.12(a)	64020
2077(a)	62500	2089.12(b)	64025
2077(b)	62505	2089.14	64035
2077(c)	62510	2089.16	64030
2077(d)	62520	2089.18	64040
2077(e)	62515	2089.2(a)	63900
2078	62210	2089.20(a)-(c)	64010
2079	62525	2089.2(b)	63905
2080	62600	2089.2(c)-(d)	63915
2080.1	62705	2089.20(d)-(e)	64045
2080.2	63350	2089.22(a)	63930
2080.3	63355	2089.22(b)	63720
2080.4	63360	2089.22(b)	64525
2081(a)	62650	2089.23	64050
2081(b)-(d)	62700	2089.24	63925
2081.1	62670	2089.25	63920
2081.10	63455	2089.26	63935
2081.2(a)	63600	2089.4	63910
2081.2(b)	63605	2089.6	63950
2081.2(c)	63615	2089.7	63955
2081.2(d)	63625	2089.8	64000
2081.2(e)	63610	2089.9	64005
2081.2(f)(1)	63620	2098	64100
2081.2(f)(2)	63640	2099(a)(1)	63010
2081.2(f)(3)	63630	2099(a)(2)	63015
2081.2(g)	63635	2099(b)	63100
2081.4	63400	2099(c)	63105
2081.5(a)	63205	2099(d)	63110
2081.5(b)-(c)	63210	2099.20	not cont'd
2081.5, intro. cl.	63200	2099.5	63010
2081.6	63450	2099.5	63115
2081.7(a)	63300	2100	not cont'd
2081.7(b)-(d)	63305	2116	26500
2081.7(e)(1)-(3)	63310	2116.5	26510
2081.7(e)(4)	63315	2117	26505
2081.7(f)	63320	2118(a)	26700
2081.8	63325	2118(b)	26705
2081.9	63500	2118(c)	26710
2082	62675	2118(d)-(e), (j)	26715
2083, 1st cl.	62655	2118(f)	26720
2083, 2nd cl.	62680	2118(g)-(h)	26725
2084	62665	2118(i)	26730
2085	62605	2118(k)	26735
2086(a)	63750	2118.2	26865(a)-(c)
2086(b)	63755	2118.3	26865(e)
2086(c)	63760	2118.4	26865(d)
2086(d)(1)	63765	2118.5	26605
2086(d)(2)	63770	2119	26615
2086(e)	63775	2120	26600

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2121	26860	2301(a)(2)(A)-(D)(i), (c)(2)	49960
2122	26610	2301(a)(2)(D)(ii)-(iv)	49965
2123	26620	2301(b)	49970
2124	26850	2301(c)(1)	49975
2125(a), 1st sent.	27005(a)	2301(d)	49980
2125(a), 2nd sent.	27000	2301(e)	49955
2125(b)	27005(b)	2301(f)	49995
2125(c)	27010	2301(g)	49985
2125(d)	27015	2301(h)	49990
2126	26855	2301(i)	50000
2127	27020	2302(a)-(b)	50105
2128	26870	2302(c)	50110
2150(a)	27200	2302(d)	50115
2150(b)	27205	2302(e)	50120
2150(c)-(f)	27210	2302(f), 1st-2nd sent.	50130
2150.1	27215(b)	2302(f), 3rd sent.	50125
2150.2	27215(a)	2302(g)	50100
2150.3	27220	2345	28400
2150.4	27225	2346	28405(a)
2150.5	27330	2347	28405(b)
2151	27235	2348	28410
2152	27240	2349	28415
2153	27245	2350 (deer)	34120
2155	27250	2350 (game birds)	29375
2156	27255	2352	28420
2157(a)	27260	2353	28425
2157(b), (d)	27265	2354	40705
2157(c)	27270	2355	34125
2185(a)	27405	2356	43850
2185(b)	27400	2358	43855
2186(a)	27410	2359	38865(a)
2186(b)	27400	2360 (black bass)	38850
2187(a)	27415	2360 (spotted bass)	38860
2187(b)	27400	2361	41050
2189(a)	27500	2362 (barracuda)	38705
2189(b)-(c)	27505	2362 (white sea bass)	38875(a)
2189(d)-(f)	27510	2362 (white sea bass)	38875(b)
2190	27700	2362 (yellowtail)	44650
2192	27710	2363 (shad)	42455
2193(a)	27275	2363 (striped bass)	38865(b)
2193(b)-(c)	27280	2363 (sturgeon)	43200
2195	27705	2364	46550
2200	27600	2365	49315
2201	27605	2368	46255
2202	27610	2369	46260
2203	27615	2371	45750
2225	28000	2400	28500
2250	35615	2401	28505
2270	28100(a)	2535	8800
2270.5	28105	2536	8805
2271	28110(a)-(d)	2537	8810
2272	28115	2538	8900
2300(a)-(b)	28250	2539	8815
2300(c)	28255	2540(a)-(b), (d)-(e)	8905
2301(a)(1)	49950	2540(c)	8910

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2541	8915	2724	55745
2542	8820	2725	55750
2543	8825	2726	55755
2544	8920	2727	55760
2545	8925	2728	55765
2546	9000	2729	55770
2575	37455(b)	2760	11900
2576	37455(a)	2761	11905
2580	9300	2762	11910
2581	9310(a)	2762.2	11915
2582	9305	2762.5	11920
2583(a), 1st sent.	9320	2762.6	11925
2583(a), 2nd-3rd sent.	9325	2763	11930
2583(b)	9310(c)	2764	11935
2584(a)	9315	2765	11940
2584(b)-(h)	9330	2780	55800
2585	9335	2781	55805
2586(a)	4300	2785	55825
2586(b)	4300	2786	55830
2586(b)	9310(b)	2787	55835
2587(a)	9340	2788	55840
2587(b)	9345	2789	55845
2588	9350	2790	55850
2589	9355	2791	55855
2600	55500	2792	55860
2601	55505	2793	55865
2602	55510	2794	55870
2620	55525	2795	55875
2621	55530	2796	55880
2622	55535	2797	55885
2623	55540	2798	55890
2624	55545	2799	55895
2625	55550	2799.5	55900
2626	55555	2799.6	55905
2627	55560	2800	64500
2640	55600	2801	64505
2641	55605	2802	64510
2642	55610	2805	64515
2643	55615	2809	64550
2644	55620	2810(a), 1st sent.	64555
2644.5	55625	2810(a), 2nd sent.	64560(j)
2645	55630	2810(b)	64560(a)-(i)
2646	55635	2810(c)	64585
2647	55640	2810(d)	64575
2648	55645	2815	64570
2649	55650	2820(a)	64580
2650	55655	2820(b)	64565
2651	55660	2820(c)	64645
2700	55700	2820(d)	64625
2701	55705	2820(e)	64620
2702	55710	2820(f)	64610
2720	55725	2821	64600
2721	55730	2822	64635
2722	55735	2823	64640
2723	55740	2825	64520

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
2826	64615	3004(a)	9700
2827	64630	3004(b)	9705
2828	64650	3004.5(a)	10000
2829	64530	3004.5(b)	10005(a)
2830	64655	3004.5(c)	10010
2831	64660	3004.5(d)	10015
2835	64605	3004.5(e)	10020
2850	60400	3004.5(f)	10030
2850.5	60415	3004.5(g)	10025(a)
2851	60405	3004.5(h)	10025(b)
2852	60410(a)-(d)	3004.5(i)	10005(b)
2853(a)-(b)	60475	3004.5(j)	10005(c)
2853(c)	60480	3005(a)	9565(a)
2854	60510	3005(b)(1)-(2)	71510
2855	60500	3005(b)(3), 1st sent.	71500(a)
2856	60505	3005(b)(3), 2nd sent.	71500(b)
2857	60525	3005(b)(3), 3rd sent.	71515
2858	60515	3005(b)(3), 4th sent.	71505
2859	60520	3005(b)(3), 5th sent.	71520
2860	60450	3005(b)(4)	71525
2861(a)	60530	3005(b)(5)	71530
2861(b)	60535	3005(c)	9565(b)
2862	60455	3005(d)	9565(c)
2863	60420	3005.5	9740
2900	58075	3006 (bear)	33225
2901	58080	3006 (deer)	34115
2930	56800	3006 (elk)	34810
2931(a)	56805	3007	9500(a)
2931(b)-(c)	56900	3008	9720
2931(d)	56945	3009	10100
2932	56850	3010	30910(a)
2932.2	56855	3011	33200
2932.3	56860	3012	9585
2932.5	56865	3031 (two versions)	10210 (two versions)
2933	56920	3031.2	10225
2940	56810	3031.5	10215
2941	56815	3032(a)(1)	31500
2942(a)(1)	56910	3032(a)(2)-(d)	31505
2942(a)(2)	56825	3033	10300
2942(a)(3)(A)	56915	3037	10220
2942(a)(3)(B)	56905	3038	10305
2942(b)(1)	56930	3039	28750
2942(b)(2)	56940	3040	10230
2942(c)	56925	3049	10400
2943	56935	3050	10200
2945	56820	3051	10405
3000	9590	3052	10410
3001	9710	3053	10415
3002	9550	3054	10420
3003	9575	3060	10355
3003.1(a), 1st sent., (b)-(c)	11110(a)	3061	10350
3003.1(a), 2nd-3rd sent.	250	3062	10360
3003.1(d)	11100	3063	10365
3003.2	8140(a)	3080(a)	10800
3003.5	9570	3080(b)	10805

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3080(c)	10810	3401(b)	56595
3080(d)	10815	3402	56530
3080(e)	10820	3403	56545
3086	10825	3404(a)	56555
3087	10830(a)-(d)	3404(b)	56540
3200	26000	3406(a)	56535
3201	26005	3406(b)	56590
3202	26010	3406(c)	56550
3203	26015	3407	56585
3204, 1st para.	26020	3408	56560
3204, 2nd para.	26025	3450	4850
3205	26030	3451	4855
3206	26035	3452	4860
3207	26040	3453	4865
3208	26045	3460(a)	56700
3209	26050	3460(b)	56730
3212	26055	3460(c)	56735
3213	26060	3461	56705
3214	26065	3462	56710
3216	26070	3464	56715
3217	26075	3465	56725
3218	26080	3466	56720
3219	26085	3467	56740
3240.5(a)	10600	3470	72800
3240.5(b)	10605	3471	72805
3240.5(c)-(d)	10610	3472	72810
3241	10615	3472.1	72815
3242	10620	3472.2, 1st sent.	72820
3243.5	10625	3472.2, 2nd sent.	72825
3245	10630	3500(a)	665
3246	10635	3500(a)(10)	30900
3270(a)	29365	3500(a)(11)	31100
3270(b)	not cont'd	3500(b)	545
3300, 1st para., 1st sent.	26205	3500(b)(1)	30500
3300, 1st para., 2nd sent.	26210(a)	3500(b)(6)	31000
3300, 2nd para.	26200	3500(c)	450
3301, 1st sent.	26210(b)	3501	29355
3301, 2nd-3rd sent.	26215	3502	29350
3302	26220	3503	28905(a)
3303, 1st-2nd sent.	26225	3503.5	30110(a)
3303, 3rd sent.	26230	3504	28910
3305	26235	3505 (bird of paradise)	30300
3306, 1st-2nd para.	26240	3505 (egret)	30700
3306, 3rd para.	26245	3505 (goura)	30750
3307, 1st para., 1st sent.	26250(b)	3505 (numidi)	30800
3307, 1st para., 2nd sent.	26250(a)	3505 (osprey)	30850
3307, 2nd para.	26255	3508	29360
3308	26265	3511(a)(1), 1st-2nd sent.	30200(a)-(b)
3309	26260	3511(a)(1), 3rd-6th sent., (a)(2)	30205
3310	26270	3511(a)(3)	30210
3311	26275	3511(b)	420
3400	56500	3511(b)(5)	30350
3401(a), 1st sent.	56525	3513	29855(a)
3401(a), 2nd sent.	56575	3514	370
3401(a), 3rd sent.	56580	3515	29705

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3516, 1st para.....	29700	3800(b)(3), 3rd sent.....	71515
3516, 2nd para.	29650	3800(b)(3), 4th sent.....	71505
3660	30910(b)	3800(b)(3), 5th sent.....	71520
3680	31010	3800(b)(4).....	71530
3681	30510	3800(c)	71525
3682.1(a).....	29500	3801	31050
3682.1(b).....	29505	3801.5	29860
3682.1(c).....	not cont'd	3801.6(a)	30000
3682.2	29510	3801.6(b)(1).....	30005
3683	775	3801.6(b)(2), 1st sent.	30015
3683(a)(11)	30900	3801.6(b)(2), 2nd-4th sent.....	30010(a)
3683(a)(12)	31100	3801.6(c)	30010(b)
3683(b)(4)	31000	3802	30115
3684(a).....	29515(a)	3803	28915
3684(b).....	29515(b)	3806	29205
3684(c), 1st sent.....	29515(d)	3850	30360
3684(c), 2nd sent.	29520(a)	3851	30365
3684(c), 3rd sent.....	29525	3852	30370
3684(c), 4th-5th sent.....	29520(b)	3853	30375
3684(d).....	29530(a)	3854	30380
3684(e), 1st sent.....	29540	3855	30385
3684(e), 2nd sent.	29515(e)	3856	30390
3684(f)	29545	3857	30395
3684(g).....	29515(c)	3860	29050
3686, 1st sent.	29520(c)	3861	29055
3686, 2nd sent., 1st cl.	29530(b)	3862	29060
3686, 2nd sent., 2nd cl.	29535	3863	29065
3700.1(a).....	30505(a)	3950(a)	460(a)(1)-(4), (6)-(9)
3700.1(b).....	30515	3950(a) (antelope)	32900
3700.1(c).....	not cont'd	3950(a) (bear)	33100
3700.2(a)-(f).....	30520	3950(a) (deer)	34100
3700.2(g).....	30525(a)	3950(a) (elk).....	34800
3701, 1st sent.	30530	3950(a) (mountain lion)	35300(a)
3701, 2nd sent.	30535(a)	3950(a) (rabbit & hare)	35700
3702, 1st sent.	30540	3950(a) (squirrel).....	36000
3702, 2nd sent.	30555	3950(a) (wild pig).....	37100
3702, 3rd sent.....	30550	3950(a) (wild rodent)	37450
3702.1	30565	3950(b)	460(a)(5)
3702.5, 1st sent.	30525(b)	3950.1	460(b)-(c)
3702.5, 2nd sent.	not cont'd	3950.1(a)	35300(b)
3703	30560(a)	3950.1(b)	35310
3704, 1st para., 1st-2nd sent.	30535(b)	3951	34960
3704, 1st para., 3rd sent.....	30535(c)	3952	34955
3704, 1st para., 4th sent.	30545	3953(a)	31900
3704, 2nd para.	not cont'd	3953(b), 1st sent. (antelope).....	32960(a)
3704.5, 1st para., 1st sent.....	30570	3953(b), 1st sent. (deer).....	34240
3704.5, 1st para., 2nd sent., 1st cl.....	30555	3953(b), 1st sent. (elk).....	34865
3704.5, 1st para., 2nd sent., 2nd cl.	30550	3953(b), 1st sent. (sheep)	35825(a)
3704.5, 2nd para.	not cont'd	3953(b), 1st sent. (wild pig)	37220
3705	30560(b)	3953(b), 2nd sent. (antelope).....	32965(b)
3800(a), 1st sent.....	570	3953(b), 2nd sent. (bear)	33305
3800(a), 2nd sent.	29850(a)	3953(b), 2nd sent. (deer)	34245(b)
3800(b)(1)-(2)	71510	3953(b), 2nd sent. (elk)	34870(b)
3800(b)(3), 1st sent.....	71500(a)	3953(b), 2nd sent. (sheep)	35820(b)
3800(b)(3), 2nd sent.....	71500(b)	3953(c)	31905

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
3953(d).....	31910	4033	11315(c)
3953(e), 1st sent.....	31915	4034	11310
3953(e), 2nd sent.	31920	4035	11320
3953(f)	31925	4036	11350
3953(g).....	31930	4037	11325(a)
3960(a).....	31500	4038	11325(b)
3960(b).....	31510(a)	4040	11330
3960(c)(1)-(2), (4).....	31550	4041	11335
3960(c)(3)	31510(b)	4042	11340
3960.2 (bear).....	31500	4043	11355
3960.2 (bear).....	33515	4150, 1st sent.	575(a)
3960.2 (bobcat)	33755	4150, 2nd sent.	32300
3960.2 (bobcat)	33905	4151	575(b)
3960.4(a).....	31500	4152	36010
3960.4(b)-(d).....	33950	4152 (fox).....	35215
3960.4 (bear).....	33600	4152 (muskrat)	35610
3960.4 (bobcat)	33755	4152 (nongame mammal).....	32305
3960.6(a).....	31500	4152 (rabbit & hare).....	35710
3960.6(b).....	33900	4153, 1st para.	32310(a)
3960.6 (bear).....	33505	4153, 2nd para.	31600
3960.6 (bobcat)	33755	4154	32310(b)
3961	31555	4155(a)	33805
4000 (beaver).....	33700	4155(b)-(c)	33810
4000 (fox)	35200	4155(d)	33800
4000 (“fur bearing mammal”)	435	4155(e)	33815
4000 (muskrat).....	35600	4155(f).....	33820
4002	32150(a)	4180	32155
4003	32150(b)	4180.1, 1st para.	31605(a)
4004(a).....	11150	4180.1, 2nd para.	31605(b)
4004(b).....	11105	4181(a) (bear).....	33520(a)-(d), (f)
4004(c).....	11020(a)-(b)	4181(a) (beaver)	33710
4004(d).....	11000	4181(a) (elk).....	35000(a)-(c), (f)
4004(e).....	11155	4181(a) (squirrel).....	36015
4004(f)	11005	4181(a) (wild pig).....	37150
4004(g).....	11010	4181(a) (wild pig).....	37360(a)-(c), (e)
4005(a), 1st sent.....	11200(a)-(b)(1)	4181(a) (wild turkey)	31110
4005(a), 2nd sent.	650	4181(b)	33520(e)
4005(b).....	11210	4181(c) (wild pig).....	37355(f)
4005(c).....	11200(b)(6)	4181(c) (wild rodent)	37360(d)
4005(d).....	11205	4181(d)	35000(d)-(e)
4005(e).....	11200(b)(2)-(5)	4181.1(a)	33510(a)
4005(f)	37460	4181.1(b)	37355(a)-(d)
4006(a).....	11215(a)	4181.1(c) (bear).....	33510(b)
4006(b).....	11230	4181.1(c) (wild pig).....	37355(e)
4006(c).....	11215(b)	4181.1(d)	33510(c)
4007	11220	4181.1(e)	33510(d)
4008	11225	4181.2.....	37350
4009	11015	4181.5	34600
4009.5	11235	4185	33650
4010	26400	4186	35705
4011	31700	4188 (deer)	34605
4012	35210	4188 (wild pig)	37365
4030	11300	4188 (wild turkey)	31115
4031	11305	4190	31610
4032	11315(a)-(b)	4301(a), 1st sent.	34400(b)-(c)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
4301(a), 2nd-5th sent.	34405(b)-(d)	4763	33500
4301(b) (deer)	34400(a)	4800(a)-(c)	35350
4301(b) (deer)	34405(a)	4800(d)	35310
4302	34110	4801	35400
4303	34410	4801.5	35440
4304, 1st sent.	29370	4802	35405
4304 (deer)	34415	4803	35410
4304 (game mammal)	31800	4804	35415
4330	34200(a)	4805	35420
4331	34220	4806	35425
4332(a)-(d)	34225	4807	35430
4332(e)	not cont'd	4808	35315
4333	34230	4809	35435
4334	34215	4810	35500
4336	34205	4900	35810
4340	34235	4901	35815
4341	34210	4902(a)-(b)	35900
4370	34350	4902(c)	35910
4371	34355	4902(d)	35905(a)-(b)
4500(a)-(b)	32500(a)-(b)	4902(e)	35905(c)
4500(c) (“marine mammal”)	530	4903	35915
4500(c) (sea otter)	35750(a)	4903, 3rd-4th sent.	35825(b)
4500(c) (whale)	37000(a)	5000	53305
4501	35755	5001	53315
4502.5	37050	5002	53310
4600	34055(a)-(c)	5050(a) (fully prot. amph.)	52200(a)-(d), (g)
4650	37105	5050(a) (fully prot. reptile)	53000(a)-(d), (g)
4651	37300	5050(b)(1)-(2)	440
4652	37150	5050(b)(3)-(5)	415
4653	37200	5060	53100
4654 (wild pig)	37205	5061	53105
4654 (wild pig)	37215	5062	53200
4655	37210	5500	8145
4656	not cont'd	5501	11540
4657	37155	5503	11525
4700(a)(1), 1st-2nd sent.	32700(a)-(b)	5505 (amphibians)	51905
4700(a)(1), 3rd-6th sent., (a)(2)	32705	5505 (bait)	11530
4700(a)(3)	32710	5505 (crustaceans)	45250
4700(b)	430	5505 (mollusks)	45400
4700(b)(1)	37450(b)	5507	11510
4700(b)(2)	35800	5508	11515
4700(b)(6)	37000(b)	5509	11520
4700(b)(7)	37450(c)	5510	13710
4700(b)(8)	35750(b)	5511	24905
4750	33205(a)	5514 (salmon)	41005
4751	33300	5514 (steelhead)	43950
4752	33310	5515(a)	38200(a)-(d), (g)
4753	33210	5515(b)	425
4754	33315	5516	11535
4755	33215	5517	42605
4757	33220	5520	46000
4758	33455	5521	45800
4759, 1st sent.	33450(a)	5521.5	45805
4759, 2nd-3rd sent.	33450(b)	5521.6	45810
4760	33110	5522(a), (b)	46005

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
5522(c)	46010	5800(b)	71755
5522(d)	46015	5800(c)	71760
5522(e)	46020	5800(d)	71765
5523	11500	5801	71700
5650(a)	66500	5802	71710
5650(b)	66505	5803	71705
5650(c)-(f)	66510	5900	68000
5650.1(a)-(c)	66550	5901	68105
5650.1(d)-(g)	66575	5902	68050
5650.1(h)	66570	5903	68055
5650.1(i)	66555	5904	68060
5650.1(j)	66565	5930	68400
5651	66700	5931	68405
5652	66525	5932	68410
5653(a), 1st sent.	71050	5933, 1st sent.	68500
5653(a), 2nd sent.	71200(a)	5933, 2nd sent.	68505
5653(b)	71200(b)	5933, 3rd sent.	68510
5653(c), 1st sent.	71055	5933, 4th-5th sent.	68520
5653(c), 2nd sent.	71205	5934	68515
5653(c), 3rd sent.	71070	5935	68305
5653(d)	71255	5936	68300
5653(e)	71065	5937	68310
5653(f)	71260	5938	68650
5653(g), 1st sent.	71000(c)	5939	68655
5653(g), 2nd sent.	71005	5940	68660
5653.1	71280	5941	68665
5653.3	71075	5942	68670
5653.5	71000(a)	5943	68315
5653.7	71060	5944	68320
5653.8	71000(b)	5945	68675
5653.9	71010	5946	68600
5654(a)(1)	66800(a)-(d)	5947	68605
5654(a)(2)	66800(e)	5948	68100
5654(b)	66805	5980	68800
5654(c)	66825	5981	68850
5654(d)	66810	5982	68855
5654(e)	66820	5983	68900
5654(f)	66830	5984	68905
5654(g)	66835	5985	68910
5654(h)	66840	5986	68915
5655	66710	5987	68920
5656	67505(c)	5988	68865
5669	45500(a)	5989	68870
5670	45505	5990	68860
5671	45500(a)	5991	68875
5672, 1st para.	45510(a)	5992	68925
5672, 2nd para.	45505	5993	68930
5673	45510(b)	6020	69000
5674	45515	6021	69050
5675	45500(b)	6022	69060
5700	45450	6023	69065
5701	45455	6024	69070
5701.5	45460	6025	69075
5702	45465	6026	69055
5800(a)	71750	6027	69080

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
6028	69085	6593, 2nd sent.	25715(b)
6100(a)	69500	6594	25715(a)
6100(b)	69505	6595	25725
6100(c)	69510	6596.1(a), 1st, 3rd sent.	12910(a)-(b)
6100(d)	69515	6596.1(a), 2nd sent., (f)	13255(a)
6300, 2nd sent.	53600	6596.1(b)	21935
6300 (amphibians)	52000	6596.1(c)	38875(c)
6300 (fish)	37950	6596.1(d)	14620(a)
6301 (amphibians)	52005	6596.1(e)	not cont'd
6301 (aquatic plants)	53605	6596.1(f)	13255(a)
6301 (fish)	37955	6596.1(f)	14620(a)
6302 (amphibians)	52010	6596.1(g)	13255(b)
6302 (aquatic plants)	53610	6596.1(g)	14620(b)
6302 (fish)	37960	6597	25730
6303 (amphibians)	52015	6597.5	25735
6303 (aquatic plants)	53615	6598	25740
6303 (fish)	37965	6600	67000
6304 (amphibians)	52020	6601	67005
6304 (aquatic plants)	53620	6602	67010
6304 (fish)	37970	6603(a)-(c)	67050
6305 (amphibians)	52025	6603(d)	67055
6305 (aquatic plants)	53625	6603(e)	67060
6305 (fish)	37975	6603(f)	67080
6306 (amphibians)	52030	6604	67065
6306 (aquatic plants)	53630	6605(a)	67015
6306 (fish)	37980	6605(b)	67070
6400	25415(b)	6605(c)	67075
6400.5	38870(a)	6610	67100
6401	25410	6611	67105
6402	25850	6612(a)	67110
6403	12910	6612(b)	67115
6403	13255(c)	6612(c)	67120
6403 (carp)	39150	6612(d)	67125
6403 (fish planting)	25400	6613(a)	67150
6420	25600	6613(b)	67155
6421	25605	6613(c)	67160
6422	25610	6613(d)	67165
6423	25615	6613(e)	67170
6424	25620(a)	6613(f)	67175
6425(a)	not cont'd	6613(g)	67180
6425(b)	25620(b)	6614(a)	67200(a)
6440	39205	6614(b), 1st sent.	67200(b)
6450	39210	6614(b), 2nd. sent.	67205
6451	39215	6614(c)	67210
6452	39220	6614(d)	67215
6453	39235	6614(e)	67220
6454	39230	6614(f)	67225
6455	39225	6615	67250
6456	39200	6616	67255
6457	39240	6617	67260
6460	39245	6618	67265
6590	25700	6619	67270
6591	25705	6620	67275
6592	25710	6621	67280
6593, 1st, 3rd sent.	25720	6650	54025

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
6651(a)-(b)	54030	6924	11835
6651(c) (agar)	54305	6930	11850
6651(c) (kelp)	54010	6950	41100
6652	54055	6952	41105
6653	54005	6953	41110
6653.5(a)	54330	6954	41115
6653.5(b)	54325	6955	41120
6654	54175	6956	41125
6655	54180	7050	12100
6656	54035	7051	12105
6657	54040	7055	12150
6680	54050	7056	12155
6700, 1st sent.	54080	7058	12160
6700, 2nd sent.	54075	7059	12165
6701	54085	7060	12200
6701.5	54090	7062	12205
6702	54095	7065	12250
6703	54100	7066	12255
6704	54105	7070	12300
6705	54110	7071(a)	12305
6706	54115	7071(b)-(c)	12310
6707	54120	7072(a)-(c)	12315
6708	54125	7072(d)	12320
6709	54130	7073	12325
6710	54135	7074	12330
6711	54140	7075	12400
6750	54200	7076	12405
6751	54205	7077	12410
6850	52400	7078(a)-(c)	12415
6851	52450	7078(d)	12420
6852	52460	7078(e)-(f)	12425
6854	52455	7080	12500
6855	52465	7081	12510
6880	52500	7082	12515
6881, 1st sent.	52505	7083	12520
6881, 2nd sent.	52510	7084	12525
6882	52505	7085	12530
6883	52515	7086	12535
6884	52505	7087(a)	12505
6885	52520	7087(b)	12540(a)
6895	52300	7088	12540(b)
6896	52305	7090(a)	12600
6900	11800	7090(b)(1), (b)(2), 1st sent.	12605
6901	11810	7090(b)(2), 2nd sent., (b)(2), (A)-(E)	12610
6902	11815	7090(c)	12615
6903	11820	7090(d)	12620
6903.5	25125	7090(e)	12625
6910	11805	7090(f)	12630
6911	11805(a)	7090(g)	12635
6912	11805(b)	7090(h)	12640
6920(a)	11825(a)	7100	12805
6920(b)	11830	7110	13800
6921	11825(b)	7115	13805
6922	11845	7120	13500
6923	11840	7121, 1st para.	13600

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
7121, 2nd para.	13605	7232	13705
7123	40710	7256	49310
7145(a)	12900	7260	43805
7145(a)	13000	7261	555
7145(b)	13010	7290	46250
7147	21930	7332	46300
7149.05(a)	12850	7350	38855
7149.05(a)	13100(a)	7361	13900
7149.05(b)	13400	7362	13910
7149.05(c)	not cont'd	7363	13905
7149.05(d)	13100(b)	7364	13915
7149.05(e)	13100(c)	7370	43150(a)-(b)
7149.2	13105	7380	44000
7149.3	53250	7381	44005
7149.45(a)	12905(a)-(b)	7382	44010
7149.45(b)	13250	7400	46050
7149.45(c)	not cont'd	7600	14200(a)-(b)
7149.5	13110	7600	37805
7149.7	13020	7600	45005
7149.8	45700(a)-(c)	7601	785
7149.9(a), 1st, 2nd sent.	45955(a)	7630	22900
7149.9(a), 3rd sent.	45950(a)	7650	22300
7149.9(a)(1), 1st sent.	45960	7652(a)-(c)	22405
7149.9(a)(1), 2nd sent.	45950(b)-(c)	7652(d)	22315
7149.9(a)(2)-(3)	45960	7652.1	22400(a)-(d)
7149.9(b)-(d)	45955(b)-(d)	7652.2	22450(a)-(d)
7150	13150	7652.3(a)	22410
7151(a)-(c)	13200	7652.3(a)	22455
7151(d)	13205	7652.3(b)	22400(e)
7151(e)	13210	7652.3(b)	22450(e)
7151(f)-(g)	13215	7653	22415
7153(b)	13005	7654	22305
7153(a) (re aquaculture facility)	13015	7655	22310
7153(a) (re public pier)	13005	7660	42050(b)
7180.1(a)	12950	7662	42050(a)
7180.1(a)	12955	7690	23100
7180.1(b)	12955	7700(a)-(c)	21600
7180.1(c), 1st sent.	12955	7700(d)	730
7180.1(c), 2nd sent.	13260	7701	21605
7180.1(d)	not cont'd	7702	21610
7181.1(a)	12960	7702.1	21810
7181.1(b)	not cont'd	7703	21615
7182.1(a)	13405	7704(a)	14310
7182.1(b)	not cont'd	7704(b)	21800
7183.1(a)-(b)	13355	7704(c)	42750
7183.1(c)	not cont'd	7705	21750
7184.1(a)-(b)	13360	7706	21850
7184.1(c)	not cont'd	7707	21855
7185	12965	7708	14350
7185	13350(a)	7709	23150
7185	13405(b)	7710(a)-(c)	22800(a)-(e)
7186.1(a)	13365	7710, last para.	22800(f)
7186.1(b)	13350(b)	7710, last para.	22805(d)
7186.1(c)	not cont'd	7710.1	22810
7230	13700	7710.5	22805(a)-(c)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
7712	22815	7892, 1st sent.	15050
7850	280	7892, 2nd sent.	15055
7850(a)	14500(a)	7892, 3rd sent.	15060
7850(b)	14500(b)	7920, 1st, 3rd sent.	295
7850(c)	14615	7920, 1st, 3rd sent.	300
7850(c), 1st sent.	14500(c)	7920, 1st, 3rd sent.	21905
7850(d)	14500(d)(1)	7920, 2nd sent.	21900
7850.5	14500(d)(2)	7921, 1st sent.	21915
7851	14550(b)	7921, 2nd sent.	21910
7852(a)-(b)	14550(a)	7923	21920(a)
7852(a)-(d)	14600	7924	21925
7852(e)	14550(c)	7925	42100
7852.1	14610	8010	22210
7852.1	14770	8022	22205
7852.2	14605	8025(a)	21400
7852.25	14555	8025(a)	22215
7852.27	14505	8025(b)	not cont'd
7852.27	20225	8026	22200(a)-(b)
7852.4	14860	8030	20200
7853	14665(a)	8031(a)(1), 1st-2nd sent.	20400(a)
7854	14665(b)	8031(a)(1), 3rd sent.	20400(b)
7855	14655	8031(a)(2)-(3)	not cont'd
7856(a)-(d)	14870 (a)-(g)	8031(a)(4)	290
7856(e)	14870(h)	8031(b)	not cont'd
7856(f), 1st-3rd sent.	14875	8032(a)	20205(a)
7856(f), 4th sent.	14880	8032(a)	20230(a)
7857(a), (c)-(k), (m)	14560	8032(b)	20205(b)
7857(b)	14650	8032(c)	20230(b)
7857(e)	14865	8032.5(a)-(b), (d)-(i)	20210
7857(k)	14760	8032.5(c)	20235
7857(l)	14855	8033	395
7857(m)	14850	8033(a)	20450
7858	14565	8033(b)	20455(a)
7860	41355	8033(c)	20460
7861	41360(a)-(e)	8033.1(a)	515
7861.1	41360(f)	8033.1(a)	20600
7861.2	41365	8033.1(b)	20610
7861.3	41350	8033.2	20605(a)
7861.4	41375	8033.5(a)	400
7861.5	41370	8033.5(a), 1st sent.	20500
7862	41380	8033.5(a), 2nd sent.	20505(a)
7862.5	41385	8033.5(b)	not cont'd
7863	41390	8034	390
7880	14785	8034(a), 1st sent.	20400(a)
7881(a)	14755	8034(a), 2nd sent.	20405(a)
7881(a)	14780	8034(b)	not cont'd
7881(b), 1st sent.	14765(a)	8035	405
7881(b), 2nd sent.	14775	8035(a)	20550(a)
7881(c), 1st sent.	14765(a)	8035(b)	20555(a)
7881(c), 2nd sent.	14775	8035(c)	20550(b)
7881(d)	14790	8036(a)	385
7881(e)	14750	8036(a), 1st sent.	20350
7881(f)	14765(b)	8036(a), 2nd sent.	20355(a)
7881(g)	14765(c)	8036(b)	not cont'd
7891	15200	8037(a), 1st sent.	20300

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8037(a), 2nd sent.	20220	8047(c)(2), 2nd sent.	21230(a)
8037(b).....	not cont'd	8047(c)(2), 3rd sent.	21230(b)
8038	20215	8047(c)(3)	21205
8039 (fish importer).....	20355(b)	8047(c)(4)	20450
8039 (fish processor)	20405(b)	8047(c)(5)	21200
8039 (fish receiver)	20455(b)	8047(d)	21225
8039 (fish retailer)	20505(b)	8047(e), 1st sent.	21220
8039 (fish wholesaler)	20555(b)	8047(e), 2nd-3rd sent.	21240
8039 (marine aquaria receiver)	20605(b)	8047(e), 4th sent.	21245
8039 (multi-function license)	20230(c)	8050	21300
8040(a)	280	8051	20955(a)
8040(b).....	20900	8051.4(a)	46150
8041	20950	8051.4(b)	not cont'd
8042, 1st sent.	20955(a)	8052	21360
8042, 2nd sent.	20955(b)	8053	21350
8043(a), 1st sent.	21000(a), (c)	8055	42105
8043(a), 2nd sent.	21005(a)	8056	21355
8043(b).....	21020	8057	21365(a)
8043(c), 1st sent.	21025(b)	8058	21365(b)
8043(c), 2nd-3rd sent.	21025(c)	8059	21365(c)
8043(c), 4th sent.	21155	8060	21365(d)
8043.1(a)	21000(b)	8061	21365(e)
8043.1(b).....	20905	8062	21365(f)
8043.1(c), 1st sent.	21005(b)	8063	21365(g)
8043.1(c), 2nd sent.	21005(c)	8064	21370
8043.1(d).....	not cont'd	8065	21375(a)
8043.2(a)	21010	8066	21375(b)
8043.2(b).....	21450	8067	21375(c)
8043.2(c).....	21455	8068	21375(d)
8045	21020	8069	21375(e)
8045	21225	8070	21375(f)
8046(a), 1st sent.	21150	8075	21650
8046(a), 2nd-4th sent.	21100	8076	21805
8046(b).....	21015	8077	21655
8046(c)	21110	8078	21660
8046.1	21115	8079	21665
8046.1	38365	8079.1	21670
8047(a)(1), 1st sent, 1st cl.....	21000(d)	8080	21675
8047(a)(1), 1st sent, 2nd cl.	21005(c)	8100	495
8047(a)(1), 2nd sent.	21150	8101	22500
8047(a)(1), 3rd sent.	21105(a)	8102	22505
8047(a)(1), 4th sent.....	21110	8103	22510
8047(a)(2), 1st sent.	21210(b)	8104	22515
8047(a)(2), 2nd-3rd sent.	21000(a), (c)	8110	22705
8047(a)(2), 4th sent.....	21215	8111	22700
8047(b), 1st sent.....	21000(c)	8112	22710
8047(b), 2nd sent.	20950	8113	22715
8047(b), 3rd sent.....	21025(a)	8114	22720
8047(b), 4th sent.	not cont'd	8120	41600
8047(b), 5th sent.	21105(a)	8121	41605(a)-(c)
8047(b), 6th sent.	21105(b)	8122	41605(d)
8047(b), 7th sent.	21110	8123	41610
8047(c)(1)	21210(a)	8125, 1st-2nd sent.	22905
8047(c)(1)	21215	8125, 3rd sent.	22915
8047(c)(2), 1st sent.	21235	8126	22910

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8140	14210	8246.6	41775
8150.5	42265	8246.7	41780
8150.7, 1st sent.	42255	8246.8	41660(a)
8150.7, 2nd sent.	42260	8247, 1st sent.	41900
8154	42350	8247, 2nd sent.	41940
8180	38555(a)	8247, 3rd sent.	41930
8181	38555(b)	8247.1	41915
8182	38555(c)	8247.2, 1st sent.	41925
8183	38560	8247.2, 2nd-3rd sent.	41935
8190	38550	8247.3	not cont'd
8210.2	41450	8247.4	41945
8213	41460	8247.5(a)	41905
8214	41465	8247.5(b)	41920
8215	41470	8247.6	41955
8217	41455	8247.7	41910
8218	41475	8247.8	41950
8219	41480	8248	41655
8226	42110	8250	710
8230	41650	8250.5(a)	49700
8231	41305	8250.5(b)	49715
8232	41665	8250.5(c)	49750
8232.5	41670	8251	49600
8233, 1st sent.	41715	8252	49605
8233, 2nd sent.	41795	8253	49755
8233.3	41730	8254	49500(a)-(e)
8233.4	41760	8254.7, 1st-6th sent.	49515
8233.5	41735	8254.7, 7th sent.	49615
8233.8	41710	8257	49505
8233.9	41680	8258	49710(a)
8234(a)	41675	8259	49510
8234(b)	41800	8275	46855
8235	41725	8276(a)-(b)	47300
8236	41720	8276(c)	47060
8237	41735	8276.2(a)	47350
8238	41745(a)	8276.2(b)(1)	47355(a)
8238.1	41745(b)	8276.2(b)(2)(A)	47370
8239	41740(a)-(i)	8276.2(b)(2)(B)	47360
8239.1	41755(a)-(c)	8276.2(c), 1st, 3rd-6th sent.	47365
8239.2	41660(b)	8276.2(c), 2nd sent.	47355(b)
8239.6	41765	8276.2(d)	47375
8239.9	41750	8276.3(a)-(b)	47150
8240	41755(d)-(e)	8276.3(c)	47160
8241	41740(j)	8276.4(a), 1st sent.	47800
8242	41690	8276.4(a), 2nd sent., (a)(1)-(7)	47805
8243	41685	8276.4(b)	47810
8244	41695	8276.4(c)	47815
8245	41700	8276.4(d)	47820
8245.5	41705	8276.4(e)	47825
8246(a)	41785(a)	8276.4(f)	47830(a)
8246(b)	41785(b)	8276.4(g)	47010(a)
8246(c)	41785(c)	8276.4(h)	47010(b)
8246(d)	41785(e)	8276.4(h)	47835
8246.2(a)	41790	8276.5(a), 1st sent.	47610
8246.2(b)	41785(d)	8276.5(a), 2nd sent.	47615
8246.4	41770	8276.5(a)(1)-(2)	47620

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8276.5(a)(3)	47625	8280.6(a)	47910
8276.5(a)(4)	47630	8280.6(b)	48355
8276.5(a)(5)	47635	8280.6(c)	48305
8276.5(a)(6)	47640	8280.6(c)	48360
8276.5(a)(7)	47645	8280.6(d)	47945
8276.5(a)(8)	not cont'd	8280.7	48510
8276.5(b)	47650	8280.9	48505
8276.5(c)	47830(b)	8281	47015
8276.5(d)	47655	8282	48650
8276.5(e)-(f)	47660	8283	47455
8276.5(g)	47605	8284(a), 1st sent.	47450(a)
8276.5(h)	47600	8284(a), 2nd sent.	47460(a)
8276.5(i)	47665	8284(b)-(c)	48660
8277	47305	8340	46400
8278	47070	8341	46410
8279	47055	8342	46425
8279.1(a)-(e)	47155	8343	46415
8279.1(f)	47160	8344	50255
8280	48500	8345	50405
8280.1(a)	47900	8346	46420
8280.1(b)	48100	8370 (salmon)	41495
8280.1(b)(1)-(2)	48105	8370 (striped bass)	39005
8280.1(b)(3)	48110	8370 (sturgeon)	43355
8280.1(b)(4)(A)	48115	8371(a)-(b)	39010
8280.1(b)(4)(B)	48120	8371(c)-(d)	41455
8280.1(b)(4)(C)	48125	8372	39105
8280.1(b)(5)	48130	8373	39555
8280.1(b)(6)	48135	8374 (bluefin tuna)	44455(a)
8280.1(c)	48145	8374 (yellowfin tuna)	44470
8280.1(d)	48100	8375	44455(b)
8280.1(e)	not cont'd	8376	44450
8280.1(f)	48140	8377	44460(b)
8280.1(g)(1)	47930	8377.5	44460(a)
8280.1(g)(2)	47935	8378	44465
8280.1(h)	47945	8380	39100
8280.1(h)	48150	8381	39655
8280.2(a)-(d)	47925	8382 (barracuda)	38755(b)
8280.2(e), 1st sent.	47920	8382 (yellowtail)	44755(b)
8280.2(e), 2nd-4th sent.	47915	8383.5	39050
8280.2(f)	47945	8384 (barracuda)	38755(c)
8280.3(a)	48300	8384 (yellowtail)	44755(c)
8280.3(b)	48310	8385	21950
8280.3(c)	48315	8386 (barracuda)	38755(a)
8280.3(d)	48320	8386 (yellowtail)	44755(a)
8280.3(e)	48325	8387	44760
8280.3(f)	48330	8388(a)	42805
8280.3(g)(1)	48340	8388(b)	42800
8280.3(g)(2)	48335	8388(c)	42810(a)
8280.3(h)	48345	8388(d)	42810(b)
8280.3(i)	48350	8388.5	42905
8280.3(j)	48360	8389(a), 1st sent.	40500
8280.4(a)	47905	8389(a), 2nd sent.	40505
8280.4(b)	47945	8389(b)	40510(a)
8280.5(a)-(e)	47940	8389(c)	40510(b)
8280.5(f)	47945	8389(d)	40515

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8391	39900	8490	49005
8392	39905	8491	49015
8393(a)	40755	8492	49020
8393(b)	40760	8494(a)	39950
8394	43655(a)	8494(b)	39955(a)
8394.5	43655(b)	8494(c)	39955(b)
8395	43555	8494(d)	39960
8398	15100	8494(e)	39965
8399	51400	8494(f)	39970
8399.1	51405	8494(g)	39980
8400	15105	8494(h)	39975
8403(a)	38360	8495(a)	40100
8403(b), 1st sent.	19510(a)	8495(b)-(d)	40105
8403(b), 2nd sent.	19510(b)	8495(e)	40110
8403(c)	19505	8496	40115
8405	50505	8497	40120
8405.1	50510	8500	45010
8405.2	50515	8510	49205
8405.3	50520	8550, 1st sent.	40350(a)
8405.4	50525	8550, 2nd-3rd sent.	40355
	40610	8550.5	40360
8412	40605	8552(a), 1st sent.	40350(b)
8420	51450	8552(a), 2nd sent.	40375
8424	51455	8552(a), 2nd sent.	40380
8425(a)	51460	8552(b)-(e)	40365
8425(b)	51465	8552.1	40400
8428	51470	8552.2	40380
8429, 1st sent.	51475	8552.3	40385
8429, 2nd sent.	51480	8552.4	40395
8429.5	51485	8552.5	40445
8429.7	51490	8552.6	40375
8430	44105(a)	8552.7	40390
8431	44200(a)-(b)	8552.8	40370
8432	44200(c)	8553	40455
8433 (Dist. 2670, Smith R.)	15150(b)	8554	40405
8433 (Dolly Varden, steelhead)	44200(d)	8555	40410
8433 (trout)	44105(b)	8556	40415
8434	15150(a)	8557	40420
8435	39410	8558	40425
8436	20105(a)	8558.1(a), 1st-2nd sent.	40430
8436.5	20105(b)	8558.1(a), 3rd sent.	40435(c)
8437	20100(a)	8558.1(b)	not cont'd
8437.1	20100(b)	8558.2	40435(a)-(b)
8460	500	8558.3	40435(d)
8460, 1st para.	22100(a)	8559	40440
8460, 2nd para.	22105	8561	18300
8460, 2nd para.	22115	8561.5	18305
8460, 3rd para.	22100(b)	8562	18310
8460, 4th para.	14200(c)	8563	18315
8460, 4th para.	21920(b)	8564	18320
8460, 4th para.	22200(c)	8567	18325
8461	22110	8568	18330
8462	22120	8568.5	18335
8463	22125	8569	18340
8475	46405	8573	18345

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8574	18350	8606(d)	not cont'd
8575	18355	8606.1	16100
8575.5	18360	8607	38355
8576	18365	8608	15305
8576.5	18370	8609	16805
8577	18375	8610.1	16850.1
8579	18380	8610.11	16850.11
8580	18385	8610.12	16850.12
8581	18390	8610.13 (all but refs to 8610.8)	16850.13
8582	18395	8610.13 (refs to 8610.8)	not cont'd
8585	22600	8610.14	16850.14
8585.5	22605	8610.15	16850.15
8586	22610	8610.16	16850.16
8586.1	22625	8610.2	16850.2
8587	22630	8610.3	16850.3
8587.1	22620	8610.4	16850.4
8589	22615	8610.5	16850.5
8589.5	22640	8610.6	16850.6
8589.7	22635	8610.9	16850.9
8590	50955	8614	19905
8591	51005	8615	19910
8593	51000	8623(a)-(b), (e) (barracuda)	38760
8594	51050	8623(a)-(b), (e) (white sea bass)	39055
8595(a)	51100(a)	8623(a)-(b), (e) (yellowtail)	44765
8595(a)	51015(b)	8623(c)-(d)	18500
8595(b)	51015(d)	8625(a)-(c)	18505
8596	20700	8625(d)	not cont'd
8597(a)	510	8626(a)-(c)	18510
8597(a)	20705	8626(d)	not cont'd
8597(b)	20710	8630, 1st para.	15400(a)
8597(c)	20715	8630, 1st para., 2nd sent.	19405(b)
8598	20720	8630, 2nd para., 1st-3rd sent.	15420
8598.2	20725	8630, 2nd para., 1st-3rd sent.	19425
8598.3(a), (c)	20730	8630, 2nd para., 4th-5th sent.	15425(b)
8598.3(b)	20735	8630, 2nd para., 4th-5th sent.	19430(b)
8598.4	20740	8631	15400(b)-(d)
8598.6	20745	8632	15405
8599	42950	8632	19410
8599.3	42955	8633	15410
8599.4	42850	8633	19415
8601 ("set line")	685	8634	15425(a)
8601 ("set net")	690	8634	19430(a)
8601.5(a) (set line)	18900(c)	8635	15415
8601.5(a) (set net)	15600(a)	8635	19420
8601.5(b), 1st-2nd sent.	15600(b)	8660	15500
8601.5(b), 3rd sent.	15610(b)	8661	15505
8601.5(b), 4th sent.	15610(c)	8663	15515
8601.5(c)	15610(a)	8664	15520
8601.6(a)	15605	8664.13	17020
8601.6(b)	not cont'd	8664.5	17000
8602	15300	8664.67	17005
8603	14300	8664.7	17010
8604	14305	8664.8	17015
8605	1735	8665	15510
8606(a)-(c)	19900	8666	17025

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8667	15525	8780(a), 1st sent.	235
8668	15530	8780(a), 2nd sent.	15905
8669	15535	8780(a), 2nd sent. (Dist. 2625)	15760(e)
8670	15540(a)	8780(a), 2nd sent. (Dist. 2630)	15765(c)
8680	18000	8780(a), 2nd sent. (Dist. 2635)	15770(c)
8681	18005	8780(a), 2nd sent. (Dist. 2640)	15775(d)
8681.5	18010	8780(b)	15910
8681.7	18015	8780(c)-(d)	15915
8682	18020	8780.1	15900
8683	18025	8800	240
8684	18030	8801 (Dist. 2505)	16000
8685	18035	8801 (Dist. 2525)	16005
8685.5	18040	8801 (Dist. 2540)	16010
8685.6	18045	8802 (Dist. 2580)	16015
8685.7	18050	8802 (Dist. 2585)	16020
8686	18055	8803	16025
8687	18060	8804	16030
8688	18065	8805 (Dist. 2600)	16035
8691	18070	8805 (Dist. 2605)	16040
8692	18075	8806	16045
8692.5	18080	8807	16050
8693	18085	8830, 1st sent.	765
8694	18090	8830, 2nd sent.	16105(a)
8696	18095	8831	16150
8700	18100	8832	16350
8720	18200	8832	16650
8721	18205	8833 (Dist. 2550)	16250
8724	18210	8833 (Dist. 2625)	16280
8725	18215	8833 (Dist. 2630)	16285
8750	675	8833 (Dist. 2635)	16290
8751	15700	8833 (Dist. 2640)	16295
8751	15705	8833 (Dist. 2645)	16300
8751	15710	8833 (Dist. 2650)	16305
8752	15715	8834	47000
8752	15720	8834.1	41490
8752	15725	8834.5	47065
8752	15730	8835 (Dist. 2570)	16255
8752	15735	8835 (Dist. 2575)	16260
8752	15740	8835 (Dist. 2590)	16265
8754	15745	8836 (Dist. 2615)	16270
8754	15750	8836 (Dist. 2620)	16275
8754	15755	8836 (Dist. 2685)	16310
8754	15760(a)-(c)	8837	16155
8755	15775(a)	8840	16175
8755	15775(b)	8841(a)-(c)	16110(a)-(c)
8755	15780	8841(d)	16105(b)
8755	15785	8841(e)	16110(d)
8756 (Dolly Varden, steelhead)	44205	8841(f)	16160(a)
8756 (salmon)	41485	8841(g)	51010(a)-(b)
8756 (shad)	42505	8841(h)	16165(a)
8756 (striped bass)	39000	8841(i)	16160(b)
8757 (Dist. 2625)	15760(d)	8841(i)	16165(b)
8757 (Dist. 2630)	15765(a)-(b)	8841(i)	16170(b)
8757 (Dist. 2635)	15770(a)-(b)	8841(i) (Dist. 2540)	16110(g)
8757 (Dist. 2640)	15775(c)	8841(i) (shrimp & prawns)	51010(c)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
8841(j)-(k).....	16010(e)-(f)	9011(a)(1).....	47450(a)
8841(l).....	16170(a)	9011(a)(2).....	47450(b)
8842(a), 1st para.	51100(a)	9011(a)(3).....	47460(b)
8842(a), 2nd para.	51100(b)	9011(b).....	48655
8842(b).....	51105(a)	9011(c).....	47465
8842(c), 1st sent.	51110	9012(a).....	47005
8842(c), 2nd sent.	40125	9012(b).....	47450(c)
8842(c), 3rd sent.	51115	9015(a).....	51015(a)
8842(d).....	51105(b)	9015(b).....	51015(c)
8843.....	16355	9020(a).....	19605
8870.....	16400	9020(b).....	19610
8870(a) (Dist. 2505).....	16450	9022(a).....	19515
8870(a) (Dist. 2515).....	16455	9022(b).....	19510(a)
8870(a) (Dist. 2525).....	16460	9023.....	39305
8870(a) (Dist. 2540).....	16465	9024.....	49010
8870(a) (Dist. 2550).....	16470	9025.1.....	18700
8870(b).....	16475	9025.5(a).....	18950
8870(c).....	16480	9025.5(a) (Dist. 2595).....	19015(a)
8890 (Dist. 2620).....	16550	9025.5(a) (Dist. 2620).....	19040
8890 (Dist. 2625).....	16555	9025.5(a) (Dist. 2570).....	19000
9000(a)-(b).....	19200	9025.5(a) (Dist. 2575).....	19005
9000(c).....	19600	9025.5(a) (Dist. 2590).....	19010(a)
9000.5(a).....	255	9025.5(a) (Dist. 2610).....	19030
9000.5(b).....	330	9025.5(a) (Dist. 2615).....	19035
9000.5(c).....	470	9025.5(a) (Dist. 2625).....	19045
9000.5(d).....	490	9025.5(a) (Dist. 2630).....	19050
9000.5(e).....	560	9025.5(b).....	770
9000.5(f).....	630	9025.5(c) (Dist. 2590).....	19010(b)
9001.....	19205	9025.5(c) (Dist. 2595).....	19015(b)
9001.6.....	39755	9025.5(c) (Dist. 2600).....	19020
9001.7(a)-(j).....	19500	9025.5(c) (Dist. 2605).....	19025
9001.7(k).....	49610	9026.....	18900(a)-(b)
9001.8.....	40905	9027 (Dist. 2570).....	18800(c)
9002(a).....	19300(a)	9027 (Dist. 2575).....	18805(c)
9002(b).....	19305	9027 (Dist. 2590).....	18810(c)
9002(c).....	19300(b)	9027.5 (Dist. 2615).....	18815(c)-(d)
9002(d).....	19310	9027.5 (Dist. 2620).....	18820(c)-(d)
9002.5.....	19315	9027.5 (Dist. 2625).....	18825(c)-(d)
9003.....	19210	9028.....	18705
9004.....	19215	9029 (Dist. 2570).....	18800(a)-(b)
9004.....	19220	9029 (Dist. 2575).....	18805(a)-(b)
9005.....	19225	9029 (Dist. 2590).....	18810(a)-(b)
9006.....	19230	9029 (Dist. 2615).....	18815(a)-(b)
9007.....	19400	9029 (Dist. 2620).....	18820(a)-(b)
9008.....	19405(a)	9029 (Dist. 2625).....	18825(a)-(b)
9008.....	19405(b)	9029.5, 1st, 3rd sent. (Dist. 2575).....	18805(d)
9008.....	19410	9029.5, 1st, 3rd sent. (Dist. 2590).....	18810(d)
9008.....	19415	9029.5, 2nd sent. (“set line”).....	685
9008.....	19420	9029.5, 2nd sent. (“vertical fishing line”).....	780
9008.....	19425	9050.....	19805
9008.....	19430(a)	9051.....	19810
9008.....	19430(b)	9052.....	19800
9010(a).....	49700	9053 (crustaceans).....	45305
9010(b).....	49710(b)	9053 (mollusks).....	45405
9010(c)-(e).....	49705	9054, 1st sent.....	50705(a)

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
9054, 2nd sent.	50710	10660	58630
9054, 3rd sent.....	50705(c)	10661	59675
9054, 4th sent.....	50705(d)	10662	59180(a)
9055	50705(b)	10663	59180(b)
9100	15000	10664 (Doheny Beach).....	59830
9101	15005	10664 (Irving Coast)	59905
10000	43250	10664 (Laguna Beach)	59955
10001, 1st sent.	43255	10664 (Newport Beach)	59980
10001, 2nd sent.....	43260	10664 (Niguel)	60005
10002	43265	10664 (Point Fermin)	60030
10003	43270(a)	10664 (South Laguna Beach)	60080
10004	43270(b)	10665, 1st para.	59280
10005	43275	10665, 2nd para.	59285
10500(a)-(b).....	58700(a)	10666	59930
10500(c)	58550(a)	10667(a)	59785
10500(d).....	59500(a)	10667(b), 1st sent.	59790
10500(e).....	60200(a)	10667(b), 2nd-4th sent.	59795(a)
10500(f)	59600(a)	10667(c)	59800
10500(g).....	60300(a)	10667(d)	59795(b)
10501	34450	10667(e), 1st sent.	59795(c)
10501.5	58530	10667(e), 2nd sent.	59795(d)
10502(a) (fish refuge)	58555	10680	4900
10502(a) (game refuge)	58710	10681	4905
10502(b)-(d).....	58500	10682	4910
10502.5, 1st sent.	59855	10683	4915
10502.5, 2nd sent.	59865(c)	10684	4920
10502.6	59780	10685	4925
10502.7	59655	10711	60325
10502.8	59705	10740	60950
10503(a)-(c)	58505	10741	60955
10503(d).....	58715(a)	10770	59425
10504	58715(b)	10771	59450
10505	58715(c)	10801	58625
10506	58720	10820	58800(a)
10507	58725	10821	58825
10508	58515	10822	58850
10509	59400	10823	58875
10510	58520	10824	58900
10511	58525	10825	58925
10512	58730	10826	58950
10513	58705	10827	58975
10514	58735	10828	59000
10650	59305	10829	59025
10651	59310	10830	59050
10652	59315	10831	59075
10653	59455	10832	59100
10654	59460	10833	59300
10655	59715	10835	59125
10655.5	59710	10836	59150
10656	59670	10837	59175
10657	59865(a)-(b)	10838	59200
10657.5, 1st para.....	59860	10840	59225
10657.5, 2nd para.	59865(d)	10841	59350
10658	60055	10842	59275
10659	59230	10843, 1st para.	59250

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
10843, 2nd para.	59255	11033	2655
10844	58740	11034	2660
10860	59525	11035	2665
10861	59550	11036, 1st-3rd para.....	2670
10880	60225	11036, 4th para.....	69250
10881	60250	11037	2675
10900	59625	11038	2680
10901	59850	11039	2685
10902	60050	12000(a)	4400(a)
10903	59650	12000(b)(1).....	8130(c)
10904	59950	12000(b)(2).....	not cont'd
10905	59975	12000(b)(3).....	45700(d)
10906	60075	12000(b)(4)-(12).....	4410
10907	59775	12001	10110(d)
10908	59825	12001.5 (bear parts).....	33465
10909	59925	12001.5 (bear)	33205(b)
10910	60025	12001.5 (deer)	34200(b)
10911	60000	12001.5 (duck and goose)	30505(b)
10912	59900	12001.5 (hunting w/o license)	9500(b)
10913	59750	12002(a)	4400(b)
10925	13950	12002(b)(1).....	3360(c)
10930	34060	12002(b)(2).....	11020(c)
10931	34065	12002(b)(3) (abalone)	45700(d)
10932	59700	12002(b)(3) (burro)	34055(d)
11000	2500	12002(b)(4).....	66600
11001	2505(a)	12002(b)(5).....	15540(b)
11002	2510	12002(b)(6) (clam refuge)	60300(b)
11003	2515	12002(b)(6) (fish refuge).....	58550(b)
11004	2520	12002(b)(6) (game refuge)	58700(b)
11005	2525	12002(b)(6) (marine life refuge)	59600(b)
11006	2530	12002(b)(6) (quail refuge).....	60200(b)
11007	2535	12002(b)(6) (waterfowl refuge)	59500(b)
11008	2540	12002(b)(7).....	8400(c)
11009	2545	12002(c) (bird nest & eggs)	28905(b)
11010	2550	12002(c) (bird of prey)	30110(b)
11011	2555	12002(c) (migratory nongame bird)	29855(b)
11012	2560	12002(c) (nongame bird).....	29850(b)
11013	2565	12002(d)	4415
11014	2570	12002.1	9900
11015	2575	12002.10	45860
11016	2580	12002.11	10830(e)
11017	2585	12002.2	13300
11018	2590	12002.2.1	13305
11019	2595	12002.3	13610
11020	2600	12002.4	21945
11022	2605	12002.5	56035
11024	2610	12002.6	14950
11025	2615	12002.7, 1st-2nd para.	21940
11026	2620	12002.7, 3rd para.....	535
11027	2625	12002.8(a)-(c).....	45865
11028	2630	12002.8(d)-(e) (anchovies).....	38565
11029	2635	12002.8(d)-(e) (halibut).....	40050
11030	2640	12002.8(d)-(e) (herring)	40450
11031	2645	12002.8(d)-(e) (rock crab).....	48800
11032	2650	12002.8(d)-(e) (salmon)	41500

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
12002.8(d)-(e) (sardines)	42270	12020	4420
12002.8(f)	535	12021	4425
12002.9	20240	12023	25500
12003	15540(c)	12024	25505
12003.1	8400(a)-(b)	12025(a)	4705
12003.2		12025(b)	4710
(fully prot. mammal).....	32700(c)	12025(c)	4715(a)
12003.2 (marine mammal).....	32500(c)	12025(d)	4715(b)
12003.5	16850.13	12025(d)	4720
12004	18250	12025(e)-(f)	4725
12005	33460	12025(g)	4715(c)
12005.5 (body-gripping trap).....	11110(b)	12025(h)	4700
12005.5 (sodium cyanide)	8140(b)	12025.1(a)	68110
12006(a)(1)	43150(c)	12025.1(b), 1st part	68115
12006(a)(2)	49500(f)	12025.1(b), 2nd part	68120
12006(b) (lobster)	49500(g)-(i)	12025.1(c), 1st part.....	68115
12006(b) (sturgeon)	43150(d)-(f)	12025.1(c), 2nd part	68125
12006.6	45855	12025.1(d)	68130
12007 (diseased aquatic org.)	24540(c)	12025.1(e), 1st part.....	68135
12007 (diseased aquatic org.)	28100(b)	12025.1(e), 2nd part	68140
12007 (fish planting).....	25415(b)	12025.1(f), 1st part	68135
12007 (import aquatic org.)	24705(b)	12025.1(f), 2nd part.....	68145
12007 (import aquatic org.)	28110(e)	12025.1(g)	68150
12007 (planting aquatic org.).....	23800(c)	12025.2	69550
12007 (quarantined aquatic org.)	24545(b)	12026	25510
12007 (streambed alteration)	70275	12028	4310
12007 (white bass)	38870(b)	12029(a)	72200
12008(a)	64150	12029(b)	72205
12008(b).....	30200(c)	12029(c)	72210
12008(c).....	32700(c)	12029(d)	72215
12008(d) (fully prot. amph.)	52200(e)	12150	10110(a)-(c)
12008(d) (fully prot. reptile).....	53000(e)	12150.5	10115
12008(e)	38200(e)	12150.6	10130
12008.1(a)	64155	12150.7	10135
12008.1(b).....	64160	12150.8	10140
12008.5	35950	12151	10120
12009	45850	12151.5	10105
12010	30110(b)	12152	10125
12011	66605	12153	14660
12012	8100	12154	8505
12013(a)-(b), (d)-(g)	8105	12155	9910
12013(c), (g)	8110	12155.5	8515
12013.3 (antelope)	33050	12156	11240
12013.3 (deer).....	34700	12156.5	9010
12013.3 (elk).....	35100	12157	8630
12013.3 (sheep).....	35955	12157.5	8635
12013.3 (turkey)	31105	12158	8500
12013.5	33470	12158.5	3100
12014	3105	12159	8600
12015	66705	12159.5 (egret)	32700(d)
12016	66715	12159.5 (fully prot. amph.)	52200(f)
12017(a)(1)	8450(g)	12159.5 (fully prot. birds)	30200(d)
12017(a)(2)-(6)	67505(b)	12159.5 (fully prot. fish)	38200(f)
12017(b).....	67510	12159.5 (fully prot. reptile)	53000(f)
12017(c)-(f).....	67515	12160	8615

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
12161	8620	15007(a), 2nd sent.	24960(b)
12162	8605	15007(a), 3rd sent.	24950(a)
12163	8625	15007(b)	24950(b)
12164	9905	15007(c)	24960(c)
12165	9005	15007(d)	24965
12166	8510	15007(e)	24970
13000	3500(a)	15007(f)	24955
13001(a)	3600	15008	23360
13001(b)	3810	15100	23365
13001.5	3505	15101(a)	23605(a)
13002	3605	15101(b), 1st sent.	23605(b)
13003	3610	15101(b), 1st sent.	23700
13005	9105	15101(b), 1st sent.	23610
13006	3805	15101(b), 2nd, 4th sent.	23700
13007(a), 1st sent.	12000	15101(b), 3rd sent.	23600
13007(a), 2nd sent., (b)-(g)	12005	15101(c)	23605(c)
13010	67500	15101(d)	23700(d)
13011	67505(a)	15102	23805
13012	67520	15103	23705
13013	67525	15103	23720
13014(a)	58050	15104	23710
13014(b)	58055	15105	23715
13014(c)-(d)	58060	15200, 1st sent.	23800(a)
13100	3900	15200, 2nd sent.	23815
13101	3905	15201	23810
13102	3910	15202	23800(b)
13103	3915	15300	23900
13104	3920	15301(a)	23910
13200	3510	15301(b)	23905(a)
13201	3515	15301(c)	23905(b)
13202	3520	15400(a)	24000
13203	3525	15400(b), 1st sent.	24005
13205	31935	15400(b), 2nd sent.	24010
13220	3750	15400(c)	24015
13230	67530	15400(d)	24020
13231	67535	15401	24100(c)
14000	5900	15402	24310
14001	5905	15403, all except last sent.	24100(a)-(b)
14002	5910	15403, last sent.	24305
14100	5950	15404	24105
14101	5955	15405	24200
14102	5960	15406	24210
14103	5965	15406.5(a), 1st sent.	24115(a)
14104	5970	15406.5(a), 2nd sent.	24220(a)
14105	5975	15406.5(a), 3rd sent.	24115(b)
15000(a)	23305	15406.5(b)	24115(c)
15000(b)-(d)	23350	15406.7	24220(b)-(d)
15001	23915	15407	24300
15002	24900	15408	24320(a)
15003	23820	15409	24320(b)-(e)
15004(a)-(b)	23505	15410	24205
15004(c)	23500	15411	24315
15005	23355	15412	24325
15006	23300	15413	24400
15007(a), 1st sent.	24960(a)	15414	24215

<i>Existing Provision</i>	<i>Proposed Provision(s)</i>	<i>Existing Provision</i>	<i>Proposed Provision(s)</i>
15415	24110	15514	24610
15500	24500	15516	24615
15501	24505	15600(a)	24705(a)
15502	24510	15600(b)	24710
15503	24515(a)	15601	24715
15504	24515(b)	15604	24720
15505	24520	15605	24700
15506	24525	15700	24800
15507	24530	15701(a)	24805
15508	24535	15701(b)	24810
15509	24545(a)	15702	24820
15510	24540(a)-(b)	15703	24815
15512	24600		
15513	24605		

DERIVATION OF PROPOSED LAW

The table below shows the relationship between each provision of the Fish and Wildlife Code and the corresponding provision of existing law.

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
1(a)	1	355	41
10(a)	3, 1st sent.	360	43
25	3, 2nd sent.	365	93
30	4	370	3514
35(f)-(g)	73	380	45
40	5	385	8036(a)
45	6	390	8034
50, 1st sent.	7	395	8033
55	8	400	8033.5(a)
60	9	405	8035
65	10	410	94
70	11	415	5050(b)(3)-(5)
75	13	420	3511(b)
80	79	425	5515(b)
85	64	430	4700(b)
90	2013	435	4000 (“fur bearing mammal”)
95	80	440	5050(b)(1)-(2)
200	2	450	3500(c)
205	13.5	460(a)(1)-(4), (6)-(9)	3950(a)
210	16	460(a)(5)	3950(b)
215	14	460(b)-(c)	3950.1
220	15	470	9000.5(c)
225	17	475	46
230	18	478	1930.5(f)(1)
235	8780(a), 1st sent.	480	48
240	8800	485	51
245	22	490	9000.5(d)
250	3003.1(a), 2nd-3rd sent.	495	8100
255	9000.5(a)	500	8460
260	24	505	54
265	90.5	510	8597(a)
270	27	515	8033.1(a)
275	29	520	54.5
280	7850	525	96
280	8040(a)	530	4500(c) (“marine mammal”)
290	8031(a)(4)	535	12002.7, 3rd para.
295	7920, 1st, 3rd sent.	535	12002.8(f)
300	7920, 1st, 3rd sent.	540	96.5
305	30, 1st cl.	545	3500(b)
310	30, 2nd cl.	550	55
315	32	555	7261
320	33	557	1901, 2nd sent.
325	35, 1st cl.	560	9000.5(e)
330	9000.5(b)	565	56
335	37	570	3800(a), 1st sent.
340	90.7	575(a)	4150, 1st sent.
345	39	575(b)	4151
350	91	580	57

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
585	60	940	107
590	61	1000	200(a), (b)(1), (b)(2), 1st sent., (c)
595	62	1005	201
600	97	1010	203
605	97.5	1015	205
610	98	1020	203.1
615	98.2	1025	219
620	67	1100	250
625	98.5 (“population”)	1105	255
630	9000.5(f)	1110	260
635	19	1115	265
640	711.2(a)	1120	270
645	68	1125	275
650	4005(a), 2nd sent.	1200	108
655	89	1205	301
660	70	1250	399
665	3500(a)	1300	309(a)
670	99	1305	309(b)
675	8750	1500	700
680	75	1505	702
685	8601 (“set line”)	1510	703(a)
685	9029.5, 2nd sent. (“set line”)	1515	701
690	8601 (“set net”)	1520	701.3
695	81	1525	704
700	82	1530	706
705	200(b)(2), 3rd sent.	1600	850
710	8250	1605(a)	707
720	200(b)(2), 2nd sent.	1605(b)	711.2(b)
725	9.2	1610	857
730	7700(d)	1615	858(a)
735	83	1700	1001
740	89.1	1705	1004
745	98.5 (“stock”)	1710	1007
750	99.5	1715	1006
755	86	1720	1008
760	88	1725	1015
765	8830, 1st sent.	1730	1502
770	9025.5(b)	1735	8605
775	3683	1740	1017
780	9029.5, 2nd sent. (vertical fishing line)	1745	1000
785	7601	1750	1005
790	89.1	1755	1005.5
795	35, 2nd cl.	1900	1226(b)
800	89.5	1905	1227
805	1930.5(f)(2)	1910	715
810	1504(d)	1915(a)-(b)	701.5
810	1506(a)(3)	1915(c)	711.2(b)
900	101	2000	1745(a)
905	101.5	2005	1745(b)(1)
910	102	2010	1745(b)(2)
915	103	2015	1745(c), (d)
920	110	2020	1745(e)-(g)
925	105	2025	1745(h)
930	106	2030	1745(j)
935	104	2035	1745(i)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
2040	1745.1	2905	1050(a)
2100	1019	2910	1050(c)
2105	1009	2915	1050.6
2110	1010	2920	1054(b)
2200	1011	2920	1054(c)
2205	1012	2925	1050.3
2210	1013	2930	1053.1(a)
2300	1054(a)	2935	1061(a)-(e)
2300	1054(c)	2940	1054.8
2400	703.5	3000	1050(d)
2405	1020	3005	1050(f)
2410	703.3	3010	1050.5
2500	11000	3050	1052
2505(a)	11001	3100	12158.5
2510	11002	3105	12014
2515	11003	3200	1055.1(a)-(b)
2520	11004	3205	1055.1(g)
2525	11005	3210	1055.3
2530	11006	3250(a)	1055.1(c), 1st sent.
2535	11007	3250(b)	1055.1(c), 3rd-4th sent.
2540	11008	3250(c)	1055.1(c), 2nd sent.
2545	11009	3255(a)	1055.6(a)
2550	11010	3255(b)	1055.6(b)
2555	11011	3255(c)	1055.6(d)
2560	11012	3260	1065
2565	11013	3350	1055.1(d)-(f)
2570	11014	3355	1055.6(c)
2575	11015	3360(a)-(b)	1059
2580	11016	3360(c)	12002(b)(1)
2585	11017	3365	1057
2590	11018	3370	1056
2595	11019	3375	1058
2600	11020	3450	710
2605	11022	3455	710.5
2610	11024	3460	710.7
2615	11025	3465	711
2620	11026	3470	712
2625	11027	3500(a)	13000
2630	11028	3500(b)	12
2635	11029	3505	13001.5
2640	11030	3510	13200
2645	11031	3515	13201
2650	11032	3520	13202
2655	11033	3525	13203
2660	11034	3600	13001(a)
2665	11035	3605	13002
2670	11036, 1st-3rd para.	3610	13003
2675	11037	3650	1225
2680	11038	3655	1226(a)
2685	11039	3660	859
2805	1050(b)	3665	1050.8
2810	1051	3670	860
2815	1050.1	3750	1050(e)
2820	1052.5	3750	13220
2900	1054.5	3755	713

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
3805	13006	5010	393
3810	13001(b)	5050	391
3900	13100	5100	375
3905	13101	5200	716
3910	13102	5205	716.1
3915	13103	5210	716.2
3920	13104	5300	716.3, intro.
4100	851	5305	716.3(a)
4105	856	5310	716.3(b)
4110	853	5315	716.3(c)
4115	854	5320	716.3(d)
4120	858(b)	5325	716.3(e)
4200	875	5330	716.3(f)
4205	877	5335	716.3(g)
4210	876	5340	716.3(h)
4215	878	5345	716.3(i)
4220	879	5350	716.3(j)
4225	880	5355	716.3(k)
4230	881	5360	716.3(l)
4235	882	5365	716.3(m)
4300	2586(a)	5370	716.3(n)
4300	2586(b)	5375	716.3(o)
4305	855	5380	716.3(p)
4310	12028	5385	716.3(q)
4315	702.1	5390	716.3(r)
4320	856.5	5395	716.3(s)
4400(a)	12000(a)	5400	716.3(t)
4400(b)	12002(a)	5450	716.4
4405	2020	5500	716.5
4410	12000(b)(4)-(12)	5550	716.6
4415	12002(d)	5600	716.7
4420	12020	5650	716.8
4425	12021	5700	716.9
4700	12025(h)	5750	717
4705	12025(a)	5800	717.1
4710	12025(b)	5805	717.2
4715(a)	12025(c)	5900	14000
4715(b)	12025(d)	5905	14001
4715(c)	12025(g)	5910	14002
4720	12025(d)	5950	14100
4725	12025(e)-(f)	5955	14101
4800	400	5960	14102
4805	401	5965	14103
4850	3450	5970	14104
4855	3451	5975	14105
4860	3452	8000	2000
4865	3453	8005	2000.5
4900	10680	8010	2002
4905	10681	8015	2001
4910	10682	8100	12012
4915	10683	8105	12013(a)-(b), (d)-(g)
4920	10684	8110	12013(c), (g)
4925	10685	8115	2003
5000	390	8120	2004
5005	392	8125	2005

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
8130(a)-(b), (d)-(e)	2009(a), (c)-(f)	9310(a)	2581
8130(c)	2009(b)	9310(b)	500(d), 2nd sent.
8130(c)	12000(b)(1)	9310(b)	2586(b)
8135	2018	9310(c)	2583(b)
8140(a)	3003.2	9315	2584(a)
8140(b)	12005.5 (sodium cyanide)	9320	2583(a), 1st sent.
8145	5500	9325	2583(a), 2nd-3rd sent.
8300(a)	1054.2	9330	2584(b)-(h)
8305	2012	9335	2585
8400(a)-(b)	12003.1	9340	2587(a)
8400(c)	12002(b)(7)	9345	2587(b)
8450(a)-(f), (h)	2014(a)-(e), (g)	9350	2588
8450(g)	2014(f)	9355	2589
8450(g)	12017(a)(1)	9360	500(a)-(c), (d), 1st sent.
8500	12158	9500(a)	3007
8505	12154	9500(b)	12001.5 (hunting w/o license)
8510	12166	9550	3002
8515	12155.5	9555	2010
8600	12159	9560	2007
8605	12162	9565(a)	3005(a)
8615	12160	9565(b)	3005(c)
8620	12161	9565(c)	3005(d)
8625	12163	9570	3003.5
8630	12157	9575	3003
8635	12157.5	9580	2016
8700	306	9585	3012
8705	307	9590	3000
8710(a)	314	9700	3004(a)
8710(b)	315	9705	3004(b)
8715	315.3	9710	3001
8720	308	9715	2006
8800	2535	9720	3008
8805	2536	9725	2011.5
8810	2537	9730	2019
8815	2539	9735	2011
8820	2542	9740	3005.5
8825	2543	9900	12002.1
8900	2538	9905	12164
8905	2540(a)-(b), (d)-(e)	9910	12155
8910	2540(c)	10000	3004.5(a)
8915	2541	10005(a)	3004.5(b)
8920	2544	10005(b)	3004.5(i)
8925	2545	10005(c)	3004.5(j)
9000	2546	10010	3004.5(c)
9005	12165	10015	3004.5(d)
9010	12156.5	10020	3004.5(e)
9100(a)-(h)	714	10025(a)	3004.5(g)
9100(i)	711.2(b)	10025(b)	3004.5(h)
9105	13005	10030	3004.5(f)
9150	312	10100	3009
9200	1002	10105	12151.5
9205	1002.5	10110(a)-(c)	12150
9210	1003	10110(d)	12001
9300	2580	10115	12150.5
9305	2582	10120	12151

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
10125	12152	11110(a)	3003.1(a), 1st sent., (b)-(c)
10130	12150.6	11110(b)	12005.5 (body-gripping trap)
10135	12150.7	11150	4004(a)
10140	12150.8	11155	4004(e)
10200	3050	11200(a)-(b)(1)	4005(a), 1st sent.
10205	1053.5	11200(b)(2)-(5)	4005(e)
10210 (two versions)	3031 (two versions)	11200(b)(6)	4005(c)
10215	3031.5	11205	4005(d)
10220	3037	11210	4005(b)
10225	3031.2	11215(a)	4006(a)
10230	3040	11215(b)	4006(c)
10300	3033	11220	4007
10305	3038	11225	4008
10310	317	11230	4006(b)
10350	3061	11235	4009.5
10355	3060	11240	12156
10360	3062	11300	4030
10365	3063	11305	4031
10400	3049	11310	4034
10405	3051	11315(a)-(b)	4032
10410	3052	11315(c)	4033
10415	3053	11320	4035
10420	3054	11325(a)	4037
10500(a)(1)-(3)	325	11325(b)	4038
10500(a)(4)	329	11330	4040
10500(b)	330	11335	4041
10505(a)	326	11340	4042
10505(b)	328, 1st sent.	11350	4036
10510	327	11355	4043
10515	328, 2nd sent.	11500	5523
10600	3240.5(a)	11505	1124
10605	3240.5(b)	11510	5507
10610	3240.5(c)-(d)	11515	5508
10615	3241	11520	5509
10620	3242	11525	5503
10625	3243.5	11530	5505 (bait)
10630	3245	11535	5516
10635	3246	11540	5501
10700	1575	11700	1725
10800	3080(a)	11705	1726
10805	3080(b)	11710	1726.1
10810	3080(c)	11715	1726.4
10815	3080(d)	11720	1726.5
10820	3080(e)	11725	1727
10825	3086	11730	1728
10830(a)-(d)	3087	11735	1729
10830(e)	12002.11	11740	1730
11000	4004(d)	11800	6900
11005	4004(f)	11805	6910
11010	4004(g)	11805(a)	6911
11015	4009	11805(b)	6912
11020(a)-(b)	4004(c)	11810	6901
11020(c)	12002(b)(2)	11815	6902
11100	3003.1(d)	11820	6903
11105	4004(b)	11825(a)	6920(a)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
11825(b)	6921	12625	7090(e)
11830	6920(b)	12630	7090(f)
11835	6924	12635	7090(g)
11840	6923	12640	7090(h)
11845	6922	12805	7100
11850	6930	12850	7149.05(a)
11900	2760	12900	7145(a)
11905	2761	12905(a)-(b)	7149.45(a)
11910	2762	12910	6403
11915	2762.2	12910(a)-(b)	6596.1(a), 1st, 3rd sent.
11920	2762.5	12950	7180.1(a)
11925	2762.6	12955	7180.1(a)
11930	2763	12955	7180.1(b)
11935	2764	12955	7180.1(c), 1st sent.
11940	2765	12960	7181.1(a)
12000	13007(a), 1st sent.	12965	7185
12005	13007(a), 2nd sent., (b)-(g)	13000	7145(a)
12100	7050	13005	7153(b)
12105	7051	13005	7153(a) (re public pier)
12150	7055	13010	7145(b)
12155	7056	13015	7153(a) (re aquaculture facility)
12160	7058	13020	7149.7
12165	7059	13100(a)	7149.05(a)
12200	7060	13100(b)	7149.05(d)
12205	7062	13100(c)	7149.05(e)
12250	7065	13105	7149.2
12255	7066	13110	7149.5
12300	7070	13150	7150
12305	7071(a)	13200	7151(a)-(c)
12310	7071(b)-(c)	13205	7151(d)
12315	7072(a)-(c)	13210	7151(e)
12320	7072(d)	13215	7151(f)-(g)
12325	7073	13250	7149.45(b)
12330	7074	13255(a)	6596.1(a), 2nd sent., (f)
12400	7075	13255(a)	6596.1(f)
12405	7076	13255(b)	6596.1(g)
12410	7077	13255(c)	6403
12415	7078(a)-(c)	13260	7180.1(c), 2nd sent.
12420	7078(d)	13300	12002.2
12425	7078(e)-(f)	13305	12002.2.1
12500	7080	13350(a)	7185
12505	7087(a)	13350(b)	7186.1(b)
12510	7081	13355	7183.1(a)-(b)
12515	7082	13360	7184.1(a)-(b)
12520	7083	13365	7186.1(a)
12525	7084	13400	7149.05(b)
12530	7085	13405	7182.1(a)
12535	7086	13405(b)	7185
12540(a)	7087(b)	13500	7120
12540(b)	7088	13600	7121, 1st para.
12600	7090(a)	13605	7121, 2nd para.
12605	7090(b)(1), (b)(2), 1st sent.	13610	12002.3
12610	7090(b)(2), 2nd sent., (b)(2), (A)-(E)	13700	7230
12615	7090(c)	13705	7232
12620	7090(d)	13710	5510

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
13800	7110	14870 (a)-(g)	7856(a)-(d)
13805	7115	14870(h)	7856(e)
13900	7361	14875	7856(f), 1st-3rd sent.
13905	7363	14880	7856(f), 4th sent.
13910	7362	14950	12002.6
13915	7364	15000	9100
13950	10925	15005	9101
14200(a)-(b)	7600	15050	7892, 1st sent.
14200(c)	8460, 4th para.	15055	7892, 2nd sent.
14210	8140	15060	7892, 3rd sent.
14300	8603	15100	8398
14305	8604	15105	8400
14310	7704(a)	15150(a)	8434
14350	7708	15150(b)	8433 (Dist. 2670, Smith R.)
14500(a)	7850(a)	15200	1110
14500(b)	7850(b)	15200	7891
14500(c)	7850(c), 1st sent.	15300	8602
14500(d)(1)	7850(d)	15305	8608
14500(d)(2)	7850.5	15400(a)	8630, 1st para.
14505	7852.27	15400(b)-(d)	8631
14550(a)	7852(a)-(b)	15405	8632
14550(b)	7851	15410	8633
14550(c)	7852(e)	15415	8635
14555	7852.25	15420	8630, 2nd para., 1st-3rd sent.
14560	7857(a), (c)-(k), (m)	15425(a)	8634
14565	7858	15425(b)	8630, 2nd para., 4th-5th sent.
14600	7852(a)-(d)	15500	8660
14605	7852.2	15505	8661
14610	7852.1	15510	8665
14615	7850(c)	15515	8663
14620(a)	6596.1(d)	15520	8664
14620(a)	6596.1(f)	15525	8667
14620(b)	6596.1(g)	15530	8668
14650	7857(b)	15535	8669
14655	7855	15540(a)	8670
14660	12153	15540(b)	12002(b)(5)
14665(a)	7853	15540(c)	12003
14665(b)	7854	15600(a)	8601.5(a) (set net)
14750	7881(e)	15600(b)	8601.5(b), 1st-2nd sent.
14755	7881(a)	15605	8601.6(a)
14760	7857(k)	15610(a)	8601.5(c)
14765(a)	7881(b), 1st sent.	15610(b)	8601.5(b), 3rd sent.
14765(a)	7881(c), 1st sent.	15610(c)	8601.5(b), 4th sent.
14765(b)	7881(f)	15700	8751
14765(c)	7881(g)	15705	8751
14770	7852.1	15710	8751
14775	7881(b), 2nd sent.	15715	8752
14775	7881(c), 2nd sent.	15720	8752
14780	7881(a)	15725	8752
14785	7880	15730	8752
14790	7881(d)	15735	8752
14850	7857(m)	15740	8752
14855	7857(l)	15745	8754
14860	7852.4	15750	8754
14865	7857(e)	15755	8754

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
15760(a)-(c)	8754	16305	8833 (Dist. 2650)
15760(d)	8757 (Dist. 2625)	16310	8836 (Dist. 2685)
15760(e)	8780(a), 2nd sent. (Dist. 2625)	16350	8832
15765(a)-(b)	8757 (Dist. 2630)	16355	8843
15765(c)	8780(a), 2nd sent. (Dist. 2630)	16400	8870
15770(a)-(b)	8757 (Dist. 2635)	16450	8870(a) (Dist. 2505)
15770(c)	8780(a), 2nd sent. (Dist. 2635)	16455	8870(a) (Dist. 2515)
15775(a)	8755	16460	8870(a) (Dist. 2525)
15775(b)	8755	16465	8870(a) (Dist. 2540)
15775(c)	8757 (Dist. 2640)	16470	8870(a) (Dist. 2550)
15775(d)	8780(a), 2nd sent. (Dist. 2640)	16475	8870(b)
15780	8755	16480	8870(c)
15785	8755	16550	8890 (Dist. 2620)
15900	8780.1	16555	8890 (Dist. 2625)
15905	8780(a), 2nd sent.	16650	8832
15910	8780(b)	16805	8609
15915	8780(c)-(d)	16850.1	8610.1
16000	8801 (Dist. 2505)	16850.11	8610.11
16005	8801 (Dist. 2525)	16850.12	8610.12
16010	8801 (Dist. 2540)	16850.13	8610.13 (all but refs to 8610.8)
16010(e)-(f)	8841(j)-(k)	16850.13	12003.5
16015	8802 (Dist. 2580)	16850.14	8610.14
16020	8802 (Dist. 2585)	16850.15	8610.15
16025	8803	16850.16	8610.16
16030	8804	16850.2	8610.2
16035	8805 (Dist. 2600)	16850.3	8610.3
16040	8805 (Dist. 2605)	16850.4	8610.4
16045	8806	16850.5	8610.5
16050	8807	16850.6	8610.6
16100	8606.1	16850.9	8610.9
16105(a)	8830, 2nd sent.	17000	8664.5
16105(b)	8841(d)	17005	8664.67
16110(a)-(c)	8841(a)-(c)	17010	8664.7
16110(d)	8841(e)	17015	8664.8
16110(g)	8841(i) (Dist. 2540)	17020	8664.13
16150	8831	17025	8666
16155	8837	18000	8680
16160(a)	8841(f)	18005	8681
16160(b)	8841(i)	18010	8681.5
16165(a)	8841(h)	18015	8681.7
16165(b)	8841(i)	18020	8682
16170(a)	8841(l)	18025	8683
16170(b)	8841(i)	18030	8684
16175	8840	18035	8685
16250	8833 (Dist. 2550)	18040	8685.5
16255	8835 (Dist. 2570)	18045	8685.6
16260	8835 (Dist. 2575)	18050	8685.7
16265	8835 (Dist. 2590)	18055	8686
16270	8836 (Dist. 2615)	18060	8687
16275	8836 (Dist. 2620)	18065	8688
16280	8833 (Dist. 2625)	18070	8691
16285	8833 (Dist. 2630)	18075	8692
16290	8833 (Dist. 2635)	18080	8692.5
16295	8833 (Dist. 2640)	18085	8693
16300	8833 (Dist. 2645)	18090	8694

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
18095	8696	19020	9025.5(c) (Dist. 2600)
18100	8700	19025	9025.5(c) (Dist. 2605)
18200	8720	19030	9025.5(a) (Dist. 2610)
18205	8721	19035	9025.5(a) (Dist. 2615)
18210	8724	19040	9025.5(a) (Dist. 2620)
18215	8725	19045	9025.5(a) (Dist. 2625)
18250	12004	19050	9025.5(a) (Dist. 2630)
18300	8561	19200	9000(a)-(b)
18305	8561.5	19205	9001
18310	8562	19210	9003
18315	8563	19215	9004
18320	8564	19220	9004
18325	8567	19225	9005
18330	8568	19230	9006
18335	8568.5	19300(a)	9002(a)
18340	8569	19300(b)	9002(c)
18345	8573	19305	9002(b)
18350	8574	19310	9002(d)
18355	8575	19315	9002.5
18360	8575.5	19400	9007
18365	8576	19405(a)	9008
18370	8576.5	19405(b)	8630, 1st para., 2nd sent.
18375	8577	19405(b)	9008
18380	8579	19410	8632
18385	8580	19410	9008
18390	8581	19415	8633
18395	8582	19415	9008
18500	8623(c)-(d)	19420	8635
18505	8625(a)-(c)	19420	9008
18510	8626(a)-(c)	19425	8630, 2nd para., 1st-3rd sent.
18700	9025.1	19425	9008
18705	9028	19430(a)	8634
18800(a)-(b)	9029 (Dist. 2570)	19430(a)	9008
18800(c)	9027 (Dist. 2570)	19430(b)	8630, 2nd para., 4th-5th sent.
18805(a)-(b)	9029 (Dist. 2575)	19430(b)	9008
18805(c)	9027 (Dist. 2575)	19500	9001.7(a)-(j)
18805(d)	9029.5, 1st, 3rd sent. (Dist. 2575)	19505	8403(c)
18810(a)-(b)	9029 (Dist. 2590)	19510(a)	8403(b), 1st sent.
18810(c)	9027 (Dist. 2590)	19510(a)	9022(b)
18810(d)	9029.5, 1st, 3rd sent. (Dist. 2590)	19510(b)	8403(b), 2nd sent.
18815(a)-(b)	9029 (Dist. 2615)	19515	9022(a)
18815(c)-(d)	9027.5 (Dist. 2615)	19600	9000(c)
18820(a)-(b)	9029 (Dist. 2620)	19605	9020(a)
18820(c)-(d)	9027.5 (Dist. 2620)	19610	9020(b)
18825(a)-(b)	9029 (Dist. 2625)	19800	9052
18825(c)-(d)	9027.5 (Dist. 2625)	19805	9050
18900(a)-(b)	9026	19810	9051
18900(c)	8601.5(a) (set line)	19900	8606(a)-(c)
18950	9025.5(a)	19905	8614
19000	9025.5(a) (Dist. 2570)	19910	8615
19005	9025.5(a) (Dist. 2575)	20100(a)	8437
19010(a)	9025.5(a) (Dist. 2590)	20100(b)	8437.1
19010(b)	9025.5(c) (Dist. 2590)	20105(a)	8436
19015(a)	9025.5(a) (Dist. 2595)	20105(b)	8436.5
19015(b)	9025.5(c) (Dist. 2595)	20200	8030

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
20205(a)	8032(a)	21000(b)	8043.1(a)
20205(b)	8032(b)	21000(c)	8047(b), 1st sent.
20210	8032.5(a)-(b), (d)-(i)	21000(d)	8047(a)(1), 1st sent., 1st cl.
20215	8038	21005(a)	8043(a), 2nd sent.
20220	8037(a), 2nd sent.	21005(b)	8043.1(c), 1st sent.
20225	7852.27	21005(c)	8043.1(c), 2nd sent.
20230(a)	8032(a)	21005(c)	8047(a)(1), 1st sent., 2nd cl.
20230(b)	8032(c)	21010	8043.2(a)
20230(c)	8039 (multi-function license)	21015	8046(b)
20235	8032.5(c)	21020	8043(b)
20240	12002.9	21020	8045
20300	8037(a), 1st sent.	21025(a)	8047(b), 3rd sent.
20350	8036(a), 1st sent.	21025(b)	8043(c), 1st sent.
20355(a)	8036(a), 2nd sent.	21025(c)	8043(c), 2nd-3rd sent.
20355(b)	8039 (fish importer)	21100	8046(a), 2nd-4th sent.
20400(a)	8031(a)(1), 1st-2nd sent.	21105(a)	8047(a)(1), 3rd sent.
20400(a)	8034(a), 1st sent.	21105(a)	8047(b), 5th sent.
20400(b)	8031(a)(1), 3rd sent.	21105(b)	8047(b), 6th sent.
20405(a)	8034(a), 2nd sent.	21110	8046(c)
20405(b)	8039 (fish processor)	21110	8047(a)(1), 4th sent.
20450	8033(a)	21110	8047(b), 7th sent.
20450	8047(c)(4)	21115	8046.1
20455(a)	8033(b)	21150	8046(a), 1st sent.
20455(b)	8039 (fish receiver)	21150	8047(a)(1), 2nd sent.
20460	8033(c)	21155	8043(c), 4th sent.
20500	8033.5(a), 1st sent.	21200	8047(c)(5)
20505(a)	8033.5(a), 2nd sent.	21205	8047(c)(3)
20505(b)	8039 (fish retailer)	21210(a)	8047(c)(1)
20550(a)	8035(a)	21210(b)	8047(a)(2), 1st sent.
20550(b)	8035(c)	21215	8047(a)(2), 4th sent.
20555(a)	8035(b)	21215	8047(c)(1)
20555(b)	8039 (fish wholesaler)	21220	8047(e), 1st sent.
20600	8033.1(a)	21225	8045
20605(a)	8033.2	21225	8047(d)
20605(b)	8039 (marine aquaria receiver)	21230(a)	8047(c)(2), 2nd sent.
20610	8033.1(b)	21230(b)	8047(c)(2), 3rd sent.
20700	8596	21235	8047(c)(2), 1st sent.
20705	8597(a)	21240	8047(e), 2nd-3rd sent.
20710	8597(b)	21245	8047(e), 4th sent.
20715	8597(c)	21300	8050
20720	8598	21350	8053
20725	8598.2	21355	8056
20730	8598.3(a), (c)	21360	8052
20735	8598.3(b)	21365(a)	8057
20740	8598.4	21365(b)	8058
20745	8598.6	21365(c)	8059
20900	8040(b)	21365(d)	8060
20905	8043.1(b)	21365(e)	8061
20950	8041	21365(f)	8062
20950	8047(b), 2nd sent.	21365(g)	8063
20955(a)	8042, 1st sent.	21370	8064
20955(a)	8051	21375(a)	8065
20955(b)	8042, 2nd sent.	21375(b)	8066
21000(a), (c)	8043(a), 1st sent.	21375(c)	8067
21000(a), (c)	8047(a)(2), 2nd-3rd sent.	21375(d)	8068

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
21375(e)	8069	22450(e)	7652.3(b)
21375(f)	8070	22455	7652.3(a)
21400	8025(a)	22500	8101
21450	8043.2(b)	22505	8102
21455	8043.2(c)	22510	8103
21600	7700(a)-(c)	22515	8104
21605	7701	22600	8585
21610	7702	22605	8585.5
21615	7703	22610	8586
21650	8075	22615	8589
21655	8077	22620	8587.1
21660	8078	22625	8586.1
21665	8079	22630	8587
21670	8079.1	22635	8589.7
21675	8080	22640	8589.5
21750	7705	22700	8111
21800	7704(b)	22705	8110
21805	8076	22710	8112
21810	7702.1	22715	8113
21850	7706	22720	8114
21855	7707	22800(a)-(e)	7710(a)-(c)
21900	7920, 2nd sent.	22800(f)	7710, last para.
21905	7920, 1st, 3rd sent.	22805(a)-(c)	7710.5
21910	7921, 2nd sent.	22805(d)	7710, last para.
21915	7921, 1st sent.	22810	7710.1
21920(a)	7923	22815	7712
21920(b)	8460, 4th para.	22900	7630
21925	7924	22905	8125, 1st-2nd sent.
21930	7147	22910	8126
21935	6596.1(b)	22915	8125, 3rd sent.
21940	12002.7, 1st-2nd para.	23100	7690
21945	12002.4	23150	7709
21950	8385	23200	1069
22100(a)	8460, 1st para.	23300	15006
22100(b)	8460, 3rd para.	23305	15000(a)
22105	8460, 2nd para.	23350	15000(b)-(d)
22110	8461	23355	15005
22115	8460, 2nd para.	23360	15008
22120	8462	23365	15100
22125	8463	23500	15004(c)
22200(a)-(b)	8026	23505	15004(a)-(b)
22200(c)	8460, 4th para.	23600	15101(b), 3rd sent.
22205	8022	23605(a)	15101(a)
22210	8010	23605(b)	15101(b), 1st sent.
22215	8025(a)	23605(c)	15101(c)
22300	7650	23610	15101(b), 1st sent.
22305	7654	23700	15101(b), 1st sent.
22310	7655	23700	15101(b), 2nd, 4th sent.
22315	7652(d)	23700(d)	15101(d)
22400(a)-(d)	7652.1	23705	15103
22400(e)	7652.3(b)	23710	15104
22405	7652(a)-(c)	23715	15105
22410	7652.3(a)	23720	15103
22415	7653	23800(a)	15200, 1st sent.
22450(a)-(d)	7652.2	23800(b)	15202

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
23800(c)	12007 (planting aquatic org.)	24705(b)	12007 (import aquatic org.)
23805	15102	24710	15600(b)
23810	15201	24715	15601
23815	15200, 2nd sent.	24720	15604
23820	15003	24800	15700
23900	15300	24805	15701(a)
23905(a)	15301(b)	24810	15701(b)
23905(b)	15301(c)	24815	15703
23910	15301(a)	24820	15702
23915	15001	24900	15002
24000	15400(a)	24905	5511
24005	15400(b), 1st sent.	24950(a)	15007(a), 3rd sent.
24010	15400(b), 2nd sent.	24950(b)	15007(b)
24015	15400(c)	24955	15007(f)
24020	15400(d)	24960(a)	15007(a), 1st sent.
24100(a)-(b)	15403, all except last sent.	24960(b)	15007(a), 2nd sent.
24100(c)	15401	24960(c)	15007(c)
24105	15404	24965	15007(d)
24110	15415	24970	15007(e)
24115(a)	15406.5(a), 1st sent.	25100	1120
24115(b)	15406.5(a), 3rd sent.	25105	1121
24115(c)	15406.5(b)	25110	1122
24200	15405	25115	1126
24205	15410	25120	1150
24210	15406	25125	6903.5
24215	15414	25130	1122.5
24220(a)	15406.5(a), 2nd sent.	25135	1210
24220(b)-(d)	15406.7	25200	1170
24300	15407	25205	1171
24305	15403, last sent.	25210	1172
24310	15402	25215	1173
24315	15411	25220	1174
24320(a)	15408	25225	1175
24320(b)-(e)	15409	25300	1200
24325	15412	25305	1201
24400	15413	25310	1202
24500	15500	25315	1203
24505	15501	25320	1204
24510	15502	25325	1205
24515(a)	15503	25330	1206
24515(b)	15504	25400	6403 (fish planting)
24520	15505	25405	1123
24525	15506	25410	6401
24530	15507	25415(b)	6400
24535	15508	25415(b)	12007 (fish planting)
24540(a)-(b)	15510	25420	1125
24540(c)	12007 (diseased aquatic org.)	25500	12023
24545(a)	15509	25505	12024
24545(b)	12007 (quarantined aquatic org.)	25510	12026
24600	15512	25600	6420
24605	15513	25605	6421
24610	15514	25610	6422
24615	15516	25615	6423
24700	15605	25620(a)	6424
24705(a)	15600(a)	25620(b)	6425(b)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
25700	6590	26615	2119
25705	6591	26620	2123
25710	6592	26700	2118(a)
25715(a)	6594	26705	2118(b)
25715(b)	6593, 2nd sent.	26710	2118(c)
25720	6593, 1st, 3rd sent.	26715	2118(d)-(e), (j)
25725	6595	26720	2118(f)
25730	6597	26725	2118(g)-(h)
25735	6597.5	26730	2118(i)
25740	6598	26735	2118(k)
25850	6402	26850	2124
25855	1123.5	26855	2126
26000	3200	26860	2121
26005	3201	26865(a)-(c)	2118.2
26010	3202	26865(d)	2118.4
26015	3203	26865(e)	2118.3
26020	3204, 1st para.	26870	2128
26025	3204, 2nd para.	27000	2125(a), 2nd sent.
26030	3205	27005(a)	2125(a), 1st sent.
26035	3206	27005(b)	2125(b)
26040	3207	27010	2125(c)
26045	3208	27015	2125(d)
26050	3209	27020	2127
26055	3212	27200	2150(a)
26060	3213	27205	2150(b)
26065	3214	27210	2150(c)-(f)
26070	3216	27215(a)	2150.2
26075	3217	27215(b)	2150.1
26080	3218	27220	2150.3
26085	3219	27225	2150.4
26200	3300, 2nd para.	27235	2151
26205	3300, 1st para., 1st sent.	27240	2152
26210(a)	3300, 1st para., 2nd sent.	27245	2153
26210(b)	3301, 1st sent.	27250	2155
26215	3301, 2nd-3rd sent.	27255	2156
26220	3302	27260	2157(a)
26225	3303, 1st-2nd sent.	27265	2157(b), (d)
26230	3303, 3rd sent.	27270	2157(c)
26235	3305	27275	2193(a)
26240	3306, 1st-2nd para.	27280	2193(b)-(c)
26245	3306, 3rd para.	27330	2150.5
26250(a)	3307, 1st para., 2nd sent.	27400	2185(b)
26250(b)	3307, 1st para., 1st sent.	27400	2186(b)
26255	3307, 2nd para.	27400	2187(b)
26260	3309	27405	2185(a)
26265	3308	27410	2186(a)
26270	3310	27415	2187(a)
26275	3311	27500	2189(a)
26400	4010	27505	2189(b)-(c)
26500	2116	27510	2189(d)-(f)
26505	2117	27600	2200
26510	2116.5	27605	2201
26600	2120	27610	2202
26605	2118.5	27615	2203
26610	2122	27700	2190

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
27705	2195	29515(c)	3684(g)
27710	2192	29515(d)	3684(c), 1st sent.
28000	2225	29515(e)	3684(e), 2nd sent.
28100(a)	2270	29520(a)	3684(c), 2nd sent.
28100(b)	12007 (diseased aquatic org.)	29520(b)	3684(c), 4th-5th sent.
28105	2270.5	29520(c)	3686, 1st sent.
28110(a)-(d)	2271	29525	3684(c), 3rd sent.
28110(e)	12007 (import aquatic org.)	29530(a)	3684(d)
28115	2272	29530(b)	3686, 2nd sent., 1st cl.
28250	2300(a)-(b)	29535	3686, 2nd sent., 2nd cl.
28255	2300(c)	29540	3684(e), 1st sent.
28400	2345	29545	3684(f)
28405(a)	2346	29650	3516, 2nd para.
28405(b)	2347	29700	3516, 1st para.
28410	2348	29705	3515
28415	2349	29850(a)	3800(a), 2nd sent.
28420	2352	29850(b)	12002(c) (nongame bird)
28425	2353	29855(a)	3513
28500	2400	29855(b)	12002(c) (migratory nongame bird)
28505	2401	29860	3801.5
28600	2015	30000	3801.6(a)
28650	2022(a)	30005	3801.6(b)(1)
28655	2022(b)-(c)	30010(a)	3801.6(b)(2), 2nd-4th sent.
28660	2022(d)	30010(b)	3801.6(c)
28665	2022(e)	30015	3801.6(b)(2), 1st sent.
28670	2022(f), (i)	30100	395
28675	2022(g)	30105(a)-(b)	396
28680	2022(h)	30105(c)	398, 1st cl.
28685	2022(j)	30110(a)	3503.5
28750	3039	30110(b)	12002(c) (bird of prey)
28905(a)	3503	30110(b)	12010
28905(b)	12002(c) (bird nest & eggs)	30115	3802
28910	3504	30200(a)-(b)	3511(a)(1), 1st-2nd sent.
28915	3803	30200(c)	12008(b)
29050	3860	30200(d)	12159.5 (fully prot. birds)
29055	3861	30205	3511(a)(1), 3rd-6th sent., (a)(2)
29060	3862	30210	3511(a)(3)
29065	3863	30300	3505 (bird of paradise)
29200	356, 1st para.	30350	3511(b)(5)
29205	3806	30360	3850
29210	355, 1st-2nd para.	30365	3851
29215	356, 2nd para.	30370	3852
29220	355, 3rd para.	30375	3853
29225	357	30380	3854
29350	3502	30385	3855
29355	3501	30390	3856
29360	3508	30395	3857
29365	3270(a)	30500	3500(b)(1)
29370	4304, 1st sent.	30505(a)	3700.1(a)
29375	2350 (game birds)	30505(b)	12001.5 (duck and goose)
29500	3682.1(a)	30510	3681
29505	3682.1(b)	30515	3700.1(b)
29510	3682.2	30520	3700.2(a)-(f)
29515(a)	3684(a)	30525(a)	3700.2(g)
29515(b)	3684(b)	30525(b)	3702.5, 1st sent.

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
30530	3701, 1st sent.	32150(a)	4002
30535(a)	3701, 2nd sent.	32150(b)	4003
30535(b)	3704, 1st para., 1st-2nd sent.	32155	4180
30535(c)	3704, 1st para., 3rd sent.	32300	4150, 2nd sent.
30540	3702, 1st sent.	32305	4152 (nongame mammal)
30545	3704, 1st para., 4th sent.	32310(a)	4153, 1st para.
30550	3702, 3rd sent.	32310(b)	4154
30550	3704.5, 1st para., 2nd sent., 2nd cl.	32500(a)-(b)	4500(a)-(b)
30555	3702, 2nd sent.	32500(c)	12003.2 (marine mammal)
30555	3704.5, 1st para., 2nd sent., 1st cl.	32700(a)-(b)	4700(a)(1), 1st-2nd sent.
30560(a)	3703	32700(c)	12003.2 (fully prot. mammal)
30560(b)	3705	32700(c)	12008(c)
30565	3702.1	32700(d)	12159.5 (egret)
30570	3704.5, 1st para., 1st sent.	32705	4700(a)(1), 3rd-6th sent., (a)(2)
30700	3505 (egret)	32710	4700(a)(3)
30750	3505 (goura)	32900	3950(a) (antelope)
30800	3505 (numidi)	32950	331(c), (d)
30850	3505 (osprey)	32955	331(b), 1st-3rd sent.
30900	3500(a)(10)	32960(a)	3953(b), 1st sent. (antelope)
30900	3683(a)(11)	32960(b)	331(b), 4th sent.
30910(a)	3010	32965(a)	709 (antelope)
30910(b)	3660	32965(b)	3953(b), 2nd sent. (antelope)
31000	3500(b)(6)	33000	331(a)
31000	3683(b)(4)	33050	12013.3 (antelope)
31010	3680	33100	3950(a) (bear)
31050	3801	33110	4760
31100	3500(a)(11)	33200	3011
31100	3683(a)(12)	33205(a)	4750
31105	12013.3 (turkey)	33205(b)	12001.5 (bear)
31110	4181(a) (wild turkey)	33210	4753
31115	4188 (wild turkey)	33215	4755
31500	3032(a)(1)	33220	4757
31500	3960(a)	33225	3006 (bear)
31500	3960.2 (bear)	33300	4751
31500	3960.4(a)	33305	3953(b), 2nd sent. (bear)
31500	3960.6(a)	33310	4752
31505	3032(a)(2)-(d)	33315	4754
31510(a)	3960(b)	33400(a)	302
31510(b)	3960(c)(3)	33400(b)	303
31550	3960(c)(1)-(2), (4)	33450(a)	4759, 1st sent.
31555	3961	33450(b)	4759, 2nd-3rd sent.
31600	4153, 2nd para.	33455	4758
31605(a)	4180.1, 1st para.	33460	12005
31605(b)	4180.1, 2nd para.	33465	12001.5 (bear parts)
31610	4190	33470	12013.5
31700	4011	33500	4763
31800	4304 (game mammal)	33505	3960.6 (bear)
31900	3953(a)	33510(a)	4181.1(a)
31905	3953(c)	33510(b)	4181.1(c) (bear)
31910	3953(d)	33510(c)	4181.1(d)
31915	3953(e), 1st sent.	33510(d)	4181.1(e)
31920	3953(e), 2nd sent.	33515	3960.2 (bear)
31925	3953(f)	33520(a)-(d), (f)	4181(a) (bear)
31930	3953(g)	33520(e)	4181(b)
31935	13205	33600	3960.4 (bear)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
33650	4185	34530(e)	451
33700	4000 (beaver)	34535	1503
33710	4181(a) (beaver)	34600	4181.5
33755	3960.2 (bobcat)	34605	4188 (deer)
33755	3960.4 (bobcat)	34700	12013.3 (deer)
33755	3960.6 (bobcat)	34800	3950(a) (elk)
33800	4155(d)	34810	3006 (elk)
33805	4155(a)	34850	332(b)
33810	4155(b)-(c)	34855	332(d), (e)
33815	4155(e)	34860	332(c)
33820	4155(f)	34865	3953(b), 1st sent. (elk)
33900	3960.6(b)	34870(a)	709 (elk)
33905	3960.2 (bobcat)	34870(b)	3953(b), 2nd sent. (elk)
33950	3960.4(b)-(d)	34950	332(a)
34055(a)-(c)	4600	34955	3952
34055(d)	12002(b)(3) (burro)	34960	3951
34060	10930	35000(a)-(c), (f)	4181(a) (elk)
34065	10931	35000(d)-(e)	4181(d)
34100	3950(a) (deer)	35100	12013.3 (elk)
34110	4302	35200	4000 (fox)
34115	3006 (deer)	35210	4012
34120	2350 (deer)	35215	4152 (fox)
34125	2355	35300(a)	3950(a) (mountain lion)
34200(a)	4330	35300(b)	3950.1(a)
34200(b)	12001.5 (deer)	35310	3950.1(b)
34205	4336	35310	4800(d)
34210	4341	35315	4808
34215	4334	35350	4800(a)-(c)
34220	4331	35400	4801
34225	4332(a)-(d)	35405	4802
34230	4333	35410	4803
34235	4340	35415	4804
34240	3953(b), 1st sent. (deer)	35420	4805
34245(a)	709 (deer)	35425	4806
34245(b)	3953(b), 2nd sent. (deer)	35430	4807
34350	4370	35435	4809
34355	4371	35440	4801.5
34400(a)	4301(b) (deer)	35500	4810
34400(b)-(c)	4301(a), 1st sent.	35600	4000 (muskrat)
34405(a)	4301(b) (deer)	35610	4152 (muskrat)
34405(b)-(d)	4301(a), 2nd-5th sent.	35615	2250
34410	4303	35700	3950(a) (rabbit & hare)
34415	4304 (deer)	35705	4186
34450	10501	35710	4152 (rabbit & hare)
34500	450	35750(a)	4500(c) (sea otter)
34505	452	35750(b)	4700(b)(8)
34510(a)	453	35755	4501
34510(b)	454	35800	4700(b)(2)
34510(c)	455	35810	4900
34515(a)	456, 1st sent.	35815	4901
34515(b)	456, 3rd sent.	35820(a)	709 (bighorn sheep)
34520	457	35820(b)	3953(b), 2nd sent. (sheep)
34525	458	35825(a)	3953(b), 1st sent. (sheep)
34525	459	35825(b)	4903, 3rd-4th sent.
34530(a)-(d)	460	35900	4902(a)-(b)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
35905(a)-(b)	4902(d)	38565	12002.8(d)-(e) (anchovies)
35905(c)	4902(e)	38705	2362 (barracuda)
35910	4902(c)	38755(a)	8386 (barracuda)
35915	4903	38755(b)	8382 (barracuda)
35950	12008.5	38755(c)	8384 (barracuda)
35955	12013.3 (sheep)	38760	8623(a)-(b), (e) (barracuda)
36000	3950(a) (squirrel)	38850	2360 (black bass)
36010	4152	38855	7350
36015	4181(a) (squirrel)	38860	2360 (spotted bass)
37000(a)	4500(c) (whale)	38865(a)	2359
37000(b)	4700(b)(6)	38865(b)	2363 (striped bass)
37050	4502.5	38870(a)	6400.5
37100	3950(a) (wild pig)	38870(b)	12007 (white bass)
37105	4650	38875(a)	2362 (white sea bass)
37150	4181(a) (wild pig)	38875(b)	2362 (white sea bass)
37150	4652	38875(c)	6596.1(c)
37155	4657	38900	1740
37200	4653	38905	1741
37205	4654 (wild pig)	38910	1742
37210	4655	38915	1743
37215	4654 (wild pig)	39000	8756 (striped bass)
37220	3953(b), 1st sent. (wild pig)	39005	8370 (striped bass)
37300	4651	39010	8371(a)-(b)
37350	4181.2	39050	8383.5
37355(a)-(d)	4181.1(b)	39055	8623(a)-(b), (e) (white sea bass)
37355(e)	4181.1(c) (wild pig)	39100	8380
37355(f)	4181(c) (wild pig)	39105	8372
37360(a)-(c), (e)	4181(a) (wild pig)	39150	6403 (carp)
37360(d)	4181(c) (wild rodent)	39200	6456
37365	4188 (wild pig)	39205	6440
37450	3950(a) (wild rodent)	39210	6450
37450(b)	4700(b)(1)	39215	6451
37450(c)	4700(b)(7)	39220	6452
37455(a)	2576	39225	6455
37455(b)	2575	39230	6454
37460	4005(f)	39235	6453
37805	7600	39240	6457
37950	6300 (fish)	39245	6460
37955	6301 (fish)	39305	9023
37960	6302 (fish)	39410	8435
37965	6303 (fish)	39555	8373
37970	6304 (fish)	39655	8381
37975	6305 (fish)	39755	9001.6
37980	6306 (fish)	39805	316
38200(a)-(d), (g)	5515(a)	39900	8391
38200(e)	12008(e)	39905	8392
38200(f)	12159.5 (fully prot. fish)	39950	8494(a)
38355	8607	39955(a)	8494(b)
38360	8403(a)	39955(b)	8494(c)
38365	8046.1	39960	8494(d)
38550	8190	39965	8494(e)
38555(a)	8180	39970	8494(f)
38555(b)	8181	39975	8494(h)
38555(c)	8182	39980	8494(g)
38560	8183	40050	12002.8(d)-(e) (halibut)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
40100	8495(a)	41125	6956
40105	8495(b)-(d)	41305	8231
40110	8495(e)	41350	7861.3
40115	8496	41355	7860
40120	8497	41360(a)-(e)	7861
40125	8842(c), 2nd sent.	41360(f)	7861.1
40350(a)	8550, 1st sent.	41365	7861.2
40350(b)	8552(a), 1st sent.	41370	7861.5
40355	8550, 2nd-3rd sent.	41375	7861.4
40360	8550.5	41380	7862
40365	8552(b)-(e)	41385	7862.5
40370	8552.8	41390	7863
40375	8552(a), 2nd sent.	41450	8210.2
40375	8552.6	41455	8217
40380	8552(a), 2nd sent.	41455	8371(c)-(d)
40380	8552.2	41460	8213
40385	8552.3	41465	8214
40390	8552.7	41470	8215
40395	8552.4	41475	8218
40400	8552.1	41480	8219
40405	8554	41485	8756 (salmon)
40410	8555	41490	8834.1
40415	8556	41495	8370 (salmon)
40420	8557	41500	12002.8(d)-(e) (salmon)
40425	8558	41600	8120
40430	8558.1(a), 1st-2nd sent.	41605(a)-(c)	8121
40435(a)-(b)	8558.2	41605(d)	8122
40435(c)	8558.1(a), 3rd sent.	41610	8123
40435(d)	8558.3	41650	8230
40440	8559	41655	8248
40445	8552.5	41660(a)	8246.8
40450	12002.8(d)-(e) (herring)	41660(b)	8239.2
40455	8553	41665	8232
40500	8389(a), 1st sent.	41670	8232.5
40505	8389(a), 2nd sent.	41675	8234(a)
40510(a)	8389(b)	41680	8233.9
40510(b)	8389(c)	41685	8243
40515	8389(d)	41690	8242
40605	8412	41695	8244
40610	8411	41700	8245
40705	2354	41705	8245.5
40710	7123	41710	8233.8
40755	8393(a)	41715	8233, 1st sent.
40760	8393(b)	41720	8236
40905	9001.8	41725	8235
40955	1000.6	41730	8233.3
41000	310	41735	8233.5
41005	5514 (salmon)	41735	8237
41010	316.5	41740(a)-(i)	8239
41050	2361	41740(j)	8241
41100	6950	41745(a)	8238
41105	6952	41745(b)	8238.1
41110	6953	41750	8239.9
41115	6954	41755(a)-(c)	8239.1
41120	6955	41755(d)-(e)	8240

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
41760	8233.4	43255	10001, 1st sent.
41765	8239.6	43260	10001, 2nd sent.
41770	8246.4	43265	10002
41775	8246.6	43270(a)	10003
41780	8246.7	43270(b)	10004
41785(a)	8246(a)	43275	10005
41785(b)	8246(b)	43355	8370 (sturgeon)
41785(c)	8246(c)	43555	8395
41785(d)	8246.2(b)	43655(a)	8394
41785(e)	8246(d)	43655(b)	8394.5
41790	8246.2(a)	43805	7260
41795	8233, 2nd sent.	43850	2356
41800	8234(b)	43855	2358
41900	8247, 1st sent.	43950	5514 (steelhead)
41905	8247.5(a)	44000	7380
41910	8247.7	44005	7381
41915	8247.1	44010	7382
41920	8247.5(b)	44105(a)	8430
41925	8247.2, 1st sent.	44105(b)	8433 (trout)
41930	8247, 3rd sent.	44200(a)-(b)	8431
41935	8247.2, 2nd-3rd sent.	44200(c)	8432
41940	8247, 2nd sent.	44200(d)	8433 (Dolly Varden, steelhead)
41945	8247.4	44205	8756 (Dolly Varden, steelhead)
41950	8247.8	44350	313
41955	8247.6	44450	8376
42050(a)	7662	44455(a)	8374 (bluefin tuna)
42050(b)	7660	44455(b)	8375
42100	7925	44460(a)	8377.5
42105	8055	44460(b)	8377
42110	8226	44465	8378
42255	8150.7, 1st sent.	44470	8374 (yellowfin tuna)
42260	8150.7, 2nd sent.	44650	2362 (yellowtail)
42265	8150.5	44755(a)	8386 (yellowtail)
42270	12002.8(d)-(e) (sardines)	44755(b)	8382 (yellowtail)
42350	8154	44755(c)	8384 (yellowtail)
42455	2363 (shad)	44760	8387
42505	8756 (shad)	44765	8623(a)-(b), (e) (yellowtail)
42605	5517	45005	7600
42610(a)-(d)	2021	45010	8500
42610(e)-(f)	2021.5(a)	45250	5505 (crustaceans)
42615	2021.5(b)	45305	9053 (crustaceans)
42750	7704(c)	45400	5505 (mollusks)
42800	8388(b)	45405	9053 (mollusks)
42805	8388(a)	45450	5700
42810(a)	8388(c)	45455	5701
42810(b)	8388(d)	45460	5701.5
42850	8599.4	45465	5702
42905	8388.5	45500(a)	5669
42950	8599	45500(a)	5671
42955	8599.3	45500(b)	5675
43150(a)-(b)	7370	45505	5670
43150(c)	12006(a)(1)	45505	5672, 2nd para.
43150(d)-(f)	12006(b) (sturgeon)	45510(a)	5672, 1st para.
43200	2363 (sturgeon)	45510(b)	5673
43250	10000	45515	5674

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
45700(a)-(c)	7149.8	47365	8276.2(c), 1st, 3rd-6th sent.
45700(d)	12000(b)(3)	47370	8276.2(b)(2)(A)
45700(d)	12002(b)(3) (abalone)	47375	8276.2(d)
45750	2371	47450(a)	8284(a), 1st sent.
45800	5521	47450(a)	9011(a)(1)
45805	5521.5	47450(b)	9011(a)(2)
45810	5521.6	47450(c)	9012(b)
45850	12009	47455	8283
45855	12006.6	47460(a)	8284(a), 2nd sent.
45860	12002.10	47460(b)	9011(a)(3)
45865	12002.8(a)-(c)	47465	9011(c)
45950(a)	7149.9(a), 3rd sent.	47600	8276.5(h)
45950(b)-(c)	7149.9(a)(1), 2nd sent.	47605	8276.5(g)
45955(a)	7149.9(a), 1st, 2nd sent.	47610	8276.5(a), 1st sent.
45955(b)-(d)	7149.9(b)-(d)	47615	8276.5(a), 2nd sent.
45960	7149.9(a)(1), 1st sent.	47620	8276.5(a)(1)-(2)
45960	7149.9(a)(2)-(3)	47625	8276.5(a)(3)
46000	5520	47630	8276.5(a)(4)
46005	5522(a), (b)	47635	8276.5(a)(5)
46010	5522(c)	47640	8276.5(a)(6)
46015	5522(d)	47645	8276.5(a)(7)
46020	5522(e)	47650	8276.5(b)
46050	7400	47655	8276.5(d)
46150	8051.4(a)	47660	8276.5(e)-(f)
46250	7290	47665	8276.5(i)
46255	2368	47800	8276.4(a), 1st sent.
46260	2369	47805	8276.4(a), 2nd sent., (a)(1)-(7)
46300	7332	47810	8276.4(b)
46400	8340	47815	8276.4(c)
46405	8475	47820	8276.4(d)
46410	8341	47825	8276.4(e)
46415	8343	47830(a)	8276.4(f)
46420	8346	47830(b)	8276.5(c)
46425	8342	47835	8276.4(h)
46550	2364	47900	8280.1(a)
46855	8275	47905	8280.4(a)
47000	8834	47910	8280.6(a)
47005	9012(a)	47915	8280.2(e), 2nd-4th sent.
47010(a)	8276.4(g)	47920	8280.2(e), 1st sent.
47010(b)	8276.4(h)	47925	8280.2(a)-(d)
47015	8281	47930	8280.1(g)(1)
47055	8279	47935	8280.1(g)(2)
47060	8276(c)	47940	8280.5(a)-(e)
47065	8834.5	47945	8280.1(h)
47070	8278	47945	8280.2(f)
47150	8276.3(a)-(b)	47945	8280.4(b)
47155	8279.1(a)-(e)	47945	8280.5(f)
47160	8276.3(c)	47945	8280.6(d)
47160	8279.1(f)	48100	8280.1(b)
47300	8276(a)-(b)	48100	8280.1(d)
47305	8277	48105	8280.1(b)(1)-(2)
47350	8276.2(a)	48110	8280.1(b)(3)
47355(a)	8276.2(b)(1)	48115	8280.1(b)(4)(A)
47355(b)	8276.2(c), 2nd sent.	48120	8280.1(b)(4)(B)
47360	8276.2(b)(2)(B)	48125	8280.1(b)(4)(C)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
48130	8280.1(b)(5)	49965	2301(a)(2)(D)(ii)-(iv)
48135	8280.1(b)(6)	49970	2301(b)
48140	8280.1(f)	49975	2301(c)(1)
48145	8280.1(c)	49980	2301(d)
48150	8280.1(h)	49985	2301(g)
48300	8280.3(a)	49990	2301(h)
48305	8280.6(c)	49995	2301(f)
48310	8280.3(b)	50000	2301(i)
48315	8280.3(c)	50100	2302(g)
48320	8280.3(d)	50105	2302(a)-(b)
48325	8280.3(e)	50110	2302(c)
48330	8280.3(f)	50115	2302(d)
48335	8280.3(g)(2)	50120	2302(e)
48340	8280.3(g)(1)	50125	2302(f), 3rd sent.
48345	8280.3(h)	50130	2302(f), 1st-2nd sent.
48350	8280.3(i)	50255	8344
48355	8280.6(b)	50405	8345
48360	8280.3(j)	50505	8405
48360	8280.6(c)	50510	8405.1
48500	8280	50515	8405.2
48505	8280.9	50520	8405.3
48510	8280.7	50525	8405.4
48650	8282	50655	1068
48655	9011(b)	50705(a)	9054, 1st sent.
48660	8284(b)-(c)	50705(b)	9055
48800	12002.8(d)-(e) (rock crab)	50705(c)	9054, 3rd sent.
49005	8490	50705(d)	9054, 4th sent.
49010	9024	50710	9054, 2nd sent.
49015	8491	50955	8590
49020	8492	51000	8593
49205	8510	51005	8591
49310	7256	51010(a)-(b)	8841(g)
49315	2365	51010(c)	8841(i) (shrimp & prawns)
49500(a)-(e)	8254	51015(a)	9015(a)
49500(f)	12006(a)(2)	51015(b)	8595(a)
49500(g)-(i)	12006(b) (lobster)	51015(c)	9015(b)
49505	8257	51015(d)	8595(b)
49510	8259	51050	8594
49515	8254.7, 1st-6th sent.	51100(a)	8595(a)
49600	8251	51100(a)	8842(a), 1st para.
49605	8252	51100(b)	8842(a), 2nd para.
49610	9001.7(k)	51105(a)	8842(b)
49615	8254.7, 7th sent.	51105(b)	8842(d)
49700	8250.5(a)	51110	8842(c), 1st sent.
49700	9010(a)	51115	8842(c), 3rd sent.
49705	9010(c)-(e)	51400	8399
49710(a)	8258	51405	8399.1
49710(b)	9010(b)	51450	8420
49715	8250.5(b)	51455	8424
49750	8250.5(c)	51460	8425(a)
49755	8253	51465	8425(b)
49850	1021	51470	8428
49950	2301(a)(1)	51475	8429, 1st sent.
49955	2301(e)	51480	8429, 2nd sent.
49960	2301(a)(2)(A)-(D)(i), (c)(2)	51485	8429.5

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
51490	8429.7	53855(a)	1912
51905	5505 (amphibians)	53855(b)	1913(a)
52000	6300 (amphibians)	53855(c)	1913(b)
52005	6301 (amphibians)	53855(d)	1913(c)
52010	6302 (amphibians)	53900	1925, 1st sent.
52015	6303 (amphibians)	53905	1926
52020	6304 (amphibians)	53910	1925, 2nd-3rd sent.
52025	6305 (amphibians)	54005	6653
52030	6306 (amphibians)	54010	6651(c) (kelp)
52200(a)-(d), (g)	5050(a) (fully prot. amph.)	54025	6650
52200(e)	12008(d) (fully prot. amph.)	54030	6651(a)-(b)
52200(f)	12159.5 (fully prot. amph.)	54035	6656
52300	6895	54040	6657
52305	6896	54050	6680
52400	6850	54055	6652
52450	6851	54075	6700, 2nd sent.
52455	6854	54080	6700, 1st sent.
52460	6852	54085	6701
52465	6855	54090	6701.5
52500	6880	54095	6702
52505	6881, 1st sent.	54100	6703
52505	6882	54105	6704
52505	6884	54110	6705
52510	6881, 2nd sent.	54115	6706
52515	6883	54120	6707
52520	6885	54125	6708
53000(a)-(d), (g)	5050(a) (fully prot. reptile)	54130	6709
53000(e)	12008(d) (fully prot. reptile)	54135	6710
53000(f)	12159.5 (fully prot. reptile)	54140	6711
53100	5060	54175	6654
53105	5061	54180	6655
53200	5062	54200	6750
53250	7149.3	54205	6751
53305	5000	54305	6651(c) (agar)
53310	5002	54325	6653.5(b)
53315	5001	54330	6653.5(a)
53600	6300, 2nd sent.	54500	1800
53605	6301 (aquatic plants)	54505	1801
53610	6302 (aquatic plants)	54510	1802
53615	6303 (aquatic plants)	54525	1700
53620	6304 (aquatic plants)	54550	1501
53625	6305 (aquatic plants)	54555	1501.5
53630	6306 (aquatic plants)	54575	1930
53800	1900	54580	1930.5(a)-(b)
53805	1901, except 2nd sent.	54585	1932
53810	1904, 1st sent.	54590	1940
53815	1904, 2nd sent.	54595(a)	1931
53820	1908	54595(b)-(d)	1932.5(a)-(b)
53825	1907	54600	1930.5(c)-(e)
53830	1909	54605(a)-(c)	1932.5(c)-(e)
53835	1910, 1st sent.	54605(d)	1933
53840	1910, 2nd sent.	54700	1300
53845	1911	54710	1301
53850(a)	1905	54750	1320
53850(b)	1906	54755	1321

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
54760	1322	55310	1655(c)
54765	1323	55315	1653(c)
54770	1324	55320	1653(d)-(f)
54800(a)-(c)	1345	55325	1653(g)
54800(d)	1346	55350	1654(a)
54805	1347	55355	1654(c)(1)
54810	1356	55360	1654(c)(2)
54815	1348	55365	1654(c)(3)
54820	1354	55370	1654(d)
54825	1348.1	55500	2600
54830	1348.2	55505	2601
54835	1348.3(a)(1), (a)(3), (b)	55510	2602
54840	1349	55525	2620
54845	1350(b)	55530	2621
54850	1350(c)	55535	2622
54855	1350(a)	55540	2623
54860	1353	55545	2624
54865	1351	55550	2625
54870	1355	55555	2626
54875	1352	55560	2627
54880	1352.5	55600	2640
54885	1375	55605	2641
54900	1360	55610	2642
54905	1361(b)-(j)	55615	2643
54910	1362	55620	2644
54915	1372	55625	2644.5
54925	1363(a)	55630	2645
54930	1363(b)	55635	2646
54935	1370	55640	2647
54940(a)-(b)	1363(d)-(e)	55645	2648
54940(c)	1364	55650	2649
54945	1363(c)	55655	2650
54950	1367	55660	2651
54955	1363(f)	55700	2700
54960	1365	55705	2701
54965	1366	55710	2702
54970	1368	55725	2720
54975	1369	55730	2721
55100	1650	55735	2722
55105	1651	55740	2723
55110	1654(b)	55745	2724
55115	1656	55750	2725
55120	1657	55755	2726
55150	1655(a)	55760	2727
55155	1655(b)	55765	2728
55160	1655(d)	55770	2729
55200	1652(a)	55800	2780
55205	1652(b)	55805	2781
55210	1655(c)	55825	2785
55215	1652(c)	55830	2786
55220	1652(d)	55835	2787
55225	1652(e)	55840	2788
55230	1652(f)	55845	2789
55300	1653(a)	55850	2790
55305	1653(b)	55855	2791

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
55860	2792	56555	3404(a)
55865	2793	56560	3408
55870	2794	56575	3401(a), 2nd sent.
55875	2795	56580	3401(a), 3rd sent.
55880	2796	56585	3407
55885	2797	56590	3406(b)
55890	2798	56595	3401(b)
55895	2799	56700	3460(a)
55900	2799.5	56705	3461
55905	2799.6	56710	3462
56000	1750	56715	3464
56005	1755	56720	3466
56010	1756	56725	3465
56025	1758	56730	3460(b)
56030	1764	56735	3460(c)
56035	12002.5	56740	3467
56050	1760	56800	2930
56055	1761	56805	2931(a)
56060	1762	56810	2940
56065	1763	56815	2941
56070	1767.5	56820	2945
56075	1768	56825	2942(a)(2)
56080	1765	56850	2932
56085	1766	56855	2932.2
56090	1769	56860	2932.3
56100	1770	56865	2932.5
56105	1771	56900	2931(b)-(c)
56110	1772	56905	2942(a)(3)(B)
56200	1570	56910	2942(a)(1)
56205	1571	56915	2942(a)(3)(A)
56225	1572(a), 1st sent.	56920	2933
56230	1572(a), 2nd sent.	56925	2942(c)
56235	1573(g)	56930	2942(b)(1)
56240	1572(d)	56935	2943
56245	1573(a)	56940	2942(b)(2)
56250	1573(f)	56945	2931(d)
56255	1573(c)	57000	1400
56260	1573(d)	57005	1401
56265	1573(e)	57510	1402
56270	1572(b), 1st sent.	57515	1403
56275	1574	57520	1404
56280	1573(b)	57525	1405
56285	1572(b), 2nd sent.	57550	1410
56290	1572(e)	57555	1411(a), 2nd sent.
56325	1572(c)(1)	57560	1411(c)
56330	1572(c)(2)	57565	1413
56335	1572(c)(3)	57570	1414
56340	1572(f)	57575	1415
56500	3400	57580	1416
56525	3401(a), 1st sent.	57585	1417
56530	3402	57590	1418
56535	3406(a)	57595	1420
56540	3404(b)	57600	1421
56545	3403	57605	1422
56550	3406(c)	57625	1430, 1st sent.

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
57630	1431, 1st sent.	58975	10827
57635	1430, 2nd sent.	59000	10828
57640	1431, 2nd sent.	59025	10829
57645(a)	1411(a), 1st sent.	59050	10830
57645(b)	1411(b)	59075	10831
57650	1412	59100	10832
57655	1419	59125	10835
57700	1385	59150	10836
57705	1386	59175	10837
57710	1389	59180(a)	10662
57725	1387	59180(b)	10663
57730	1388	59200	10838
57735	1390	59225	10840
57740	1391	59230	10659
57775	2003.5	59250	10843, 1st para.
57780	2003.6	59255	10843, 2nd para.
58000	711.1(a)	59275	10842
58005	711.1(b)	59280	10665, 1st para.
58010	711.1(c)	59285	10665, 2nd para.
58015	711.1(d)	59300	10833
58050	13014(a)	59305	10650
58055	13014(b)	59310	10651
58060	13014(c)-(d)	59315	10652
58075	2900	59350	10841
58080	2901	59400	10509
58500	10502(b)-(d)	59425	10770
58505	10503(a)-(c)	59450	10771
58515	10508	59455	10653
58520	10510	59460	10654
58525	10511	59500(a)	10500(d)
58530	10501.5	59500(b)	12002(b)(6) (waterfowl refuge)
58550(a)	10500(c)	59525	10860
58550(b)	12002(b)(6) (fish refuge)	59550	10861
58555	10502(a) (fish refuge)	59600(a)	10500(f)
58625	10801	59600(b)	12002(b)(6) (marine life refuge)
58630	10660	59625	10900
58700(a)	10500(a)-(b)	59650	10903
58700(b)	12002(b)(6) (game refuge)	59655	10502.7
58705	10513	59670	10656
58710	10502(a) (game refuge)	59675	10661
58715(a)	10503(d)	59700	10932
58715(b)	10504	59705	10502.8
58715(c)	10505	59710	10655.5
58720	10506	59715	10655
58725	10507	59750	10913
58730	10512	59775	10907
58735	10514	59780	10502.6
58740	10844	59785	10667(a)
58800(a)	10820	59790	10667(b), 1st sent.
58825	10821	59795(a)	10667(b), 2nd-4th sent.
58850	10822	59795(b)	10667(d)
58875	10823	59795(c)	10667(e), 1st sent.
58900	10824	59795(d)	10667(e), 2nd sent.
58925	10825	59800	10667(c)
58950	10826	59825	10908

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
59830	10664 (Doheny Beach)	60655	1528, 2nd sent.
59850	10901	60660	1528, 3rd sent.
59855	10502.5, 1st sent.	60665	1528, 4th-5th sent.
59860	10657.5, 1st para.	60670	1528, 6th sent.
59865(a)-(b)	10657	60675	1529
59865(c)	10502.5, 2nd sent.	60680	1504(a)-(c), (e)-(g)
59865(d)	10657.5, 2nd para.	60685	1506(except (a)(3))
59900	10912	60700	1500
59905	10664 (Irving Coast)	60705	1500.5
59925	10909	60710	1745.2
59930	10666	60715	1526.4
59950	10904	60720	1014
59955	10664 (Laguna Beach)	60750	1580, 1st sent.
59975	10905	60755	1584
59980	10664 (Newport Beach)	60760	1580, 2nd-3rd sent.
60000	10911	60765	1580, 4th sent.
60005	10664 (Niguel)	60770	1581
60025	10910	60775	1582
60030	10664 (Point Fermin)	60780	1583
60050	10902	60785	1585
60055	10658	60790	1580, 5th sent.
60075	10906	60850	1586
60080	10664 (South Laguna Beach)	60855	1587
60200(a)	10500(e)	60900	1505
60200(b)	12002(b)(6) (quail refuge)	60950	10740
60225	10880	60955	10741
60250	10881	62000	2050
60300(a)	10500(g)	62005	2051
60300(b)	12002(b)(6) (clam refuge)	62010	2052
60325	10711	62015	2052.1
60400	2850	62020	2053
60405	2851	62025	2054
60410(a)-(d)	2852	62030	2055
60415	2850.5	62035	2056
60420	2863	62100	2060
60450	2860	62105	2068
60455	2862	62110	2061
60475	2853(a)-(b)	62115	2062
60480	2853(c)	62120	2063
60500	2855	62125	2064
60505	2856	62130	2065
60510	2854	62135	2067
60515	2858	62200	2070
60520	2859	62205	2071.5
60525	2857	62210	2078
60530	2861(a)	62250	2071
60535	2861(b)	62255	2072
60550	1590	62260	2072.3
60555	1591	62265	2073
60600	1525	62270	2073.3
60605	1526	62275	2072.7
60610	1527	62280	2073.5
60625	1530, 1st para.	62285	2073.4
60630	1530, 2nd para.	62290	2073.7
60650	1528, 1st sent.	62350	2074

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
62355	2074.2(a), 1st sent.	63200	2081.5, intro. cl.
62360(a)	2074.2(a), 2nd sent.	63205	2081.5(a)
62360(b)-(c)	2074.2(b)	63210	2081.5(b)-(c)
62365	2074.2(c)	63300	2081.7(a)
62370	2074.2(d)	63305	2081.7(b)-(d)
62375	2074.2(e)-(f)	63310	2081.7(e)(1)-(3)
62380	2074.4	63315	2081.7(e)(4)
62400	2074.6, 1st sent.	63320	2081.7(f)
62405(a)	2074.6, 2nd sent., 1st part	63325	2081.8
62405(b)	2074.6, 4th sent.	63350	2080.2
62405(c)	2074.6, 5th sent.	63355	2080.3
62410	2074.6, 3rd sent.	63360	2080.4
62415	2074.6, 2nd sent., 2nd part	63400	2081.4
62420	2074.8	63450	2081.6
62450	2075	63455	2081.10
62455	2075.5(a), 1st sent.	63500	2081.9
62460(a)	2075.5(a), 2nd sent.	63600	2081.2(a)
62460(b)-(c)	2075.5(b)	63605	2081.2(b)
62465	2075.5(c)	63610	2081.2(e)
62470	2075.5(d)	63615	2081.2(c)
62475	2075.5(e)	63620	2081.2(f)(1)
62480	2076	63625	2081.2(d)
62485	2076.5	63630	2081.2(f)(3)
62500	2077(a)	63635	2081.2(g)
62505	2077(b)	63640	2081.2(f)(2)
62510	2077(c)	63700	2087
62515	2077(e)	63705	2089
62520	2077(d)	63710	2088, 1st part
62525	2079	63715	2088, 2nd part
62600	2080	63720	2089.22(b)
62605	2085	63750	2086(a)
62650	2081(a)	63755	2086(b)
62655	2083, 1st cl.	63760	2086(c)
62665	2084	63765	2086(d)(1)
62670	2081.1	63770	2086(d)(2)
62675	2082	63775	2086(e)
62680	2083, 2nd cl.	63780	2086(f)
62700	2081(b)-(d)	63900	2089.2(a)
62705	2080.1	63905	2089.2(b)
63000	2069(a), intro. cl.	63910	2089.4
63005	2069(a)(1)	63915	2089.2(c)-(d)
63010	2099(a)(1)	63920	2089.25
63010	2099.5	63925	2089.24
63015	2069(a)(2)	63930	2089.22(a)
63015	2099(a)(2)	63935	2089.26
63050	2069(b)	63950	2089.6
63055	2069(c)	63955	2089.7
63065	2069(d)-(e)	64000	2089.8
63070	2069(f)(1)	64005	2089.9
63075	2069(f)(2)	64010	2089.20(a)-(c)
63080	2069(g)	64015	2089.10
63100	2099(b)	64020	2089.12(a)
63105	2099(c)	64025	2089.12(b)
63110	2099(d)	64030	2089.16
63115	2099.5	64035	2089.14

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
64040	2089.18	64805	1857
64045	2089.20(d)-(e)	64810	1861
64050	2089.23	64815	1859
64100	2098	64820	1860
64150	12008(a)	64850	1851(k), 4th-5th sent.
64155	12008.1(a)	64855	1853(a)
64160	12008.1(b)	64860	1853(c)
64400	705	64900	1852(b)
64500	2800	64905	1851(l), 2nd-3rd sent.
64505	2801	64910	1852(c)
64510	2802	64915	1852(e)
64515	2805	64920	1853(b)
64520	2825	64925	1852(d)
64525	2089.22(b)	64930	1854(e)
64530	2829	64935	1852(a)
64550	2809	64960	1854(c)(1)
64555	2810(a), 1st sent.	64965	1854(c)(2)
64560(a)-(i)	2810(b)	64970	1854(c)(3)
64560(j)	2810(a), 2nd sent.	64975	1854(c)(4)
64565	2820(b)	64980	1854(c)(5)
64570	2815	64985	1854(c)(6)
64575	2810(d)	64990	1855(e)
64580	2820(a)	64995	1854(d)
64585	2810(c)	65000	1854(a)
64600	2821	65050	1855(a)
64605	2835	65055	1855(b)
64610	2820(f)	65060	1855(c)
64615	2826	65100	1856(a)
64620	2820(e)	65105	1856(b)
64625	2820(d)	65110	1856(c)
64630	2827	65115	1856(d)
64635	2822	65120	1856(e)
64640	2823	65125	1856(f)
64645	2820(c)	65130	1856(h)
64650	2828	65135	1856(g)
64655	2830	65140	1856(i)
64660	2831	65145	1856(j)
64700	1850	65150	1855(d)
64705	1854(b)	65155	1856(k)
64710	1851, intro. cl.	65300	1797
64715	1851(a)	65305	1797.5, intro. cl.
64720	1851(b)	65310	1797.5(a)
64725	1851(c)	65315	1797.5(b)
64730	1851(d)	65320	1797.5(c)
64735	1851(e)	65325	1797.5(d)
64740	1851(f)	65330	1797.5(e)
64745	1851(g)	65335	1797.5(f)
64750	1851(h)	65340	1797.5(g)
64755	1851(i)	65345	1797.5(h)
64760	1851(j)	65400	1798.7
64765	1851(k), 1st-3rd sent.	65450	1798(a)
64770	1851(l), 1st sent.	65455	1798(b)
64775	1851(m)	65460	1798(c)-(d)
64780	1851(n)	65465	1798(e)
64800	1858	65470	1798(f)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
65500	1798.5(a)(1)	66205	711.4(c)(1), (3)
65505	1798.5(a)(2)	66210	711.4(c)(2)
65510	1798.5(b)	66215	711.4(d)
65515	1798.5(c)-(d)	66220	711.4(e)(1)
65520	1798.5(e)	66225	711.4(e)(2)-(3)
65525	1798.5(f)	66230	711.4(f)
65530	1798.5(g)	66235	711.4(g)
65535	1798.5(h)	66240	711.4(h)
65550	1798.6(a)	66245	711.4(i)
65555	1798.6(b), 1st-4th sent.	66250	711.7
65560	1798.6(c)(1)	66500	5650(a)
65565	1798.6(c)(2)-(3)	66505	5650(b)
65570	1798.6(c)(4), (d)	66510	5650(c)-(f)
65575	1798.6(e)	66525	5652
65580	1798.6(f)	66550	5650.1(a)-(c)
65585	1798.6(b), 5th sent.	66555	5650.1(i)
65590	1798.6(g)	66565	5650.1(j)
65600	1798.6(h)	66570	5650.1(h)
65650	1799(a)	66575	5650.1(d)-(g)
65655	1799(b)	66600	12002(b)(4)
65660	1799(c)	66605	12011
65665	1799(d)	66700	5651
65670	1799(e)	66705	12015
65675	1799.1(a)	66710	5655
65680	1799.1(b)	66715	12016
65685	1799.1(c)	66800(a)-(d)	5654(a)(1)
65690	1799.1(d)	66800(e)	5654(a)(2)
65800	1775	66805	5654(b)
65805	1776	66810	5654(d)
65810	1776.5	66820	5654(e)
65815	1780	66825	5654(c)
65820	1781	66830	5654(f)
65850	1777	66835	5654(g)
65855	1777.2	66840	5654(h)
65860	1777.5	67000	6600
65865	1778	67005	6601
65870	1778.5	67010	6602
65875	1779	67015	6605(a)
65880	1779.5	67050	6603(a)-(c)
65950	1784(a)-(b)	67055	6603(d)
65955	1784(c)-(e)	67060	6603(e)
65960	1785, 1st sent.	67065	6604
65965	1785, 2nd sent.	67070	6605(b)
65970	1786(a)	67075	6605(c)
65975	1786(b)	67080	6603(f)
65980	1787	67100	6610
66050	1790	67105	6611
66055	1791	67110	6612(a)
66060	1792	67115	6612(b)
66065	1792.5	67120	6612(c)
66100	1793	67125	6612(d)
66105	1794	67150	6613(a)
66110	1795	67155	6613(b)
66115	1796	67160	6613(c)
66200	711.4(a)-(b)	67165	6613(d)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
67170	6613(e)	68400	5930
67175	6613(f)	68405	5931
67180	6613(g)	68410	5932
67200(a)	6614(a)	68500	5933, 1st sent.
67200(b)	6614(b), 1st sent.	68505	5933, 2nd sent.
67205	6614(b), 2nd. sent.	68510	5933, 3rd sent.
67210	6614(c)	68515	5934
67215	6614(d)	68520	5933, 4th-5th sent.
67220	6614(e)	68600	5946
67225	6614(f)	68605	5947
67250	6615	68650	5938
67255	6616	68655	5939
67260	6617	68660	5940
67265	6618	68665	5941
67270	6619	68670	5942
67275	6620	68675	5945
67280	6621	68800	5980
67400	1016(a), def. in 1st sent.	68850	5981
67400	1016(b), def. in 1st sent.	68855	5982
67405	1016(a), except def. in 1st sent.	68860	5990
67410	1016(b), except def. in 1st sent.	68865	5988
67415	1016(c)	68870	5989
67420	1016(d)	68875	5991
67500	13010	68900	5983
67505(a)	13011	68905	5984
67505(b)	12017(a)(2)-(6)	68910	5985
67505(c)	5656	68915	5986
67510	12017(b)	68920	5987
67515	12017(c)-(f)	68925	5992
67520	13012	68930	5993
67525	13013	69000	6020
67530	13230	69050	6021
67535	13231	69055	6026
68000	5900	69060	6022
68050	5902	69065	6023
68055	5903	69070	6024
68060	5904	69075	6025
68100	5948	69080	6027
68105	5901	69085	6028
68110	12025.1(a)	69200	1018
68115	12025.1(b), 1st part	69250	11036, 4th para.
68115	12025.1(c), 1st part	69500	6100(a)
68120	12025.1(b), 2nd part	69505	6100(b)
68125	12025.1(c), 2nd part	69510	6100(c)
68130	12025.1(d)	69515	6100(d)
68135	12025.1(e), 1st part	69550	12025.2
68135	12025.1(f), 1st part	69700	1600
68140	12025.1(e), 2nd part	69705	1601
68145	12025.1(f), 2nd part	69710	1602(e)
68150	12025.1(g)	69715	1607
68300	5936	69720	1616
68305	5935	69750	1602(a)
68310	5937	69775	1608
68315	5943	69780	1609
68320	5944	69785	1602(c)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
69790	1613	71515	3800(b)(3), 3rd sent.
69795	1603(a), 1st-4th sent.	71520	3005(b)(3), 5th sent.
69800	1606	71520	3800(b)(3), 5th sent.
69805	1603(a), 5th-7th sent.	71525	3005(b)(4)
69810	1603(a), 8th sent.	71525	3800(c)
69815	1614	71530	3005(b)(5)
69850	1605(a)	71530	3800(b)(4)
69855	1605(b)-(c)	71700	5801
69860	1605(d)	71705	5803
69865	1605(e)	71710	5802
69870	1605(f)	71750	5800(a)
69875	1605(g)	71755	5800(b)
69880	1605(h)	71760	5800(c)
69885	1612	71765	5800(d)
70050	1603(b), 1st-2nd sent.	72000	703(b)
70055	1603(b), 3rd-5th sent.	72200	12029(a)
70060	1603(b), 6th sent.	72205	12029(b)
70065	1603(b), 7th, 8th sent.	72210	12029(c)
70070	1603(b), 9th sent.	72215	12029(d)
70075	1604	72500	308.5
70150	1610	72800	3470
70155	1602(b)	72805	3471
70160	1611	72810	3472
70165	1602(d)	72815	3472.1
70170	1617	72820	3472.2, 1st sent.
70250	1615(a)-(c)	72825	3472.2, 2nd sent.
70255	1615(d)-(e)	not cont'd	90
70260	1615(f)	not cont'd	90.1
70275	12007 (streambed alteration)	not cont'd	398, 2nd cl.
71000(a)	5653.5	not cont'd	456, 2nd sent.
71000(b)	5653.8	not cont'd	1053.1(b)
71000(c)	5653(g), 1st sent.	not cont'd	1055.1(h)
71005	5653(g), 2nd sent.	not cont'd	1055.6(e)
71010	5653.9	not cont'd	1061(f)
71050	5653(a), 1st sent.	not cont'd	1348.3(a)(2)
71055	5653(c), 1st sent.	not cont'd	1361(a)
71060	5653.7	not cont'd	2099.20
71065	5653(e)	not cont'd	2100
71070	5653(c), 3rd sent.	not cont'd	3270(b)
71075	5653.3	not cont'd	3682.1(c)
71200(a)	5653(a), 2nd sent.	not cont'd	3700.1(c)
71200(b)	5653(b)	not cont'd	3702.5, 2nd sent.
71205	5653(c), 2nd sent.	not cont'd	3704, 2nd para.
71255	5653(d)	not cont'd	3704.5, 2nd para.
71260	5653(f)	not cont'd	4332(e)
71280	5653.1	not cont'd	4656
71500(a)	3005(b)(3), 1st sent.	not cont'd	6425(a)
71500(a)	3800(b)(3), 1st sent.	not cont'd	6596.1(e)
71500(b)	3005(b)(3), 2nd sent.	not cont'd	7149.05(c)
71500(b)	3800(b)(3), 2nd sent.	not cont'd	7149.45(c)
71505	3005(b)(3), 4th sent.	not cont'd	7180.1(d)
71505	3800(b)(3), 4th sent.	not cont'd	7181.1(b)
71510	3005(b)(1)-(2)	not cont'd	7182.1(b)
71510	3800(b)(1)-(2)	not cont'd	7183.1(c)
71515	3005(b)(3), 3rd sent.	not cont'd	7184.1(c)

<i>Proposed Provision</i>	<i>Existing Provision(s)</i>	<i>Proposed Provision</i>	<i>Existing Provision(s)</i>
not cont'd	7186.1(c)	not cont'd	8247.3
not cont'd	8025(b)	not cont'd	8276.5(a)(8)
not cont'd	8031(a)(2)-(3)	not cont'd	8280.1(e)
not cont'd	8031(b)	not cont'd	8558.1(b)
not cont'd	8033.5(b)	not cont'd	8601.6(b)
not cont'd	8034(b)	not cont'd	8606(d)
not cont'd	8036(b)	not cont'd	8610.13 (refs to 8610.8)
not cont'd	8037(b)	not cont'd	8625(d)
not cont'd	8043.1(d)	not cont'd	8626(d)
not cont'd	8047(b), 4th sent.	not cont'd	12000(b)(2)
not cont'd	8051.4(b)		

DISTRICT RENUMBERING

The table below shows the proposed new names for each existing Fish and Wildlife District.

<i>Existing District</i>	<i>Proposed District</i>	<i>Existing District</i>	<i>Proposed District</i>
1	2505	12	2600
1 3/8	2510	13	2605
1 1/2	2515	16	2610
1 3/4	2520	17	2615
2	2525	18	2620
2 1/4	2530	19	2625
2 1/2	2535	19A	2630
3	2540	19B	2635
3 1/2	2545	20	2640
4	2550	20A	2645
4 1/8	2555	21	2650
4 1/2	2560	22	2655
4 3/4	2565	23	2660
6	2570	25	2665
7	2575	Klamath River District	2670
8	2580	Trinity and Klamath River District	2675
9	2585	118	2680
10	2590	118.5	2685
11	2595		